

Article - Natural Resources

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§4–213.

(a) In this section, “submerged aquatic vegetation” means a vascular or nonvascular hydrophyte, which is rooted or unrooted, that lies entirely beneath the surface of the water, except for flowering parts in some species.

(b) This section does not apply to activities involved in:

- (1) The harvesting of fish, shellfish, or crabs; or
- (2) The construction, operation, and maintenance of agricultural drainage channels.

(c) Except as provided in this section, before a person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation from any land under the tidal waters of the State below the mean high tide, the person shall submit to the Department for approval a description of:

- (1) Why the removal of submerged aquatic vegetation is necessary;
- (2) The proposed method of removal;
- (3) A plan showing the site at which the activity is proposed; and
- (4) The extent of submerged aquatic vegetation to be removed.

(d) (1) (i) To allow ample access to their property from a navigable channel, a person who owns or rents a pier, dock, or ramp on the Chesapeake Bay or its tributaries may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide extending from the pier, dock, or ramp to the navigable channel without the approval of the Department.

(ii) A person who owns or rents any marina on the Chesapeake Bay or its tributaries or the agent of the person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide extending from each individual boat slip to the common points of ingress and egress of the navigable channels servicing the marina without the approval of the Department.

(iii) A public utility company or telecommunications carrier may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide in order to maintain utility crossings in the waters of the State without the approval of the Department. However, there is no limitation to a 60 foot wide strip for a utility company or telecommunications carrier when:

1. Performing an emergency investigation; or

2. Performing repair work.

(2) Before a person harvests, cuts, or otherwise removes or eradicates submerged aquatic vegetation under this subsection, the person is encouraged:

(i) To contact the Department for information on best harvesting methods; and

(ii) To use best harvesting methods.

(3) (i) This paragraph does not apply to:

1. Any person who has a national pollution discharge elimination system permit; or

2. Any publicly or privately owned sewage treatment plant.

(ii) A person may not use any chemical to harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation under this subsection.

(e) (1) Except as provided in subsection (d) of this section, the Department may authorize or prohibit the removal or eradication of any species of submerged aquatic vegetation or combination thereof for any purpose, including facilitation of boating access.

(2) If a plan is approved, the Department may prescribe the time, method, and extent of the removal or eradication:

(i) To control the effect of the removal or eradication on water quality; or

(ii) To protect the growth and proliferation of fish and aquatic grasses.

(f) The Secretary may adopt regulations to administer this section. As part of the regulations, the Secretary may authorize specific categories of removal of submerged aquatic vegetation.

(g) (1) Except as otherwise provided in this section, a person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation from any land under the tidal waters of the State below mean high tide only in accordance with a plan approved by the Department.

(2) The plan under this subsection shall include the following requirements:

(i) The name, address, and telephone number of the person making the request;

(ii) A written description by the person making the request of the reasons why it is necessary to remove the submerged aquatic vegetation;

(iii) The proposed method to remove the submerged aquatic vegetation; and

(iv) A diagram showing the location and extent of the submerged aquatic vegetation that is proposed to be removed.

(h) The authorization required by this section is in addition to any other permit or license required by law.

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