

MAINE DEPARTMENT OF MARINE RESOURCES

AQUACULTURE LEASE TRANSFER APPLICATION

Fill out the form clearly and completely. ****Enclose all required documents.****

If you fill out this form on the computer using the Microsoft Word version, you can increase the space available for answers. If you are completing the "pdf" form on paper and you need more space, please attach additional sheets. A checklist for enclosures is on page 13.

LEASE INFORMATION

1. LEASE. Identify the lease(s) to be transferred:

- Lease acronym: _____
 - Date lease expires: _____
 - Town: _____
 - Water body: _____
 - Acreage: _____
 - Species authorized: _____
- _____

2. LESSEE. Identify the present lessee (*if multiple lessees, provide the information for each one; use a separate sheet if necessary*):

- Name: _____
- Name of contact person, if lessee is not an individual: _____
- Address: _____
- Phone: _____
- E-mail: _____

3. PAST USE OF LEASE.

Has this lease been used for aquaculture during its term? _____ Yes _____ No

If "Yes", describe the aquaculture activities, including but not limited to seeding, cultivation, or harvest of organisms.

If "No", explain why no aquaculture has been conducted.

TRANSFeree INFORMATION

4. TRANSFeree. Identify the proposed transferee(s) of the lease (*if multiple transferees, provide the information for each one*):

- Name: _____
- Name of contact person, if lessee is not an individual: _____
- Address: _____
- Phone: _____
- E-mail: _____

5. TRANSFeree'S CURRENT LEASES. List all Maine aquaculture leases now held by the transferee(s):

- Lease acronym: _____
 - Date lease expires: _____
 - Town: _____
 - Water body: _____
 - Acreage: _____
 - Species authorized: _____
-

6. FUTURE OPERATING PLANS:

Lease operations on a transferred lease must be conducted consistent with the terms of the original lease application, as modified by the Commissioner's decision and by any conditions imposed on the lease. Variances for limited changes in operations, as well as species amendments, can be allowed at the Department's discretion. Question 6 asks transferees to disclose all planned changes in the aquaculture operations of the lease. This is to ensure that the lease will continue to meet the original legal criteria and to determine if a variance is needed.

Does the transferee intend to make changes in the aquaculture activities conducted pursuant to the lease? _____ Yes _____ No

If "Yes", please describe the changes fully:

TAX MAP, RIPARIAN LIST, & LANDOWNER PERMISSION

7. **TAX MAP (Enclose). ENCLOSE a copy of the municipal tax map covering the vicinity of the lease site. SHOW on the map all riparian (shorefront) properties within 1,000 ft. of the lease site. *If there are no such properties, check here:*

_____ There are no riparian properties within 1,000 feet of the lease site.

8. **RIPARIAN OWNERS LIST (Enclose attached form). Use the form at the back of this application to LIST the names and current addresses of all riparian landowners within 1,000 feet of the lease site. **This list must be certified** by the municipal clerk or tax collector. *If there are no such landowners, check here:*

_____ There are no riparian landowners within 1,000 feet of the lease site.

9. **LANDOWNER PERMISSION FOR ACCESS (Enclose attached form). If any of the transferee's aquaculture activity will occur in, on, or over any intertidal land (land between mean high water and mean low water), whether or not it is part of the lease or license site, OR if the transferee will use any other private land to gain access to the lease or license site, each landowner must sign one of the permission forms attached to this application. *If private upland or intertidal land will not be used, check here:*

_____ The transferee(s) will not use intertidal land for the aquaculture activity or private land for access to the aquaculture site.

TRANSFeree'S FINANCIAL & TECHNICAL CAPACITY

DMR requires the same information about the transferee's technical and financial capability (Questions 10 & 11) and ownership structure (Questions 12-15) as it requires of applicants for new leases (DMR Rules 2.10 (3) (I) and (J) and 2.12).

10. FINANCIAL CAPACITY.

A. LIST cost estimates for the aquaculture activities the Transferee plans to conduct on this lease:

B. Has the Transferee obtained all the resources necessary to carry out these activities?

_____ Yes _____ No

C. ** **Enclose** one of the following documents to show that the Transferee has adequate financial capacity to operate the project (*if multiple transferees, provide the information for each one*). IDENTIFY the documentation that is enclosed:

_____ Letter from lender showing willingness to lend a specific amount.

_____ Most recent corporate report, showing sufficient funds on hand.

_____ Bank statements or other evidence showing funds on hand.

_____ Proof that equipment and seed stock are available to Transferee.

_____ Other (explain): _____ .

11. **TECHNICAL CAPACITY. For each transferee, ENCLOSE a résumé or provide below a statement of experience and qualifications to demonstrate technical expertise and capability to undertake aquaculture activities. Identify the documentation that is enclosed (*if multiple transferees, provide the information for each one*):

- Résumé **enclosed**: _____ Yes _____ No

- If no résumé is enclosed, state each transferee's experience & qualifications:

FORM OF OWNERSHIP

State law limits the maximum aquaculture lease acreage a lessee can hold to 1,000 acres. Lease acreage held by a corporation or partnership is attributed to the stockholders or partners in the same proportion as their ownership in the corporation or partnership. For example, a 35% shareholder in a company holding a 100-acre lease is deemed to hold 35 acres (See DMR Rule 2.12 (3)).

12. INDIVIDUALS

Answer the following questions if any transferees are assuming this lease as individuals:

A. Have you applied for other aquaculture leases or licenses in Maine?

_____ Yes _____ No

B. If "Yes", LIST the outcome and current status of each lease or license.

C. How many acres of aquaculture leases do you currently hold, whether as an individual, a stockholder, a partner, or other co-owner of a lease or leases?

I hold _____ acres of aquaculture leases in Maine.

D. Have you ever been arrested, indicted, or convicted of, or adjudicated to be responsible for, any violation of any state or federal marine resources or environmental protection law?

_____ Yes _____ No

E. If "Yes", LIST all such incidents.

13. CORPORATIONS

Answer these questions if any transferees are organized as corporations, including LLCs:

A. WHERE and WHEN was the corporation formed?

STATE of _____ DATE: _____

B. ****ENCLOSE** a copy of the Articles of Incorporation or Organization and check the line below.

_____ Enclosed is a copy of the Articles of Incorporation (Articles of Organization for LLCs).

C. LIST the names, addresses, and titles of all officers (managing members, for LLCs).

D. LIST the names and addresses of all directors or LLC members.

E. Has the corporation, or any stockholder, director, officer, or LLC member applied for an aquaculture lease in Maine in the past? _____ Yes _____ No

F. If "Yes", LIST the applicant's name and state the outcome of each application:

G. If any leases were granted, what is their current status?

H. LIST the names and addresses of all stockholders who own or control at least 5% of the outstanding stock and the percentage that they currently own or control. For LLCs, list members and their percentage shares.

I. Do any stockholders, directors, officers, or LLC members own an interest, either directly or beneficially, in any other Maine aquaculture leases? _____ Yes _____ No

J. If "Yes", LIST their names and addresses and IDENTIFY each lease and the quantity of acreage attributed to each such person. [*To calculate, see note on p. 5, or consult DMR Rule 2.12 (3).*]

K. Has the corporation or any officer, director, shareholder, or LLC member listed above ever been arrested, indicted, or convicted of or adjudicated to be responsible for any violation of any state or federal marine resources or environmental protection law?
_____ Yes _____ No

L. If "Yes", LIST all such incidents.

14. CO-OWNERS & PARTNERSHIPS

Answer these questions if the transferee is a combination of individuals and/or other entities as co-owners OR is organized as a partnership:

A. WHERE and WHEN was the partnership or co-ownership formed?

STATE of _____ DATE: _____

B. DESCRIBE the business relationship among the co-owners or partners for the purposes of owning and operating the lease:

C. CHECK the appropriate line and ****ENCLOSE** a copy of the document describing the business relationship:

_____ Certificate of Limited Partnership

_____ Documentation of the formation of a General Partnership

_____ Another document describing the business relationship among the co-owners

_____ *There is no document describing the co-ownership agreement.*

D. LIST the names, addresses, and ownership shares of all partners or co-owners.

E. Has the partnership or any partner or co-owner applied for an aquaculture lease or leases in Maine in the past? _____ Yes _____ No

F. If "Yes", LIST the applicant's name and state the outcome of each application:

G. If any leases were granted, what is their current status?

H. Does the partnership or any partner or co-owner own an interest, either directly or beneficially, in any other Maine aquaculture leases? _____ Yes _____ No

J. If "Yes", IDENTIFY each lease and LIST the quantity of acreage from each lease attributed to the partnership or to each partner or co-owner. [*To calculate, see note on p. 5, or consult DMR Rule 2.12 (3).*]

K. Has the partnership or any partner or co-owner ever been arrested, indicted, or convicted of or adjudicated to be responsible for, any violation of any state or federal marine resources or environmental protection law? _____ Yes _____ No.

L. If "Yes", LIST all such incidents.

TRANSFEROR'S STATEMENT

If there are multiple transferors (lessees), each of them must sign.

15. By signing this application, the UNDERSIGNED LESSEE hereby CERTIFIES THAT THE FOLLOWING INFORMATION IS TRUE AND CORRECT:

- The lease site is in good order and is in compliance with all DMR aquaculture rules;
- The lease site is free of legal encumbrances;
- There are no rent bills outstanding;
- The required bond or escrow account is in place and will remain effective until the transferee obtains new coverage; and
- All required annual reports have been filed.

TRANSFEROR'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

TRANSFEROR'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

TRANSFEROR'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

TRANSFEEE'S STATEMENT

If there are multiple transferees, each of them must sign.

16. By signing this application, the UNDERSIGNED TRANSFEEE HEREBY CERTIFIES THAT:

- The information in this application is true and correct;
- I understand that I am bound by the requirements of Maine law and DMR's rules governing aquaculture;
- I understand that I am assuming the existing lease, including any conditions; and
- Upon approval of the transfer by DMR I will either open an escrow account or obtain a performance bond, as required by DMR.
-

TRANSFEEE'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

TRANSFEEE'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

TRANSFEEE'S SIGNATURE: _____

Print name: _____ **Title** _____

DATE: _____

HOW DMR PROCESSES TRANSFER APPLICATIONS

Once DMR determines that the transfer application is complete, we will notify the public, the municipality, and the riparians of the proposed transfer and of a 14-day public comment period. No public hearing is required for lease transfers (12 MRSA § 6072 (12-A)). After the comment period DMR will prepare a written decision. The fee for the transfer is \$2,500 for non-discharge leases or \$5,000 for discharge leases, payable to Treasurer, State of Maine. **The transfer fee must be paid before the new lease is executed and the transferee(s) assume(s) the lease.**

STANDARDS FOR DECISION ON TRANSFERS - DMR RULE CHAPTER 2.60 (3)

These standards in DMR's rules mirror those in the statute, 12, MRSA §6072 (12-A).

3. The Commissioner may grant lease transfers pursuant to this subsection if the commissioner determines that:
 - A. The change in lessee's identity does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A);
 - B. The lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8);
 - C. The lease transfer is not for speculative purposes. Consideration of speculative purposes includes whether the current lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term; and
 - D. The transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

FOR MORE INFORMATION, CONTACT:

Aquaculture Hearings Officer
Dept. of Marine Resources
PO Box 8
West Boothbay Harbor, ME 04575-0008

Phone: 207-633-9500
FAX: 207-633-9579
E-Mail: diantha.robinson@maine.gov
or sylvia.brann@maine.gov

– RIPARIAN OWNERS LIST –

THIS LIST MUST BE
*****CERTIFIED*****

On this list, please show the current owners' names and mailing addresses for all shorefront parcels within 1,000 ft. of the proposed emergency lease site. Ask the Town Clerk to complete the certification form below. If the parcels are within more than one municipality, provide a separate, certified, riparian list for each municipality.

TOWN OF: _____

MAP # LOT # Landowner name(s) and address(es)

CERTIFICATION

I, _____, Town Clerk of _____, certify

that the names and addresses of the property owners listed above are those listed by this municipality and are current as of this date.

SIGNED: _____ DATE: _____ SEAL:

LANDOWNER PERMISSION FORM

If any of your aquaculture activity will occur in, on, or over any intertidal land (land between mean high water and mean low water), whether or not it is part of the lease or license site, OR if you will use any other private land to gain access to the lease or license site, each landowner must sign one of these forms.

LANDOWNER PERMISSION

I, _____ (*print landowner name*), the owner of land in the Town of _____, located at _____, give permission to _____ (*print transferee's name*) to use my property for aquaculture activity and/or access to the aquaculture lease site located in _____ (*water body*).

SIGNED: _____

DATE: _____

CHECKLIST

Is the *tax map* enclosed? Yes No

Is the *list of names and addresses of riparian owners* enclosed?
 Yes No Not Applicable

Is the *list certified*? Yes No Not Applicable

Is the Landowner Permission form enclosed? Yes No Not Applicable

Is documentation enclosed to show Transferee's *financial capacity*?
 Yes No

Is a resume or documentation of Transferee's *technical capacity* enclosed or provided?
 Yes No

Are the *Articles of Incorporation* enclosed? Yes No Not Applicable

Is the *Certificate of Limited Partnership* or documentation of the formation of a *General Partnership* enclosed? Yes No Not Applicable

Did you enclose a document describing the business relationship among co-owner Transferees?
 Yes No Not Applicable

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