

**MEMORANDUM OF AGREEMENT**  
**Department of Environmental Management**  
**Coastal Resources Management Council**

**Concerning the inspection of aquaculture farms for the purpose of ensuring food safety, public health, and enforcement of RIDEM's *Aquaculture of Marine Species in Rhode Island Waters***

**Summary**

This Memorandum of Agreement has been developed by Department of Environmental Management (hereinafter the "RIDEM") and the Coastal Resources Management Council (hereinafter the "CRMC") for the purpose of coordinating each agency's roles related to ensuring public health through the inspection of the facilities of licensed aquaculturists who produce cultured shellfish. The RIDEM and CRMC have each been vested with certain statutory authority in different but related areas concerning the production of cultured shellfish products. The production of these shellfish products is regulated, *inter alia*, pursuant to the authority of regulations captioned *Aquaculture of Marine Species in Rhode Island Waters*. RIDEM amended these regulations to address the risk of food-borne illnesses related to the consumption of raw or undercooked cultured shellfish. The amendment of *Aquaculture of Marine Species in Rhode Island Waters* was recently promulgated and became effective on July 1, 2014. The main goal of *Aquaculture of Marine Species in Rhode Island Waters* is to ensure that the production and handling of cultured shellfish is accomplished in a manner that results in a safe product. Ensuring the safety of this product will not only benefit the consumers of the product but will also benefit the aquaculturists who produce this product through assurances that their product has been raised consistent with high industry standards for safety and that compliance with *Aquaculture of Marine Species in Rhode Island Waters* will help to ensure that their product can reach market. Aquaculture is a segment of agriculture that has shown remarkable growth and has considerable potential for further growth. However, RIDEM has limited capacity to conduct regular inspections of aquaculture facilities to ensure that cultured shellfish are being farmed and harvested in compliance with *Aquaculture of Marine Species in Rhode Island Waters*; CRMC would appear to have the requisite resource capacity to satisfy this responsibility.

**Need**

Aquaculture is a segment of agriculture that has experienced significant growth and that growth rate is expected to sustain. Cultured shellfish produced by aquaculture farmers is generally a safe and wholesome agricultural product. Recently, federal and state public health and environmental officials have been tracking food-borne illnesses related to the consumption of raw or undercooked shellfish. These illnesses have been related to the presence of several species of bacteria that occur naturally in coastal waters. These species of bacteria generally occur in warmer weather. Cultured shellfish that is harvested at times of the year when these bacteria are at high levels can present a public health risk unless precautions are taken to mitigate that risk. *Aquaculture of Marine Species in Rhode Island Waters* was amended to provide regulations that all aquaculturists must follow to ensure that their product remains safe and wholesome even when water temperature is conducive to the presence of unsafe levels of potential disease producing bacteria. This Memorandum of Agreement is intended to clearly define the roles and responsibilities of the two primary state agencies with authority over aquaculture with the goal of ensuring the safety of cultured shellfish and sustainability of aquaculture through effective enforcement of *Aquaculture of Marine Species in Rhode Island Waters*.

## Risk

There are two primary risks: the risk to public health; and, the risk to industry. The risk to public health is illness caused from the consumption of shellfish that may harbor unsafe levels of harmful bacteria. Consumption of this product can be a risk to public health unless certain precautions are taken. The risk to industry is less obvious. RI aquaculturists are free to market their product interstate as long as their product is deemed safe by the Federal Food and Drug Administration (FDA). These interstate markets may be closed to RI Aquaculturists if illness related to the consumption of cultured shellfish exceeds thresholds that have been set by the FDA or if the FDA determines that state agencies have insufficient oversight of the industry. Therefore, the public, the aquaculture industry, and the commercial harvesters of wild shellfish stock all have a vested interest in the safety of cultured shellfish products. The assurance of that safety is met through enforcement of *Aquaculture of Marine Species in Rhode Island Waters* and the safeguards therein.

## Current Situation

*Aquaculture of Marine Species in Rhode Island Waters* has been promulgated and is in force. Pursuant to those regulations, RIDEM and CRMC have roles in the siting, licensing, and operation of aquaculture farms. Pursuant to Rule 7 of *Aquaculture of Marine Species in Rhode Island Waters*, the authority of the elements of inspection and enforcement are vested with RIDEM. RIDEM has limited resources for routine inspections of aquaculture facilities. CRMC conducts inspections of aquaculture facilities on a regular basis. These inspections are primarily to ensure that the operational plans, as submitted by the aquaculturist as a permit requirement, are being followed. Additionally, *Aquaculture of Marine Species in Rhode Island Waters* has been amended to address the handling of harvested cultured shellfish to mitigate the risk of food-borne illness. This amendment has increased the scope of elements that are subject to inspection by mandating that harvested shellfish have adequate temperature controls in place to mitigate the risk of food-borne illness related to bacteria.

Whereas RIDEM has the authority to conduct inspections to ensure safety of harvested product, CRMC conducts inspections of aquaculture farms on a more frequent basis. Vesting CRMC with the authority to conduct inspections will be beneficial to RIDEM, to CRMC, to the industry (by meeting inspection standards set by FDA to ensure food safety) and most importantly, to the public.

## Modification of Current Situation

Pursuant to **RIGL § 20-10-12, Permits and licenses for the taking, possession, sale, importation, and transportation of species used in aquaculture** – The DEM director will recognize the CRMC aquaculture permit as satisfying the requirement for a permit issued by the director to take, possess, import or transport animal or plant species utilized in aquaculture. A DEM license, renewed annually, will still be required by individual aquaculturists to sell shellfish to a licensed RI dealer.

Pursuant to **RIGL § 20-10-15, Authority to enter and inspect**. – “The director [of DEM] shall have the authority to enter and inspect any and all areas subject to an aquaculture permit for the purpose of determining compliance with the terms and provisions of the permit.” RIDEM Director will delegate inspectors from CRMC with the authority to conduct inspections of aquaculture operations for the purpose of ensuring food safety by enforcement of *Aquaculture of Marine Species in Rhode Island Waters*.

The annual aquaculture lease site inspection and operation plan review completed by the CRMC Aquaculture Coordinator will satisfy the inspection requirement pursuant to DEM *Aquaculture of Marine Species in Rhode Island Waters* and National Shellfish Sanitation Program Model Ordinance Chapter 6.03.A (2011).

Additional inspections will be conducted annually as needed and in consultation between the CRMC Aquaculture Coordinator and DEM.

**Role: RIDEM**

1. RIDEM will remain the agency with authority to inspect aquaculture farms for compliance with the provisions of *Aquaculture of Marine Species in Rhode Island Waters*, and may conduct inspections to ensure compliance with those provisions at any time.
2. RIDEM will remain the agency with the authority to take punitive action against any licensed aquaculturist that is determined to be in violation of *Aquaculture of Marine Species in Rhode Island Waters*.
3. RIDEM will delegate inspectors from CRMC with authority to conduct inspections of aquaculture farms for compliance with *Aquaculture of Marine Species in Rhode Island Waters*.
4. RIDEM will develop a standardized inspection checklist to be used by inspectors from RIDEM and CRMC.
5. RIDEM will support CRMC staff in any inspection where support is requested.
6. RIDEM will accept any inspection performed by CRMC staff as an official inspection.

**Role: CRMC**

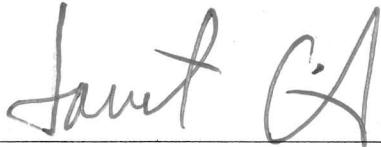
1. CRMC will inspect aquaculture farms to the standard that is established consistent with *Aquaculture of Marine Species in Rhode Island Waters*.
2. CRMC will keep record of all inspections performed and provide those records to RIDEM. CRMC will make all inspection forms available by January 15 each year to DEM, or within seven (7) days of a written request to CRMC from DEM. Forms will be either scanned and made into a PDF and emailed to the DEM Director and DEM Division of Agriculture or entered into a database that can be shared between DEM and CRMC.
3. CRMC will use standardized inspection forms as developed and provided by RIDEM.
4. CRMC will support RIDEM staff in any inspection where support is requested.
5. CRMC will conduct a sufficient number of inspections of aquaculture farms to satisfy the requirements of the National Shellfish Sanitation Program Model Ordinance.
6. CRMC shall keep DEM Division of Agriculture and the DEM Director informed in a timely manner as to any violations or concerns regarding leases.
7. CRMC shall immediately inform DEM Division of Law Enforcement regarding any violation of *Aquaculture of Marine Species in Rhode Island Waters* that result in harvest of shellfish in a manner that could jeopardize public health. CRMC inspectors shall, upon request by DEM, remain on site until arrival of an Environmental Police Officer, to ensure that evidence of such violation is not compromised.
8. CRMC shall, upon request by DEM, serve as witness for any administrative or criminal proceedings that result from violations of *Aquaculture of Marine Species in Rhode Island Waters*.

Agreement

RIDEM and CRMC agree to use their best efforts to work together to ensure that the goals and objectives set forth in this Memorandum of Understanding are achieved in order to protect public health and the aquaculture industry.

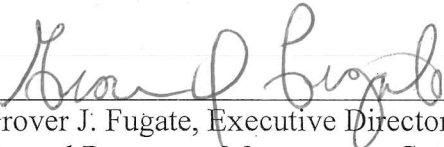
This Memorandum of Understanding will become effective immediately upon signing and will remain in effect until one from its effective date, subject to annual renewal by the parties. Any party may terminate its involvement in this Agreement by providing written notice to other party to the Agreement. Said Party's termination of the Agreement shall be effective a minimum of Thirty (30) days from receipt of written notice by the other Party to the Agreement.

IN WITNESS THEREOF the said parties are in agreement and hereto set their hands to duplicate originals of this Memorandum of Understanding.



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Janet L. Coit, Director  
RI Department of Environmental Management

10/29/14  
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Date



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Grover J. Fugate, Executive Director  
Coastal Resources Management Council

10/30/14  
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Date