



APPLICATION FOR AN EXPERIMENTAL AQUACULTURE LEASE

This is an application for an experimental aquaculture lease. You are encouraged to review the experimental lease regulations to obtain a more complete understanding of the experimental lease process. Definitions of terms can be found in the beginning section of the regulations. Applications, rules and statutes are available at the DMR website: www.maine.gov/dmr/aquaculture

This is a joint application to be used by both the Maine Department of Marine Resources (“MDMR”) and the U.S. Army Corps of Engineers (USACOE) in an effort to facilitate the processing of applications for suspended aquaculture permits. Written authorization from both agencies is required before aquaculture activities are conducted. Information regarding the USACOE is available at www.nae.usace.army.mil.

The Maine Department of Marine Resources requires a **non-refundable** \$100 fee for experimental aquaculture applications.

Mailing Instructions:

Provide one copy of your application to the MDMR address listed below. The applicant shall be notified upon receipt when the application has been reviewed and accepted as complete by the MDMR.

DEPARTMENT OF MARINE RESOURCES
ATTN: Aquaculture Administrator
P.O. Box 8
West Boothbay Harbor, Maine 04575

Provide one copy of your application to the USACOE address listed below.

U.S. ARMY CORPS OF ENGINEERS
MAINE PROJECT OFFICE
675 Western Ave. #3
Manchester, ME 04351

PART A: GENERAL INFORMATION

The Department of Marine Resources (DMR) is pleased to offer an experimental lease option for commercial aquaculture research and development or for scientific research. An experimental lease may be granted for areas of two acres or less and three years or less. (12 M.R.S.A. §6072-A). To obtain a lease of greater than two acres or for more than three years, a **standard** application for aquaculture lease is required. A person is able to obtain more than one experimental lease.

For the purposes of an experimental lease, the difference between scientific research and commercial research and development is that the results of any scientific research will remain part of the public record, while the results of commercial research may be classified as confidential and for DMR use only. In addition, only experimental leases for scientific research can be renewed. Holders of an experimental lease for commercial research and development must apply for a standard aquaculture lease if they wish to continue aquaculture on the site at the end of the experimental lease term.

The major differences between an experimental and a standard lease are as follows:

| | <u>Experimental Lease</u> | <u>Standard Lease</u> |
|-----------------|---|-----------------------------------|
| Acreage Limit | 2 acres | 100 acres |
| Duration | 3 years | 10 years |
| Public Hearing | Discretionary or if requested by 5 people | Mandatory |
| Decision | Within 60 days of end of comment period | Within 120 days of public hearing |
| Application Fee | \$100 | \$1,500 |
| Renewable | Only for scientific research | Yes |

It is important to note that each year the holder of an experimental lease must submit an annual report to the Commissioner of the Department of Marine Resources (DMR) describing the results of the scientific research or commercial research and development undertaken on the lease site. This report must also include a plan for the coming year. Results of commercial research and development may be declared in writing as being confidential and only for the use of the DMR. The name of the report submitter and the general nature of the report will be public record. Results of scientific research will be part of the public record.

Depending on the quality of the application, the experimental lease application process can be less time consuming than a standard lease application process. The more work done ahead of time to ensure that the application is complete and accurate, that neighbors know and understand the nature of the project, and that any conflicts that might arise have been addressed, will save time in the review process. A controversial application or poor site selection may trigger the need for a public hearing, adding time to the review process. It is important for you to fully evaluate the quality of your application, and the probable public response to your proposed lease, if you want to take full advantage of the experimental lease process. DMR staff is available to provide guidance if you have questions in the preparation of your application.

THE LEASE APPLICATION PROCESS: WHAT TO EXPECT

The following information outlines the process leading to the approval of an aquaculture lease: For more specific information, see attached, DMR Regulations, Chapter 2.64 Aquaculture Experimental Lease Regulations.

- **Submit application.** Applicant submits application to Department of Marine Resources. DMR will forward your application to other regulatory agencies as appropriate.
- **Mark proposed lease site.** The applicant must place visible markers to show the boundaries of the proposed lease site.
- **Determination of Complete Application.** The Aquaculture Administrator, acting on behalf of the Commissioner of DMR, will determine if the application is complete. If the application is incomplete, it will be returned to you with an explanation of the additional information required.
- **Public Scoping Session.** DMR will determine whether or not to conduct an informal public scoping session on the application. The applicant is required to attend the scoping session. A decision of whether to not to conduct a public scoping session will be made after an application is deemed complete.
- **DMR Site Review.** You will be contacted to schedule a Site Review of your proposed lease area. This review will be an on-site inspection of the proposed lease area. A number of environmental measurements and a SCUBA dive may be made on the site. Your presence at the Site Review will be requested. A report of the Site Review will be developed by DMR.
- **Public Notification.** DMR will provide a public notice of your application. Information regarding your application will be provided to shorefront landowners upon whose properties your lease activities will occur, and to the municipality(ies) in which your lease will be located. Interested persons will have 30 days in which to provide written comments on the application or request a public hearing.
 - **Public Hearing, if necessary.** If the Department of Marine Resources determines that a hearing is necessary, or if one has been requested by five or more people, an adjudicatory public hearing will be scheduled. This hearing will be conducted under the Maine Administrative Procedure Act, 5 M.R.S.A. §9051 *et seq.* and the aquaculture lease provisions of 12 M.R.S.A. §6072. Public announcements of this meeting will be made. This is a formal procedure with rules governing conduct and testimony. The applicant, the public, and members of government agencies will have the opportunity to testify.
- **Final Decision.** The DMR Hearings Officer will prepare a report including proposed findings of fact, conclusions of law, and, if requested by the Commissioner, a recommended decision to grant or deny the lease. The Commissioner will make a decision to grant or deny the lease within 60 days of the public hearing or the close of the public comment period.
- **Requirements after being granted an experimental lease.** The applicant must:
 - A. Establish an escrow account or secure a performance bond in the amount required by DMR in the lease.
 - B. Record the lease in the Registry of Deeds of each county in which the lease area is located. (DMR will assist you with this requirement).

- C. Publish a notice in a newspaper of general circulation in the area affected. (DMR will assist you with this requirement).
- D. Mark lease site with appropriate buoys (DMR Regulations Chapter 2.80)
- E. If your lease will contain aquaculture gear, you must contact the U.S Coast Guard Private Aids to Navigation Office for approval of marking devices. If you have internet access, go to <http://www.usharbormaster.com/> and register on site to begin the application process. If you do not have internet access, you must call the District 1 office at 617-223-8358.
- F. Submit to the Commissioner an annual report of research undertaken at the lease site and a plan for the coming year.
- G. Pay the annual rental fee of \$100 per acre.
- H. Obtain any and all other necessary approvals, e.g., U.S. Army Corps of Engineers Permit.

- **Revocation.** The Commissioner may commence revocation procedures if he determines that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements of a lease are not being observed, the Commissioner may revoke the aquaculture lease. 12 M.R.S.A. §6072(11).

- **Renewing Leases.** Only scientific experimental leases may be renewed. If you have an experimental lease for commercial research and development and would like to continue to use the lease site, you must file a **standard** aquaculture application prior to the expiration of the experimental lease. Relevant sections of this application may be applied to the standard application. Once an experimental lease expires, and a standard application has not been submitted, all gear must be removed from the lease site.

PART B: REQUIREMENTS AND RESTRICTIONS

Aquaculture leases must comply with the following state and federal regulations:

1. Essential Habitats and Eagle Nests.

Aquaculture leases generally must not be closer than ¼ mile from eagle nests or Essential Habitats as regulated by The Maine Department of Inland Fish & Wildlife (MDIF&W) under authority of the Maine State Endangered Species Act and in accordance with guidelines of other endangered and threatened species developed by MDIF&W. MDIF&W Essential Habitat Maps are available for review at the following offices: MDIF&W Regional Offices, county government, Registrar of Deeds offices, affected town offices, Regional Planning Commission offices and many state agencies, including the Dept. of Marine Resources. The maps are also available on the MIF&W website at www.maine.gov/ifw. (Maine State Endangered Species Act 1975, 12 M.R.S.A. §7751 *et seq.*)

2. Water Quality Classification.

The State's Water Classification Program (M.R.S.A. Title 38 Article 4-A, 465-B) prohibits any discharge into Class SA waters. See attached information, or contact DMR or DEP, for the location of these waters.

3. Water Discharges.

Review 38 M.R.S.A. § 413 for information regarding National Pollution Discharge Elimination System Permits.

4. Finfish Aquaculture.

Several additional requirements, such as the Finfish Monitoring Program, apply to finfish aquaculture. If you plan to grow finfish in your experimental lease, contact DMR for further information.

5. Lease Conditions.

The Commissioner may place additional conditions on a lease.

PART D: EXPERIMENTAL LEASE APPLICATION INFORMATION

Applications must be typed and reproducible. Please use 8 1/2" x 11" paper. Using the numbering system below, an experimental application for aquaculture lease must provide the following information:

1. Location of Proposed Lease.

This is an important part of the experimental lease application. A well-documented, high quality site location will help to eliminate the need for a site review. A poor quality description will require a time consuming verification of the site location by the Department of Marine Resources.

A. Vicinity Map.

Using a NOAA Chart or USGS topographic map, show the general vicinity of the lease. Be sure to show the waters, shorelands, and lines of mean high and mean low water within the vicinity of the lease. Provide an arrow indicating true north. Show the approximate lease boundaries.

B. Boundary Description.

Describe the boundaries of the proposed lease site. Be sure to provide a description of how you developed the location description. For example, did you scale it from a NOAA chart or USGS map, did you use a compass and measuring device, did you use a GPS unit (was it Differential GPS), was it done by a certified land surveyor, etc.? Provide a drawing with all sides, directions, distances, and/or coordinates labeled. Use one of the following methods for describing the boundaries:

1) Coordinate Description.

Provide geographic coordinates for each corner of the lease site in latitude and longitude as accurately as possible (e.g., to the nearest second or fraction of a second). Identify the datum on the map or chart used to develop these coordinates. The datum will be shown on the map or chart you are using.

OR

2) Metes and Bounds Description.

Starting at a fixed point on land, provide the direction (specify magnetic compass direction or true direction) and distance to one corner of the lease. Provide the direction and distance for each side of the lease. (For example: From the large boulder on shore, follow a compass bearing of 15° true for distance of 355 feet to the southeast corner of the lease site, then following a compass bearing of 38° true for 1,235 feet, etc. - This is a rough example of a metes and bounds description.)

2. Land Owners (Who are your neighbors and do you have their permission to use their land?)

Attach a copy of a tax map or chart showing the location of the lease and the waters and shorelands within the general vicinity of the lease. List the name and address of every riparian owner of land within 1000 feet of the lease and the location of their property marked as shown on the map. If you need to use riparian property to access the lease site, or the lease activities would take place on intertidal land, provide written permission from every owner of such property to be used. The map and list of riparian owners must be certified by the tax collector or clerk of the municipality in which the lease is located as being an accurate copy of this information as maintained by the

municipality. *The applicant must provide to the department proof of access to the lease area. If access will be across riparian land, the applicant shall provide to the department the written permission of every riparian owner whose land will be used to access the lease area (Sec. 1. 12 MRSA §6072-A, sub-§§8).*

3. Research Program and Operation

Provide a concise description of the scientific or commercial research and development study you will be conducting on the experimental lease site. Describe:

- A. The purpose and design of the study.**
- B. The species, amount and proposed source of the organisms to be grown.** (Note: You may apply to grow more than one species).
- C. A description of the culture and harvesting techniques to be used.**
- D. The expected length of the study.**
- E. Specify whether the research is for scientific OR commercial research and development.** Note: Results of scientific research will be part of the public record.

4. Existing Uses (*Who uses or travels over the site now and why?*)

Describe the existing uses of the proposed lease area, including commercial and recreational fishing activity, moorings, navigation and navigational channels, and use of the area by riparian owners for ingress and egress. Include the type, volume, time, duration, location and amount of activity. A signed statement from a Department Biologist or Marine Warden may be submitted to verify this information.

5. Exclusive Use (*Who will be restricted from the site?*)

Describe the degree of exclusive use required by the project and the impact on existing or potential uses of the area. Will others be allowed access to the site? Will fishing be allowed on the site? Will you request that certain types of activities be restricted? If so, please explain.

6. Description of the Proposed Lease Site

A. Environmental Characterization. (Written description or video)

NOTE: If your application involves structures, a permit from the U.S. Army Corps of Engineers will be required. The ACOE requires that the Environmental Characterization be in written form. A video will fulfill only the DMR requirements. If you are using structures, a single written description will satisfy both the ACOE and DMR requirements.

Describe the environment of the proposed lease site and your reasons for deciding that this site would work for your intended purposes. This may be done either by submitting a written description of the area, or, if no structures are involved, by submitting a video of the area. Both methods should include the following:

- 1. The bottom characteristics (mud, sand, gravel, rocky, ledge or some mix, etc.);
- 2. Approximate depths at low and high tides;
- 3. Topography (flat, steep, rough, etc.);
- 4. Plants and animals (flora and fauna) by species or common names, and described as abundant, common, or rare;
- 5. Approximate current speed and direction; and
- 6. The general shoreline and upland characteristics.

7. Presence and extent of submerged aquatic vegetation, i.e. eelgrass, within the proposed lease area. (If eelgrass is present, sketch in the limits of the beds on the vicinity map.

NOTE: If you are submitting a video it is recommended that you contact the DMR Aquaculture Environmental Coordinator (207-633-9500) to develop a filming method that will adequately describe your proposed lease site.

B. Environmental Impact.

Describe how you think your husbandry and harvesting techniques might affect the physical and ecological environment around the lease site.

Provide the shellfish growing area classification for the area of the proposed lease. The classifications are available at either the town office or from the Public Health Division of DMR. Contact information is available at the DMR website: www.maine.gov/dmr/rm/public_health

7. Structures (if applicable)

If your operations require the use of nets, ropes, trays, or any object (structure) other than the organism to be grown directly on the bottom or buoys to mark the corners of the lease site, you must submit the following:

A. Plan View. Provide a drawing of the maximum area to be utilized by the structure(s) and moorings of the proposed lease. This drawing should include a layout of the lease boundaries and the location of all proposed markings. Please note that all moorings must be contained within the lease site.

B. Cross Sectional View. Provide a drawing and description of the mooring system used to anchor your structure(s) to the sea floor. Provide dimensions and materials used. Label all parts. Provide depth from the bottom of your structure(s) to the sea floor during both mean low water and mean high water.

8. Discharge (if applicable)

If your operation will discharge anything into the water such as feed (pellets, kelp, etc.) or chemical additives (therapeutants, chemical treatments, etc.) you must submit a video of the bottom using a method prescribed by the Department. **The video must be filmed between April 1 and November 15.** Please note that this video can also fulfill the DMR requirements of Item 10, Description of Proposed Lease Site. Further sampling may be required by DMR, or DEP, depending on the characteristics of the site or the proposed activities.

9. Marking

According to Department rules, all lease sites are to be marked with a floating device, such as a buoy, which displays the lease identifier assigned by the Department and the words "SEA FARM" in letters of at least 2 inches in height in colors contrasting to the background of the device. The marked floating devices shall be displayed at each corner of the lease area that is occupied or at the outermost corners. If such marking requirements are unnecessary or impractical in your proposed location, provide information as to why that is so and suggest alternate markings.

10. Escrow Account or Performance Bond and Rental Fee

A. Escrow Account or Performance Bond. Provide documentation confirming that the applicant has read MDMR Aquaculture Regulations 2.40 and that upon issuance of a lease by MDMR the lessee will either open an escrow account or obtain a performance bond, depending on the category of lease as follows:

| <u>Lease Category</u> | <u>Amount of Required Escrow or Performance Bond</u> |
|---|--|
| No structure, no discharge | None |
| No structure, discharge | \$ 500.00 |
| Structure, no discharge | \$ |
| Total combined area of all structures on lease: | |
| ≤400 square feet | \$1,500.00 |
| >400 square feet | \$5,000.00 |
| Structure, discharge | \$ 25,000.00 |