

§6086. Abandoned aquaculture equipment and stock

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Abandoned aquaculture equipment" or "equipment" means any equipment associated with the operation of an aquaculture lease or license pursuant to section 6072, 6072-A, 6072-B or 6072-C that has been left by the aquaculture lease or license holder in coastal waters without intention of removal. "Abandoned aquaculture equipment" includes, but is not limited to, rafts, pens, barges, skiffs, nets, lines, mooring systems, cages, trays, racks, upwellers and other equipment used in the operation of an aquaculture site. [PL 2009, c. 229, §13 (NEW).]

B. "Abandoned aquaculture stock" or "stock" means cultured marine organisms, including, but not limited to, fish, shellfish, sea urchins and algae, that have been left by the owner in coastal waters without intention of removal. [PL 2009, c. 229, §13 (NEW).]

[PL 2009, c. 229, §13 (NEW).]

2. Eligibility. Abandoned aquaculture equipment or abandoned aquaculture stock is subject to removal under this section only if:

A. The aquaculture lease or license holder has indicated in writing to the department that the holder wishes to terminate the aquaculture lease or license with which the abandoned equipment or stock is associated; the department has revoked the lease pursuant to section 6072, subsection 11 or section 6072-A, subsection 22; or the term of the lease or license has expired; [PL 2009, c. 229, §13 (NEW).]

B. The equipment or stock remains in the area of the lease or license site and the equipment or stock is not legally permitted to remain by another authority, such as a municipal mooring permit; and [PL 2009, c. 229, §13 (NEW).]

C. The aquaculture lease or license holder has not entered into an agreement with the department to accomplish timely removal of the equipment or stock. [PL 2009, c. 229, §13 (NEW).]

[PL 2009, c. 229, §13 (NEW).]

3. Responsibility of the department. The department's duties with respect to abandoned aquaculture equipment and abandoned aquaculture stock are as set out in this subsection.

A. The department shall investigate reports of abandoned aquaculture equipment or abandoned aquaculture stock and review terminated, expired or revoked aquaculture leases and licenses to determine if there is abandoned aquaculture equipment or abandoned aquaculture stock and give notice to the aquaculture lease or license holder. The department shall also give notice to any person who has declared to the department, in writing, a property interest in the equipment or stock and to any person the lease or license holder has, in writing, identified as having a property interest in the equipment or stock. The notice must require the lease or license holder and anyone with a property interest to respond within 15 days and to remove the equipment or stock from the coastal waters within 60 days of notification by the department or, if the equipment or stock is icebound, within 60 days of ice-out in the body of water where the equipment or stock is located. If the persons to whom the department has given notice cannot be contacted or do not respond to the notice and remove the equipment or stock within the time period specified, the department may initiate removal of the equipment or stock. [PL 2009, c. 229, §13 (NEW).]

B. The department may authorize a 3rd party to remove abandoned aquaculture equipment or abandoned aquaculture stock if the department is satisfied that the work will be completed. [PL 2009, c. 229, §13 (NEW).]

C. Notwithstanding the time periods for removal by a lease or license holder or person with a property interest specified in paragraph A, if the department determines at any time that abandoned

aquaculture equipment or abandoned aquaculture stock is a human health or safety hazard or is an immediate threat to the marine environment, the department may immediately remove the equipment or stock from the coastal waters. [PL 2009, c. 229, §13 (NEW).]

D. If the department removes abandoned aquaculture equipment or abandoned aquaculture stock from coastal waters under this subsection, the department may sell the equipment or stock. Any proceeds from the sale must first be applied to the costs to the State directly related to the expense of removal of the equipment or stock. Any money that remains may be applied to any liens against the equipment or stock. Money that finally remains must accrue to the Aquaculture Management Fund established under section 6072-D. [PL 2009, c. 229, §13 (NEW).]

E. Abandoned aquaculture equipment or abandoned aquaculture stock located on intertidal land may not be removed by the department without the permission of the landowner unless the department determines that the equipment or stock is a human health or safety hazard or is an immediate threat to the marine environment. [PL 2009, c. 229, §13 (NEW).]

F. The department may adopt rules governing abandoned aquaculture equipment and abandoned aquaculture stock, including, but not limited to, rules requiring the disclosure of property interests in abandoned aquaculture equipment and abandoned aquaculture stock. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 229, §13 (NEW).]

[PL 2009, c. 229, §13 (NEW).]

4. Civil action. If the State is not compensated for removal costs under the provisions of subsection 3, the State shall first attempt to recover the removal costs by claiming these expenses against any bond the aquaculture lease or license holder held during the term of the aquaculture lease or license. If the department is unsuccessful in recovering the removal costs in that manner, the State may bring a civil action against the owner of the equipment or stock to cover any cost of removal of the equipment or stock from coastal waters. The court in its discretion may award an additional 50% of the cost of removal. The penalty is payable to the Aquaculture Management Fund established under section 6072-D.

[PL 2009, c. 229, §13 (NEW).]

SECTION HISTORY

PL 2009, c. 229, §13 (NEW).

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