

NOTICE OF PROPOSED RULE

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION/OFFICE NAME

RULE NUMBER(S):

RULE TITLE(S):

18-21.003

Definitions

18-21.020

Aquaculture Activities

18-21.021

Applications for Aquaculture Activities

**PURPOSE AND EFFECT:** The proposed rule amendment defines the terms “Aquaculture Restoration” and “Restoration Organization”, expands the scope of aquaculture management agreements to allow for aquaculture restoration activities, and establishes specific standards and exemptions for this new activity.

**SUBJECT AREA TO BE ADDRESSED:** Definitions, standards and exemptions are being added to make aquaculture restoration an eligible aquaculture management agreement activity.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS (SERC) AND LEGISLATIVE**

**RATIFICATION:** The Agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on its economic analysis of the adverse impact and potential regulatory costs of the proposed rule not exceeding any of the criteria established in Section 120.541(2)(a), Florida Statutes. As part of this analysis, the Department reviewed existing aquaculture management agreement criteria and have made exemptions to allow restoration activities as an eligible purpose. The proposed rule changes do not require additional fees. No interested party submitted supplementary information regarding the economic impact.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 253.03, 253.73 F.S.

**LAW IMPLEMENTED:** 253.002, 253.67-.75, 253.77 F.S.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FLORIDA ADMINISTRATIVE REGISTER.**

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charlie Culpepper, Division of Aquaculture, 600 S Calhoun Street, Suite 217, Tallahassee, FL, 32301, Phone: (850) 617-7600,

[Charlie.Culpepper@FDACS.gov](mailto:Charlie.Culpepper@FDACS.gov).

THE FULL TEXT OF THE PROPOSED RULE IS:

**18-21.003 Definitions.**

(1) through (6) No change.

(7) “Aquaculture” means the cultivation of aquatic organisms and associated activities, including, but not limited to grading, sorting, transporting, harvesting, holding, storing, growing and planting.

(8) “Aquaculture Activities” means any activities related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquacultural support docking.

(9) “Aquaculture Restoration” means the controlled propagation and subsequent planting and husbandry of native, aquatic plants and animals on sovereignty submerged lands, not affixed to public or private dock or pier, for wild population enhancement.

(10) “Aquaculture Use Zone” means a contiguous tract of sovereignty submerged lands which allows for an array of multiple aquaculture leases configured to facilitate management and enforcement.

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~~(11) “Aquaculture Activities” means any activities related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquacultural support docking.~~

~~(12) “Aquaculture Use Zone” means a contiguous tract of sovereignty submerged lands which allows for an array of multiple aquaculture leases configured to facilitate management and enforcement.~~

(7) through (9) renumbered to (11) through (13).

(13) through (58) renumbered to (14) through (59).

(60) “Restoration Organization” means a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State, that conducts business to benefit Florida’s aquatic environment.

(59) through (75) renumbered to (61) through (77).

*Rulemaking Authority 253.03(7), 253.73 FS. Law Implemented 253.001, 253.002, 253.03, 253.68, 253.77 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 8-18-92, 3-20-94, 10-15-98, 8-1-01, 12-11-01, 10-29-03, 12-16-03, 3-8-04, 1-1-06, 4-14-08, 9-1-09, 3-21-19, .*

**18-21.020 Aquacultural Activities.**

(1) No change.

(2) Forms of authorization – For the purpose of rules 18-21.020, 18-21.021 and 18-21.022, F.A.C., conducting aquacultural activities on sovereignty submerged lands and in the water column shall be authorized by an aquaculture lease, an aquaculture letter of consent, or an aquaculture management agreement.

(a) through (b) No change.

(c) An aquaculture management agreement shall be issued for public and private entities to conduct certain aquacultural activities for educational, scientific, demonstration, Aquaculture Restoration, and experimental purposes when such activities meet the requirements of subsection 18-21.020(6), F.A.C., and education or Aquaculture Restoration is the primary objective.

(3) through (5) No change.

(6) Specific standards and criteria for an aquaculture management agreement – The use of sovereignty submerged lands authorized by an aquaculture management agreement shall comply with the following:

(a) Be for educational, scientific, demonstration, ~~and~~ experimental, and restoration activities related to aquaculture when commercial production is not the primary purpose.

(b) Be limited to state agencies, local governments, educational institutions, ~~or~~ research institutions, or Restoration Organizations when the proposed aquacultural activity or use of sovereignty submerged lands is consistent with the public purposes of the applicant organization ~~and is not an adjunct to a commercial endeavor~~. Public-private partnerships for demonstration and pilot scale aquaculture programs that provide general public benefit are also eligible to obtain aquaculture management agreements.

(c) through (d) No change.

(e) The area subject to an aquaculture management agreement shall be marked, and the markers maintained for the term of the agreement. Such marking shall be adequate to inform the public of the activity and alert the public of potential navigation or safety hazards. Aquaculture management agreements for restoration activities that are limited to the submerged bottom lands and the six inches above are exempt from the marking requirements of this

paragraph.

(f) through (h) No change.

(7) through (8) No change.

*Rulemaking Authority 253.03(7), 253.73 FS. Law Implemented 253.002, 253.67-.75, 253.77 FS. History—New 9-1-09, Amended 3-21-19, .*

**18-21.21 Applications for Aquacultural Activities.**

(1) Aquaculture lease application and review process.

(a) No change.

(b) The Application for a State Owned Sovereignty Submerged Land Aquaculture Lease (FDACS 15102, Rev. ~~09/20-08/16~~) is hereby adopted and incorporated by reference and may be obtained on the Internet at

<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXXX>

~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-10253>~~, or by writing to the Division of Aquaculture at 600 S. Calhoun Street, Suite 217, Tallahassee, Florida 32399.

(c) through (u) No change.

(2) through (4) No change.

(5) Aquaculture management agreement applications and review process.

(a) An aquaculture management agreement is required for the use of sovereignty submerged lands or the water column for educational, scientific, demonstration, Aquaculture Restoration, or experimental activities related to aquaculture.

(b) Applicants for aquaculture management agreements shall provide the items required in this subsection and information demonstrating that the proposed activity complies with the criteria in subsection 18-21.020(6), F.A.C., and is suitable for aquacultural activities. Applications for an aquaculture management agreement shall include the following.

1. through 2. No change.

3. A detailed statement describing the proposed activity, including educational, Aquaculture Restoration, and scientific objectives.

4. No change.

(c) through (f) No change.

(6) Aquaculture management agreement authorization.

(a) through (d) No change.

(e) The management agreement shall include a provision requiring the disposition of all improvements and aquaculture products upon the termination or cancellation of the management agreement. Aquaculture management agreements for the exclusive purpose of Aquaculture Restoration are exempt from the requirement to dispose aquaculture products upon the termination or cancellation of the management agreement.

(f) No change.

(7) No change.

*Rulemaking Authority 253.03(7) FS. Law Implemented 253.002, 253.04, 253.67-.75, 253.77, 373.427(2)(a), 597.010 FS. History—New 9-1-09, Amended 7-10-19, .*

NAME OF PERSON ORIGINATING PROPOSED RULE:

Portia Sapp, Director of the Division of Aquaculture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Commissioner of Agriculture Nicole Fried

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: X

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: X