

**AGENDA
BOARD OF TRUSTEES
DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES
MARCH 10, 2009**

Item 1 Minutes

Submittal of the Minutes from the September 16, 2008 Cabinet Meeting.

(See Attachment 1, Pages 1-2)

RECOMMEND APPROVAL

Item 2 Chapter 18-21, F.A.C., Notice of Proposed Rulemaking/Aquaculture Activities

REQUEST: Permission to publish a Notice of Proposed Rulemaking

STAFF REMARKS: The Department of Agriculture and Consumer Services (DACS) is requesting permission to notice proposed amendments to Chapter 18-21, F.A.C. The proposed rule clarifies DACS' duties and functions related to managing aquacultural activities on sovereignty submerged lands and incorporates legislative changes that occurred in 2005. Specifically, Chapter 18-21, F.A.C., is amended to reflect the legislative changes listed below, to reorganize sections of the existing rule into logical parts, and to reflect that Sections 5 and 6 of 2005-157, Laws of Florida, amended Chapter 253 to read:

253.67 Definitions.—As used in ss. 253.67-253.75:

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

253.68 Authority to lease or use submerged lands ~~land~~ and water column for aquaculture activities.—

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease or authorize the use of submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. "Aquaculture activities" means any activities, as determined by board rule, related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquaculture support docking. Such leases or authorizations may permit authorize use of the submerged land and water column for either commercial or experimental purposes. ... Prior to the granting of any such leases or authorizations, the board shall by rule establish and publish ~~a list of~~ guidelines to be followed when considering applications for lease or authorization.

The proposed rule incorporates substantially the same general standards and criteria for aquaculture leases that are provided in the existing rule and includes new standards and criteria for aquaculture letters of consent and aquaculture management agreements. Two new forms of

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authorization, including: (1) an aquaculture letter of consent; and (2) an aquaculture management agreement, are established to provide authorization for aquaculture activities which require the use of sovereignty submerged lands, but do not require an aquaculture lease. Additionally the proposed rule includes the criteria, procedures and processes for applications and authorization to use sovereignty submerged lands for aquacultural purposes. The proposed rule is restructured to provide an easier-to-follow format by partitioning the provisions specifically relating to aquaculture into three new rule sections (ss. 18-21.020 through 18-21.022). The proposed rule includes substantially the same provisions for fees and payments. No new or increased fees have been proposed.

These changes need to be incorporated into the existing rule. The Joint Administrative Procedures Committee notified DACS that a rule amendment was necessary.

(See Attachment 2, Pages 1-16)

RECOMMEND APPROVAL