

# FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

## FLORIDA'S AQUACULTURE LEASE PROGRAM

### Lease Program



DIVISION OF AQUACULTURE

### Aquaculture on Sovereign Submerged Lands

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."). In July 2000, the Board delegated authority to the Commissioner of Agriculture to perform duties and functions on behalf of the Board for actions associated with aquaculture on sovereignty submerged lands, and in June 2009 the Board clarified the Department's responsibilities related to the review of aquaculture lease applications and compliance conditions for use of sovereignty submerged lands under authorizations and leases.



**ADAM H. PUTNAM**  
**COMMISSIONER OF AGRICULTURE**



**The Department's  
Division of  
Aquaculture  
administers  
Aquaculture  
Leases in Florida**

## 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 500 aquaculture leases containing about 1,217 acres. Aquaculture leases are located in Brevard, Charlotte, Collier, Dixie, Indian River, Lee, Levy, Manatee, Monroe, Palm Beach, Pinellas, St. Johns 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, Brevard, Charlotte, Collier, Dixie, Franklin, Indian River, Lee, Levy, and Volusia.

## 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. However, clam farming, as with other forms of aquaculture, is a very high-risk enterprise and is subject to 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 that are cancelled or otherwise returned to the State in most of the designated aquaculture use areas and high-density lease areas statewide. Leases are also potentially transferrable by leaseholders directly to another party upon written consent of the Department.

# 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.



Lease applications can be obtained from the Division of Aquaculture

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 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.

### 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

### 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.

### Designation of Aquaculture Lease Areas

Subsection 597.003(1)(k), F.S., provides that the Department shall identify and evaluate specific tracts of sovereignty submerged lands and water columns to determine where such lands and waters are suitable for developing aquaculture leases. In response to this mandate the Department is actively involved in identifying aquaculture use areas. 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. A coordinated review of such projects is performed prior to approval by the Board of Trustees. 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.

### 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.



**Acreage Requirements**

Applicants must develop a business plan to be submitted as part of the application that demonstrates the amount of acreage that is necessary 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**

Each applicant must submit the following information:

1. The Application for a State-Owned Sovereignty Submerged Land Aquaculture Lease (DACS 15102) should be completed and submitted to the Division of Aquaculture.
2. Description of the aquaculture activities to be conducted.
3. A statement describing the applicant’s capabilities to conduct the proposed activities.
4. 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.
5. Evidence of interest in upland property when the applicant is and upland riparian property owner.
6. A statement describing the potential impacts of the proposed activity on the ecology of the area, and include 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. 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.
7. A research plan must be submitted for an experimental lease which documents the research organization and describes the proposed research activity.
8. A \$200 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 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 may be requested to provide additional information. 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.

## 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 shall consider the location of the parcel, water body, water depth, navigation and safety hazards, distance from shore, presence of fish and wildlife habitat, user conflicts, and resource management, as well as”



1. the proposed aquaculture activity is determined to be water dependent;
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. (see the Resource Management Section on page 9). The Department may recommend modifications to the proposed lease boundaries or special lease conditions to ensure that the proposed aquaculture activities are de-

signed to minimize or eliminate potential adverse impacts on fish and wildlife habitat or to reduce conflicts with other water and upland uses and users. The survey, recommendations, and special lease conditions are submitted in a report that is placed in the lease file and becomes part of the agenda item (See Agenda Process).

## Comprehensive Review

Applications are processed in the order received. Staff reviews the submitted descriptions of the proposed aquaculture activities and the 10-year business plan. Based on the information provided, staff determines the extent of the applicant’s capability to perform the proposed activities and accomplish the business plan. The application and review processes are provided in sections 18-21.020 and 18-21.021, F.A.C.

When all of the required information has been received by the Division, the lease application is deemed to be complete. When the application is complete, a copy is sent to various entities for review; including the Department of Environmental Protection (DEP), the Florida Fish and Wildlife Conservation Commission (FWCC), the Department of State, the Army Corps of Engineers (ACOE), and the local board of county commissioners. The application is reviewed by staff of these agencies depending upon each agency’s management responsibilities, including: ownership of the submerged lands, environmental impacts of the proposed activities on water quality and submerged resources, and managed areas (DEP); effects on the conservation of fish, wildlife, and endangered and threatened species (FWCC), cultural resources (DOS), and navigation and boating safety (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.



Riparian Property Owners residing within 500 feet of lease site must be notified

## The Agenda Process

Any newly-proposed lease of state-owned submerged lands must be approved by the Governor and Cabinet in their role as the Board of Trustees. Once the application review process is 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 agenda item is submitted for consideration by the Board.

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 prepare 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, maintaining an active annual aquaculture certification, 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 requires that the leaseholder respond and complete the affidavit for the audit of an existing sovereignty submerged land lease. Information that is requested in the audit relates to the amount of seed stocks planted on the lease, the source of seed stocks, modification to the business plan, compliance with lease terms and conditions, and if the lease is properly marked.

The Division of Aquaculture maintains an aquaculture lease database that contains pertinent lease information, including name, address, lease number, acreage, date of issuance, payment information, 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 \$15.00 per acre and fractional acres, adjusted for the consumer price index, and a \$10.00 per acre and fractional acres surcharge that are paid annually. Annual billing statements (invoices) are mailed to each leaseholder approximately 30 days before payment is due. The annual payment is due on or before the anniversary (one year) of the effective date of lease. 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  
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 5th Floor  
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# 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 the performance of 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 Fish and Wildlife 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 are available on the Division of Aquaculture’s website, [http://floridaaquaculture.com/seas/seas\\_shamap.htm](http://floridaaquaculture.com/seas/seas_shamap.htm).

**Suitability of the Site**

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

Division staff conducts a review to determine the suitability of all proposed lease sites for aquaculture activities 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. 18-21.020(4)(g)3, F.A.C., stating that "the leased area 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 only one acre of sovereignty submerged land.

### **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 utilized. 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 be grounds for revoking 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. In most areas, the demand for aquaculture leases exceeds the available acreage, and this demand is particularly evident in the most productive areas. This presents a dilemma for resource managers who would like to encourage the expansion of aquaculture, yet must also remain responsive to environmental concerns. The growth of aquaculture must be managed based on an understanding of available resources, current production and other potential water-related uses.

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

A.: The Department has the authority to take the steps necessary to identify new areas that may be suitable for marine aquaculture development. 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 local economic development initiatives. In strong support of these initiatives, definitive steps are taken toward enhancing the development of aquaculture.

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, assigned or subleased, or obtain an Authorized User Acknowledgement from an existing leaseholder which permits you to work on an existing lease. You may also place your name on the waiting list for leases that become available when they are cancelled or are otherwise returned to the state. 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 Division of Aquaculture 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 \$16.73 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 prior to the execution of a lease agreement by the Department. Staff will send an application for an Aquaculture Certificate that requires the payment of a \$100.00 fee along with the lease agreement for the applicant's signature. This is the only form of authorization that you need to possess seed stock, and to plant and harvest aquaculture products on the lease.

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

A: Before your lease application is approved, lease applicants must agree to meet minimum effective cultivation requirements. For example, applicants who plan to produce hard clams must plant a minimum of 100,000 seed clams per acre, per year. Effective cultivation is required to be performed within all lease areas, including fractional acreage as well. Each year the Division will audit each lease, and as part of that process, leaseholders will be required to send copies of all seedstock receipts for the previous year. This enables staff to verify whether or not each leaseholder has 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 mariners 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:**

Where navigational corridors are 25 feet wide and the carsonite stake marks the middle of the corridor, you should measure 12-1/2 feet from the reference point (carsonite stake) to determine your lease corner. 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 the width of the navigational corridor (in most areas it is 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.

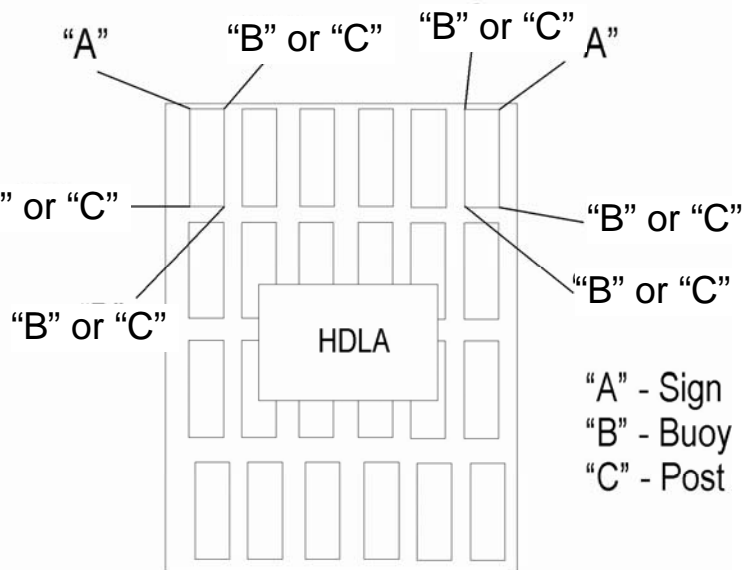
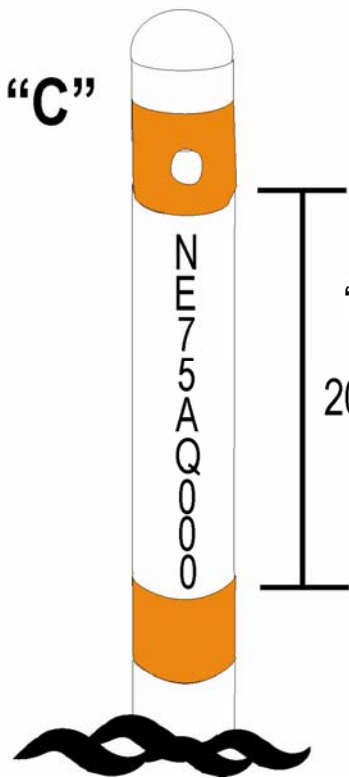
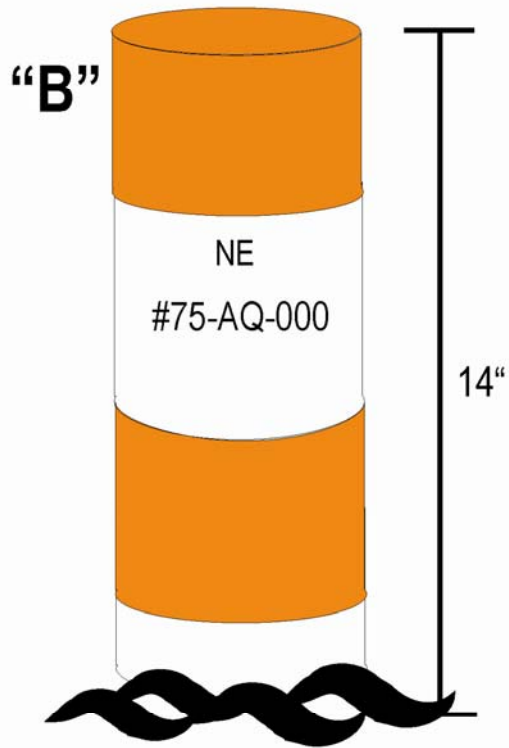
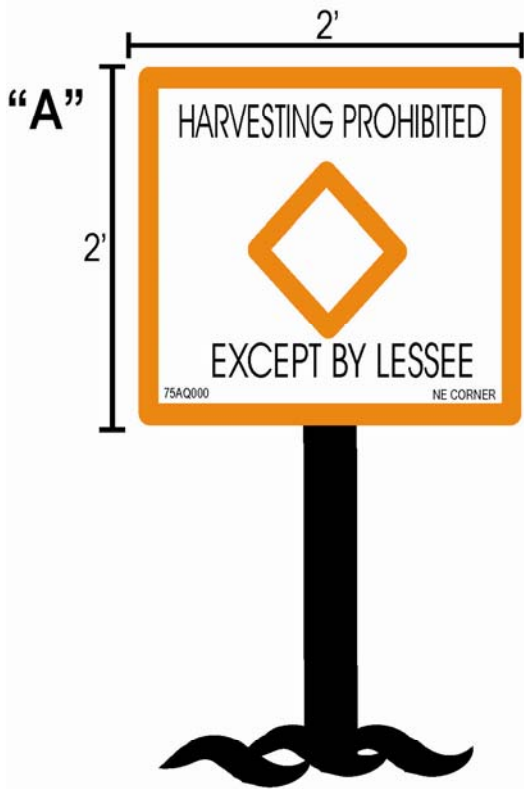
If your lease is marked by a corner or perimeter marker designating the high-density lease area and these markers (sign and pilings) must be replaced, you must pursue the following option:

**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



## **Hard Clam Handling and Harvesting Standards**

### **Licensing Requirements:**

Aquaculture Certificate ("AQ card"): Any person engaging in aquaculture (leaseholders, subleaseholders, and anyone who sells aquacultured products) is required to obtain an aquaculture certificate. The certificate identifies the aquaculturist, his/her lease, product and facility. Personnel employed by a leaseholder are covered under the leaseholder's certificate number. Persons who are not employees and are engaged in culturing and harvesting hard clams from leases other than their own should obtain an authorized user acknowledgement and a separate aquaculture certificate number. The AQ card must be renewed annually at a cost of \$100.00 and is valid July 1 to June 30.

### **Water Classifications:**

Hard clams may only be harvested from waters in areas classified Approved or Conditionally Approved for shellfish harvest and that are currently open. When rinsing hard clams during harvesting activities, only use Approved or Conditionally Approved waters that are in the open status.

To obtain shellfish harvesting maps, classifications of waters and the open/closed status of waters visit the Florida Department of Agriculture and Consumer Service's web site at <http://www.floridaaquaculture.com> or contact the Department's regional offices:

Western Region: Panama City (850) 236-2200  
Panhandle Region: Apalachicola (850) 653-8317  
Big Bend Region: Cedar Key (352) 543-5181  
Southwest Region: Punta Gorda (941) 833-2552  
East Coast Region: Palm Bay (321) 984-4890

### **Requirements of Boats and Vehicles Used in Harvest or Transport of Hard Clams:**

The boat must be registered and comply with US Coast Guard vessel requirements.

Boats and vehicles must be constructed, operated and maintained so as to protect hard clams from contamination.

Fuel tanks or other sources of contamination may not come in contact with hard clams.

All boats must be provided with false bottoms and bulkheads fore and aft to prevent hard clams from coming in contact with any bilge water.

No dogs or other animals are allowed on the boat at any time.

Boats must have an approved Type III marine sanitation device, a portable toilet or other sewage disposal receptacle with a tight fitting lid that will not spill on board. No bodily wastes may be discharged overboard from a harvest boat.

Hard clams must be protected from exposure to sun, birds and other adverse conditions by effective shading on harvest boats and vehicles. Hard clams must be held under conditions which allow air circulation and promote evaporative cooling.

### **Harvesting and Transporting:**

Harvesting and transporting of hard clams must be conducted during the hours commencing at sunrise and ending at sunset as established by the US Weather Service.

Hard clams must be delivered directly to a certified shellfish processor. Washing (tumbling) may be done: (1) in Approved or Conditionally Approved harvesting waters in the open status (preferably on the lease site), (2) at specific upland aquaculture facilities authorized to participate in the "Pilot Program for Washing Hard Clams," or (3) at certified shellfish processors.

Hard clams must be placed under mechanical refrigeration within specified times:

- During November, December, January, February, and March hard clams must be delivered to a certified dealer by 10:00 pm of the same day as harvest.
- During April, May and October hard clams must be delivered to a certified dealer within 12 hours of the time of harvest.
- During the months of June, July, August and September the harvester shall assure that clams shall be delivered to a certified shellfish dealer within 10 hours of the time of harvest or within the same day as harvested, whichever is earlier.

These times are the maximums. Every effort should be made to deliver products directly to a certified shellfish processor as soon as possible. Earlier delivery is required for shellfish processors approved for tempering hard clams.

**NOTE:** The intent of the maximum time limits for harvesting are to provide reasonable time to harvest, transport hard clams to the shore and to directly deliver clams to a nearby certified shellfish processor. Transporting hard clams long distances on land to distant certified processors by harvesters is not authorized. Transporting hard clams long distances on land must be conducted by certified shellfish processors under mechanical refrigeration at 45 degrees F or less.

### **Harvesters Tagging:**

Harvesters must place a durable and waterproof tag at least 2 5/8 inches by 5 1/4 inches on each hard clam container (bag). The tag must list the following information in the order presented: 1. harvester aquaculture certificate number or saltwater products license number, 2. date of harvesting, 3. time of harvest, 4. identification of the harvest area by 4 digit code or by name as listed in 5L-1.003(11) F.A.C., 5. common name of the shellfish and quantity of shellfish, and 6. the statement: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS." Aquaculturists harvesting under an aquaculture certificate may use a bulk tag for each harvest location but must include all of the above information plus the name of the certified shellfish dealer where the product is to be delivered.

For additional information, please refer to the Division of Aquaculture's Best Management Practices Manual, available at [http://www.floridaaquaculture.com/publications/P-00104-booklet-07\\_BMP\\_RULE.pdf](http://www.floridaaquaculture.com/publications/P-00104-booklet-07_BMP_RULE.pdf)

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**Florida Department of Agriculture and Consumer Services**

**Adam H. Putnam, Commissioner**

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