

The background of the slide is a close-up photograph of numerous oysters, showing their textured, brownish shells and some of the white flesh. The lighting is somewhat dim, creating a moody atmosphere.

Transferring a Commercial Shellfish Aquaculture Lease: How to do it and why

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Photo Credit: Edwin Remsberg

What are
shellfish
aquaculture
lease
transfers?

Add

- Add one or more co-leaseholder to a lease

Remove

- Remove one or more existing co-leaseholders

Transfer

- Transfer the lease to a new party entirely



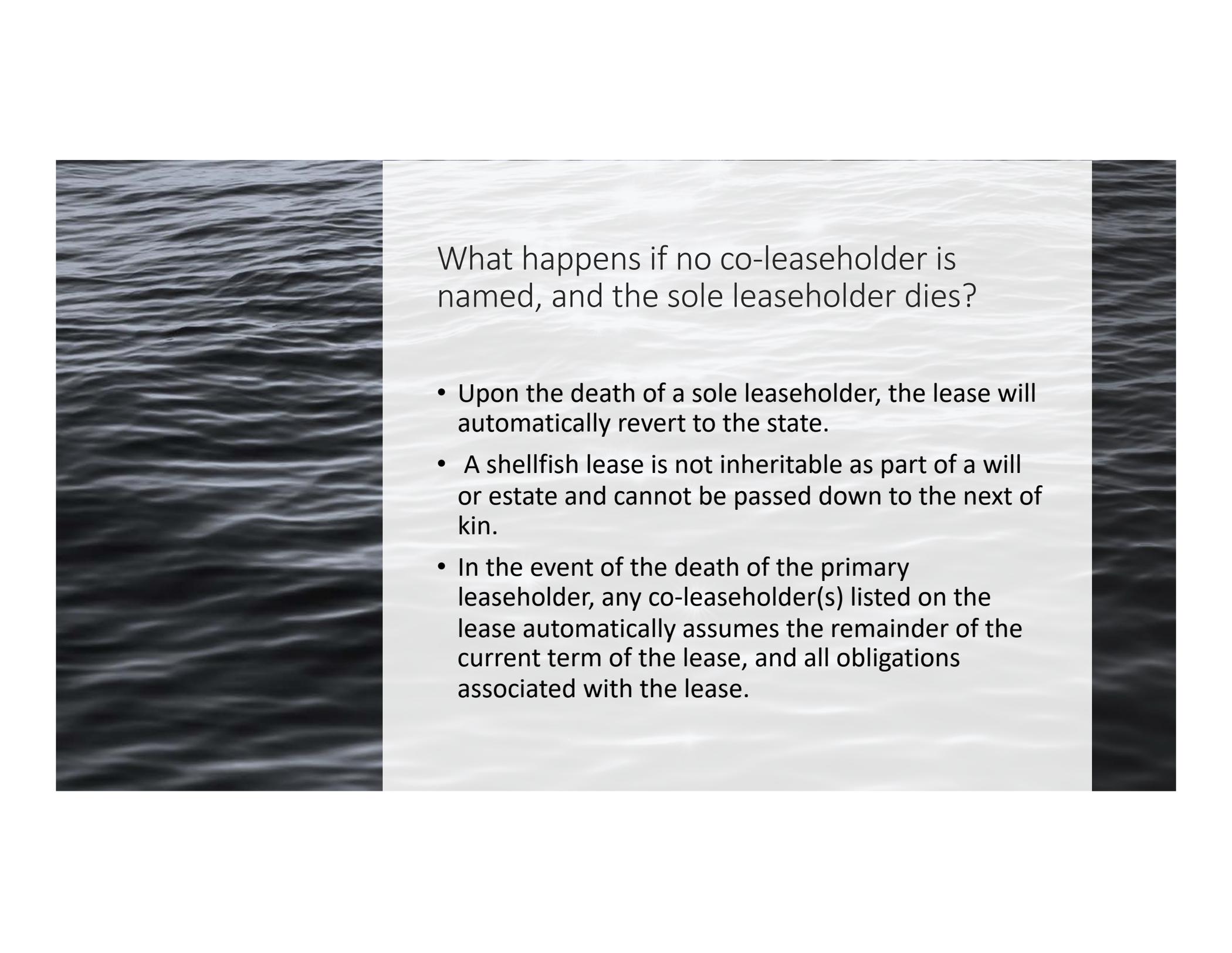
Understanding the Roles

Leaseholders

- An individual or business entity who leases an area of submerged land or water column from the State.
- To be a leaseholder, individuals must be at least 18 years or older of age.
- Can business entities be leaseholders?
 - Business entities (E.g., Corporations, Limited Liability Companies (LLCs), Sole Proprietorships and Partnerships) can be leaseholders.
- Maryland law requires that the business be organized by the laws of the state of Maryland.
- For corporations that issue stocks, Maryland law requires that more than 50% of the stock be owned by Maryland residents. Md. Code Ann., Nat. Res. § 4-11A-05 (2012).

Leaseholders

- Who are primary leaseholders and co-leaseholders?
 - Primary Leaseholders: The first or only person or business entity to be listed on a lease.
 - Co-leaseholders: All lessees listed on a lease are co-leaseholders. For DNR administrative purposes co-leaseholders are designated as the additional lessees listed after the primary leaseholder.
- Assignor: existing co-leaseholders who is transferring their interest on the lease.
- Assignee: Individual or business entity to whom a lease is being transferred/assigned.

The background of the slide is a grayscale image of water with ripples, creating a textured, wavy pattern. The central text is overlaid on a lighter, semi-transparent rectangular area.

What happens if no co-leaseholder is named, and the sole leaseholder dies?

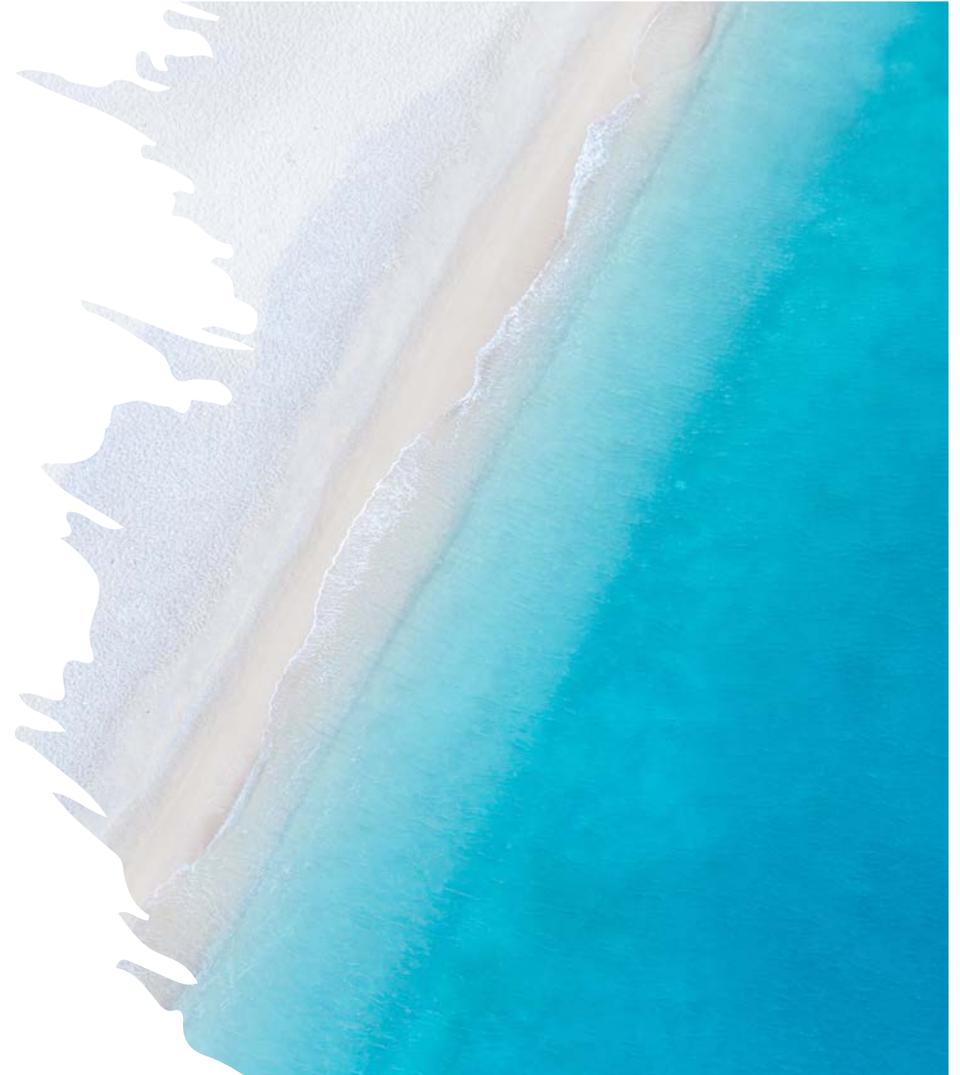
- Upon the death of a sole leaseholder, the lease will automatically revert to the state.
- A shellfish lease is not inheritable as part of a will or estate and cannot be passed down to the next of kin.
- In the event of the death of the primary leaseholder, any co-leaseholder(s) listed on the lease automatically assumes the remainder of the current term of the lease, and all obligations associated with the lease.

Who may legally sign documentation related to a commercial shellfish lease?

In general, lease-related documents and reports may only be signed by an individual named as a legal leaseholder on a shellfish lease agreement or subsequent transfer.

Documentation pertaining to a lease held in the name of a business may only be signed by an individual who is legally authorized to do so by the documentation provided to the State.

Understanding the Process



Transferring your lease

- The current leaseholder should complete and submit the Request to Transfer a Commercial Shellfish Aquaculture Lease form to DNR using full, legal names.
- The form is available at: https://dnr.maryland.gov/fisheries/Documents/Shellfish_Lease_Transfer_Request.pdf.
- DNR will prepare a personalized legal lease transfer form that need to be completed by the assignor and assignee respectively.



MARYLAND DEPARTMENT OF NATURAL RESOURCES
FISHING AND BOATING SERVICES
AQUACULTURE AND INDUSTRY ENHANCEMENT DIVISION

REQUEST TO TRANSFER A COMMERCIAL SHELLFISH AQUACULTURE LEASE

Upon receipt of this request form and after verification that the lease to be transferred is in good standing, the Department will provide all documents required for a lease transfer, including a personalized Transfer Form requiring notarization by all parties, to the current primary leaseholder. Please allow 2-4 weeks processing time to receive these documents from the time your request is submitted. Lease transfer requests must be received by October 15 and fully executed by November 1 or the transfer may be held until annual invoicing and reporting for the calendar year has concluded. Submission of this form alone does not legally transfer a lease.

Return your completed form to: Maryland Department of Natural Resources Fax to: (410) 260-8310
Attn: Leasing & Permitting Program OR
Tawes State Office Building Email to: Kellie.dennis@maryland.gov
580 Taylor Ave. E-4, Annapolis, MD 21401

SECTION 1: Current Leaseholder(s) Information

Primary Leaseholder

Name: _____ Lease Number: _____
Address: _____ Location: _____

Co-Leaseholder(s) (if applicable)

Name: _____ Name: _____
Address: _____ Address: _____

SECTION 2: New Leaseholder(s) Information

New Primary Leaseholder

Name: _____
Address: _____

All leaseholders must be at least 18 years of age and listed by their **full, legal names**. If the lease is to be transferred into the name of a business entity, an individual with legal signatory authority for that business must also be listed on the request to transfer. Certain company documentation will be requested for verification purposes.

New Co-Leaseholder(s) (if applicable)

Name: _____ Name: _____
Address: _____ Address: _____

Please contact Kellie Dennis at (410) 260- 8652 or kellie.dennis@maryland.gov if you have questions about this form.



Transferring a lease to a business entity

- The business entity must be in good standing with the Maryland State Department of Assessments and Taxation (SDAT).
- At least one individual with legal signatory authority and who can bind the business in a contract with the State of Maryland must be referenced in the request to transfer form.
- A business must also submit additional documentation that will vary depending the business structure.

Limited Liability Companies (LLCs)

- Articles of organization.
- Operating Agreement.
- Certificate of Good Standing.
- Resolutions

Corporations (Inc.)

- Articles of Incorporation.
- Corporation bylaws that indicate which individual(s) have legally enforceable authority to bind the corporation in a contract and their business title.
- Certificate of Good Standing.

General Partnerships

- Business name.
- Contact information for each partner.
- Name of the authorized contact information for each business.
- Documentation showing that the persons named as authorized contact persons have signatory authority for their business. (e.g., articles of incorporation or bylaws).
- Copy of General Partnership Agreement if one exists.

What happens if one or more leaseholders will not be changing as the result of the transfer?

- At the discretion of the DNR, if one or more current co-leaseholders will not be changing, the completion of a partial year usage report and/or the application to transfer a shellfish aquaculture lease may be waived.
- Shellfish Aquaculture Harvester Permit and Shellfish Aquaculture Harvester Registration Cards must only be returned for leaseholders being removed from a lease.

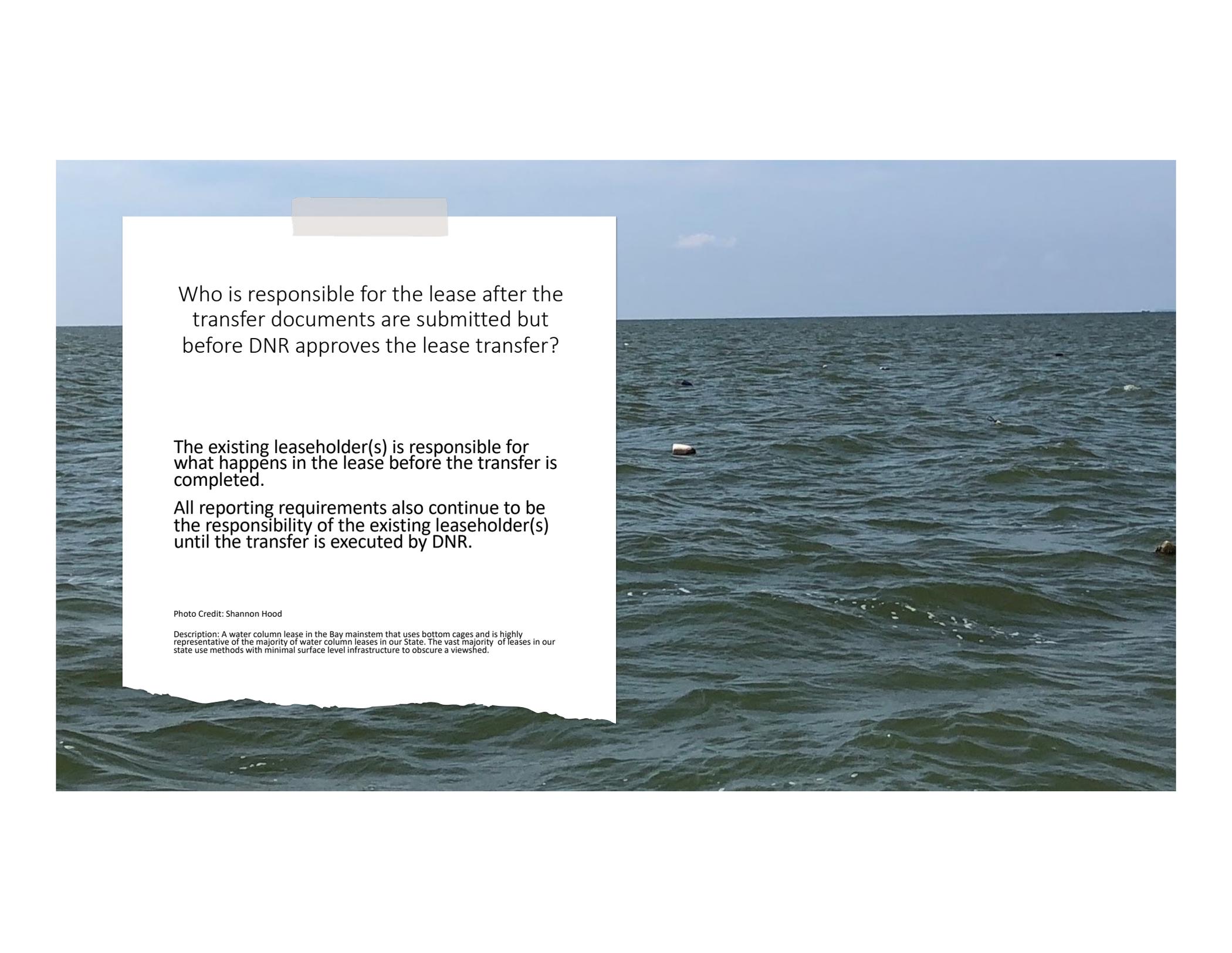
What happens after the Request to Transfer a Shellfish Aquaculture Lease form is submitted?

DNR staff reviews the form submitted for completeness and accuracy with their lease records. After the completed form is accepted, DNR staff will review the lease record to verify eligibility for transfer.

After the review, DNR will draft a personalized lease form for the transfer of a state commercial shellfish aquaculture lease.

These transfer forms will be sent out to the current primary leaseholder together with instructions and all other enclosures/forms required to be completed by assignor and assignee.

All personalized transfer forms must be signed and dated in the presence of a public notary by all parties.



Who is responsible for the lease after the transfer documents are submitted but before DNR approves the lease transfer?

The existing leaseholder(s) is responsible for what happens in the lease before the transfer is completed.

All reporting requirements also continue to be the responsibility of the existing leaseholder(s) until the transfer is executed by DNR.

Photo Credit: Shannon Hood

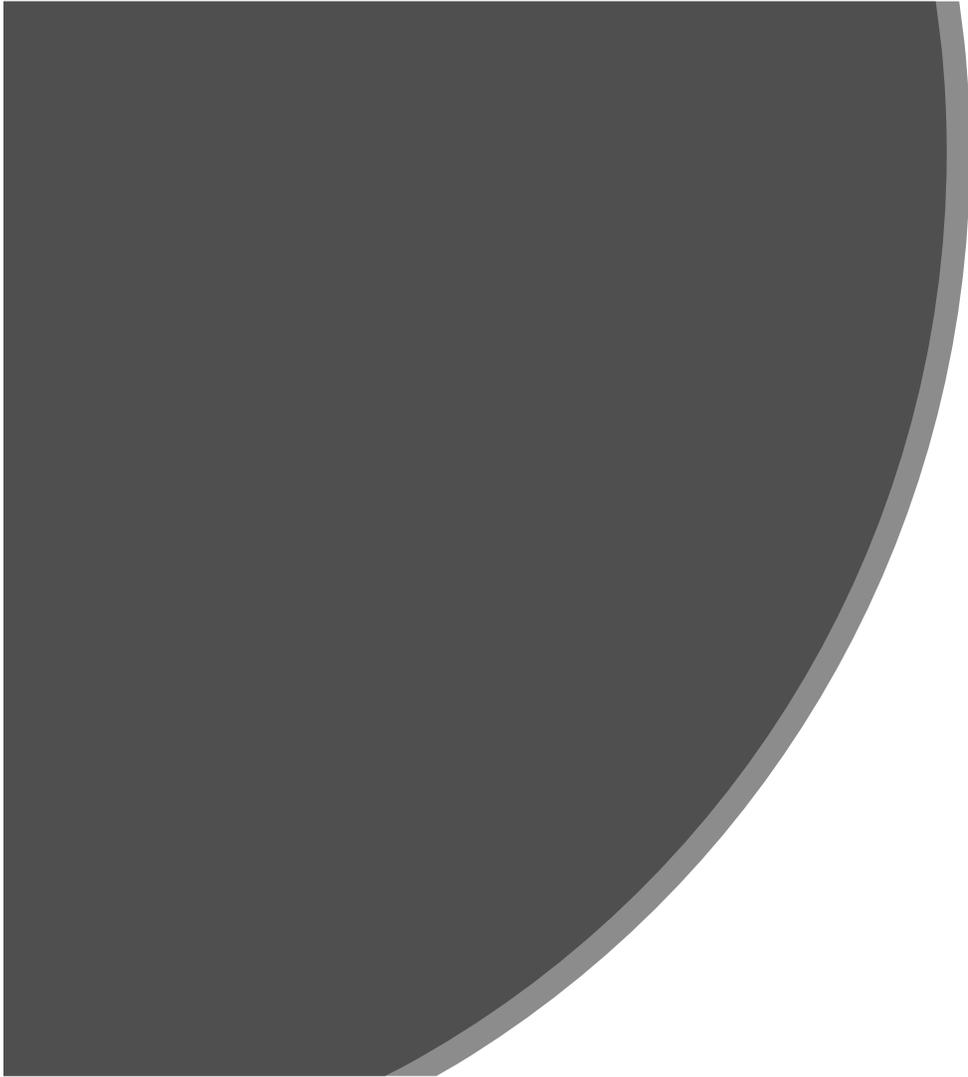
Description: A water column lease in the Bay mainstem that uses bottom cages and is highly representative of the majority of water column leases in our State. The vast majority of leases in our state use methods with minimal surface level infrastructure to obscure a viewshed.

What happens after the lease is transferred?

The lease is officially transferred when DNR has approved and executed the transfer. DNR will administratively record the document before sending out the copy of the executed transfer form.

DNR does not issue new lease documents and the term of the lease does not change. Those named as leaseholders on the transferred lease retain the current term of the lease.

Leaseholders must also reach out to the U.S. Army Corps of Engineers and follow the transfers requirements for that permit. (Only applies to leases issued after July 1, 2009).



Shellfish
Aquaculture
Harvester
Permit

Shellfish Aquaculture Harvester Permit (SAHP)

- Who can obtain a SAHP?
 - Any leaseholder named on a lease.
- To engage in aquaculture activities on a lease, a leaseholder needs to obtain a SAHP, be named as a Registrant on the lease and obtain a Harvester Registration Card.
- Business entities cannot be SAHP permittees, only individuals (natural persons) can be permittees.



Questions?

