

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FLORIDA'S AQUACULTURE LEASE PROGRAM

Lease Program



DIVISION OF AQUACULTURE

Aquaculture on Sovereign Submerged Lands

Florida has been very progressive in its support of aquacultural development. The Governor and Cabinet, including the Commissioner of Agriculture, the Legislature, and many local governments have supported aquaculture as a practicable alternative to commercial fishing and conventional agriculture to foster economic development in rural and coastal communities. The legislature has also declared that it is in the state's economic, resource management, and food production interests to promote aquaculture production by facilitating the review and approval processes for leasing sovereignty submerged lands and water columns.

In furtherance of this mandate, the Florida Department of Agriculture and Consumer Services (the "Department") wants to inform and assist potential aquaculturists who are interested in conducting aquacultural activities on state-owned submerged lands. The Department provides the following information to potential applicants seeking authorization to use state-owned submerged lands. This information is intended to help the applicant understand the policies guiding Florida's aquaculture leasing program and to assist the applicant in completing the aquaculture lease application process.

The Board of Trustees

The Florida legislature and the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund ("the Board of Trustees" or the "Board"), have recognized that it is in the state's interest to promote aquacultural production by leasing sovereign submerged lands. The Board of Trustees may authorize the use of sovereign submerged lands to produce aquacultural products pursuant to the policies provided in the Florida Statutes ("F.S.") and the Florida Administrative Code ("F.A.C."). On July 25, 2000, the Board delegated authority to the Commissioner of Agriculture, or his designee, to act on behalf of the Board in authorizing the use of sovereign submerged lands for aquacultural purposes.



CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE



**The Department's
Division of
Aquaculture
administers the
Aquaculture
Lease Program**

Statutory Authority

Chapter 253, Florida Statutes, provides the authority and conditions for leasing sovereign submerged lands and the water column for the purpose of aquaculture. Subject to the limitations contained in sections 253.67-253.75, F.S., the Board of Trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by those activities.

Department of Agriculture and Consumer Services

The Florida Department of Agriculture and Consumer Services is the State's lead aquaculture agency and is responsible for coordinating and assisting in the development of aquaculture statewide. The Department's commitment to developing aquaculture is based on the belief that aquaculture is an integral segment of Florida's agricultural and economic future by providing high quality aquacultural products to worldwide markets while advancing Florida's resource management goals.

The Division of Aquaculture

In 1999 the Florida Legislature created the Division of Aquaculture within the Department of Agriculture and Consumer Services. The Division of Aquaculture (the "Division") conducts numerous activities to promote the development of aquaculture in Florida. These activities include regulatory, administrative, advisory, and technical assistance functions directed toward ensuring that aquaculture operations are compatible with the *Florida Aquaculture Plan*, Aquaculture Certification Program, best management practices, resource management goals, and public health protection.



The Division of Aquaculture is also responsible for the aquaculture leasing program, making sovereign submerged state lands and the overlying water column available for producing aquaculture products. The Division's Bureau of Aquaculture Development administers the aquaculture leasing program. Currently, the Bureau administers more than 600 aquaculture leases containing about 1,700 acres. Aquaculture leases are located in Brevard, Charlotte, Dixie, Indian River, Lee, Levy, Monroe, Pinellas, and Volusia counties. In response to its statutory mandate, the Division identifies tracts of submerged lands throughout the state that are suitable for aquacultural development. Currently, the Division has designated 20 special aquaculture use areas or high-density lease areas in eight coastal counties, including, Dixie, Levy, Charlotte, Lee, Indian River, Brevard, Volusia, and the most recently, Franklin.

Aquaculture on State-Owned Submerged Lands

Aquacultural activities on sovereign submerged lands consist almost exclusively of growing hard clams, oysters and live rock. Live rock is the term used to describe the production of sessile marine organisms (corals, anemones, sea fans, etc.) that are primarily sold in the marine aquarium trade. Producing hard clams on submerged lands is the largest marine aquaculture business in Florida. The latest data from the Florida Agricultural Statistics Service indicated that net sales of clams totaled \$9.8 million in 2005, representing a fifteen fold increase over the last decade. However, clam farming, as with other forms of aquaculture, is a very high-risk enterprise and is subject to catastrophic production declines and economic losses when market environmental and climatic conditions are not favorable.

Aquacultural production of hard clams, oysters, and live rock is different from many other agricultural activities in that cultivation usually requires the use of sovereign submerged lands. Unlike many upland agricultural ventures that are conducted on privately-held lands, most marine aquaculture must be conducted on or over submerged lands that are largely held in the public domain. Since only a small amount of suitable submerged acreage is privately owned, marine aquafarmers are uniquely dependent upon the use of public lands. Because these lands are part of the Public Trust, resource managers must be diligent in how these lands are used.



Total value of farmed clams increased fifteen-fold during the 1990s.

Authorization to Use State-Owned Lands for Aquaculture

Persons wishing to lease submerged lands or the water column to conduct aquacultural activities must submit a written application as prescribed in Chapter 253, F.S., and Chapter 18-21, F.A.C. The Division of Aquaculture will provide applicants with an application form, guidelines for completing the application, and a list of steps involved in the application review and approval processes. However, the Department recommends that all prospective lease applicants contact the Division of Aquaculture before submitting an aquaculture lease application.

It is important to understand that the availability of suitable aquaculture leases is very limited. This is sometimes hard to believe when you look at Florida's coastal waters, but in fact very little of Florida's waters represent favorable environments for aquaculture based on resource management, land use, and public health policies. In instances where leases are available, water quality and biological conditions are often not favorable for production. This is particularly true regarding shellfish aquaculture. Currently, there are waiting lists for applicants wishing to obtain leases in most of the designated aquaculture use areas and high-density lease areas statewide. However, few aquaculture leases are cancelled and returned to the state; instead, leases are generally transferred by the leaseholder directly to another party.

Applicants with the highest likelihood of obtaining a new aquaculture lease usually reside or work in the county or region where a new aquaculture use zone is designated, since most aquaculture use zones are designated in response to local economic development needs. When an aquaculture use zone is designated, the Department will go before the Board of Trustees to seek approval for developing the designated tract and recommend how qualified applicants will be selected. If approved, the Division will contact persons on the waiting list to inform them about the application process. Being on a waiting list does not insure that the applicant will obtain a lease. The Department does not accept the \$200.00 application fee when there are no leases available, and urges prospective applicants not to send completed applications with the application fee when specific lease parcels or tracts have not been approved by the Board of Trustees.

Lease Applications

Section 253.69, F.S., requires that any individual or company that wishes to conduct aquaculture activities on sovereign submerged lands shall file a written application that contains the following information:

- (1) the name and address of the applicant;
- (2) a description of the location and amount of submerged lands desired;
- (3) a description of the proposed aquaculture activity; and
- (4) other information required by the Board.

Aquaculture lease application guidelines have been developed pursuant to section 253.68, F.S., to assist applicants in understanding the procedures to be followed when applying for an aquaculture lease. The aquaculture lease application guidelines divide the application process into five sections. These guidelines are summarized below and provided as part of the lease application package.



Lease applications can be obtained from the Division of Aquaculture

Lease Application Process

The first step is usually an information transfer process that is initiated when an applicant contacts the Division of Aquaculture and requests information regarding the aquaculture leasing program. In response to this initial request, staff sends an aquaculture information package to perspective applicants that provides information about the application process.

Nomination of a Site

The applicant selects an area and makes application for a specific parcel, or the applicant may apply for a lease parcel in special tracts that have been identified by the Department.

High-Density Lease Areas

Section 370.26 (4) (b), F.S., provides that the Department shall identify and evaluate specific tracts of sovereign submerged lands and water columns to determine where such lands and waters are suitable for leasing for aquacultural purposes. In response to this mandate, the Department is actively involved in identifying tracts called "high-density lease areas" for the purpose of developing shellfish aquaculture leases. Using this concept, staff can consolidate applications into proposed high-density lease areas (HDLA) that have been previously identified and approved. High-density lease areas are expected to stimulate and support the development of aquaculture in specific regions and encourage economic development. High-density lease areas offer numerous advantages.

Description of Proposed Activity

The applicant describes the proposed aquaculture activity in sufficient detail to allow staff to evaluate the application and determine the suitability of the proposed site for the proposed aquaculture activity. The applicant is also encouraged to provide a scaled drawing of facilities, structures and culture units, and to describe the harvest method that will be used.

Advantages of High Density Leases:

- 1. Facilitates resource surveys**
- 2. Reduces survey costs**
- 3. Reduces potential adverse environmental impacts**
- 4. Reduces potential user conflicts**
- 5. Encourages compliance with regulatory policies**
- 6. Facilitates law enforcement**



Acreage Requirements

Applicants must develop a business plan to be submitted as part of the application that demonstrates the amount of acreage that will be required to meet their proposed production levels. The business plan must also project the amount of time that will be required to bring the lease into full cultivation and meet the effective cultivation requirements.

Other Requirements

The applicants also submit the following information:

1. Certified list of the names and addresses of all riparian upland property owners who live within 500 feet of the nominated area. This is done by copying the latest records of the county tax assessor and asking an official in that office to attach a certification to it, stating that the names and addresses were taken from the latest tax rolls. If the proposed lease is located less than 1,000 feet off-shore, then the applicant must be the riparian upland property owner, or obtain a notarized letter from the affected property owner or owners stating that the applicant has their permission to establish a lease there for at least 10 years.
2. A statement describing the general site characteristics and an explanation of any changes to the area that would result from the proposed aquaculture activity, (e.g., soft bottom will require the placement of approximately 100 cubic yards of cultch for oyster growth). The applicant should also include a navigation chart to show the water depths, and sketch in any/all existing and proposed fixed structures, navigation channels and the distance from shore.
3. The location of the site on a map in sufficient detail to allow a site inspection by department field staff who may be unfamiliar with the area. Applicants are encouraged to provide a USGS topographic map or a navigation chart, the latitude and longitude coordinates (LORAN or GPS coordinates), and the boundaries for the total acreage requested.
4. A research plan must be submitted for an experimental lease which documents the research organization and describes the proposed research activity.
5. A \$200 nonrefundable application processing fee must be submitted to the department.

Hard clams are grown in bags on submerged lands

Applications must be accompanied by a \$200 non-refundable application processing fee

Completed Applications

Once an application is received and reviewed, the applicant is informed as to the status of the application, if it is complete or incomplete, and if additional information is required. Applicants have 90 days either to request a waiver of time (form provided upon request) or submit additional material, if required. This process will continue until the application is complete or the application is deactivated. Failure on the applicant's part to respond will cause the application to be deactivated and the application fee will not be refunded. Applications remain on file with the Division, and may be modified at a later date.

Site Inspection and Resource Survey

The Division of Aquaculture will coordinate the inspection and resource survey of the proposed site. Staff will visit the site, preferably with the applicant, to determine whether or not the site is appropriate for leasing. In cases where the proposed site is located in an aquatic preserve, research reserve or sanctuary, staff will request assistance from the appropriate entities responsible for managing the aquatic area. The site inspection is based on the criteria established in section 18-21.005, F.A.C., including:



1. the desirability of the proposed aquaculture activity from a resource management perspective;
2. the size of the area requested being appropriate for the proposed use; and
3. the suitability of the site for leasing.

Resource surveys provide information to evaluate environmental parameters and resource management practices to determine the desirability of the proposed location and the proposed activity from a resource management perspective. A comprehensive listing of resource management criteria are listed in the Resource Management Section.

The Department may recommend modifications to the proposed lease boundaries or special lease conditions to minimize or eliminate potential adverse environmental impacts or to reduce conflicts with other water and upland uses and users. The resource survey, staff recommendations, and proposed special lease conditions are submitted in a report that is placed in the lease file and becomes part of the agenda item (See Part V, Agenda Process).

Comprehensive Review

Staff reviews the proposed aquaculture activities and the 10-year business plan to determine if the applicants are capable of performing the proposed activities and accomplishing the business plan. The Department also conducts background checks on potential applicants to determine specific types of resource violations. Records of violations are evaluated and included in the review and approval process. During the review process, a determination is made regarding the applicant's ability to perform the proposed aquaculture activities. Applicants and persons acting on behalf of the applicants must express an understanding of the technical, regulatory, and business aspects of the proposed activity.

When all of the required information has been received by the Division, the lease application is deemed to be complete. At this point, the lease application is placed on the active list and is ready for additional review. Applications are processed in the order received.

When the application is complete, a copy is sent to various entities for review; including the Army Corps of Engineers (ACOE), the Department of Environmental Protection (DEP), and the Florida Fish and Wildlife Conservation Commission (FWCC). The application is reviewed by the staff of these agencies depending upon each agency's management responsibilities, including: ownership of the submerged lands (DEP); environmental impacts of the proposed activities (the Department and DEP), the suitability of the site for the proposed activities (the Department and DEP), effects on the conservation of fish and wildlife (FWCC), and additional permit requirements (the Department, DEP, and ACOE).

Notification

When the Department is prepared to make a recommendation for approving the lease application and area, staff will provide the applicants with the instructions and materials necessary to notify riparian property owners who reside within 500 feet of the proposed lease site (if any exist), and a Notice to be advertised in a local newspaper. The local government, primarily the affected Board of County Commissioners, will also be notified by the Department. Once this is done, if substantial objections are received, particularly from affected upland property owners, a public hearing may be scheduled in the area.

Additionally, if the proposed project site was previously applied for or leased by the Board of Trustees, then the Department may specify that the competitive bid process may be conducted. This involves a notice that the proposed lease is open for bidding; notice is sent to interested persons, including the lease applicant, and notice is also published in a local newspaper. The bids are then opened according to Department policy.



Riparian Property Owners residing within 1,000 feet of lease site must be notified

The Agenda Process

Any newly-proposed lease of state-owned submerged lands outside of an aquatic preserve and all proposed leases within an aquatic preserve, must be approved by the Governor and Cabinet in their role as the Board of Trustees. Once steps I-IV are completed, staff will submit an agenda item and recommend approval or denial. The Division of Aquaculture will prepare the agenda item and coordinate scheduling the item for consideration with the Office of Cabinet Affairs. All recommendations of approval or denial must be reviewed within the Department before an item is submitted to the Office of Cabinet Affairs.

The Governor and the Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund vote to approve or deny the item as presented, or they may decide to place specific terms and conditions in the lease instrument. Applicants may seek to explain their position when they disagree with the Department's recommendations. After a lease is approved by the Board, the Division of Aquaculture will draft a lease agreement to be executed by the Department and lessee.

Administration and Management of Leases

The leaseholder must comply with the statutes and rules relevant to maintaining an aquaculture lease, including marking the lease, conforming to the business plan, providing the required production information, and complying with the conditions and terms of the lease agreement. Generally, when the lease is approved, the leaseholder must also obtain a survey for the parcel leased from an approved surveyor and the survey must meet minimum technical standards for the type of survey provided.

Staff conducts audits to determine if leaseholders are complying with their lease agreement and business plans. Audits are usually conducted on an annual basis. The audit is provided in the form of a questionnaire/affidavit that requires the leaseholder to have their responses and the document notarized. Information that is provided relates to the amount of seed stocks planted on the lease, the source of seed stocks, and if the lease is properly marked. Field staff will also conduct on-site compliance inspections in conjunction with the lease audit.

The Division of Aquaculture maintains an aquaculture lease database that contains pertinent lease information, including name, address, lease number, acreage, date of issuance, payment schedules, compliance information, inspection dates, and other information.

Annual Lease Fees



Aquaculture lease fees are based on the number of acres leased. Most lease fees are based on a minimum rate of \$16.33 per acre, adjusted for the consumer price index, and a \$10.00 per acre surcharge that are paid annually. Annual billing statements (invoices) are mailed to each leaseholder approximately 60 days before payment is due. The annual payment is due on the anniversary (one year) of the date that the lease was executed. Second notices are mailed by certified mail to leaseholders that have not paid their annual rental fees 45 days after the payment due date. Delinquent leases are cancelled if payment is not received; the time period to effect cancellation may vary based on the circumstances. A certified letter is then sent to the leaseholder as notice of lease cancellation.

Contact Information

Additional information regarding the Aquaculture Lease Program can be requested from:

Wanda Prentis, Planning Consultant
 Division of Aquaculture
 1203 Governor's Square Boulevard
 5th Floor
 Tallahassee, Florida 32301

Telephone No. 850-488-5471
 FAX No. 850-410-0893
 E-mail: prentiw@doacs.state.fl.us

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www.FloridaAquaculture.com

Resource Management

Resource management represents a comprehensive approach to evaluating environmental and ecological parameters that will affect or will be affected by shellfish aquaculture activities and implementing management practices that mitigate these effects. This evaluation of multiple factors allows resource managers the opportunity to determine the desirability of the proposed location and the proposed activity from a resource management perspective.

Resource Management

Site Location: Location is the most important element in selecting a site for aquaculture. Desirable sites must comply with resource management objectives and minimize conflicts with other users. Proposed lease sites should minimize or eliminate adverse environmental impacts to fish and wildlife habitat, including seagrass communities, as well as minimize conflicts with upland property owners, traditional fisheries, and recreational user groups.

Resource Protection: Leases may be modified and buffer zones may be established to minimize threats to adjacent seagrass communities, to reduce exclusion of the public from significant harvestable resources, to minimize conflicts with recreational and commercial uses such as fishing and boating, and to protect endangered species and critical habitat.

Environmental Impacts: The proposed aquaculture activities are evaluated relative to the site location to determine if intensive aquaculture techniques will produce detrimental environmental effects on the proposed site or on adjacent bottomlands and waters.

Seagrasses: The delineation and protection of seagrasses is an important element in the evaluation of potential lease sites. Ideally, leases will not contain seagrasses and the activities will not adversely affect nearby seagrass communities. In some instances, seagrasses may be present, but the seagrass coverage is usually less than 1%. It is a common practice to conduct seagrass surveys during periods when seagrasses reach peak coverage in the summer and late summer.

Endangered Species: Generally, the department encourages applicants to identify proposed lease sites outside of manatee protection and speed zones. Other mitigation alternatives may also be required to protect other threatened or endangered species, and critical habitat.

Aquatic Preserves: When a proposed site is located within an aquatic preserve, staff from the aquatic preserve are asked to participate in the resource survey and to make recommendations pertinent to the management of the affected aquatic preserve. The DEP aquatic preserve managers review the proposed activities and make determinations pertinent to the preserve's management plan and local resource issues. Additionally, the Division may draw upon expertise from the FWCC and the Marine Research Institute to assess and evaluate specific resource management issues.



Seagrasses



Protected Species



Public Health: Shellfish harvesting and processing is subject to stringent regulation in order to ensure product quality and protect public health. Shellfish produced in aquaculture operations are subject to the same stringent regulations. Because bacteriological water quality represents a valid concern for aquacultural development, leases must be located in waters where water quality is expected to remain acceptable to permit direct-to-market sale of shellfish. Proposed aquaculture sites must be located in waters classified as Approved or Conditionally Approved within specific shellfish harvesting areas. The Department will not encourage the production of shellfish products that may reduce public health protection. Maps showing the classification of shellfish harvesting areas can be obtained from the Division of Aquaculture

Shellfish harvesting and processing is subject to stringent regulation to ensure product quality

Suitability of the Site

Determining the suitability of a site for aquacultural activities involves additional levels of evaluation based on the site location. First, sites should be suitable for conducting the proposed activities from an environmental perspective, including substrate characteristics and water depth. Approved sites are expected to provide favorable conditions for commonly used cultivation techniques. Second, approved sites should minimize use conflicts; for example, riparian rights issues, zoning and other local ordinances, accessibility, aesthetics, navigation, and public safety are evaluated.

Substrate: Suitable locations for culture (hard clams and live rock) include substrates that will support the proposed aquacultural activities and promote survival. For example, substrates containing the proper combination of sand and silt will provide a suitable habitat for hard clams, whereas, soft bottoms may not support hard clams and ultimately result in poor survival. Adequate water circulation and mixing patterns are also necessary to provide food and remove wastes.

Water Depths: Water depths and tidal influence are also important considerations. Most applicants would prefer relatively shallow sites (< 4 feet) for culturing hard clams, and light penetration and depth are important for culturing certain live rock specimens. However, seagrasses generally grow in these shallow waters, and applicants should understand that the department will not recommend leases in areas where seagrasses are present. This limitation often precludes the use of shallow nearshore areas. Generally, lease sites for growing hard clams are located in depths greater than 4.5 feet where seagrasses are not usually present.

Use of Conflicts

Upland Owners: To minimize conflicts with riparian property owners, non-riparian applicants are encouraged to select sites that are more than 1,000 feet from upland properties. The department also will not include private residential docks within aquaculture leases when commercial use would be in conflict with local ordinances.

Navigation: Lease boundaries may be modified substantially to provide navigational corridors for access to upland properties, channels, and docks. Minimum setbacks of 100 feet are required for leases that are located near marked navigation channels, including the Atlantic Intracoastal Waterway. However, setbacks much greater than 100 feet are commonly established to minimize potential user conflicts.



Vessel Traffic: Lease sites shall include appropriate water depths to allow some vessel traffic across the lease without damaging the aquaculture activity or the vessel. Leases located in waters greater than five feet deep allow some transit across the area, but may still limit vessel traffic and boating activities in certain instances. Leases will not be approved when they would obstruct or unreasonably restrict access to upland properties, channels, creeks, marinas, and docks.

Commercial and Recreational Fishing: On-bottom shellfish leases provide for the exclusive use of the bottom and six inches of the water column and live rock leases provide exclusive use of the substrate and part of the water column over the substrate, often about 25%. Recreational and commercial fishermen may use the water column, if they do not unreasonably infringe upon or interfere with the authorized aquaculture activity.

Size of Lease Being Appropriate to the Use

The size of aquaculture leases is provided in ss. 18-21.004(2)(1)8e, F.A.C., stating that "the lease shall not be approved for a parcel larger than ten acres for oysters or five acres for clams". There is some discretion provided for special situations, but the Division has generally recommended a maximum of 5 acres per applicant. Most live rock leases include less than one acre.

Recommended Special Lease Conditions

On-bottom Leases: The leases shall be used for the specific aquacultural purposes. On-bottom leases are commonly authorized for the production of shellfish where the water column is not required. It is recommended that the leases include exclusive use of the bottom only and exclude the overlying water column exceeding six inches above the bottom.

Resource Protection: Special conditions are included in lease contracts that require lessees to perform aquaculture activities in such a manner that will not have an adverse impact on significant resource habitats, such as seagrass beds, or on endangered species, such as manatees and sea turtles. Special lease conditions may provide specific aquacultural practices to mitigate potential adverse impacts to natural resources.

Approved Activities: Specifications regarding placement and type of devices used in culture practices are provided in the lease agreements. Lease agreements also specify conditions for the use of structures and equipment placed on the bottom or vessels moored on leases.

Marking Leases: Aquaculture leases must be marked according to the specifications provided in the lease agreement. Under these provisions, lease markers may be considered as informative signs, restricted activity signs, and/or aids to navigation. The department may approve alternative requirements for marking leases, especially in high-density lease areas. The size of the signs, PVC posts, and floats that are less conspicuous may be approved when safety, navigation, and aesthetics are primary concerns.

Violations: Appropriate statutes and rules are referenced in the lease agreement and violations of resource and sanitation rules are considered violations of lease conditions and may result in revocation of the lease.

List of Frequently Asked Questions (related to the application process)

1. Q: **How do I apply for an aquaculture lease?**

A: You may apply for an aquaculture lease by completing a lease application form. Please give us your name and address and we will mail a lease application package (AquaPak) to you. (See **Contact Information** on page 8 for address.)

2. Q: **Are there leases available?**

A: The situation regarding the availability of leases is similar in all areas of the state where clam farming is practiced. The demand for aquaculture leases exceeds the available acreage, and this demand is particularly evident in the most productive areas. The lack of available leases to satisfy a growing demand presents a dilemma for resource managers who would like to encourage the expansion of aquaculture, while protecting the investment of its aqua-farmers and remaining responsive to environmental concerns. Leases that are available for hard clam farming are very limited, and the growth of clam farming must be managed based on an understanding of available resources, current production and all potential uses.

3. Q: **Will there be leases available in the future?**

A.: The Department understands that there are not enough leases available to meet current demands, and is actively engaged in identifying new areas that may be suitable for clam farming operations. Those with the best opportunity to get a new lease live or work in regions or counties where new aquaculture use areas are designated in response to economic development initiatives.

4. Q: **What options are available to obtain a lease?**

A: Currently, there are only a few options available for obtaining a lease. The most common practices are to have an existing lease transferred or to purchase rights and interest in a lease from an existing leaseholder. You may also place your name on the waiting list for leases that become available when they are returned to the state. However, few leases are terminated or cancelled, and there are waiting lists for leases in most areas. Generally, when leaseholders wish to leave the business, they transfer the lease to a family member or another prospective clam farmer. If you wish to have your name placed on a waiting list for a specific county or location, please contact the Division of Aquaculture.

5. Q: How long does it take to get a lease?

A: Most applications take approximately six months to process. However, if substantial environmental or local issues arise during the lease application review process, the application can take a year or longer to complete. For this reason, we recommend that you contact the staff before you submit the lease application, in order to discuss the site location, as well as other important matters pertaining to your lease application.

6. Q: How much does it cost to apply for a lease?

A: A lease application processing fee in the amount of \$200 is required to be submitted along with the completed lease application. Upon approval of the lease, an annual rental fee will be required. The current rates charged annually for aquaculture leases are \$16.33 per acre (adjusted based on the five-year change in the Consumer Price Index), and a surcharge in the amount of \$10 per acre.

7. Q: What permits or licenses are required in order to manage and operate an aquaculture lease site?

A: You are required to apply for an Aquaculture Certificate with the Division of Aquaculture upon receipt of a signed lease agreement. The staff will send a certificate application along with the signed lease agreement. This is the only form of authorization that you need to possess seedstock, to plant it on your lease, and to harvest the market size product on the lease site.

8. Q: Are there any minimum clam planting requirements that I will be required to satisfy after I get a lease?

A: Before your lease application is approved by the State, the lease applicant must agree to plant a minimum of 100,000 seed clams per acre, per year. Each year the State will audit each lease, and as part of that process, you will be required to send copies of all of your seedstock receipts for the previous year. This enables staff to verify whether or not each lessee satisfied minimum cultivation requirements.

Marking Your Aquaculture Lease

Instructions for marking your lease to comply with the terms and conditions of your lease agreement

According to your aquaculture lease agreement, your lease must be properly marked to delineate the corners and perimeter. Leaseholders must, within ninety (90) days from the date of execution of the lease, properly install and maintain all lease markers. All aquaculture lease markers authorized (approved) in the lease instrument must be maintained in proper condition at all times, and must be sufficient to warn passing vessels of the potential hazard to navigation. All corners must be marked in a consistent manner. Failure on the part of the leaseholder to do so, constitutes a violation of the terms and conditions of the lease agreement, and may constitute grounds for the lessor (state) to terminate the lease.

Furthermore, leases become ineffective when they are improperly marked or not marked at all. When your lease is not properly marked, your rights as a leaseholder are compromised, law enforcement capabilities are limited, and your ability to monitor your property and recognize unlawful activities is diminished. It is also unlikely that law enforcement officials will be able to make arrests and gain convictions for theft when leases are not properly and accurately marked. Law enforcement must be a partnership between the leaseholder and the enforcement agencies. Additionally, relaying will not be permitted to a lease that is not properly marked.

All aquaculture leases must be marked with either signs, buoys, or posts (stakes), depending upon the location of the lease parcel (markers must be consistent). The marking requirements for individual leases that are located within high-density lease areas or aquaculture use zones may be different, depending upon where they are located within the high-density lease area. How you mark your lease will be established in your lease agreement.

Signs

A sign (minimum 2 ft. x 2 ft.) is required to mark specific points in high-density lease areas, generally the corners and points along the perimeter (at intervals along long boundary lines). These larger signs mark the corners and boundaries of the high-density lease area, and may also mark individual lease parcels. Signs shall be attached to poles (four inch diameter) and extend a minimum of three feet above mean high water. Signs must be maintained at their original positions.

Signs must display the geographic position of the sign relative to its position on the lease and the lease number in two-inch black block characters (ex., NE 75AQ000). Signs must have a two-inch border and be marked with a “diamond” symbol using international orange reflective paint or tape over a white background (as indicated in the attachment). The sign may include informative language, for example, “RESTRICTED USE AREA”, “HARVESTING PROHIBITED EXCEPT BY LESSEE”. Informative language will be in black block letters (one inch minimum) and must be approved by the Department.

Posts and Stakes

Stakes may be used to mark corners and perimeters that are not otherwise marked by signs. Corner markers shall contain a field at least 2-1/2 inches wide and 20 inches long. The background shall be white with international orange bands of reflective paint or tape above and below the field. The geographic position of the post relative to its position on the lease and the lease number must be displayed in two-inch black block characters (ex., NE 75AQ000). The identifying field on the post shall extend a minimum of 24 inches above mean high water. Stakes may be made of carsonite, fiberglass, PVC, or other approved material.

Buoys

Buoys may be used to mark corners and perimeters that are not otherwise marked by signs. Buoys shall be white with an international orange band of reflective paint or tape above the field. The geographic position of the buoy relative to its position on the lease and the lease number must be displayed in one-inch black block characters (ex., NE 75AQ000). The buoy must be floated upright at a minimum height of 14 inches above the water.

Marking Your Interior Lease in a High-density Lease Area

If your lease is an interior lease in a high-density lease area and the markers must be replaced, you must pursue the following options:

If buoys are missing and carsonite stakes are present:

You should measure 12-1/2 feet from the reference point (carsonite stake) to determine your lease corner. Easements are 25 feet wide and the carsonite stake marks the middle of the easement. If possible, use line of sight down the row of leases to more precisely replace a missing corner marker. Secure your corner buoy and place another marker (submerged stake) at the same location so that you can use for future reference. Using an augured stake (drilled into the bottom) may accomplish both tasks.

Buoys and carsonite stakes are missing, but the adjoining lease is properly marked:

Measure 25 feet from the adjacent lease corner to replace your missing marker. Again, use line of sight down existing lease corners for improved accuracy.

Buoys, carsonite stakes, and adjacent lease markers are missing:

If there is less than perhaps 100 feet to the nearest properly marked corner, you may be able to approximate the location of your lease. Mark the appropriate distance on a string or rope and measure from a known point. This may be acceptable if all of the adjacent lease sites can be marked with reasonable accuracy. This method will not be appropriate or accurate if the distance is greater than 100-200 feet and a known point (marker) cannot be determined.

Buoys, carsonite stakes, HDLA signs in the vicinity are missing:

This is a serious situation. In the worst case scenario, a certified surveyor must remark the corners as described in the legal description of the lease. This will ensure that the corners and boundaries of the lease are accurate, legal and physical. Documentation in the form of an affidavit must indicate that the lease markers have been placed in the legally described location. This documentation must be provided by the surveyor to the leaseholder and the Florida Department of Agriculture and Consumer Services, Division of Aquaculture.

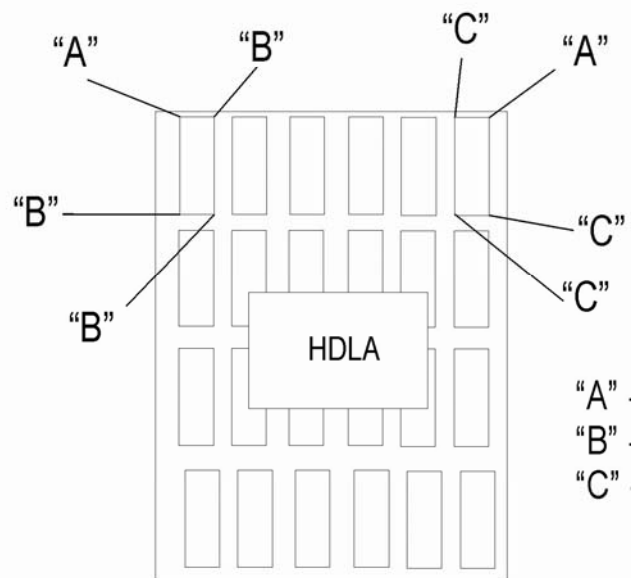
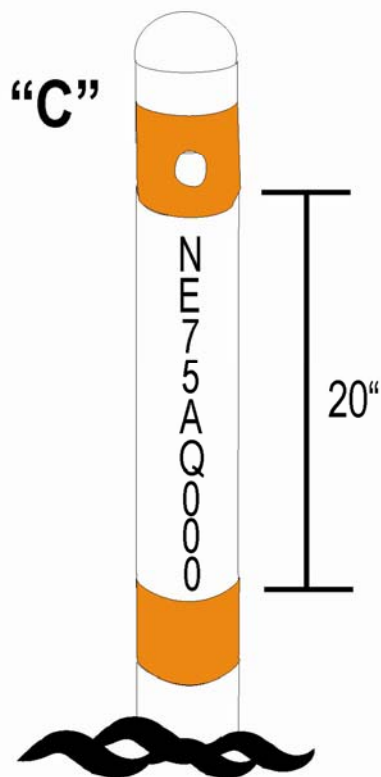
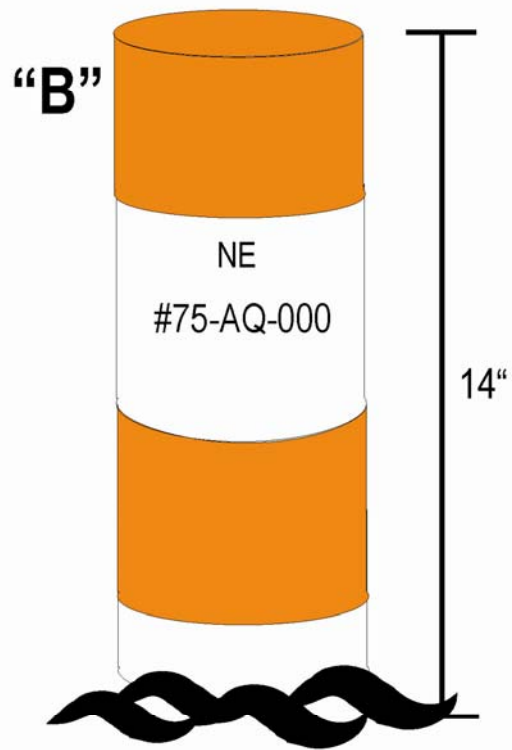
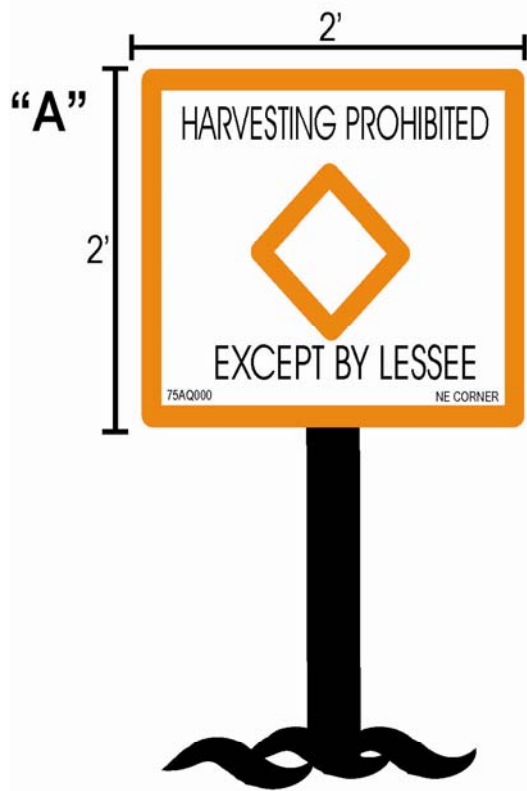
If your lease is marked by a corner or perimeter marker designating the high-density lease area and these markers (sign and pilings) must be replaced, you must pursue the following option:

Corner or perimeter markers of HDLA are missing (6 inch-diameter PVC piling and 3ft x 3ft sign):

Leaseholder must measure the required distance from a properly placed buoy or carsonite stake and secure the piling and sign. If a corner or perimeter marker cannot be accurately placed using existing buoys or carsonite stakes, then a surveyor must mark the corner or perimeter according to the legal description of the lease. This documentation must be provided by the surveyor to the leaseholder and the Florida Department of Agriculture and Consumer Services, Division of Aquaculture.

Note: Legal descriptions and plat maps of the leases, including coordinates for the corners, dimensions of the lease parcels, and positions of the HDLA markers are filed at the Clerk of Courts. These can be obtained upon request at the courthouse of the affected county. Additionally, leaseholders in Levy and Dixie counties can obtain this information through their Aquaculture Extension Agent.

Aquaculture Lease Markers



"A" - Sign
 "B" - Buoy
 "C" - Post