



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

***NEW* LPA “Owner/Operator” FAQ**

(Published July 1, 2024)

Effective January 1, 2025, all LPA(s) will be subject to the “owner/operator” requirement, which is described below. This document summarizes frequently asked questions about this new requirement.

What is changing?

- The Department is implementing the law establishing an “owner/operator” requirement, under which an LPA holder must directly supervise individuals that are engaged in licensed activities or designate a primary assistant to supervise the licensed activities.
- This means that the LPA holder or primary assistant must be physically present anytime other assistants are working on the respective LPA(s).
- This applies to all LPAs held by any individual regardless of their purpose.

What is the history of this requirement?

- This is required by statute ([see 12 M.R.S.A. §6072-C\(2\)](#)). This requirement was initially established in 2021, so it is already part of existing law.
- The January 1, 2025, effective date was intended to provide time for the Department and industry to prepare for the transition to the “owner/operator” requirement.
- We understand people may have forgotten or generally be unaware that this law was enacted due to the delayed implementation, however since this is already part of existing law, you should focus on preparing for implementation by learning more about the requirements and attending an informational session.

What is a primary assistant?

- The primary assistant is designated by the LPA holder to oversee work on the site(s) when the holder cannot be present. If any other assistants are doing work on the site, the LPA holder or primary assistant need to be physically present.
- The primary assistant designation counts against the total number of LPAs the primary assistant may hold. For example, if someone is designated as a primary assistant on two LPAs, they can only hold two LPAs in their name. If an individual is a primary assistant on four LPAs, they can't hold any LPAs in their name.

OFFICES AT 32 BLOSSOM LANE, MARQUARDT BUILDING, AUGUSTA, MAINE
<http://www.Maine.gov/dmr>

PHONE: (207) 624-6550

FAX: (207) 624-6024

- The primary assistant needs to be able and willing to provide direct supervision of licensed activities on the site.
- Once the designation is made, it cannot be modified until the time of LPA renewal.

Do you have to designate a primary assistant?

- No, but if you do not designate a primary assistant then you must be physically present anytime assistants are conducting work on LPA(s) you hold.
- Do not designate a primary assistant on sites that qualify for an exemption.

What exemptions apply?

LPA holders may claim an exemption to the owner/operator requirement and primary assistant designation under the following circumstances:

1. The LPA holder has an experimental or standard lease in their name *or* has an ownership interest in a company that holds an experimental or standard lease.
2. The LPA holder has applied for an experimental or standard lease site in their name *and* the LPAs in question are within the boundaries of the proposed site; or has an ownership interest in a company that has applied for an experimental or standard lease *and* the LPAs in question are within the boundaries of the proposed site.

How will this change be implemented by the Department?

- LPAs expire December 31st each year. This provision needs to be incorporated for every LPA renewed and issued in 2025.
- Existing LPAs: The Department will collect information needed to implement this provision during the LPA renewal process, which begins October 1, 2024. As part of the renewal process, the Department will ask each LPA holder to rename all assistants and provide the opportunity to designate a primary assistant or claim an exemption.
- New Applications (2025): LPA applications will be updated with questions reflecting this new requirement. The new application will be posted to DMR's website on September 30, 2024. Any application received on or after October 1, 2024, will need to be on the new application form, and will be issued in 2025 (provided decision criteria are met).
- The owner/operator requirement will continue to be considered each time an LPA is renewed or issued-2025 and beyond.

What can I do to prepare if I already hold LPAs?

- You and the listed assistants should start planning now. This change will likely require modifications to existing operations.

- Look at your current LPA licenses and think about your proposed operations. If you can't be physically present each time work occurs on the LPA site and you can't claim an exemption, then plan on designating a primary assistant who would need to be present in your absence.
- Communication is critical! If you need to designate a primary assistant, then **talk with all your assistants about your plans**. The assistants listed on your LPAs may have LPA sites in their name or might be listed as an assistant on someone else's LPAs, who also intends to list them as a primary. You should also make sure that the person you intend to designate wants to provide direct supervision of activities on the site!
- Designating someone as a primary assistant will count against the total number of LPAs they can hold in their name. For example, if they currently hold four LPAs in their name then they may need to relinquish site(s) to be designated as your primary assistant, or you would need to designate someone else as a primary assistant.
- You must ensure your designated primary assistant is eligible to be listed (i.e. no more than 4 total LPAs in their name as the LPA holder **or** primary assistant).
- If LPA(s) you hold are eligible for an exemption, you should think about how that may impact primary assistant designations or other aspects of your operations.
- Attend an informational session about this change to learn more and ask clarifying questions.

What's helpful to remember as I prepare?

- LPAs cannot be transferred, so site(s) may need to be relinquished to comply with this law.
- LPAs cannot be amended once they are issued. You will not have an opportunity to change the primary assistant designation or other assistants until the next renewal cycle (fall 2025 for 2026 licenses).
- Exemptions can only be claimed once a year at the time of renewal or when a new application is submitted.
- You should finalize plans prior to October 1, 2024, because this is when the renewal period begins, and the new LPA application becomes effective.

What can I expect as this is implemented?

- The renewal application will look different this year as additional questions are added to collect information to implement this requirement.
- Renewed LPAs may not be issued until spring 2025 as the Department works to ensure that each LPA complies with the owner/operator requirement.
- LPA holders who complete the renewal application and quiz by the regulatory deadline will be able to continue operating their sites while the Department processes the application.

- The Department recognizes that this is a significant change and will be sending several reminders and updates to LPA holders throughout the summer and fall. Please check your email regularly!

Frequently Asked Questions (FAQs)

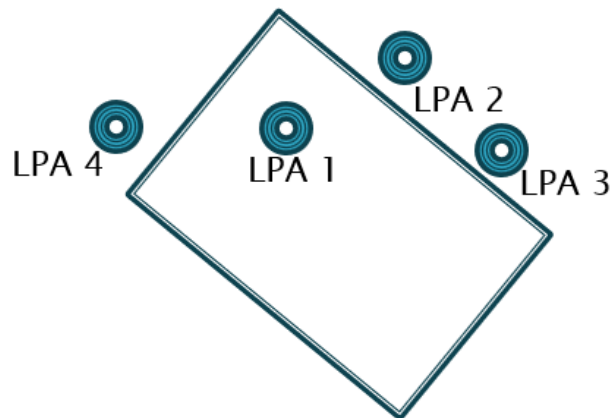
1. If I have four LPAs in my name, can I be listed as a primary assistant on someone else's LPA?

- No. The owner/operator requirement states that the primary assistant designation counts against the total number of LPAs that you may hold. If you already hold 4 LPAs, then you cannot be listed as a primary assistant on anyone's LPAs.

2. Can an assistant harvest product from my LPA for me while I'm out of town if I did not designate a primary assistant and the site does not have any exemptions?

- No, you must be physically present to supervise the assistants if you did not designate a primary assistant and will need to wait to harvest until you are back.

3. I have applied for a standard lease in my name and hold four LPAs. The boundaries of the proposed lease site and the location of the existing LPAs are depicted below. Which LPAs would qualify for an exemption?



- Only LPA 1 would qualify for the exemption because it is within the boundaries of the proposed lease site.

4. I have four LPAs in my name and work for a company that holds a lease. However, I don't own the company. Do my LPAs qualify for an exemption?

- No, your 4 LPAs do not qualify for an exemption because you do not have ownership interest in the company that holds the lease.

5. What does ownership interest in a company mean?

- Ownership interest generally means that you have an ownership stake in a company that holds a lease. The Department anticipates conducting rulemaking in late fall to further clarify the ownership interest provision, so that it is clear how much of an ownership stake an individual would need to have to qualify.
- The rulemaking process will provide an opportunity to comment on a proposed rule. Notice of the rulemaking proposal will be sent via email to lease and LPA holders via GovDelivery.
- Exemptions specific to this provision will be determined after the rule becomes effective.

6. Can I designate a primary assistant once my license has been issued?

- No, LPAs cannot be modified after the license is issued.

7. Can I claim an exemption after my license has been issued?

- No, LPAs cannot be modified after the license has been issued and this includes claiming an exemption. Exemptions can only be claimed at the time of renewal or at the time an initial application is submitted.