

# Coastal Resources Management Council Guide to Aquaculture Applications



**Coastal Resources Management Council  
Stedman Government Center  
4808 Tower Hill Road  
Wakefield, RI 02879  
(401) 783-3370**



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## **Coastal Resources Management Council**

### **Guide to Aquaculture Lease Application**

#### **Introduction**

This packet contains all of the forms and information you will need to apply for a tidal aquaculture lease from the Rhode Island Coastal Resources Management Council (CRMC). The application process is outlined in this packet and all of the forms you must complete to make sure the process is completed are included. The instructions are directed towards shellfish culture; if you intend to conduct any other type of culture, or have any questions, please contact the CRMC Aquaculture Coordinator at 401-783-3370.

The first thing an applicant must accomplish is to choose a site for your farm. This is the most important aspect of the process. It is in this phase where many of the objections to an application can be avoided by choosing a site carefully. It is important to remember that you are applying to lease submerged state lands. Therefore, the leasing process must take into consideration what is best for all of the residents of the state. This is referred to as the “Public Trust Policy,” as these lands are managed as a public trust for the citizens of the state by the agencies charged with regulating these lands.

Remember, all of the agencies will be asking 4 basic questions about your proposed farm:

- 1) What are you going to do (gear types, species cultured, culture methodology, etc)?
- 2) Where do you want to do it?
- 3) What will be the effects on the proposed site?
- 4) How are you proposing to do it?

A good site has many facets which all contribute to its suitability. You should ask yourself these questions: Will your intended crop grow well at this site? Is it in the area of other fishery activities?

Is it in an area of suitable water quality? Is it in the way of recreational boating or harbor activities? What is your access to the site? Do you know the area and know what to expect when the weather turns bad? Does the site have suitable bottom type for your intended culture activities? These are simple questions that you should be able to answer.

The CRMC Working group on Fisheries and Aquaculture has compiled a series of charts showing historic fishery uses of the state's waters. The DEM Division of Fish and Wildlife has created maps of permitted aquaculture sites (<http://bit.ly/3bcrdcP>). The first step in choosing a preliminary site is to check with CRMC for possible conflicting uses at the proposed site. You should also be talking to the local fishermen, boat owners, and local officials such as harbor management committee, harbor master etc. and others that might be concerned about a farm being created in their area. The object here is to make these people aware of the proposal and to give them an opportunity to comment at this early stage of the process. This will allow the process to proceed much more smoothly in the later stages.

Once you have a site for your proposed aquaculture lease chosen, you have two courses open to you. If the site looks good but you are not sure the chosen site will support a commercial aquaculture farm, you can choose to obtain a "Commercial Viability Aquaculture Permit." This option allows you to explore a site under very limited circumstances, after which you will have the option of looking for another site or applying for an aquaculture lease and permit for the site. If you are sure that your chosen site will be productive and you want to begin commercial operations, you can apply for an aquaculture lease and permit. The process for an aquaculture lease begins with the "Preliminary Determination" meeting and report.

It is important to have an idea of what aquaculture is and what working on the water entails. It is very useful to have a working knowledge of aquaculture before you invest your hard work and money. This knowledge will go a long way to ensuring a successful and profitable operation. There are two universities that conduct aquaculture extension and research in Rhode Island. Roger Williams University Center for Economic and Environmental Development in Bristol offers assistance and information to prospective farmers. Each January begins a new session of an evening course for potential shellfish farmers. This program began in 2004 and many of RI's new shellfish aquaculturists have completed the program.

Please contact Rob Hudson at [rhudson@rwu.edu](mailto:rhudson@rwu.edu). At the University of Rhode Island Coastal Resources Center, Azure Cygler, [azure@crc.ri.edu](mailto:azure@crc.ri.edu) is a source of information and is the aquaculture extension contact. It is recommended that you contact these universities and take advantage of their expertise and training before you invest time, labor and capital in an aquaculture venture.

## **Commercial Viability Aquaculture Permit**

It is important to know that shellfish growth can be very site specific. One site might support shellfish growth that makes a farm economically feasible while another site near-by does not. How do you determine if a site is a suitable for a farm or not? To allow a prospective grower to determine whether a site will support the growth necessary CRMC has developed a “Commercial Viability Aquaculture Permit.” This allows the prospective farmer to conduct a very limited study of the proposed site to determine if it is suitable for a commercial venture. The application requirements for obtaining a commercial viability site are essentially the same as a full application. However the process is simpler and less time consuming because it is an administrative permit for the first year and a half, then requiring a council approval for the second year and a half.

There are a number of restrictions on this type of permit:

- 1) The permit is only given once for each site.
- 2) It is valid for a single three year period.
- 3) You can only make a one-time sale of any product you grow on the site.
- 4) Once the three-year period has expired all gear must be removed and a full application will have to be made if you wish to continue at the site.
- 5) There is an area limit of 1,000 square feet.
- 6) Other restrictions are detailed in appendix F of Section 1.3.1(K) page 43 paragraph g.

If you decide that a commercial viability permit is a prudent course of action, the necessary forms are found in Appendix A. All aquaculture operations in the state require a “Special Permit for Aquaculture” from the Rhode Island Department of Environmental Management. The application for this permit is found in appendix B. This form should be sent to the RI-DEM Division of Fish and Wildlife after you have received approval from CRMC.

## **Preliminary Determination (PD)**

If you decide that a commercial viability permit is not necessary, or you have obtained a commercial viability permit and found the site to be suitable for a commercial venture, the first step in obtaining a commercial aquaculture lease is the preliminary determination process. The form is found in Appendix D, please include all of the requirements listed, the fee for the PD process is \$25.00.

The preliminary determination process is designed to give the government agencies that regulate aquaculture, town officials (harbor committee, harbor master, planning department, etc.), RI Department of Environmental Management and the applicant a chance to review and discuss the proposal. This meeting usually occurs in the town offices adjacent to the proposed site and may include representatives from the U.S. Army Corps of Engineers, National Marine Fisheries Service, environmental organizations, commercial and recreational fishing industry associations, the town residents, and CRMC. At this meeting the proposed aquaculture lease will be discussed and the applicant will be expected to answer any questions that arise.

After the meeting the CRMC Aquaculture Coordinator will prepare a report to the applicant detailing suggestions and/or recommendations that arise from the meeting. The applicant does not have to take these suggestions into account when preparing the full application. However, the applicant must be aware that these suggestions and/or recommendations will surface again during the application process and the choice of not heeding them will have to be defended. Once the applicant has received the PD report they can apply for an aquaculture lease from the CRMC.

## **Aquaculture Lease**

The final stage of obtaining a lease and permit is the full application. The form required will be found in appendix D. Please read the forms carefully and follow directions. Applications not completed to the instructions will be returned, thus lengthening the time required to complete the process. In this stage of the process, once the full application is received and processed, the proposal will have a 30 day public comment period. Particulars about the application are advertised and comments are solicited. The town and all state and federal regulatory agencies are notified. The federal regulators will meet with state regulators to determine if the application will meet guidelines calling for federal participation. Most small leases utilizing bottom culture will only be reviewed by the state agencies. The application you submit to CRMC will be forwarded to the appropriate state agencies, the town, the fishing associations, the RI Marine Fisheries Council, environmental organizations, and anyone who has expressed an interest in the preceding applications. Approval from the Army Corps of Engineers, the RI Marine Fisheries Council, RIDEM Division of Fish & Wildlife, and RIDEM Office of Water Resources will be solicited and included in the final report.

At the end of the 30-day public comment period it will be determined if a public hearing will be required. Careful planning to minimize conflicts will lesson your chances of a local public hearing. Most aquaculture applications are approved at the full council hearing without going to a local hearing.

The final step will be for the applicant to go before the Coastal Resources Management Council for the granting of an assent and lease. The CRMC Aquaculture Coordinator will write reports for the Council detailing the findings of the application process. The applicant, objectors and supporters of the application are given a chance to voice their opinions to the Council. The Council can send contested cases to local public hearing if one has not already been held. The Council will vote to approve, deny, or modify the application. CRMC Assents for aquaculture is valid for a period of 15 years and they are renewable if all of the stipulations are met.

The final step in the leasing process is for the signing of a lease with the CRMC, the filing of proof of performance bond as required, and payment of the lease fee. Most leases will require a performance bond. The purpose of the performance bond is to provide money for the removal of all of the leaseholder's aquaculture gear on the site in case of termination or expiration of the lease when the leaseholder does not conduct the clean up.

At the end of each calendar year CRMC will send a letter and annual reporting form to each aquaculturist. Lease fees and the completed reporting form are due in January each year.





State of Rhode Island and Providence Plantations  
Coastal Resources Management Council  
Oliver H. Stedman Government Center  
4808 Tower Hill Road, Suite 3  
Wakefield, RI 02879-1900

(401) 783-3370  
Fax (401) 783-2069

File Number (CRMC use only): \_\_\_\_\_

**CRMC COMMERCIAL VIABILITY AQUACULTURE APPLICATION**

Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

**PROJECT LOCATION**

Waterway: \_\_\_\_\_

City/Town: \_\_\_\_\_

Latitude-longitude coordinates of site: \_\_\_\_\_

\_\_\_\_\_

**DESCRIPTION OF PROPOSED AQUACULTURE OPERATION:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Proposed species (common name; genus and species): \_\_\_\_\_

Proposed start and end dates for experiment: \_\_\_\_\_

**NOTE:** The applicant acknowledges by evidence of their signature that they have reviewed the Rhode Island Coastal Resources Management Program, and have, where possible adhered to the policies and standards of the program. The applicant also acknowledges by evidence of their signature that to the best of their knowledge the information contained in the application is true and valid. The filing of false information can result in the Coastal Resources Management Council revoking the state assent.

\_\_\_\_\_  
Applicant's Signature

**COMMERCIAL VIABILITY APPLICATION INSTRUCTIONS**  
**(ONE APPLICATION PER SITE)**

ALL OF THE FOLLOWING REQUIRED APPLICATION DOCUMENTS  
**MUST BE ORGANIZED INTO TWO (2) ASSEMBLED PACKETS**  
WHEN SUBMITTED TO BE CONSIDERED A COMPLETE APPLICATION

**REQUIRED APPLICATION DOCUMENTS:**

**APPLICATION FEE** - (\$25.00 per site, check or money order made payable to “CRMC”)

**LOCATION MAP** - Use a NOAA nautical chart to accurately delineate the site location. The location map must include a map scale, a north arrow and an accurate latitude-longitude coordinate for the site. The map should be no smaller than 8½” by 11”. Google maps are acceptable.

**SITE PLANS** - Details of the site and proposed gear in plan view with bottom contours showing depth at mean low water. A separate sheet depicting a cross section view with mean high and mean low tide elevations shown on the plans and distance to nearest shoreline features (shoreline, docks, etc.). Be sure to show all proposed gear within the site. Both sheets must be no smaller than 8½” by 11”. Plan scales of 1 inch = 20 feet or larger are preferred.

**GEAR DETAILS** - Show typical dimensions of the proposed gear (cage, rack, net bag etc.) on a separate 8½” by 11½” sheet. **Be sure to show all details!**

**OPERATIONAL PLAN** - Written description to include, at minimum, a description of the design and operation of the aquaculture facility, harvesting and maintenance procedures, source of water and water treatment, if any, and seed stock origin, consistent with the FDA National Shellfish Sanitation Program guidance documents.

**SITES ARE LIMITED TO A MAXIMUM OF 1000 SQUARE FEET**

**MAXIMUM TIME PERIOD OF 1 ½ (18 MONTHS) YEAR ADMINISTRATIVE**

**PLUS A 1 ½ (18 MONTHS) YEAR EXTENSION FROM FULL COUNCIL**

NOTE: You are required to obtain a Special Permit for Aquaculture from the DEM Division of Fish & Wildlife for the possession and transportation of any fish or shellfish for the purposes of aquaculture; call (401) 783-8906. In addition, you may be required to obtain an Army Corps of Engineers permit for any structures placed in tidal waters. The CRMC permit is not valid until these other permits are issued to the applicant.



State of Rhode Island and Providence Plantations  
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Oliver H. Stedman Government Center  
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Wakefield, RI 02879-1900

(401) 783-3370  
Fax (401) 783-2069

File Number (CRMC use only): \_\_\_\_\_

### CRMC AQUACULTURE PRELIMINARY DETERMINATION REQUEST FORM

#### APPLICANT INFORMATION:

Applicant(s) Name(s): \_\_\_\_\_

Street: \_\_\_\_\_

City/Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

#### Location of Proposed Aquaculture Site

Waterway: \_\_\_\_\_

Longitude/Latitude of Proposed Aquaculture Site: \_\_\_\_\_

Signature of Requestor: \_\_\_\_\_

Date: \_\_\_\_\_

#### INSTRUCTIONS

\*\* FILING FEE: \$25.00 per site. Check or money order payable to "CRMC"

**NOTE:** Filing fees are not refundable.

\*\* **NOTE:** This request does not constitute application for permission to perform an activity. A CRMC Preliminary Determination Request is a determination of jurisdiction and which sections of the Rhode Island Coastal Resources Management Program apply to the project under construction.

Mail the above information to:

ATTN: APPLICATIONS COORDINATOR  
COASTAL RESOURCES MANAGEMENT COUNCIL  
OLIVER STEDMAN GOVERNMENT CENTER  
4808 TOWER HILL ROAD; SUITE 3  
WAKEFIELD, RI 02879

## **PRELIMINARY DETERMINATION INSTRUCTIONS**

ALL OF THE FOLLOWING REQUIRED APPLICATION DOCUMENTS **MUST BE ORGANIZED INTO FOUR (4) ASSEMBLED PACKETS** WHEN SUBMITTED TO BE CONSIDERED A COMPLETE APPLICATION

1. **Application Fee:** \$25.00
2. **Photos of the project site and adjacent area:** (minimum size 3" x 5" maximum size 8"x 10")
3. **Completed application form:** Be complete and concise in the description of the work proposed. The written description must completely describe all work proposed on the submitted site plans. This concise written description is essential in order to put the project out to public notice and expedite the processing of the application.
4. **Location map:** Use a NOAA nautical chart to accurately delineate the site location. The location map must include a map scale, a north arrow (indicate magnetic or true north) and an accurate latitude-longitude coordinate for the site. The location map must be 8½" by 11". Google maps are acceptable.
5. **Site plans:** All plans must include applicant's name, date of preparation, scale and north arrow (indicate magnetic or true north). Complete site boundary lines must be shown on the plan view. All corners of the site must be accurately delineated in latitude-longitude coordinates and shown on the plans. Be sure to include appropriate scale and distance from the site to the nearest shoreline.
6. **The proposed gear layout must be shown on the plan view.** Depth contours must also be shown on this site plan view for the proposed lease area at mean low tide. Be sure to show **all** of the proposed gear (cages, racks, netting, etc.) within the site. A separate sheet depicting a typical cross section view (from deepest to shallowest portions) of the entire site at the same scale as the plan view which includes the gear layout. Mean high and mean low tide elevations must be indicated on the cross section view plan. Detailed drawings of the proposed gear (cages, racks, nets, etc.) showing typical dimensions must be provided on an 8½" by 11" sheet. Applicant must show depth of water covering the gear at mean low tide for the shallowest portion of the site. Reduced site plans on an 8½" x 11" sheet must be provided if the original site plans are on larger sheets.

**ATTENTION: Upon receiving written verification of application acceptance by the CRMC, you will be required to mark the four corners of the proposed aquaculture site with standard 11 inch pot buoys. Each buoy must have the following notation in 3 inch letters "CRMC" and the file number given to you at the time of notification. You must complete this requirement within 10 days of receiving the CRMC written notification in order to assist the CRMC staff in evaluating your proposed aquaculture site.**

7. **Operational Plan** - a detailed written description for the aquaculture operation which must include, at minimum, the following information: source(s) of shellfish seed, specifications of proposed hatchery, nursery, seeding and harvesting methods, general gear maintenance techniques (i.e., fouling organism removal methods), proposed operation timetable with respect to actual site work, intended recipient(s) of aquaculture product(s), etc.

### **Written requirements of RICRMP:**

8. Provide written response to all items in Section 1.3.1(A)
9. Review Sections 1.1.10 and 1.3.1(K) of the RICRMP.
10. Information regarding provisions for pedestrian access to the shore and availability of lease area for other uses, including but not limited to, boating, swimming, fishing, etc.

**Note: All proposals are forwarded to the Rhode Island Historical Preservation & Heritage Commission for review and comment in accordance with Section 1.2.3 of the RICRMP. In some cases, the applicant may be required to submit the results of an archaeological assessment survey in order to document the presence or absence of significant archaeological sites. If the proposed development would damage a significant historical or archaeological resource, the Council may require modification of, or prohibit the proposed action.**

## NOTICE TO AQUACULTURE APPLICANTS

The following information is provided by the Coastal Resources Management Council as guidance for applicants proposing aquaculture operations in tidal waters of the State of Rhode Island. Aquaculture operations require both a CRMC Assent and an annual CRMC lease agreement. Applications are reviewed under a Category B process as defined by the Rhode Island Coastal Resources Management Program (RICRMP), requiring of a 30 day public notice period followed by consideration by the full Council. If substantive objections (reference Section 1.1.4(G) of the RICRMP) are submitted during the public comment period, the application may be evaluated by a subcommittee at a public hearing before being considered by the full Council. A subcommittee review may only be initiated at the discretion of the Executive Director or upon request by four or more members of the Council.

Applicants are advised to familiarize themselves with the RICRMP, particularly Sections 1.1.10, 1.3.1(A) and 1.3.1(K). Additionally, applicants should also review §20-10 of the Rhode Island General Laws which specifically pertains to aquaculture activities.

The Army Corps of Engineers (ACOE) requires that all aquaculture projects that involve in-water structures, such as netting, cages, boxes, floats, etc., obtain an ACOE permit. The ACOE permit may be reviewed concurrently with the CRMC application review process. Applications involving discharges may be required to obtain a Rhode Island Pollution Discharge Elimination System (RIPDES) permit. Aquaculture proposals may also be required to comply with Coast Guard gear marking procedures as specified in 33 Codified Federal Register 64.20-1.

**Applicants proposing aquaculture activities must submit the following information to the CRMC:**

1. A complete application package signed and dated by the applicant with the appropriate application fee which is based on the estimated project cost (see CRMC fee schedule; minimum fee \$50.00). If approved, an annual lease may be required, with a fee based on the acreage of the area utilized by the operation.
2. Plans depicting the location of the proposed operation, locus, and design details of the proposed gear to be placed in tidal waters. Site plans must be drawn to scale and 8.5" by 11" reduction of large scale plans must be submitted for the CRMC 30-day public notice. Applicants must use the detailed checklist of application requirements which is available at the CRMC office.
3. A written narrative that clearly describes all aspects of the proposed operation and addresses the Category B requirements listed in Section 1.3.1(A) of the RICRMP (see checklist and operations plan guidance document)

After receiving a completed application package, the CRMC will forward a request to the RI Marine Fisheries Council, RI DEM Office of Water Resources and the RIDEM Division of Fish & Wildlife for written comments regarding the aquaculture proposal. After receiving written responses by the preceding entities, the CRMC will bring the application before the full Council for deliberation or a subcommittee, if required. If the application is approved, the CRMC may require a performance bond to be posted by the applicant to cover the cost of clean-up operations and gear removal should the site be abandoned. The bond coverage amount will be determined by the CRMC.

Finally, the applicant must abide by the stipulations prepared for the aquaculture operation and conditions of the lease. The CRMC Assent permits the aquaculture activity in tidal waters. A lease agreement will be prepared by the CRMC and forwarded to the applicant. Lease fees are specified in Section 1.1.10 of the RICRMP and must be paid in full by January 1st of each operation year. Also, a separate aquaculture permit must be obtained (currently at no charge) from the DEM Division of Fish & Wildlife for the importation and culturing of species in Rhode Island tidal waters. Applicants are also required to submit an annual report to both agencies by January 31st of each year. The annual report forms will be provided to aquaculture permit holders during the month of December, prior to the due date. Should you have any questions regarding your proposal, please contact the CRMC at 783-3370.



**STATEMENT OF DISCLOSURE AND APPLICANT AGREEMENT AS TO FEES**

The fees which must be submitted to the Coastal Resources Management Council are based upon representations made to the Coastal Resources Management Council by the applicant. If after submission of this fee the Coastal Resources Management Council determines that an error has been made either in the applicant's submission or in determining the fee to be paid, the applicant understands that additional fees may be assessed by the Coastal Resources Management Council. These fees must be paid prior to the issuance of any assent by the Coastal Resources Management Council.

The applicant understands the above conditions and agrees to comply with them.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Mailing Address



**CRMC'S FEE SCHEDULE**  
**(current dated check or money order only)**

If the project costs:

The fee will be:

Based on Estimated Project Cost:	
EPC is less than or equal to \$1,000	\$50.00
EPC Between \$1,000.01 - \$2,500	\$100.00
\$2,500.01 - \$5,000	\$150.00
\$5,000.01 - \$10,000	\$200.00
\$10,000.01 - \$25,000	\$250.00
\$25,000.01 - \$50,000	\$500.00
\$50,000.01 - \$100,000	\$750.00
\$100,000.01 - \$150,000	\$1,000.00
\$150,000.01 - \$200,000	\$1,250.00
\$200,000.01 - \$250,000	\$1,500.00
\$250,000.01 - \$300,000	\$1,750.00
\$300,000.01 - \$350,000	\$2,000.00
\$350,000.01 - \$400,000	\$2,250.00
\$400,000.01 - \$450,000	\$2,500.00
\$450,000.01 - \$500,000	\$2,750.00
\$500,000.01 - \$20,000,000	(\$2,750.00 + .005 * EPC beyond \$500,000.00)
EPC greater than \$20,000,000	(\$100,250.00 + .0025 * EPC beyond \$20,000,000)

*EPC = Estimated Project Cost. The EPC shall include all costs associated with site preparation (e.g., earthwork, landscaping, etc.) sewage treatment (e.g., cost of OWTS, sewer tie-ins, etc.) and construct costs (e.g., materials, labor, and installation of all items necessary to obtain a certification of occupancy).*

*NOTE: Applicants should consult Section 1.4.4 of the CRMC's Management Procedures for a more detailed description of CRMC's fee schedule*



## AQUACULTURE APPLICATION INSTRUCTIONS

ALL OF THE FOLLOWING REQUIRED APPLICATION DOCUMENTS **MUST BE ORGANIZED INTO FOUR (4) ASSEMBLED PACKETS** WHEN SUBMITTED TO BE CONSIDERED A COMPLETE APPLICATION

1. **Application Fee:** Based on estimated project cost (see Fee Schedule, minimum fee is \$50.00).
2. **Photos of the project site and adjacent area** (minimum size 3" x 5", maximum size 8"x10")
3. **Completed application form.** Be complete and concise in the description of the work proposed. The written description must completely describe all work proposed on the submitted site plans. This concise written description is essential in order to put the project out to public notice and expedite the processing of your application.

#### 4. Other State and Federal Agency Approvals:

Special Aquaculture Permit must be obtained from RIDEM Division of Fish & Wildlife, located at the Great Swamp Field Headquarters - 277 Great Neck Road West Kingston, 02892. This can be applied for concurrently. The form for this permit is included in this package.

The following agencies will be notified by the CRMC:

The U.S. Army Corps of Engineers, National Marine Fisheries Service and the RI-Department of Environmental Management meets with CRMC monthly. At these meeting notice will be given to the agencies of your application. Most applications meet the requirements for permitting to be arranged by CRMC. Applicants proposing larger or unusual projects will need to work with these agencies directly. Notification will be sent to the applicant informing them of this requirement if it arises.

Discharges from aquaculture facilities may be subject to permits under the RI Pollution Discharge Elimination System (RIPDES). All applicable requirements of RIDEM Regulation Part XIX, "Aquaculture of Molluscan Shellfish in Rhode Island Tidal Waters" must be met. Contact RIDEM Division of Fish and Wildlife, Coastal Fisheries Laboratory, 1231 Succotash Road, Wakefield, RI 02879 (401) 783-2304.

5. **Location map:** Use a NOAA nautical chart to accurately delineate the site location. The location map must include a map scale, a north arrow (indicate magnetic or true north) and an accurate latitude-longitude coordinate for the site. The location map must be 8½" by 11". A Google Map is an acceptable alternative. Please make sure that everyone looking at the map will be able to determine the location easily.
6. **Site plans.** Four (4) copies of all plans are required. Plans must be no smaller than 1" = 40 feet. Larger scale plans such as 1" = 20' or 1" = 30' are preferred. All plans must include applicant's name, date of preparation, scale and north arrow (indicate magnetic or true north). Complete site boundary lines must be shown on the plan view. **All corners of the site must be accurately delineated in latitude-longitude coordinates and shown on the plans.** Be sure to include appropriate scale and distance from the site to the nearest shoreline.

The proposed gear layout must be shown on the plan view. Depth contours must also be shown on this site plan view for the proposed lease area at mean low tide. Be sure to show **all** of the proposed gear (cages, racks, netting, etc.) within the site.

A separate sheet depicting a typical cross-section view (from deepest to shallowest portions) of the entire site at the same scale as the plan view which includes the gear layout. Mean high and mean low tide elevations must be indicated on the cross section view plan.

Detailed drawings of the proposed gear (cages, racks, nets, etc.) showing typical dimensions must be provided on an 8½" by 11" sheet. Applicant must show depth of water covering the gear at mean low tide for the shallowest portion of the site.

Reduced site plans on an 8½" x 11" sheet must be provided if the original site plans are on larger sheets.

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7. **Operations Plan** - a detailed written description for the aquaculture operation which must include, at minimum, the following information: source(s) of shellfish seed, specifications of proposed hatchery, nursery, seeding and harvesting methods, general gear maintenance techniques (i.e., fouling organism removal methods), proposed operation timetable with respect to actual site work, intended recipient(s) of aquaculture product(s), etc.

**Written requirements of RICRMP:**

8. Provide written response to all items in section 1.3.1(A)
9. Review Sections 1.1.10 and 1.3.1(K) of the RICRMP.
10. Information regarding provisions for pedestrian access to the shore and availability of lease area for other uses, including but not limited to, boating, swimming, fishing, etc.

**Note:** All proposals are forwarded to the Rhode Island Historical Preservation & Heritage Commission for review and comment in accordance with Section 1.2.3 of the RICRMP. In some cases, the applicant may be required to submit the results of an archaeological assessment survey in order to document the presence or absence of significant archaeological sites. If the proposed development would damage a significant historical or archaeological resource, the Council may require modification of, or prohibit the proposed action. For additional information, you may contact the Rhode Island Historical Preservation & Heritage Commission directly: Environmental Review Coordinator, 150 Benefit Street, Providence, Rhode Island 02903. Telephone: (401) 222-2678.

## **Guidance Document for Aquaculture Operations Plans**

Anyone conducting aquaculture operations in RI must comply with all applicable CRMC regulations (*Coastal Resources Management Program Section 1.3.1(K)*) and DEM regulations, as set forth in “*Aquaculture of Marine Species in RI Waters.*” Plans provided to the CRMC will be available for DEM review. Modifications to the permit must follow the CRMC process for modification of assent. Separate, individual plans shall be developed and submitted for each aquaculture site/facility (i.e., one for each lease site, one for each upweller location, etc.); provided, however, that if lease sites are contiguous, or part of a single, unified operation, the overall site can be covered by a single plan. Operations Plans shall address each of the items listed below, as applicable, following the format set forth below.

*Note: All plans must be type written. This Microsoft Word document is intended to be used by licensees/operators as a template when preparing plans and may be modified as needed to fit the specific needs of the operator.*

1. ***Name and mailing address*** of individual, firm, partnership, association, academic institution, municipality, or corporation who is principally responsible for the aquaculture operation or activity; if corporation, specify and include names of all owners/partners:
2. ***CRMC file number*** for the facility; new applications will be assigned a file number by CRMC:
3. ***DEM Aquaculture License number*** (applicable if products are offered for sale); new applicants will need to obtain the DEM aquaculture license:
4. ***Type of facility*** (e.g., commercial lease site, upweller, experimental site, restoration site) and ***nature of operation*** (i.e., methodology used).
5. ***Location of facility*** (include aerial or chart depicting exact location):
  - Town:
  - Water body:
  - Lat/long coordinates of facility:
6. Identification of all ***species of shellfish*** grown at the facility. Acknowledgement that the applicant will follow Biosecurity Board seed protocols should be included.
7. Description of ***types of structures, gear and methods*** used at the facility (e.g., rafts, pens, cages, tanks, upwellers, docks) and their locations on the site. (Include a sketch/site plan that details a cross-section of structures as they appear in water column including proximity to surface and bottom.):
8. Description of the ***methods and equipment used to identify and mark site.***
9. DEM ***Shellfish Harvesting Classification*** at site.
10. Description of ***practices and procedures used*** during the growth, harvest, storage, transportation, and sale of the cultured species.

11. Procedures for *maintaining records*: for operations using seed acquired from out-of-state: description of notification, disease certification, and labeling/tagging procedures:
12. Procedures for *maintaining records*: for upwellers/seed-growing facilities in prohibited waters: description of procedures, including frequency of grading (with particular reference to requirements that seed must be removed before it exceeds maximum “seed” size threshold, i.e., <32 mm for oysters, <25 mm for quahogs):
13. Procedures for *maintaining records*: for operations using seed from prohibited waters, or operations using shellfish obtained from a third party that originated as seed from prohibited waters:

Detailed description of demarcation methods and record-keeping practices used at the lease site to ensure that animals have been cultured at least twelve (12) months in approved waters, prior to sale, including:

- a. Detailed record-keeping practices specifying date, source, average size, and amount of seed; and
- b. Protocols and associated record keeping for tracking product, e.g., use of tagged/numbered cages and/or bags, use of marked trawls, and/or use of marked, segregated portions of lease sites.

Description of the process for notifying the third party that (a) seed came from prohibited waters, (b) the date of that transfer, and (c) the remaining time needed to maintain the animals in approved waters prior to sale.

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
DIVISION OF FISH AND WILDLIFE**

**Application for a Special Permit for Aquaculture  
R.I.G.L. 20-10-12**

Name \_\_\_\_\_ CRMC Assent # \_\_\_\_\_

Address \_\_\_\_\_ Assent Expiration Date \_\_\_\_\_

\_\_\_\_\_ Assent Type:  
Commercial \_\_\_\_\_  
\_\_\_\_\_ Experimental \_\_\_\_\_  
\_\_\_\_\_ Educational \_\_\_\_\_  
\_\_\_\_\_ Research \_\_\_\_\_

Species to be cultured/possessed: \_\_\_\_\_  
(Must coincide with the terms of the CRMC Assent)

location where organisms will be held: \_\_\_\_\_  
(Must coincide with the terms of the CRMC Assent)

Land-Based: Yes\_\_ no\_\_

Open water: Yes\_\_ no\_\_

Bottom culture: Yes\_\_ no\_\_

Cage Culture: Number\_\_\_\_\_ Approximate size\_\_\_\_\_

Raft Culture: Number\_\_\_\_\_ Approximate size\_\_\_\_\_

Other: (describe) \_\_\_\_\_

Lease: Number\_\_\_\_\_ Size:\_\_\_\_\_

Type/description of markers used to identify aquaculture site \_\_\_\_\_

\_\_\_\_\_  
(Must coincide with the terms of the CRMC Assent)

Will the cultured species always be maintained within the lease? Yes\_\_ no\_\_

Will they be moved (from upwellers, spat collectors, raceways, cages, etc., to grow-out area)

As part of the culture? Yes\_\_\_\_\_ no\_\_\_\_\_ if yes: where, when \_\_\_\_\_

Purpose for culture: Food Production\_\_\_\_\_ Other\_\_\_\_\_

Is the end product of the culture to be sold? Yes\_\_ no\_\_

In-state?\_\_ out-of-state?\_\_

Live\_\_ whole\_\_ processed\_\_

Source of organisms to be used for culture: Hatchery\_\_\_\_\_ Spat Collectors (CRMC approved)\_\_\_\_\_

Other: \_\_\_\_\_

Name of Hatchery (if known) \_\_\_\_\_

\_\_\_\_\_  
(address, phone, contact person)

Anticipated time of delivery to Rhode Island? \_\_\_\_\_

The aquaculturist must notify the D.E.M. Divisions of Fish and Wildlife and Enforcement of every shipment of animals for culture at least five days prior to entry into the state and each shipment must be accompanied by a certificate of disease inspection from a recognized laboratory appropriate to the species being received. ( R.I.D.E.M. Regulation 19.3.2)

Approximate size of organisms (seed, fingerlings, larvae, adults) to be imported into R.I. \_\_\_\_\_

Approximate quantity anticipated to be received this (permit) year \_\_\_\_\_

Other conditions: \_\_\_\_\_

By submission of this application for issuance or renewal of a Special Permit for Aquaculture, the aquaculturist provides the Division of Fish and Wildlife and the Division of Enforcement with the authority to enter and inspect all aquaculture facilities which have been requested to be permitted. (R.I.G.L. 20-10-15). By submission of this application, the aquaculturist agrees to acquire and maintain all of the appropriate licenses and permits necessary to conduct the culture and seafood business within the State of R.I. and comply with all laws, rules and regulations regarding the possession, sale, trade, transport, purchase and barter of fish/shellfish and seafood products. Noncompliance of the conditions of this permit will result in forfeiture of the Special Permit for Aquaculture and possible prosecution.

\_\_\_\_\_  
(Authorized Signature) (Date)



**Rhode Island General Laws**

**TITLE 20**

**Fish and Wildlife**

**CHAPTER 20-10**

**Aquaculture**

**SECTION 20-10-1**

**§ 20-10-1 Declaration of intent and public policy.** – Whereas, R.I. Const., Art. I, Sec. 17, guarantees to the people the right to enjoy and freely exercise all rights of fishery and imposes on the general assembly the responsibility to provide for the conservation of water, plant, and animal resources of the state; and

Whereas, it is in the best public interest of the people and the state that the land and waters of the state, are utilized properly and effectively to produce plant and animal life; and

Whereas, the process of aquaculture is a proper and effective method to cultivate plant and animal life; and

Whereas, the process of aquaculture should only be conducted within the waters of the state in a manner consistent with the best public interest, with particular consideration given to the effect of aquaculture on other uses of the free and common fishery and navigation, and the compatibility of aquaculture with the environment of the waters of the state; therefore,

It is the public policy of this state to preserve the waters of this state as free and common fishery. The health, welfare, environment, and general well being of the people of the state require that the state restrict the uses of its waters and the land thereunder for aquaculture and, in the exercise of the police power, the waters of the state and land thereunder are to be regulated under this chapter.

**SECTION 20-10-1.1**

**§ 20-10-1.1 Creation of the Biosecurity Board.** – There shall be a biosecurity board within the coastal resources management council, (hereinafter referred to as "CRMC"), which shall meet, at minimum, on a quarterly basis and shall be composed of seven (7) members to be designated by the executive director of the CRMC, or his or her designee, with council approval. The council shall select a chair from among the board members, one of whom shall be the executive director of the CRMC or his or her designee, one of whom shall be the state veterinarian or an individual certified in veterinary medicine, with a specialty in aquatic diseases, or by the American Fisheries Society, one of whom shall be a certified medical doctor or a person with a Ph.D. in public health, one of whom shall be a representative of the division of fish and wildlife, one of whom shall be a representative of the marine fisheries council, one of whom shall be a representative from the aquaculture industry and one of whom shall be a faculty member of the University of Rhode Island, Department of Fisheries, Animals and Veterinary Science.

**SECTION 20-10-1.2**

**§ 20-10-1.2 Biosecurity Board – Powers and duties.** – It shall be the duty of the biosecurity board to assist and advise the council in carrying out the provisions of this chapter. In performing this duty, the biosecurity board shall cooperate with appropriate state and federal agencies, including but not limited to the department of health, and shall recommend inspections as necessary

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to ensure compliance with public health standards. The biosecurity board shall from time to time review federal agency regulations pertaining to aquaculture disease and the importation of non-indigenous and genetically altered species and shall otherwise maintain a current understanding of aquatic diseases and management practices necessary to preserving the aquaculture industry and wild stock. The members of the biosecurity board shall serve without salary.

#### SECTION 20-10-2

**§ 20-10-2 Definitions.** – As used in this chapter:

- (1) "Aquaculture" refers to the cultivation, rearing, or propagation of aquatic plants or animals under either natural or artificial conditions;
- (2) "CRMC" means the coastal resources management council;
- (3) "Director" or "department" means the director of or the department of environmental management;
- (4) "MFC" means the marine fisheries council;
- (5) "Water column" means the vertical extent of water, including the surface thereof, above a designated area of submerged bottom land.

#### SECTION 20-10-3

**§ 20-10-3 Authority to grant permits for aquaculture.** – The CRMC may grant permits for the conduct of aquaculture to any person, corporation or business entity, chartered under the laws of this state, subject to the provisions of this chapter. Those permits for coastal waters shall be for a term not to exceed ten (10) years, and shall be renewable upon application by the permittee for successive periods of ten (10) years for each renewable period; provided, that the terms and conditions of the permit and of any previous renewal and the rules and regulations promulgated by the CRMC pursuant to this chapter, have been met. Permits for land based aquaculture projects shall be for a term to be designated by rules and regulations of the CRMC. All permits with their terms and stipulations presently in effect, as of May 15, 1980, under existing laws and regulations shall continue until their expiration.

#### SECTION 20-10-3.1

**§ 20-10-3.1 Sales and use tax exemption.** – Any person engaging in aquaculture shall be eligible for the tax exemption in § 44-18-30(33) provided that the requirements set forth in that section are met.

#### SECTION 20-10-4

**§ 20-10-4 Application for a permit to conduct aquaculture.** – Any applicant desiring a permit to conduct aquaculture shall file with the CRMC a written application in any form that it may prescribe, setting forth the following information:

- (1) The name and address of the applicant;
- (2) A description of the location and amount of submerged land and water column to be subject to the permit;
- (3) A description of the aquaculture activities to be conducted, including:
  - (i) Whether those activities are to be experimental or commercial;
  - (ii) A description of the species to be managed or cultivated within the permitted area; and
  - (iii) A description of the method or manner of aquaculture activity;

- (4) An assessment of the current capability of the applicant to carry out those activities; and
- (5) Any other information that the CRMC may by regulation require.

### **SECTION 20-10-5**

**§ 20-10-5 Procedures for approval.** – (a) Upon submission of a completed application to the CRMC, the CRMC shall notify the director and MFC and any other parties that the CRMC may by regulation designate.

(b) No application shall be approved by the CRMC or a permit granted prior to the consideration of recommendations by both the director and the MFC.

(c) The director shall review the application to determine whether the aquaculture activities proposed in the application are:

(1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state;

(2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state.

(d) The MFC shall review the application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries.

(e) The approval by the CRMC shall be subject to any public hearings, consistent with chapter 35 of title 42, that it may require.

### **SECTION 20-10-6**

**§ 20-10-6 Leases.** – (a) The CRMC, in accordance with chapter 6 of title 37, is authorized and empowered, when it shall serve the purposes of this chapter, to lease the land submerged under the coastal waters of the state, including any coastal ponds or estuaries to coastal rivers, and the water column above those submerged lands, to an applicant who has been granted an aquaculture permit pursuant to the provisions of this chapter; provided, that the CRMC finds that a lease giving the applicant exclusive use of the submerged lands, and water column, including the surface of the water, is necessary to the effective conduct of the permitted aquaculture activities.

(b) Those leases shall be granted for a term concurrent with the term of the aquaculture permit and may be renewed from time to time upon renewal of the aquaculture permits.

(c) Those leases shall be subject to the terms and conditions of the aquaculture permit, and any renewal of the permit, and the provisions of this chapter and the rules and regulations adopted under this chapter. Failure to comply with the terms and conditions of the permit or renewal, or the provisions of this chapter or the rules and regulations adopted under this chapter, shall be grounds for termination of the lease at the discretion of the CRMC.

(d) Any assignment or sublease of the whole or any part of the area subject to lease shall constitute a breach of the lease and cause for the termination of the lease, unless that assignment or subletting has received the prior approval of the CRMC.

#### SECTION 20-10-7

§ **20-10-7 Fees.** – The CRMC shall establish by regulation fees for applications, permits, leases, and renewals. Those fees may be based on the cost of administration, including inspection, required by the aquaculture permitting process.

#### SECTION 20-10-8

§ **20-10-8 Performance requirements – Bond.** – The CRMC may require the execution of a bond by the permittee to ensure the performance by the permittee of all of the conditions of his or her permit, and, in the event of a failure so to perform, to ensure the removal of aquaculture apparatus from the waters of the state.

#### SECTION 20-10-9

§ **20-10-9 Marking of areas subject to permit – Restrictions on public use.** – (a) The CRMC shall require all permittees to mark off the areas under permit by appropriate ranges, monuments, stakes, buoys, or fences, so placed as not to interfere unnecessarily with navigation and other traditional uses of the surface. All permittees shall cause the area under permit and the means of permittees to be shown by signs appropriately placed pursuant to regulations of the CRMC.

(b) Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the permittee, the public shall be provided with means of reasonable ingress and egress to and from the area subject to permit for traditional water activities such as boating, swimming, and fishing. All limitations upon the use by the public of the areas subject to permit that are authorized by the terms of the permit shall be clearly posted by the permittee pursuant to regulations by the CRMC

#### SECTION 20-10-10

§ **20-10-10 Assignability of permits.** – Any permit granted pursuant to this chapter shall be void if assigned in whole or in part, unless that assignment is made with the prior approval of the CRMC.

#### SECTION 20-10-11

§ **20-10-11 Regulations.** – The CRMC may adopt, repeal, and amend any rules and regulations that are necessary and appropriate to carry out the provisions of this chapter, subject to chapter 35 of title 42. Those rules and regulations shall be promulgated in consultation with the director and the MFC.

#### SECTION 20-10-12

§ **20-10-12 Permits for possession, importation, and transportation of species used in aquaculture.** – (a) The director is authorized and empowered to grant permits for and establish rules and regulations governing the taking, possession, sale, importation, and transportation of animal or plant species utilized in aquaculture; provided, however, that in the case of bivalves, no approval shall be given for the sale, possession, use, storage, or transportation of those species for human consumption without the written approval and permission of the director of health.

(b) Any person who possesses, imports, or transports any animal or plant species as delineated in subsection (a) without a permit issued by the director shall be guilty of a misdemeanor and subject to imprisonment of not more than one year or a fine not exceeding five hundred dollars (\$500), or both. The animal or plant species possessed, imported, or transported by that person may be forfeited to the state.

(c) In accordance with rules and regulations established under this section, permits issued by the director may provide for specific exemptions, notwithstanding other provisions of law, from quotas, catch or bag limits, seasons, minimum size limits and other such restrictions on commercial fishing as the director, in consultation with the council, may determine to be inappropriate to commercial aquaculture.

#### SECTION 20-10-13

**§ 20-10-13 Cultivated plants or animals as property of the permittee.** – Any plant or animal species as stipulated in an aquaculture permit which are being cultivated within the designated, permitted area are the personal property of the permittee.

#### SECTION 20-10-14

**§ 20-10-14 Emergency closure of areas subject to permit.** – Notwithstanding the provisions of this chapter or any other provision of law, if the director finds or has cause to believe that an aquaculture activity is causing or is likely to cause an immediate danger to marine life or the environment of the coastal waters of the state, the director shall notify the CRMC. The CRMC shall immediately order all permittees affected by that notice to show cause why their aquaculture activities should not be terminated, and any aquaculture species or paraphernalia removed from the waters of the state. The CRMC shall proceed to hold a public hearing and issue its order with respect to the hearing, within a reasonable period. In its order following the hearing the CRMC may direct the temporary or permanent suspension of aquaculture activities in the affected area, removal of equipment or animals, or any other measures as shall be deemed necessary for the protection of the marine life and environment of the waters of the state, including the forfeiture to and destruction by the state of any plant or animal species.

#### SECTION 20-10-15

**§ 20-10-15 Authority to enter and inspect.** – The director shall have the authority to enter and inspect any and all areas subject to an aquaculture permit for the purpose of determining compliance with the terms and provisions of the permit.

#### SECTION 20-10-16

**§ 20-10-16 Penalties.** – (a) Any person who conducts aquaculture activities in excess of those authorized by an aquaculture permit shall be guilty of a misdemeanor and subject to imprisonment not exceeding one year or a fine not exceeding five hundred dollars (\$500), or both. In addition to that fine and/or imprisonment, all works, improvements, fish, and animal and plant life involved in the project may be forfeited to the state.

(b) Any person damaging, disturbing, or interfering with any area subject to an aquaculture permit or any person damaging, disturbing, interfering, or taking by any means whatsoever, or possessing the cultivated species in an area subject to an aquaculture permit, without the permission of the permittee, is guilty of a misdemeanor and subject to imprisonment not exceeding one year or a fine of not more than five hundred dollars (\$500), or both. In addition to that fine and/or imprisonment, all vessels, dredges, tongs, rakes, and other implements used to damage, disturb, interfere, or take cultivated species in those areas may be forfeited to the state.

## SECTION 20-10-17

**§ 20-10-17 Arrest, seizure, and prosecution of violators.** – (a) Any police officer authorized to make arrests, the director, and conservation officers appointed under the authority of § 20-1-10 shall be empowered:

- (1) To enforce all laws, rules, and regulations relating to this chapter;
- (2) To execute all warrants and search warrants for the violation of laws, rules, and regulations relating to this chapter;
- (3) To serve subpoenas issued for the trial of all offenses hereunder;
- (4) To arrest without a warrant and on view any person found violating any law, rule, or regulation relating to this chapter, take that person before a court having jurisdiction for trials, detain that person in custody at the expense of the state until arraignment, and to make and execute complaints within any district to the justice or clerk of the court against any person for any of the offenses enumerated under this chapter, committed within the district.

(b) The director and the director's deputies and assistants may, by virtue of their respective offices, make complaints of any violation of this chapter, and they shall not be required to give recognizance or to furnish surety for costs or be liable for costs on those complaints.

## SECTION 20-10-18

**§ 20-10-18 Severability.** – If any provision of this chapter or any rule, regulation, or determination made under this chapter, or the application of this chapter to any person, agency, or circumstance, is held invalid by a court of competent jurisdiction, the remainder of this chapter, or the rule, regulation, or determination, and the application of those provisions to other persons, agencies, or circumstances shall not be affected. The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remainder of this chapter.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF THE DIRECTOR

RULE #1 PURPOSE - The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

RULE #2 AUTHORITY - These rules and regulations are promulgated pursuant to Chapter 42.17.1, Environmental Management, and Title 20, in accordance with Chapter 42-35, Administrative Procedures, of the General Laws of 1956, as amended.

RULE #3 ADMINISTRATIVE FINDINGS - Rules and regulations are needed to supplement DEM regulations.

RULE #4 APPLICATION - The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

RULE #5 REGULATIONS - See the regulations that follow.

RULE #6 SEVERABILITY - If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE #7 SUPERSEDED RULES AND REGULATIONS - On the effective date of these rules and regulation, all previous rules and regulations, and any policies regarding the administration and enforcement of the \_\_\_\_\_ shall be superseded.

RULE #8 EFFECTIVE DATE PAGE - The forgoing rules and regulations, after due notice, are hereby adopted and filed with the Secretary of State this 21st day of May, 1998 to become effective upon filing, in accordance with the provisions of Chapters 20-3-2 through 20-3-6, 42-34, 42-17.1, 42-17.6 of the General Laws of Rhode Island of 1956, as amended.

Andrew H. McLeod, Director  
Department of Environmental Management

Appendix E  
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**REGULATIONS**  
**AQUACULTURE OF MOLLUSCAN SHELLFISH**  
**IN RHODE ISLAND TIDAL WATERS**

Authority granted: RIGL 20-10-12

**DEFINITIONS**

Approved waters, Approved shellfish growing areas, or Certified waters: waters of the state which have been classified by the DEM Division of Water Resources as an Approved Area by the National Shellfish Sanitation Program (NSSP) Manual of Operations.

Aquaculturist: the person or persons licensed and permitted by CRMC and DEM to conduct commercial or experimental aquaculture in Rhode Island.

Cultured: shellfish product that has been grown under the direction, possession, and control of an aquaculturist.

Grow-out: the process of culture following spat collection when the animals are grown to a market (legal) size. This term includes all intermediate (nursery) growth steps.

Juvenile shellfish: shellfish less than harvestable size, as defined by regulation of RIMFC and/or Title 20 RIGL. For the purposes herein, juvenile shellfish shall be larger than seed (as defined).

Seed or shellfish seed: the size of either cultured or wild stock, which under the most optimum growing conditions, will not attain legal size within 12 months after its removal from other than approved shellfish growing areas. (NSSP Part 1, Section G). That size will be determined by the Division of Fish and Wildlife. Seed size for quahogs *Mercenaria mercenaria* is less than 20 mm (0.78") and for oysters *Crassostrea virginica* and *Ostrea edulis* less than 32 mm (1.25"). All measurements are taken along the longest axis.

Spat collection: the method of enticement using apparatus (spat collectors) or approved methods using cultch to attract or capture larval shellfish.

Wild stock: natural shellfish resources which set and grow within the waters of the state, not cultured in any way.



## PART XIX

### AQUACULTURE OF MOLLUSCAN SHELLFISH IN RHODE ISLAND TIDAL WATERS

#### 19.1 Permitting Requirements

19.1.1 Coastal Resources Management Council (CRMC) Assent - The aquaculturist must apply for and receive a Coastal Resources Management Council (CRMC) Assent to operate as specified in RIGL Sections 20-10-1 through 18. No application shall be approved by CRMC prior to the consideration of recommendations by the Department of Environmental Management (DEM) Director, the Rhode Island Marine Fisheries Council (RIMFC), DEM Division of Fish and Wildlife (the Division), DEM Division of Water Resources (WR), and, if required, issuance of a R.I. Pollutant Discharge Elimination System (RIPDES) permit from WR.

19.1.2 Special Permit for Aquaculture - The aquaculturist must obtain a “Special Permit for Aquaculture” from the Chief of the Division acting on behalf of the DEM Director. This permit shall specify the conditions under which the possession, importation, transportation and handling of the cultured species are permitted to take place. The Special Permit for Aquaculture expires January first annually. Application for renewal of said permit shall be submitted by the aquaculturist for review by the Chief of the Division, no later than December first of each year. At the time of submission of request for renewal, each permit holder must submit to the Division an annual report of aquaculture activities conducted that year with a copy to CRMC. Special Permits will be reviewed, renewed, and modified if appropriate each January, by the Chief of the Division.

19.1.2-1 -- By submission of an application for issuance or renewal of a “Special Permit for Aquaculture”, the aquaculturist provides the Division of Fish and Wildlife and the Division of Law Enforcement with the authority to enter and inspect all aquaculture facilities which have been requested to be permitted (R.I.G.L. 20-10-15). Conservation Officers’ authority to enforce aquaculture regulations shall be the same as their enforcement powers (arrest, detain, impound, etc.) Over the free and common fisheries of the state and to cite violations of RIGL and regulations promulgated by the RIMFC and DEM.

19.1.3 Permit for possession of endemic species - The aquaculturist must obtain a permit from the Division for possession for each species to be cultured. Under no circumstances are permits to be granted for shellfish species which are not endemic to this area. Determination of what species are endemic to areas of the state rests under the authority of the Chief of the Division acting on behalf of the Director.

#### 19.2 Gear Requirements

19.2.1 - All aquaculture apparatus must be marked as specified by the CRMC assent. Said markings must be clearly visible and maintained at all times.

19.2.1 - The gear and its contents are the possession and responsibility of the aquaculturist, who shall be responsible for its maintenance and eventual removal. The aquaculturist may be required to post a permit bond in an amount specified by CRMC, to be used to return the site, including tidal waters, to the condition which existed prior to the aquaculture, in the event that the gear is abandoned or permit conditions violated.

### **19.3 General Requirements**

19.3.1 Operation Plan - The aquaculturist must submit an operation plan, as specified by the National Shellfish Sanitation Programs (NSSP) to be maintained on file with the Division for review and inspection by the U.S. Food and Drug Administration (FDA). The operation plan must be upgraded and resubmitted prior to any change(s) occurring in the aquaculture operation. Shellfish aquaculture shall be practiced only in strict compliance with the provisions of the operation plan on file with the Division.

19.3.2 Shipment/Importation - The aquaculturist must notify in writing the Division of Law Enforcement and Fish and Wildlife of every shipment of animals for culture entering this state, at least five working days prior to entry into the state and each shipment must be accompanied by a certificate of disease inspection from a recognized laboratory appropriate to the species received. A copy of the certificate of disease inspection must be provided to the Division of Fish and Wildlife along with the written notice prior to the importation of any animals for culture. All requirements set forth by the Atlantic States Marine Fisheries Commission species importation committee and the Division shall be adhered to. All shipments of undersized shellfish brought into Rhode Island for aquaculture operations must be labeled or tagged indicating the origin (operator/company name, license number and body of water) date of importation and destination.

19.3.3 Sale for Direct Human Consumption - In accordance with all DEM and Department of Health regulations for the buying, trading, and selling of shellfish, all shellfish cultured in any open water or land-based system meeting the water quality criteria for harvesting during the culture period may be sold for direct human consumption. All requirements for tagging and use of shellfish containers must meet the standards of the National Shellfish Sanitation Program (NSSP), the R.I. Department of Health (DOH), and the DEM. Additionally, the aquaculturist must hold the appropriate DEM and DOH licenses (commercial shellfish, multi-purpose, dealer, etc.) to sell, trade, or barter seafood.

19.3.4 Possession of Undersized Shellfish - Aquaculturist is allowed to possess and transport, within the state, undersized shellfish on a year-round basis. In no case is an aquaculturist allowed to possess or transport undersized shellfish on any given day (midnight to midnight) in which the aquaculturist has harvested or is in possession of other than cultured shellfish. Harvesting of undersized shellfish from the free and common shellfishing ground is not authorized.

19.3.5 Approved Waters - Water quality at any site used for open water aquaculture or land based aquaculture must meet the water quality criteria appropriate to the aquaculture activity proposed as determined by the Office of WR.

19.3.5.1 - Transfer to Approved Waters - Shellfish seed cultured in other than approved waters may be transferred, by the permitted aquaculturist, to the approved water grow-out site with Fish and Wildlife and Law Enforcement notification. If more than 10% of the cultured shellfish within a lot (or batch) exceed the definition of seed (in the case of quahogs, if any exceed 25 mm and in the case of oysters, if any exceed 36 mm), they shall not be moved from other than approved water to an approved growing area without prior permission of the DEM Director and the Department of Health.

19.3.5-2 - Culture in Other Than Approved Waters - Culture of juvenile shellfish may be permitted in other than approved waters using CRMC approved facilities including but not limited to spat collectors, upwellers, flow through systems, etc. as long as these animals are removed to approved water sites prior to achieving the seed size limit and prior notice of the harvesting is provided to the Division.

19.3.5-2-a -- If an aquaculturist has a permit to raise shellfish in other than approved water, then it is assumed that all shellfish of that species sold by that aquaculturist, have been in the other than approved waters, unless the aquaculturist can demonstrate that all shellfish were removed from other than approved waters when seed.

19.3.5-3 - Transplant Shellfish Exceeding Seed - No shellfish exceeding the seed size limits shall be transplanted from other than approved waters of the State of R.I. unless done so under the authority of the DEM Director and Director of the Department of Health according to the Memorandum of Agreement for conducting shellfish transplant/relay operations. Possession, culture and transportation of shellfish other than seed (as defined) in or from other than approved water is prohibited.

19.3.5-4 - Recording Requirements - Uncertified Waters - Aquaculturists must maintain accurate and complete records of all culture in uncertified waters and removal of shellfish from other than approved waters including (but not limited to) source, amounts transferred, size composition, time/dates of transfer, and disposition of the shellfish. These records must be maintained for a minimum of two years and must be available for inspection by agents of the Department of Health, Divisions of Law Enforcement or Fish and Wildlife upon request.

19.3.5-5 - Adherence to Changes - All subsequent requirements set forth by the NSSP, changes in water classification, and public health directives shall supersede these regulations.

19.3.5-6 - Water Quality Changes - Water quality and water quality classification of waters within the state are subject to change due to various environmental conditions. In some cases the aquaculturist shall be required to respond to these changes. The DEM does not assume any liability for any changes in classification and assumes no liability to the aquaculturist for damages incurred due to such actions.

19.3.6 - Collection of Wild Stock Shellfish - Collection of wild stock shellfish seed from other than approved waters is prohibited unless approved by the Director of DEM or his/her designee in a written authorization. If permission for wild stock collection is approved, the site, species and amount must be specified by the Director or his/her designee in writing. Notification of Fish and Wildlife and Law Enforcement is required, by the aquaculturist in writing at least ten days prior to the activity. The aquaculturist may be required to be accompanied by a DCM Conservation Officer, and, the aquaculturist will have to pay for the Conservation Officer detail. Any aquaculturist who intends to purchase seed shellfish from other than approved waters must notify the DEM of his/her intent and must obtain prior permission from the Director (or designee).

19.3.7 - Sale of Sub-Legal Shellfish - No person, other than those licensed to do so, shall sell sub-legal shellfish to other than a permitted aquaculturist, scientific/educational institution or a government agency permitted by DEM.

19.3.8 - Sale of Juvenile Shellfish - In the case of the sale of juvenile shellfish, the aquaculturist must verify that the receiver of seed is either a government agency, a licensed aquaculturist, or a scientific or educational group. The aquaculturist must obtain written verification to this effect from an appropriate agency in the receiver state. The Department of Health may require memoranda of agreement between the aquaculturist and receiver states. The aquaculturist must notify Fish and Wildlife and Law Enforcement of any sale of juvenile shellfish to purchasers within R.I.

19.3.9 - Violations - Unless otherwise provided, violations and/or noncompliance of these regulations shall be prosecuted under R.I.G.L. 20-10-16. Violations may be prosecuted administratively which may result in revocation of the DEM Special Permit for Aquaculture and/or imposition of a penalty.

### **Coastal Resources Management Program - Section 1.1.10 Fees**

A. The General Laws of the State of Rhode Island. Title 46, Chapter 23, Section 2, Subsection 46-23-6D.C, authorize the Council to "grant licenses, permits, and easements for the use of Coastal Resources, which are held in trust by the state for all its citizens, and impose fees for private use of such resources."

B. The Council requires fees for land created by the filling of tidal waters and the long-term (dead) storage of vessels. Factors to be considered in establishing the fee include:

- 1) The degree of preemption associated with the activity or alteration involved;
- 2) The degree of irreversibility associated with the activity or alteration;
- 3) The value of opportunities for other activities lost to the public as the result of the activity; and
- 4) The economic return to the applicant resulting from pursuing the activity of making the permitted alterations.

Payments required by the fee shall be determined by the Council upon the completion of a professional appraisal based on the criteria listed above. The Assent recipient shall bear the cost of the appraisal.

Where public access is provided, the fee may be reduced by Council. In considering the reduction of fees, the Council shall determine the amount of public access, the potential use by the public of this public access, and any other relevant considerations.

C. A Council Assent for aquaculture activities within tidal waters and coastal ponds excluding seasonally deployed aquaculture apparatus such as spat collectors and experimental gear sites, as approved by the council, may include a lease for the approved site.

- 1) The annual fee is seventy-five (\$75.00) for half an acre or less, one hundred and fifty dollars (\$150.00) for a half to one acre, and one hundred dollars (\$100.00) for each additional acre. Transient gear lease fees are based on the square footage of the cages, as follows: seventy-five dollars (\$75.00) for 600 square feet or less, one hundred dollars (\$100.00) for 601 to 1,200 square feet, one hundred and fifty dollars (\$150.00) for 1,201-2,400 square feet, and seventy-five (\$75.00) for each additional 1,200 square feet. Annual lease fees are payable in full, in advance, on the first business day in the month of January of each year during the Assent period. Any assignment or sublease of the whole or any portion of a leased area shall constitute a breach of the lease and be cause for termination of the lease, unless such assignment or subletting has received the prior approval of the Council.
- 2) In the event a lease holder fails to make full payment of the annual lease fee within the time period established within the lease, for each rental year, the lease agreement shall be terminated, and all Assents and authorities granted shall be revoked. In the event the leased area is not actively used for a period of one year, the lease shall be terminated and the Assent shall be revoked. Lease holders shall be notified 60 days prior to such revocation and may appeal the revocation to the full Council.
- 3) Persons wishing to deploy small-scale seasonal apparatus such as spat collectors or experimental aquaculture gear, shall apply for a Council Assent and may, at the discretion of the full Council be charged a lease fee.

D. Whenever the Council receives an application for assent or modification of an assent for an activity or alteration which has already occurred, or has been constructed or partially constructed, the Council may

## **Coastal Resources Management Program - Section 1.3.1(A) - Category B Requirements**

All persons applying for a Category B Assent are required to:

- (1) demonstrate the need for the proposed activity or alteration;
- (2) demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for nontidal portions of a project in Sections 1.3.1(B), 1.3.1(C), 1.3.1(F), 1.3.1(H), 1.3.1(I), 1.3.1(K), 1.3.1(M), 1.3.1(O) and 1.3.1(Q); for projects on state land, the state building official, for the purposes of this section, is the building official;
- (3) describe the boundaries of the coastal waters and land areas that are anticipated to be affected;
- (4) demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters;
- (5) demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life;
- (6) demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;
- (7) demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;
- (8) demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;
- (9) demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;
- (10) demonstrate that the alteration or activity will not result in significant conflicts with water-dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;
- (11) demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 1.3.5).

**Each topic shall be addressed in writing.** Additional requirements are listed for specific Category B activities and alterations in the sections that follow.

## **Coastal Resources Management Program - Section 1.3.1(K) - Aquaculture**

### **A. Definition**

1. For the purpose of the Coastal Resources Management Council, marine aquaculture is defined as the culture of salt tolerant aquatic species under natural or artificial conditions in tidal waters and coastal ponds including but not limited to: fish farming utilizing pens, tanks, or impoundments; the culture of shellfish on the sea floor, in cages, or suspended from structures in the water; and the culturing of aquatic plants. NOTE: land-based marine aquaculture operations (i.e., above mean high water) are also regulated under Section 1.3.1(C) of the RICRMP.
2. For the purpose of the Coastal Resources Management Council freshwater aquaculture is defined as the culture of aquatic species under natural or artificial conditions in freshwater ponds, tanks, raceways or other freshwater impoundments located within the coastal zone or in inland locations throughout the state.
3. Transient or mobile aquaculture gear is defined as cages containing cultured species which are periodically moved about within a specified area so as to reduce user conflicts. This gear is typically in the form of wire cages which are either individually marked with a surface buoy or strung together in trawls with end buoys to identify the location of gear.

## **B. Policies**

1. The CRMC recognizes that commercial aquaculture is a viable means for supplementing the yields of marine fish and shellfish food products, and shall support commercial aquaculture in those locations where it can be accommodated among other uses of Rhode Island waters.
2. The Council may grant aquaculture activities by permit only. The CRMC may grant aquaculture applicants exclusive use of the submerged lands and water column, including the surface of the water, when the Council finds such exclusive use is necessary to the effective conduct of the permitted aquaculture activities. Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the permittee, the public shall be provided with means of reasonable ingress and egress to and from the area subject to an aquaculture lease for traditional water activities such as boating, swimming, and fishing. All plant and animal species listed for culture in an aquaculture lease are the personal property of the permittee.
3. At the discretion of the Council, leaseholders may be required to temporarily remove their aquaculture facilities when they are not being used to conduct research or to harvest an aquatic species of plant or animal for a substantial period of time. The Council may permit inactive facilities to remain if it determines that the temporary removal of these facilities would place an undue burden on the leaseholder.
4. The Council may require the removal of any aquaculture facility that is in an obvious state of disrepair or has become a navigation or safety hazard.
5. Upon application to renew an existing aquaculture Assent, the Executive Director may administratively renew said Assent for a period not to exceed that period set forth in Title 20 Chapter 10 of the General Laws for each renewable period, provided the applicant is in conformance with the terms and conditions of the Assent, the aquaculture lease, and with the Coastal Resources Management Program (RICRMP) in effect at the time of renewal provided, further, that there are no amendments to the Assent or lease. Report of such action by the Executive Director shall be made in writing to the full Council at the next regularly scheduled meeting of the Council.
6. In the event that a CRMC approved aquaculture operation is determined by the Council to not be actively “farmed” for a period of one year, the assent and lease shall be deemed null and void and the site shall be returned to the State’s free and common fishery.
7. The Council may grant an aquaculture Assent for a period not to exceed that period set forth in Title 20 Chapter 10 of the General Laws.
8. It is the Council’s policy to prohibit private aquaculture activities in not-approved areas as defined by the National Shellfish Sanitation Program that contain significant shellfish stocks potentially available for relay into approved areas for the free and common fishery.
  - (a) This prohibition shall not apply to activities like spat collection, or to the cultivation of scallops, or to private aquaculture operations conducted within the confines of a marina perimeter limit (as set forth in 1.3.1(D)), or to projects which are designed, with Council approval, to enhance and restore the public resource.
  - (b) Aquaculture projects other than shellfish aquaculture proposed for not-approved areas may be granted by the Council provided the applicant provides sufficient evidence that no harm to public health or safety will result. In the case of shellfish aquaculture, such activities shall be prohibited unless the applicant provides written statements from the directors of the departments of environmental management and health certifying that the proposed activity is consistent with assent and lease shall be deemed null and void and the site shall be returned to the State’s free and common fishery.

### C. Prerequisites

1. Prior to issuing a permit for aquaculture, the Council shall obtain and give appropriate consideration to written recommendations from the Director of the Department of Environmental Management and the chairman of the Marine Fisheries Council, as required by Chapter 20.10 of the state's General Laws. The director of the Department of Environmental Management shall review the application to determine that the proposed aquaculture activity will not adversely affect (a) marine life adjacent to the proposed area and the waters of the state, and (b) the continued vitality of indigenous fisheries. The chairman of the Marine Fisheries Council shall review the application to determine that it is consistent with competing uses involved with the exploitation of marine fisheries.
2. A Special Permit for Aquaculture for the possession, importation, and transportation of species used in any aquaculture operation shall be obtained from the director of the Department of Environmental Management. The DEM Special Permit for Aquaculture may be processed concurrently, but must be obtained prior to the issuance of a CRMC Assent.
3. Prior to submitting a formal Category B application for aquaculture activities within tidal waters, applicants must first submit a Preliminary Determination application for the proposed project in accordance with existing CRMC procedures. A formal application may be submitted only after the receipt of the completed Preliminary Determination report.
4. Applicants for aquaculture operations within tidal waters must submit with their application(s) all required information as specified in the most recent version of the CRMC aquaculture checklist.
5. In those cases where alterations to freshwater wetlands may occur, applicants for freshwater and land-based aquaculture operations must first obtain a permit from the DEM Division of Agriculture or DEM Freshwater Wetlands prior to applying with the Council.
6. Applicants for freshwater and land-based aquaculture structures and/or improvements must obtain local building official approval and zoning approval, where necessary, prior to submitting an application to the CRMC.
7. Applicants for land-based aquaculture operations which result in discharges to waters of the state shall be required to obtain a Rhode Island Pollution Discharge Elimination System (RIPDES) permit.
8. Applicants for aquaculture operations conducted at marinas using technologies such as an upweller unit may be reviewed as a Category A activity provided that the operation is conducted within a Council-approved marina perimeter, and that RIDEM has issued a Special Permit for Aquaculture for such an activity. Further, at the time of application, the applicant must provide proof that such seed product - prior to exceeding the size of the RIDEM seed definition - will be transferred to: a permitted aquaculture facility operating in approved waters; a scientific or educational institution; or, a government agency.
9. Upweller units at CRMC permitted residential docks, piers and floats may be reviewed as a Category A activity provided that: 1) only current council-approved aquaculture lease holders may propose to utilize upweller units at residential docks; 2) the inclusion of an upweller is incidental to the permitted use of the dock, pier, or float, and the original use of the structure not be inhibited by the inclusion of an upweller; 3) all shellfish from the addition of an upweller belong to a licensed CRMC aquaculture leaseholder and that the production from the upweller will go to the owners lease site; 4) all applicable Rhode Island Department of Environmental Management and Rhode Island Department of Health Regulations are followed; 5) all local and national codes regarding addition of electrical power to docks and associated structures will be adhered to; and, 6) adequate depth of water at the upweller addition is maintained.

A CRMC assent will be issued for a period of up to five (5) years but in no case longer than the length of time remaining on the approved aquaculture leaseholder's permit. Addition of upwellers in existing residential docks, piers, or floats in type 1 waters is prohibited.

## **D. Additional Category B Requirements**

1. Applicants proposing to undertake any aquaculture endeavor shall (a) describe the location and size of the area proposed; (b) identify the species to be managed or cultivated within the permitted area and over which the applicant shall have exclusive right; (c) describe the method or manner of management or cultivation to be utilized, including whether the activities proposed are experimental, commercial, or for personal use; (d) provide such other information as may be necessary for the Council to determine: (1) the compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries; (2) the degree of exclusivity required for aquacultural activities on the proposed site; (3) the safety and security of equipment, including appropriate marking of the equipment and/or lease area; (4) the projected per unit area yield of harvestable product; (5) the cumulative impact of a particular aquaculture proposal in an area, in addition to other aquaculture operations already in place; (6) the capability of the applicant to carry out the proposed activities; and (7) the impact of the proposed activities on the scenic qualities of the area.

## **E. Prohibitions**

1. Fish pen aquaculture operations are prohibited in all coastal ponds.
2. Private aquaculture leases are prohibited in uncertified waters (i.e., restricted areas as defined by the National Shellfish Sanitation Program) which contain significant shellfish stocks available for relay into certified public waters for the free and common fishery.
3. Upwellers at existing residential docks, piers, or floats in Type 1 waters are prohibited.

## **F. Standards**

### **1. Marine Aquaculture**

a. In the event of revocation, termination or expiration of any lease or Assent, the lessee or Assent holder is responsible for restoring the area to pre-existing conditions within ninety (90) days from the date of permit revocation, termination, or expiration. This shall include the removal of all structures, rafts, floats, markers, buoys, anchors, and other equipment brought to the site. Failure to comply with the Council's order to restore the site may result in the forfeiture of the permit bond posted by the lessee.

b. Any person who maliciously and willfully destroys, vandalizes, or otherwise disrupts aquaculture activities permitted by the Council shall be in violation of an order of the Council and liable to all fines and penalties under law.

c. All permittees shall mark off the areas under permit by appropriate buoys or stakes, as determined by the CRMC, so as not to interfere unnecessarily with navigation and other traditional uses of the water surface. All authorized limitations upon the use by the public of areas subject to the permit shall be posted by the permittee.

d. The Council may require the leaseholder for an aquaculture facility to post a performance bond in order to ensure the cleanup and removal of said facility upon either the termination or expiration of the lease.

e. The Executive Director may approve the transfer of a lease from the lessee to another party provided the aquaculture operation remains the same, including size, species, gear, and methods of culturing. The full Council must approve any transfers that involve a deviation from the existing assented aquaculture operation.

f. Experimental permits. (1) The Executive Director may issue an experimental aquaculture permit for operations which are expressly for the purpose of developing and testing new gear or techniques for aquaculture production. Applicants may be approved for three separate sites, with up to an area of one-



thousand (1,000) square feet for each site. Experimental sites shall not be within 500 feet of one another. Areas in excess of this may be approved by the full Council. Experimental aquaculture Assents shall be valid for a period not to exceed three (3) years. A lease may be required and the sale of any aquaculture product is not allowed. Report of such action by the Executive Director shall be made in writing to the full Council at the next regularly scheduled meeting of the Council. (2) Experimental aquaculture operations wholly contained within the confines of a council-approved marina perimeter area excluded from the 500 foot separation standard, as contained above, any may maintain a total of 3,000 square feet in any configuration for such operations.

g. Commercial viability permit. (1) The Executive Director may issue a commercial viability aquaculture permit for operations which are expressly for the purpose of determining if a particular site is suitable for commercial aquaculture. The applicant may have one site, limited to a thousand (1000) square feet. Commercial viability permits shall be valid for a period not to exceed three (3) years.

**Permits for a commercial viability shall be subject to a two (2) step process:**

1) Issuance of a one-time administrative permit for the period of eighteen (18) months; followed by a one-time council-approved permit for an additional eighteen (18) months. A lease may be required. Report of such action by the Executive Director shall be made in writing to the full Council at the next regularly scheduled meeting of the Council.

2) Any continuation of the operation by the applicant beyond this permit length shall require a separate application which will be considered and reviewed by the Council as a Category B application and is subject to all applicable aquaculture policies and regulations.

3) The permittee may, on a one time basis, sell those products approved within the permit. Upon termination of the operation, or at the end of the three (3) year permit period, whichever comes first, the permittee must terminate the operation. The Executive Director may require the permittee to post a performance bond in order to ensure the cleanup and removal of said facility. Detailed economic reports shall be required for all commercial viability permittees

h. Education/research permit. The Executive Director may issue a education/research aquaculture permit for operations which expressly for the purpose of using aquaculture for education or research. A lease may be required. Applicants may be approved for three separate sites, with up to an area of one-thousand (1,000) square feet for each site. Education/research sites shall not be within 500 feet of one another. Areas in excess of this may only be approved by the full Council. Educational/research aquaculture assents shall be valid for a period not to exceed three (3) years. A lease may be required and sale of any aquacultured product is not allowed report of such action by the Executive Director shall be made in writing to the full Council at the next regularly scheduled meeting of the Council. The Executive Director may grant extensions to these permits. Each extension shall not exceed three (3) years. Educational/research aquaculture operations wholly contained within the confines of a council-approved marina perimeter are excluded from the 500 foot separation standard, as contained above, and may maintain a total of 3,000 square feet in any configuration for such operations.

i. All transient aquaculture gear shall be operated within defined areas as established by the tidal water aquaculture management plan. Transient gear lease fees shall be based on the minimum area necessary to operate the proposed number of cages.

j. Aquaculture operations shall be located at sites and operated in such a manner as to not obstruct public access to and from tidal waters.

Appendix F

## **2. Freshwater Aquaculture**

- a. The Council shall require a permit for all freshwater and land-based aquaculture operations located within the coastal zone or in inland locations throughout the state.
- b. Permits for land-based aquaculture operations shall be granted by the CRMC for a term not to exceed 50 years.
- c. Where required, all species utilized for culture within land-based aquaculture operations must be approved by the DEM Division of Fish and Wildlife. The aforementioned approval must be obtained prior to the Council issuing its assent; however, it may be concurrently processed with the Council's review.

## **G. Guidelines for Marine Aquaculture**

In addition to the policies, prerequisites, additional requirements for Category B assents, prohibitions and standards above, the Council also suggests that applicants take the following items into consideration for any proposed aquaculture application.

### **1) Marine aquaculture lease size in Narragansett Bay.**

- a) For the area known as upper Narragansett Bay, defined as the area north of a line across the bay at the latitude of 41 degrees 35 minutes, proposed aquaculture farms should be limited to three acres.
- b) 3-acre leases will be granted by giving an initial 2-acre lease. Subsequently the third acre will be granted when the permittee shows that the initial 2-acre lease is being utilized.
- c) These guidelines may be adjusted for variations in water depth, species cultured, etc.

Appendix F