

§6072. Research and aquaculture leases

1. Authority. The commissioner may lease areas in, on and under the coastal waters, including the public lands beneath those waters and portions of the intertidal zone, for scientific research or for aquaculture of marine organisms. The commissioner may grant a lease to any person. Except as provided in this Part, the commissioner's power to lease lands under this section is exclusive. For the purposes of this section, the deputy commissioner may serve in the place of the commissioner. For the purposes of this section, the commissioner or the deputy commissioner serving in the place of the commissioner may authorize in writing qualified professional department staff to sign lease documents. [PL 2003, c. 247, §2 (AMD).]

1-A. Lease requirement; finfish and suspension culture. Except as provided in sections 6072-A, 6072-B and 6072-C, it is unlawful for a person who does not have a lease issued by the commissioner under this section to construct or operate in the coastal waters of the State a facility for the culture of finfish in nets, pens or other enclosures or for the suspended culture of any other marine organism. For the purposes of this subsection, "suspended culture" includes all forms of culture except for the placement of marine organisms on the ocean bottom without the use of gear of any type.

- A. [PL 1997, c. 231, §2 (RP).]
- B. [PL 2023, c. 564, §1 (RP).]
- B-1. [PL 2023, c. 564, §1 (RP).]
- C. [PL 2023, c. 564, §1 (RP).]

A person who violates this subsection is subject to a civil penalty, payable to the State, of no more than \$1,000 for each day of the violation.

[PL 2023, c. 564, §1 (AMD).]

2. Limitations of lease. The commissioner shall determine the provisions of each lease, provided:

- A. A lease may not exceed a term of 20 years; [PL 2017, c. 159, §2 (AMD).]
- B. [PL 1997, c. 138, §1 (RP).]
- C. [PL 1987, c. 453, §1 (RP).]
- D. [PL 1981, c. 609, §2 (RP).]
- E. Except as provided in subsection 13-A, the lease does not result in a person being a tenant of any kind in leases covering an aggregate of more than 500 acres; [PL 2023, c. 268, §1 (AMD).]
- F. No single lease may exceed 100 acres in size; and [PL 2023, c. 268, §2 (AMD).]
- G. A lease may not be issued for aquaculture of salmonid species if the proposed stocking density of pens in the lease area exceeds 30 kilograms per cubic meter. [PL 2023, c. 268, §3 (NEW).]

[PL 2023, c. 268, §§1-3 (AMD).]

3. Municipal approval. In any municipality with a shellfish conservation program under section 6671, the commissioner may not lease areas in the intertidal zone within the municipality without the consent of the municipal officers.

[PL 1999, c. 267, §1 (AMD).]

4. Applications. The application shall:

- A. Be written on forms supplied by the commissioner; [PL 1977, c. 661, §5 (NEW).]
- B. Describe the location of the proposed lease area by coordinates or metes and bounds; [PL 1997, c. 138, §2 (AMD).]
- C. Identify the species to be cultivated; [PL 1977, c. 661, §5 (NEW).]

D. [PL 1987, c. 453, §1 (RP).]

D-1. Characterize the physical and ecological impact of the project on existing uses of the site and any adverse effects on the existing uses of the area, as defined by regulation promulgated by the Commissioner of Marine Resources; [PL 1987, c. 453, §1 (NEW).]

D-2. [PL 1997, c. 138, §3 (RP).]

E. Describe the degree of exclusive use required by the project; [PL 1977, c. 661, §5 (NEW).]

F. Include written permission of every riparian owner whose land to the low water mark will be actually used; [PL 1987, c. 453, §1 (AMD).]

G. Include a map of the lease area and its adjoining waters and shorelands, with the names and addresses of the known riparian owners as listed in the municipal tax records; [PL 1987, c. 453, §1 (AMD).]

H. Include an environmental evaluation of the site upon which the decision to seek a lease was made. The evaluation shall include, but not be limited to, bottom characteristics, resident flora, fauna and hydrography of the site if appropriate for the proposed lease; [PL 1987, c. 453, §1 (NEW).]

I. Describe the proposed source of organisms to be grown at the site; and [PL 1987, c. 453, §1 (NEW).]

J. Include a nonrefundable application fee of at least \$100, but not more than \$2,000, the amount to be set by the commissioner depending on the proposed acreage, type of aquaculture proposed and complexity of the application. [PL 2003, c. 660, Pt. A, §4 (AMD).]

[PL 2003, c. 660, Pt. A, §4 (AMD).]

4-A. Application information. A person who applies for a lease in an area for which that person has been issued a limited-purpose lease under section 6072-A or an emergency aquaculture lease under section 6072-B may submit any information utilized in applying for a limited-purpose lease or an emergency lease to meet the application requirements of this section. If the commissioner determines the information is not valid or relevant to a lease application under this section, the commissioner must require a person to submit additional information.

[PL 1997, c. 231, §3 (NEW).]

5. Application review. The commissioner shall review the application and set a hearing date if the commissioner is satisfied that the written application is complete, the application indicates that the lease could be granted and the applicant has preliminarily demonstrated that the applicant has the financial and technical capabilities to carry out the proposed activities. When the commissioner has determined that the application is complete, the commissioner shall forward a copy of the completed application and notice of hearing to the known owners of riparian land within 1,000 feet of the proposed lease and to the municipal officers of the municipality or municipalities in which or adjacent to which the lease is proposed. A municipality must be granted intervenor status upon written request.

[PL 2023, c. 564, §2 (AMD).]

5-A. Department site review. Prior to the lease hearing, the department shall conduct an assessment of the proposed site and surrounding area to determine the possible effects of the lease on commercially and ecologically significant flora and fauna and conflicts with traditional fisheries and all other uses. This information must be provided to the intervenors and made available to the public 30 days before the hearing. As part of the site review, the department shall request information from the municipal harbor master about designated or traditional storm anchorages in proximity to the proposed lease. The commissioner may by rule establish levels of assessment appropriate to the scale or potential environmental risk posed by a proposed lease activity. The rules must provide a method

of establishing a baseline to monitor the environmental effects of a lease activity. Rules adopted under this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 660, Pt. A, §5 (AMD).]

6. Hearing procedure. Prior to granting a lease, the commissioner shall hold a hearing. The hearing shall be an adjudicatory proceeding and shall be held in the manner provided under the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV and the specific procedures of this section.

A. Notwithstanding the provisions of Title 5, section 9052, subsection 1, paragraph A, personal notice of the hearing is required to be given only to the lessee and the known riparian owners, the municipal officers of the municipality or municipalities in which or adjacent to which the lease is located and any interested parties that have provided a written request for notification. [PL 2021, c. 52, §1 (AMD).]

B. Notwithstanding the provisions of Title 5, section 9052, subsection 3, paragraph A, notice of hearing must be published once in a newspaper of general circulation in the area of the State affected and by any other manner considered appropriate by the department at least 30 days before the hearing. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph. [PL 2023, c. 564, §3 (AMD).]

C. The Department of Environmental Protection must be notified of all lease applications that involve activities that have a discharge into the waters of the State. The Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife must be notified of all lease applications. [PL 2021, c. 52, §3 (AMD).]

D. [PL 2003, c. 247, §3 (RP).]

[PL 2023, c. 564, §3 (AMD).]

7. Decision.

[PL 1987, c. 453, §1 (RP).]

7-A. Decision. In evaluating the proposed lease, the commissioner shall take into consideration the number and density of aquaculture leases in an area and may grant the lease if the proposed lease meets the following conditions as defined by rule.

A. The lease will not unreasonably interfere with the ingress and egress of riparian owners. [PL 2003, c. 660, Pt. A, §6 (AMD).]

B. The lease will not unreasonably interfere with navigation. [PL 2003, c. 660, Pt. A, §6 (AMD).]

C. The lease will not unreasonably interfere with fishing or other uses of the area. For the purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and subject to a pollution abatement plan that predates the lease application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years. [PL 2003, c. 660, Pt. A, §6 (AMD).]

D. The lease will not unreasonably interfere with significant wildlife habitat and marine habitat or with the ability of the lease site and surrounding marine and upland areas to support existing ecologically significant flora and fauna. [PL 2003, c. 660, Pt. A, §6 (AMD).]

E. The applicant has demonstrated that there is an available source of organisms to be cultured for the lease site. [PL 2003, c. 660, Pt. A, §6 (AMD).]

F. The lease does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal governmental agency or certain conserved lands. For purposes of this paragraph,

"conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property. [PL 2023, c. 564, §4 (AMD).]

G. The lease will not result in unreasonable impact from noise or light at the boundaries of the lease site. [PL 2003, c. 660, Pt. A, §6 (AMD).]

H. Upon the implementation of rules, the lease must be in compliance with visual impact criteria adopted by the commissioner relating to color, height, shape and mass. [PL 2003, c. 247, §4 (NEW).]

The commissioner shall adopt rules to establish noise, light and visual impact criteria under paragraphs G and H, which are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 564, §4 (AMD).]

7-B. Conditions. The commissioner may establish conditions that govern the use of the leased area and limitations on the aquaculture activities. These conditions must encourage the greatest multiple, compatible uses of the leased area, but must also address the ability of the lease site and surrounding area to support ecologically significant flora and fauna and preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose. [PL 2003, c. 247, §5 (AMD).]

8. Preference. If more than one person applies to lease an area, preference must be given as follows:

A. First, to the person who holds a lease for the area or a portion of the area under section 6072-A and who submitted an application for a lease under this section for the area or a portion of the area before the lease under section 6072-A expired; [PL 2011, c. 93, §1 (AMD).]

A-1. Second, to the person who holds a license for the area or a portion of the area under section 6072-C and who submitted an application for a lease under this section for the area or a portion of the area before the license under section 6072-C expired; [PL 2017, c. 159, §3 (NEW).]

B. Third, to the department; [PL 2017, c. 159, §3 (AMD).]

C. Fourth, to the riparian owner of the intertidal zone in which the leased area is located; [PL 2017, c. 159, §3 (AMD).]

D. Fifth, to a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and [PL 2017, c. 159, §3 (AMD).]

E. Sixth, to the riparian owner within 100 feet of leased coastal waters. [PL 2017, c. 159, §3 (AMD).]

[PL 2017, c. 159, §3 (AMD).]

8-A. Preference for limited-purpose lease areas.

[PL 2011, c. 93, §2 (RP).]

9. Rents. After consulting with the Director of the Bureau of Parks and Lands, the commissioner shall determine the rent that must be paid under each lease. The rent must represent a fair value based upon the use of and any structures in the leased area, but in no instance may the rental fee be set at less than \$50 an acre or more than \$100 an acre. The commissioner has the discretion to increase the rental fees for categories of leases. These changes may take effect over the term of a lease. The commissioner also may discount a portion of the rental fee during the first 2 years of operation of a new lease. This discounted rate may not be less than \$50 an acre.

[PL 2003, c. 660, Pt. A, §7 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

10. Notification of granted leases. After the granting of a lease:

A. [PL 2015, c. 68, §1 (RP).]

B. The department shall notify all riparian owners, intervenors and the municipality in which the lease is located that a lease has been granted. The notice must include a description of the area and how a copy of the lease may be obtained; [PL 2003, c. 247, §6 (RPR).]

C. The lessee shall mark the leased area in a manner prescribed by the commissioner; and [PL 2003, c. 247, §6 (RPR).]

D. The lessee shall annually submit to the department a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. Upon written request, the department shall provide a copy of the report to the municipality or municipalities in which or adjacent to which the lease is located. The seeding and harvesting reports submitted by a lessee under this paragraph are considered confidential statistics for the purposes of section 6173. A copy of a report provided to a municipality pursuant to this paragraph is confidential. [PL 2021, c. 581, §1 (AMD).]

[PL 2021, c. 581, §1 (AMD).]

11. Monitoring and revocation of leases. The department shall monitor a lease under this section on an annual basis. If aquaculture has been conducted in a manner substantially injurious to marine organisms or public health, if no substantial aquaculture or research has been conducted over the course of the lease or if any condition of the lease or any minimum lease maintenance standard adopted pursuant to subsection 13, paragraph A has been violated, the commissioner may initiate revocation proceedings and revoke the lease. A lease revocation is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. The department shall hold a hearing with public notice prior to revoking any lease.

[PL 2021, c. 52, §4 (AMD).]

11-A. Lease assignment. The commissioner shall assign leases in accordance with this subsection.

A. When a lease under this section has been terminated by the lessee or has been revoked by the commissioner and all appeals have been exhausted, the commissioner may lease the same site on the same terms and conditions to a new lessee for the amount of time remaining in the term of the previous lease, subject to the requirements of this section. A lease that has been terminated or revoked may be assigned pursuant to this subsection at any time before its term expires. A lease assignment pursuant to this subsection is not an adjudicatory proceeding. [PL 2009, c. 229, §1 (NEW).]

B. Before assigning a lease pursuant to this subsection, the commissioner shall give notice to the public of the opportunity to submit proposals to assume and operate the lease. The commissioner shall determine that a proposal is eligible for consideration if:

- (1) The application is complete, using forms provided by the commissioner;
- (2) The change in lessee would not violate any of the standards in subsection 7-A;
- (3) The assignment is not intended to circumvent the intent of subsection 8;
- (4) The assignment is not for speculative purposes; and
- (5) Except as provided in subsection 13-A, the assignment will not cause the assignee to be a tenant of any kind in leases covering an aggregate of more than 500 acres. [PL 2009, c. 229, §1 (NEW).]

C. The commissioner shall consider the eligible proposals under paragraph B and shall either:

- (1) Select for assignment the proposal that is best suited to the lease site and in the best interests of the State;
- (2) Declare all proposals unsuitable and solicit new proposals; or

(3) Suspend the assignment process for the lease site in question. [PL 2009, c. 229, §1 (NEW).]

D. After a proposal is selected pursuant to paragraph C, but before the lease is assigned, the commissioner shall give notice of the pending assignment to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed lease assignment within 14 days. The commissioner may decline to assign the lease and may select another proposal for assignment or proceed as described in paragraph C, subparagraph (2) or (3). [PL 2009, c. 229, §1 (NEW).]

E. A decision by the commissioner to assign a lease or to decline to assign a lease to an applicant whose proposal was selected pursuant to paragraph C must be rendered in writing and must include findings of fact and conclusions of law. The decision by the commissioner to assign or not to assign a lease is a final decision. [PL 2009, c. 229, §1 (NEW).]

F. The commissioner shall establish by rule the fee for assigning a lease under this subsection, which may not exceed \$5,000, based on the type of aquaculture conducted and the size of the lease. The assignee must pay the fee prior to the execution of the lease. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 229, §1 (NEW).]

[PL 2009, c. 229, §1 (NEW).]

12. Renewal. The commissioner shall renew a lease if:

A. The commissioner receives, at least 30 days prior to the expiration of a lease, an application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term; [PL 2021, c. 52, §5 (AMD).]

B. The lessee has complied with the lease agreement during the term of the lease; [PL 2003, c. 247, §8 (NEW).]

C. The commissioner determines that renewal of the lease is in the best interest of the State; [PL 2003, c. 247, §8 (NEW).]

D. Except as provided in subsection 13-A, the renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 500 acres; and [PL 2005, c. 535, §2 (AMD).]

E. The lease is not being held for speculative purposes. [PL 2003, c. 247, §8 (NEW).]

If a person who holds a lease pursuant to this section applies to renew the lease, the lease remains in effect until the commissioner makes a decision on the renewal application. If the renewal is denied, the lease expires 30 days after the date of the commissioner's decision.

When aquaculture has not been routinely or substantially conducted on a lease that is proposed for renewal, the commissioner may renew the lease, as long as the proposed renewal will continue to meet the criteria for approval in subsection 7-A.

A lease renewal is an adjudicatory proceeding under Title 5, chapter 375, subchapter 4. Public notice must be given to the entities required to receive notice under subsection 6. A person may provide to the commissioner comments on the proposed lease renewal by the 30-day deadline specified in the applicable notice to the entities required to receive notice under subsection 6 or within 30 days of publication of the proposed renewal. A hearing must be held if it is requested in writing by 10 persons within the 30 days. The commissioner may review multiple leases concurrently during the lease renewal process.

A lease renewal application must include a nonrefundable application fee of no more than \$1,500, the amount to be set by the commissioner depending on the type of aquaculture permitted by the lease.

[PL 2023, c. 564, §5 (AMD).]

12-A. Transferability. A lease under this section may be transferred to another person for the remaining portion of its term subject to the conditions in this subsection. A lease transfer is not an adjudicatory proceeding.

A. An application to transfer a lease pursuant to this subsection must be made on forms provided by the commissioner. When the commissioner determines that the application is complete, the commissioner shall give notice of the proposed transfer to the public, the owners of riparian land within 1,000 feet of the lease site and the municipal officers of the municipality within which the lease is located. The notice must provide an opportunity to submit written comments on the proposed lease transfer within 30 days. [PL 2023, c. 564, §6 (AMD).]

B. The commissioner may grant lease transfers pursuant to this subsection if the commissioner determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7-A;
- (2) The transfer is not intended to circumvent the intent of subsection 8;
- (3) The transfer is not for speculative purposes; and
- (4) Except as provided in subsection 13-A, the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 500 acres.

A decision by the commissioner on an application to transfer a lease must be rendered in writing and must include findings of fact and conclusions of law. The decision by the commissioner on the transfer application is a final decision. [PL 2021, c. 676, Pt. A, §28 (AMD).]

C. The commissioner shall establish by rule the fee for transferring a lease under this subsection, which may not exceed \$5,000, based on the type of aquaculture conducted and the size of the lease. The transferee must pay the fee at the time application for the transfer is made. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 52, §6 (AMD).]

[PL 2023, c. 564, §6 (AMD).]

12-B. Extension of lease.

[PL 2011, c. 93, §4 (RP).]

12-C. Expansion of lease. A person who has held a lease under this section for at least 2 years from the date the lease was originally executed may apply to the commissioner to expand the contiguous area of the lease by up to 25%, but may not expand by more than 4 acres, once during the duration of the term of the lease pursuant to this subsection.

A. The lease holder shall submit an application written on forms supplied by the commissioner:

- (1) Describing the location of the proposed lease expansion area by coordinates or metes and bounds;
- (2) Characterizing the physical and ecological impact of the lease expansion on existing uses of the site and any adverse effects on existing uses of the area, as defined by rules adopted by the commissioner;
- (3) Including the written permission of every riparian owner whose land to the low-water mark will be used;
- (4) Including a map of the lease area and its proposed expansion, and its adjoining waters and shorelands, with the names and addresses of the known riparian owners as listed in the municipal tax records;

(5) Including an environmental evaluation of the site upon which the decision to seek an expansion of the lease was made. The evaluation must include, but is not limited to, bottom characteristics, resident flora and fauna and hydrography of the site if appropriate for the proposed lease; and

(6) Including a nonrefundable application fee of at least \$100, but not more than \$2,000, the amount to be set by the commissioner depending on the proposed acreage, type of aquaculture proposed and complexity of the expansion application. [PL 2021, c. 52, §7 (AMD).]

B. The commissioner shall review the application. When the commissioner has determined that the application for the lease expansion is complete, the commissioner shall provide notice to the known riparian owners and to the municipal officers of the municipality or municipalities in which or adjacent to which the lease expansion is proposed. The applicant shall publish in a newspaper of general circulation in the municipality or municipalities in which the lease expansion is proposed a summary of the application and notice of the opportunity to submit comments regarding the proposed lease expansion to the commissioner during a period of at least 30 days following the date of publication of the lease expansion summary. [PL 2021, c. 52, §7 (AMD).]

C. The commissioner may conduct an assessment of the proposed lease expansion area to determine possible effects of the lease on commercially and ecologically significant flora and fauna. [PL 2017, c. 159, §4 (NEW).]

D. The commissioner shall consider comments received during the period for comments set pursuant to paragraph B. [PL 2017, c. 159, §4 (NEW).]

E. If the commissioner determines that, based upon the application and comments received, the lease expansion meets the requirements of subsection 7-A, the commissioner may approve the request for the lease expansion. [PL 2017, c. 159, §4 (NEW).]

[PL 2021, c. 52, §7 (AMD).]

12-D. Conversion of a limited-purpose lease. A person who holds a limited-purpose lease for commercial purposes pursuant to section 6072-A may apply to convert that lease to a lease under this subsection as long as the application is for the same lease area and same operations authorized by the limited-purpose lease.

A. An application to convert a limited-purpose lease pursuant to this subsection must be made on forms provided by the commissioner and must be received in accordance with time frames specified in section 6072-A, subsection 20-A. A person may submit information used in applying for the limited-purpose lease to meet the application requirements of this subsection. If the commissioner determines the information is not valid or relevant to the lease application under this subsection, the commissioner shall require the person to submit additional information. [PL 2023, c. 564, §7 (NEW).]

B. In any municipality with a shellfish conservation program under section 6671, the commissioner may not issue a lease under this subsection for the intertidal zone within the municipality without the consent of the municipal officers. The applicant must also submit written permission from every owner of riparian land whose land to the low-water mark will be used. [PL 2023, c. 564, §7 (NEW).]

C. Upon determining that an application is complete, the commissioner shall provide notice of the conversion application to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the lease activity would take place. The applicant shall provide the names and addresses of known owners of riparian land within 1,000 feet of the proposed location of the lease. The names and addresses must be taken from the current property tax roster on file at the local municipal office or, for an unorganized territory, with the Department of Administrative and Financial Services, Bureau of Revenue Services. The

commissioner shall publish a summary of the application in a newspaper of general circulation in the area of the State in which the lease conversion is proposed. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph. A person may provide comments to the commissioner on the application by the 30-day deadline specified in the applicable notice to owners of riparian land or municipal officers or within 30 days of publication of the newspaper notice. [PL 2023, c. 564, §7 (NEW).]

D. The department may consider the original site review when the lease was evaluated pursuant to section 6072-A or conduct another assessment of the proposed lease and surrounding area to evaluate the possible effects of the lease conversion on any new uses of the area, including ecologically significant flora and fauna as they relate to the conditions specified in subsection 7-A. [PL 2023, c. 564, §7 (NEW).]

E. The commissioner may hold a public hearing on the proposed conversion. The commissioner shall hold a public hearing if 10 or more persons request a public hearing during the 30-day comment periods provided in paragraph C. [PL 2023, c. 564, §7 (NEW).]

F. The commissioner shall provide notice of a public hearing to owners of riparian land within 1,000 feet of the proposed location of the lease and to the municipal officers of the municipality in which the operations would take place. The commissioner shall publish notice of a hearing in a newspaper of general circulation in the area of the State in which the lease conversion is proposed at least 30 days before the hearing. The commissioner may require the applicant to reimburse the department for costs incurred by the department in providing public notice under this paragraph. [PL 2023, c. 564, §7 (NEW).]

G. In evaluating the proposed lease conversion, the commissioner shall take into consideration the conditions specified in subsection 7-A. [PL 2023, c. 564, §7 (NEW).]
[PL 2023, c. 564, §7 (NEW).]

13. Rules. The commissioner may adopt or amend rules:

A. Establishing minimum standards for maintaining leases; [PL 1981, c. 609, §4 (NEW).]

B. For procedures to issue, transfer, review, assign, expand, convert or revoke leases; [PL 2023, c. 564, §8 (AMD).]

C. For notices and hearings to the extent that those procedures are not established by this section or the Maine Administrative Procedure Act, Title 5, chapter 375; [PL 1987, c. 453, §1 (AMD).]

D. For regulating the harvest of wild organisms to be cultured on aquaculture leases; [PL 1987, c. 453, §1 (NEW).]

E. For establishing and revaluing fees and rents related to aquaculture; [PL 1993, c. 525, §1 (AMD).]

F. For defining application requirements, an application review process and decision criteria; [PL 2003, c. 660, Pt. A, §11 (AMD).]

G. For adding or deleting authorization for the holder of an aquaculture lease to grow specific species or to use specific gear on the lease site and for a modification to operations as a result of a change in species or gear authorization. A change in authorization or a resultant modification to operations is not an adjudicatory proceeding. The commissioner shall establish by rule the fee for modifying a lease under this paragraph, which may not exceed \$200. The rules must provide for notice of proposed changes in gear authorization to the public, riparian landowners and the municipality in which the lease is located and an opportunity to submit written comments on the proposal. Authorization to add species or gear must be consistent with the findings made under subsection 7-A when the lease was approved; [PL 2021, c. 52, §8 (AMD).]

H. For establishing fallowing requirements and procedures; [PL 2021, c. 52, §8 (AMD).]

I. For establishing fees for services provided by the department to a lease holder if the lease holder requests testing or location-specific studies to ensure the lease holder's products are safe for human consumption. Fees collected pursuant to this paragraph must be deposited into the Shellfish Fund under section 6651; and [PL 2021, c. 52, §8 (NEW).]

J. For defining seed size or seed management and harvest seasons. [PL 2021, c. 52, §8 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 564, §8 (AMD).]

13-A. Lease acreage increase; fallowing. The commissioner may require a person to submit an annual fallowing plan and a reassessment schedule for that plan to the commissioner that identifies lease sites that have been actively operated during the lease period and that will be fallowed. The commissioner shall review the plan and reassessment schedule and may approve them, reject them or request changes. Revisions to the plan must be submitted in accordance with the reassessment schedule unless the commissioner authorizes an exception due to extraordinary circumstances.

A. Except as provided in paragraph B, a person may not be a tenant of any kind in leases covering an aggregate of more than 500 acres including fallowed leases at any time. [PL 2005, c. 535, §4 (NEW).]

B. The commissioner may by rule authorize leases in excess of the 500-acre limit if the commissioner determines that the increase is beneficial for the management of aquaculture and is environmentally and economically appropriate. The commissioner may not authorize a person to be a tenant of any kind in leases covering an aggregate of more than 1,500 acres. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 535, §4 (NEW).]

For purposes of this subsection, "fallow" means a lease site without cultured organisms. A lease site fallowed pursuant to an enforcement action may not be considered fallowed for the purpose of this subsection.

[PL 2005, c. 535, §4 (RPR).]

14. Conflicts. Whenever a project described in a pending aquaculture lease conflicts or could conflict with a project described in a pending submerged lands act lease, the commissioner and the Commissioner of Agriculture, Conservation and Forestry shall determine which project is in the best interests of the State.

[PL 1977, c. 661, §5 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

15. Rules.

[PL 2021, c. 52, §9 (RP).]

16. Lease-by-rule; small-scale finfish and suspended shellfish operations.

[PL 1997, c. 138, §7 (RP).]

17. Restitution. A person who cuts any lines or marker buoys or intentionally damages approved aquaculture gear commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. In addition, the court shall:

A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and [PL 2005, c. 92, §3 (NEW).]

B. Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment. [PL 2005, c. 92, §3 (NEW).]

[PL 2005, c. 92, §3 (NEW).]

18. Violation. A person who violates a condition of a lease under this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged.

[PL 2013, c. 509, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 609, §§1-4 (AMD). PL 1983, c. 301, §§1-4 (AMD). PL 1987, c. 453, §1 (AMD). PL 1987, c. 891 (AMD). PL 1991, c. 381, §§3,4 (AMD). PL 1993, c. 409, §1 (AMD). PL 1993, c. 525, §§1,2 (AMD). PL 1995, c. 383, §§1-3 (AMD). PL 1995, c. 502, §E30 (AMD). PL 1997, c. 138, §§1-7 (AMD). PL 1997, c. 231, §§2-5 (AMD). PL 1997, c. 609, §§1-3 (AMD). PL 1999, c. 267, §§1,2 (AMD). PL 1999, c. 567, §1 (AMD). PL 1999, c. 591, §§1,2 (AMD). PL 2003, c. 247, §§2-8 (AMD). PL 2003, c. 660, §§A3-14 (AMD). PL 2005, c. 92, §§2,3 (AMD). PL 2005, c. 535, §§1-4 (AMD). PL 2009, c. 229, §§1-3 (AMD). PL 2009, c. 240, §8 (AMD). PL 2011, c. 93, §§1-4 (AMD). PL 2011, c. 655, Pt. II, §4 (AMD). PL 2011, c. 655, Pt. II, §11 (AFF). PL 2011, c. 657, Pt. W, §§5-7 (REV). RR 2013, c. 1, §22 (COR). PL 2013, c. 301, §1 (AMD). PL 2013, c. 405, Pt. A, §24 (REV). PL 2013, c. 509, §§1, 2 (AMD). PL 2013, c. 512, §1 (AMD). PL 2015, c. 68, §1 (AMD). PL 2017, c. 159, §§2-5 (AMD). PL 2021, c. 52, §§1-9 (AMD). PL 2021, c. 557, §1 (AMD). PL 2021, c. 581, §1 (AMD). PL 2021, c. 676, Pt. A, §28 (AMD). PL 2023, c. 268, §§1-3 (AMD). PL 2023, c. 564, §§1-8 (AMD).

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