

MAINE DEPARTMENT OF MARINE RESOURCES

Conduct of Aquaculture Lease Hearings

This is an adjudicatory hearing, in which legal rights and responsibilities will be determined. It differs from most other public hearings in several ways:

- (1) The hearing must be recorded.
- (2) Any witness who testifies, including members of the general public, must be sworn to tell the truth and must be available to answer questions from the applicant, the Department, any other state or federal agencies, any intervenors, and the public.
- (3) Evidence must be relevant and material to the subject matter of the hearing.
- (4) Evidence must be of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (5) Evidence which is irrelevant, immaterial, or unduly repetitious may be excluded.

Any objections to rulings of the presiding officer during the hearing must be timely stated during the hearing. The Department may use its experience, technical competence and specialized knowledge in evaluating all evidence submitted.

Participation in the hearing: Any person may participate in a hearing by: (1) Making oral or written statements explaining his position on the issues; or (2) Submitting written or oral questions to the parties through the presiding officer, within limits set by the presiding officer.

Order of testimony: DMR regulations establish the order we follow in taking testimony and questioning witnesses at lease hearings, which is:

1. Applicant and applicant's witnesses
2. DMR presents site review report
3. Any federal, state, or local agencies
4. Intervenors supporting the application, then those opposing
5. Members of the public*

**Depending on the number of people wishing to testify or ask questions, the presiding officer can alter this order.*

Order of questioning: After each witness testifies, he or she can be questioned, in the following order, by:

1. Hearing officer and DMR representatives
2. Applicant
3. Federal, state, or local agencies
4. Intervenors
5. Members of the public

Public Examination of Evidence: All written testimony, documents, materials, and objects submitted into evidence are available during the course of the hearing for public examination. Evidence can also be made available for public examination at DMR offices by appointment.

CRITERIA FOR ISSUING STANDARD AQUACULTURE LEASES

At this hearing, the Department will receive evidence relating to the legal criteria upon which it must base its decision whether to grant the lease. The criteria for granting a STANDARD aquaculture lease are:

The lease must not unreasonably interfere with:

- The ingress and egress of riparian owners;
- Navigation;
- Fishing or other uses of the area;
- The ability of the site and surrounding areas to support ecologically significant flora and fauna; or
- The use or enjoyment within 1,000 feet of municipally, state or federally owned beaches, parks, docking facilities or certain government-owned conserved land.

The applicant must demonstrate that there is an available source of organisms to be cultured for the lease site.

The lease must not result in unreasonable impact from noise or light at the boundaries of the lease site, and it must comply with DMR rules to minimize the visual impact of the lease.

FOR MORE INFORMATION ABOUT MAINE'S AQUACULTURE LEASING PROCESS:

The laws governing aquaculture in Maine and the rules governing how applications are reviewed and approved are available on the web at:
<http://www.maine.gov/dmr/aquaculture>.

Also available on the DMR website are: past decisions in lease cases, lists of leaseholders, maps of lease locations, and summaries of each lease, including charts, permitted species, and lease conditions, if any.

For more information about the aquaculture leasing process administered by the Department of Marine Resources, contact the Aquaculture Hearings Officer, Dept. of Marine Resources, PO Box 8, West Boothbay Harbor, ME 04575-0008, Tel. 207-633-9500, diantha.robinson@maine.gov.