

Adopted March 3, 2010
Revised proposed for Reauthorization August 2, 2017
Approved September 6, 2017 TRC meeting
Re-authorized at the September 14, 2022 TRC meeting without changes
(to be re-evaluated within 5 years in September 2027).

**RESOLUTION CONCERNING
AQUACULTURE LICENSE FEES ASSESSED BY THE
TIDELANDS RESOURCE COUNCIL**

Need for Policy

This policy does not apply to traditional shellfishing activity such as traditional cultivation and harvesting of shellfish including wild harvesting and dredging, traditional on-bottom shellfish culture (without the use of shellfish containing gear), or the placement of identifying or warning markers (such as buoys, stakes or poles to demarcate traditional shellfish areas) that do not prohibit others from transiting the area for navigation or for recreational fishing. For the purposes of this policy, traditional cultivation also includes the placement of predator screens placed within a valid shellfish lease area in accordance with a Coastal permit by-rule 17 under the Department's Coastal Zone Management (CZM) Rules at N.J.A.C. 7:7-4.17; and for the placement of shell within a valid shellfish lease area in accordance with a Coastal general permit 31 under the CZM Rules at N.J.A.C. 7:7-6.31.

This policy applies solely to the use and occupation of State-owned tidelands for **structural aquaculture**. This includes the placement of structures including gear or equipment such as, but not limited to, rebar racks, high density bags, cages, and floats used to contain and grow shellfish. These structures can interfere with the public trust rights for the use of the area, particularly for navigation. These structural aquaculture activities are unique in that they may take up large areas of land (water) that would otherwise be open waters of the State. A Waterfront Development permit is required for these structures.

The industry is continuously evolving, and new techniques are being developed, but typical structural aquaculture activities currently being conducted in the State include three basic types:

1) Subtidal cage systems - These culture systems are deployed in deeper water in the back-bay area, particularly along the Delaware Bayshore. These are typically

individual 3'x4' cages with an individual marker buoy over each cage. The cage lies in water that is 10' deep or more and the cages are always covered by water with a required clearance of 4' depth over top of the cage. Numerous individual cages may be deployed over a large area, but boats can navigate around the individual cages.

2) Floating systems - These are floating arrays attached to a long-line forming long rows. Because they float at the surface, they impact navigation. These are usually anchored in place using 1 anchor whereby the line of floats is free to swing around the anchor with the change in current and tide, and therefore could impact a large area for navigation purposes, or anchored at both ends thereby limiting the movement.

3) Intertidal rack and bag systems – these are usually made of rebar with mesh bags attached and placed in long rows separated with alleyways in between the rows and located on tidal flats that are exposed during low tide.

To be clear, the Tidelands Resource Council (TRC) is not regulating the shellfishing activity; it is only licensing the occupation of the tidally flowed area with structures.

This policy shall be re-evaluated in 5 years (ending in September 2027) and presented to the TRC. However, the TRC reserves the right the modify the policy at any time.

Requirements

1) The applicant must be the riparian or shore-owner (owner of the adjacent upland) or have permission from the owner. If the applicant is not the riparian or shore-owner, then permission must be obtained from the upland owner for use and occupation of the offshore area. License applications that comply with this policy can be issued “in-house” by the Bureau of Tidelands Management without needing to be presented before the Tidelands Resource Council for approval. If the shore-owner permission is not obtained, then the applicant may apply but the application must be presented before the TRC for approval following the six (6) month’s notification requirement to the shore-owner under the Riparian Lands Statutes at N.J.S.A. 12:3-23. The decision to approve a license is solely at the discretion of the TRC.

2) The project must have the applicable Waterfront Development approval or permit before the license can be issued.

3) Aquaculture licenses will be limited to a 7-year term but will be renewable and revocable. There will be a minimum fee of \$100 per year and a \$100 application fee for all aquaculture license types described herein.

4) The license will be charged at a nominal rate of \$0.01 per square foot based on the license fee established in 2010.

5) The outer boundaries of the license area will be demarcated for all aquaculture licenses and depicted on a survey, site plan, aerial photograph or other appropriate document (depending on location and proximity to adjacent property boundaries). At a minimum, corner markers (latitude and longitude) of the proposed license area will be provided and depicted on a plan.

Special structural aquaculture activity

Floating Upweller System (FLUPSY):

Typically, a FLUPSY is a large floating dock type structure with screened bins or cages installed that are used to grow oyster seed until they are large enough to be transplanted to an aquaculture lease area (in cages or rack and bag systems). The seed is protected from predation, and they can grow faster in the upper water column.

The Department recently changed the Rules to allow FLUPSYs to be placed in areas that were previously prohibited, such as within a commercial marina, or any residential dock location along the shore (it is not anticipated that a FLUPSY would be placed in an offshore aquaculture lease area). The oyster seed can be raised to 1.5", which can take 6 months to 1 year, at which time they must be transferred to an approved aquaculture lease site for growth to market size and harvesting. Therefore, the FLUPSY is used to enhance the commercial aquaculture production. A FLUPSY will require a Waterfront Development permit. The placement of a FLUPSY will require a Tidelands license, unless the location where the FLUPSY is being located is already within a valid license area. If the FLUPSY is not included in the existing license area and calculation, such as an extension of the dock or not within a license area, then the cost of the FLUPSY will be calculated separately and added to the existing license fee.

The Tidelands license fee for a FLUPSY will be based on the total square footage of the structure and will be charged at half the rate for a recreational dock structure (see Tidelands policy for “Residential Licenses – Water Structures only (Adopted 11/03/10)”.

RATE SCHEDULE FOR FLUPSY

Base Rate in 2017: \$0.29/sqft

Minimum Fee in 2017: \$100 (includes the total license fee if being added to an existing license)

The base rate is set at half the residential dock fee which is subject to an increase of 2.5% applied to the base rate per year. See fee schedule below.

Year	Base Fee	Minimum Fee
2017	\$0.29	\$100
2018	\$0.30	\$100
2019	\$0.30	\$100
2020	\$0.31	\$100
2021	\$0.32	\$100
2022	\$0.33	\$100
2023	\$0.34	\$100
2024	\$0.34	\$100
2025	\$0.35	\$100
2026	\$0.36	\$100
2027	\$0.37	\$100
2028	\$0.38	\$100
2029	\$0.39	\$100
2030	\$0.40	\$100
2031	\$0.41	\$100
2032	\$0.42	\$100
2033	\$0.43	\$100
2034	\$0.44	\$100
2035	\$0.45	\$100
2036	\$0.46	\$100
2037	\$0.47	\$100
2038	\$0.49	\$100
2039	\$0.50	\$100
2040	\$0.51	\$100