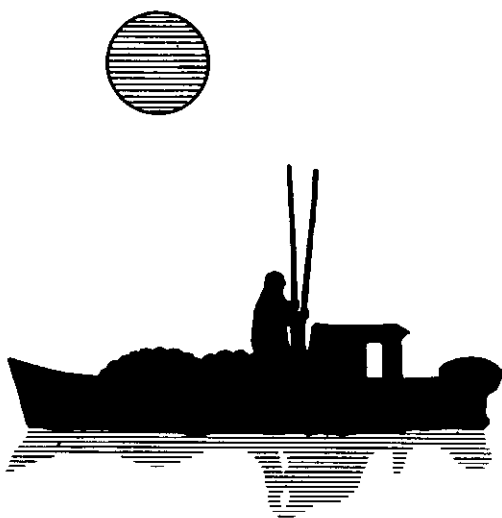


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# Acquiring an Aquaculture Lease for Shellfish Culture

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*Florida Sea Grant College Program —  
research, extension and education for a better environment.*

# Background

Shellfish leasing dates back to 1913, with leases acquired under Section 370.16, Florida Statutes. (F.S.) until July, 1985, from the Department of Natural Resources. However, the department imposed a moratorium on the issuance of these Section 370 leases in 1984. Aquaculture leases are now issued by the Board of Trustees of the Internal Improvement Trust Fund (Governor & Cabinet) with recommendations and administration by the Division of State Lands of the Department of Environmental Protection (formerly Department of Natural Resources). These leases began in January, 1988, under Section 253, (F.S.), and Chapter 18-21, Florida Administrative Code (F.A.C.), with amendments in 1989, Subsections 253.67-75 (F.S.). Aquaculture leases are effective for a period of ten years and renewable for an additional term.

## Standard Procedures

Before going too far be sure to read through the following steps to eliminate costly errors and much time. The more that you know about what is expected, the fewer the surprises you'll have later.

### I. Nominate a site for leasing

A. Request an "Aqua-Pak" from the Florida Department of Environmental Protection (FL DEP).

1. Call or write the Division of State Lands, FL DEP, 3900 Commonwealth Boulevard, Mail Station 130, Tallahassee, FL 32399-3000, (904)488-2291.

B. Read over all pertinent materials (from the above packet), which should include:

1. Florida Statutes, Chapters 253 and 258
2. Florida Administrative Codes, Chapter 18-21, 16N-23
3. Aquaculture Application Guidelines
4. Lease Contract Example

C. Obtain maps of local waters and plot out areas where you wish

to obtain a lease.

1. Examine county property records for adjacent upland (riparian) property owners, if lease site within 1,000 feet of shore. Have a county property appraiser certify a list of property owners that would be within 1,000 feet of your lease site.
2. Check with county commission for designated areas identified for leases (e.g. Dixie, Levy County). There may be other local ordinances/resolutions pertaining to leases that would affect your site.

**D. Thoroughly check the potential lease area for the following:**

1. **Water quality** - obtain salinity, water temperature, fecal coliform tests and other pertinent data from FL DEP (see below) which may indicate growing conditions, or potential closures to harvesting.
2. **Bottom type** - check site for substrate type and percentage of mud, silt, sand, shell, gravel, etc. Check for depth of these sediments over rock, and other geological features, e.g. rock out-crops, mud sink holes.
3. **"Live" bottom** - check site thoroughly for any existing sea grasses, algae, "live" rock bottom, corals, sand dollars, if unique to the area. Also, check for density of existing harvestable product, oysters or clams, e.g. clam density cannot exceed 5 (five) per square meter.
4. **Information services** - call (904-488-5471) of FL DEP for assistance in choosing your lease site, or acquiring shellfish area harvesting maps. Shellfish leases must be located in approved classified waters.

**E. Develop a business plan for the application. Include:**

1. **Acreage** - maximum 5 acres for clams, 10 acres for oysters, or 10 acres for clams and oysters.
2. **Target species** - clams, oysters, both, others.
3. **Methods** - bags, racks, relay, product rotation.
4. **Gear types** - as related to methods.
5. **Cultivation Requirement** - number of seed to be planted each year.

## **6. Marketing/distribution channels**

### **F. Request permits for aquaculture activities**

#### **1. FL DEP: General Permit for clam and oyster culture**

FL Depart. of Environmental Protection  
2600 Blairstone Road  
Tallahassee, FL 32399-2400  
(904) 487-2231

#### **A \$100 fee at time of application is required.**

**2. U.S. Army Corps of Engineers**  
See Appendix A

**Generally there is no fee.**

**G. Fill out Application for a Sovereignty Submerged Land Aquaculture Lease through FL DEP. Be sure to sign and date the application.**

**H. Acquire notarized letters of approval from adjacent landowners if site is within 1,000 feet of shore.**

**I. If relay is part of your business plan you will need to acquire a "relay" permit. If transporting undersized shellfish from one site to another, you will need a "special activities" license. Both of these permits can be obtained from DEP, after your lease has been executed.**

Division of Marine Resources  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard  
Mail Station 205  
Tallahassee, FL 32399-3000  
(904) 488-5471

**J. Remember to attach a \$200 check (made payable to Florida DEP), or money order, with the application and send to FL DEP, Division of State Lands, 3900 Commonwealth**

Boulevard, Mail Station 130, Tallahassee, FL 32399-3000.

**This fee is non-refundable.**

## **II. Application Completeness Review**

- A.** Once your application is received, DEP will perform a title opinion in order to determine the state's interest in the site. Then, they will do a completeness review to see that everything is included in the application that is needed. A written statement will be sent to you to confirm its completeness, or tell you what is needed.
- B.** There will be time allotted (90 days) to complete the application, or request a waiver of time.

## **III. Site Inspection and Public Notification**

- A.** DEP biologists will check the site for compatibility for leasing, e.g., presence of sea grasses and any other significant resources, impedance of site to navigation. Stricter criteria may apply if the site is located within an Aquatic Preserves.
- B.** Instructions for notifying public will be sent to you.
  - 1.** Notices of your intended lease proposal must be mailed to each riparian shoreline property owner within 1,000' of your potential lease site.
  - 2.** If objections are received, a public hearing may be necessary, or modifications to your proposed project may be recommended by the DEP in order to resolve any substantial objection(s).
- C.** The local government will be notified by DEP.
  - 1.** Local county commissions can approve, reject or recommend modification of an application.
  - 2.** If a county commission rejects an application, DEP will deactivate the application and take no further action on it.

## **IV. The Cabinet Agenda Process**

- A.** Any lease of state-owned submerged lands must be approved by the Governor and Cabinet, as the Board of Trustees of the State of Florida. This is approximately a thirty (30) day process.

**NOTE:** If lease requested is 25,000 square feet or less and outside of an aquatic preserve, then it can be approved within the DEP.

- 1.** Once public review and site inspections are completed, DEP staff will make a "staff" recommendation on the application.
  - 2.** Final Departmental recommendation is made by the DEP secretary to begin the Cabinet agenda process.
- B.** The key elements of the application are submitted for the Cabinet Aides agenda which occurs one week before the actual Cabinet meets.
  - 1.** It is the Cabinet Aides level that most of the questions and potential problems can be worked out.
  - 2.** The following week (usually a Tuesday) the Cabinet will either approve or disapprove the application or approve with conditions. It is a general rule of thumb that you will know by the Cabinet Aides meeting if your application will receive any objections from the full Cabinet.
  - 3.** You should plan to be present at both meetings if objections are received on your application, or have a knowledgeable person represent you.
- C.** With the application approved by the Cabinet, DEP will send a lease contract to you for your signature. Special conditions in this contract will stipulate the following:
  - 1.** Within sixty (60) days of the Cabinet approval, DEP, Division of State Lands, must receive a certified survey and legal description of the lease site.
  - 2.** Within ninety (90) days of the final execution of the lease contract by DEP, the site must be marked. This will require FMP and/or Coast Guard permits.

Request permission to mark the potential lease area from:

- a. Florida Marine Patrol (FMP)  
3900 Commonwealth Blvd.  
Mail Station 630  
Tallahassee, FL 32399  
(904) 488-5757 or 5600
- b. U.S. Coast Guard, Seventh District  
909 SW First Avenue  
Brickell Plaza Federal Bldg.  
Miami, FL 33131-3050  
(305) 536-5621
- c. U.S. Coast Guard, Eighth District  
West of Econfina River  
Hale Boggs Fed. Bldg.  
501 Magazine St.  
New Orleans, LA 70130  
(504) 589-6234 or 6236

3. Once the lease is executed by the applicant, the staff will submit the lease contract for final execution by the department.
4. Lessee will then be billed for the first year annual fee.
5. Upon receipt of the lease fee, the contract instrument is sent to the lessee.
6. Lease site must then be recorded in the affected County.

## **Summary**

The success of your efforts to acquire a shellfish lease is really up to you. Seriously, the more you do to prepare yourself ahead of your application (pre-planning) the better your chances for acquiring your desired lease will be. Also, the better you understand the animals you want to culture, and the methods available to grow them, the more professional you will be able to present your ideas to the state leasing and permitting agencies. For general biology and aquaculture information on oysters, clams, and other shellfish you can call one, or several, of the following resources:

**Department of Agriculture and Consumer Services (DACs)**  
**Bureau of Seafood and Aquaculture**

904/488-4033

**Harbor Branch Oceanographic Institution**

Aquaculture Division

407/465-2400

**Sea Grant Extension Program Agents:**

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407/233-1745

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Joe Halusky Flagler, Clay, Putnam, St. Johns, Duval, Nassau  
904/471-0092

At any point during the lease application process you have questions, or problems, you can call one of the persons nearest you to help you walk through the steps and act as a sounding board. If they don't know the answer, they usually know who does.

Your goal, and our intent, is to help you produce and submit the most complete lease application possible. This will not only save you time, but lots of money in the long run.

## Appendix A

### U.S. Corps of Engineers - Field Offices

Jacksonville District  
Regulatory Division  
400 W. Bay Street  
P.O. Box 4970  
Jacksonville, FL 32232  
(904) 791-3423

Field Operations Branch  
Regulatory Division  
P.O. Box 4970  
Jacksonville, FL 32232  
(904) 232-1664

Crystal River Regulatory Office  
P.O. Box 387  
Crystal River, FL 32629  
(904) 795-1078

Ft. Myers Regulatory Office  
Can-Am Bldg.  
2180 W. First St.  
Suite 312  
Ft. Myers, FL 33901  
(813) 332-7808

Marathon Regulatory Office  
P.O. Box 3236  
Marathon Shores, FL 33052  
(305) 743-5349

Merritt Island Regulatory Office  
2460 N. Courtney Square Blvd.  
Courtney Square Bldg., Suite 216  
Merritt Island, FL 32952  
(407) 453-7655

**Miami Regulatory Office**  
8410 N.W. 53rd Terrace  
Suite 225  
Miami, FL 33166  
(305) 591-1302

**Palatka Regulatory Office**  
P.O. Box 1317  
Palatka, FL 32078  
(904) 325-2028

**Panama City Field Office**  
P.O. Box 151  
Panama City, FL 32402  
(904) 763-0717

**Pensacola Regulatory Office**  
160 Governmental Center  
Pensacola, FL 32501  
(904) 436-8300

**Stuart Regulatory Office**  
10 Central Parkway  
Suite 213  
Stuart, FL 34994  
(407) 286-0509

**Tampa Regulatory Office**  
P.O. Box 19247  
Tampa, FL 33686-9247  
(813) 840-2908

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