

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1327 - L.D. 2065

An Act to Amend Maine's Aquaculture Leasing Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §6072, sub-§1-A, as amended by PL 2021, c. 557, §1, is further amended to read:

1-A. Lease requirement; finfish and suspension culture. Except as provided in ~~paragraphs B and B-1 and sections 6072-A, 6072-B and 6072-C~~, it is unlawful for a person who does not have a lease issued by the commissioner under this section to construct or operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or other enclosures or for the suspended culture of any other marine organism. For the purposes of this subsection, "suspended culture" includes all forms of culture except for the placement of marine organisms on the ocean bottom without the use of gear of any type.

~~B. A person operating a facility in the coastal waters of the State, on or before the effective date of this subsection, for the culture of finfish in nets, pens or other enclosures or for the suspended culture of shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1992 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1992. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.~~

~~B-1. A person operating a facility in the coastal waters of the State for the suspended culture of a marine organism other than shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1994 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1994. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.~~

~~C. The commissioner may not consider an application for a lease under this section on an area registered under paragraph B or B-1 from a person other than the registrant prior to rendering a final decision on any application submitted by a registrant under paragraph B or B-1.~~

A person who violates this subsection is subject to a civil penalty, payable to the State, of no more than \$1,000 for each day of the violation.

Sec. 2. 12 MRSA §6072, sub-§5, as amended by PL 1999, c. 591, §1, is further amended to read:

5. Application review. The commissioner shall review the application and set a hearing date if the commissioner is satisfied that the written application is complete, the application indicates that the lease could be granted and the applicant has preliminarily demonstrated that the applicant has the financial and technical ~~capability~~ capabilities to carry out the proposed activities. When the commissioner has determined that the application is complete, the commissioner shall forward a copy of the completed application and notice of hearing to the known ~~riparian~~ owners of riparian land within 1,000 feet of the proposed lease and to the municipal officers of the municipality or municipalities in which or adjacent to which the lease is proposed. A municipality must be granted intervenor status upon written request.

Sec. 3. 12 MRSA §6072, sub-§6, ¶B, as amended by PL 2021, c. 52, §2, is further amended to read:

B. ~~Under~~ Notwithstanding the provisions of Title 5, section 9052, subsection 3, paragraph A, ~~the leasing procedure must require notice to the general public notice of hearing must be published once in a newspaper of general circulation in the area of the State affected and by any other manner considered appropriate by the department at least 30 days before the hearing.~~ The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph.

Sec. 4. 12 MRSA §6072, sub-§7-A, ¶F, as amended by PL 2011, c. 655, Pt. II, §4 and affected by §11 and amended by c. 657, Pt. W, §5, is further amended by repealing the first blocked paragraph.

Sec. 5. 12 MRSA §6072, sub-§12, as amended by PL 2021, c. 52, §5, is further amended by amending the 3rd blocked paragraph to read:

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given to the entities required to receive notice under subsection 6. A person may provide to the commissioner comments on the proposed lease renewal ~~within 30 days of receipt of notice by the 30-day deadline specified in the applicable notice to the entities required to receive notice under subsection 6~~ or within 30 days of publication of the proposed renewal. A hearing must be held if it is requested in writing by ~~5~~ 10 persons within the 30 days. The commissioner may review multiple leases concurrently during the lease renewal process.

Sec. 6. 12 MRSA §6072, sub-§12-A, ¶A, as amended by PL 2009, c. 229, §2, is further amended to read:

A. An application to transfer a lease pursuant to this subsection must be made on forms provided by the commissioner. When the commissioner determines that the application is complete, the commissioner shall give notice of the proposed transfer to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice

must provide an opportunity to submit written comments on the proposed lease transfer within 44 30 days.

Sec. 7. 12 MRSA §6072, sub-§12-D is enacted to read:

12-D. Conversion of a limited-purpose lease. A person who holds a limited-purpose lease for commercial purposes pursuant to section 6072-A may apply to convert that lease to a lease under this subsection as long as the application is for the same lease area and same operations authorized by the limited-purpose lease.

A. An application to convert a limited-purpose lease pursuant to this subsection must be made on forms provided by the commissioner and must be received in accordance with time frames specified in section 6072-A, subsection 20-A. A person may submit information used in applying for the limited-purpose lease to meet the application requirements of this subsection. If the commissioner determines the information is not valid or relevant to the lease application under this subsection, the commissioner shall require the person to submit additional information.

B. In any municipality with a shellfish conservation program under section 6671, the commissioner may not issue a lease under this subsection for the intertidal zone within the municipality without the consent of the municipal officers. The applicant must also submit written permission from every owner of riparian land whose land to the low-water mark will be used.

C. Upon determining that an application is complete, the commissioner shall provide notice of the conversion application to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the lease activity would take place. The applicant shall provide the names and addresses of known owners of riparian land within 1,000 feet of the proposed location of the lease. The names and addresses must be taken from the current property tax roster on file at the local municipal office or, for an unorganized territory, with the Department of Administrative and Financial Services, Bureau of Revenue Services. The commissioner shall publish a summary of the application in a newspaper of general circulation in the area of the State in which the lease conversion is proposed. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph. A person may provide comments to the commissioner on the application by the 30-day deadline specified in the applicable notice to owners of riparian land or municipal officers or within 30 days of publication of the newspaper notice.

D. The department may consider the original site review when the lease was evaluated pursuant to section 6072-A or conduct another assessment of the proposed lease and surrounding area to evaluate the possible effects of the lease conversion on any new uses of the area, including ecologically significant flora and fauna as they relate to the conditions specified in subsection 7-A.

E. The commissioner may hold a public hearing on the proposed conversion. The commissioner shall hold a public hearing if 10 or more persons request a public hearing during the 30-day comment periods provided in paragraph C.

F. The commissioner shall provide notice of a public hearing to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers

of the municipality in which the operations would take place. The commissioner shall publish notice of a hearing in a newspaper of general circulation in the area of the State in which the lease conversion is proposed at least 30 days before the hearing. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph.

G. In evaluating the proposed lease conversion, the commissioner shall take into consideration the conditions specified in subsection 7-A.

Sec. 8. 12 MRSA §6072, sub-§13, ¶B, as amended by PL 2017, c. 159, §5, is further amended to read:

B. For procedures to issue, transfer, review, assign, expand, convert or revoke leases;

Sec. 9. 12 MRSA §6072-A, sub-§5, as amended by PL 2021, c. 52, §10, is further amended to read:

5. Notice of application. Upon determining that an application is complete, the commissioner shall provide notice of a limited-purpose lease application to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the limited-purpose lease activity would take place. The applicant shall provide the names and addresses of known owners of riparian land within 1,000 feet of the proposed location of the lease. The names and addresses must be taken from the current property tax roster on file at the local municipal office or, for an unorganized territory, with the Department of Administrative and Financial Services, Bureau of Revenue Services ~~for an unorganized territory~~. The commissioner shall publish a summary of the application in a newspaper of general circulation in the area proposed for a limited-purpose lease. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this subsection. A person may provide, ~~within 30 days of receipt of notice or within 30 days of publication of a limited-purpose lease summary~~, comments to the commissioner ~~comments~~ on the proposed limited-purpose lease by the 30-day deadline specified in the applicable notice to owners of riparian land or municipal officers or within 30 days of publication of the limited-purpose lease summary.

Sec. 10. 12 MRSA §6072-A, sub-§6, as enacted by PL 1997, c. 231, §6, is amended to read:

6. Public hearing. The commissioner may hold a public hearing on the proposed limited-purpose lease. The commissioner shall hold a public hearing if § 10 or more persons request a public hearing within the 30-day comment periods provided in subsection 5.

Sec. 11. 12 MRSA §6072-A, sub-§18, as amended by PL 2011, c. 93, §5, is further amended to read:

18. Scientific lease renewal. A limited-purpose lease for scientific research may be renewed. A scientific research lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a public hearing is not mandatory unless it is requested in writing by ~~25~~ 10 or more persons. The commissioner may review multiple leases concurrently during the lease renewal process. The commissioner shall renew a limited-purpose lease for scientific research unless the commissioner finds that:

- A. The ~~lease holder~~ leaseholder has not complied with the terms of the limited-purpose lease;
- B. Research has not been conducted during the term of the lease; or
- C. It is not in the best interest of the State to renew the limited-purpose lease.

Sec. 12. 12 MRSA §6072-A, sub-§20-A is enacted to read:

20-A. Extension for conversion of a commercial lease. If a person who holds a limited-purpose lease for commercial aquaculture research and development submits an application under section 6072, subsection 12-D for that same lease area and the same operations before the expiration of that limited-purpose lease, and if the commissioner does not make a decision under section 6072, subsection 12-D before the expiration of that limited-purpose lease, the limited-purpose lease remains in effect until the commissioner makes a decision under section 6072, subsection 12-D. If the commissioner grants the person a lease under section 6072, subsection 12-D, that person's limited-purpose lease remains in effect until the effective date of the lease issued under section 6072, subsection 12-D. If the commissioner denies that person a lease under section 6072, subsection 12-D, that person's limited-purpose lease remains in effect until 30 days after the commissioner's decision.

Sec. 13. 12 MRSA §6673, sub-§2-A, as amended by PL 2011, c. 655, Pt. II, §5 and affected by §11 and amended by c. 657, Pt. W, §5, is further amended by repealing the first blocked paragraph.