North Carolina Shellfish Lease Program

Brian Conrad
NC Division of Marine Fisheries

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The State of North Carolina has provided for the private use of public trust waters for the production of shellfish by the cultivation of unproductive bottom by allowing this bottom to be leased to residents of North Carolina since 1858, allowing for two acres of bottom.

Since 1979 the number of active shellfish leases has remained about the same.

In 2012 177 shellfish leases existed.

In 1989 legislation was enacted to allow the use of the water column above existing shellfish leases. The first water column lease was issued in 1991.

In 1998 seven water column leases existed on 16 acres.

In 2012 sixteen water column leases existed on 26 acres.
Shellfish Leases

- **Authority:** General Statute 113 – 202 the Secretary of DENR can grant shellfish leases to residents of NC for the production of shellfish

- **Standards:**
  1. Area must be suitable for culture and harvest of shellfish in commercial quantities
  2. Area must not contain a natural shellfish bed (10 bushels/acre)
  3. Area must not contain Submerged Aquatic Vegetation (SAV) or have historically contained SAV (condition of NWP 48 regional conditions)
  4. Compatible with other uses – navigation, fishing, recreation
  5. Operation will not impinge upon riparian owners rights
  6. Area not designated for inclusion in DENR’s Shellfish Management Program
  7. May not be in an area closed for shellfish harvest due to pollution
How do you acquire a shellfish lease?

1. Purchase/transfer an existing lease

2. Apply for a new lease
Transfer of an existing shellfish lease

Transaction is between leaseholder and buyer – but prior to transfer of shellfish lease, leaseholder must contact NC DMF for transfer paperwork and lease review report.

Review report is provided to both to current leaseholder and buyer to inform both parties of:

- lease production history
- review of any existing boundary or marking issues
- review of production and planting requirements
- review of renewal date and what production and planting is required for renewal
Transfer of an existing shellfish lease (cont’d)

Buyer beware:

- Buyer must be a NC resident
- Production Utilization follows lease – if lease is substantially out of compliance and is nearing the end of the term the buyer may not be able to meet production and/or planting requirements and lease will be terminated
- Production and utilization does not start over at the time of purchase – Harvest/Sale and Planting effort is evaluated for the term of the lease contract
- Ensure lease is marked according to survey – know what you are buying
Shellfish Lease Application Process

- Site Selection – Applicant
- Preliminary investigation – general suitability
- Complete and submit Application Package
- Application fee - $200
- Site marked with Proposed Lease signs provided by DMF
- Formal site investigation
- Investigation report:
  1. Sampling results and maps
  2. Comments: District Managers, Shellfish Sanitation, Marine Patrol, Submerged Lands
  3. Recommendation to Fisheries Director on site suitability
- Director approves advancing application to Public Hearing
- Director approves/denies proposed lease based on compliance with standards, recommendations of staff, and input from public
- If granted applicant is required to provide a survey with written description of lease site by a licensed surveyor within 90 days
Standards for Shellfish Leases

In addition to standards in G.S. 113-202:

1. Must not contain a natural shellfish bed (10 bushels/acre)
2. Must not be within 100 feet of developed shoreline – notarized riparian owner consent
3. Proposed area must not be less than one-half acre or exceed five acres except areas where mechanical harvest of oysters is allowed
4. Produce and market (trip ticket documentation) 10 bushels/acre/year
5. Plant 25 bushels of seed shellfish or 50 bushels of cultch/acre/year or a combination of seed and cultch (~12.5 bu. seed + 25 bu. cultch)
6. Production and marketing conversion factors:
   - Seed: 300 oysters, 400 clams, 400 scallops = 1 bushel
   - Cultch: 40 lb. of scallop shell, 60 lb. of oyster shell, 75 lb. of clam shell, and 90 lb. of fossil stone = 1 bushel
Standards for Shellfish Leases (cont’d)

7. Leases must be marked at each corner with stakes of wood or plastic a minimum of 3” in diameter and extending at least 4’ above high water
8. Each marker must have the lease # and leaseholder name in 3” letters
9. It is unlawful to exclude the public from allowable public trust use of navigable waters on leases
10. The Division has no duty to protect leases that are not in compliance with marking requirements
11. Water column amendments must produce and market 40 bu/acre/year or plant 100 bushels of seed shellfish or cultch
Shellfish Lease Fees

- Bottom Lease Application: $200.00
- Bottom Lease Rental (per acre per year): $10.00
- Bottom Lease Renewal (5 year contract): $100.00

- Water Column Lease Application: $100.00
- Water Column Rental (per acre per year): $100.00
- Water column Renewal (5 year contract): $100.00
Associated No Cost Permits

- **Polluted Area Relay Permit (~April 1-May 15/subject to proclamation)**
  - Provides the opportunity to relay of clams and oyster out of specific polluted areas to leases with Marine Patrol coordination
  - Leaseholders receive permit application in March
  - Maps, signs and permits send to applicants
  - Lease will remain closed until reopened by proclamation (~6 weeks)
  - A transplant report required to DMF after relay period, no future relay permits will be issued if transplant report is not received

- **Seed Oyster Management Area (SOMA) Permit**
  - Provides the opportunity to relay oysters out of SOMAs to leases year round
  - Restricted to 100/bu per acre, not to exceed 1000 bu per lease
  - SOMA transplant report required to DMF by December 31
Associated No Cost Permits (cont’d)

- **Mechanical Methods/Harvest Permit**
  - Provides opportunity to use mechanical methods on shellfish leases not located within a primary nursery area
  - Annual **reviewable** permit (July 1-June 30)
  - Permit applications may take up to two weeks to review
  - Able to submit application for permit at any time during the year

- **Closed Season Harvest Permit**
  - Provides the opportunity for leaseholder to harvest shellfish off of lease during regular closed season
  - Certification forms from NC DMF required for possession, sale or purchase
  - Must have certified refrigeration
  - Must notify DMF Communication prior to harvest within closed season
• Aquaculture Operations Permit (AOP)
  – North Carolina Fisheries Rules for Coastal Waters 2005: 15A NCAC 3O .0503 (f)
    (1) It is unlawful to conduct aquaculture operations without first securing an
    Aquaculture Operation Permit from the Fisheries Director
  – Aquaculture Operation: Any operation that produces artificially propagated stocks
    of marine or estuarine resources or obtains such stocks from authorized sources
    for the purpose of rearing in a controlled environment. A controlled environment
    provides and maintains throughout the rearing process one or more of the
    following: predator protection, food, water circulation, salinity, or temperature
    controls utilizing technology not found in the natural environment.
  – Annual permit
Associated No Cost Permits (cont’d)

Aquaculture Operations Permit (AOP) Process:

• Submit Application
• Site Inspection by DMF
• Application Review
• Recommendation to the Director
• Issues/Denies Permit
• Annual renewal with report of activities
Associated No Cost Permits (cont’d)

- **Importation Permit**
  - Importation of native species from outside the State
  - Importation of non-native species
  - Hold or maintain imported organism in a quarantine or isolation system for bloodstock or grow out.
  - Requires disease assessment and applicant must show that activities will not pose a threat to native species or environments

- **Collection permit**
  - Allows for the limited collection of marine and estuarine resources for aquaculture purposes from coastal waters
  - Sale of collected resources is unlawful
  - Permits issues/renewed on calendar year basis
  - Requires report of amount and disposition of resources collected under the permit
Shellfish Lease Program Contacts

- Brian Conrad   252 – 808 – 8061
  brian.conrad@ncdenr.gov

- Wanda Jacobs  252 – 808 – 8047
  wanda.jacobs@ncdenr.gov

- Shellfish.Lease.Permits@ncdenr.gov
- 1-800-682-2632
Questions??