

# Coastal Resources Management Council Guide to Commercial 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

The following information is provided by the Coastal Resources Management Council (CRMC) as guidance for applicants proposing commercial aquaculture operations in the tidal waters of Rhode Island. The application process is outlined in this packet and all the forms you must complete to make sure the process is complete are included. The instructions are directed towards shellfish culture; if you intend to conduct any other type of culture, or have any other questions, please contact the CRMC Aquaculture Coordinator at 401-783-3370.

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 in 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.

The following summaries are designed to give a brief overview of the permitting process. Please see the corresponding sections of the application package for a further detailed description.

### *A. Site Selection*

Before any application can be made, an applicant must choose a site for their farm. This is the most important aspect of the process because 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 land. Therefore, the leasing process must take into consideration what is best for all the residents of the state. This is referred to as the "Public Trust Doctrine," as these lands are managed as a public trust for the citizens of the state by the agencies charged with regulating these lands. Applicants are highly encouraged to contact the CRMC Aquaculture coordinator during the site selection process.

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 unsure if the chosen site will support a commercial aquaculture farm, you can choose to obtain a “Commercial Viability Aquaculture Permit.” If you are sure the 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” application and meeting.

### ***B. Commercial Viability (optional)***

It is important to know that shellfish growth can be very site specific, and results can vary greatly depending on the culture method and gear utilized. One site might support shellfish growth that makes a farm economically feasible, while another site near-by does 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, for a maximum of three years, to determine if the location 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 requires council approval for the second year and a half.

### ***C. Preliminary Determination (required)***

If you decide 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 preliminary determination process starts with a meeting which is designed to give government agencies, town officials, stakeholder groups, the local community, and the applicant a chance to review and discuss the proposal. At least 30 days before the meeting, the town, all state and federal regulatory agencies, the CRMC Aquaculture Listserv, and all property owners within 1000’ of the proposal are notified that your preliminary application will be discussed in an informal non-regulatory setting. At this meeting the proposed aquaculture lease site and operations 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. Once the applicant has received the PD report they can apply for an aquaculture lease from the CRMC. It should be noted at this point that the applicant does not have to take these suggestions into account when preparing the full application, however it is strongly recommended that s/he does. The applicant must be aware that these suggestions and/or recommendations will surface again during the course of the application process and the choice of not heeding them will have to be defended.

***D. Formal Category B Application for Aquaculture Activities within Tidal Waters***

Aquaculture operations require both a CRMC assent and an annual CRMC lease agreement. The final stage of obtaining a lease and permit is the full application. Once the full application is received and processed, the proposal will have a 30-day public comment period. Comments are solicited and particulars about the application are advertised on the CRMC website and Aquaculture Listserv. The town, all state and federal regulatory agencies, and all property owners within 1000' of the proposal are notified. Additionally, the Rhode Island Marine Fisheries Council will review the application for consistency with competing uses engaged in the exploitation of the marine fisheries and provide their recommendation to the CRMC.

***E. Public 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 to 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 will vote to approve, deny, or modify the application.

## **Step 1: Contact the Aquaculture Coordinator**

The first step in permitting an aquaculture farm is to reach out to the aquaculture coordinator and discuss preliminary ideas and proposals. Please contact the CRMC Aquaculture Coordinator by telephone at 401-783-3370 or via email at [bgoetsch@crmc.ri.gov](mailto:bgoetsch@crmc.ri.gov).

## **Step 2: Site Selection**

Before any application can be submitted, an applicant must first choose a site for their farm. This is the most important aspect of the process because 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 land. Therefore, the leasing process must consider what is best for all residents of the state. This is referred to as the “Public Trust Doctrine,” as these lands are managed as a public trust for the citizens of the state by the agencies charged with regulating these lands.

All stakeholders and 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?

The first step in choosing a preliminary site is to check with CRMC for possible conflicting uses at the proposed location. Applicants are highly encouraged to reach out to the CRMC Aquaculture Coordinator to discuss their plans. CRMC staff may recommend the applicant reach out and talk to specific town officials or bodies, such as the harbor master, and/or recommend that the applicant reach out to specific stakeholders, such as near-by property owners and organized stakeholder groups such as the RI Shellfishermen’s Association or the RI Saltwater Angers for example. The objective is to make these people and groups aware of the proposal and give them an opportunity to comment at this early stage of the process. CRMC staff remains available to help facilitate informal communications between a potential applicant and the local community in a variety of ways, such as helping arrange a scoping meeting to discuss a proposal before any application has been filed. This will allow the process to proceed much more smoothly in the later stages.

A good site has many facets which all contribute to its suitability. For example, you should ask yourself:

- 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 a suitable bottom type for your intended culture activities?

These are simple questions that you should be able to answer and address in a complete application package to CRMC. Additionally, you will need to provide a location map that includes a map scale, a north arrow, and an accurate latitude-longitude coordinate for each corner of the site.

There are many resources available to assist applicants in the site selection process. As part of the Aquaculture Element of the Narragansett Bay SAMP, CRMC has compiled a map of locations where CRMC would not permit aquaculture leases because of federal and state regulatory constraints. These areas, known as "hard constraints," are reflected in the GIS Siting Map found here:

<https://crc-uri.maps.arcgis.com/apps/webappviewer/index.html?id=806df39d4a6649e2a22a5f299b03ae4b>

Additionally, the DEM Division of Fish and Wildlife publishes a map of permitted aquaculture sites:

<http://bit.ly/3bcrdcP>.

## **Step 3: Commercial Viability Aquaculture Permit (optional)**

### ***Introduction***

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 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 C of Section 1.3.1(K) page 44.

If you decide that a commercial viability permit is a prudent course of action, the necessary forms are found below. All commercial aquaculture operations in the state require an “Aquaculture License” from the Rhode Island Department of Environmental Management. The application for this license is found in Appendix A. This form should be sent to the RI-DEM Office of Boat Registration and Licensing after you have received approval from CRMC.



**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. Provide typewritten response to all items in the **Guidance Document for Aquaculture Operations Plans**.

**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 an Aquaculture License from the RI-DEM Office of Boat Registration and Licensing; call (401) 222 442. 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  
**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

## **Step 4: Preliminary Determination**

### ***Introduction***

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 (PD) process. The form can be found below, please include all the requirements listed, the fee for the PD process is \$25.00.

The preliminary determination process is designed to give government agencies, town officials, stakeholder groups, local residents, 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.

The applicant is required to provide CRMC with the following necessary information as required in the 1000' Contiguous Area Map:

- list of all property owners within 1000';
- list of all approved aquaculture leases within 1000';
- list of CRMC designated ROW(s) within 1000';
- CRMC water use types within 1000'; and
- any shoreline(s) within 1000' which have been preserved for conservation, recreation and/or public access through easements, purchased by the state or municipality, or are owned by a land trust or state-recognized conservation organization.

CRMC will notify all property owners within 1000', aquaculture leaseholders within 1000', municipality(ies), and the CRMC Aquaculture Listserv a minimum of 30 days before a scheduled PD meeting.

After the PD meeting, CRMC may require a second PD meeting at another date in order to adequately explore all issues. Once all issues are adequately explored, 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.

## **CRMC Preliminary Determination Checklist**

1. A complete PD application package signed and dated by the applicant includes:
  - Preliminary Determination Request Form
  - Photos of project site and adjacent area
  - Location map
  - 1000' contiguous area map with all necessary information
    1. Go to the siting tool: <https://crc-uri.maps.arcgis.com/apps/webappviewer/index.html?id=10964485b21641dcaa1f2b2509183266>
    2. Click the “draw mode” icon in the Landowner Notification box on the home screen of the map or upload a proposed lease site using the shapefile tab.
    3. Draw the proposed lease on the map with the drawing tool and the program will auto-generate the 1000' area around the site with a yellow line.
    4. Click on the “What’s Close?” button to generate a list of properties with the 1000' line. Print the results and bring the property list to the town for confirmation of accurate contact information.
    5. Identify all other necessary information listed in the Guidance Document for Category B Tidal Aquaculture Applications 4(a).
  - Site plans
  - Completed Guidance Document for Aquaculture Operations Plans
  - Completed Guidance Document for Category B Tidal Aquaculture Applications
  
2. \$25 application fee

## **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. Include a separate diagram 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. Provide typewritten response to all items in the **Guidance Document for Aquaculture Operations Plans**.
- 8. 1000' contiguous area map with all necessary information** (see Application Checklist and Category B Guidance Document for details).

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

- 9. Provide typewritten response to all items in the Guidance Document for Category B Tidal Aquaculture Applications**
- 10. Review Sections 1.1.12 and 1.3.1(K) of the RICRMP.**
- 11. 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.**



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 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 an 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

## **Step 5: Formal Category B Application**

### ***Introduction***

The final stage of obtaining a lease and permit is the full application. 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. Applications are reviewed under a Category B process as defined by the Rhode Island Coastal Resources Management Program (RICRMP), requiring a 30-day public notice period followed by consideration by the full Council.

Once the full application is received and processed, the proposal will have a 30-day public comment period. Comments are solicited and particulars about the application are advertised on the CRMC website and Aquaculture Listserv. The town and all state and federal regulatory agencies are notified, as well as all property owners and aquaculturists within 1000' of the proposal. 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 state agencies. The application you submit to CRMC will be forwarded to the appropriate state agencies, fishing associations, the town, the RI Marine Fisheries Council, environmental organizations, and anyone who has expressed an interest in the preceding application.

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. 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.

At the end of the 30-day public comment period it will be determined if a local public hearing before a subcommittee will be required. Careful planning to minimize conflicts will lessen your chances of a local public hearing. 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 local 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.

Next, the applicant is required to go before the Coastal Resources Management Council for the granting of an assent and lease. The CRMC Aquaculture Coordinator will write reports to 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 a local public hearing if one has not already been held. The Council will vote to approve, deny, or modify the application. CRMC assent for aquaculture is valid for a period of 15 years and is renewable in 10-year increments if all of the stipulations in the assent and all other regulatory requirements are met.

If the application is approved, the final step in the leasing process is for the signing of a lease with the CRMC, the filing proof of performance bond as required, and payment of the lease fee. 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. Most leases will require a performance bond and 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 1.1.12 of the RICRMP and must be paid in full by January 1st of each year. Additionally, a separate Aquaculture License must be obtained annually from the RIDEM Office of Boat Registration & Licensing for the sale of cultured species to a licensed shellfish dealer. For additional requirements on the direct marketing of shellfish see Appendix D.

Applicants are required to submit an annual report to CRMC by January 15th of each year. The annual report forms will be provided to aquaculture permit holders during the month of December. Should you have any questions regarding your proposal, please contact the CRMC at 783-3370.



## CRMC Aquaculture Checklist

1. A complete PD application package signed and dated by the applicant includes:
  - Preliminary Determination Request Form
  - Photos of project site and adjacent area
  - Location map
  - 1000' contiguous area map with all necessary information
    1. Go to the siting tool: <https://crc-uri.maps.arcgis.com/apps/webappviewer/index.html?id=10964485b21641dcaa1f2b2509183266>
    2. Click the “draw mode” icon in the Landowner Notification box on the home screen of the map or upload a proposed lease site using the shapefile tab.
    3. Draw the proposed lease on the map with the drawing tool and the program will auto-generate the 1000' area around the site with a yellow line.
    4. Click on the “What’s Close?” button to generate a list of properties with the 1000' line. Print the results and bring the property list to the town for confirmation of accurate contact information.
    5. Identify all other necessary information listed in the Guidance Document for Category B Tidal Aquaculture Applications 4(a).
  - Site plans
  - Completed Guidance Document for Aquaculture Operations Plans
  - Completed Guidance Document for Category B Tidal Aquaculture Applications
  
2. 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.

## 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:**

Rhode Island aquaculture license must be obtained from RIDEM Office of Boat Registration & Licensing, located at 235 Promenade Street, Providence, RI 02908-5767. This is applied for after receiving the lease. The form for this permit is included in this package titled, "STATE OF RHODE ISLAND Application for R.I. Aquaculture."

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 meetings 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 250-RICR-40-00-1, "Aquaculture of Marine Species in Rhode Island 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 satellite imagery map (such as Google Earth, etc) is an acceptable alternative in some cases. 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 the 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.

7. **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. **Include a separate diagram 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. Applicants 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.

8. **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. Provide typewritten response to all items in the **Guidance Document for Aquaculture Operations Plans**.
9. **1000' contiguous area map with all necessary information** (see Application Checklist and Category B Guidance Document for details).

**Written requirements of RICRMP:**

10. Provide typewritten response to all items in the **Guidance Document for Category B Tidal Aquaculture Applications**.
11. Review Sections 1.1.12 and 1.3.1(K) of the RICRMP.
12. 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) 2222678.



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

## **APPLICATION FOR STATE ASSENT**

To perform work regulated by the provisions of Chapter 279 of the Public Laws of 1971 Amended.

Project Location _____ No. Street City/Town	File No. (CRMC USE ONLY)
Owner's Name _____	Plat: Lot(s):
Mailing Address _____ City/Town State Zip Code	Contact No.:
Name of Waterway _____	Estimated Project Cost (EPC):
	Application Fee:
<b>Longitude/latitude of all corners of Proposed Aquaculture Project Location (preferably in decimal degrees):</b>	

**Have you or any previous owner filed an application for and/or received an assent for any activity on this property?**  
 (If so please provide the file and/or assent numbers): \_\_\_\_\_

**Is this site within a designated historic district?**                      **YES**                      **NO**

**Is this application being submitted in response to a coastal violation?**    **YES**                      **NO**

**If YES, you must indicate NOV or C&D Number:** \_\_\_\_\_

**Name and Addresses of adjacent property owners whose property adjoins the project site.** (Accurate addresses will insure proper notification. Improper addresses will result in an increase in review time.)

\_\_\_\_\_

\_\_\_\_\_

**STORMTOOLS (<http://www.beachsamp.org/resources/stormtools/>)** is a planning tool to help applicants evaluate the impacts of sea level rise and storm surge on their projects. The Council encourages applicants to use STORMTOOLS to help **them understand the risk that may be present at their site and make appropriate adjustments to the project design.**

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. Where variances or special exceptions are requested by the applicant, the applicant will be prepared to meet and present testimony on the criteria and burdens of proof for each of these relief provisions. 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. If the information provided to the CRMC for this review is inaccurate or did not reveal all necessary information or data, then the permit granted under this application may be found to be null and void. Applicant requires that as a condition to the granting of this assent, members of the CRMC or its staff shall have access to the applicant's property to make on-site inspections to insure compliance with the assent. This application is made under oath and subject to the penalties of perjury. 08/04

\_\_\_\_\_  
 Owner's Signature (sign and print)

**PLEASE REVIEW REVERSE SIDE OF APPLICATION FORM**

**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 of the CRMC's Management Procedures for a more detailed description of CRMC's fee schedule*

## Guidance Document for Aquaculture Operations Plans

Anyone conducting aquaculture operations in RI must comply with all applicable CRMC regulations (*Coastal Resources Management Program* §§ 1.3.1(A) and 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 typewritten. This Microsoft Word document is intended to be used by applicants 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. Additionally, list any past CRMC file numbers related to the current application.
3. **DEM Aquaculture License number** (applicable if products are offered for sale); new applicants will need to obtain the DEM aquaculture license after an aquaculture assent is issued.
4. **Type of facility** (e.g., commercial lease site, upweller, experimental site, research, commercial viability) and **nature of operation** (i.e methodology used such as floating gear, submerged cages, bottom gear ect.).
5. **Location of facility** (include aerial or chart depicting exact location)
  - a. Adjacent town:
  - b. Water body:
  - c. Lat/long coordinates and size 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 the water column including proximity to surface and bottom with a depth profile at mean low water and mean high water. Include maximum number of cages proposed and the size of the cages proposed.
8. Describe a plan for how the site will be **built out, accessed, and maintained**. Including the expected level of activity (seasonal, weekly, and/or daily).

9. Description of the *methods and equipment used to identify and mark site*.
10. DEM *Shellfish Harvesting Classification* at site.
11. Description of *practices and procedures used* during the growth, harvest, storage, transportation, and sale of the cultured species. Including any offsite activities necessary for the operation.
12. For operations that will use *floating gear*:
  - a. Description of the mitigation or deterrent measures that will be used to minimize the potential pollution impact of birds and/or mammals.
  - b. Description of a plan for re-submergence after air drying before harvest.
13. Indicate the *projected per unit area yield* of harvestable product and the *applicant's capability* to carry out the proposed activities.
14. Description of a *plan for safety and security of equipment*, including appropriate marking of equipment and lease area. Incorporate a *storm preparedness and response plan* that accounts for the safety and security of all aquaculture equipment and any measures that will be taken in the event of a significant storm or other adverse weather conditions impacting the site.
15. Procedures for *maintaining records*:
  - a. For operations using seed acquired from **out-of-state**:
    - i. Description of notification, disease certification, and labeling/tagging procedures:
16. Procedures for *maintaining records*:
  - a. For upwellers/seed-growing facilities in prohibited waters:
    - i. 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, <20 mm for quahogs):
17. Procedures for *maintaining records*:
  - a. For operations using seed from prohibited waters, or operations using shellfish obtained from a third party that originated as seed from prohibited waters:
    - i. Detailed description of demarcation methods and record-keeping practices used at the lease site to ensure that animals have been cultured at least six (6) months in approved waters, prior to sale, including:
      1. Detailed record-keeping practices specifying date, source, average size, and amount of seed; and
      2. 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.
  - b. 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.

## **Guidance Document for Category B Tidal Aquaculture Applications**

Anyone conducting aquaculture operations in RI must comply with all applicable CRMC regulations (*Coastal Resources Management Program* §§ 1.3.1(A)(1) and 1.3.1(K)(3)(a)) and DEM regulations, as set forth in “*Aquaculture of Marine Species in RI Waters*.” Applications provided to the CRMC will be available for DEM review. Category B applications shall address each of the items listed below, as applicable, following the format set forth below.

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

### **Category B Requirements:**

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) of this part; 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 area that is 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.
11. Demonstrate that measures have been taken to minimize any adverse scenic impact.



Additional Category B Requirements:

1. Describe the location and size of the area proposed.
2. Identify the species to be managed or cultivated within the permitted area and over which the applicant shall have exclusive right.
3. Describe the method or manner of management or cultivation to be utilized, including whether the activities proposed are experimental, commercial, or for personal use.
4. Provide such other information as may be necessary for the Council to determine
  - a. The compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries. *(In addition, please provide the following necessary information as required in the 1000' Contiguous Area Map:*
    - *list of all property owners within 1000';*
    - *list of all approved aquaculture leases within 1000';*
    - *list of CRMC designated ROW(s) within 1000';*
    - *CRMC water use types within 1000'; and*
    - *any shoreline(s) within 1000' which have been preserved for conservation, recreation and/or public access through easements, purchased by the state or municipality, or are owned by a land trust or state-recognized conservation organization.)*
  - b. The degree of exclusivity required for aquacultural activities on the proposed site. *(In support of this requirement and in accordance with 1.3.1(K)(b), the applicant must include a plan demonstrating reasonable public ingress and egress to and from the proposed site for traditional water activities such as boating, swimming, and fishing. The ingress/egress plan may be notated on a copy of the site plan or other map.)*
  - c. The safety and security of equipment, including appropriate marking of the equipment and/or lease area.
  - d. The projected per unit area yield of harvestable product.
  - e. The cumulative impact of a particular aquaculture proposal in an area, in addition to other aquaculture operations already in place. *(At minimum, applicants should consider the impact of any other aquaculture operation within 1000' of the proposed site.)*
  - f. The capability of the applicant to carry out the proposed activities.
  - g. The impact of the proposed activities on the scenic qualities of the area.



**RHODE ISLAND**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
 235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

Office of Boat Registration & Licensing  
 3<sup>rd</sup> Floor, Room 360 (401) 222-6647

Applicant ID # \_\_\_\_\_ (Office use only) Tin # \_\_\_\_\_ (Office use only)

**STATE OF RHODE ISLAND**

**Application for R.I. Aquaculture**

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

\_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Sex: M/F Phone #: \_\_\_\_\_  
 (Optional)

RI Driver's License Number \_\_\_\_\_

Hair Color: \_\_\_\_\_ Weight: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Height: \_\_\_\_\_

\_\_\_\_\_  
 Occupation

**Aquaculture (RI GL 20-10-12(d)) License # \_\_\_\_\_ \$200.00**

\*Under penalty of law I certify that the foregoing statements are true.

Applicant's Signature\* \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_-

Notary Public \_\_\_\_\_ Commission Expires \_\_\_\_\_

Notes: Checks/Money Orders payable to State of RI – DEM & mail or deliver to the address above

# 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 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 fifteen (15) 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(32) 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 and licenses for the taking, possession, sale, importation, and transportation of species used in aquaculture.** – (a) The director is authorized and empowered to grant permits for, issue licenses 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 takes, 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.

(d) Any person who is granted permits for the conduct of aquaculture by the CRMC and the director in accordance with this chapter shall obtain a commercial aquaculture license to sell aquaculture products in the state to licensed fish and shellfish dealers. The license shall be issued by the department on a calendar-year basis for an annual fee of two hundred dollars (\$200).

#### 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 one thousand dollars (\$1,000), 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 one thousand dollars (\$1,000), 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 20-10-16.1

**§ 20-10-16.1 License or permit suspension or revocation.** – The permit or license of any person who has violated the provisions of this chapter, or the rules and regulations issued pursuant to it, including anyone holding a license or permit found guilty of a violation in accordance with § 20-10-16(b), may be suspended or revoked by the CRMC or the director as the CRMC or the director shall determine by regulation. Any person aggrieved by an order of suspension or revocation may appeal this order in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.



## 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 § 20-1-6 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.

## **Department of Environmental Management 250-RICR-40-00-1**

### **Aquaculture of Marine Species in Rhode Island Waters**

- 1.1 Purpose:** The purpose of these Regulations is to describe the permits, licensing, and conditions under which aquaculture shall be conducted in Rhode Island.
- 1.2 Authority:** These Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-17.1 and R.I. Gen. Laws §§ 20-1-2, 20-1-4, 20-1-5, 20-10-5(c), and 20-10-12, and in accordance with R.I. Gen. Laws Chapter 42-35.
- 1.3 Administrative Findings:** These Regulations acknowledge that aquaculture is a form of agriculture (R.I. Gen. Laws § 2-23-4) and that cultured crops are the property of the aquaculturist and are distinct from wild stocks. Cultured crops are therefore not subject to the statutory and regulatory restrictions governing the protection of wild stocks, except that the minimum size limit established for quahogs, (*Mercenaria mercenaria*), applies to all wild and cultured quahogs (R.I. Gen. Laws § 20-10-13.1 *et seq.*).
- 1.4 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.
- 1.5 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.
- 1.6 Superseded Rules and Regulations:** On the effective date of these Rules and Regulations, all previous Rules and Regulations, and any policies regarding the administration and enforcement of aquaculture shall be superseded.

#### **1.7 Definitions**

- A. As used in these Rules and Regulations, the following words and phrases have the following meanings:
1. “Adequately iced” means that the amount and application of the ice is sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged the presence of ice in the slurry indicates adequate icing. The water source for, the production of, and the handling of the ice must be approved by the Rhode Island Department of Health (DOH) for the intended use of cooling shellfish.
  2. “Approved waters” or “Approved shellfish growing areas” means waters of the State which have been classified by the Rhode Island Department of Environmental Management (DEM) Office of Water Resources as Approved Areas, fit for the taking of shellfish for human consumption on a regular basis, according to criteria established by the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish. These classifications may be subject to change as water quality conditions dictate.
  3. “Aquaculture” means the cultivation, rearing, or propagation of aquatic plants or animals, hereinafter referred to as cultured crops, under natural or artificial conditions.
  4. “Aquaculture facility” means any properly permitted aquaculture operation, either in upland areas or in the State’s waters or submerged lands.
  5. “Aquaculture lease” means the permitted area for which the Coastal Resources Management Council (CRMC) issues a lease in which aquaculture can be conducted. Leases are discretionary and granted for the express purpose of allowing aquaculture activities on the State's submerged

lands or in the water column. Certain types of permitted activities, such as experimental aquaculture operations, may not require a lease.

6. “Aquaculturist” means the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental or restoration aquaculture in Rhode Island.
7. “Biosecurity board” means the board, within the Coastal Resources Management Council (CRMC), established pursuant to R.I. Gen. Laws § 20-10-1.1 and charged with assisting and advising the CRMC in carrying out its role under the provisions of R.I. Gen. Laws Chapter 20-10.
8. “Conditionally approved areas” means any shellfish grounds underlying waters examined and found fit for the taking of shellfish for human consumption on an intermittent basis, declared by the Director as conditionally approved waters pursuant to R.I. Gen. Laws §§ 20-8.1-3 and 20-8.1-4. Such classification may be subject to change as water quality conditions dictate.
9. “Container” means any bag, sack, tote, conveyance, or other receptacle used for containing shellfish for holding or transporting.
10. “CRMC” means the Rhode Island Coastal Resources Management Council.
11. “Cultured crops” means aquatic or marine animals or plants:
  - a. That are in the location, water column or artificial conditions specified in a valid aquaculture permit issued pursuant to R.I. Gen. Laws § 20-10-3 or that have been taken by the holder of such permit from the location, water column or artificial conditions specified in such permit, or,
  - b. That have been produced by aquaculture methods outside the State and have not been commingled with wild stocks that are in or have been removed from the waters of the State. Appropriate bills of sale, bills of lading and proper tags used in accordance with § 1.11 of this Part, therein and all other applicable State and Federal laws and Regulations shall be *prima facie* evidence of the origin of cultured crops inside or outside the State.
12. “DEM” means the Rhode Island Department of Environmental Management.
13. “Designated temperature control” or “Thermally impacted area” means an area designated by the Department in which aquaculturists must comply with more stringent temperature controls for harvested shellfish. These areas have been determined to be Winnapaug Pond, Quonochontaug Pond, Ninigret Pond, Potter Pond, Point Judith Pond, Island Park Cove (Spectacle Cove), Hog Island Cove and Great Salt Pond.
14. “Director” means the Director of the Rhode Island Department of Environmental Management or his/her duly appointed agents.
15. “DOH” means the Rhode Island Department of Health.
16. “Harvest” means the act of removing shellstock with the intention of not returning to the water after husbandry practices. Harvest commences when the first shellfish not returned to the water is removed from the water on any given day, or is exposed by the receding tide.
17. “Husbandry” means any activity related to the cultivation and management of shellfish crops, including but not limited to grading, sorting, cleaning, or planting.
18. “Mechanical refrigeration” means storage in a container or conveyance that is approved by the Rhode Island Department of Health and capable of cooling to, and maintaining, an ambient temperature of forty-five degrees Fahrenheit (45° F) or less.
19. “Operational plan” means a written plan filed with CRMC and, approved by DEM prior to its implementation, that includes, at a minimum: description of the design and activities of the aquaculture facility, specific location and boundaries of the aquaculture lease and facility, types and locations of structures (rafts, pens, tanks, etc.), species to be cultured, source of these organisms (i.e., wild or cultured), procedures to prevent contamination, program of sanitation and maintenance, description of the water source including details of water treatment, program to maintain water quality, maintenance of records, and how shell stock will be harvested.

20. "Person" means an individual, firm, corporation, society, association, partnership, or private or public body.
21. "Possession of aquaculture crops" means the exercise of dominion or control over cultured crops commencing at the time at which a decision is made not to return the crops to the aquaculture lease or facility from which they were taken. This decision must be made at the first practical opportunity, taking into consideration the management practices set forth in the approved operational plan.
22. "Possession of wild stocks" means the exercise of dominion or control over wild stocks commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. This decision must be made at the first practical opportunity.
23. "Resubmerge" means, and is strictly limited to, reintroduction of shell stock into approved waters following the removal of such stock from approved waters for husbandry purposes.
24. "Shading" means to shelter by intercepting the direct rays of the sun to protect the shellfish from heat. Shading may be accomplished by any means that effectively protects the harvested shellfish from direct sunlight and prevents excessive heat build-up in the shaded area.
25. "Shellfish" means all species of:
  - a. Oysters, clams or mussels, whether: (1) Shucked or in the shell; (2) Raw, including post-harvest processed; (3) Frozen or unfrozen; (4) Whole or in part; and,
  - b. Scallops in any form, except when the final product form is the adductor muscle only.
26. "Shellfish seed" means, for bay quahog, a shell size less than twenty millimeters (20 mm) (0.78") longest axis length; for oysters, a shell size less than thirty-two millimeters (32 mm) (1.25") longest axis length, and for blue mussels (*Mytilus edulis*) any mussel that settled during the current calendar year.
27. "Spat" means newly settled post-metamorphic bivalve.
28. "Spat collection" means the use of artificial apparatus (spat collectors) to induce settlement of larval shellfish
29. "Temperature control" means the use of ice, mechanical refrigeration or other approved means capable of lowering and/or maintaining the temperature of the shellstock at fifty degrees Fahrenheit (50° F) or less.
30. "Wild stock" means natural resources, including aquatic or marine animals or plants, which grow within the waters of the State, and are not cultured in any way. Any shellfish that have settled naturally within an aquaculture facility are considered wild stock.

### **1.8 Permitting and Licensing Requirements**

- A. Aquaculture shall 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. Applications shall be reviewed for consistency with R.I. Gen. Laws Title 20 and no license shall be issued or renewed to any person where the application is found to be in conflict with any requirement found in these statutes.
- B. Aquaculture License: An Aquaculture license from the Director is required for an individual to sell to licensed fish and shellfish dealers cultured crops from an aquaculture lease or facility permitted by CRMC and operated in accordance with the aquaculturist's approved operational plan.
  1. Application shall be made on forms as prescribed by the Director and may be submitted at any time during the year. The license shall be issued on a calendar year basis (expiring December 31) with an annual fee of two hundred dollars (\$200.00).
  2. Under no circumstances shall a license be granted for species that are not endemic to Rhode Island, without prior approval from the Director with the advice of the Biosecurity Board. Determination of what species are endemic to Rhode Island shall be determined by the Director.

3. No license shall be renewed unless the applicant's aquaculture activities are conducted in accordance with the approved operational plan. The operational plan must be updated, resubmitted to CRMC, and approved by DEM prior to any operational changes.
- C. Coastal Resources Management Council (CRMC) Assent or Permit: An aquaculturist must apply for and receive a Coastal Resources Management Council (CRMC) Assent or permit to conduct aquaculture in accordance with . No application shall be approved by CRMC prior to the consideration of recommendations by the Department of Environmental Management (DEM) Director, who shall consult with and obtain input from appropriate divisions and offices within the department, the Rhode Island Marine Fisheries Council and the Department of Health.
1. The Director may review the application to determine whether the aquaculture activities proposed in the application are 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, and not likely to have an adverse effect on the continued vitality of indigenous fisheries of the State, and for consistency with other State statutes as applicable.
  2. The Rhode Island Marine Fisheries Council (RIMFC) may review the CRMC application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries. The RIMFC shall provide a recommendation to the CRMC consistent with .
- D. As applicable or required, a Rhode Island Pollutant Discharge Elimination System (RIPDES) permit shall be obtained from DEM Office of Water Resources.
- E. 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 as determined by the DEM Office of Water Resources. As applicable or required, a Water Quality Certification shall be obtained from DEM Office of Water Resources.

### **1.9 Shellfish Culture Requirements**

- A. Cultured crops exempt from wild stock Regulations: Aquaculturists harvesting their cultured crops, in accordance with their CRMC Assent, DEM Aquaculture license, and operational plan are exempt from the statutory and regulatory harvest restrictions governing wild stocks, including: seasons, catch or bag limits, minimum sizes, quotas, and methods of harvest. In no case may aquaculturists possess, import, transport or offer for sale for human consumption to any person bay quahogs with a hinge width of less than one inch (1"), unless specifically authorized to possess, import, transport, or sell legal quahog seed.
- B. Shipment and importation of shellfish seed: All shipments of shellfish brought into Rhode Island for aquaculture operations must be approved by the Director or his/her designee and must be labeled or tagged indicating the origin (operator/company name, license number and body of water), date of importation and destination and must be accompanied by a certificate of disease inspection.
1. All persons wishing to import shellfish seed must submit a written request or email to the Aquaculture Coordinator of CRMC at least five (5) working days prior to entry into the State. Such request to be mailed to Coastal Resources Management Council, Stedman Government Center, Suite 3, 4808 Tower Hill Road, Wakefield, RI 02879.
  2. Prior to shipment, the Aquaculture Coordinator will make a recommendation to the Director whether to approve or deny any request to import shellfish seed and notify DEM Division of Law Enforcement and Agriculture. The Aquaculture Coordinator may seek the advice and consent of the Aquaculture Biosecurity Board in regard to such request to import shellfish seed.

- C. Only shellfish cultured in approved waters or within an approved land-based system meeting the water quality criteria for harvesting, may be sold for human consumption, and such sales may only be made to licensed Rhode Island dealers. All requirements for handling, tagging, use of shellfish containers, and temperature control, as set forth herein, as well as all other applicable DOH standards, must be adhered to.
- D. Taking or possession of wild stock shellfish
1. Aquaculturists who also hold a commercial shellfishing or multipurpose license may not take or possess wild stock shellfish while they are in possession of cultured shellfish crops.
  2. An aquaculturist may not be in possession of wild stock shellfish while visiting their lease or tending their shellfish crops, unless they are a properly licensed shellfish dealer and the wild stock shellfish is properly tagged and being held in or at their dealer facility, buy boat, or wet storage operation.
  3. The taking or possession of undersized wild stock shellfish is prohibited, except for spat collection within lease boundaries approved by the Director or his/her designee. If authorized, the site, species and amount must be specified by the Director or his/her designee in writing.
- E. Water quality changes: Water quality and water quality classification of waters within the State as determined by the Office of Water Resources are subject to change due to various environmental conditions. In some cases the aquaculturist shall be required to respond to these changes. DEM shall not assume any liability for any changes in classification and shall assume no liability to the aquaculturist for damages incurred due to such actions.
- F. Shellfish aquaculture in conditionally approved growing areas: When a shellfish aquaculture lease is located in a conditionally approved area, the aquaculturist is prohibited from visiting the lease to tend the shellfish crops when the area is in a closed status, unless the aquaculturist has received permission from the Director. The harvest of cultured stock from the lease when the growing area is in the closed status is prohibited.
- G. Transfer of seed from other than approved waters: Shellfish seed cultured in other than approved waters in accordance with a CRMC permit must be transferred by the aquaculturist to an approved aquaculture lease in approved waters in accordance with the approved assent, license, and operational plan prior to the shellfish exceeding the seed size limit. If more than ten percent (10%) of the cultured shellfish within a lot or batch exceed the seed size limit, they shall not be moved from other than approved waters to an approved growing area without prior permission of the DEM Director and the DOH.
- H. Harvest of shellfish transferred from other than approved waters as seed: An aquaculturist wishing to use seed that have been produced in other than approved waters must describe in the operational plan how he/she intends to track and document the growth and harvest of these shellfish. Aquaculturists must maintain accurate and complete records of all shellfish seed cultured in other than approved waters and removal of such shellfish seed to approved waters including, but not limited to, source, numbers transferred, size composition, time/dates of transfer, harvest and sale of the shellfish. These records must be maintained for a minimum of two (2) years and must be available for inspection by agents of the DOH, DEM, or CRMC upon request. If record keeping and tracking protocols are inadequate, then the aquaculturist must only use seed from approved waters. No shellfish may be harvested until they have spent at least one hundred twenty (120) days in approved waters.

### 1.10 Handling of Shellfish

- A. General requirements: Shellfish aquaculturists shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.
- B. Containers: Containers used for storing shell stock must be clean.
- C. Vessels: Vessel decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas. Aquaculturists using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock. Aquaculturists using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.
- D. Bilge water: Aquaculturists using a vessel to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock. Aquaculturists using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.
- E. Waste discharge prohibited: It is unlawful to discharge any sewage from a vessel into the waters of the State.
- F. Washing: Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable water source, or growing area in the approved classification or open status of the conditionally approved classification.

### 1.11 Tagging of Shellfish

- A. Required Use of Tagged Containers: Aquaculturists must place any and all shellfish taken by them (except those shellfish returned to the waters of the aquaculture lease or facility) into containers, and must tag each and every container with a completed harvester tag, prior to harvested shellfish being placed in the container. The approximate quantity of shellfish may be completed at the conclusion of harvest.
- B. Tags: The harvester tag shall be durable, waterproof and sanctioned by the DOH. The tag shall contain the following indelible, legible information in the order specified below:
  - 1. Aquaculturist's license number as assigned by DEM;
  - 2. Harvest commencement time and date;
  - 3. The harvest location as identified by the CRMC Assent number;
  - 4. The harvest location as identified on the ;
  - 5. Type (species) of shellfish;
  - 6. Approximate quantity of shellfish; and,
  - 7. The following statement in bold capitalized type: **“THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS”**
- C. Commingling Prohibition and Tagging by Aquaculturists/Dealers: Aquaculturists shall not place shell stock harvested from more than one (1) growing area into the same container. When the aquaculturist is

also a dealer, the aquaculturist has the option to tag the shell stock with a harvester tag or a dealer's tag meeting the requirements of the DOH Regulations.

D. Bulk Tagging: Bulk tagging of shell stock will be permitted under the following criteria:

1. When shell stock are harvested from one (1) aquaculture lease site or facility on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, in a single boat, in a vehicle or other container, and the unit tagged with a single tag, provided that the tag specifies the number of individual containers in the unit or an estimate of the total weight, volume, or count; and,
2. A written statement is provided that "All shell stock containers in the lot have the same harvest data and area of harvest."

### **1.12 Temperature Control of Shellfish**

- A. General requirements: Aquaculturists shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.
- B. Harvest of oysters and quahogs annually from September 15 through June 30 inclusive: The maximum allowable time between the harvest of shell stock and delivery to a dealer shall be twelve (12) hours. Possession of shell stock by anyone other than a licensed dealer in excess of twelve (12) hours is prohibited. This maximum allowable time may be reduced by DEM, via Emergency Regulation, in certain harvest areas if environmental changes necessitate such adjustment.
- C. Harvest of oysters and quahogs annually from July 1 through September 14 inclusive:
1. All oysters and quahogs harvested shall be transferred to a licensed dealer within five (5) hours of the commencement of harvest.
  2. All harvested oysters and quahogs shall be subject to shading immediately upon harvest.
  3. All oysters and quahogs that are removed from the water for less than twelve (12) hours for husbandry purposes must be re-submerged for no less than forty-eight (48) hours before harvest.
  4. All oysters and quahogs that are removed from the water for twelve (12) hours or greater for husbandry purposes must be re-submerged for no less than seven (7) days (one hundred sixty-eight (168) hours) before harvest.
  5. All oysters and quahogs that are exposed to air drying must be re-submerged for no less than seven (7) days (one hundred sixty-eight (168) hours) before harvest.
  6. All oysters and quahogs harvested from a Designated Temperature Control or Thermally Impacted area shall also be harvested in compliance with one (1) of the following requirements:
    - a. Harvesters shall terminate all harvest activities and all harvested oysters and quahogs must be transferred to a dealer or placed in mechanical refrigeration or adequately iced by 11:00 a.m. between the dates of July 1 and August 31 inclusive; and by noon between September 1 and September 14 inclusive. Upon being placed in mechanical refrigeration or adequately iced, oysters must remain under temperature control until transferred to a licensed dealer.
    - b. Oysters and quahogs that are harvested after the times specified in this section must be delivered to a licensed dealer within two (2) hours of the commencement of harvest; or placed in mechanical refrigeration or adequately iced within two (2) hours of the commencement of harvest until the oysters and quahogs are transferred to a licensed dealer with such transfer occurring no greater than five (5) hours from the commencement of harvest.



### **1.13 Special Exemption Permits**

- A. Pursuant to, the Director is hereby authorized to issue a special exemption permit to exempt Department of Health-licensed food processing facilities, Department of Health licensed shellfish dealers, and CRMC and DEM permitted aquaculturists from the one inch (1”) minimum size restriction governing bay quahogs. The exemption permit applies only to frozen, packaged, cultured bay quahog products shipped into Rhode Island for redistribution outside of the State or to quahogs subject to removal pursuant to the provisions of.
- B. To apply for a special exemption permit, a licensed processing facility, shellfish dealer, or aquaculturist must send a letter to the Director requesting said permit. The letter shall include a detailed explanation of the reason for which the special exemption permit is being requested, and shall set forth the proposed dates during which the requested special exemption permit shall be effective. In considering whether to issue a requested permit, the Director shall consider whether additional supporting documentation is required, including but not limited to any CRMC ordered closures or suspensions of aquaculture activities, pathology reports, or other information the Director requests to inform his/her decision. Any permit issued under this section may have conditions applied by the Department, including but not limited to the date of expiration of the permit, restrictions regarding where undersized quahogs may be sold, the size of quahogs the permit may apply to, and the number of undersized quahogs that may be sold under the permit.
- C. A person or facility that is issued a special exemption permit is required to comply with all other requirements set forth in this Part, as well as all other applicable statutes and Regulations. In addition, a facility that is issued a special exemption permit is required to comply with any terms, conditions, or restrictions the Director includes within the special exemption permit, which may include restrictions on product forms, sizes, possession requirements, and other provisions in order to maintain the protection of the quahog resource.

### **1.14 Enforcement**

- A. Authority to Enter and Inspect: The Director shall have the authority to enter and inspect any and all aquaculture facilities for the purposes of determining compliance with the terms and provisions of the CRMC assent or permit, DEM license, and approved operational plan ().
- B. Violations: Unless otherwise provided, violations of and/or noncompliance with the Regulations set forth herein shall be prosecuted under the applicable sections of R.I. Gen. Laws Chapter 20-10. In addition to other penalties provided by law or other Rule or Regulation, any licensed aquaculturist who violates the provisions of these Rules or any order issued by the director shall be subject to suspension, revocation or denial of his/her license and/or permit in accordance with R.I. Gen. Laws §§ , , and (19).

# Coastal Resources Management Program Sections

## Section 1.1.12 Fees

E. 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 sixty (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.

## Section 1.3.1(A) - Category B Requirements

1. The requirements herein for a Category B Assent are necessary data and information for the purposes of federal consistency reviews. All persons applying for a Category B Assent are required to:
  - a. demonstrate the need for the proposed activity or alteration;
  - b. 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) of this part; for projects on state land, the state building official, for the purposes of this section, is the building official;
  - c. describe the boundaries of the coastal waters and land area that is anticipated to be affected;
  - d. 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;
  - e. demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life;
  - f. 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;
  - g. demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;
  - h. demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;
  - i. demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;
  - j. 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;

- k. demonstrate that measures have been taken to minimize any adverse scenic impact (see Section 1.3.5 of this Part).
2. Each topic shall be addressed in writing and include detailed site plans and a locus map for the proposed project.
3. Additional requirements are listed for specific Category B activities and alterations in the sections that follow.

### **Section 1.1.2 - Definitions**

A. Definitions for this Part are as follows:

10. "Aquaculture" (refer to definitions of "marine aquaculture" and "freshwater aquaculture" in § 1.1.2 of this Part herein.)

65. "Freshwater aquaculture" means 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.

87. "Marine aquaculture" means the culture of aquatic species under natural or artificial conditions in the state's waters including but not limited to: fish farming utilizing pens, tanks, or impoundments (which may be land-based); the culture of shellfish on the sea floor in permitted and leased areas, in cages, or suspended from structures in the water; and the culturing of aquatic plants. Note: land-based aquaculture operations (i.e., above mean high water) are also regulated under § 1.3.1(C) of this Part.

### **Section 1.3.1(K) - Aquaculture**

#### **1. Policies**

- a. 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. The CRMC recognizes that responsible shellfish aquaculture has a net positive effect on the environment, and therefore it is permissible in all water types. As any human activity can have adverse environmental effects, the Council recognizes the possibility of setting scientifically defensible limits on aquaculture leasing in any particular water body. The CRMC also recognizes that in the framework of adaptive management protocols, research into the ecology of coastal waters and our understanding of ecosystem carrying capacities is constantly evolving and improving.
- b. 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.

- c. At the discretion of the Executive Director, leaseholders may be required to temporarily remove their aquaculture facilities, which may include all associated gear and cultured species. However, the Council may permit aquaculture facilities to remain if it determines that the temporary removal of these facilities would prove detrimental to coastal resources of the state. Report of such action by the Executive Director shall be made to the full Council at the next regularly scheduled meeting of the Council.
- d. The Executive Director may order the removal of any aquaculture facility that is in an obvious state of disrepair or has been determined to be a navigation or public safety hazard. 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.
- e. 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 R.I. Gen. Laws § 20-10-3 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.
- f. 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 revert to the State’s public use upon order by the CRMC. Actively farmed may be defined by the yearly monetary investment in the farm (e.g., the purchase of seed and supplies and/or proof of sales). Three (3) consecutive years of no proof of sales shall be grounds for revocation of the Assent and lease. The Council may allow the Assent and lease to remain in effect for inactive aquaculture upon a showing by the Assent holder for good cause.
- g. The Council may grant an aquaculture Assent for a period not to exceed that period set forth in R.I. Gen. Laws § 20-10-3.
- h. 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.
  - (1) This prohibition shall not apply to the activities of a seed nursery or 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) of this Part), or to projects which are designed, with Council approval, to enhance and restore the public resource.
  - (2) Aquaculture projects other than shellfish aquaculture proposed for conditionally approved waters that are not closed seasonally and prohibited waters that do not contain significant shellfish stocks potentially available for relay into approved areas for free and common fishery may be granted by the Council provided the applicant provides sufficient evidence that no harm to public health or safety will result. Such activities shall be prohibited unless the applicant provides a written statement from the director of the department of health certifying that the proposed activity will not result in product that is a public health or safety concern.
  - (3) Authorization may be granted by the Council for activities prohibited by this subsection provided the operation is for research purposes or public enhancement of the resource and the applicant provides written statements from the directors of the departments of environmental management and health certifying that the proposed
- i. When the Council issues an authorization for aquaculture all wild shellfish stock, crustaceans, seaweed, and whelks existing within the authorized area shall remain the property of the state.
- j. 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.

- k. 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 owner's lease site; and
  - (4) All applicable Rhode Island Department of Environmental Management and Rhode Island Department of Health Regulations are followed.
- l. A CRMC assent may be issued for upweller units at CRMC permitted residential docks 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.

## 2. Prerequisites

- a. Prior to issuing a permit for aquaculture within tidal waters, the Council shall obtain and give appropriate consideration to written recommendations from the Director or his or her designee of the Department of Environmental Management and the chairman of the Marine Fisheries Council, as required by R.I. Gen. Laws § 20-10-5. The director or his or her designee of the Department of Environmental Management shall review the application to determine that the proposed aquaculture activity will not adversely affect including, but not limited to:
  - (1) Marine life adjacent to the proposed area and the waters of the state, and
  - (2) The continued vitality of indigenous fisheries.
  - (AA) 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.
- b. Prior to submitting a formal Category B application to CRMC for aquaculture activities within tidal waters, applicants must first submit a Preliminary Determination application for the proposed project. A formal Category B application may be submitted only after the completed Preliminary Determination report has been issued by CRMC.
- c. 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.
- d. At the time of filing a preliminary determination (PD), the applicant shall include a DRAFT operational plan that includes the following information:
  - (1) Name of the applicant and the company's name;
  - (2) Contact information for applicant and/or company;
  - (3) Description of the design and activities of the aquaculture facility;
  - (4) Map depicting the specific location and boundaries of the aquaculture lease and facility, including the latitude and longitude points for each boundary point;
  - (5) Types and locations of structures (rafts, pens, tanks, etc.);
  - (6) Species to be cultured and source of these organisms (i.e., wild or cultured);
  - (7) Expected level of activity (seasonally, weekly and daily);
  - (8) Procedures to prevent contamination, program of sanitation and maintenance, description of the water source including details of water treatment, program to maintain water quality, maintenance of records; and
  - (9) How shell stock will be harvested.
  - (AA) The DRAFT operational plan may be modified during the PD review process and serve as the basis for the operational plan required below under § 1.3.1(K)(3)(b) of this Part.
- e. 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.

- f. 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.
- g. Applicants for aquaculture operations which result in discharges to waters of the state are required to obtain a Rhode Island Pollution Discharge Elimination System (RIPDES) review by the department of environmental management to determine if a RIPDES permit is required. Said permit must be obtained by the applicant prior to any aquaculture facility discharges to waters of the state.
- h. At the time of application, the applicant must provide an operational plan that details methods and record keeping to ensure that seed product - prior to exceeding the size of the seed definition - will be transferred to a permitted aquaculture facility operating in approved waters, a scientific or educational institution, or a government agency.
- i. Applicants who propose to introduce non-indigenous species into a CRMC-approved aquaculture facility or lease are required to design a protocol and submit it for review and approval by the CRMC and the RIDEM with the advice and consent of the Bio-Security Board in accordance with R.I. Gen. Laws § 20-10-1.2 prior to issuance of an assent. This review can occur concurrently with the aquaculture application process.
- j. All freshwater aquaculture permits will be reviewed by and receive consent from the CRMC Biosecurity Board prior to issuance of an assent. This review can occur concurrently with the aquaculture application process.

### **3. Additional Category B Requirements**

- a. Applicants proposing to undertake any aquaculture project shall:
  - (1) Describe the location and size of the area proposed;
  - (2) Identify the species to be managed or cultivated within the permitted area and over which the applicant shall have exclusive right;
  - (3) Describe the method or manner of management or cultivation to be utilized, including whether the activities proposed are experimental, commercial, or for personal use;
  - (4) Provide such other information as may be necessary for the Council to determine:
    - (AA) The compatibility of the proposal with other existing and potential uses of the area and areas contiguous to it, including navigation, recreation, and fisheries;
    - (BB) The degree of exclusivity required for aquacultural activities on the proposed site;
    - (CC) The safety and security of equipment, including appropriate marking of the equipment and/or lease area;
    - (DD) The projected per unit area yield of harvestable product;
    - (EE) The cumulative impact of a particular aquaculture proposal in an area, in addition to other aquaculture operations already in place;
    - (FF) The capability of the applicant to carry out the proposed activities; and
    - (GG) The impact of the proposed activities on the scenic qualities of the area.
- b. Operational plan - In accordance with the permitting requirements set forth herein, the aquaculturist must submit a written operational plan as part of their Category B Assent application to be reviewed and approved by CRMC and DEM and maintained on file with the CRMC. Operational plans will be made available for review and inspection by CRMC, DEM and the U.S. Food and Drug Administration. The operational plan must be updated and resubmitted prior to any change(s) occurring in the aquaculture operation. Aquaculture must be practiced only in strict compliance with the provisions of the approved operational plan. At a minimum, each operational plan must include the following information:
  - (1) Description of the design and activities of the aquaculture facility;
  - (2) Specific location and boundaries of the aquaculture lease and facility;
  - (3) Types and locations of structures (rafts, pens, tanks, etc.);

- (4) Species to be cultured and source of these organisms (i.e., wild or cultured);
- (5) Expected level of activity (seasonally, weekly and daily);
- (6) Procedures to prevent contamination, program of sanitation and maintenance, description of the water source including details of water treatment, program to maintain water quality, maintenance of records, and
- (7) How shell stock will be harvested.

#### 4. Prohibitions

- a. Fish pen aquaculture operations are prohibited in all coastal ponds and nutrient sensitive shallow embayments and coves.
- b. 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.
- c. Upwellers at existing residential docks, piers, or floats in Type 1 waters are prohibited.
- d. Introduction of non-indigenous species is prohibited unless protocols are in place to ensure that no accidental releases into the state's waters may occur. These protocols must be submitted by the applicant for advice and consent by the CRMC Bio-Security Board and approval by the RIDEM Director before any permit is issued. Any proposed modifications to the permitted operation will be reviewed by the Bio-Security Board and the RIDEM Director before an assent modification can be issued. The issuance of a permit under these stipulations can be revoked if a release of non-indigenous species takes place during the term of the assent.
- e. The harvest of wild bivalve molluscan shellfish, other than spat collection, naturally occurring in a CRMC permitted lease is prohibited. All wild shellfish within a lease area will remain the property of the State of Rhode Island and remain in place for the benefit of the public resource. This resource is not to be harvested by any person for commercial or recreational purposes. Any incidental catch by the lease holder within an aquaculture lease shall be returned immediately to the same waters.
- f. In the coastal salt ponds, the area occupied by commercial aquaculture, shall not exceed five percent (5%) of the total open water surface area of the coastal pond below MLW.
- g. Proposed aquaculture leases may not be sited where eelgrass (*Zostera marina*) or widgeon grass (*Ruppia maritima*) exists.

#### 5. Standards

- a. Marine Aquaculture within Tidal waters;
  - (1) In the event of revocation or termination of an Assent by order of the Council 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 removal of gear and forfeiture of the assent bond posted by the lessee.
  - (2) 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.
  - (3) 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. The requirement for the agreed upon marking will be found in the lease requirements detailed in the

assent. All authorized limitations upon the use by the public of areas subject to the permit shall be posted by the Permittee.

- (4) The aquaculturist must notify CRMC of every shipment of aquatic plants and animals for culture entering this state at least five (5) 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 CRMC. Prior to shipment the CRMC shall notify DEM Enforcement and DEM Division of Fish & Wildlife of the shipment.
- (5) Shellfish seed cultured in prohibited or conditionally approved waters may be transferred, by the aquaculturist, to an approved aquaculture lease in Approved waters in accordance with the terms of an approved operational plan, and with notification to CRMC. If more than ten percent (10%) of the cultured shellfish within a lot or batch exceed the definition of seed (any quahogs that exceed 20 mm, and any oysters that exceed 32 mm), they cannot be moved from other than approved waters to an approved growing area without prior permission of the DEM Director and the Department of Health.
- (6) All aquaculturists desiring to use seed that have been cultured in prohibited or conditionally approved waters must include in the operational plan to CRMC details on how he/she intends to track and document the growth and harvest of these shellfish. All aquaculturists must maintain accurate and complete records of all shellfish seed culture in prohibited or conditionally approved waters and removal of such shellfish seed to approved waters including, but not limited to, source, numbers transferred, size composition, time/dates of transfer, harvest and sale of the shellfish. These records must be maintained for a minimum of two years and must be available for inspection by agents of the CRMC, DOH, DEM Division of Law Enforcement, or DEM Division of Fish and Wildlife upon request. If record keeping and tracking protocols are inadequate, then the aquaculturist must only use seed from approved waters. No shellfish may be harvested until they have spent at least six (6) months in approved waters.
- (7) Any permitted aquaculturist shall only harvest those species from the lease area as specifically authorized by the CRMC Assent.
- (8) An aquaculture license issued by the DEM for the possession, importation, and transportation of marine shellfish species used in any aquaculture operation shall be obtained by the applicant from the Director or his or her designee of the Department of Environmental Management prior to beginning any aquaculture activities. The aquaculturist, upon receiving the DEM aquaculture license, shall file a copy of same with the CRMC within thirty (30) days of receipt of said DEM license. (Note: Any aquaculturist desiring to be a RI shellfish dealer must obtain the requisite license(s) from DEM and the RI Department of Health.)
- (9) 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.
- (10) 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.
- (11) Permittees must demonstrate that they are fully utilizing an existing lease area to be eligible for an expansion as part of a preliminary determination application.
- (12) For the area known as upper Narragansett Bay defined as the area north of latitude of 41 degrees 35 minutes, proposed aquaculture farms shall be limited to a maximum size of three (3) acres. Leases may be granted by authorizing an initial two (2) acre lease. Subsequently, the third acre may be granted when the Permittee demonstrates that the initial two (2) acre lease is being fully utilized.
- (13) Experimental permits
  - (AA) 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 products 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.
  - (BB) Experimental aquaculture operations wholly contained within the confines of a council-approved marina perimeter area excluded from the five hundred (500) foot separation standard, as



contained above, any may maintain a total of three thousand (3,000) square feet in any configuration for such operations.

- (14) Commercial viability permit
- (AA) 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:
- (i) 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.
  - (ii) 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.
  - (iii) 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.
  - (iv) The permittee must show that, in the case of a successful trial, there is sufficient potential area to expand to a commercial aquaculture lease in the same area that the commercial viability permit was granted. 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 and included with the annual report that must be filed with the CRMC.
- (15) Education/research permit. The Executive Director may issue an 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 five hundred (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 five hundred (500)-foot separation standard, as contained above, and may maintain a total of three thousand (3,000) square feet in any configuration for such operations.
- (16) Aquaculture operations shall be located at sites and operated in such a manner as to not obstruct public access to and from tidal waters.
- (17) Any new lease in a coastal salt pond shall be limited in size as follows:
- (AA) A maximum three (3) acres for methods using gear including, but not limited to, racks, bags, and floating cages; or
  - (BB) A maximum of ten (10) acres for bottom planting.
- (18) Leaseholder may not apply for any lease expansion until such time leaseholder can demonstrate to the CRMC a need for additional area.
- (19) Recreational permits. The Executive Director may grant permits for recreational culture of shellfish by littoral landowners as follows:

- (AA) Recreational permits shall be limited to a combined total volume of forty-eight (48) cubic feet;
  - (BB) This cage(s) shall be hung from an existing CRMC approved dock in a manner that it will not interfere with traditional navigation;
  - (CC) Recreational permit holders shall follow all existing seed importation regulations;
  - (DD) Recreational permit holders are required to complete a CRMC approved aquaculture educational program;
  - (EE) All gear used under an education permit will be legibly marked with the letters “CRMC” and the CRMC permit number; and
  - (FF) Recreational permits will be only in areas of approved waters as defined by the National Shellfish Sanitation Program.
- (20) The maximum area occupied by aquaculture leases in the coastal salt ponds is five percent (5%) of the total open water surface area of the salt pond below MLW. This limit is established based upon the current knowledge of ecological carrying capacity models.

b. Freshwater aquaculture

1. 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.
2. Permits for land-based aquaculture operations shall be granted by the CRMC for a term not to exceed fifty (50) years.
3. When required, all species utilized for culture within land-based aquaculture operations must be approved by the DEM director or his or her designee. The aforementioned approval must be obtained prior to the Council issuing its assent, however, it may be concurrently processed with the Council’s review

### **CRMC Guidelines for Siting Aquaculture Gear**

1. Floating gear should be a minimum of 750 feet from the nearest residential structure.
2. Low profile floating gear shall be required (maximum 4” above still water elevation) unless the application can demonstrate a significant reason and need for a larger profile.
3. Floating gear is discouraged in areas where the fetch from the prevailing wind is greater than three (3) nautical miles.
4. Floating gear and all corner marker buoys should be secured with helical (screw) anchors.
5. Floating gear shall have a minimum \$15,000 proof of performance bond.
6. Initial floating gear or submerged gear leases should be:
  - maximum of two (acres) in the upper Narragansett Bay (defined as the area north of latitude 41°35’)
  - maximum of three (3) acres elsewhere
7. Floating gear is discouraged in Type 1 waters.

8. Floating gear should not be located in areas which contain significant boat traffic or significant water based recreational activities, including but not limited to sailing, kayaking, paddle boarding, kiteboarding, windsurfing or swimming.
9. Floating gear should be at least 200 feet from an existing CRMC approved recreational mooring field.
10. Aquaculture gear shall not be permitted over or within 25 feet of protected submerged aquatic vegetation (SAV).
11. Aquaculture gear shall not be permitted in areas of significant recreational or commercial fishing activity.
12. Floating gear should be discouraged within 400 feet along shorelines which have been:
  - Preserved for conservation, recreation and/or public access through easements, purchase by the state or municipality or are owned by a land trust or conservation organization and have been recognized by the CRMC.
13. Floating gear should not be located within 400 feet along shorelines where:
  - Public access is provided through CRMC rights-of-way, public land where the primary purpose is intended for public access, or by CRMC easements and/or where there is evidence of significant public usage and access.
14. Leases approved for direct bottom plant or submerged cages may receive a stipulation preventing modification to the use of floating gear.
15. Towns may recommend areas where floating gear should be discouraged and/or encouraged.