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GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

Standard Aquaculture Lease Process

Applicants should become familiar with DMR's decision criteria as listed in 12 MRSA §6072 (7-A) and Chapter 2.37. An overview of the criteria is provided below:

- The lease will not unreasonably interfere with the ingress and egress of riparian owners.
- The lease will not unreasonably interfere with navigation.
- The lease will not unreasonably interfere with fishing or other uses of the area.
- The commissioner shall take into consideration the number and density of aquaculture leases in an area.
- The lease will not unreasonably interfere with significant wildlife habitat and marine habitat.
- The applicant has demonstrated that there is an available source of organisms to be cultured for the lease site.
- The lease will not unreasonably interfere with public use or enjoyment within 1000 ft. of a beach, park or docking facility owned by the Federal or State Government or a municipal governmental agency or certain conserved lands.
- The lease will not result in unreasonable impact from noise or light at the boundaries of the lease site.
- The lease must comply with visual impact criteria adopted by the commissioner relating to color, height, shape and mass.

GENERAL GUIDANCE:

- Recent regulatory changes require applicants to complete requirements and submit their application materials in a timely manner. Applicants can no longer hold a scoping session and wait a year or more to submit their application. Therefore, applicants that intend to apply for a standard lease should be prepared to carry their application through the process in accordance with applicable deadlines.
- In developing a proposal, applicants should familiarize themselves with the proposed area and any existing uses. For example, is the area utilized by any commercial, or recreational fisheries? Are there shorefront owners within 1,000 feet of the proposed lease area? If applicants cannot answer these types of questions, they are encouraged to talk with members of the local community or seek resources that will help them answer those types of questions.
- Applicants should only apply for acreage that they will utilize during the term of the proposed lease.
- As a matter of policy, DMR does not provide applicants or other stakeholders with an estimate of when any step in the leasing process will be completed.
- DMR does not provide applicants or other stakeholders with the anticipated outcome of the decision.

OFFICES AT 32 BLOSSOM LANE, MARQUARDT BUILDING, AUGUSTA, MAINE
<http://www.Maine.gov/dmr>

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PRE-APPLICATION MEETING:

- Applicant contacts the Resource Management Coordinator at DMR to schedule a pre-application meeting with DMR staff and the municipality. (See bottom of last page for all contact information for DMR staff.) The purpose of this meeting is:
 - For the applicant to introduce the proposal to the municipal officers and DMR.
 - For the applicant and the department to gain local knowledge from the municipal officers.
 - To define the environmental baseline or characterization requirements and other informational needs, including approximate location of the lease site, that DMR determines are necessary.

DRAFT APPLICATION AND REVIEW:

- The applicant has four months after the pre-application meeting to submit a draft of the standard lease application and the \$500 non-refundable draft application fee to DMR.
- The applicant must make a reasonable effort at completing the draft application.
- DMR will review the draft application and notify the applicant if additional materials or information is necessary. Once this review is complete, DMR will notify the applicant that they can move forward with scheduling a scoping session. DMR will provide the applicant with information related to scheduling.
- The applicant will present the draft application at the scoping session.

SCOPING SESSION:

- The applicant is responsible for holding the scoping session on their draft application. The scoping session provides an opportunity for the public to learn about the proposed lease from the applicant and to have an informal discussion with the applicant about the proposal.
- Applicants are responsible for the scheduling, advertising and logistics of their scoping session.
- Please refer to ([Scoping Session Guidance Document for Applicants](#)) for additional details related to scheduling.
 - The scoping session must be held in the same town as the proposed lease site. If the proposed site is within the boundaries of more than one town, the session should be held in the municipality where the majority of the proposal is located.
 - DMR staff may or may not attend the scoping session.
 - After the scoping session, it is the applicant's responsibility to notify DMR, in writing, if they want their draft application reviewed for completeness, or if they wish to make changes to the draft application.

- During the six months following the scoping session, or until a completed application is received by DMR from the applicant for the location noticed in the scoping session, whichever is earlier, the Department cannot accept an application for a lease in the same location as a proposed lease discussed at the scoping session.
- If the location of the proposed lease site in the final application materially differs from the location presented at the scoping session, DMR may require that the applicant hold a second scoping session. Examples of location changes that may result in this determination include, but are not limited to: a) The change in location results in a significantly different list of riparian landowners; b) The change in location results in the proposed lease site being in a different municipality. DMR will evaluate any location changes on a case-by-case basis in consideration of any issues raised at the initial scoping session among other factors.

APPLICATION REVIEW:

- The Department will not review the original draft application or revised final application for completeness until the applicant has submitted the remainder of the application fee (\$1000 for non-discharge leases and \$1500 for discharge leases) and a copy of the tear sheet proving that the scoping session was advertised in compliance with applicable regulations.
- DMR will strive to conduct a completeness review within 30 days of receipt of the revised application, if applicable.

DMR will notify the applicant of missing items. The applicant has 90 days from the date of the first incomplete letter to submit a complete application. If the application cannot be deemed complete within 90 days it will be terminated.

- Given the 90-day timeline, applicants are advised to submit revisions as soon as possible after receipt of the incomplete letter to allow time for multiple revisions, if needed.
- DMR will notify the applicant once the application has been deemed complete.
- DMR will send a copy of the completed application to the municipality, Army Corp of Engineers (ACOE), other state and federal agencies, and riparian landowners. Discharge applications are also sent to Maine Department of Environmental Protection. Copies of the application are also sent to members of DMR's mailing list that have requested them. DMR will also post the completed application on the DMR website.

SITE VISIT AND REPORT:

- DMR scientists will conduct a site visit of the proposed lease area. DMR will only contact the applicant if additional site-specific information is needed or their presence at the site visit is requested. Generally, applicants are not present during site visits.

- Applicants are advised to consider the timing of their application submission. The site visit will be conducted at a time of year that DMR determines appropriate to adequately evaluate the proposed site in consideration of the proposed operations, and according to DMR staff availability. For example, an application received in December may not receive a site visit until the following spring.
- During the site visit, the proposed location will be verified, an underwater assessment of the area will be made, and observations related to the decision criteria will be collected.
- DMR Scientists will write a site report that includes the information obtained during the site visit and other information gathered from municipal, state and federal agencies.
- DMR will send a copy of the site report to the applicant. The report will also be posted on the DMR website, and made available to anyone who requests a copy.

PUBLIC HEARING:

- DMR will schedule a public hearing once the site report is published. DMR will contact the applicant when the hearing is ready to be scheduled.
- Public hearings are adjudicatory proceedings and DMR will gather evidence on the proposal as it relates to the lease decision criteria.
- The applicant will present their proposal and stakeholders will have the opportunity to ask the applicant questions. Applicants should come prepared to provide an overview of their proposed operations.
- Applicants that intend to present their proposal using PowerPoint or other presentation software are responsible for sourcing all necessary equipment (i.e. computer, projector, cables, etc.). Applicants will also need to verify that the location of the public hearing is properly equipped to support any presentations that rely on technology.
- DMR will provide copies of the application, site report, informational handouts related to the conduct of public hearings, the case file, and other materials as required by law.
- DMR adjudicates the final application, which was processed in accordance with applicable laws.
- Applicants cannot make substantive changes to their proposal during the public hearing. Substantive changes fundamentally alter the original application, which was evaluated by DMR staff and other stakeholders. Lessening the scope (size, number of species, number of gear types requested) of the original application is acceptable during the public hearing.
- Applicants may invite members of the public to attend the public hearing and offer testimony. However, DMR cannot consider factors unrelated to the decision criteria when rendering a final decision. Testimony should relate to the lease decision criteria.

- Members of the public may apply to DMR for intervenor status, which would make them a legal party to the proceeding.

DECISION:

- DMR will prepare a proposed decision that is sent to the applicant and other legal parties, if applicable.
- The parties have 10 days to comment on the proposed decision.
- The proposed decision and any comments submitted are forwarded to the Commissioner for review.
- The Commissioner issues the final decision.
- DMR strives to issue final decisions within 120 days from the close of the hearing record. This time period may be extended depending upon the complexity of the respective application.

IF LEASE IS GRANTED:

- DMR will prepare a lease agreement and rent bill for review and signature.
- Applicant is responsible for signing the lease agreement, paying the rent bill, and establishing an escrow account or securing a performance bond before any gear may be deployed.

DMR Aquaculture Staff

DMR's aquaculture program is facilitated by policy and administrative staff in Augusta and science and technical staff in Boothbay Harbor.

To reach out to a member of the DMR aquaculture staff, please use the link below or alternatively you can email DMRAquaculture@maine.gov and your email will be routed to the appropriate staff member.

<https://www.maine.gov/dmr/aquaculture/staff.html>

Step	Applicant	DMR	Timeframe
Pre-Application Meeting	√	√	
Draft Application and fee	√		Within 120 days of the preapplication meeting
Preliminary review of draft application		√	Within 30 days of receipt
Email to applicant to acknowledge draft application is adequate to move forward to scoping		√	
Schedule Scoping session	√		
Final Application	√		6 months to notify DMR, in writing, if they want their draft application reviewed for completeness, or to submit a revised application. Final submission needs to include the tear sheet and remainder of application fee.
Application review		√	Applicant has 90 days to have a completed application to DMR.
Deemed Complete		√	
Site Visit		√	
Public Hearing	√	√	DMR will contact the applicant to schedule.
Proposed Decision		√	When DMR issues the proposed decision, applicant has 10 days to review and comment.
Final Decision		√	30 and 40-day notice to appeal sent to applicant and applicable persons respectively.
Lease Execution	√	√	Applicant is responsible for signing lease documents and securing performance bond or escrow account.