

TO THE COMMISSIONER OF MARINE RESOURCES

Application for a Cultchless American Oyster License

YEAR \_\_\_\_\_

I, \_\_\_\_\_ OF \_\_\_\_\_  
(Name) (Firm or Corporation)

being a Maine oyster grower do hereby apply for a Cultchless American Oyster License as authorized by [12 M.R.S.A. §6863](#) and do meet one of the following criteria:

Check applicable statement:

{ } A. A person, firm, or corporation holding a valid aquaculture lease or LPA license from the Department of Marine Resources for the purpose of growing cultchless American oysters.

1. Lease name \_\_\_\_\_

2. LPA assistants (if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

{ } B. A person, firm, or corporation who provides a bill of sale for seed American oysters, and other evidence satisfactory to the Commissioner proving an intent to grow cultchless American oysters in coastal waters.

A copy of a chart showing the exact location of the growing site must accompany this application.

There is a \$12.00 fee for this license.

Please make checks payable to Treasurer State of Maine and send to:

Department of Marine Resources  
Attn: L.U. Churchill  
P.O. Box 8  
West Boothbay Harbor, Maine 04575-0008

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Email: \_\_\_\_\_

November 13, 2009

## TITLE 12 STATUTES

### Sec. 1., 12 M.R.S.A. §6073, sub-§2-A is enacted to read:

- 2-A Cultchless American oysters; possession. Prior to the point of retail sale, a person may not possess a cultchless American oyster grown in the State unless that person:
- A. Is a grower licensed under §6863, an employee of a licensed grower or an agent of a licensed grower; or
  - B. Is in the possession of a bill of sale or a bill of lading that includes the license number of the grower.
3. Penalty. Any person who violates or who sub-§2-A or who knowingly and willfully violates sub-§2 is guilty of a Class D crime, except that, notwithstanding Title 17-A, §'s 4-A and 1301, the court shall impose a fine of not less than \$1,000.00 and restitution may be ordered made to the owner of the lease in an amount set by the court.

### Sec. 2., 12 M.R.S.A. §6863 is enacted to read:

#### §6863. Cultchless American oyster growers license

A person may not grow cultchless American oysters in the State unless licensed under this section.

1. Definitions. For the purposes of this Part, the term "cultchless" means the absence, at the shell hinge, of foreign material or a scar and the term "American oyster" means the genus and species *Crassostrea virginica*.
2. License. The Commissioner shall establish by rule the criteria for a cultchless American oyster growers license.
3. Fee. The annual fee for a cultchless American oyster growers license is \$12.

### Department Regulations, Criteria for Issuing a Cultchless American Oyster License:

**14.40** The Commissioner of the Department of Marine Resources may issue a license to grow and possess cultchless American oysters under the following conditions.

1. Any person, firm, or corporation holding a valid aquaculture lease from the Department of Marine Resources for the purpose of growing cultchless American oysters.
2. or; any person, firm, or corporation who provides a bill of sale for seed American oysters, and other evidence satisfactory to the Commissioner proving an intent to grow cultchless American oysters in coastal waters.
3. and; any license holder under this section shall be subject to all other marine resources laws and regulations that may apply to the license holder activities.

### BASIS STATEMENT

As authorized by 12 M.R.S.A., §§6191 and 6863, the Commissioner of Marine Resources, with the advice and consent of the Department's Advisory Council, adopts this regulation establishing criteria for issuing a cultchless American oyster license.

This rule designates specific criteria the Commissioner will use to issue a cultchless American oyster license. The Maine Legislature, during their last session, made it unlawful to grow cultchless American oysters unless the growers are licensed. In addition the Legislature authorized the Commissioner, by rule making, to establish criteria for a \$10.00 cultchless American oyster license. These rules, developed in concert with the Maine Aquaculture Association, are responsive to legislative intent to curb the increasing loss in aquaculture production each year to theft of oysters. The existing laws and regulations do not provide sufficient deterrence to reduce theft of cultchless American oysters.

Existing personnel will issue licenses and monitor compliance as part of their assigned duties and responsibilities. No additional financial burden is anticipated by the promulgation of this regulation.

**Rule Effective December 23, 1992**

**Sec. G-43. 12 MRSA §6863, sub-§3,** as enacted by PL 1991, c. 876, §2, is amended to read: **3. Fee.** The annual fee for a cultchless American oyster growers license is ~~\$10~~ \$12. eff. 9-12-09 starting in 2010.