

BUILDING CONSENSUS ON SEAWEED FOOD SAFETY

**PROCEEDINGS OF A VIRTUAL COLLABORATIVE
LEARNING WORKSHOP**

HELD MARCH 8 – 16, 2021



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Alaska Stat. Tit. 16, Ch. 05, Art. 9 (General Provisions)

§ 16.05.920. Prohibited conduct generally

(a) Unless permitted by AS 16.05 - AS 16.40 or by regulation adopted under AS 16.05--AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game.

(b) A person may not knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building, or other improvement or property of the department used in the administration or enforcement of this title except AS 16.51 and AS 16.52, or a poster or notice to the public concerning the provisions of this title except AS 16.51 and AS 16.52, or a regulation adopted under this title except AS 16.51 and AS 16.52, or a marker indicating the boundary of an area closed to hunting, trapping, fishing, or other special use under this title except AS 16.51 and AS 16.52. A person may not knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this title except AS 16.51 and AS 16.52 or a regulation adopted under this title except AS 16.51 and AS 16.52.

Alaska Stat. Tit. 16, Ch. 40, Art. 2 (Aquatic Farming)

§ 16.40.100. Aquatic farm and hatchery permits

(a) A person may not, without a permit from the commissioner, construct or operate

(1) an aquatic farm; or

(2) a hatchery for the purpose of supplying aquatic plants or shellfish to an aquatic farm.

(b) A permit issued under this section authorizes the permittee, subject to the conditions of AS 16.40.100--[16.40.199](#) and AS 17.20, to

(1) acquire, purchase, offer to purchase, transfer, possess, sell, and offer to sell stock and aquatic farm products that are used or reared at the hatchery or aquatic farm; and

(2) except as provided in (f) of this section, harvest and, without further cultivation, sell an insignificant population that may be present at the aquatic farm site of a wild stock of a shellfish species intended to be cultured at the site.

(c) The commissioner may attach conditions to a permit issued under this section that are necessary to protect natural fish and wildlife resources.

(d) Notwithstanding other provisions of law, the commissioner may not issue a permit under this section for the farming of, or hatchery operations involving, Atlantic salmon.

(e) Upon the expiration or termination of a permit issued under this section, a person who holds a permit for an aquatic farming site where wild stocks of shellfish indigenous to the site are cultured shall, as a condition of the permit, restore the wild stock of shellfish, as consistent with sustained yield management of the wild stock, to the population level that existed on the site when the permit for the site was initially issued by the commissioner. A permit holder is not required to restore that portion of the wild stock of shellfish that was removed from an aquatic farming site by a common property fishery conducted after the issuance of the permit for the aquatic farming site.

(f) If the wild stock of a shellfish species to be cultured at an aquatic farm site exceeds the amount determined by the department to be an insignificant population and if the commissioner determines in writing that removal from the site of that portion of the stock that exceeds an insignificant population would benefit the public and that removal of the stock by a person other than the permittee would unreasonably interfere with the operation of the aquatic farm, the commissioner may authorize the permittee to remove and sell the excess amount of the wild stock from the site, if the permittee pays reasonable compensation, as defined by the department, to the department for the harvest and sale of the excess wild stock. The department shall deposit the money received under this subsection into the general fund. The legislature may appropriate the money received under this section to the department for shellfish management and enhancement.

(g) The commissioner may not use the absence of wild geoduck stock within a management area described in [AS 16.40.145](#) as the reason for denial of an aquatic farm permit under this section. If, under this section, the commissioner issues a permit for an aquatic farm to culture geoducks in a management area that does not have wild geoduck stocks when the permit is issued, the permit may not allow operations for that purpose in the intertidal habitat or environment.

§ 16.40.105. Criteria for issuance of permits

The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

- (1) the physical and biological characteristics of the proposed farm or hatchery location must be suitable for the farming or the shellfish or aquatic plant proposed;
- (2) the proposed farm or hatchery may not require significant alterations in traditional fisheries or other existing uses of fish and wildlife resources;
- (3) the proposed farm or hatchery may not significantly affect fisheries, wildlife, or their habitats in an adverse manner;
- (4) the proposed farm or hatchery plans and staffing plans must demonstrate technical and operational feasibility; and

(5) the proposed farm site may not include more than an insignificant population of a wild stock, on the site, of a shellfish species intended to be cultured.

§ 16.40.110. Permit application, renewal, and transfer

(a) An applicant for an aquatic farming or hatchery permit required under AS 16.40.100 shall apply on a form prescribed by the commissioner. An application for a permit must include a plan for the development and operation of the aquatic farm or hatchery, which must be approved by the commissioner before the permit is issued.

(b) An application for renewal or transfer of a permit must be accompanied by fees required by the commissioner, a report of the disease history of the farm or hatchery covered by the permit, and evidence that satisfies the commissioner that the applicant has complied with the development plan required under (a) of this section. The commissioner may require a health inspection of the farm or hatchery as a condition of renewal. The department may conduct the inspection or contract with a disease diagnostician to conduct the inspection.

(c) A person to whom a permit is transferred may use the permit only for the purposes for which the permit was authorized to be used by the transferor, and subject to the same conditions and limitations.

§ 16.40.120. Aquatic Stock Acquisition Permits

(a) A person may not acquire aquatic plants or shellfish from wild stock in the state for the purpose of supplying stock to an aquatic farm or hatchery required to have a permit under AS 16.40.100 unless the person holds an acquisition permit from the commissioner.

(b) An acquisition permit authorizes the permit holder to acquire the species and quantities of wild stock in the state specified in the permit for the purposes of supplying stock to

(1) an aquatic farm or hatchery required to have a permit under AS 16.40.100;

(2) the department.

(c) The commissioner shall specify the expiration date of an acquisition permit and may attach conditions to an acquisition permit, including conditions relating to the time, place, and manner of harvest. Size, gear, place, time, licensing, and other limitations applicable to sport, commercial, or subsistence harvest of aquatic plants and shellfish do not apply to a harvest with a permit issued under this section. The commissioner of fish and game shall issue or deny a permit within 30 days after receiving an application.

(d) The commissioner shall deny or restrict a permit under this section upon finding that the proposed harvest will impair sustained yield of the species or will unreasonably disrupt established uses of the resources by commercial, sport, personal use, or subsistence users. The commissioner shall inform the Board of Fisheries of any action taken on permit applications for species that support commercial fisheries subject to limited entry under AS 16.43 and of any

permits denied because of unreasonable disruption of an established use. A denial of the permit by the commissioner must contain the factual basis for the findings.

(e) The Board of Fisheries may adopt regulations for the conservation, maintenance, and management of species for which an acquisition permit is required.

(f) Except as provided in (d) of this section or in a regulation adopted under (e) of this section, the commissioner shall issue a permit if

(1) wild stock is necessary to meet the initial needs of farm or hatchery stock;

(2) there are technological limitations on the propagation of culture stock for the species sought;

(3) wild stock sought is not fully utilized by commercial, sport, personal use, or subsistence fisheries; or

(4) wild stock is needed to maintain the gene pool of a hatchery or aquatic farm.

(g) Aquatic plants and shellfish acquired under a permit issued under this section become the property of the permit holder and are no longer a public or common resource.

§ 16.40.130. Importation of aquatic plants or shellfish for stock

A person may not import into the state an aquatic plant or shellfish for the purpose of supplying stock to an aquatic farm or hatchery unless authorized by a regulation of the Board of Fisheries.

§ 16.40.140. Limitation on sale, transfer of stock, and products

(a) A private hatchery required to have a permit under AS 16.40.100 may sell or transfer stock from the hatchery only to an aquatic farm or other hatchery that has a permit issued under AS 16.40.100, except that shellfish stock may also be sold or offered for sale to an aquatic farm or related hatchery outside of the state.

(b) Stock may not be transferred to or from an aquatic farm or hatchery required to have a permit under AS 16.40.100 without prior notice of the transfer to the commissioner. A notice of transfer shall be submitted at least 45 days before the proposed date of transfer.

(c) A notice of transfer must be accompanied by a report of a health inspection of the stock. The department shall conduct the inspection or contract with a disease diagnostician to conduct the inspection. The cost of inspection shall be borne by the department.

(d) The department may restrict or disapprove a transfer of stock if it finds that the transfer would present a risk of spreading disease.

(e) A person may not sell, transfer, or offer to sell or transfer, or knowingly purchase or receive, an aquatic farm product grown or propagated in the state unless the product was grown or

propagated on a farm with a permit issued under AS 16.40.100. The permit must be in effect at the time of the sale, transfer, purchase, receipt, or offer.

§ 16.40.199. Definitions

In AS 16.40.100 - 16.40.199,

- (1) “aquatic farm” means a facility that grows, farms, or cultivates aquatic farm products in captivity or under positive control;
- (2) “aquatic farm product” means an aquatic plant or shellfish, or part of an aquatic plant or shellfish, that is propagated, farmed, or cultivated in an aquatic farm and sold or offered for sale;
- (3) “aquatic plant” means a plant indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner;
- (4) “commissioner” means the commissioner of fish and game;
- (5) “hatchery” means a facility for the artificial propagation of stock, including rearing of juvenile aquatic plants or shellfish;
- (6) “insignificant population” means a population of shellfish that, in the determination of the commissioner, would not attract and support a commercial fishery for that species of shellfish and the harvest and sale of the shellfish would not result in significant alteration in traditional fisheries or other existing uses of fish and wildlife resources if the population were included within an aquatic farm site;
- (7) “positive control” means, for mobile species, enclosed within a natural or artificial escape-proof barrier; for species with limited or no mobility, such as a bivalve or an aquatic plant, “positive control” also includes managed cultivation in unenclosed water;
- (8) “shellfish” means a species of crustacean, mollusk, or other invertebrate, in any stage of its life cycle, that is indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner;
- (9) “stock” means live aquatic plants or shellfish acquired, collected, possessed, or intended for use by a hatchery or aquatic farm for the purpose of further growth or propagation.

Alaska Stat. Tit. 38, Ch. 05, Art. 3 (Leasing of Land Other than for the Extraction of Natural Resources)

§ 38.05.083. Aquatic farming and hatchery site leases

- (a) The commissioner may offer to the public for lease at public auction or by sealed bid under AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or related hatchery operations. Before a final decision to issue or renew a lease under this section, the

commissioner shall give notice and allow opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to take testimony. Before a final decision to issue or renew a lease under this section, the commissioner shall consider all relevant comment or testimony submitted under this section, AS 38.05.945, or 38.05.946.

(b) The commissioner, for good cause, may deny an application for issuance or renewal of a lease under this section but shall provide the applicant with written findings that explain the reasons for the denial.

(c) A site may be leased under this section for not less than the appraised fair market value of the lease. The value of the lease shall be reappraised every five years.

(d) A lease under this section may be assigned, but, if the assignee changes the use of the site, the lease reverts to the state.

(e) Before entering into a lease under this section, the commissioner shall require the lessee to post a performance bond or provide other security to cover the costs to the department of restoring the leased site in the event the lessee abandons the site.

(f) The commissioner shall adopt regulations establishing criteria for the approval or denial of leases under this section and for limiting the number of sites for which leases may be issued in an area in order to protect the environment and natural resources of the area. The regulations must provide for the consideration of upland management policies and whether the proposed use of a site is compatible with the traditional and existing uses of the area in which the site is located.

Alaska Seaweed Regulatory Provisions

Alaska Admin. Code, Tit. 5, Part 1, Ch. 37, Art. 1 (Harvest Provisions)

5 AAC 37.100. Permits

(a) A processor, buyer, harvester of aquatic plants, aquatic plant farmer operating under a permit authorized by AS 16.40.100, or a person intending to collect and supply wild stock to such an aquatic farm must obtain a harvest permit issued by the commissioner, or the commissioner's authorized representative, before operating. The permit must include the following provisions:

- (1) the area of operation shall be restricted to one or more fishing districts;
- (2) species to be harvested;
- (3) method of harvest shall be restricted to mechanical cutting or handpicking;
- (4) plants shall be removed from the water at the time of harvesting;
- (5) aquatic plants where used as a substrate for herring spawn may be harvested only as otherwise provided in this title.

(b) Notwithstanding (a) of this section, outside of the nonsubsistence areas defined in 5 AAC 99.015, a permit is not required for the harvesting of aquatic plants for noncommercial uses.

5 AAC 37.200. Seasons

(a) The commissioner will open and close the season for the commercial harvesting of aquatic plants by emergency order.

(b) There is no closed season for the noncommercial harvest of aquatic plants outside of the nonsubsistence areas defined in 5 AAC 99.015.

5 AAC 37.300. Harvest requirements for macrocystis kelp

(a) Macrocystis kelp shall be harvested in a manner that prevents dislodging of the entire plant from the bottom, and prevents straining or breaking the plant.

(b) Macrocystis kelp may not be cut at a depth greater than one foot below the surface of the water, and only the upper portion of the plant may be retained.

(c) The use of diving gear to harvest macrocystis kelp is prohibited.

(d) The department shall close to the harvest of macrocystis kelp areas in which herring are spawning.

5 AAC 37.320. Noncommercial harvest and possession limits for aquatic plants

(a) Outside of the nonsubsistence areas defined in 5 AAC 99.015, there are no harvest or possession limits for the noncommercial harvest of aquatic plants, except that in the portion of the Cook Inlet Area described in 5 AAC 21.200, that is outside of the Anchorage-Matsu-Kenai Nonsubsistence Area, the daily harvest and possession limit for aquatic plants is 10 gallons.

(b) Repealed 6/21/2020.

5 AAC 37.900. Restrictions

The transplanting of aquatic plants is prohibited, except as follows:

(1) as provided for in 5 AAC 27 for the issuance of permits by the commissioner for the purpose of producing herring spawn-on-kelp in pounds; or

(2) as provided for in 5 AAC 41.001 - 5 AAC 41.400 for the issuance of permits by the commissioner for the purpose of aquatic farming; or

(3) for the issuance of permits by the commissioner for the purposes of scientific research or educational purposes.

Alaska Admin. Code, Tit. 5, Part 1, Ch. 41, Art. 4 (Aquatic Farming)

5 AAC 41.220. Aquatic farm and hatchery operation permit applications

(a) An applicant for an aquatic farm or hatchery operation permit that requires the use of state tideland or submerged land managed by the Department of Natural Resources (DNR) must submit, during an application filing period under 11 AAC 63.020, the multi-agency application identified in 11 AAC 63.030 to DNR for subsequent distribution to the department under 11 AAC 63.

(b) An applicant for an aquatic farm or hatchery operation permit that does not require the use of state tideland or submerged land managed by DNR may obtain the multi-agency application identified in 11 AAC 63.030 from the department and submit it to the department at any time. Acceptance and review of an application by the department does not relieve the applicant from compliance with any other requirements of federal, other state, or local agencies for the operation of an aquatic farm or hatchery.

(c) An application for an aquatic farm submitted by the current operation permit holder will only be accepted by the department if all conditions of the existing aquatic farm or hatchery operation permit are met.

(d) An application for an aquatic farm or hatchery operation permit submitted under (a) or (b) of this section must include information that the commissioner requires to verify that the applicant meets the requirements of AS 16.40.100 - 16.40.199 and 5 AAC 41.200 - 5 AAC 41.400.

(e) Except as specified for geoducks in (f) of this section, an application for a proposed on-bottom culture aquatic farm site must include a user fee for a survey of the initial abundance of the species intended for culture. A survey of the proposed aquatic farm site will be conducted by the department, a person approved by the department to conduct the survey with oversight from the department, or an alternative method in a cooperative effort between the department and the applicant. The department will, to the extent practicable, work with the applicant to reduce the cost of the user fee for a survey. The department will cap the user fee for the survey as follows:

(1) for a subtidal survey: no more than \$5,000 per aquatic farm site, per day;

(2) for an intertidal survey: no more than \$2,000 per aquatic farm site, per day.

(f) The user fee for a survey of initial abundance of geoducks for a proposed on-bottom culture aquatic farm site is required with the application under (e) of this section, and a survey of the proposed aquatic farm site will be conducted, only if the commissioner determines that the site is subtidal and located in a larval drift zone described in 5 AAC 41.295(f)(1).

(g) The commissioner will determine the order that applications are reviewed and surveys are conducted under this section.

5 AAC 41.240. Review and determination

(a) The commissioner will review aquatic farm and hatchery operation permit applications, department surveys, and other site specific information and will issue an aquatic farm or hatchery operation permit if the commissioner determines that, to the extent practicable,

(1) the physical and biological characteristics of the location are suitable for culture because

(A) the operation is protected from oceanographic and atmospheric extremes or is designed to withstand such extremes;

(B) the water exchange rates, water temperatures, currents, salinity, and primary productivity are sufficient to support an aquatic farm and maintain a healthy environment for other marine organisms;

(C) for on-bottom culture, the substrate composition is suitable for the target species or can be enhanced and still maintain a healthy environment for other marine organisms;

(D) for suspended culture, the water depth is sufficient to prevent gear from grounding and impacting the benthos under floating structures;

(E) the health and abundance of eelgrass and kelp beds can be maintained;

(F) the operation is not located within 300 feet of the mouth of an anadromous fish stream;

(2) the proposed aquatic farm or hatchery does not significantly alter an established use;

(3) the proposed aquatic farm or hatchery is compatible with fish and wildlife resources in the area, and

(A) any predator and pest control methods have been designed to minimize impacts to non-targeted fish and wildlife resources in the area;

(B) does not adversely impact seabird colonies, sea lion haulouts and rookeries, seal haulouts and pupping areas, and walrus haulouts;

(C) does not adversely impact endangered and threatened species recovery and habitat protection efforts;

(4) for on-bottom culture proposals for all other indigenous species where wild stock exists, the commissioner has offered an opportunity to harvest the species;

(5) the proposed aquatic farm or hatchery operation and development plan demonstrates feasibility by describing how

(A) the operation will improve the productivity of the species intended for culture above what would occur in natural conditions using methods that may include

(i) predator exclusion;

(ii) the reduction of competing species;

(iii) density manipulation by culling and redistribution;

(iv) import of naturally-produced seed from either onsite or offsite;

(v) import of hatchery-produced seed;

(vi) programming harvest to optimize growth and shellfish condition; and

(vii) habitat improvement;

(B) repealed 1/26/2012;

(C) repealed 1/26/2012;

(D) any support facilities, culture gear, and anchoring systems will be installed and maintained;

(E) the projected harvest rotation schedule is consistent with the life history of the species intended for culture;

(6) the proposed aquatic farm site contains an insignificant population of the species intended for culture, as determined under 5 AAC 41.235.

(b) Under AS 16.40.100(g), the commissioner will issue an aquatic farm operation permit under this section for an on-bottom culture aquatic farm site for geoducks located in a larval drift zone described in 5 AAC 41.295(f)(2) - (6) only if the site is in a subtidal habitat or environment and the requirements of (a) of this section are met.

(c) The commissioner will approve or deny, in writing, an operation permit for an aquatic farm or hatchery no later than 30 days after the lease is issued by the Department of Natural Resources under 11 AAC 63, unless the commissioner determines that additional review is necessary to determine compliance with the applicable provisions of AS 16.40.100 - 16.40.199 and 5 AAC 41.200 - 5 AAC 41.400.

5 AAC 41.250. Permit conditions

(a) The commissioner will attach conditions to an aquatic farm or hatchery operation permit, including requirements that a permit holder

(1) improve the productivity of the species intended for culture according to the operation and development plan;

(2) limit an aquatic farm or hatchery to the culture of species approved by the department;

(3) not store or otherwise possess animals of the same species being cultured that have been commercially or recreationally harvested, unless the commercially or recreationally harvested animals are clearly separated from cultured species, labeled, and if applicable, accompanied with a receipt of purchase;

(4) repealed 1/26/2012;

(5) prevent aquatic farm and hatchery operations from significantly altering an established use of fish and wildlife resources;

(6) conduct aquatic farm and hatchery operations in a manner that avoids significantly affecting fish, wildlife, and their habitats in an adverse manner;

(7) avoid adverse effects of predator exclusion methods on the environment and incidental species;

(8) report all acquisitions of wild stock of the species intended for culture;

(9) report observations of non-native or exotic species occurring on the aquatic farm site;

(10) except for wild stock removed by a common property fishery, as provided in AS 16.40.100(e), upon termination of a permit for on-bottom culture, leave an approximate number of the species that were approved for culture on the aquatic farm site sufficient to restore the population to the level that was present when the site was permitted for use as an aquatic farm or hatchery;

(11) if the commissioner authorizes the removal and sale of the excess amount of wild stock from an aquatic farm site under AS 16.40.100(f), pay reasonable compensation to the state as determined by the commissioner under this paragraph for the harvest and sale of the excess wild stock; the commissioner will specify a reasonable amount of time, not to exceed five years, in the operation permit for the permit holder to harvest and sell the excess amount of wild stock; for the purposes of this paragraph, the commissioner determines that reasonable compensation is a proportion of whichever is the greater of the average exvessel price paid in the most recent commercial fishery or the amount paid at the first point of sale; the proportion for

(A) live geoducks is 21 percent;

(B) processed geoducks is 8 percent;

(C) shellfish, other than geoducks, will be determined by the commissioner on a case-by-case basis.

(b) An aquatic farm or hatchery operation permit will be issued for a period of 10 years.

(c) If the commissioner determines that the holder of an aquatic farm or hatchery operation permit is not complying with the permit conditions, or is not in compliance with the provisions of AS 16.40.100 - 16.40.199 or 5 AAC 41.200 - 5 AAC 41.400, the commissioner will notify the permit holder in writing of the non-compliance. Within 30 days after the date of the notification, the permit holder shall provide the commissioner with a plan to correct the non-compliance. If the commissioner approves the plan to correct the non-compliance, the department will notify the permit holder of the approval, and will provide the permit holder 90 days after the date of that notification to implement the plan to comply with the permit conditions. If the permit holder does not comply with the permit conditions within 90 days after the date of the notification, the commissioner may revoke the permit.

5 AAC 41.280. Permit renewal or transfer

(a) At least 30 days before the expiration date of the operation permit or the date of transfer, an aquatic farm or hatchery operation permit holder must apply for the renewal or transfer of an operation permit by submitting the

(1) renewal or transfer form provided by the department; and

(2) \$100 renewal or transfer fee.

(b) The commissioner will issue a renewal or transfer of an aquatic farm or hatchery operation permit if the commissioner determines that the

(1) applicant meets the requirements of (a) of this section;

(2) applicant has complied with terms and conditions of the operating permit; and

(3) aquatic farm or hatchery operation continues to demonstrate technical and operational feasibility.

(c) A permit holder may continue operations under the existing operation permit, unless the commissioner denies the application for renewal or transfer.

5 AAC 41.295. Stock transport permits

(a) A transfer of stock to, from, or between an aquatic farm, hatchery, or stock acquisition site may not occur without a stock transport permit issued by the commissioner. An applicant shall apply on a stock transport permit application form provided by the department and submit the application form to the department at least 45 days before date of transport.

(b) Before an applicant submits a stock transport permit application to the department under this section, the supplier of the stock must contact the department to arrange to send samples of the stock intended for transport. The department will conduct a health inspection of the samples. Within 120 days after receipt of the supplier's samples of stock, the department will provide a written disease history report to the supplier of the stock to notify the supplier that the

(1) current disease history report is acceptable and that no further inspection is required;

(2) health inspection detected the presence of pathogens or parasites of a type that make transport

(A) acceptable under specified conditions; or

(B) unacceptable.

(c) Transport of stock between aquatic farm, hatchery, or stock acquisition sites will be approved, without an inspection and report required in (b) of this section, if the commissioner determines that either

- (1) the disease history for the stock on site is acceptable based on previous laboratory examination of samples;
- (2) the risk of disease transmission between sites is minimal; or
- (3) the sites are within the larval drift zone for wild stock of the species.

(d) Transport of stock, other than geoduck, between aquatic farm, hatchery, or stock acquisition sites will be limited to waters within an approved larval drift zone of the state.

(e) This section does not apply to aquatic farm products that are

- (1) sold or transferred to commercial markets or consumers; and
- (2) not intended for additional exposure to waters of the state.

(f) For the purposes of this section, “larval drift zone” includes all coastal and island areas in

- (1) Southeastern Alaska, from the Canadian border north to Cape St. Elias;
- (2) Prince William Sound and Cook Inlet, from Cape St. Elias west and south to Cape Igvak, including Kodiak Island;
- (3) Chignik and the Alaska Peninsula-Aleutian Islands, from Cape Igvak west to the tip of Unimak Island;
- (4) the Aleutian Islands, including all islands west of Unimak Pass;
- (5) the southeast Bering Sea and north Alaska Peninsula, from the westernmost tip of Unimak Island north to the Kuskokwim River, including the Pribilof Islands; and
- (6) the northeast Bering Sea, including all coastal islands north of the Kuskokwim River.

5 AAC 41.400. Definitions

Unless the context requires otherwise, in 5 AAC 41.200 - 5 AAC 41.400,

- (1) “aquatic farm” has the meaning given in AS 16.40.199;
- (2) “aquatic farm product” has the meaning given in AS 16.40.199;

(3) “aquatic farm site” means a tract of land permitted and used for commercial production of aquatic farm products;

(4) “broodstock” means specimens of a species collected to produce seed stock;

(5) “commissioner” means the commissioner of fish and game;

(6) “culture” means to use or the use of methods to manipulate the biology and the physical habitat of a desired species to optimize survival, density, growth rates, uniformity of size, and use of the available habitat, and to efficiently produce a product suitable for a commercial market;

(7) “department” means the Department of Fish and Game;

(8) “established use”

(A) means a

(i) commercial fishery that is subject to limited entry under AS 16.43, or to permit, registration, management, or other authorization requirements under this title;

(ii) sport fishery that occurs with historical regularity, as indicated by department field surveys, creel census sampling, sport use surveys, or other reliable sources of information or validated testimony;

(iii) personal use fishery that occurs with historical regularity, as indicated by personal use permit reports, department field surveys, personal use surveys, or other reliable sources of information or validated testimony;

(iv) subsistence fishery that occurs with historical regularity, as indicated by subsistence permit reports, department field surveys, community use surveys, or other reliable sources of information or validated testimony;

(B) does not include an experimental fishery;

(9) “hatchery” has the meaning given in AS 16.40.199;

(10) “improve the productivity” means to increase the abundance or harvestable biomass of a species over time;

(11) “insignificant population” has the meaning given in AS 16.40.199;

(12) “positive control” has the meaning given in AS 16.40.199;

(13) “predator exclusion” means to hinder or prevent a predator from reaching or consuming aquatic farm products;

(14) “seed stock” means life stages of invertebrates that require a period of culture under positive control before reaching marketable size or quality;

(15) “shellfish” has the meaning given in AS 16.40.199;

(16) “species intended for culture” means the species of aquatic plant or animal that an applicant proposes to culture under positive control;

(17) “stock” has the meaning given in AS 16.40.199;

(18) “wild stock” means animals or plants that seed and occupy a site through natural processes.

5 AAC 41.610. Permit Classifications

(a) The commissioner may issue an aquatic resource permit for scientific and educational activities:

(1) to authorize collection, transport, or possession of aquatic organisms; to qualify, an applicant must be involved in scientific or educational activities;

(2) to authorize propagation of aquatic organisms; to qualify, an applicant must be involved in scientific or educational research activities; a permit issued under this paragraph may include specifications as follows:

(A) for classroom incubation projects, to authorize the permit holder to collect up to 500 eggs or one spawning pair, transport, hold alive, and release aquatic organisms.

(B) for vocational, technical, and post-secondary school programs, to authorize the permit holder to collect eggs, transport, hold alive, and release aquatic organisms as follows:

(i) salmonids: may collect up to 50,000 eggs or equivalent in spawning pairs;

(ii) invertebrates and aquatic plants: may collect the number necessary to achieve educational objectives;

(C) for propagative research, to authorize accredited institutions of higher learning, or federal, state, local, tribal entities, and persons or entities cooperating therewith to collect, propagate, transport, and release aquatic organisms for purposes of propagative research as follows:

(i) finfish: may collect the number necessary to achieve the objectives of the research, not to exceed the number of eggs expected to result in 5,000 or fewer adults;

(ii) invertebrates and aquatic plants: may collect the number necessary to achieve the objectives of the research.

(b) The department may require inspection and approval of activities in subsection (a) by the appropriate fish pathology section of the department's division of commercial fisheries, or by a person designated by the fish pathology section, genetic sampling, and additional conditions for fisheries management and conservation needs, including review by a regional planning team.

(c) any resultant aquatic organisms from a project are considered common property and may not be claimed for cost recovery or any other reason.

Alaska Admin. Code, Tit. 11, Part 6, Ch. 63 (Aquatic Farmsite Permits and Leases)

11 AAC 63.900. Definitions

(a) In this chapter,

(1) “aquatic farm” has the meaning given in AS 16.40.199;

(2) repealed 6/14/98;

(3) “aquatic farmsite lease” means a lease to operate an aquatic farm or related hatchery on state-owned public domain land in accordance with the approved development plan;

(4) repealed 6/14/98;

(5) “commissioner” means the commissioner of the Department of Natural Resources or the commissioner's delegate;

(6) “department” means the Department of Natural Resources;

(7) “director” means the director of the division of land or the director's delegate;

(8) “good standing” means being in compliance with all provisions of all required authorizations;

(9) “pending use” means a project documented by government agency plans or authorizations, the acquisition of property rights, or other evidence of investment-backed expectations that the use will occur;

(10) repealed 6/14/98.

(b) In this chapter and in sec. 40, ch. 91, SLA 1997, “developed an aquatic farm site under former AS 38.05.855” means that all planned capital improvements are in place and functioning at their planned capacity to produce aquatic plants or shellfish; however, the aquatic plants or shellfish need not be marketed or have reached marketable size in order to fulfill the development requirement.

11 AAC 63.030. Aquatic farmsite lease applications

(a) An aquatic farmsite lease application is subject to 11 AAC 67.007. The application must

- (1) be submitted on a multi-agency application form;
- (2) include the non-refundable application fee required by 11 AAC 05.230;
- (3) include a clear identification of the site on a U.S.G.S. map at a scale of 1:63,360 or a navigation chart, and a clear scaled drawing of the proposed site plan and lease boundaries, as required by the application form;
- (4) repealed 6/14/98;
- (5) comply with all application filing guidelines set under 11 AAC 63.020(c); and
- (6) state whether the applicant proposes incidental use of the lease site for temporary holding of commercially harvested wild stock acquired under AS 16.

(b) Each application must include sufficient detail on the applicant's proposed site improvements, and the schedule for their proposed installation, to allow the commissioner to determine the amount of the security required under 11 AAC 63.080. The site plan and installation schedule constitute a development plan for the department's purposes. In addition, the applicant shall include in or with the application details such as the amount of rearing structures (gear density), the species to be raised, and expected minimum and maximum production levels for the purposes of review by the Department of Fish and Game under AS 16.40.105. The development plan must result in commercial use of the site beginning no later than the fifth year of the lease operations and continuing for the rest of the lease term. Commercial use of the site means annual sales of aquatic farm products, as that term is defined in AS 16.40.199, of at least \$3,000 per acre or fraction of an acre, or \$15,000 per farm, whichever is less.

(c) Repealed 6/14/98.

(d) Except as provided in 11 AAC 63.040(f), all complete applications received during an application period are considered to have been simultaneously filed. To reduce cumulative impact on the environment and natural resources of an area, the commissioner will, in the commissioner's discretion, limit the number of leases to be issued in that area. If the number of applications filed for a particular area exceeds the number of sites that the commissioner decides to lease, the commissioner will offer the limited number of lease sites by competitive bid, at either a sealed-bid or oral outcry auction.

(e) If two applications overlap in an area where the commissioner does not propose to limit the number of lease sites, the commissioner will, in the commissioner's discretion, amend the applications to eliminate the overlap, or offer the lease site by competitive bid.

(f) If an application overlaps an existing aquatic farmsite permit or lease that is in good standing, or any other surface lease, as shown on the department's public land records, the commissioner will deny the application. However, the provisions of this subsection do not apply if the application is filed by the lessee of an existing aquatic farmsite.

(g) The commissioner will, in the commissioner's discretion, amend an application to eliminate an overlap or to eliminate or reduce other site or resource use conflicts.

11 AAC 63.040. Associated facilities; upland owner preference right; upland owner access right

(a) The commissioner will, in the commissioner's discretion, authorize associated facilities for storing equipment or housing personnel at an aquatic farmsite, including upland managed by the department under AS 38, if the commissioner is satisfied that the associated facilities are necessary for aquatic farming. An applicant who wants authorization for associated facilities must request it as part of the lease application so that it can be considered during agency and public review. If a lessee intends to anchor or stay at the aquatic farmsite for a period of more than 14 consecutive days, the lessee shall disclose this intent in writing as part of the lessee's lease application. The lessee's intent to stay or anchor at the aquatic farmsite for more than 14 days is a factor to be considered in appraising the fair market value of the lease.

(b) The conditions in this subsection apply to an authorization for personnel housing at an aquatic farmsite. The commissioner will authorize personnel housing only if the applicant shows that (1) the level of site development at the time the housing is expected to begin will require that personnel be present on a daily basis, (2) the personnel cannot reasonably commute to the site by road, boat, or aircraft on a daily basis, and (3) nearby land suitable for housing is not available for rent or sale. The housing facility may not be used as the personnel's permanent place of abode. It must be designed and constructed so that it can be removed and the site completely restored within 30 days if the lease terminates or if housing personnel at the aquatic farmsite ceases to be necessary. The housing facility may not be placed on a permanent foundation.

(c) The conditions in this subsection apply to an authorization for floating housing at an aquatic farmsite. The commissioner will authorize floating housing only if that use is consistent with the floathouse provisions and management intent of an applicable land use plan or zoning ordinance, and if the Department of Environmental Conservation determines that floating housing would not result in degraded water quality that would be incompatible with raising shellfish or aquatic plants for human consumption.

(d) The nature and extent of associated facilities are a factor in setting the security amount under 11 AAC 63.080 and appraising the fair market value of a lease.

(e) After a lease terminates, the former lessee has no entitlement or preference right to continue using or occupying any portion of the former aquatic farmsite, including anchoring a floathouse at the site or on other state land, unless the person has obtained a new authorization from the department.

(f) Under this subsection, the commissioner grants an aquatic farmsite lease preference right to eligible upland owners and lessees in order to increase the compatibility of aquatic farming with upland management policies. The owner or lessee of adjacent or nearby upland may request a preference right to an aquatic farmsite lease by agreeing to place the owner's or lessee's associated facilities for storing equipment or housing personnel on the owner's or lessee's own land or leasehold rather than on state-owned land or other public land. The following apply to a preference right under this subsection:

(1) For an upland owner or lessee to be eligible, the applicant's development plan must demonstrate that the associated facilities are necessary for aquatic farming.

(2) For an upland lessee to be eligible, the term of the upland lease must equal or exceed the term of an aquatic farmsite lease. A U.S. Forest Service special use permit does not constitute a leasehold interest that would make the holder eligible for a preference right under this subsection.

(3) A preference right granted under this subsection is secondary to a preference right that the department provides under 11 AAC 63.090(a).

(4) If the number of applications eligible for a preference right for an upland owner or lessee exceeds the number of leases that the commissioner decides to grant, the commissioner will hold an auction as set out in 11 AAC 63.030(d) among the preference-eligible applications only.

(5) An upland owner or lessee who wants a preference right for aquatic farming shall apply under this subsection rather than under AS 38.05.075(c). AS 38.05.075(c) does not give an upland owner or lessee an entitlement or preference right to an aquatic farmsite lease.

(g) The commissioner may not issue an aquatic farmsite lease if issuing the lease would deny an upland owner's right of reasonable access to tidewater or deny access by boat to privately owned upland.

11 AAC 63.050. Application review; best interest finding

(a) After an aquatic farmsite lease application period closes, the affected agencies will check the applications for completeness. If applications are filed for sites within a state game refuge or critical habitat area, the commissioner will request the approval of the commissioner of the Department of Fish and Game as required by AS 16.20.060 or 16.20.530.

(b) The commissioner will prepare a preliminary best interest finding on proposed aquatic farmsite leases for which applications have been timely filed, and on applications the commissioner intends to deny. The preliminary best interest finding will be made available for public and agency review during the fall that follows the application period. If the sites are unclassified, a proposed land use plan and classification order will be prepared, and will accompany or be included as part of the preliminary best interest finding for public review and comment. If the commissioner decides to amend or deny an application, to limit the number of sites to be authorized, or to offer a lease at auction rather than noncompetitively, the preliminary best interest finding must explain the reason. The finding must consider both advantages and disadvantages of the proposal. The following criteria are within the scope of the department's review:

(1) repealed 6/14/98;

(2) repealed 6/14/98;

(3) repealed 6/14/98;

(4) whether aquatic farming is compatible with land management policies applicable to the proposed aquatic farmsite and nearby upland, including legislative or congressional designations such as parks or wilderness areas and adopted federal, state, and local land use plans, land classifications, and zoning;

(5) whether aquatic farming conflicts with existing uses, or with pending uses, as that term is defined in 11 AAC 63.900, of the site and of nearby land, whether or not the nearby land is in state ownership; under this paragraph, the finding must consider

(A) impacts on nearby communities or residential land;

(B) traditional and existing uses of the site, including commercial fishing, sport fishing, subsistence activities, use as an anchorage, navigation, seaplane landing area, recreation, sightseeing, and tourism; consideration of this criterion will, in the commissioner's discretion, be combined with a traditional use finding if such a finding is required by AS 38.05.830;

(C) historic and cultural resources; and

(D) commercial or industrial facilities, such as log transfer facilities, salmon hatcheries, seafood processing plants, or harbor development, that might be incompatible with aquatic farming;

(6) how public access to and along public waters, and the upland owner's right of reasonable access to tidewater, will be ensured by reserving easements under 11 AAC 53 or by other means; if upland access to the water is limited to a specific point by topography, existing improvements, or other factors, the commissioner will ensure that aquatic farming facilities do not obstruct water access to that point;

(7) how the interests served by the public trust doctrine, specifically the public's right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes, will be protected;

(8) whether special lease provisions or other measures are needed to mitigate identified conflicts; for this purpose the commissioner will consult guidelines set out in an applicable land use plan or zoning ordinance; and

(9) other significant social, economic, and environmental effects of the proposed aquatic farming.

(c) In general, the commissioner will not grant aquatic farmsite leases that would encumber more than a third of the surface area estimated to exist at mean lower low water of a bay, bight, or cove, unless the commissioner finds that (1) it is in the state's best interest to concentrate leases in one such bay, bight, or cove so as to keep other specified water bodies completely unencumbered, (2) the cumulative impacts will not be excessive, and (3) the upland owner will retain a right of reasonable access to tidewater. The commissioner will include a finding under this subsection in the best interest finding, as well as in the land use plan if one is being prepared.

(d) The final best interest finding will include a summary of agency and public comments on the preliminary finding, and the department's responses to those comments.

11 AAC 63.100. Issuance of aquatic farmsite lease

(a) The commissioner will issue an aquatic farmsite lease if the commissioner finds in accordance with AS 38.05.035(e) and 11 AAC 63.050 - 11 AAC 63.060 that it is in the state's best interest. The commissioner will issue a lease at its appraised fair market rental value without competitive bid, or for the amount of the high bid at auction.

(b) Repealed 6/14/98.

(c) The term of an aquatic farmsite lease that was not awarded at auction is 10 years. The commissioner will, in the commissioner's discretion, require a boundary survey if needed to resolve an apparent boundary conflict or a dispute over acreage leased. The commissioner will require a survey meeting the requirements of AS 38.04.045 before issuing a lease for a term longer than 10 years.

(d) Before a lease is issued, security must be posted as required by 11 AAC 63.080.

(e) Before a lease is issued, a lease development plan must be approved by the commissioner, and will be incorporated as a provision of the lease. For a lease offered at auction, the commissioner will require the high bidder to propose a lease development plan for the commissioner's approval. The development plan must result in commercial use of the site, as defined in 11 AAC 63.030(b), beginning no later than the fifth year of the lease and continuing for the rest of the lease term.

(f) Repealed 6/14/98.

(g) Before a lease is issued, the future lessee shall pay the rent that is due under the first year of the lease. Lease rent for each subsequent year must be paid annually on or before the anniversary date of the lease.

11 AAC 63.110. General lease provisions

An aquatic farmsite lease must contain at least the following provisions:

(1) A lessee shall operate so as to cause no significant damage to land, public trust resources, and public uses of public trust resources.

(2) A lease is subject to all applicable federal, state, and local law, including statutes and regulations in effect on its effective date; statutes and regulations placed in effect after its effective date, to the extent constitutionally permissible; and the public trust doctrine regarding the public's right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes.

(3) A lessee shall obtain and remain in compliance with all other federal, state, and local authorizations necessary for lawful operations.

(4) A proposed amendment to the lease development plan for the lease must be submitted to the department for approval before a change in development occurs, and must be accompanied by the application fee required by 11 AAC 05.230. However, under this paragraph

(A) the following changes do not require an amendment of the lease development plan:

(i) any change in the species or number of shellfish or aquatic plants being raised if the change is permitted by the Department of Fish and Game;

(ii) a change in the number or type of rearing structures authorized within the lease boundaries, if the change does not increase obstructions to navigation or to other public use;

(B) the department will not authorize a proposed amendment to the lease development plan for a "change of use"; for the purpose of this subparagraph and AS 38.05.083(d), "change of use" means a change from the raising of shellfish and aquatic plants to any other use; and

(C) the approval of an amendment of an aquatic farmsite lease does not relieve the lessee of the obligation to obtain other necessary authorizations.

(5) A lessee and its invitees may not use an aquatic farmsite for any unlawful purpose.

(6) A lessee may use an aquatic farmsite only for the purposes authorized by the lease, and the state reserves all other interests in the site. The rights granted by the lease must be exercised in a manner that does not unreasonably interfere with the rights of the state or of its permittees, lessees, or grantees, consistent with the principle of reasonable concurrent uses as set out in art. VIII, sec. 8, of the Alaska Constitution. A lessee shall pay for any damages that are payable by reason of the lessee's failure to comply with the requirements of this paragraph.

(7) A lessee shall comply with the approved development plan. Failure to comply with the commercial-use requirement set out in 11 AAC 63.030(b) is a default and cause for revocation, unless the lessee shows to the commissioner's satisfaction that the failure is due to circumstances beyond the lessee's reasonable ability to foresee or control. The lessee shall report annually to the department, no later than January 31, on sales during the previous year of shellfish and aquatic plants raised on the lease site, not including sales of commercially harvested wild stock that had been stored at the lease site. If the lessee provides this sales information to the Department of Fish and Game in an annual report, by copies of fish tickets, or by other means, the lessee may fulfill this paragraph's requirement for a sales report by asking the Department of Fish and Game to give a copy of the information to the department.

(8) A lessee's failure to timely comply with all express or implied provisions of the lease constitutes a default. If a lessee fails to cure the default or to begin and diligently continue to remedy the default within 60 days after written notice of the default and an opportunity to be heard, the commissioner will order suspension of site development or operations until compliance is achieved, or will take other action that the commissioner finds appropriate, including revocation of the lease or attachment of the site restoration security.

(9) With the commissioner's written consent, a lease that is in good standing may be relinquished.

(10) A lease that is in good standing may, with the prior written approval of the director, be assigned. The assignee shall promptly and diligently seek to obtain all authorizations necessary for lawful operations. The assignee is subject to all provisions of the lease in the same manner as the original lessee.

(11) The department reserves the right

(A) of reasonable access to the leasehold for purposes of inspection, including inspection of the lessee's improvements and rearing structures; when the department inspects the lessee's rearing structures, the department will not lift or handle underwater rearing structures without prior notice to the lessee; the notice to the lessee may include notice by the Department of Fish and Game in accordance with AS 16.40.150(b);

(B) upon 10 days' prior notice, to inspect records of the lessee that are necessary to verify the lessee's compliance with the lease provisions.

Alaska Admin. Code, Tit. 18, Ch. 31, Art. 9 (Compliance Procedures and General Provisions)

18 AAC 31.810. Retail seafood products

(a) In addition to the other applicable requirements of this chapter, an operator of a market who offers seafood products for retail sale shall comply with this section.

(b) The operator shall ensure that, in addition to the applicable requirements of 18 AAC 31.060, labels on packaged seafood include

(1) the date of packing;

(2) the name of the seafood product for which a definition and standard of identity are included in The Seafood List, FDA's Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce, adopted by reference in 18 AAC 31.011, or the usual name of the seafood product for which a definition and standard of identity are not included in that document; and

(3) for an imitation seafood product, the word "imitation", followed by the name of the product, with the labeling in letters as large as the name of the product.

(c) In addition to the requirements of (a) and (b) of this section, the operator of a market

(1) shall ensure that during storage or display

(A) frozen seafood products are kept frozen until sold or thawed for sale or use;

(B) seafood products that are thawed before sale or use are thawed in a preparation sink under running cold water at 70° F or below, or thawed under refrigeration; and

(C) a reduced oxygen packaged seafood product that is not thermally processed to be sterile or frozen is kept at 38° F or below;

(2) may display packaged products directly in clean, drained ice from an approved source; and

(3) may store or display raw products in clean, drained ice from an approved source, except that if ice is the sole method of maintaining product temperature, the product depth may not exceed

(A) the thickness of a whole fish;

(B) a single layer of fillets, roasts, or steaks; and

(C) two inches of molluscan shellfish, crustaceans, or other seafood products.

(d) In addition to the requirements of (a) - (c) of this section, the operator of a market shall ensure that

(1) refrigerated display cases or ice-cooled display cases or bins

(A) are durable and able to withstand the weight of seafood products and display ice;

(B) have a drain system adequate to remove fluids from condensation, melting ice, and the product;

(C) if permanently installed, are indirectly plumbed to the sewer;

(D) with condenser coils or cooling fins located at the top of the case, have catchment covers that remove any possible condensation or drippage above the product; and

(E) are cleaned of ice, and washed, rinsed, and sanitized at least three times each week, or more often if needed to control odor; and

(2) storage pans are perforated;

(3) repealed 12/28/2006;

(4) repealed 12/28/2006.

18 AAC 31.990. Definitions.

Unless the context indicates otherwise, in this chapter
(unrelated definitions deleted)

...

(123) "seafood"

(A) includes

(i) salt-water fish, freshwater fish, amphibians, crustaceans, mollusks, and any other species of aquatic animal intended for human consumption; and

(ii) any part or byproduct of any species of aquatic animal intended for human consumption;

(B) does not include aquatic plants, birds, or mammals;

California Seaweed Provisions (Index)

Wild Harvest

CAL. FISH AND GAME CODE § 6650 – Harvesting Kelp; License
CAL. FISH AND GAME CODE § 6651 – License
CAL. FISH AND GAME CODE § 6653.5 – Agar-bearing Marine Plants
CAL. FISH AND GAME CODE § 6654 – Closure of Kelp Beds
CAL. FISH AND GAME CODE § 6657 – Permit to Harvest Kelp for Scientific Purposes
CAL. FISH AND GAME CODE § 6680 – Royalty on Harvesting Kelp
CAL. FISH AND GAME CODE § 6700 – Kelp Bed Leases
CAL. FISH AND GAME CODE § 6750 – Regulation
CAL. CODE REGS. tit. 14, § 165 - Harvesting of Kelp and Other Aquatic Plants
CAL. CODE REGS. tit. 14, § 165.5 – Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis* Harvesting of Kelp and Other Aquatic Plants

Aquaculture

Definitions

CAL. FISH AND GAME CODE § 17 – “Aquaculture” Defined

Leases

CAL. FISH AND GAME CODE § 15400 - Leasing State Water Bottoms or Water Column for Aquaculture
CAL. FISH AND GAME CODE § 15403 - Application
CAL. FISH AND GAME CODE § 15405 - Term of Lease
CAL. FISH AND GAME CODE § 15406 - Renewal of Lease
CAL. FISH AND GAME CODE § 15409 - Termination of Lease
CAL. CODE REGS. tit. 14, § 237 - Leasing of State Water Bottoms for Aquaculture

Fees

CAL. FISH AND GAME CODE § 15003 - Growing Products on Public Lands or in Public Waters

Registration

CAL. FISH AND GAME CODE § 15101 – Facility Owners
CAL. CODE REGS. tit. 14, § 235 – Aquaculture Registration

Wild Broodstock Collection

CAL. FISH AND GAME CODE § 15300 - Sources
CAL. FISH AND GAME CODE § 15301 - Sale or Collection of Aquatic Plants and Animals

CAL. CODE REGS. tit. 14, § 243 - Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs from the Wild for Use as Broodstock for Aquaculture Purposes

Stocking

CAL. FISH AND GAME CODE § 15202 - Placement of Plants or Animals in Designated Waters
CAL. CODE REGS. tit. 14, § 238.5 - Stocking of Aquaculture Products

Import

CAL. FISH AND GAME CODE § 15600 - Importation by Registered Aquaculturist
CAL. FISH AND GAME CODE § 15601 - Application
CAL. CODE REGS. tit. 14, § 236 - Importation of Live Aquatic Plants and Animals

Post-Harvest

CAL. FISH AND GAME CODE § 15005 - Transportation, Purchase, Possession and Sale of Certain Products
CAL. CODE REGS. tit. 14, § 238 - Sale and Transportation of Aquatic Plants and Animals

California Seaweed Statutory Provisions

Cal. Fish and Game Code, Div. 0.5, Ch. 1 (General Provisions and Definitions)

§ 17. “Aquaculture” defined

“Aquaculture” means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. “Aquaculture” does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Chapter 2 (commencing with Section 2116) of Division 3.

Cal. Fish and Game Code, Div. 6, Part 1, Ch. 6 (Fish: Kelp and Other Aquatic Plants)

§ 6650. Harvesting kelp; license

Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this State shall have a license for that purpose.

§ 6651. License; issuance; fee; duration; application of chapter to aquaculture

(a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars (\$100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(c) This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

§ 6653.5. Agar-bearing marine plants; drying permits

(a) The department may issue permits for the drying of agar-bearing marine plants subject to the regulations the commission may prescribe to provide for proper utilization of that resource.

(b) No person shall dry agar-bearing marine plants for profit unless the person has a permit issued under this section.

§ 6654. Closure of kelp beds

If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of any food for fish, the

department shall serve on every person licensed to harvest kelp a written notice that the kelp bed or beds, or parts thereof, shall be closed to the harvesting of kelp for a period not to exceed one year.

§ 6657. Permit to harvest kelp for scientific purposes

The commission may, subject to such regulations as it may deem proper, grant permits to any department of the United States Government or to any scientific or any educational institution, to harvest kelp at any time for scientific or experimental purposes without the payment of the kelp license or privilege tax imposed by this chapter.

§ 6680. Royalty on harvesting of kelp

In addition to the license fee provided for in this chapter, every person harvesting kelp or other aquatic plants shall pay a royalty, as the commission may prescribe, of not less than five cents (\$0.05) per ton of wet kelp or wet aquatic plants harvested.

Any revenues derived from such royalties shall not be available for expenditures until appropriated.

§ 6700. Kelp bed leases

The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.

§ 6750. Regulation

The commission may regulate the taking, collecting, harvesting, gathering, or possession of kelp for purposes other than profit.

Cal. Fish and Game Code, Div. 12, Ch. 1 (Aquaculture: General Provisions)

§ 15003. Growing products on public lands or in public waters; fees; amount; due date

(a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees, if any, may not exceed the rates as provided in in Section 8051.

(b) The price per pound shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The fee imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

§ 15005. Transportation, purchase, possession and sale of certain products; regulation necessary to protect wildlife; documentation; identification

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

- (1) The name, address, and registration number of the aquaculture producer.
- (2) The species.
- (3) The weight, volume or count within the container.
- (4) The date of the shipment.
- (5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

- (1) Trout.
- (2) Catfish.
- (3) Kelp and aquatic plants.
- (4) Frogs and amphibia.
- (5) All bivalve mollusks (except little neck clams).
- (6) All members of the family Centrarchidae.
- (7) Crayfish.
- (8) Sea urchins.
- (9) Shrimp and fresh water prawns.
- (10) Crab.

§ 15101. Facility owners; registration; information; forms; fees; failure to register

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of eight hundred dollars (\$800) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of five hundred dollars (\$500). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

Cal. Fish and Game Code, Div. 12, Ch. 3 (Aquaculture: Stocking Aquatic Organisms)

§ 15202. Placement of plants or animals in designated waters; prohibition; native species excepted

The commission may prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. The prohibition may not include species that are found to be native or that are stocked by the state in a location where prohibition is contemplated.

Cal. Fish and Game Code, Div. 12, Ch. 4 (Aquaculture: Brood Stock Acquisition)

§ 15300. Sources

Aquatic plants or animals may be legally obtained for use as brood stock from all of the following sources:

- (a) A holder of a commercial fishing license.

(b) A registered aquaculturist.

(c) The department.

(d) Imported sources authorized by Chapter 7 (commencing with Section 15600).

§ 15301. Sale or collection of aquatic plants and animals; price determination; fees

(a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

(b) Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection and may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(c) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars (\$500).

Cal. Fish and Game Code, Div. 12, Ch. 5 (Aquaculture: Leasing of State Water Bottoms)

§ 15400. Leasing state water bottoms or water column for aquaculture; finfish aquaculture lease and regulation standards; restoration or enhancement plans; construction with other laws and regulations

(a) Except as prohibited by Section 15007, the commission may lease state water bottoms or the water column to any person for aquaculture, including, but not limited to, marine finfish aquaculture. Upon appropriation of funds for that purpose, or if funds are otherwise available, the commission shall adopt regulations governing the terms of the leases, after consulting with affected stakeholders in a public process. No state leases shall be issued, unless the commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and comment, in accordance with commission procedures. Leases issued, and regulations adopted, pursuant to this section shall not be construed to be fishery management plans.

(b) A person shall not engage in marine finfish aquaculture in ocean waters within the jurisdiction of the state without a lease from the commission. Leases and regulations adopted by the commission for marine finfish aquaculture shall meet, but are not limited to, all of the following standards:

(1) The lease site is considered appropriate for marine finfish aquaculture in the programmatic environmental impact report if prepared and approved by the commission pursuant to Section 15008.

(2) A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

(3) To reduce adverse effects on global ocean ecosystems, the use of fish meal and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be utilized, taking into account factors that include, but need not be limited to, the nutritional needs of the fish being raised and the availability of alternative ingredients.

(4) Lessees shall establish best management practices, approved by the commission, for each lease site. Approved best management practices shall include a regular monitoring, reporting, and site inspection program that requires at least annual monitoring of lease sites to ensure that the operations are in compliance with best management practices related to fish disease, escapement, and environmental stewardship, and that operations are meeting the requirements of this section. The commission may remove fish stocks, close facilities, or terminate the lease if it finds that the lessee is not in compliance with best management practices, that the lessee's activities have damaged or are damaging the marine environment, or that the lessee is not in compliance with this section. The commission shall take immediate remedial action to avoid or eliminate significant damage, or the threat of significant damage, to the marine environment.

(5) Before issuance of the lease, the lessee shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable regional water quality control board or the State Water Resources Control Board, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the regional board or the State Water Resources Control Board. The regional board and the State Water Resources Control Board may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program.

(6) Finfish numbers and density shall be limited to what can be safely raised while protecting the marine environment, as specified by the terms of the lease, subject to review and amendment by the commission.

(7) The use of all drugs, chemicals, and antibiotics, and amounts used and applied, shall be minimized. All drugs, therapeutic substances, and antibiotics shall be used and applied only as approved by the United States Food and Drug Administration for marine finfish aquaculture. The lessee shall report that use and application to the commission on a regular schedule, as determined by the commission, but no less than annually, that shall be included in the terms of the lease. The commission shall review those reports on a regular basis and at least annually.

(8) The commission shall require all farmed fish to be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the

commission, unless the commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses.

(9) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(10) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

(c) If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, subdivision (b) shall not apply to any of the following:

(1) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(A) A scientific collecting or research permit issued by the department.

(B) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6, for the enhancement of white sea bass.

(2) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen and fisherwomen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(d) Nothing in this section shall be construed to limit or expand the application of any other state law or regulation pertaining to marine finfish aquaculture conducted within the ocean waters under the jurisdiction of this state.

§ 15403. Application; contents; filing fee; responsibility for infringement on bottoms owned by other persons or entities

Persons wishing to lease a state water bottom shall make a written application to the commission. An application shall contain all of the following information:

- (a) A map showing the area to be leased, its general vicinity, and all ownership and boundary lines in the vicinity.
- (b) A description of the organisms to be grown and the culture techniques to be used.
- (c) An estimate of the acreage to be leased.
- (d) A nonrefundable filing fee of five hundred dollars (\$500).

The lessee shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

§ 15405. Term of lease

- (a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.
- (b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

§ 15406. Renewal of lease; procedure

- (a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during this period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.
- (b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.
- (c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.
- (d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

§ 15409. Termination of lease; removal of structures; financial assurances; responsibility for damages

(a) Upon termination of a lease, for any reason, all structures shall be removed at the lessee's expense from the leasehold, and the area shall be restored to its original condition. If the lessee fails to remove the structures, the state may remove them and the lessee shall pay the removal costs incurred.

(b) The commission shall require financial assurances of each marine finfish aquaculture lessee to ensure that restoration is performed to the satisfaction of the commission. Financial assurances may take the form of surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the commission, as it determines are available and adequate to ensure the lease site is restored pursuant to this section.

(c) Marine finfish aquaculture lessees shall be responsible for any damages caused by their operations, as determined by the commission, including, but not limited to, reimbursement for any costs for natural resource damage assessment.

(d) Nothing in this section limits the state in pursuing additional remedies authorized by law.

Cal. Fish and Game Code, Div. 12, Ch. 7 (Aquaculture: Importation of Aquatic Plants and Animals)

§ 15600. Importation by registered aquaculturist; prohibition without prior approval; importation into Smith River watershed of anadromous fish or roe

(a) No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department pursuant to the regulations adopted by the commission.

(b) The department shall not approve the importation of, or renew a permit to import, any anadromous fish or roe thereof listed in Section 2118 or the regulations adopted under Section 2118 into the Smith River watershed by a person unless that person had a permit or authorization approved before February 22, 1988. However, the department may issue or renew a permit for the importation of any anadromous fish or roe thereof specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

§ 15601. Application; failure to deny within sixty days deemed approval

A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

California Seaweed Regulatory Provisions

Barclays Official Cal. Code of Regs., Tit. 14, Div. 1, Subdivision 1, Ch. 6 (Natural Resources: Department of Fish and Game: Fish, Amphibians and Reptiles: Fish, Commercial)

§ 165. Harvesting Kelp and Other Aquatic Plants

(a) General License Provisions. Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the department.

(1) Who Shall be Licensed. Each person harvesting kelp and other aquatic plants for profit shall apply each year for a license on 2015 Kelp Harvesting License Application (DFW 658 Rev. 08/14) which is incorporated by reference herein. License applications and a list of laws and regulations governing the harvest of kelp and other aquatic plants (including maps depicting administrative kelp beds) are available on request from the department's Los Alamitos office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720.

(2) Cost of License. See section 6651 of the Fish and Game Code.

(3) Where to Submit Applications. Application forms, together with the fee authorized by Section 6651 of the Fish and Game Code, shall be submitted to the department's Los Alamitos office, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720.

(4) License Limitation. All provisions of sections 6650-6680 of the Fish and Game Code, and sections 165 and 165.5 of the commission regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.

(b) General Harvesting Provisions.

(1) Weighing of Kelp. A kelp harvester shall determine the weight of harvested kelp or other aquatic plants upon landing or delivery to the harvester's place of business. The harvester may determine the weight of harvested kelp or other aquatic plants by either direct weighing with a state certified scale or a volume conversion that has been approved by the department. If the weight is determined by a certified or licensed weighmaster, the harvester shall obtain a receipt and maintain the receipt in the landing record required under subsection (b)(3) below.

(2) Harvesting Records.

(A) Every person harvesting kelp and other aquatic plants and licensed pursuant to Section 6650 of the Fish and Game Code shall keep a record of the following:

1. Category of plants harvested as defined in subsections 165(c), (d) and (e).
2. The wet weight of harvested kelp or other aquatic plants recorded in pounds or tons (1 ton = 2000 lb).
3. Name and address of the person or firm to whom the plants are sold, unless utilized by the harvester.

(B) The record shall be open at all times for inspection by the department.

(3) Landing Records. Records of landing shall be prepared by all harvesters licensed pursuant to Section 6650 of the Fish and Game Code. Records of landing shall be made in triplicate using Kelp Harvester's Monthly Report forms FG 113 (Rev. 1/97, see Appendix A) and FG 114 (Rev. 1/07, see Appendix A).

(A) The landing records shall show:

1. The wet weight of all aquatic plants harvested in units as defined in subsection (b)(2)(A)2. above.
2. Name and address of harvester.
3. Department of Fish and Wildlife kelp harvester number.
4. Report period, royalty rate, balance of advance deposit (applicable to leased beds), royalty rate amount due and dates of landing.
5. Administrative kelp bed number and, if applicable, marine protected area where plants were harvested.

(B) A duplicate copy of the landing record shall be retained by a kelp harvester for a period of one year and shall be available for inspection at any time within that period by the department. A kelp harvester who harvests kelp from a marine protected area established under subsection 632(b) shall maintain a copy of the landing record on board the harvest vessel for all harvesting conducted during that harvest control period. The original and one copy of the landing record shall be submitted to the department's Accounting Services Branch at 1416 Ninth Street, Room 1215, Sacramento, CA 95814 (or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090) on or before the 10th day of each month following the month to which the landing records pertain with the specified royalty required for all kelp and other aquatic plants harvested. Landing records that are mailed shall be postmarked on or before the 10th day of each month following the month to which the landing records pertain. The landing record shall be submitted whether or not harvest occurred.

(C) Failure to submit the required landing records of harvest activity and royalty fees within the prescribed time limit and/or failure to retain the required landing records for the prescribed time period(s) may result in revocation or suspension (including non-renewal) of the harvester's license for a period not to exceed one year. Any revocation, suspension, or nonrenewal may be appealed to the commission.

(4) No eel grass (*Zostera*) or surf grass (*Phyllospadix*) may be cut or disturbed.

(5) No kelp or other aquatic plant may be harvested in a state marine reserve or state marine park as per subsection 632(a). Commercial harvest of kelp or other aquatic plants may be limited in state marine conservation areas as per subsection 632(b).

(6) It is unlawful to cause or permit waste of any kelp or other aquatic plants taken in the waters of this state or to take, receive or agree to receive more kelp or other aquatic plants than can be used without waste or spoilage.

(c) Harvesting of *Macrocystis* and *Nereocystis* (giant and bull kelp). In this subsection, kelp means both giant and bull kelp.

(1) A kelp harvester may harvest kelp by cutting and removing portions of attached kelp or by collecting unattached kelp.

(2) A kelp harvester may not cut attached kelp at a depth greater than four feet below the surface of the water at the time of cutting.

(3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.

(4) In beds north of Point Montara, *Nereocystis* (bull kelp) may only be taken by hand harvesting. No mechanical harvesters of any kind shall be allowed.

(5) Between April 1 and July 31, a kelp harvester may not harvest bull kelp from a nonleased kelp bed that lies partially or totally within the boundary of the Monterey Bay National Marine Sanctuary extending from Santa Rosa Creek, San Luis Obispo County, northward to Rocky Point, Marin County. This subsection does not preclude the removal of bull kelp from beaches within the Monterey Bay National Marine Sanctuary during the seasonal closure.

(6) Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp.

(A) A kelp harvest plan must identify how a mechanical harvester will be used while avoiding:

1. repetitive harvest from individual giant kelp plants;

2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and

3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(B) All kelp harvest plans shall also include the following:

1. the number of the designated bed or beds as shown in subsection 165.5(j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof;

2. intended use of kelp;

3. amount of kelp proposed to harvest on a monthly and annual basis during the next five years;

4. estimated frequency of harvesting activities for each kelp bed;

5. number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity;

6. harvesting methodology (harvest operation description);

7. all locations (addresses) where kelp landing and weighing will take place;

8. specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting; and

9. name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.

(C) Kelp harvest plans must be updated and submitted to the commission for approval every five years.

(7) In addition to the license fee, a kelp harvester shall pay a royalty of \$1.71 for each ton (2,000 lb) of wet kelp harvested from a non-leased bed.

(d) Harvesting of marine plants of the genera *Gelidium*, *Pterocladia*, *Gracilaria*, *Iridaea*, *Gloiopeltis* or *Gigartinawhich* are classified as agar-bearing plants.

(1) General Provisions.

(A) All agar-bearing plants must be harvested by cutting, except that drift or loose plants may be picked up by the harvester. Agar-bearing plants may be cut no closer than two inches to the holdfast and no holdfast may be removed or disturbed. All agar-bearing plants which are removed from a bed must be taken from the water for weighing and processing.

(B) While harvesting agar-bearing plants, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(C) License numbers of the harvesters will be displayed on both sides of the boat from which they are operating in 10-inch black numbers on a white background.

(D) A harvester may use conventional underwater diving gear or SCUBA when harvesting agar-bearing plants.

(2) Kelp Drying Permits. Pursuant to section 6653.5 of the Fish and Game Code, no company or individuals shall reduce the moisture content or otherwise dry agar-bearing plants harvested from waters of the state except under the authority of a kelp drying permit issued by the department. Drying permits shall be issued under the following conditions:

(A) Where Issued. Requests for kelp drying permits shall be submitted to the Department of Fish and Game at the address listed in section 165(a)(3).

(B) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit.

(C) Permit Review. The department shall return permit application forms to the applicant within three working days of receipt.

(D) Duration of Permits. Except as otherwise provided, kelp drying permits shall be valid for a term of one year from date of issue.

(E) Weighing of Kelp. All agar-bearing marine plants shall be weighed upon landing pursuant to the provisions of subsection (b)(1) of these regulations.

(F) Plant Delivery. Every person taking delivery of agar-bearing marine plants for drying purposes from persons licensed pursuant to section 6650 of the Fish and Game Code or harvesters drying their own plants shall keep a book or books recording the following:

1. A full and correct record of all agar-bearing plants received from other licensed agar harvesters or taken by permittee.

2. Names of the different species.
3. The number of pounds received.
4. Name, address and kelp harvester number of the person from whom the agar-bearing plants were received. The book(s) shall be open at all times for inspection by the department.

(G) Landing Receipts. Receipts shall be issued by all kelp drying permittees to harvesters licensed pursuant to subsection (b)(3) of these regulations and shall show:

1. Price paid.
2. Department origin block number where the agar-bearing plants were harvested.
3. Such other statistical information the department may require.

(H) The original signed copy of receipt shall be delivered to the agar harvester at the time of purchase or receipt of the agar-bearing plants. The duplicate copy shall be kept by the kelp drying permittee for a period of one year and shall be available for inspection at any time within that period by the department, and the triplicate shall be delivered to the department at the address indicated within 10 days after the close of each month, with a royalty of \$17.00 per wet ton (2,000 lbs.) for all agar-bearing seaweed received. Failure to submit the required landing receipts and royalty fees within the prescribed time limit is grounds for revocation of the permittee's drying permit.

(e) Harvesting of marine plants, including the genera Porphyra, Laminaria, Monostrema, and other aquatic plants utilized fresh or preserved as human food and classified as edible seaweed.

(1) General Provisions.

(A) Edible varieties of marine plants must be harvested by cutting or picking, except that drift or loose plants may be picked up by the harvester. All harvested plants must be processed.

(B) Edible seaweed may be harvested from state waters throughout the year, except as provided under section 164.

(C) While harvesting edible seaweed, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(D) A harvester may use conventional underwater diving gear or SCUBA while harvesting edible seaweed.

(2) Harvest of Bull Kelp for Human Consumption. Notwithstanding subsection 165(c)(5)(A), persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp per year. The entire plant may be harvested.

(3) Weighing of Edible Marine Plants. All edible marine plants shall be weighed pursuant to the provisions of subsection (b)(1) of these regulations and landing receipts in duplicate issued as per subsection (b)(3).

(4) The original copy of the receipt shall be delivered to the department at the address indicated within 10 days after the close of each month with a royalty of \$24 per wet ton (2,000 lbs.) of edible marine plants harvested from state waters other than San Francisco Bay and Tomales Bay.

(f) All Other Species of Kelp.

(1) Applicant shall apply to the commission, outlining the species to be harvested, amount and location. The commission may set conditions and amount of royalty after review of the application.

§ 165.5. Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*

(a) The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed or beds, or part thereof described in subsection (j). In this section, kelp means giant kelp, bull kelp, or both.

(b) A current list of kelp beds considered by the commission to be available for leasing may be obtained through written request to the department's Marine Region at 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940. Any person desiring to lease the exclusive privilege of harvesting kelp shall make a written application to the Fish and Game Commission, 1416 Ninth Street, Sacramento, CA 95814 (or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090). The application for kelp bed lease shall include:

(1) A minimum deposit of \$2,565 per square mile for kelp beds lying south of Point Arguello and \$1,368 per square mile for kelp beds lying north of Point Arguello. (The deposit shall be returned to the applicant if a lease is not executed.)

(2) A detailed kelp harvest plan. The kelp harvest plan must be updated and resubmitted every five years.

(A) If kelp is mechanically harvested, the kelp harvest plan must identify how a mechanical harvester will be used while avoiding:

1. repetitive harvest from individual giant kelp plants;

2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and

3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(B) All kelp harvest plans (mechanical or hand harvest) shall also include the following:

1. the number of the designated bed or beds as shown in subsection (j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof;

2. intended use of kelp;

3. amount of kelp proposed to harvest on a monthly and annual basis during the next five years;

4. estimated frequency of harvesting activities for each kelp bed;

5. number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity;

6. harvesting methodology (harvest operation description);

7. all locations (addresses) where kelp landing and weighing will take place;

8. specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting; and

9. name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.

(3) Copy of business license.

(4) The financial capabilities of the lessee to carry out the proposed harvest plan.

(5) Applicants for available lease only kelp beds in the 301-312 series shall, in addition to the above requirements, submit evidence of a scientifically acceptable survey of the requested kelp bed, conducted within one year of the date of the application, showing the extent of the kelp bed and the quantity (biomass) of kelp present. Evidence of such a survey must be submitted annually prior to beginning harvest. Harvest of bull kelp from leased beds shall be limited to not more than 15 percent of the bull kelp biomass revealed by the survey.

(c) The department shall evaluate the submitted application, and provide its evaluation to the commission. Kelp leases may be awarded to applicants determined by the commission to possess the capabilities to harvest and utilize kelp in a manner beneficial to the state.

(1) In case more than one application is received for the lease of a specified kelp bed or beds, the lease shall be awarded to the highest qualified bidder.

(2) Bids tendered for the exclusive right to harvest kelp from designated kelp beds will be for the dollar amount of royalty to be paid on each wet ton of kelp harvested. The minimum acceptable bid will be for a royalty rate of no less than \$1.71 per wet ton of kelp harvested.

(3) The commission may reject any or all applications for the lease of the exclusive privilege to harvest kelp, if it deems the rejection to be in the public interest.

(d) If the specified kelp harvesting area applied for is found to be available for lease, and that the lease would be in the public interest, the commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located. The department shall, in addition, notify by mail all current holders of kelp harvesting licenses that a kelp lease is being considered.

(e) Upon termination of a kelp bed lease for any reason, the commission shall notify all current holders of kelp licenses of the availability of such bed(s) for lease.

(f) Kelp bed leases may be awarded for a maximum term of 20 years.

(g) The royalty rate for kelp harvested from leased kelp beds shall be no less than \$1.71 per wet ton of kelp harvested from such beds. A nonrefundable advance payment computed on the basis of the harvest of 800 tons of kelp annually times the bid royalty rate per square mile for kelp beds located north of Point Arguello and the harvest of 1,500 tons of kelp annually times the bid royalty rate per square mile for beds lying south of that point is due and payable to the department on January 1 each year. Kelp harvested from each bed during the calendar year will be credited against the advance payment at the specified royalty rate until the deposit has been depleted. Kelp harvested from each bed in excess of the amount covered by the advance deposit shall be assessed at the basic royalty rate established by subsection 165(c)(7).

(h) Each kelp lease shall specify a period prior to expiration when renewal of the lease may be requested by lessee. If during the notification period the lessee successfully demonstrates to the commission that all conditions of the lease have been met, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms of a lease renewal are not agreed upon prior to termination of a lease agreement, the commission shall advertise for bids on the individual kelp beds comprising the lease. If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(i) Notwithstanding the provisions of subsections (f) and (h), at any time during the term of a lease, a lessee may notify the commission of its desire to enter into a new lease. If the lessee can successfully demonstrate to the commission that all conditions of its lease have been met and that a new lease would be in the best interest of the state, a new lease may be drawn on terms agreed upon between the two parties, provided a new lease is negotiated for an additional period not to exceed 20 years.

(j) Kelp beds are defined as follows: kelp bed number, designation, area (approximate square miles of kelp canopy within a kelp bed based on historic survey data), and boundary descriptions. Kelp bed designations are defined as follows: open - kelp bed is open to all kelp harvesting, and leases cannot be issued; closed - kelp bed is closed to all kelp harvesting; lease only - kelp bed is closed to all kelp harvesting unless an exclusive lease is obtained; and leasable - kelp bed is open to kelp harvesting until the bed is leased and, once leased, can only be harvested by the lessee. It is the responsibility of the potential harvester to contact the department to ensure leasable beds are not leased before harvest occurs. All geographic coordinates listed use the North American Datum 1983 (NAD83) reference datum:

(1) Mainland Kelp Beds (U.S./Mexico Border to Pt. Arguello)

[Geographic coordinates omitted.]

(2) Channel Island Kelp Beds

[Geographic coordinates omitted.]

(3) Mainland Kelp Beds (Pt. Arguello to Point Montara)

[Geographic coordinates omitted.]

(4) Mainland Kelp Beds (Point Montara to Oregon).

[Geographic coordinates omitted.]

Barclays Official Cal. Code of Regs., Tit. 14, Div. 1, Subdivision 1, Ch. 9 (Aquaculture)

§ 235. Aquaculture Registration

(a) Registration Required. Pursuant to the provisions of Section 15101 of the Fish and Game Code, all aquaculture facilities must be registered with the department each year. For purposes of Chapter 9, Subdivision 1, Division 1, Title 14, California Code of Regulations, an aquaculture facility is one that is devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish or fresh water. This registration is not required for: the maintenance of koi and goldfish in closed systems for personal, pet or hobby purposes; the harvest and sale of brine shrimp; and the sale or cultivation of tropical species of ornamental marine or fresh water plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems for personal, pet industry or hobby purposes.

(1) Who Shall Register. The owner of each aquaculture facility shall register each year on forms provided by the department. Individual forms must be completed for each aquaculture facility location. Application forms and a list of laws and regulations governing aquaculture are available from the department's Aquaculture Development Section, 1416 Ninth Street, Sacramento 95814, (or by postal delivery to by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090), and from the department's regional offices in Redding, Fairfield, Rancho Cordova, Fresno, Long Beach and Menlo Park, on request.

(2) Cost of Registration. The registration fee for each new registered owner or operator shall be the fee specified in Section 15101(b) of the Fish and Game Code.

(3) Where to Submit Applications. Application forms together with the registration fee shall be submitted to one of the department's regional offices listed in subsection (1) above. Applications will be processed within five working days after approval. Applications shall be made on a form (Application for Aquaculture Registration, FG 750 (2/91), which is incorporated by reference herein) supplied by the department.

(b) Registration Limitation. The applicant must certify that he/she has read, understands and agrees to be bound by the regulations of the com -mission and the Fish and Game Code sections governing aquaculture and its products.

(c) Duration of Registration. The annual term of registration shall be January 1 to December 31, or if issued after the beginning of such term, for the remainder of that calendar year. Aquaculturists must reregister their facilities by March 1 of each year. Reregistration (renewal) fees shall be the amount specified in Section 15101(b) of the Fish and Game Code. An additional surcharge, specified in Section 15103 of the Fish and Game Code, shall be paid at the time of renewal if the proceeds from sale of aquaculture products of the facility in the preceding year exceed \$25,000. Penalties for late renewal will be assessed in accordance with Section 15104 of the Fish and Game Code. Anyone failing to register under this section shall be operating unlawfully.

(d) All permits specified in this chapter, in addition to the aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code, shall be issued under the following conditions:

(1) Where Issued. Requests for permits required in Chapter 9, unless specifically directed otherwise, shall be submitted to the Department of Fish and Wildlife, Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814 (or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090).

(2) Cost of Permit. Except as otherwise provided, see Section 15101 of the Fish and Game Code.

(3) Duration of Permits. Except as otherwise provided, permits will be issued on a calendar year basis, or if issued after January 1, for the remainder thereof.

§ 236. Importation of Live Aquatic Plants and Animals

The provisions of this section shall apply to the importation of all live aquatic plants and animals.

(a) No person shall import into this state any prohibited species of live aquatic plant or animal listed pursuant to Section 2118 of the Fish and Game Code or Section 671 of these regulations unless specifically authorized by the commission.

(b) Unless specifically prohibited by these regulations, plants and animals within the following groups may be imported without an importation permit from the department:

(1) Mollusks and crustaceans intended to go directly into the seafood market and which will not be placed into the waters of the state nor placed in waters which are discharged to waters of the state.

(2) Live ornamental tropical marine or freshwater plants or animals that are not utilized for human consumption or bait purposes, are maintained in closed systems for personal, pet industry or hobby purposes, and which will not be placed in waters of the state.

(3) Brine shrimp.

(c) With the exception of those importations described in Section 236(a) and (b), live aquatic plants and animals may be imported into this state only in accordance with the following terms and conditions:

(1) A standard importation permit signed by the director or his agent is required, and no shipment into the state may be made prior to the issuance of the permit authorizing the shipment or shipments. The department shall charge a fee of \$25.00 for issuing each permit. Fees charged for inspections shall be independent of the fees charged for issuing permits.

(2) With the exceptions of the live aquatic animals listed in subsection 236(c)(6), a permit is required for each lot or load, and each shipment must be accompanied by the original copy of the importation permit. Unless otherwise authorized, the person who is to receive any shipments of aquatic plants and animals shall apply to the department for this importation permit.

(3) Application for a standard importation permit shall be made on a form (Application for Standard Importation Permit, FG 789 (2/91), which is incorporated by reference herein) supplied by the department, as directed in Section 235(d) and shall reach the department's headquarters office at least 10 working days in advance of the probable arrival date of the shipment. A copy of the permit authorized by the director or his agent

must accompany each load. If a change in date of shipment becomes necessary after a permit has been issued, the permittee shall notify the Aquaculture Development Section at least 5 days before the new date of shipment. Under special circumstances, the department may waive this 5-day notice requirement.

(4) All live aquatic plants and animals imported into California may be inspected by the department, either at the place of entry into the state or at other locations suitable to the department. The person importing the aquatic plants or animals may be required to provide facilities for inspecting and sorting them, and may be required to pay inspection costs, including salary and travel expenses of the inspector.

(5) Any lot or load of aquatic plants and animals found by the inspector to be diseased, parasitized or to contain species not authorized by the importation permit must be immediately destroyed or transported out of California within a period of time specified by the department. In such cases, the importation permit is automatically revoked.

(6) In lieu of the permits specified in subsection 236(c)(1), long-term permits for the following aquatic animals may be issued by the department for periods of up to one year. Application shall be made on a form (Application for Long-term Permit to Import Animals into California, FG 786 (2/91), which is incorporated by reference herein) supplied by the department. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit.

(A) Oyster, oyster larvae and oyster seed.

(B) Ghost shrimps (*Callinassa* spp).

(C) Mud shrimps (*Upogebia* spp).

(D) Longjaw mudsuckers (*Gillichthys mirabilis*).

(E) Red swamp crayfish (*Procambarus clarkii*).

(F) *Orconectes virilis*.

(G) Marine Annelid worms (Phylum Annelida).

(H) Sacramento blackfish (*Orthodon microlepidotus*).

(I) Other species under conditions which the department determines represent no significant risk to the fish and wildlife resources of the state.

(7) Importation of Salmonid Eggs. Applications to import eggs of fishes of the family salmonidae (trout, salmon and char) shall be accompanied by a health certificate signed by a person competent in the diagnosis of fish diseases stating that the hatchery or other sources of the eggs to be imported and the eggs themselves are free of the following

diseases: infectious pancreatic necrosis (IPN); bacterial kidney disease (BKD); infectious hematopoietic necrosis (IHN); and viral hemorrhagic septicemia (Egtved).

In questionable cases, the director of the department shall determine whether or not the person making the certification is technically qualified to do so.

(8) Only those aquatic plants and animals lawfully obtained in another state or country may be imported.

§ 237. Leasing of State Water Bottoms for Aquaculture

(a) Definitions. The following definitions are established for terms used in this section:

(1) “Aquaculture Area” means any public waters or private waters contiguous to public waters set aside for the purpose of cultivating, harvesting or relaying of any aquatic plant or animal life.

(2) “Aquaculture Agreement” means an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shell fish under authority of Fish and Game Code Division 12. Permits may include use of state or private lands for aquaculture purposes.

(3) “Aquaculture Lease” means a lease of state water bottoms for the cultivation of aquatic plants and animals.

(4) “Depuration” means the process by which shellfish cleanse themselves of contaminants in a controlled process water environment.

(5) “Depuration Facility” means the physical structure, enclosure or device in which depuration is accomplished, including all appurtenances.

(6) “Growing Area” means any offshore ocean, coastal estuarine or freshwater area suitable for natural shellfish growth or artificial shellfish propagation and shall include open seawater systems.

(7) “Relaying” means the moving of shellfish from one water to another.

(8) “Shellfish” in this section means native or nonnative bivalve mollusks.

(9) “Classified Areas” include those waters that may be classified by the State Department of Health according to the following:

(A) “Approved Area”: a shellfish-growing area not adversely affected by sewage or other wastes.

(B) “Conditionally Approved Area”: a shellfish-growing area that may be occasionally affected by sewage or other toxic substances.

(C) “Prohibited Area”: a shellfish-growing area not certified because of its proximity to a known waste discharge or because the area is influenced by other detrimental environmental factors.

(D) “Restricted Area”: a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(10) “Lot” is a designated quantity of shellfish that is identifiable and may consist of one or more batches.

(11) “Batch” is a measurable, identifiable unit such as bushel, and one or more batches will comprise a lot.

(12) “Tidal Area” means the intertidal area between the high tide mark and 1,000 feet offshore. Commercial harvesting of native invertebrates in this area is subject to special permit requirements under Section 8500 of the Fish and Game Code.

(b) Applications.

(1) Applications for a lease of state water bottoms for aquaculture or for an aquaculture agreement or for a permit to relay or depurate shellfish shall be made to the commission.

(2) Applications shall be accompanied by proof of ownership of, or a valid lease on the lands on which the operations are to occur, or description of the state lands which the applicant has leased or intends to lease and on which the operations are to occur.

(3) Applications also shall be accompanied by a description of the area involved and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of record and maps must be in a form acceptable for recording in the county(ies) in which the aquaculture area is located. A copy of all maps shall be submitted by the commission to the State Lands Commission. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

(4) No aquaculture lease for state water bottoms will be approved until the commission has held a public hearing at least 90 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture lease or aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county(ies) within 30 days of approval by the commission.

(5) No aquaculture agreement for private water bottoms will be approved until the commission has held a public hearing at least 30 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such aquaculture agreement in the appropriate county(ies) within 30 days of approval by the commission.

(6) An explanation of the type of operation including the aquaculture practices, relay or depuration activities to be employed, shall be included in all applications for aquaculture leases or agreements.

(7) The change of any authorized cultural practices as specified in the aquaculture lease or agreement must have approval of the commission before the change is put into effect.

(8) The application shall include information as to whether each of the areas involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted or unclassified.

(c) Aquaculture Leases and Agreements.

(1) Aquaculture leases or agreements shall not be modified, amended, transferred, assigned or hypothecated without the approval of the commission.

(2) The holder of the aquaculture lease or agreement shall comply with the provisions of the Fish and Game Code and the rules and regulations of the commission and any special provisions set forth in the lease or agreement by the commission.

(3) Before an aquaculture lease or agreement is issued by the department, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101.

(4) The department may inspect the depuration facilities, culture or relay areas of a holder of an aquaculture lease or agreement at any time.

(5) Vessels used by holders of an aquaculture lease or agreement may be required to maintain clearly visible identifying numbers.

(6) The holder of an aquaculture lease or agreement shall record the size, numbers or pounds of shellfish or other marine life planted, relayed or taken in or from waters of the state on forms as designated by the department.

(7) Marking of leases. All aquaculture leases shall be clearly marked. Minimum marking requirements shall include:

(A) One buoy anchored on each of the four corners and one buoy, possessing radar-reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01-10).

(B) All buoys shall bear the Aquaculture Lease No. M- (followed by the appropriate number).

(C) Buoys marking the boundaries of an aquaculture lease shall be maintained at all times. If buoys are lost, displaced or are otherwise removed from an aquaculture lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.

(D) If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners (boundaries) of a lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water supporting the markings prescribed in subsection (A). Stakes used to define the limits of an aquaculture lease shall be marked and maintained in the same manner as buoys in the preceding subsections.

(E) Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

(d) In addition to other requirements, a permit to relay or deurate shellfish shall contain the following conditions:

(1) An operation conducted under an aquaculture agreement or a relay or depuration permit that receives shellfish from the licensee's or permittee's own lands or lands leased by it, is not required to be licensed as a wholesale fish dealer and preserver, but shall maintain such records as are required by the department to monitor such operations, including but not limited to: data with respect to each batch of shellfish depurated or relayed that will show: its origin and quantity; date or reception by the depuration facility or relay bed and the length of time held in the facility or bed; and their final disposition. All depurated or relayed shellfish shall be identified by a tag or label securely fastened to the shipping container and bearing the certificate number of the shipper, his name and address, the name and address of the consignee, and the kind and quantity of shellfish in the container and the batch or lot number.

(2) The operator of a depurating facility receiving shellfish from other than the operator's owned or leased areas shall obtain a wholesale fish dealer's and preserver's license prior to the department's issuance of a permit and the permittee will maintain such records as required by the department.

(3) A relay or depuration permittee, moving shellfish for the purpose of cleansing, shall satisfactorily identify each lot of shellfish harvested and maintain its identity separate from other shellfish throughout its relaying or depuration process until certification by the Department of Health Services that edible shellfish standards have been met.

(4) Persons holding an aquaculture lease or agreement who relay shellfish from one area of the state to another, whether from private or public water bottoms, shall give the department notice two working days prior to the relay. Such notification shall be given to the department's office specified in the agreement.

(5) No shellfish shall be relayed without obtaining written permission from the department.

(6) Shellfish harvested from a conditionally approved or restricted area for relaying or depuration, shall be identified by a lot number. Shellfish so identified must be kept separate throughout the relaying or depuration process.

(7) Oysters, clams and mussels harvested for human consumption from the waters of Districts 12 and 13 by commercial fishermen, shall be taken only for the purposes of relaying or depuration.

(8) Shellfish produced by a registered aquaculture facility within the state may be relayed at any time. Such shellfish shall be free of disease and parasites so as to pose no threat to the environment. Hatcheries producing shellfish to be planted in state waters shall be inspected by the department for the presence of disease organisms at least once a year and, following such inspection, a permit authorizing planting of specified species for the ensuing year may be issued.

In lieu of the hatchery inspection, at the option of the registrant, inspection of each lot from the hatchery that is to be planted in state waters shall be requested. Request for inspecting each lot shall be made by the registrant at least two working days prior to the transfer. A written permit authorizing the planting shall be obtained before planting the shellfish.

(9) Subsection (d)(8) does not preclude inspections under Section 1006 of the Fish and Game Code.

(e) Shellfish relayed from Districts 12 and 13.

(1) Native shellfish taken from Districts 12 and 13 under an aquaculture lease or agreement for purposes of purification, whether from public or private lands, are subject to a royalty of 0.0125H per pound after taking the shellfish from the relaying or depurating sit. For the purpose of computing the royalty, the charge shall be based on the weight (including shell) of the shellfish after completion of the cleansing process. The royalty is payable within 30 days after close of the calendar month in which it became

due. If not paid within 60 days after the close of the month for which it became due, a penalty equal to 10% of the royalty shall be added to it.

(2) Nonnative shellfish relayed from Districts 12 and 13 and relayed for the purposes of purification, are subject to a 0.02H per pound fee after taking them from the relaying or depuration site. The fee is charged to cover administrative costs and is subject to adjustment and penalty as described in subsection (e)(1).

(f) Persons holding an aquaculture lease or agreement and using state water bottoms shall, in addition to the acreage rental fee for use of state water bottoms, be assessed a fee on all shellfish harvested not to exceed the privilege tag as provided in Fish and Game Code Section 15003. The fees shall be subject to the penalty and adjustment as described in subsection (e)(1). These fees shall not apply to the harvesting of shellfish from state or private water bottoms in Districts 12 and 13 for the purposes of cleansing. When water quality in Districts 12 and 13 permits direct use of the shellfish from state water bottoms or native shellfish from private water bottoms, the fee established by Fish and Game Code Section 15003 shall apply.

(g) Agar-bearing plants taken from state waters are subject to the fees of Section 165(a)(2)(E) of this title.

(h) Oysters, clams and mussels harvested from Districts 12 and 13 for commercial purposes must be taken by licensed commercial fishermen. In addition to a commercial fishing license, every fisherman when harvesting shellfish, must have in his possession a current permit issued pursuant to Section 123 of this title. Only those species listed on the permit for harvest from Districts 12 and 13 may be taken.

(i) Improvements of aquaculture leases.

(1) Oyster Cultivation.

(A) Bottom culture: leases must be improved at an average rate of at least two cases of seed-bearing shell (160 pounds of seed-bearing shell) or 30 bushels of shellfish one or more years of age per acre over the allotted acreage per year. Improvements by unattached, single seed (less than one year old) shall consist of planting an average rate of 10,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(B) Off-bottom culture: leases must be improved at an average rate of at least one case of seed-bearing shell (80 pounds of seed-bearing shell), or 15 bushels of oysters one or more years of age per acre over the allotted acreage per year. Improvement by unattached single seed (less than one year old) shall consist of planting an average rate of 5,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(C) Production requirements: the annual harvest rate shall be an average of 2,000 oysters per acre (over one year of age) over the allotted acreage effective three years after the effective date of the lease. Harvest reports shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(2) Miscellaneous Aquatic Species.

(A) A lease of state water bottoms for the cultivation of species other than oysters will include minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended.

(B) Harvest amounts shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(j) As proof of use, holders of aquaculture leases shall submit to the department office designated in the lease agreement, a written declaration under penalty of perjury showing the date, quantity of species and acreage in each planting, also including a map showing acres, amounts and dates planted.

§ 238. Sale and Transportation of Aquatic Plants and Animals

Importation of live aquatic plants and animals is governed by Section 236 of these regulations. Except as provided for by Section 236, aquaculture products may be sold or transported in this state only in accordance with the following general terms and conditions:

(a) All aquaculture products sold or transported under the provisions of this section must have been legally reared or imported by an aquaculturist registered in this state.

(b) The following provisions apply to transactions of aquaculturists involving aquaculture products:

(1) A registered aquaculturist may sell and transport live aquaculture products authorized by that registration to any other aquaculturist authorized to possess the same species.

(2) All shipments of authorized aquaculture products shall be accompanied by a duplicate of a sales invoice or waybill showing the name of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume or count of each species in the shipment, and the name and address of the consignee.

(3) Duplicates of the required sale or shipping documents shall be retained by the producer, and by the shipper, if different from the producer, for a period of one year from

the date of sale. The records shall be shown upon written demand by the director of the department. The information contained in these documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(c) A registered aquaculturist may sell and transport live those aquaculture products authorized by that registration to any of the following whose licenses or permits authorize the possession of the same live plants and animals for commercial purposes. Documents as described in Section 238(b)(2) shall accompany each shipment. Aquaculture products may not be stocked in any water of the state, except as provided for in Section 238.5 of these regulations.

(1) Scientific or educational establishments;

(2) Aquarium Dealer Permittees (See Section 227 of these regulations);

(3) Live Freshwater Bait Fish Licensees (See Sections 200 through 200.31 of these regulations);

(4) To any other legal purchaser or possessor for whom possession is legal.

(d) The following provisions apply to the operator of any commercial establishment where aquaculture products are maintained alive for human consumption:

(1) Under no condition shall these aquaculture products be stocked in any waters of this state.

(2) The operator may transport live aquaculture products between aquaculture facilities, retail sales stores, and/or wholesale distribution points. Documents as described in Section 238(b)(2) shall accompany each shipment.

(3) The operator shall retain copies of all sales invoices or waybills received with the products. Such invoices or waybills shall be retained by the operator for a period of at least one year following receipt of the aquaculture products listed thereon, and such invoices or waybills shall be produced upon request of an official of the department.

(4) All aquaculture products, except live shellfish, sold and leaving the premises of the operator shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with Section 240 of these regulations.

(e) Marking and Tagging Requirements.

(1) Abalone.

(A) All abalone produced by an aquaculturist registered pursuant to Section 15101 of the Fish and Game Code may be possessed, harvested, sold and transported, provided the abalone are identifiable as being cultivated or are packaged in sealed containers as provided for in Section 240 of these regulations. Such abalone are exempt from the size limits established by Section 8304 of the Fish and Game Code.

(B) Abalone which spend part of their life in marine waters of the state, other than while in an aquaculture facility, must have an identifying mark or tag approved by the Department, or be otherwise identified as a product of aquaculture by a method approved by the Commission. Such identifying mark or method must be approved, or a tag attached, prior to the abalone being placed in waters outside the aquaculture facility. For purposes of this section, the term "aquaculture facility" includes a hatchery, rearing facility, pen, cage or any similar structure or device.

(C) Any person other than a registered aquaculturist processing cultured abalone at the wholesale level must possess a revocable processing permit for cultured abalone, as issued by the department.

(f) Retail Sales of Aquaculture Products at an Aquaculture Facility. All aquaculture products sold at an aquaculture facility shall be dead at the time of sale except for:

(1) Aquaculture products sold under the provisions of Sections 238(c), 238(d)(2), or 238.5 of these regulations. Aquaculture products sold under provisions of Section 238.5 of these regulations may be transported live and stocked as provided for by Section 238.5 of these regulations by retail customers. Documents as described in Section 238(b)(2) shall accompany each shipment, and records as described in Section 238(b)(3) shall be maintained by the aquaculturist and the retail customer.

(2) Striped bass, hybrid striped bass, abalone, steelhead trout and sturgeon sold pursuant to the provisions of Section 240 of these regulations.

(3) Aquaculture produced shellfish purchased at retail and taken from the aquaculture facility by the purchaser need only be accompanied by a sales receipt showing the name and aquaculture registration number of the producer, the item(s) and quantity purchased and the date of purchase. All other shipments of aquaculture products shall be accompanied by a sales invoice or waybill as provided in Section 238(b)(2) of these regulations.

(4) Those freshwater bait fishes that would be legal for sale as live bait by a licensed Live Freshwater Bait Fish Dealer in the same sport fishing district or portion of sport fishing district in which the aquaculture facility is located (see Sections 4.10 through 4.30 and Sections 200.13 through 200.31 for legal live bait fishes).

§ 238.5. Stocking of Aquaculture Products

Upon stocking, aquaculture products are wild and therefore “fish” as defined by Section 45 of the Fish and Game Code, except when stocked into a registered aquaculture facility. No person shall stock aquaculture products in this state except in accordance with the following general terms and conditions:

(a) All aquaculture products stocked under these provisions must be legally reared or possessed by an aquaculturist registered in this state. No person shall stock aquaculture products which are parasitized, diseased or of an unauthorized species.

(b) Live aquaculture products shipped to Inyo or Mono counties must be certified by the department as disease and parasite-free before being stocked in waters in those counties.

(c) A registered aquaculturist producing or possessing rainbow trout (*Oncorhynchus mykiss*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), redear sunfish (*Lepomis microlophus*), Sacramento perch (*Archoplites interruptus*), channel catfish (*Ictalurus punctatus*), blue catfish (*Ictalurus furcatus*) and white catfish (*Ictalurus catus*), may stock these species under the following terms and conditions.

Only publicly owned lakes covered by a cooperative agreement between the department and the lake operator and privately owned reservoirs, lakes and ponds in the following counties or portions thereof may be stocked without a stocking permit: Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Kern, except in the Kern River drainage above Democrat Dam; Kings, Lake except in the Eel River drainage; Los Angeles, Merced, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Ventura, Yolo, Yuba; those portions of Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolumne west of Highway 49; Fresno west of the Sierra and Sequoia National Forest boundaries; Madera west of the Sierra National Forest boundary; and Tulare west of the Sequoia National Forest and Sequoia National Park boundaries.

(d) Except for those species listed in Section 238.5(c) when planted into those specific areas and waters covered in Section 238.5(c), no person shall stock aquatic plants and animals except as follows:

(1) Each stocking of fish shall require a separate Private Stocking Permit (FG 749 (Rev. 5/93), which is incorporated by reference herein) issued by the department. A copy of this permit shall accompany all shipments. However, a copy of the same permit (FG 749 (Rev. 5/93)) may be used for additional consignments of the same species when stocked in the same water or waters, until cancelled by the department. See subsection 699(b) of these regulations for the fee for this permit.

(2) Application for the private stocking permit shall be made to the regional manager of the Fish and Game region in which the fish are to be stocked. An application will be supplied to each applicant upon request.

(3) No person shall stock any species of fish in any water in which the stocking of such fish is contrary to the fisheries management programs of the department for that water or drainage, or in any water from which such fish might escape to other waters where such fish are not already present. All applicants will be advised upon request of the said departmental fisheries management programs.

(4) Permittee shall notify the regional office of the department not less than 10 days in advance of stocking in order to make arrangements for inspection. Such inspection may be waived at the discretion of the department. If, upon inspection, diseased or parasitized fish or fish of unauthorized species are found by the department to be present, they shall be disposed of by the permittee as directed by the department. The department may require that the expense of any inspection made necessary by the provisions of these regulations be borne by the permittee.

(5) A stocking permit may be cancelled or suspended by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission.

(6) A stocking permit is valid only when signed by the applicant.

(e) A registered aquaculturist selling and transporting aquatic plants and animals for the purpose of stocking in this state shall retain copies of documents required by Section 15005(b) of the Fish and Game Code for a period of three years following stocking of the fish. The documents shall be shown upon written demand by the director of the department. The information contained in the documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(f) Except for Inyo, Mono, San Bernardino, Riverside and Imperial counties, mosquitofish (*Gambusia affinis*) may be planted for purposes of mosquito control without obtaining a permit otherwise required by these regulations. In Inyo and Mono counties and in public waters of San Bernardino, Riverside and Imperial counties, mosquitofish may not be planted without the written concurrence of the department.

§ 243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs from the Wild for Use as Broodstock for Aquaculture Purposes

Pursuant to sections 5503 and 15300, Fish and Game Code, aquatic plants, invertebrates, fishes and bullfrogs (*Rana catesbeiana*) may be taken from the wild for aquaculture purposes only in accordance with the following regulations:

(a) Exceptions. This section does not apply to the following:

(1) The take of live freshwater fish for sale as bait (See Section 8460, Fish and Game Code and Section 200, Title 14, CCR).

(2) The take of aquatic animals by commercial fishermen (See Section 226.7, Title 14, CCR).

(b) Permits. The department may issue a revocable, nontransferable permit to collect aquatic plants, invertebrates, fishes and bullfrogs from the wild for use in developing a domesticated broodstock for aquaculture purposes. Permits shall not be issued for striped bass or white sturgeon except by specific commission authorization. The permit shall be valid for one year from the issue date listed on the permit unless the expiration date on the permit specifies a shorter time period. No permits shall be issued for golden trout, steelhead trout, chinook salmon or coho salmon, or for those animals listed by the state or federal government as endangered, threatened or fully protected. Permits shall state the name, mailing and business addresses and phone of permittee, permittee's aquaculture registration number, name of the collector(s) if different from permittee, collector(s) phone number, collector(s) driver's license, or DMV identification number, name of assistant(s), assistant(s) phone number, assistant(s) driver's license, or DMV identification number, species to be collected, number or total weight to be collected, collection locations and methods, and collection dates. Any special notifications, requirements and conditions shall attached to the permit on a separate page.

(1) Who May Obtain Permits. Permits shall be issued only to the owner or operator of an aquaculture facility currently registered pursuant to Section 15101, Fish and Game Code and Section 235, Title 14, CCR. The aquaculturist must be authorized by said registration to possess the species to be taken. The aquaculturist may designate, on the permit application, a person to collect for him.

(2) Cost of the Permit. An administrative fee of \$500 shall be charged for processing the permit and initial site inspection. The department shall assess an additional fee, equal to the actual costs to the department in salaries, travel expenses and equipment use, if any department personnel are required to assist in the collection or inspection of the wild broodstock.

(3) How to Apply for the Permit. The permit application, FG 794 (Rev. 07/08), is available on request from the Aquaculture Coordinator at the address provided on the application. Completed and signed application forms and the \$25 nonrefundable application fee shall be submitted to the Aquaculture Coordinator.

(c) Who May Collect Wild Broodstock. Wild broodstock shall be collected only by the permittee or those persons listed as collectors on the permit. The permittee or one of the collectors designated by the permit shall be present when animals are collected. Collectors shall have the collection permit in their possession while engaged in collection activities and while transporting species collected to the permittee's registered facility. Any person listed on the permit as a collector and who is attempting to take broodstock, shall have a commercial fishing license in their possession. All collectors and assistants must have a driver's license or DMV identification in their possession.

Persons assisting the collector, and under their direct supervision, need not have a broodstock collection permit, but they shall be listed as assistants on the permit. The assistant may only

assist in the landing of the broodstock or assist with equipment such as boat operation. The assistant is not allowed to take or collect broodstock independently.

The department may require that an employee of the department be present to monitor collection operations, or that the broodstock be collected by department personnel. All costs to the department for monitoring or collecting shall be borne by the permittee. Any special conditions applied to the collection of wild broodstock shall be stated on the permit or attached page(s).

(d) Collection Methods and Gear. All aquatic plants and animals authorized to be taken by the permit shall be captured only in those waters and only with those types of gear specified in the permit. All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

The permittee shall comply with department requirements concerning construction and deployment of collection gear. Locations and times of collecting and the amount taken may be restricted by the department to protect the wild populations of authorized species or other species found in the collecting area, or to reduce interference with angling.

No recreational take of any kind may be done by the person(s) listed on the permit while taking the wild plants and animals authorized under the permit.

(e) Notification of Department. Before making any collection, the permittee and/or the other persons listed on the permit shall notify the department's regional office having responsibility for the area where the permittee wishes to collect or any other department office specified in the permit. Unless otherwise specified in the permit, the notification shall reach the regional office or other specified office by letter, telephone or personal contact at least 48 hours in advance of the collection date(s) and shall include the locality, dates and time(s) during which collecting is to be done.

(f) Written Reports and Logbooks.

(1) Permittee shall submit a written report to the Aquaculture Coordinator and the department office specified on the permit within six months of the permit's expiration date or prior to application for any additional broodstock collection permits, whichever is earlier. The report shall state the number of plants or animals collected, the location and condition of the wild broodstock and the number or amount of progeny cultured and provide other information as specified in the permit.

(2) When the logbooks are required to be filled out as a condition on the permit, the logbooks shall be in the immediate possession of the permittee and/or the collector working under the authority of the permit. The logbook shall be accurate and complete at all times and shall contain the require information as prescribed by the department.

(g) Disposition of Wild Broodstock and Their Cultured Progeny. Wild plants and animals taken under the authority of this permit remain the property of the state and shall not be sold, bartered or traded without written permission of the department. Wild broodstock shall be held only at an

aquaculture facility registered by the permittee and may be required to be held separate from non-wild broodstock. The department will determine the final disposition of all wild broodstock. Any wild broodstock taken and possessed shall be marked in a manner specified in the permit. The cultured progeny of plants and animals lawfully obtained under the authority of a broodstock collection permit are the exclusive property of that person who cultured them, or that person's successor in interest.

(h) Inspections. Permittees shall allow authorized department employees to inspect any and all wild broodstock authorized by this permit and their holding facilities, vehicles, vessels or other places that the broodstock may be held. Inspections may be made at any time with or without prior notification.

(i) Permit Denial or Revocation. The department may deny or revoke a permit to take wild plants and animals for use in developing a domesticated broodstock for any of the following reasons:

(1) To protect an aquatic resource.

(2) To protect public safety.

(3) A commercial source is available.

(4) The applicant does not have facilities or experience necessary to develop a domesticated broodstock from wild plants or animals.

(5) The applicant or permittee has demonstrated repeated failure to develop a domesticated broodstock from wild plants or animals.

(6) The applicant or permittee, his designated collector or an employee or assistant has violated the terms of a wild broodstock collection permit issued pursuant to this section, or has been convicted by a court of competent jurisdiction of any violation of the Fish and Game Code or commission regulations as determined by the department.

(7) Any person who currently has a permit under revocation or suspension by the department or commission.

(j) Violations. All permit requirements and conditions shall be followed. Any violation of any provision of the permit is a violation of this section and may lead to immediate permit revocation or suspension.

(k) Appeal. Any denial, suspension or revocation may be appealed to the commission.

Connecticut Seaweed Provisions (Index)

Wild Harvest

N/A

Aquaculture

Licenses

- CONN. GEN. STAT. § 22-11c - Aquaculture Development: Definitions
- CONN. GEN. STAT. § 22-11j - Planting and Cultivating Seaweed

Operations

- CONN. GEN. STAT. § 22-11f - Licensing of Aquaculture Operations
- CONN. GEN. STAT. § 22-11g - Releases from Aquaculture Systems
- CONN. GEN. STAT. § 22-11h - Permits for Aquaculture Operations
- CONN. GEN. STAT. § 22-11i - Licensing of Aquaculture Producers
- CONN. GEN. STAT. § 22-11k - Permit Application Final Determinations

Post-Harvest

N/A

Connecticut Seaweed Statutory Provisions

Conn. Gen. Stat. Tit. 22, Ch. 422 (Department of Agriculture)

§ 22-11c. Aquaculture development: Definitions

(a) As used in sections 22-11d to 22-11f, inclusive, “aquaculture” means the controlled rearing, cultivation and harvest of aquatic plants and animals in land-based and marine-based culture systems, tanks, containers, impoundments, floating or submerged nets or pens and ponds.

(b) For purposes of this chapter “agriculture”, as defined in subsection (q) of section 1-1, shall include aquaculture.

§ 22-11f. Licensing of aquaculture operation. Regulations. Control of importation and cultivation of nonnative plants or animals.

The Department of Agriculture, after consultation with the Department of Energy and Environmental Protection, shall adopt regulations, in accordance with the provisions of chapter 54, concerning the licensing of aquaculture facilities and operations other than any such facilities or operations of the Department of Energy and Environmental Protection. Such regulations shall establish a program to control the importation, cultivation or raising of aquatic plants or animals which are not native to this state. Such regulations shall ensure that any such importation or cultivation shall not adversely contaminate or impact native aquatic plants or animals or their natural habitats and shall further provide that aquaculture operations shall not adversely contaminate or impact wild stocks of aquatic plants and animals or their natural habitats and shall include measures to identify products of aquaculture operations. Aquatic plants and animals held at inland aquaculture facilities shall be exempt from laws and regulations pertaining to wild stocks, including, but not limited to, chapter 495.

§ 22-11g. Releases from aquaculture systems

No person may release water, plants, animals or other material from any land-based or marine-based aquaculture systems, including, but not limited to, tanks, containers, impoundments or ponds, unless such person first provides notice to the Commissioner of Agriculture, on a form prescribed by said commissioner, regarding the nature of the substances to be released. The commissioner may issue an order to discontinue or abate such release if the commissioner finds that such release poses a significant threat to the aquacultural resources of the state. This section shall not apply to any aquacultural systems operated by the Department of Energy and Environmental Protection.

§ 22-11h. Permits for aquaculture operations. Exemptions from environmental protection programs. General permits

(a) The Department of Agriculture shall have exclusive authority for granting or denying aquaculture permits, except for matters specifically concerning water discharges from such aquaculture operations into the waters of the state, which shall require approval by the

Department of Energy and Environmental Protection as provided in section 22a-430. The department shall not consider discharges from aquaculture operations to be industrial discharges and shall treat and administer applications and permits from aquaculture operations as separate and distinct from permits for industrial discharges for the purposes of section 22a-430. Within ninety days of receipt of a sufficient application for a discharge permit for an aquaculture operation under section 22a-430 the Commissioner of Energy and Environmental Protection, or a designee, shall meet with the applicant and the Commissioner of Agriculture, or a designee, to discuss such application.

(b) Aquaculture operations that withdraw less than two hundred fifty thousand gallons per day of water, where such water is not approved for human consumption, and where water so withdrawn is returned to the same source from which it was withdrawn, shall be deemed not to be a diversion as defined in section 22a-367 and shall be exempt from the water diversion permitting requirements of chapter 446i.

(c) Individual structures used for aquaculture as defined in section 22-11c, including, but not limited to, racks, cages or bags, as well as buoys marking such structures, which do not otherwise require a permit under federal Army Corps of Engineers regulations and do not interfere with navigation in designated or customary boating or shipping lanes and channels, shall be placed in leased or designated shellfish areas and shall be exempt from the requirements of sections 22a-359 to 22a-363f, inclusive.

(d) Transport of live aquaculture products from any licensed and approved aquaculture operation or hatchery within the state, and stocking of such products in the waters of the state, where such aquaculture products are species which are indigenous to the state and are approved for stocking by the Department of Agriculture, shall be exempt from the requirements of section 26-57, except that any person engaging in such transport and stocking shall obtain a renewable annual transport permit which shall govern all shipments for a calendar year designated under such permit. Such permit shall be developed and administered by the Department of Energy and Environmental Protection. Aquaculture hatcheries maintained by the Department of Energy and Environmental Protection shall be exempt from the provisions of this subsection.

(e) All shellfish aquaculture operations that utilize state-approved microalgal cultured feeds or which do not use any processed cultured feed, and all crustacean and molluscan bivalve growing, hatchery and holding facilities, including, but not limited to, lobster pounds, which are not exempt from requirements to obtain a discharge permit under section 22a-430 or corresponding federal regulations, may operate under a general permit developed by the Department of Energy and Environmental Protection and shall not be required to obtain individual discharge permits under section 22a-430. On or before September 15, 1999, said Department of Energy and Environmental Protection shall adopt and implement such general permit.

§ 22-11i. Licensing of aquaculture producers. Regulations

(a) As used in this section:

(1) “Aquaculture producer” means any person who engages in the controlled rearing, cultivation and harvesting of aquatic animals or plants in land-based or marine-based culture systems, tanks, containers, impoundments, floating or submerged nets or pens and ponds.

(2) “Aquatic animals” means fresh or saltwater finfish, crustaceans and other forms of aquatic life, including jellyfish, sea cucumber and sea urchin, and the roe of such animals, and all mollusks, which are intended for human consumption. “Aquatic animals” does not include birds or mammals.

(3) “Aquatic plants” means fresh or saltwater algae and plants, including, but not limited to, aquatic macrophyte, microalgae and macroalgae (seaweed) species intended for sea vegetable, biofuel, animal feed, fertilizer, medical, industrial or other commercial applications.

(4) “Seaweed” means any species of marine macroalgae approved by the Commissioner of Agriculture for cultivation in the waters of Long Island Sound.

(5) “Seaweed producer” means any person who engages in the controlled rearing, cultivation and harvesting of seaweed.

(b) The Commissioner of Agriculture shall license and inspect aquaculture producers. The commissioner may prescribe the length of term, fee and application for such license. To receive an aquaculture producer license from the commissioner, each aquaculture producer shall: (1) Possess a registration with the United States Food and Drug Administration as a food facility, (2) meet all processing standards and inspection procedures for seafood processing facilities, including, but not limited to, compliance with the provisions of 21 CFR 123--Fish and Fishery Products, Subpart A and the United States Food and Drug Administration's Food Code, as from time to time amended, and (3) pass an inspection conducted by the Department of Consumer Protection prior to the issuance of such license by the commissioner. The provisions of subdivision (2) of this subsection shall not apply to any seaweed or aquatic plant producer who possesses a valid license issued by the commissioner.

(c) Prior to receiving a license from the commissioner to be a seaweed or aquatic plant producer, an applicant shall receive species approval from the commissioner.

(d) The Commissioner of Agriculture, in accordance with chapter 541 and in consultation with the Commissioner of Consumer Protection, may adopt regulations to implement the provisions of this section.

§ 22-11j. Planting and cultivating seaweed. License. Requirements. Renewal. Prohibition on interference with right of fishing or shellfishing. Interference with seaweed license. Penalties. Regulations

(a) The Commissioner of Agriculture may issue a nontransferable license, in the name of the state, under such policies as the commissioner may prescribe and for a period of not greater than five years and an annual license fee of twenty-five dollars per acre, for the planting and cultivating of seaweed in any area within Connecticut's coastal waters. Any person who has a shellfishing ground lease authorized pursuant to section 26-194 or 26-257a shall not be required to remit such annual license fee. Any person licensed pursuant to this section may buy, possess, ship, transport or sell seaweed that meets the applicable requirements of sections 22-11h and 22-11i and any regulation adopted pursuant to said sections 22-11h and 22-11i. For the purpose of this section, "seaweed" means seaweed, as defined in section 22-11i.

(b) The General Joint Aquaculture Programmatic Permit Process Review of the Department of Agriculture's Bureau of Aquaculture, the Department of Energy and Environmental Protection's Office of Long Island Sound Programs, and the Army Corps of Engineers may subject any such licensee to the requirements of sections 22a-359 to 22a-363f, inclusive.

(c) Any such license or license renewal, issued pursuant to this section, shall require the licensee to make a good faith effort to cultivate and harvest seaweed from the licensed area. Any licensee who fulfills all of his or her obligations pursuant to said license, upon the expiration of said license, shall be given preference by the commissioner in the relicensing of such ground for a like term and purpose as that granted in the original license. The commissioner shall not renew the license of any licensee who fails to remit the license fee required pursuant to this section. No application for the renewal of a license pursuant to this section shall be granted without notice or advertisement of the pendency thereof by the commissioner. No renewal of a license for grounds previously leased pursuant to this section shall be granted when the commissioner, for cause, determines to cease licensure of such grounds for seaweed culture.

(d) In no instance shall the Commissioner of Agriculture grant a license to cultivate seaweed pursuant to this section such that the grant of such license interferes with an established right of fishing or an established right of shellfishing. Any license issued pursuant to this section that interferes with an established right of fishing or an established right of shellfishing shall be void.

(e) Any person who interferes with, annoys or molests another in the enjoyment of any license issued pursuant to this section shall be fined not more than five hundred dollars or imprisoned not more than six months or both.

(f) The Commissioner of Agriculture may adopt regulations, pursuant to chapter 54, 1 to implement the provisions of this section.

§ 22-11k. Ninety-day aquaculture permit application final determinations

The Department of Agriculture shall review and make a final determination on each aquaculture permit application not later than ninety days after receipt of such application. Following such ninety-day period, if a final determination on such application is not made by said agency, such application shall be deemed approved.

Connecticut Seaweed Regulatory Provisions

N/A

Hawaii Seaweed Provisions (Index)

Wild Harvest

Definitions

- HAW. STAT. § 187A-1 - Aquatic Resources
- HAW. CODE R. § 13-74-20 - Commercial Marine License

License

- HAW. CODE R. § 13-74-20 - Commercial Marine License
- HAW. CODE R. §13-34-1 to §13-34-5 Pupukea Marine Life Conservation District, Oahu (*limu kohu & limu lipe'epe'e*)

Aquaculture

Definitions

- HAW. STAT. § 187A-1- Aquatic Resources
- HAW. CODE R. § 13-74-1 - License and Permit Provisions and Fees for Fishing, Fish, and Fish Products

License

- HAW. STAT. § 187A-3.5 - Aquaculturist License and License to Sell Prohibited Aquatic Life
- HAW. CODE R. § 13-74-43 - Aquaculture License

Post-Harvest

- HAW. STAT. § 187A-3.5 - Aquaculturist License and License to Sell Prohibited Aquatic Life
- HAW. CODE R. § 13-74-43 - Aquaculture License
- HAW. CODE R. § 13-74-44 - License to Sell Reared Species

Hawaii Seaweed Statutory Provisions

Hawaii Stat. Div. 1, Tit 12, Subtitle 5, Ch. 187A, Part 1 (General Provisions)

§ 187A-1. Definitions

As used in this subtitle, unless the context indicates otherwise:

“Aquaculture” means the propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for research purposes, commercial purposes, or stocking purposes.

“Aquatic life” means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, products, and other parts thereof.

“Board” means the board of land and natural resources.

“Commercial marine dealer” means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

“Commercial marine license” means a license issued to take marine life within or outside the State for commercial purpose.

“Commercial marine licensee” means a person who has been issued a commercial marine license pursuant to section 189-2.

“Commercial purpose” means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

“Department” means the department of land and natural resources.

“Fishing” or “to fish” means catching, taking, or harvesting, or attempting to catch, take, or harvest, aquatic life. The use of a pole, line, hook, net, trap, spear, or other gear which is designed to catch, take, or harvest aquatic life, by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be caught, taken, or harvested, shall be deemed to be fishing.

“Harvest” means the taking and retaining of marine life by any means whatsoever.

“Marine life” means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

“Qualified aquaculturist” means a person, or association of persons, actively engaged in aquaculture farming, aquaculture produce processing, or aquaculture product development activities.

“Shark” means any member of the class Chondrichthyes, including but not limited to: inshore species of galapagos shark (*Carcharhinus galapagensis*), reef blacktip shark (*Carcharhinus melanopterus*), gray reef shark (*Carcharhinus amblyrhynchos*), big-nosed shark (*Carcharhinus altimus*), tiger shark (*Galeocerdo cuvier*), blacktip shark (*Carcharhinus limbatus*), smooth hammerhead shark (*Sphyrna zygaena*), reef whitetip shark (*Triaenodon obesus*), scalloped hammerhead shark (*Sphyrna lewini*), sandbar shark (*Carcharhinus plumbeus*), offshore species of white shark (*Carcharodon carcharias*), shortfin mako shark (*Isurus oxyrinchus*), silky shark (*Carcharhinus falciformis*), blue shark (*Prionace glauca*), whale shark (*Rhincodon typus*), thresher shark (*Alopias vulpinus*), oceanic whitetip shark (*Carcharhinus longimanus*), cookie cutter shark (*Isistius brasiliensis*), and megamouth shark (*Megachasma pelagios*).

§ 187A-3.5. Aquaculturist license and license to sell prohibited aquatic life

(a) Notwithstanding the provisions in subtitle 5 of title 12, or administrative rules adopted thereunder, the department may issue to any qualified aquaculturist a license to fish, possess, rear, and sell any aquatic life whose fishing, possession or sale is prohibited by closed season, minimum size, or bag limit; provided that the qualified aquaculturist rears or reared the aquatic life in an aquaculture facility.

(b) The department may further issue to any person a license to possess or sell or offer for sale any aquatic life whose possession or sale is prohibited by a closed season, minimum size, or bag limit; provided that the aquatic life was reared by a licensed qualified aquaculturist in an aquaculture facility pursuant to subsection (a).

(c) The department may adopt rules pursuant to chapter 91, to implement this section by establishing the licenses, fees, and terms or conditions necessary for the fishing, possession, or sale of aquatic life whose fishing, possession, or sale is prohibited by closed season, minimum size, or bag limit.

Hawaii Seaweed Regulatory Provisions

Hawaii Admin. Code, Tit. 13, Subtitle 4, Part I, Ch. 34, Subchapter (Pupukea Marine Life Conservation District, Oahu)

§ 13-34-1. Boundaries

The Pupukea Marine Life Conservation District shall include that portion of the submerged lands and overlying waters beginning at Kulalua Point extending seaward due west (270 degrees) to a point one hundred yards offshore at longitude 21° 39' 44" N latitude 158° 03' 89" W, then south to the most seaward exposed rock of Wananapaoa Islets on the southern side of Waimea Bay, including the Wananapaoa Islets at longitude 21° 38' 60" N latitude 158° 03' 50" W, then due southeast (135 degrees) to shore as further described in the "Map of the Pupukea Marine Life Conservation District, Oahu 01/10/02" attached at the end of this chapter.

§ 13-34-1.1. Definitions

As used in this chapter, unless the context clearly indicates otherwise:

"Akule" means any fish of the species known as *Selar crumenophthalmus*. This also includes the various life stages known as pa'a'a, hahalalu, halalu, and mau.

"District" means the Pupukea Marine Life Conservation District.

"Finfish" means any of various species of marine life that uses fins to swim, not including marine mammals or sea turtles.

"Hook-and-line" means a type of fishing gear consisting of a length of fishing line, to which is attached one or more hooks or other device for capturing marine life. A weight and a pole may also be used to aid in the placement of the fishing line in the water.

"Legal nets" means any net that is not in violation of any law, rule or regulation.

"Limu kohu" means any seaweed known as *Asparagopsis taxiformis* or a recognized synonym.

"Limu lipe'epe'e" means any seaweed known as *Lawrencia succisa* or a recognized synonym.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

“Opelu” means any fish of the species known as *Decapterus macarellus* or a recognized synonym.

“Opihi” means any mollusk of the genus *Cellana* or a recognized synonym. The animal is also known as ko'ele, alinalina, maka-ia-uli, and limpets.

“Personal safety” means any defensive action that a person or persons may engage in to prevent life threatening injury or death.

“Snag” means to engage in the act of pulling on a line that is attached to one or more hooks quickly enough across a fish for the purpose of hooking the fish anywhere except by the mouth.

“Spear” means any fishing device consisting of a straight rigid shaft with one or more sharpened points at one end of the shaft, along with any device that aids in the aiming accuracy or the force of propulsion of the shaft. A spear includes, but is not limited to, spear gun, bow and arrow, Hawaiian sling, and three-prong spear. A spear also includes any similar device that is capable of impaling aquatic life to allow capture, with or without the aid of artificial propulsion.

“Take” means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

“Trap” means any of various fishing devices of mesh, perforated, or solid material made into the shape of a box, container, or enclosure, with one or more openings that allow aquatic life to enter into the interior of the box, container, or enclosure, but restrict exit out, thereby capturing the aquatic life within.

“Waimea Bay” means that portion of the district bounded by an imaginary line from, and including, the Wananapaoa Islets across the mouth of Waimea Bay to Waimea Point.

§ 13-34-2. Prohibited Activities

It is unlawful for any person to engage in the following activities within the Pupukea Marine Life Conservation District, except as may be allowed under sections 13-34-3 and 13-34-4, or other applicable law:

- (1) Fish for, catch, take, injure, kill, possess, or remove any finfish, crustacean, mollusk including sea shell and opihi, live coral, or other marine life, or eggs thereof;
- (2) Take, alter, deface, destroy, possess, or remove any sand, coral, rock, or other geological feature, or specimen; or
- (3) Have or possess in the water, any spear, trap, net, crowbar or other device that may be used for the taking, injuring, or killing of marine life, or the altering of a geological feature.

§ 13-34-3. Permitted Activities

A person may:

- (1) Take and possess any finfish with hook-and-line from the shoreline of Waimea Bay only; provided that no person may snag any akule and further provided that no person may use more than two poles with one line per pole and with no more than two hooks per line;
- (2) Take and possess any opelu with legal nets from Waimea Bay only during August and September;
- (3) Take and possess any akule with legal nets from Waimea Bay only during November and December;
- (4) Possess within the District any knife for the sole purpose of personal safety; and
- (5) Take and possess limu kohu and limu lipe'epe'e within the district by hand harvesting only; provided that no person shall take limu kohu and limu lipe'epe'e with the holdfast or roots attached and no person shall take or possess more than two pounds (squeezed dry) of either limu kohu or limu lipe'epe'e or a combined total of two pounds of both per day.

§ 13-34-4. Exceptions; permits

The department may issue permits to engage in activities within the district, that may be otherwise prohibited by law and section 13-34-2, provided that:

- (1) The permits may be issued for scientific, propagation, or other purposes as provided by law, or as reasonably necessary to protect the public health, safety, and welfare;

(2) The board may impose terms and conditions it deems necessary to carry out the purpose of chapter 190, HRS;

(3) The board may revoke any permit for any infraction of the terms and conditions of the permit; and

(4) A person whose permit is revoked shall not be eligible to apply for another permit until the expiration of a specified period from the date of revocation as provided by law.

§ 13-34-5. Penalty

A person violating the provisions of this rule or the terms and conditions of any permit issued as provided by this rule, shall be guilty of a petty misdemeanor, and may be subject to administrative penalties as provided by law.

Hawaii Admin. Code, Tit. 13, Subtitle 4, Part IV, Ch. 74, Subchapter 1 (General Provisions)

§ 13-74-1. Definitions

As used in this chapter, unless otherwise provided:

“Aquatic life” means any type of species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, products, and other parts thereof.

“Board” means the board of land and natural resources.

“Bottomfish fishing activity” means those fishing activities associated with the taking of bottomfish while on a vessel.

“Commercial marine dealer” means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

“Commercial marine license” means a license issued to take marine life within or outside the State for commercial purpose.

“Commercial marine licensee” means a person who has been issued a commercial marine license pursuant to section 189-2, HRS.

“Commercial purpose” means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

“Department” means the department of land and natural resources.

“Fishing” or “to fish” means catching, taking, or harvesting, or attempting to catch, take, or harvest, aquatic life. The use of a pole, line, hook, net, trap, spear, or other gear which is designed to catch, take, or harvest aquatic life, by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be caught, taken, or harvested, shall be deemed to be fishing.

“Freshwater game fishes” means those introduced freshwater fishes as listed in section 13-99-2.

“Freshwater game fishing license” means a license issued to take freshwater game fishes.

“Licensee” means any person who has been issued a license pursuant to this chapter.

“Marine life” means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

“Northwestern Hawaiian Islands” means those islands, reefs, and shoals, as well as their respective appurtenant reefs and territorial waters of the Hawaiian Islands chain beginning and including Nihoa island to and including Kure island.

“Permittee” means any person who has been issued a permit pursuant to this chapter.

“Person” means an individual, partnership, firm, company, corporation, association, or other entity.

“Resident” means an individual that has established the individual's primary residence and worked in the State continuously for a period of twelve months or longer immediately prior to applying for, or obtaining a license or permit, or has filed or paid the individual's State income taxes for the previous tax period.

“Trip” means any bout of fishing activity occurring in state marine waters in the course of a one way or round trip, and generally includes when a vessel has left port or shore until it puts into port or goes ashore, even if not to the point of origin.

Hawaii Admin. Code, Tit. 13, Subtitle 4, Part IV, Ch. 74, Subchapter 3 (Commercial Fishing)

§ 13-74-20. Commercial marine license

(a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license. Additionally, any person providing vessel charter services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine license.

(b) Licenses to persons with proof of identity to engage in the activities described in subsection (a) shall require the person's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and such other information as the department may require.

(c) The fee for the issuance or renewal of a commercial marine license shall be \$100. The fee for a duplicate license shall be \$10.

(d) No person may:

(1) Renew a commercial marine license more than two months prior to its expiration date; or

(2) Be issued more than one commercial marine license at any one time.

(e) The department may require persons issued the commercial marine license to submit reports of their fishing activity. Such reports shall be submitted to the department monthly; provided that persons taking bottomfish as defined in chapter 13-94, in the main Hawaiian islands, shall, in addition to their monthly report for species other than bottomfish, submit trip reports of their bottomfish fishing activity if requested. The monthly and trip reports shall be subject to section 13-74-2, sections 189-3 and 189-3.5, HRS, and as may be otherwise provided by law.

Hawaii Admin. Code, Tit. 13, Subtitle 4, Part IV, Ch. 74, Subchapter 4 (Other Licenses and Permits)

§ 13-74-43. Aquaculture license

(a) After review of a written application, the department may issue to any qualified aquaculturist, a license to fish for, rear, possess or sell any regulated aquatic life, provided the qualified aquaculturist rears or reared the regulated aquatic life in an aquaculture facility for commercial purpose. To qualify for a license a qualified aquaculturist must satisfy the department that the qualified aquaculturist is able to maintain aquatic life or live rock alive and in good health in an aquaculture facility at all times in accordance with industry-wide standards.

(b) The licensee shall make and issue a receipt whenever a transaction concerning regulated aquatic life occurs. The receipt shall be a written record of the transaction and shall include:

(1) The transaction date;

(2) The name and address of the licensee, the name of the person issuing the receipt, and the name and address of the person to whom the receipt is issued, except that the name and address of the person to whom the receipt is issued are not required if the transaction is with a person who will not resell the regulated aquatic life;

(3) The name, weight, number or other appropriate measure of quantity, and value of all regulated aquatic life involved in the transaction; and

(4) Any other information the department may require.

(c) The licensee shall keep all receipts on file and be able to present such receipts for inspection upon demand of any officer authorized to enforce the laws of the State. The receipts shall be kept for not less than twenty-four months after the transaction date or until the regulated aquatic life is no longer in the licensee's possession, whichever is longer. The department may approve the use of documents other than the receipts as written records of the transaction.

(d) The licensee shall submit to the department a summary report on or before July 31st of each year, covering the previous twelve month period between July 1st to June 30th. The report shall provide an accounting of the regulated aquatic life received, bought, sold, transferred or exchanged. The accounting shall include the items involved in a transaction, the sum of the weight, number or other appropriate unit of quantity, and value, along with any other information the department may require.

(e) Licensees that rear live rocks shall only use rocks for producing live rocks obtained from legal sources such as quarries or dredging operations and may not fish for live rocks from the wild.

(f) Unless authorized in writing by the department, licensees shall not:

- (1) Release cultured aquatic life or live rock into state waters;
- (2) Fish for, in state waters, any regulated aquatic life or live rock;
- (3) Fish in areas where fishing is restricted by law; or
- (4) Use gear that the department has declared illegal except for small meshed nets, provided the net is not a small meshed thrownet.

(g) The department may restrict or prohibit the rearing of any aquatic life as authorized by this section, such as those species whose entry into or possession in the State is restricted or prohibited pursuant to the rules of the department of agriculture, those species that the state or federal governments may list as threatened or endangered, or any aquatic life the department may determine to be unsuitable for commercial rearing in the State or otherwise potentially detrimental to living aquatic resources in the State.

(h) The department may require licensees:

- (1) Who fish in the wild for regulated aquatic life to report such catches and to include in the report the species, numbers, size, fishing location, amount of fishing effort, and any other information for the purpose of this license. The regulated aquatic life taken from the wild may only be used for stocking into the aquaculture facility as juveniles or used as adults to provide broodstock material. The licensee may not sell or offer for sale any regulated aquatic life taken from the wild that is less than the minimum size as specified by law;
- (2) To obtain a Conservation District Use Permit pursuant to chapter 13-53, Hawaii Administrative Rules (HAR) and a Right of Entry Permit pursuant to chapter 171, HRS, in addition to any other requirement of law; and
- (3) To provide a list of names of commercial marine dealers that will buy or obtain any regulated aquatic life that were reared in the licensee's aquaculture facility. Any changes to the list shall be in writing.

(i) Each aquaculture facility shall have a separate license, even if one person owns or operates several aquaculture facilities. A copy of the license shall be available for inspection upon the demand of any officer authorized to enforce the laws of the State, including whenever the regulated aquatic life are fished for, delivered, transported, or sold. The license shall be kept at the facility for immediate inspection.

(j) For the purposes of this section:

“Aquaculture facility” means any farm, ranch, hatchery, pond, workplace, or place of business that is designed or intended for the rearing, breeding, or culturing of aquatic life or live rock in a controlled or managed salt, brackish, or freshwater environment.

“Regulated aquatic life” means any aquatic life or live rock whose fishing for, possession, or sale is regulated during a closed season, or when regulated by a minimum size or bag limit as specified in subtitle 5 of title 12 or administrative rules.

(k) The license fee shall be \$50.

§ 13-74-44. License to sell reared species

(a) The department may issue to any person a license to possess, sell, or offer for sale regulated aquatic life, provided that a qualified aquaculturist has reared the regulated aquatic life in a licensed aquaculture facility.

(b) The licensee shall keep a receipt issued by the licensed aquaculture facility when receiving or buying the regulated aquatic life.

(c) The licensee shall issue a receipt to the person to whom the regulated aquatic life is sold or transferred. The receipt shall be a written record of the transaction and shall include:

(1) The transaction date;

(2) The names and addresses of the licensee, the person issuing the receipt, and the person to whom the receipt is issued, except that the name and address of the person to whom the receipt is issued are not required if the transaction is with a person that will not resell the regulated aquatic life;

(3) The name, weight, number or other appropriate measure of quantity, and value of all regulated aquatic life involved in the transaction; and

(4) Any other information the department may require.

(d) The licensee shall keep on file and be able to present for inspection upon demand of any officer authorized to enforce the laws of the State, a copy of all receipts for not less than twenty-four months after the transaction date or until the regulated aquatic life is no longer in the licensee's possession, whichever is longer. The department may approve the use of documents other than the receipts as written records of the transaction.

(e) Each market outlet that sells or offers for sale the regulated aquatic life shall have a separate license, even if the same person owns or operates several outlets. The license shall be kept at the market outlet for immediate inspection upon demand of any officer authorized to enforce the laws of the State.

(f) The department may require submittal of monthly reports, pursuant to the purposes of this section.

(g) For the purposes of this section:

“Licensed aquaculture facility” means any aquaculture facility licensed pursuant to section 13-74-43.

“Regulated aquatic life” means any aquatic life or live rock whose fishing for, possession, or sale is regulated during a closed season, or when regulated by a minimum size or bag limit as specified in subtitle 5 of title 12 or administrative rules.

(h) The fee for the license shall be waived with the license valid for not longer than two years from the date of issuance.

Maine Seaweed Provisions Index

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Maine Seaweed Statutory Provisions

Maine Stat., Tit 12, Part 9, Subpart 1, Ch. 601 (General Provisions)

§ 6001. Definitions

For the purposes of this Part, the following words shall have the following meanings, unless a different meaning is required by the context.

(unrelated definitions deleted)

1. “Aquaculture” means the culture or husbandry of marine organisms by any person.

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26. “Marine organism” means any animal, plant or other life that inhabits waters below head of tide.

...

38-A. “Seaweed” means all marine algae.

...

Maine Stat., Tit 12, Part 9, Subpart 1, Ch. 605, Subchapter 2 (Leases and Special Licenses)

§ 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.

(1-A) Lease requirement; finfish and suspension culture. Except as provided in paragraphs B and B-1 and 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.

(A) Deleted. Laws 1997, c. 231, § 2, eff. May 20, 1997.

(B) A person operating a facility in the coastal waters of the State, on or before the effective date of this subsection, for the culture of finfish in nets, pens or other enclosures or for the suspended culture of shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1992 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1992. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

(B-1) A person operating a facility in the coastal waters of the State for the suspended culture of a marine organism other than shellfish that is not leased under this section must register the facility with the commissioner on or before January 1, 1994 on a form specified by the commissioner. A person registering under this paragraph must submit a completed lease application on or before July 1, 1994. A registrant whose application under this paragraph is denied shall immediately cease operations at the facility and remove all related structures from the coastal waters of the State.

(C) The commissioner may not consider an application for a lease under this section on an area registered under paragraph B or B-1 from a person other than the registrant prior to rendering a final decision on any application submitted by a registrant under paragraph B or B-1.

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.

(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;

(B) Repealed. Laws 1997, c. 138, § 1.

(C) Deleted. Laws 1987, c. 453, § 1.

(D) Repealed. Laws 1981, c. 609, § 2.

(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; and

(F) No single lease may exceed 100 acres in size.

(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.

(4) Applications. The application shall:

(A) Be written on forms supplied by the commissioner;

(B) Describe the location of the proposed lease area by coordinates or metes and bounds;

(C) Identify the species to be cultivated;

(D) Deleted. Laws 1987, c. 453, § 1.

(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;

(D-2) Repealed. Laws 1997, c. 138, § 3.

(E) Describe the degree of exclusive use required by the project;

(F) Include written permission of every riparian owner whose land to the low water mark will be actually used;

(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;

(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;

(I) Describe the proposed source of organisms to be grown at the site; and

(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.

(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.

(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 the financial and technical capability 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 riparian owners within 1,000 feet of the proposed lease and to the municipality or municipalities in which or adjacent to which the lease is proposed. A municipality must be granted intervenor status upon written request.

(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.1

(5-B) Repealed. Laws 1987, c. 891, eff. Nov. 29, 1988.

(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 IV2 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 shall be required to be given only to the lessee and the known riparian owners, the municipal officials 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.

(B) Under the provisions of Title 5, section 9052, the leasing procedure shall require notice to the general public.

(C) The Department of Environmental Protection, the Department of Agriculture, Conservation and Forestry and the Department of Inland Fisheries and Wildlife must be notified of all lease applications.

(D) Repealed. Laws 2003, c. 247, § 3.

(7) Deleted. Laws 1987, c. 453, § 1.

(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.

(B) The lease will not unreasonably interfere with navigation.

(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.

(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.

(E) The applicant has demonstrated that there is an available source of organisms to be cultured for the lease site.

(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.

The Department of Agriculture, Conservation and Forestry shall maintain a list of conserved lands. The commissioner shall request this information from the Department of Agriculture, Conservation and Forestry prior to holding a preapplication proceeding.

(G) The lease will not result in unreasonable impact from noise or light at the boundaries of the lease site.

(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.

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.

(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.

(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;

(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;

(B) Third, to the department;

(C) Fourth, to the riparian owner of the intertidal zone in which the leased area is located;

(D) Fifth, to a person who fishes commercially and who has traditionally fished in or near the proposed lease area; and

(E) Sixth, to the riparian owner within 100 feet of leased coastal waters.

(8-A) Repealed. Laws 2011, c. 93, § 2.

(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.

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

(A) Repealed. Laws 2015, c. 68, § 1.

(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;

(C) The lessee shall mark the leased area in a manner prescribed by the commissioner; and

(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.

(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, if no substantial aquaculture or research has been conducted over the course of the lease or if any condition of the lease 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.

(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.

(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.

(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.

(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).

(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.

(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.1.

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

(A) The commissioner receives, at least 90 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;

(B) The lessee has complied with the lease agreement during the term of the lease;

(C) The commissioner determines that renewal of the lease is in the best interest of the State;

(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

(E) The lease is not being held for speculative purposes.

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 as required under subsection 6 and a hearing must be held if it is requested in writing by 5 persons. 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.

(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 14 days.

(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;

(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.

(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 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.

(12-B) Repealed. Laws 2011, c. 93, § 4.

(12-C) Expansion of lease. A person who holds a lease under this section 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 and documentation showing that the lease holder has informed each of those riparian owners of the application and the opportunity for comment as provided in paragraph B;

(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.

(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 municipal officers of the municipality or municipalities in which or adjacent to which the lease expansion is proposed. The commissioner 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.

(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.

(D) The commissioner shall consider comments received during the period for comments set pursuant to paragraph B.

(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.

(13) Regulations. The commissioner may adopt or amend regulations:

(A) Establishing minimum standards for maintaining leases;

(B) For procedures to issue, transfer, review, assign, expand or revoke leases;

(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;3

(D) For regulating the harvest of wild organisms to be cultured on aquaculture leases;

(E) For establishing and revaluing fees and rents related to aquaculture;

(F) For defining application requirements, an application review process and decision criteria;

(G) For adding or deleting authorization for the holder of an aquaculture lease to grow specific species and use specific gear on the lease site. A change in authorization is not an adjudicatory proceeding. The regulations 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; and

(H) For establishing fallowing requirements and procedures.

(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.

(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.

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.

(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.

(15) Rules. The commissioner shall promulgate rules by January 1, 1988, to define a mussel seed size or seed management and harvest season.

(16) Repealed. Laws 1997, c. 138, § 7.

(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

(B) Direct that person to provide the commissioner, upon making full payments as ordered by the court, proof of that payment.

(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.

§ 6073-B. Harvester license exemption; aquaculture

The holder of a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C is exempt from any requirement under sections 6421, 6501, 6601, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6801-A and 6803 to hold a separate license for the removal, possession or transport of the cultured organisms from the leased area or the licensed gear, except that, beginning May 1, 2018, a person may not sell organisms cultured on the lease site or under the limited-purpose aquaculture license without a license issued under section 6810-B.

§ 6074. Special license

The commissioner may issue a special license for research, aquaculture or education that exempts the holder from one or more marine resources' laws as to the time, place, length, condition, amount and manner of taking or possessing a marine organism. Except as provided in subsection 8, the commissioner may not issue a special license unless the application for that license is approved by the advisory council.

(1) Exception. A special license does not permit the holder to sell or, beyond the state limits, to ship or transport any marine organism that is less than the minimum size established by statute. This subsection does not apply to:

(A) Repealed. Laws 1999, c. 156, § 2, eff. May 12, 1999.

(B) Any species grown in a hatchery for stock enhancement or resale for purposes of cultivation or stock enhancement; or

(C) Scallop spat collected under the authority of a special license and sold for the purpose of placement on a lease site authorized pursuant to section 6072 or 6072-A or under the authority of a license issued pursuant to section 6072-C. For purposes of this paragraph, until September 1, 2015, “scallop spat” means scallops less than 40 millimeters in the longest diameter and, beginning September 1, 2015, “scallop spat” means scallops less than 25 millimeters in the longest diameter.

(2) Application. The application shall include a description of the proposed project including the objectives, the location and the estimated time of completion of the project. The application shall also include a list of the sections of law or regulation for which exemptions are required, and the specific reasons for each requested exemption.

(3) Filing fee. Each application must include a nonrefundable filing fee of \$100. The fee may be waived for research activity by institutions or organizations financed in whole or part by state funding. A filing fee may not be required from a municipality applying for a special license for using a hydraulic dredge under section 6623.

(4) Limitation. The special license shall authorize only the individual named in the license to undertake the licensed activities. Any individual engaged in handling or harvesting marine organisms in the licensed project shall be listed on the license or supplemental license. The commissioner may, at any time, place conditions or limitations on the licensed activities which shall become part of the license.

(5) Fees. At the time of the initial issuance of a special license, and each year upon renewal, an annual fee must be paid. The annual fee for a special license for no more than 2 individuals is \$50. An annual fee for a special license for more than 2 individuals but no more than 10 individuals is \$100. Additional individuals may be included in a special license in groups up to 10 for an additional \$100 per group. The fee may be waived for research activity by institutions or organizations financed in whole or in part by state funding. A license fee may not be required from a municipality for a special license for using a hydraulic dredge under section 6623. A license fee may not be required for employees of the department when they are acting in their capacity as employees under the direction of the commissioner or the commissioner's designated representative.

(6) Renewal.

(A) The initial issuance of each special license must specify the number of times the license may be renewed after the initial issuance. Each license may be renewed at least 4 times. The commissioner, with the advice and consent of the advisory council, may authorize renewals if the necessary investment in the research or aquaculture requires additional renewals.

(B) The commissioner shall annually renew the license on request for the authorized number of renewals, unless the license holder has not complied with the conditions of the license or the commissioner finds that renewal is not in the best interest of the State. Renewals do not require a new application or filing fee and do not require the advice and consent of the advisory council.

(7) Transportation permit. A transportation permit is required for a special license holder to ship, transport or sell any marine organism raised or harvested under a special license. The commissioner may place conditions or limitations on the activities authorized by this permit to the extent necessary to provide proper controls and to comply with federal or state health or sanitation standards. The commissioner shall annually renew the permit on request unless the permit holder has not complied with the conditions of the permit or unless the permit holder no longer holds a special license.

(8) Council approval not required. Approval by the advisory council is not required for a special license issued by the commissioner to the following:

(A) An employee of the department when the employee is acting under the direction of the commissioner or the commissioner's designated representative;

(B) A person who operates an aquarium;

(C) A person who operates a festival;

(D) A person who undertakes a public service activity;

(E) A municipality that operates a hydraulic or mechanical soft-shell clam dredge for municipal transplanting projects under section 6623; or

(F) A teacher who is providing a primary, secondary or postsecondary school program for educational purposes only.

(9) Penalty. An individual who fails to comply with the conditions or limitations on the licensed activity under this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

§ 6083. Lease option

(1) Lease option. A person may apply for a lease option that conveys the right to file an application for an aquaculture lease under section 6072, 6072-A or 6072-B for a particular area of the submerged lands of the State and for a defined period of time. The department may not accept an application for an aquaculture lease pursuant to section 6072, 6072-A or 6072-B or an application for a limited-purpose aquaculture license pursuant to section 6072-C in an area that is under a lease option, except as described in subsection 2.

(2) Other claims of preference. A lease option under this section does not supersede the provisions for application preference in section 6072, subsection 8 and section 6072-A, subsection 12. Competing aquaculture lease applications from persons claiming preference under section 6072, subsection 8 or section 6072-A, subsection 12 must be evaluated by the department to determine if the claim of preference is valid and, if it is found to be valid, the holder of the lease option may cancel the lease option and receive a fee refund prorated for the remainder of the term of the lease option.

(3) Issuance criteria. The applicant for a lease option under this section must demonstrate that the site is being assessed in good faith for its suitability for aquaculture and that there is a reasonable likelihood that an application for an aquaculture lease will be filed during the term of the lease option. The area proposed for lease option may not contain an existing aquaculture lease or license or include an area that is part of an aquaculture lease or license application under consideration by the department.

(4) Fee. The fee for issuance of a lease option under this section may be up to \$500 for the first acre plus up to \$50 for each additional acre, the amount to be established in rules adopted by the commissioner. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

§ 6084. Nonpayment of aquaculture lease fees

If a holder of an aquaculture lease or license under this subchapter fails to pay any related fees or charges, the commissioner may refuse to renew or issue any marine resources license or permit to the holder of the aquaculture lease or license.

§ 6087. Seaweed Fisheries Advisory Council

(1) Appointment; composition. The Seaweed Fisheries Advisory Council, established by Title 5, section 12004-I, subsection 57-H and referred to in this section as “the council,” consists of 7 members appointed by the commissioner as follows:

- (A) Two members who process seaweed or hold either a seaweed permit or seaweed buyer's license;
- (B) Two members who are seaweed aquaculture lease holders or their designees;
- (C) One member of the scientific community;
- (D) One member who harvests seaweed; and
- (E) One member of the public.

The commissioner shall make appointments so that the composition of the council reflects the diversity of the State's seaweed operations.

(2) Purpose. The council shall:

- (A) Make recommendations to the commissioner on all matters concerning the health of the seaweed resource, its ecosystem and the industry it supports; and
- (B) Make recommendations to the commissioner regarding expenditures from the Seaweed Management Fund as described in section 6806.

(3) Term. The term of a member appointed to the council is 3 years, except that a vacancy during an unexpired term must be filled in the same manner as for the original member for the unexpired portion of the member's term. A member may not serve more than 2 consecutive terms.

(4) Officers. The officers of the council are the chair, vice-chair and secretary. The term of the officers is one year. The council shall elect a member of the council for each officer position at the first regular meeting of each year.

(5) Meeting. The council shall meet at least once a year. It may also meet at other times at the call of the commissioner.

Maine Stat., Tit. 12, Part 9, Subpart 2, Ch. 623, Subchapter 4, Art. 1 (Licenses)

§ 6803. Seaweed Permit

(1) Permit required. Except as provided in subsections 1-A and 2, an individual may not harvest, possess, ship, transport or sell seaweed without a current:

(A) Resident seaweed permit; or

(B) Nonresident seaweed permit.

(1-A) Supplemental permit. An employee or immediate relation of a seaweed permit holder may harvest, possess or transport seaweed for commercial purposes with a current:

(A) Resident supplemental seaweed permit; or

(B) Nonresident supplemental seaweed permit.

(2) Exceptions. The following are not required to have a permit:

(A) Repealed. Laws 2013, c. 282, § 8, eff. Oct. 9, 2013.

(B) Repealed. Laws 2013, c. 282, § 8, eff. Oct. 9, 2013.

(C) An individual who harvests, possesses, ships or transports no more than 50 pounds of seaweed a day for noncommercial purposes;

(D) Charitable or municipal organizations that harvest, possess, ship or transport seaweed for noncommercial use by that organization; or

(E) Anyone harvesting, possessing, shipping, transporting or selling seaweed that has detached naturally and is dead.

(3) Permit fees. The fees for seaweed permits are as follows:

(A) For a resident seaweed permit, \$8;

(B) For a nonresident seaweed permit, \$30;

(C) For a resident supplemental seaweed permit, \$4; and

(D) For a nonresident supplemental seaweed permit, \$8.

(4) Surcharge fees. In addition to the permit fees established in subsection 3, the commissioner shall assess a surcharge on each permit issued under this section as follows, which must be deposited in the Seaweed Management Fund established in section 6806 :

(A) Fifty dollars for a resident seaweed permit;

(B) Two hundred dollars for a nonresident seaweed permit;

(C) Twenty-five dollars for a resident supplemental seaweed permit; and

(D) Fifty dollars for a nonresident supplemental seaweed permit.

(5) Violation. An individual who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

§ 6803-A. Seaweed buyer's license

(1) License required. A seaweed buyer's license is required for a person who purchases more than 10 wet tons or an equivalent number of dry tons annually directly from seaweed harvesters holding a permit under section 6803. A person may not engage in the activities authorized under this section without a current seaweed buyer's license.

(2) Licensed activity. The holder of a seaweed buyer's license may buy, possess, ship, transport or sell seaweed.

(3) Fees. The fee for a seaweed buyer's license is:

(A) Two hundred dollars for a resident seaweed buyer's license; and

(B) Five hundred dollars for a nonresident seaweed buyer's license.

(4) Disposition of fees. Fees collected under this section accrue to the Seaweed Management Fund established in section 6806.

(5) Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

A holder of a license issued under this section may buy only from a harvester who possesses a seaweed permit under section 6803. The harvester shall make the seaweed permit available for inspection upon the license holder's request.

§ 6803-B. Seaweed buyer's surcharge

A person licensed under section 6803-A shall pay an annual surcharge, which must be deposited in the Seaweed Management Fund established under section 6806. The commissioner shall establish the surcharge by rule, but the surcharge may not exceed \$5 per wet ton. The commissioner may refuse to renew a license under this Part or exclude a person from participating in harvest plans under section 6803-C, subsection 4 for failing to pay the surcharge under this section.

§ 6803-C. Cobscook Bay Rockweed Management Area

(1) Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

(A) "Cobscook Bay Rockweed Management Area" means the area of Cobscook Bay westward and within a line between the southernmost tip of Estes Head due east to the Canadian border and south along the border to the Franklin D. Roosevelt International Memorial Bridge.

(B) "Rockweed" means *Ascophyllum nodosum*.

(2) Designation of areas closed to harvesting. The commissioner shall identify areas within the Cobscook Bay Rockweed Management Area that are closed to the commercial harvest of rockweed, including, but not limited to, areas around public and private conservation areas, state parks and federally owned lands and lobster nursery areas. The commissioner shall identify and close to the commercial harvest of rockweed up to 30 acres within Cobscook Bay for the purpose of research.

(3) Harvest management sectors. The commissioner shall divide the Cobscook Bay Rockweed Management Area into at least 14 harvest management sectors to:

(A) Evenly distribute harvest effort;

(B) Allow easy identification of the harvest management sectors from land or on the water; and

(C) Facilitate enforcement.

The department shall post the harvest management sectors on the department's publicly accessible website with the coordinates of closed areas.

(4) Harvest plan. Except as provided in section 6803, subsection 2, paragraph C, a person harvesting rockweed for commercial purposes shall participate in an annual harvest plan approved by the department.

(5) Eligibility for harvest plan. To be eligible to submit an annual harvest plan to harvest rockweed within the Cobscook Bay Rockweed Management Area, a harvester or that harvester's representative must notify the commissioner of that person's intent to harvest within the area before January 1st of the proposed year of harvest.

(6) Allocation of sectors. Prior to submitting an annual harvest plan, eligible harvesters or their representatives must meet as needed to allocate harvest management sectors.

(7) Annual harvest plan. An annual harvest plan must include, but is not limited to, the following:

(A) The name and telephone number of the person or entity responsible for the harvest management sector;

(B) Identification of harvest management sectors proposed for harvest;

(C) Total rockweed biomass contained in the harvest management sector based on a survey conducted within the previous 3 years;

(D) The biomass amount proposed to be harvested;

(E) A description of the methods of harvest;

(F) A description of how marine organisms harvested with the rockweed will be managed; and

(G) A description of harvester training.

(8) Annual harvest plans. Eligible harvesters or their representatives shall submit their annual harvest plans to the commissioner no later than March 1st. The annual harvest plans must be made available to the public on that date.

(9) Biomass harvest limit. The total biomass removed in a harvest management sector may not exceed 17% of the harvestable biomass that is eligible to be harvested annually. A harvester must report to the commissioner the total biomass removed by that harvester within a sector annually. Beginning January 1, 2010, the harvest report must be verified by an independent 3rd party.

(10) Bycatch. A person harvesting rockweed must make a reasonable effort to remove marine organisms harvested with the rockweed from the harvested rockweed and return those marine organisms alive back into Cobscook Bay as soon as practicable.

(11) Penalties. A person that violates this section commits a Class E crime for which a fine of not less than \$1,000 must be adjudged. Each day a person violates this section constitutes a separate violation.

§ 6806. Seaweed Management Fund

(1) Fund established. The Seaweed Management Fund, referred to in this section as the “fund,” is established as a dedicated, nonlapsing fund.

(2) Permissible uses. The commissioner shall use the fund in accordance with a plan required under subsection 3 to research and manage the State's seaweed resources and to enforce the laws and rules related to seaweed.

(3) Plan required. Beginning in calendar year 2018, the commissioner shall by May 1st of each year present a plan for expenditures from the fund for the next fiscal year to the joint standing committee of the Legislature having jurisdiction over marine resource matters. When developing the plan, the commissioner shall consult with the Seaweed Fisheries Advisory Council established in Title 5, section 12004-I, subsection 57-H.

§ 6807. Seaweed harvesting rules

The commissioner may adopt rules regulating the harvest of seaweed on a species-specific basis, including, but not limited to, the total number of licenses that may be issued, the designation of a harvesting season or seasons, the quantity of the resource that may be harvested in a season, areas that may be open or closed to harvest, the designation of sectors, limitations on harvest by sector, establishment of a process for allocation to sectors and gear and techniques that may be used in harvesting. Rules establishing a process for the allocation to sectors under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. All other rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

§ 6810-B. Aquaculture license

(1) Definition. For the purposes of this section, “shellfish” means shellstock clams, quahogs other than mahogany quahogs, mussels and oyster shellstock.

(2) License required. Beginning May 1, 2018, a person may not engage in the activities authorized under this section without a current aquaculture license.

(3) Licensed activities; all aquacultured organisms except shellfish. The holder of an aquaculture license or authorized representative of the holder of an aquaculture license may remove, possess, transport within the state limits or sell cultured organisms, except shellfish, the holder has removed from the leased area described in the holder's lease issued under section 6072, 6072-A or 6072-B or cultured organisms, except shellfish, the holder has cultured pursuant to a license issued under section 6072-C. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(4) Licensed activities; shellfish. The holder of an aquaculture license or authorized representative of the holder of an aquaculture license may remove, possess, transport within the state limits or sell to a wholesale seafood license holder certified under section 6856 or an enhanced retail certificate holder under section 6852, subsection 2-A cultured shellfish the holder has removed from the leased area described in the holder's lease issued under section 6072, 6072-A or 6072-B or cultured shellfish the holder has cultured pursuant to a license issued under section 6072-C or under Title 7, section 1501. Such a holder of an aquaculture license may also sell such shellstock from that license holder's home in the retail trade. A holder of an aquaculture license who is also the holder of a lease issued under section 6072 or 6072-A or that holder's authorized representative may sell such shellstock from the holder's lease site in the retail trade. The department shall establish by rule a means to identify personnel and authorized representatives operating under the authority of such a license holder. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(5) Exemption; limited-purpose aquaculture license for personal use. Notwithstanding subsections 2, 3 and 4, the holder of a limited-purpose aquaculture license issued under section 6072-C may remove, possess or transport within the state limits organisms cultured under that license, subject to all other applicable requirements of this Part.

(6) Eligibility. An aquaculture license may be issued only to an individual who holds a lease issued under section 6072, 6072-A or 6072-B or a license issued under section 6072-C.

(7) Fee. The fee for an aquaculture license is \$133, of which \$74.75 must be deposited in the Aquaculture Management Fund established in section 6072-D.

(8) Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

Maine Seaweed Regulatory Provisions

Code of Maine Rules, 13, 188, Ch. 2 (Aquaculture Lease Regulations)

§ 2.05. Definitions

1. The definitions set forth in 12 M.R.S.A. §6072 shall apply to the terms used in this chapter.

(a) Aquaculture.

“Aquaculture” means the culture or husbandry of marine organisms by any person. In order to qualify as aquaculture, a project must involve affirmative action by the individual to improve the growth rate, survivability or quality of the marine organism. These activities do not include impounding lobsters, wet storage or activities conducted under the authority of municipal shellfish conservation programs in accordance with 12 M.R.S.A. 6671(3)(A)(3).

(b) Culture or Husbandry.

“Culture or husbandry” means the production, development or improvement of a marine organism.

(unrelated definitions deleted)

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§ 2.90. Limited-purpose aquaculture (LPA) license

1. LPA License

A. No person may engage in the activities described in 2.90 and 12 M.R.S.A. §6072-C without a current LPA license issued by the Department of Marine Resources (DMR) in accordance with these regulations. An LPA license may be issued only to an individual or to a municipal shellfish management committee established pursuant to 12 MRSA §6671. The Department shall make application forms available. A non-refundable application fee in the amount of \$50 per license application for Maine residents or \$300 for non-residents must be paid when the application is submitted. LPA licenses expire at the end of each calendar year. No more than four (4) licenses may be held by any licensee at the same time. LPA licenses are non-transferable.

B. Density standard. There can be no more than three (3) LPA licensed sites within a 1,000-foot radius of any other existing LPA licensed site. This standard does not require a minimum separation between individual licenses; rather it is a density of licenses within any area of a 1,000' radius. See Figure 1 below for four examples of this standard where a license site is encircled by a radius of 1,000 feet.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

Figure 1. Density illustration for acceptable LPA license distribution

Exemption for riparian landowners. LPA licenses held by riparian property owners that are used to place authorized gear as listed in 2.90(2)(F)(2), within 150' of the riparian's property at mean low water and perpendicular to the property boundaries, are exempt from this density standard. Riparian landowners are responsible for demonstrating this requirement has been met. Requests for this exemption must be indicated on the application and are limited to one exemption per riparian property. The presence of a riparian landowner LPA does not count toward the density standard.

Exemption for certain sites. LPA licenses for gear installed within marina slips, lobster pounds, or similar enclosed or partially-enclosed sites in the coastal waters that are under the ownership or control of an entity which has the legal authority to restrict access to or use of the site and which has consented in writing to the placement of the gear on the site are exempt from this density standard.

C. Up to three (3) assistants per license may be declared as helpers. An individual may be listed as an assistant on no more than eight (8) LPAs, other than their own, except that individuals who were listed on more than eight (8) LPAs as of March 1, 2018 may remain on the same additional LPAs until December 31, 2020, at which point they will be limited to being an assistant on no more than eight (8) LPAs. If the LPA license holder represents an educational institution, students are authorized to work under the direct supervision of the license holder who signed the application, as well as any listed helpers.

D. When a proposed LPA license site falls within the bounds of a pending aquaculture lease application, the Department may, in its discretion, postpone the decision on that LPA license application until after the final decision on the pending application has been made.

2. Application requirements

A. Species

Applications must indicate the common and scientific names of the species to be cultivated under the license in accordance with 2.90(4).

B. Sources

Shellfish stock or seed may be obtained from either wild sources, hatcheries, or nurseries, with the exception of stock or seed of Hard Clam / quahog (*Mercenaria mercenaria*), Hen Clam (*Spisula solidissima*), or Soft shelled clam (*Mya arenaria*). Hatcheries or nurseries are the only permitted sources for these clam species, unless the Department issues a shellfish transplant permit that authorizes the collection of undersized animals.

Marine algae (all seaweeds such as reds, greens, browns or kelps) and green sea urchins shall be obtained or cultured from stock originating in Maine coastal waters.

Applications must identify the source of the stock or seed to be cultivated or grown for each species, and for hatcheries or nurseries list the current name, address and phone number of the hatchery or nursery source for each species listed under 2.90(2)(A).

All sources of hatchery supplied seed or stock must be from hatcheries approved by DMR.

All wild shellfish stock or seed used for cultivation or grow-out must originate from within the same Health Area defined under 2.05 (1) (J) as the LPA site.

Use of wild shellfish stock or seed originating from outside the Health Area of the LPA site will require evidence that the seed or stock is consistent with the species authorized under 2.90(4) and may require evidence that the seed or stock is free from disease, and will require a permit from DMR.

(C) Site Location

(1) The application must provide one (1) geodetic coordinate in degrees/minutes/seconds to the hundredths place, the coordinate source (nautical chart number, the edition and its date or software name) and the datum of the coordinate source, for the center of the longest axis of the license site, and identify the directional orientation of the longest axis. The license site must be accurately depicted on a portion of a US Geologic Survey Topographic map or nautical chart.

(2) The application must provide a brief description of the license site, including the bottom characteristics of the license area and whether there are eelgrass beds present in proximity to the site.

(3) The application must include a description of current commercial and recreational fishing and other uses of the proposed license area and the immediate vicinity of the proposed license area. The description should include type, duration and amount of activity.

(4) The application must include a certified copy of the municipal tax map for the area in the vicinity of the license site. On the map, the applicant must indicate the actual scale of the copy of the map, the location of the proposed site, and a circle drawn to scale depicting a 300-foot radius from the site. The application must also include a list of the names and current mailing addresses of the riparian owners of shorefront property within 300 feet of the site, certified by the municipal clerk or by the Bureau of Revenue Services, Unorganized Division, for unorganized territory. If the license site is located in a marina slip or lobster pound or similar site as described in 2.90 (1) (B), the owner or controlling entity of which has

consented in writing to the placement of the gear, the map and list are not required.

(D) Required Signatures

The application form shall require the following signatures:

(1) Applicant. The individual applicant's signature, including printed name and date, which shall verify that the application does not contain false information and that the applicant will comply with all applicable laws and regulations is required. When the applicant is a municipal shellfish management committee, the chairperson of the committee shall sign the application on its behalf, and a primary point of contact shall be provided including name, address, email address and phone number. When the applicant represents an educational institution, an administrator shall sign the application on its behalf.

(2) Municipality. Harbormaster's signature, which shall verify that it is the harbormaster's opinion that the license activities will not unreasonably impede safe navigation, will not unreasonably interfere with fishing or other uses of the area, and will not unreasonably interfere with riparian ingress and egress.

In municipalities not served by a harbormaster, a municipal officer or other elected municipal official may sign the application. For the unorganized territory where a harbormaster does not have jurisdiction, a marine patrol officer may sign.

The opinion of the harbormaster, municipal officer or official, or marine patrol officer that the license activities will not will not unreasonably impede safe navigation, will not unreasonably interfere with fishing or other uses of the area, and will not unreasonably interfere with riparian ingress and egress, shall not be determinative, but may be considered by the Department as a factor in deciding whether the criteria for the issuance of an LPA license have been met.

(3) Intertidal sites

Municipal Shellfish Management Committee. If the proposed location is above the extreme low water mark in a municipality with a municipal shellfish management committee established pursuant to 12 MRSA §6671, the signature of the chairperson of the municipal shellfish management committee, which shall verify that the proposed LPA will not unreasonably interfere with the activities of the municipal shellfish management program, is required.

Riparian landowner. For license sites located above the mean low-water mark, the signature of the riparian landowner, which shall verify that the landowner consents to the licensed activity being conducted on the intertidal land, is required.

(4) Signature missing or withheld. The absence of any required signature will result in the denial of the application. At the request of the applicant the Department may review the basis for a harbormaster's or municipal officer's or official's denial of a signature. The Department may, following such review and upon a determination that the signature was withheld without basis, approve a license application. Such a determination must take into consideration a review by the local marine patrol officer of the application and a statement from the marine patrol officer that the license activities will not unreasonably impede safe navigation, will not unreasonably interfere with fishing or other uses of the area, and will not unreasonably interfere with riparian ingress and egress.

(E) Notification of riparian property owners & municipalities

(1) The applicant shall notify all riparian owners within 300 feet of the LPA site by sending, by certified mail, a copy of the LPA application, including information about how riparians can submit comments to the Department regarding issuance or renewal of the license, to the address certified by the municipal clerk or Bureau of Revenue Services, Unorganized Division for unorganized territory. Failure to include a copy of the receipt for certified mailing with the application will be grounds for denial of the application. If the license applicant is the only riparian, or if the license site is located in a marina slip or lobster pound or similar site as described in subsection 1(B) above, the owner or controlling entity of which has consented in writing to the placement of the gear, the notification requirement is waived.

(2) The Department shall notify any town or plantation of the final status of an application. Failure to do so does not invalidate a license.

(F) Site Plans

(1) Plan view

The application must include a plan view, which must be on 8.5" x 11" size paper and show the maximum layout of gear to be deployed drawn to scale, with the scale indicated to verify the 400 square foot limit. The site plan must include a north arrow with True or magnetic clearly indicated, arrows that indicate the tide's primary ebb and flood directions, mean high and low-water marks, and the distance from the license to these mean high and low-water marks. The site plan shall also include to a distance of 1,000 feet from the license in all directions, the locations of any federal or local channels, anchorages, moorings, structures, existing lease boundaries, other LPA licenses (including whether or not they are exempt from the density requirement in 2.90 (1)(B)), DMR water quality closure lines (including distances), and property lines for all riparian owners within 300 feet.

(2) Gear description:

If gear is to be used, it may be deployed on the surface, in the water column, on the sea bottom, or below the surface of the bottom. The applicant shall indicate which of the following authorized gear will be used, and include an overhead view and cross-sectional elevation view of the gear that includes specifications on all mooring equipment to be used. Aquaculture gear other than the equipment listed below, may not be used. All dimensional information on the mooring equipment contained inside and outside the boundaries must be included pursuant to 12 M.R.S.A. §6072-C (5)(E)(2).

Upweller or “FLUPSY”

Shellfish rafts, associated predator nets and spat collectors

Shellfish tray racks and over wintering cages

Soft bags, semi rigid bags and floating trays

Lantern nets and pearl nets

Fencing and brushing

Moorings

Scallop spat collector bags

Scallop ear hangers

Long lines (vertical or horizontal)/rope grids

Bottom anti-predator netting

(G) Renewal of licenses

(1) To be eligible to renew an LPA license, in 2019 or in any subsequent year, the applicant must have completed any educational requirements established pursuant to 12 M.R.S.A. §6072-C(3)(A) and must submit an application for renewal to the Department online or postmarked no later than December 31st. If a renewal application is not submitted to the Department by December 31st, the license holder is required to remove all gear and equipment from the licensed site on or before the termination of the license on December 31st.

(2) Renewal applications shall be submitted on a form provided by the Department. A non-refundable application fee must be paid in the amount of \$50 per renewal application for Maine residents and \$300 for nonresidents.

(3) The Department shall send a notice of all proposed renewals to the municipality in which those licenses are located and request that the municipality post the notice. The notice shall state that anyone may provide comments to the Department on the proposed renewals within 14 days of the date of the notice.

(4) An LPA license may be renewed if the license activities continue to meet the provisions of 2.90 and 12 M.R.S.A. §6072-C.

3. Site Limitations

A. Maximum size

Gear, on any one LPA, excluding mooring equipment, may not occupy an area larger than 400 square feet. An LPA may be contiguous to another LPA.

B. Dimensions

The site must include four 90-degree angled corners, and may be no less than 1' or greater than 400' on any one side. Dimensions must be provided in whole feet.

C. Territorial waters

LPA license sites must be located within Maine's territorial waters as defined in 12 M.R.S.A. §6001(48-B) and pursuant to 12 M.R.S.A. §6072-C(2).

D. DMR Water Quality Program Closure Areas

(1) LPA license sites may not be located within 300 feet of any area classified as prohibited.

(2) Except as provided in subsection (3) below, LPA license sites may only be located in areas that are classified as approved or conditionally approved pursuant to DMR regulations Chapters 95 and 96. Should an area be downgraded, an LPA located within the area may be renewed for one additional year at the next date of renewal.

(3) Exemptions

...

(c) Marine algae

The boundary line and prohibited, restricted and conditionally restricted area prohibitions in 2.90(3)(CD)(1 and 2) above do not apply to the sole culture of marine algae, except that an LPA license site may not be located within the 300:1 dilution zone around a wastewater treatment plant unless marine algae or seaweed cultured on the site is not for human consumption

and applicants have provided satisfactory evidence to the Department that the site is for remediation purposes only, or there is a plan for destruction or compost.

E. Department of Inland Fisheries and Wildlife (IF&W) Essential Habitats

LPA license sites may not be located within the areas regulated pursuant to 12 M.R.S.A. §§12803, 12804 and 12806 and pursuant to IF&W regulation 09-137 CMR Chapter 8, Endangered Species. Maps showing the boundaries of essential habitat are available from the IF&W regional headquarters, municipal offices, the Land Use Regulation Commission for unorganized territories and DEP regional offices.

F. United States Army Corps of Engineers (ACOE) Authorization

Upon receipt of an LPA license application, the Department shall forward a copy of the application to the ACOE for their review and approval. A permit from ACOE is required prior to the placement or use of any gear proposed in a LPA application. No structures may be located within the boundaries of a Federal Navigation Project.

4. Authorized Species

An LPA license may be issued only for the cultivation of the following species: blue mussel (*Mytilus edulis*), hard clam / quahog (*Mercenaria mercenaria*), hen clam (*Spisula solidissima*), American or eastern oyster (*Crassostrea virginica*), European oyster (*Ostrea edulis*), sea scallop (*Placopecten magellanicus*), soft-shelled clam (*Mya arenaria*), razor clam (*Ensis leei*), green sea urchin (*Strongylocentrotus droebachiensis*), bay scallops (*Aequipecten irradians*), and for marine algae (all seaweeds, including kelp). Notwithstanding 12 M.R.S.A. §6001 (41) for purposes of 2.90, the terms “shellfish” and “seed” include sea scallops (*Placopecten magellanicus*) and bay scallops (*Aequipecten irradians*).

5. Activity limitations & requirements

A. The licensed activity must not generate a discharge into territorial waters pursuant to 12 M.R.S.A. §6072-C (2)(A), 38 M.R.S.A. §413 and DMR regulations 2.05(1-G).

B. An LPA license applicant may declare assistants to be named on any LPA license. Declared assistant(s) named on any LPA license must be in possession of a copy of the LPA license whenever engaged in any activity at that licensed site. Individuals other than the license-holder's declared assistants may assist the license holder and, in that capacity, utilize, raise, lift, transfer or possess any approved aquaculture gear belonging to that license holder if a hurricane warning issued by the National Weather Service is in effect for any coastal waters of the State.

C. Marine Biotoxins

(i) Closed Area compliance

There shall be no provisions made for biotoxin monitoring or testing for LPA sites.

D. Record keeping

Complete, legible and accurate records of transport, transfer, harvest, and monitoring must be maintained by the license-holder and made available for inspection for at least two (2) years.

The records must include the:

- (i) Department's LPA license number, site location and date.
- (ii) Source of shellfish, including seed if the seed is from growing areas which are not in the approved classification status pursuant to 2.90 and/or Chapter 15;
- (iii) Dates of transplanting and harvest;
- (iv) Detailed records of sales; and
- (v) Records of the origin and health status of all seed or shellfish stocks reared on the site must also be maintained.

E. Amendments

No changes may be made to the LPA license during the licensing term without a written amendment of the license by the Department. Allowable mid-term amendments include the following:

- (i) Source of stock
- (ii) Species
- (iii) Mooring Type/Layout
- (iv) Assistants
- (v) Contact information
- (vi) Maintenance Standards
 - (a) All aquaculture gear must be maintained, and kept in a fully operational condition. The license holder is obligated to collect and or remove any loose or errant gear or equipment that is dislodged from the licensed site.

- (b) Each LPA site that has gear on it must be clearly marked at each corner, centerpoint, or at each end of the gear, as is appropriate to the gear type deployed, with a marked buoy. LPA Site ID and “Sea Farm” must be clearly displayed on every buoy. The marked buoys shall be readily distinguishable from aquaculture gear.
- (c) LPA license sites must be marked in accordance with the United States Coast Guard's Aids to Private Navigation standards and requirements.

Code of Maine Rules, 13, 188, Ch. 8 (Landings Program)

§ 8.05. Primary buyers’ permit

Persons that hold any dealer license and buys or transfers any marine organisms directly from harvesters must obtain a Primary Buyer permit. There will be no additional charge for this permit.

Applicable licenses include: Wholesale Seafood license holders including dealers that hold an additional permit for urchins or shrimp (12 M.R.S. §6851); Wholesale Seafood license holders with lobster permit (12 M.R.S. §6851(2-A)); retail seafood license holders (12 M.R.S. §6852); marine worm dealer license holders (12 M.R.S. §6853); elver dealer license holders (12 M.R.S. §6864); and Shellfish Sanitation and Certificate holders (12 M.R.S. §6856(1)).

§ 8.10. Primary buyer permit reporting

A. Primary Buyers shall report all transactions pertaining to buying any marine organism directly from harvesters on a trip level basis. The following data elements shall be reported to the DMR on approved paper forms or through approved electronic reporting mechanisms:

1. Dealer name (as it appears on the dealer license) & license number
2. Designate negative report period if no transactions purchased from harvesters
3. Date purchased/ & date landed
4. Harvester identification & vessel identification
5. Species
6. Amount
7. Grade & market category
8. Gear type (fishing method)

9. Disposition
10. Port landed
11. Indicate if catch was carried
12. Ex-vessel value (monthly average)
13. Signature written or electronic

B. All data sent to DMR shall be legible, coherent and conform to DMR specified standards.

C. Additional data elements and requirements for specific fisheries:

...

5. Seaweed

Prior to January 30th each year, persons licensed pursuant to 12 M.R.S. §6803-A (seaweed buyer's license), who purchased more than 10 wet tons in the previous calendar year directly from permitted seaweed harvesters, shall pay a surcharge of \$1.50 per wet ton. The surcharge is payable to Department of Marine Resources, mailing address, DMR Licensing Division, attn: seaweed surcharge, SHS 21, Augusta, Maine 04333-0021.

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§ 8.20(C). Harvester Reporting

...

C. Seaweed (*previously Chapter 29.10*)

Each seaweed harvester required to be licensed under 12 M.R.S. §6803 must report harvesting activity for all seaweed species on forms supplied by the Department. Records must be kept on a daily basis, and the report must be mailed to the Department monthly. Reports for each month's activity shall be mailed to the Department within 10 days of the end of the month. The report must include the following information for each day that harvesting occurs:

1. Name, permit number and phone number of licensed harvester;
2. Date(s) harvested;
3. Harvest area (sector # - where applicable), bay, cove, river, ledge and or island);
4. County and town (use town codes provided, per instructions);
5. Harvesting methods (hand, knife, rake, mechanical, diver);

6. Total harvest time (number of hours);

7. Seaweed species; and

8. Pounds landed (wet).

...

Code of Maine Rules, 13, 188, Ch. 29 (Seaweed)

§ 29.05. Harvesting Restrictions for Rockweed

A. The seaweed *Ascophyllum nodosum*, also known as rockweed, must be harvested according to the following criteria:

1. the lowest lateral branches shall remain undisturbed and attached to the main stalk of the rockweed that is attached to the substrate; and
2. a minimum of 16 inches of the rockweed shall remain above the holdfast.

Massachusetts Seaweed Provisions (Index)

Cross-Cutting

MASS. GEN. LAWS ch. 130, § 102. Marine Plants; Regulation of Taking

Wild Harvest

N/A

Aquaculture Provisions

Definitions

322 MASS. CODE REGS. 15.02 - Definitions

Operations

322 MASS. CODE REGS. 15.03 - Authorization

322 MASS. CODE REGS. 15.04 - Permits

322 MASS. CODE REGS. 15.05 - Application

322 MASS. CODE REGS. 15.06 - Site Review

322 MASS. CODE REGS. 15.10 - Non-Indigenous Species

Post-Harvest

N/A

Massachusetts Seaweed Statutory Provisions

Mass. Gen. Laws Part I, Title XIX, Ch. 130 (Marine Fish and Fisheries)

§ 102. Marine plants; regulation of taking

No person shall harvest for sale or engage in the aquaculture of marine plants except in accordance with any regulations adopted by the director and subject to a permit or written approval issued by the director.

Massachusetts Seaweed Regulatory Provisions

Mass. Code Regs. Tit 322, Ch. 15.00 (Division of Marine Fisheries: Management of Marine Aquaculture)

15.02: Definitions

Aquaculture means the farming of aquatic marine organisms including, but not limited to fish, mollusks, crustaceans, echinoderms and plants. Farming implies some sort of intervention in the rearing process to enhance production including, but not limited to controlled propagation, feeding, protection from predators, *etc.*

Area of Capture means within the same body of water, which is geographically separated from other embayments, estuaries, *etc.*

ASMFC means Atlantic States Marine Fisheries Commission.

Coastal Waters means all waters of the Commonwealth within the rise and fall of the tide and the marine limits of the jurisdiction of the Commonwealth, but not waters within or above any fishway or dam nor waters above any jurisdictional boundary legally established pursuant to M.G.L. c.130, § 5 in rivers and streams flowing into the sea.

Commercial Aquaculture means marine aquaculture to produce marine organisms intended for sale. Commercial aquaculture implies individual or corporate ownership of the stock being cultivated.

Cull means to remove dead or dying or unsuitable organisms from the culture system (*also*: the organism which is removed).

Director means the Director of the Division of Marine Fisheries or his designee.

Division means the Division of Marine Fisheries.

Flow-through means a system that withdraws water from coastal waters or wells and discharges water to coastal waters.

ICES means International Council for the Exploration of the Sea.

Invasive Species means a non-indigenous or cryptogenic marine organism that may threaten the diversity or abundance of native species or the ecological stability and/or uses of infested waters.

Minimal Structures means structures in the marine environment that do not require an Individual Permit, that is, which meet the threshold requirements of the Programmatic General Permit (PGP) issued by the U.S. Army Corps of Engineers.

Non-indigenous Species means any marine species transported intentionally or accidentally from another region (non-native species) as determined by the Division.

NPDES mean the National Pollution Discharge Elimination System, administered by the U.S Environmental Protection Agency (EPA) and the MA Department of Environmental Protection (DEP).

Ornamental Species means organisms, including plants, raised for display in aquariums or other non-food purposes.

PGP means the Massachusetts Programmatic General Permit issued by the U.S. Army Corps of Engineers.

Recirculating means a system which treats and re-uses the same water, and from which no water is discharged to the coastal waters. No more than 10% of system water is changed on a daily basis, and discarded per an approved operational plan.

Section 10 means Section 10 of the U.S. Rivers and Harbors Act of 1899, administered by the U.S. Army Corps of Engineers (COA).

Section 404 means Section 404 of the U.S. Clean Water Act, administered by the U.S. Army Corps of Engineers.

Shellfish means clams, conchs, limpets, mussels, oysters, periwinkles, quahogs, razor clams, scallops, sea clams, sea quahogs, sea scallops and winkles (M.G.L. c.130).

15.03: Authorization

Unless otherwise provided by M.G.L. c.130 it is unlawful for any person to conduct a marine aquaculture operation in or on the coastal waters of the Commonwealth or in a land-based marine aquaculture system; possess or introduce seed shellfish or undersized regulated species into an aquaculture site or system, introduce adult shellfish into an aquaculture site; possess, maintain or cultivate marine organisms in any enclosure or system for purposes of sale, or sell culture organisms to aquaculture facilities unless in possession of an aquaculture permit issued by the Director pursuant to 322 CMR 7.01(4).

15.04: Permits

(1) There are a total of four permit classes which authorize systems, according to complexity and environmental risk, and five permit types which authorize various aquaculture operations using these systems. Each aquaculture permit issued pursuant to 322 CMR 7.01(4) shall authorize one class and one type each from the following lists:

(a) Permit Classes.

1. Class 1. Authorizes the operation of a land-based or vessel-based recirculating system with no discharge to coastal waters.
2. Class 2. Authorizes the operation of a land-based or vessel-based flow-through system, with or without partial recirculation, that withdraws water from a salt water well or coastal waters and discharges to coastal waters.
3. Class 3. Authorizes an open water system with minimal structures and no feeding.
4. Class 4. Authorizes an open-water system with feeding and/or permitted structures.

(b) Permit Types.

1. Shellfish. Authorizes the possession and growing of seed shellfish from an approved source. May be endorsed for the use of upwellers or similar nursery systems to enlarge hatchery seed for planting, but not for resale. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, tagging and record keeping is approved by the Director.
2. General. Authorizes the possession and growing of approved larval or juvenile marine organisms, except shellfish, and sale to a licensed Massachusetts Seafood Dealer. May be endorsed for the sale of regulated species below the minimum size established by regulation if an operational plan to control sale, shipment, labeling and record keeping is approved by the Director.
3. Shellfish Hatchery. Authorizes the propagation of seed shellfish from approved brood stock and the sale of seed shellfish to licensed aquaculture operations. Includes shellfish nursery operations that grow seed shellfish to a larger size for resale to other aquaculture operations.
4. Fish Hatchery. Authorizes the propagation and rearing of larval or juvenile marine organisms (all non-shellfish species) from approved brood stock, and sale of larval or juvenile organisms to licensed aquaculture operations or other entities permitted to possess and/or release juveniles of specific species.
5. Ornamental. Authorizes the propagation, possession, and sale of marine organisms for the aquarium trade.

15.05: Application

(1) Each applicant for a new aquaculture permit pursuant to 322 CMR 15.05 shall provide the following information on forms provided by the agency:

(a) Class 1 System.

1. Detailed Site Plan;
2. Detailed system layout, including water treatment systems;
3. Detailed operational plan (species, planting density, feeding rates, *etc.*);
4. 4.Waste disposal plan (including solids, culls, and water).

(b) Class 2 System.

1. Same as 322 CMR 15.05(1)(a);
2. Proposed discharge, including volume and treatment, if required
3. Evidence of DEP Water Quality Certification or exemption;
4. Evidence of NPDES Permit or exemption;
5. Evidence of permits for intake and discharge structures.

(c) Class 3 System (shellfish with minimal structures).

1. Detailed site plan including latitude and longitude of corners;
2. Geophysical site characteristics;
3. Benthic habitat conditions;
4. Proposed species, quantities, and densities;
5. Proposed physical structures;
6. Evidence of Municipal Shellfish Aquaculture License or conditional approval;
7. Evidence of Municipal Wetlands Permit or determination of non-applicability;
8. Evidence of application for Corps of Engineers, section 404 Permit or PGP;
9. Transcript of local public hearing.

(d) Class 4 System (shellfish or algae with significant structures).

1. Same as 322 CMR 15.05(1)(c);
2. Evidence of application for Army Corps of Engineers Section 10 Permit.

(e) Class 4 System (general).

1. Detailed site plan including latitude and longitude of corners;
2. Geophysical site characteristics;
3. Benthic habitat conditions;
4. Proposed species, quantities, and densities;
5. Proposed physical structures;
6. Detailed operational plan (species, density, feeding rates, *etc.*);
7. Containment plan to prevent escapees;
8. Predator exclusion plan;
9. Anticipated habitat degradation issues and plan to minimize (Best Management Practices);
10. Disposal plan for culls and gear;
11. Evidence of performance bond sufficient to remove structures and restore site to its original condition;
12. Evidence of Water Quality Certification and NPDES Permit, if applicable.

(2) Renewals. Annual renewal of all existing permits may be made without supporting documentation provided no changes in use occur.

15.06: Site Review

(1) Applications for open-water aquaculture permits will be reviewed by the Division and cooperating agencies to determine if adverse impacts are likely to occur at the proposed site as a result of the operation of the permit. Topics for evaluation include, but are not limited to the following:

- (a) Water quality and hydrology;

- (b) Exposure/suitability of proposed structures;
- (c) Shellfish habitat and growing area classification;
- (d) Benthic habitat conditions;
- (e) Submerged aquatic vegetation;
- (f) Endangered species / marine mammals;
- (g) Competing uses of the area;
- (h) Wild fisheries;
- (i) Navigation;
- (j) Access to site.

(2) New Operations. Before making application for an aquaculture permit for a new operation or facility, the following steps are required by the applicant:

(a) Contact the Aquaculture Program Coordinator in the Department of Agricultural Resources to obtain the following:

- (1) Aquaculture Operation Description Form;
- (2) MA Aquaculture Permits Guidance Document.

(b) In consultation with the Aquaculture Program Coordinator, determine if a pre-application meeting is necessary with appropriate state and federal agencies.

(c) Exception. Applicants for town-issued shellfish aquaculture permits are not required to follow 322 CMR 15.06(2)(a) and (b), and should follow local application procedures.

15.10: Non-indigenous Species

(1) It shall be unlawful for any person to release any living organism into coastal waters of the Commonwealth unless authorized to do so by the Director in writing, except that fish taken pursuant to lawful fishing operations or scientific collection may be released immediately back to the area of capture.

(2) It shall be unlawful for any person to possess, propagate or hold non-indigenous marine organisms for any purpose in any system with an untreated discharge to surface waters. Any facility desiring to hold non-indigenous organisms for any purpose must submit an operational plan detailing measures designed to prevent the escape or release of organisms or the discharge of biological effluents, including eggs, larvae, parasites and diseases into the marine

environment, and an acceptable non-polluting plan for the disposal of carcasses and biological wastes.

(a) The Director may issue a Special Scientific Permit to an educational or research institution, or a Class 1 Aquaculture Permit to a commercial aquaculture facility, to hold non-indigenous species, provided that an acceptable operational plan to prevent unintentional releases or escapes is submitted with the application.

(b) The Director may issue a Class 1 Ornamental Aquaculture permit to an aquarium shop or hatchery that propagates and/or holds non-indigenous marine organisms for the aquarium trade pursuant to an approved operational plan.

New Hampshire Seaweed Provisions (Index)

Cross-Cutting Provisions

- N.H. Rev. Stat. Ann. §§ 211:49-a (Nonresidents) and b (Residents) - Commercial Salt Water Licenses

Wild Harvest Provisions

- N.H. REV. STAT. ANN. § 207:48 - In Night
- N.H. REV. STAT. ANN. § 207:49 - Without Leave of Owner of Marsh or Flats
- N.H. REV. STAT. ANN. § 207:50 - Piling Below High-Water Mark
- N.H. REV. STAT. ANN. § 207:51 - Sale Outside of State
- N.H. REV. STAT. ANN. § 207:52 – Uprooting
- N.H. REV. STAT. ANN. § 207:53 - From Rocks
- N.H. CODE ADMIN R. ANN. FIS. 611.01 - Seaweeds or Marine Plants

Aquaculture Provisions

Definitions

- N.H. REV. STAT. ANN. § 207:1 – Fish and Game Definitions
- N.H. REV. STAT. ANN. § 211:62-e - Aquaculture
- N.H. CODE ADMIN. R. ANN. FIS. 611.01- Seaweeds or Marine Plants

Licenses

- N.H. CODE ADMIN. R. ANN. FIS. 807.01-15 - Inland and Marine Aquaculture Licensing

Post-Harvest Provisions

- N.H. REV. STAT. ANN. §§ 211:49-aa (Nonresidents) and c (Residents) - Wholesaler Licenses

New Hampshire Seaweed Statutory Provisions

New Hampshire Stat., Tit. XVIII, Ch. 207, Definitions, Inclusions, Methods of Taking, Etc.

§ 207:1. Definitions.

Words and phrases used in this title shall be construed as follows:

... (unrelated definitions removed)

VI. Fish: A member of any of the following classes: Cyclostomata, including, but not limited to, hagfishes and lampreys; elasmobranchii, including, but not limited to, sharks, skates, and rays; and pisces, including, but not limited to, trout, perch, bass, minnows, and catfish; including, any part, product, egg or offspring thereof, or the dead body or parts thereof, excluding fossils.

...

XV. Marine Species: Includes all fish which usually inhabit salt water, and all shellfish, lobsters, crabs, shrimps, clams, marine worms, other marine invertebrates and marine plants found in the coastal waters and estuarine waters under the jurisdiction of this state as defined in RSA 1:14 and 1:15.

...

New Hampshire Stat., Tit. XVIII, Ch. 207, Collecting Seaweed

§ 207:48. In Night

If any person shall carry away or collect for the purpose of carrying away any seaweed or rockweed from the seashore below high-water mark, between daylight in the evening and daylight in the morning, he shall be guilty of a violation.

§ 207:49. Without Leave of Owner of Marsh or Flats

If any person shall collect or carry away from any salt marsh or flats any flats-weed or any seaweed thrown thereon by the sea or tide, without leave of the owner of the marsh or flats, he shall be guilty of a violation.

§ 207:50. Piling Below High-water Mark

If any person shall pile below high-water mark, for the purpose of hauling it away, any seaweed or rockweed shall be guilty of a violation.

§ 207:51. Sale Outside State

If any person shall carry away or collect any seaweed, rockweed, or sea moss from the banks or shores of this state for sale outside the state, or for sale within the state for the purpose of its

being carried outside the state, or shall sell any such seaweed, rockweed, or sea moss to be carried outside the state, he shall be guilty of a violation.

§ 207:52. Uprooting

If any person shall pull or take any growing rockweed or sea moss from the rocks, banks or shores of this state, except by cutting same with a knife so as not to detach or injure its roots, he shall be guilty of a violation.

§ 207:53. From Rocks

If any person shall cut or take any growing rockweed or sea moss from the rocks, banks or shores of this state below high-water mark, above the amount of 3 bushels in any one day, allowed only in the case of a resident or summer resident of this state, he shall be guilty of a violation.

New Hampshire Stat., Tit. XVIII, Ch. 211, Salt Water Fish, Clams, Etc.

§ 211:49-a. Nonresident Commercial Salt Water License

I. Any person who does not qualify as a resident under RSA 207:1, who takes, possesses, lands, or transports by any method, from or on the waters of this state, regardless of where the catch was taken, any marine species by any method for the purpose of selling the same, shall first procure a valid license from the executive director to do so. This license shall not include the taking, possession, landing, or transport of northern shrimp (*Pandalus borealis*) which requires a license under RSA 211:49-e, or the taking of lobsters and crabs, which requires a license under RSA 211:18. A nonresident shall not take sea urchins, clam worms, river herring, or scallops unless the state in which such person is a resident provides a reciprocal licensing privilege for residents of this state.

II. The fee for an annual license shall be set by the executive director pursuant to RSA 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops by diving.

III. Licensees shall be responsible for conducting their fishing activities in compliance with rules adopted by the executive director under RSA 541-A.

IV. Any person so licensed shall furnish to the executive director such information concerning marine species and fishing activities as the executive director may require by rules adopted under RSA 541-A.

V. Any person convicted of violating any provision of this section shall be guilty of a violation if a natural person or guilty of a misdemeanor if any other person. In addition, the defendant's catch shall be confiscated and sold according to rules adopted by the executive director pursuant to

RSA 541-A, the proceeds of such sale to become the property of the New Hampshire fish and game department.

§ 211:49-B. Resident Commercial Salt Water License

I. Any resident of this state who takes, possesses, lands, or transports on the waters of this state any marine species by any method for the purpose of sale, regardless of where the catch was taken, shall first procure a valid license from the executive director to do so. This license shall not include the taking, possession, landing, or transport of northern shrimp (*Pandalus borealis*) which requires a license under RSA 211:49-e, or the taking of lobsters and crabs, which requires a license under RSA 211:18.

II. The fee for such annual license shall be set by the executive director pursuant to RSA 206:10, I. The license shall be for the operator of the boat, vessel, flotation device, or gear, and helpers; provided, however, that helpers shall not be allowed for the taking of sea urchins or scallops by diving.

III. Any person so licensed shall furnish to the executive director such information concerning the marine species or fishing activities as the executive director may require by rule.

IV. Licensees shall be responsible for conducting their fishing activities in compliance with the rules adopted by the executive director under RSA 541-A.

V. Any person convicted of violating any provision of this section shall be guilty of a violation if a natural person and a misdemeanor if any other person. In addition, the defendant's catch shall be confiscated and sold according to rules adopted by the executive director pursuant to RSA 541-A and the proceeds of such sale shall become the property of the New Hampshire fish and game department.

§ 211:49-aa. Nonresident Wholesaler License

I. Any person, firm, or corporation who does not qualify as a resident under RSA 207:1 or RSA 211:43 and who is engaged in a wholesale trade in any marine species shall first procure a valid license from the executive director to do so in this state. The license shall entitle the licensee to buy, sell, process, and transport any marine species in wholesale trade within the state and to ship any marine species within and outside the state. A separate extra facility license shall be required for each market, store, vehicle, or facility where such marine species are bought or sold at wholesale. A nonresident wholesale license shall not be required by a person properly licensed pursuant to RSA 211:49-a. The fees for an annual license and for each extra facility license shall be set by the executive director pursuant to RSA 206:10, I. A copy of the license shall be carried in each vehicle and displayed at all facilities.

II. No person, firm, or corporation, whose ship, vessel, or similar craft is within the territorial waters of this state shall engage in the processing or wholesale trade of any marine species, excluding northern shrimp, lobster, and crabs, without first procuring a license under this section.

III. The license under this section shall not entitle a person, firm, or corporation to transport on state waters lobsters and crabs or northern shrimp taken outside the jurisdiction of the state via ship, vessel, or similar craft for the purposes of landing the lobsters and crabs in the state as permitted under RSA 211:49-d and the northern shrimp in this state under RSA 211:49-e.

§ 211:62-e. Aquaculture

I. The purpose of this section is to encourage the orderly development of aquaculture in the state, while ensuring that aquaculture operations do not adversely impact upon the state's aquatic and marine resources and do not pose unacceptable disease, ecological, environmental, health, safety or welfare risks to persons, the environment, aquatic species or marine species.

II. In this section:

(a) "Aquatic species" include, but are not limited to, all fish, crustacea, mollusks, invertebrates and aquatic plants which usually inhabit fresh water.

(b) "Aquaculture" means the propagation and rearing of aquatic species and marine species and includes the planting, promoting of growth, harvesting and transporting of these species in, on, or from the waters of this state, or the operation of a fishing preserve.

II-a. The executive director shall adopt rules, pursuant to RSA 541-A, relative to license types, fees, bonding, insurance and the taking, permitting, inspection, possession, processing, sale, propagation, rearing, planting, growth promotion, harvesting, releasing and transportation of aquatic or marine species as related to aquaculture or fishing preserve operations including, but not limited to:

(a) The size, sex, number and quantity that may be taken, processed, or imported.

(b) The areas to be opened or closed to their taking, rearing, harvesting, releasing, planting, and growth promotion.

(c) The method and manner of their taking.

(d) The transportation within or through the state of New Hampshire and its waters.

(e) The sale, inspection, processing, and marking.

(f) Method of keeping.

(g) Method of recapture.

(h) All fees for bids, applications, review, monitoring, lease or rent, harvest, processing, and any other costs to the department for the issuance or renewal of a license or permit.

(i) Appropriate definitions.

II-b. The executive director shall adopt rules, pursuant to RSA 541-A, for the issuance of 5-year licenses under this section to oyster aquaculture operations in the Great Bay estuary, and the fees, terms, and conditions therefor as authorized under paragraph II-a.

III.

(a) A person may be granted an aquaculture license by the executive director, under such terms and conditions as he may deem necessary, to release and recapture domestically reared anadromous fish in state waters.

(b) No license shall be issued which may interfere with the natural or established runs of anadromous fish, result in waste or deterioration of fish, or when the proposed operation is on a stream or river below a state or federal fish hatchery or egg taking station.

(c) All fish released into the wild under the authority of this section, while they are in the wild, will lose their status as private property and may be taken by duly licensed anglers as defined under RSA 207:1.

(d) Any license granted by the executive director pursuant to this section shall contain the following conditions:

(1) Domestically reared anadromous fish released into state waters shall be marked if the executive director determines it practicable. Any marking shall be approved by him.

(2) If the executive director finds that the operation described in the license and conducted pursuant to this section is not in the public interest, he may alter the conditions of the license to mitigate the adverse effects, or cause an orderly termination of the operation under the license. An orderly termination shall not exceed a 3-year period and shall culminate in the revocation of the license in its entirety. During this period, the licensee may continue to take specified domesticated anadromous fish according to the provisions of the license but shall be prohibited from releasing any additional fish.

(3) If the executive director finds that the operation has caused deterioration of the natural or established runs of anadromous fish in the waters covered by the license he shall require the licensee to return the run to the same condition as it was prior to the issue of the license. If the licensee fails to take appropriate action, the executive director may take such action and the licensee shall bear any cost incurred by the agency.

(4) Prior to the release into state waters all fish shall be examined by a qualified pathologist approved by the executive director and certified that they are not diseased or affected with any disease which in the opinion of the executive director may be detrimental to the resources of the state.

(5) If the licensed operation is located on a stream or river which does not have a state or federal fish passage facility the licensee shall have the right to divert all fish returning to the stream or river to an inspection area as authorized by the executive director, and shall be allowed to examine all fish for the purpose of identifying domestically reared fish that have returned. No unmarked fish may be transported from the trapping facility and must immediately be returned unmarked to the stream or river.

(6) If the operation is located on a stream or river possessing a state owned fish passage facility, fish and game department personnel will examine all fish and separate and hold any marked domestically reared fish that have returned. The licensee shall reimburse the fish and game department for actual expenses incurred.

IV. [Repealed.]

New Hampshire Seaweed Regulatory Provisions

New Hampshire Admin. Code, Executive Director, Fish and Game Department (Fis.), Ch. Fis. 600, Part Fis. 611 (Other Marine Species)

Fis. 611.01. Seaweeds or Marine Plants

- (a) “Seaweeds” means any marine algae in the classes Chlorophyceae, Xanthophyceae, Phaeophyceae, and Rhodophyceae including rockweeds and sea moss.
- (b) The collection of seaweeds shall be in accordance with RSA 207:48 through RSA 207:54.

New Hampshire Admin. Code, Executive Director, Fish and Game Department (Fis.), Ch. Fis. 800, Part Fis. 807 (Aquaculture - Inland and Marine)

Fis. 807.02. License Required

- (a) An aquaculture license shall be required for any person engaging in aquaculture, as defined in RSA 211:62-e, of aquatic or marine species. The license shall include fishing preserves or fee-fishing operations, but no fee under this part shall be required for a fee-fishing operation wholly contained in a permitted regulated shooting area operation specified in Fis 808.
- (b) An aquaculture licensee may raise and sell bait under Fis 807 without the requirement for a bait dealer license under 214:34. Any person taking bait from the wild and then raising and selling bait shall have both licenses.
- (c) An aquaculture license shall not be issued unless the applicant possesses ownership title or possesses a lease hold to all land bordering the body of water, provided the waterbody is not public waters. This provision shall not apply to marine operations.
- (d) No aquaculture licenses shall be issued for any operation in a public body of freshwater supporting natural populations of fish. This provision shall not apply to marine aquaculture operations.
- (e) Only areas classified as “restricted” or “conditionally restricted”, by the commissioner of the department of health and human services pursuant to He-P 2150.02, due to the presence of a waste water treatment outfall shall be considered for marine aquaculture operations which include harvesting of the wild natural shellfish.

(f) No aquaculture license shall be granted if the executive director determines that any portion of the aquaculture operation would adversely impact the state's aquatic or marine resources or would impose unacceptable disease, ecological, environmental, health, safety or welfare risks to persons, the environment, aquatic or marine species as required by RSA 211:62-e.

(g) Unacceptable risk shall be determined by considering any negative impact the aquaculture operation would have on persons, the environment, indigenous aquatic or marine species using the following criteria:

(1) The proposed species:

- a. Life cycle;
- b. Life history;
- c. Reproductive habits; and
- d. Habitat requirements;

(2) Genetics of the individual wildlife;

(3) Interaction with competing species;

(4) Food/habitat competition with indigenous species; and

(5) Other factors relating to the proposed operation such as:

- a. Types of system, whether closed or controlled, and
- b. Screened outlets or other enclosures.

(h) Aquaculture licenses shall be granted for the specific species listed on the application and permit.

(i) All importation and release of aquatic and marine species shall be in compliance with the requirements for the importation and release of wildlife in Fis 803 and Fis 805.

Fig. 807.03. Application Procedure for an Inland Aquaculture License

(a) Each applicant for an inland aquaculture license for aquatic species under RSA 211:62-e shall complete and submit an application form.

(b) The applicant shall include the following on the form:

- (1) The name and address of applicant;
- (2) The applicant's telephone number;
- (3) Date of application;
- (4) Type of aquaculture operation such as:
 - a. Fee fishing operation;
 - b. A fishing preserve;
 - c. Hatchery operation;
 - d. Fish for sale in restaurant/retail food market -as a- live or dead product; and
 - e. Bait fish for sale; and
 - f. Pond stocking;
- (5) A statement as to who owns or controls the waters and land bordering the waterbody and whether applicant holds title or lease to such land;
- (6) A list of the species to be cultured or possessed under the aquaculture license;
- (7) A description of the proposed project, including methodology;
- (8) The city or town in which the water is located;
- (9) The location and description of the geographic area where the proposed project is to be undertaken;
- (10) A statement as to the type of facility such as:

- a. An artificial reservoir;
- b. Natural pond;
- c. Brook;
- d. Stream;
- e. Farm pond;
- f. Rearing tanks; or
- g. Other;

(11) If in a lake or pond, the name of the body of water if any and the following information:

- a. The area of the waterbody when full;
- b. The average depth;
- c. The length and height of any dam;
- d. The location of any inlet; and
- e. Whether there are any screens on inlets; and

(12) If a non-navigable brook or stream, include the following information:

- a. Length of brook or stream on applicants property;
- b. What river system it empties into; and
- c. Whether it is screened to hold fish within the boundaries of your premises.

Fis. 807.04. Conditions of the Inland Aquaculture License

(a) An aquaculture license shall have additional specific conditions imposed such as listed in paragraph (b) below, if necessary to control any disease, genetic, ecological, environmental, health, safety or welfare risks to persons, the environment, aquatic or marine species.

(b) Conditions which address the type of operations shall include:

(1) The type of system - a closed system or controlled system;

(2) Screened outlets;

(3) Enclosures;

(4) Species restrictions; or

(5) Genetic restrictions.

(c) Screening devices or other methods of containment shall be maintained at all times to prevent the release of aquatic species into the wild.

(d) An aquaculture license may buy and resell or exchange species from another instate aquaculture business without being required to bring the species into the licensee's own hatchery facility.

(e) Aquaculture licensees shall be subject to the requirements for importing and releasing fish under Fis 803 and Fis 805 except that aquaculture licensees may stock brook trout, rainbow trout, or brown trout from their facility into non-public bodies of water that are closed systems without a permit to release fish.

(f) A copy of the aquaculture license shall be carried on all vehicles used for transporting species.

Fis. 807.05. Sale - Inland Aquaculture

(a) Species propagated or raised under a commercial inland aquaculture license may be sold.

(b) The inland aquaculture licensee shall provide a dated bill of sale or record of the transaction to the purchaser.

(c) The dated bill of sale or record of transaction shall include:

- (1) The species;
- (2) Number/quantity;
- (3) The aquaculture license number; and
- (4) Hatchery Source.

Fig. 807.06. Reporting on an Inland Aquaculture License

(a) For inland aquaculture licensees, no annual report for aquatic species shall be submitted to the department.

(b) Each inland aquaculture operation shall maintain records as follows:

- (1) Of all aquatic species bought, sold or shipped;
- (2) The name and address of the buyer and seller;
- (3) The appropriate license or permit number of the buyer/seller;
- (4) The transaction date;
- (5) The species, number/pounds of each species in the transaction; and
- (6) The origin of aquatic species involved.

(c) Such records shall be kept for a minimum of 2 years and shall be made immediately available to the executive director or his agent upon request.

Fig. 807.07. Application Procedures for a Marine Aquaculture License

(a) Each applicant for a marine aquaculture license under RSA 211:62-e shall make application in writing to the executive director.

(b) The applicant shall complete and submit an application containing the following:

- (1) A list of the species to be managed or cultivated;

(2) A description of the proposed project, including:

a. Methodology;

b. The type of aquaculture operation such as bottom culture, suspended culture, pen culture or a land-based system;

c. The location and description of the geographic area where the proposed project is to be undertaken described by latitude and longitude coordinates and identified on the most detailed NOAA chart of the particular area or USGS map for a landbased operation;

d. Site specific information which is available including:

1. Tidal information;

2. Location of natural resources such as shellfish and eelgrass beds and finfish stocks;

3. Benthic characterization of sediment types;

4. Recreational and/or commercial activities in and around the site; and

5. Navigational aspects such as channels, navigational aids, vessel traffic, or moorings; and

e. Type, size and configuration of any gear used during any phase of the aquaculture operations and how it will be used;

(3) Source of organisms to be utilized throughout the project;

(4) Disposition of organisms during the various phases of the project;

(5) A list of any biocides, algacides, antibiotics or other methods of control or treatment to be used during the project;

(6) A description of any restricted use proposed by the aquaculture project which shall include identifying any existing activity which would be restricted or prohibited;

(7) A written statement that the applicant either owns or has written permission from the owner(s) to exercise any littoral right, necessary to carry out the proposed project;

(8) List of agencies to whom copies of complete application will be sent as required in Fis 807.07 (g)(2); and

(9) A copy of the current municipal tax map and complete list of names and addresses of all the abutters and littoral owners to the proposed project.

(c) Upon receipt of the application the executive director shall determine the completeness of the application and notify the applicant in writing within 30 days as to its completeness or describe fully any deficiency found.

(d) The department shall conduct a site assessment or evaluation for any area that has not had a site assessment completed within the previous 2 years. The department staff shall conduct the site assessment for purposes of verifying or updating data and information included in the application. Site assessments shall be conducted between May and October.

(e) The site assessment shall include but not limited to:

(1) Site visit;

(2) Benthic substrate evaluation to characterize the sediment types;

(3) Review of the fisheries uses in the area;

(4) Typical wildlife and aquatic plants;

(5) Location of channel, navigational aids, moorings;

(6) Recreational, commercial, or other activities being conducted in the area;

(7) Tidal information such as flow rate, height or direction; and

(8) Location of other aquaculture activities within one mile of the proposed site(s).

(f) After the complete application has been received and the department's site evaluation is complete, the executive director shall set a hearing date and notify the applicant of the date, time and location of the hearing.

(g) Upon being notified that the hearing date has been scheduled, the applicant shall:

(1) Send written notice at least 21 days prior to the public hearing by certified mail to all abutters and littoral owners of the proposed project, if different from the licensee, and submit copies of the certified receipts to the executive director; and

(2) Send copies of the complete application and notification of the public hearing to any other state or federal agencies that might require permitting, licensing or have jurisdiction over activities associated with the proposed project such as but not limited to:

- a. The NH department of health and human services;
- b. The NH department of environmental services;
- c. The NH port authority, the Army Corps of Engineers;
- d. The Environmental Protection Agency;
- e. The United States Coast Guard; or
- f. The National Marine Fisheries Services.

(h) The notice to land owners required in Fis 807.07(g)(1) shall include:

(1) The details of the project;

(2) The exact location(s) of the project;

(3) The date, time and place of the public hearing;

(4) The name and mailing address of executive director so that they can respond in writing; and

(5) The deadline for written comment which shall be 14 days after the scheduled public hearing.

(i) The executive director shall provide public notice in the newspaper of the scheduled hearing at least 21 days prior to the hearing. Any interested person may submit written comments on the proposed project to the executive director up to 14 days after the public hearing on the proposed aquaculture project.

(j) The executive director shall review all of the information to determine that the proposed aquaculture operation would not pose any unacceptable risk as specified in Fis 807.02(g), does not conflict with or negatively impact any recreational, commercial or other use currently being conducted in the area in and around the proposed project area, or does not adversely impact the value or use of private property in and around the projected area before issuing a license.

Fis. 807.08. Conditions of the License - Marine

(a) All marine aquaculture operations and associated activities including, but not limited to, transporting and labeling and marking shellfish shall be conducted in compliance with all state and federal law and regulations.

(b) Persons licensed for aquaculture operations shall conduct environmental monitoring if the department deems it necessary to determine any degradation directly related to the aquaculture operation of the marine environment or marine species.

(c) The licensee shall report any unusual event that occurs within 48 hours to the executive director followed by a letter outlining the circumstances of the event within 5 days. An unusual event means any event related to the aquaculture operation that might have a negative impact on the environment.

(d) The issuance of license under this part shall not confer a waiver of liability for any degradation, directly related to the aquaculture operation, to the environment or marine species.

(e) When harvesting indigenous stocks, the licensee and the executive director shall agree on the number or quantity to be harvested and the timetable for harvest prior to the issuance of the license.

(f) The executive director shall revoke an aquaculture license, after notice and hearing in accordance with RSA 541-A and Fis 200, for violating one or more conditions described in the license.

(g) Any person whose aquaculture license has been revoked shall be required to reapply using the procedures outlined in Fis 807.07.

(h) There shall be at least 150 feet between locations of licensed marine bottom aquaculture operations inland of the General Sullivan Bridge.

(i) The maximum size of any licensed bottom aquaculture site inland of the General Sullivan Bridge shall be no greater than 4.5 acres.

Fig. 807.09. Sale and Marking - Marine

(a) For marine aquaculture licensees, each package of product sold for use as food shall be marked with the species, number/quantity, the aquaculture license number, hatchery source, and destination.

(b) The marine aquaculture licensee shall provide a dated bill of sale or record of the transaction to the purchaser.

(c) The dated bill of sale or record of transaction shall include:

- (1) The species;
- (2) Number/quantity and size;
- (3) The aquaculture license number;
- (4) Hatchery source; and
- (5) Destination.

Fig. 807.10. Reporting - Marine

(a) Marine aquaculture licensees shall submit a report to the executive director by the 10th of each month, for the previous month. Monthly aquaculture reports shall be submitted on paper or via electronic means and shall contain the following:

- (1) Harvest date;
- (2) Species sold;
- (3) Number or pounds of species sold;
- (4) Disposition of species sold;
- (5) Ex-vessel value or price of species sold;

(6) Port, county, and state where species were landed;

(7) The aquaculture license number;

(8) Date species were sold;

(9) Grade and market size of species sold;

(10) Catch source; and

(11) For shellfish harvests, the following:

a. Time of harvest;

b. Time of icing; and

c. Temperature at receiving.

(b) Marine aquaculture licensees shall submit a report by January 31st of each year, on paper or via electronic means, to the executive director. Annual aquaculture reports shall contain the following for the previous calendar year:

(1) Results and findings of the environmental monitoring in Fis 807.08(b);

(2) Any unusual events occurring during the year; and

(3) Summary of activities over the license year including imports and release information.

(c) The submission of complete annual aquaculture reports and all monthly aquaculture reports required during the duration of the current license shall be required for the renewal of any marine aquaculture license under Fis 807.11(1).

Fis. 807.11. Fees, Amendments, Renewals or Transfers

(a) The annual fee for an aquaculture license for a commercial inland operation shall be \$100. For purposes of this section, “commercial inland operation” shall include fishing preserves or fee fishing operations.

(b) The annual fee for an aquaculture license for an inland operation which is not commercial shall be \$20.

(c) The annual fee for an aquaculture license for a land-based marine operation shall be \$100.

(d) Fees for any aquaculture operation to be situated in marine or estuarine waters such as a bottom culture, suspended culture, or pen culture operation shall be as follows:

(1) A non-refundable \$200 application fee;

(2) An annual license fee based on acreage covered by the license based on;

a. \$200 per acre for bottom culture;

b. \$500 per acre for suspended culture; or

c. \$750 per acre for pen culture; and

(3) Any person harvesting the state's wild natural resources or cultured resources shall be charged \$.015 per individual organism for American oysters and a \$.01 per pound processing fee for fish taken from a pen culture.

(e) Annual commercial aquaculture licenses shall expire on December 31, but may be renewed annually as long as the operation is conducted under the conditions of the current license.

(f) Oyster aquaculture operations in Great Bay Estuary may obtain a license good for 5 consecutive calendar years pursuant to RSA 211:62-e II-b.

(g) Fees for the 5 year license shall be as follows:

(1) A non-refundable \$200 application fee;

(2) A license fee based on acreage covered by the license based on:

a. \$1000 per acre for bottom culture; or

b. \$2500 per acre for suspended culture; and

(3) Any person harvesting the state's wild natural resources or cultured resources shall be charged \$.015 per individual organism for American oysters.

(h) The 5 year license for commercial oyster aquaculture operations in Great Bay Estuary shall expire on December 31, but may be renewed as long as the operation is conducted under the conditions of the current license.

(i) The fees in (d)(3) and (g)(3) shall be paid annually.

(j) To amend the species on a current aquaculture license or add or change species covered by the license to a similar species within the same family, the licensee shall submit a new application, at no cost.

(k) The licensee shall submit an application for a new license for requesting a change in the type of operation or species.

(l) Renewal of an existing aquaculture license for an aquaculture operation in marine or estuarine waters shall be \$100. This renewal fee shall be in addition to any fee required by Fis 807.11(d)(2), (d)(3), (g)(2) and (g)(3).

(m) A commercial aquaculture license may be transferred along with a sale of a business to a new owner for the duration of that license provided all requirements and conditions of the license shall be met.

Fis. 807.12. Competing Aquaculture Applications

(a) In the event the department receives competing aquaculture applications for the same areas, the department shall give preference on a first-come first-served basis.

(b) If 2 or more applications for the same area are received by the department on the same business day, a lottery shall be held by the department to determine which application will be given preference.

(c) The lottery drawing shall be conducted in the following manner:

(1) Each competing application shall be assigned a unique number;

(2) Selection of winning number shall be done by computer selection of random numbers; and

(3) Applicants on each competing application shall be invited via email to attend the lottery.

Fis. 807.13. Waiver

(a) The executive director shall waive rules relative to the possession and/or sale of undersize marine species, except lobster, for aquaculture operations if the executive director determines that the operation and handling of the species:

- (1) Does not impact the management of that marine species;
- (2) Does not jeopardize the enforcement efforts directed towards wild stocks; and
- (3) Properly tracks source, quantity and destination of the species.

(b) The executive director shall waive rules relative to the method of taking marine species for aquaculture operations if the executive director determines that the manner and method of taking:

- (1) Does not adversely impact the state's wildlife or marine resources in the area of the aquaculture operation;
- (2) Does not adversely interfere with other users of the area;
- (3) Is restricted to the area licensed for aquaculture; and
- (4) Does not result in the possession of other marine species.

Fis. 807.15. Protection of Aquaculture Gear and Product

(a) No person, except the owner, the executive director, or his agent, shall molest, pull, tend, possess, or disturb any gear used in a licensed marine aquaculture operation or any marine species raised therein without the written permission of the owner.

(b) No person, except the licensee or an individual with written permission from the licensee, shall take or possess oysters, clams, or mussels from a licensed aquaculture site that is properly marked with yellow buoys at each corner.

New Jersey Seaweed Provisions Index

Wild Harvest

N/A

Aquaculture

Definitions

N.J. STAT. ANN. § 4:27-3 - Aquaculture Development Definitions

N.J. ADMIN. CODE § 2:89-1.2 - Aquaculture Development General Provisions

Licenses

N.J. STAT. ANN. § 4:27-10.2 - Aquaculture Permitting Review Program

N.J. ADMIN. CODE § 2:89-2.1 - Aquatic Farmer License Requirements

N.J. ADMIN. CODE § 2:89-2.4 - Aquaculture Application

Post-Harvest

N.J. STAT. ANN. § 4:27-17 - Licensure; Possession and Control of Aquacultured Organisms

N.J. ADMIN. CODE § 2:89-4.1 - Sale or Distribution

N.J. ADMIN. CODE § 2:89-4.2 - Label Requirements

N.J. ADMIN. CODE § 2:89-4.4 - Food License

New Jersey Seaweed Statutory Provisions

New Jersey Stat. Tit. 4, Ch. 27 (Aquaculture Development)

§ 4:27-3. Definitions

As used in sections 1 through 24 of this act:

“Aquaculture” means the propagation, rearing, and subsequent harvesting of aquatic organisms in controlled or selected environments, and the subsequent processing, packaging and marketing, and shall include, but need not be limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators. “Aquaculture” shall not include the construction of facilities and appurtenant structures that might otherwise be regulated pursuant to any State or federal law or regulation.

“Aquaculture Development Plan” means the plan prepared by the Aquaculture Development Task Force, established pursuant to Executive Order No. 104 (1993).

“Aquaculturist” means a person engaging in aquaculture.

“Aquatic organism” means and includes, but need not be limited to, finfish, mollusks, crustaceans, and aquatic plants which are the property of a person engaged in aquaculture.

“Council” means the Aquaculture Advisory Council established pursuant to section 5 of this act.

“Office” means the Office of Aquaculture Coordination established pursuant to section 4 of this act.

“Secretary” means the Secretary of Agriculture.

§ 4:27-10.2. Aquaculture permitting review program; coordinated permit application; authority of act

(a) The Secretary of Agriculture, in consultation with the Commissioner of Environmental Protection, shall develop and implement an aquaculture permitting review program to provide for the coordinated review of any aquaculture project. The permitting review program shall provide for a coordinated permit application for any permit, approval, or authorization required for an aquaculture project. The permitting review program shall consolidate the review process for the coordinated permit application.

(b) The coordinated permit application shall include any permit, approval, or other authorization required for an aquaculture project, including, but not limited to, as applicable, a permit, license, approval, or authorization required pursuant to section 17 of P.L.1997, c. 236 (C.4:27-17), R.S.12:3-1 et seq., R.S.12:5-1 et seq., the “Pesticide Control Act of 1971,” P.L.1971, c. 176 (C.13:1F-1 et seq.), “The Wetlands Act of 1970,” P.L.1970, c. 272 (C.13:9A-1 et seq.), the “Freshwater Wetlands Protection Act,” P.L.1987, c. 156 (C.13:9B-1 et seq.), the “Coastal Area

Facility Review Act,” P.L.1973, c. 185 (C.13:19-1 et seq.), the “Water Supply Management Act,” P.L.1981, c. 262 (C.58:1A-1 et seq.), the “Water Pollution Control Act,” P.L.1977, c. 74 (C.58:10A-1 et seq.), “The Realty Improvement Sewerage and Facilities Act (1954),” P.L.1954, c. 199 (C.58:11-23 et seq.), the “Water Quality Planning Act,” P.L.1977, c. 75 (C.58:11A-1 et seq.), the “Safe Drinking Water Act,” P.L.1977, c. 224 (C.58:12A-1 et seq.), or the “Flood Hazard Area Control Act,” P.L.1962, c. 19 (C.58:16A-50 et seq.), and any rules or regulations adopted pursuant thereto.

(c) Nothing in this act shall authorize any change in environmental or regulatory policy, standards, or requirements of any law subject to the aquaculture permitting review program, nor shall the permitting review program reduce or diminish any opportunities for public review and comment or public hearings currently required by those laws, any rules or regulations adopted pursuant thereto, or any programs established pursuant thereto.

§ 4:27-17. Licensure; possession and control of aquacultured organisms

The Department of Agriculture, in consultation with the Department of Environmental Protection and the Aquaculture Advisory Council, shall establish, pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), a program for the licensure of the possession and ownership of aquacultured organisms.

New Jersey Seaweed Regulatory Provisions

New Jersey Admin. Code, Tit. 2, Ch. 89, Subchapter 1 (General Provisions)

2:89-1.2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Aquaculture Development Act, N.J.S.A. 4:27–1 et seq.

“Applicant” means a person who is in or is seeking to enter into aquaculture and who submits an application for a license to the NJDA.

“Aquaculture” is a form of agriculture involving the propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and the subsequent processing, packaging and marketing, and shall include, but is not limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators. Aquaculture is a water dependent activity. Aquaculture shall not include the construction of facilities and appurtenant structures that might otherwise be regulated pursuant to any State or Federal law or regulation.

“Aquaculture system” means any tank, raceway, contained pond or closed recirculating system or any waters of the State into which aquatic organisms are placed for the purposes of aquaculture.

“Aquatic farm” means any leased or privately owned water system and associated facilities and appurtenant structures capable of holding and/or producing cultured aquatic stock. It may also refer to more than one facility and may include both hatchery and grow-out components, multi-species farms, processing, packaging and marketing.

“Aquatic farmer” means any person who operates and maintains an aquatic farm.

“Aquatic Farmer License” means the formal license issued by the NJDA for the possession and ownership of aquacultured organisms by a person, partnership or corporation.

“Aquatic organism” means an animal or plant of any species or hybrid thereof and includes gametes, seeds, eggs, sperm, larvae, juvenile and adult stages any of which is required to be in water during that stage of its life. This definition does not include birds and mammals.

“Aquatic species” means any species of fish, mollusk, crustacean, other aquatic invertebrate, amphibian, reptile or aquatic plant but is not limited to fish and fishes.

“Closed system” means an aquatic farm with discharges that do not connect in any way to the waters of the State prior to filtration or percolation in order to prevent cultured aquatic stock from escaping and generally recirculates its system discharges.

“Cultured aquatic stock” means privately owned aquatic organisms lawfully acquired, held and grown in an aquatic farm.

“Department” or “NJDA” means the New Jersey Department of Agriculture.

“Fee fishing” means paying a fee to engage in the removal of cultured, licensed aquatic stock from a farm for recreation or sporting purposes.

“Native species” means any species of any plant or animal that naturally occurs in the water of the State and is capable of surviving in the wild for 12 consecutive months.

“NJDEP” means the New Jersey Department of Environmental Protection.

“NJDHSS” means the New Jersey Department of Health and Senior Services.

“Non-native species” means any species of plant or animal that does not occur naturally in the waters of the State.

“Person” shall mean individuals, public or private corporations, companies, associations, societies, firms, partnerships, and joint stock companies.

“Producer” shall mean any person, firm, partnership, association or corporation that intervenes in the rearing process of aquatic organisms listed in the North American Industrial Classification System under Animal Aquaculture 1125 or Greenhouse, Nursery and Floriculture 1114 to enhance production and receives sales revenues from those organisms.

“Public hatchery” means any hatchery run by the State of New Jersey for the culture of aquatic organisms. Such facilities shall be exempt from all of the provisions of this chapter.

“Secretary” means the Secretary of the New Jersey Department of Agriculture.

“Waters of the State” means all surface and groundwaters of the State but does not include the waters in a closed system.

New Jersey Admin. Code, Tit. 2, Ch. 89, Subchapter 2 (Aquatic Farmer Lease)

2:89-2.1 Aquatic Farmer License requirements

(a) All producers of cultured aquatic stock who anticipate production of aquacultured products worth \$2,500 or more annually shall obtain an Aquatic Farmer License from the New Jersey Department of Agriculture.

1. In order to obtain the benefits provided by the Aquatic Farmer License, it is strongly recommended that all aquaculturists, even those with lower levels of production, obtain a License.

(b) Issuance of said Aquatic Farmer License will be based upon submission to and approval by the NJDA of a properly completed "Aquatic Farmer License Application" containing all information required by these rules. An applicant whose aquatic farm was not in operation as of June 7, 2004 must also show that he or she possesses all State and Federal permits and approvals required for the operations and activities of the aquatic farm.

1. A copy of the application is attached hereto as Appendix A and is hereby adopted and incorporated by reference as part of this rule.

(c) Aquatic Farmer Licenses will be effective for a period of five years from June 30 of the year of issuance, provided the licensee complies with the terms of the license and the requirements of State and Federal permits governing the operation. All Aquatic Farmer Licenses will expire on June 30 five years from the calendar year of issuance.

(d) Each licensed aquatic farmer shall be issued a number by the NJDA to be used as a reference for marketing, transport and sale documents.

(e) The Aquatic Farmer License for the possession and ownership of aquacultured organisms is transferable upon approval by the NJDA of a formal written request made within 14 days of the change in ownership, provided that there is no significant change in operations such as a change in genus, system capacity or type of system.

1. If the aquatic farmer operates on an area that is covered by a lease with the State, the NJDA will notify NJDEP within 14 days of receipt of a request for a transfer of ownership.

(f) The owners of an aquaculture facility shall file a revised Aquatic Farmer License application at least 30 days prior to any significant change in operations such as a change in genus, system capacity or type of system. The NJDA shall review and approve or deny a license to the modified operation.

1. A change in production may require the issuance of additional permits by NJDEP or other agency.

2. The NJDA shall notify NJDEP within 14 days of receipt of a revised application for an Aquatic Farmer License.

2:89-2.4. Aquaculture application

(a) The application set forth in Appendix A shall include the information set forth in (a)1 through 4 below. The application set forth in Appendix B shall include the information set forth in (a)1 and 2 below.

1. Applicant information:

i. The name, address and contact information of the applicant;

- ii. The filing date;
- iii. The name and location of the proposed aquatic farm;
- iv. The name and address of the landowner if different from the applicant;
- v. The name and contact information for a consultant or an authorized agent; and
- vi. The Social Security number of the applicant or Federal ID # for corporations.

2. Type of culture:

- i. The name (common and scientific) of each species to be cultured;
- ii. The origin of the cultured species; and
- iii. The estimated annual production.

3. General activity description:

- i. The project type;
- ii. The estimated beginning construction date;
- iii. The zoning of the area surrounding the facility;
- iv. The size of the operation;
- v. Water requirements/source; and
- vi. The type of operation.

4. Relevant permits: A list of all currently held and additional permits that are required by the NJDEP, NJDHSS, or other appropriate agency. A preliminary assessment of required permits is provided in the application included at Appendix A.

New Jersey Admin. Code, Tit. 2, Ch. 89, Subchapter 4 (Identification of Aquacultured Stock)

2:89-4.1. Sale or distribution

(a) Any person who transports, for sale or distribution to another, licensed aquatic organisms that have been produced in aquatic farms in New Jersey shall transport each shipment with a bill of sale or a bill of lading.

- (b) All documentation must include the license number of the production facility.
- (c) Any person who transports, for any purposes other than sale or distribution, any licensed aquatic organism shall transport each shipment with a copy of the valid Aquatic Farmer License issued by NJDA.
- (d) For bivalve molluscan shellfish, the tagging/recordkeeping system under N.J.A.C. 8:13–1.1 through 1.6 and 2.23 through 2.27 will fulfill the requirement for a bill of lading or bill of sale.

2:89-4.2. Label requirements

- (a) Any label, bill of sale or bill of lading shall contain the name and address of the shipper and the receiver, and the identity of the aquatic organisms by species, total weight or number.
- (b) For bivalve molluscan shellfish, the tagging/recordkeeping system referenced in N.J.A.C. 2:89–4.1(d).

2:89-4.4. Food license

In addition to an Aquatic Farmer License, any entity that wholesales, retails, stores or processes aquacultured seafood (fresh or saltwater) or seafood products (fresh or saltwater) for human consumption shall possess a wholesale food license required by N.J.S.A. 24:15–13 and N.J.A.C. 8:21–13, Rules Governing Wholesale Food Establishments, and/or a retail food license required by N.J.A.C. 8:24–1, Sanitation in Retail Food Establishments and Food and Beverage Vending Machines and act in compliance with N.J.A.C. 8:21–1.3, Food Labeling.

New York Seaweed Provisions (Index)

Wild Harvest

N/A

Aquaculture

Leases

N.Y. ENVTL. CONSERV. LAW § 13-0301 - Lease of State-Owned Underwater Lands for Shellfish Cultivation

N.Y. ENVTL. CONSERV. LAW § 13-0302 - Land Underwater of Gardiner's and Peconic Bays

Post-Harvest

N/A

New York Seaweed Statutory Provisions

McKinney's Consolidated Laws of New York, Environmental Conservation Law, Ch. 43-B, Art. 13, Tit. 3 (Marine Fisheries)

§ 13-0301. Lease of state owned underwater lands for shellfish cultivation

1. Leases.

a. Except as provided in paragraph b of this subdivision, the department may lease state owned underwater lands within the marine and coastal district for the cultivation of shellfish. The written approval of the office of general services shall be obtained for the lease of land within five hundred feet of the high water mark.

b. The following lands underwater shall not be leased:

(i) lands where there is an indicated presence of shellfish in sufficient quantity and quality and so located as to support significant hand raking or tonging harvesting;

(ii) lands where the leasing will result in a significant reduction to established commercial finfish or crustacean fisheries;

(iii) lands where bay scallops are produced regularly on a commercial basis; and

(iv) lands underwater of Gardiner's and Peconic bays and the tributaries thereof between the westerly shore of Great Peconic bay and an easterly line running from the most easterly point of Plum Island to Goff point at the entrance of Napeaque harbor.

2. Regulations.

a. Regulations adopted by the department for the implementation and administration of this section shall include regulations with respect to leasing forms and procedures; public notice of leasing; execution of leases; minimum rental fees; bidding procedures; posting and forfeiture of financial security, renewals, termination and assignment of leases; marking and testing of grounds; maintenance of boundary markers; collection of rental and recording fees; submission and approval of cultivation plans; harvesting gear; acreage of lands to be let and term of leases and other matters pertinent to underwater land use and shellfish cultivation.

b. Regulations adopted by the department for the implementation and administration of this section shall include the following requirements:

(i) leases shall be awarded after public auction following due notice;

(ii) leases shall be awarded to the highest responsible bidder;

(iii) bidders shall provide a detailed cultivation plan; and

(iv) cultivation of shellfish shall commence within one year of the award of the lease.

3. Summary proceedings. Upon failure to pay the rental on any date due under the terms of the lease or upon revocation, the department may, after written notice to the lessee, declare the lease cancelled as of the date set forth in such notice, and may immediately thereafter evict the lessee from such lands. The provisions of article seven of the real property actions and proceedings law shall apply and govern the procedure in such cases.

4. Limitations. The commissioner of general services shall not grant or lease lands for shellfish cultivation. The public shall not be excluded from the taking of shellfish from underwater lands granted or leased by such commissioner for other purposes; provided, however, that should any grant or lease made by such commissioner for such other purposes include lands leased by the department for shellfish cultivation the lessee for shellfish cultivation shall have the exclusive right to use and take shellfish from such leased lands for a period of two years from the date of the grant or lease by such commissioner or until the expiration of the shellfish cultivation lease, whichever is the earliest, and may prior to the expiration of such period, remove and transplant the shellfish from such lands to other lands leased, owned or controlled by such lessee.

§ 13-0302. Land underwater of Gardiner's and Peconic bays

1. Underwater lands ceded to county of Suffolk. All the right, title and interest in which the people of the state of New York have in and to the lands under water of Gardiner's and Peconic bays in the county of Suffolk, except underwater lands within one thousand feet of the high water mark is hereby ceded to such county, for the purposes of shellfish cultivation, to be managed and controlled by such county, provided that such lands shall revert to the state when they shall cease to be used for shellfish cultivation. For the purposes of this section, the term "Gardiner's and Peconic bays" shall mean the waters of Gardiner's and Peconic bays and the tributaries thereof between the westerly shore of Great Peconic bay and an easterly line running from the most easterly point of Plum island to Goff point at the entrance of Napeague harbor.

2. Ratification. The grant of lands under the waters of Gardiner's and Peconic bays, by the commissioners of shell fisheries, in accordance with the provisions of chapter 385 of the laws of 1884, as amended, subsequently held and used by the grantees, heirs, successors, and assigns on which all taxes and assessments have been paid, are hereby ratified and confirmed. Any underwater lands in Gardiner's and Peconic Bays previously granted that revert or escheat to the state or are subject to tax deed by the county of Suffolk shall be available to the county for leasing pursuant to this section. All other lands under such waters, which pursuant to such chapters, have escheated or reverted to the state, are hereby ceded to Suffolk county for the purposes of the cultivation of shellfish, subject to existing valid grants and easements; provided however, that nothing in this section shall interfere with the right of the commissioner of general services to grant lands and easements under water to owners of adjacent uplands, pursuant to the

provisions of the public lands law, or of the legislature to make such grants without regard to upland ownership, and to grant franchises to utilities, municipalities and governmental, educational, or scientific bodies for cables, outfalls, ecological studies, and experimentation with controlled marine life.

3. Leases. Suffolk county may lease lands under water ceded to it by the state for the purpose of shellfish cultivation. Provided if no such leases have been executed by December thirty-first, two thousand ten, such authority to lease pursuant to this section shall terminate.

a. Leases may be issued only within areas designated as shellfish cultivation zones on a map or maps to be prepared and approved by the county of Suffolk.

b. No lease shall be granted except upon written application on forms furnished by the county of Suffolk, and properly executed and signed by the applicant.

c. Before a lease is approved, notice shall be provided for at least two months by posting such notice at the bureau of marine resources in the department, the office of the county clerk, and the office of the town clerk in which all or any part of the lands to be leased are located. Such notice shall also be published in the official newspaper of the county. The notice shall include the name of the lessee, the boundaries of the lease, and the area of the lease. A copy of the proposed lease shall be available for public inspection and copying in the office of the county clerk.

4. Establishment of shellfish cultivation zones. Before leasing or using the lands hereby ceded to it, the county of Suffolk shall cause an accurate survey to be made of such lands, and a map or maps to be prepared therefrom. Such map or maps shall establish shellfish cultivation zones within Gardiner's and Peconic bays. Such map or maps shall be approved by local law. After such map or maps have been adopted, the county shall have the authority to issue leases for shellfish cultivation within the shellfish cultivation zones, as provided herein. Such map or maps shall be updated by the county of Suffolk every five years.

a. Underwater lands within one thousand feet of the high water mark shall not be included in a shellfish cultivation zone.

b. Underwater lands where bay scallops are produced regularly and harvested on a commercial basis shall not be included in a shellfish cultivation zone.

c. Underwater lands where there is an indicated presence of shellfish in sufficient quantity and quality and so located as to support significant hand raking and/or tonging harvesting shall not be included in a shellfish cultivation zone.

d. Underwater lands where the leasing will result in a significant reduction of established commercial finfish or crustacean fisheries shall not be included in a shellfish cultivation zone.

5. Regulations. The county shall, by local law, before leasing any such underwater lands, adopt regulations governing:

- a. applications for leases;
- b. notices to be given;
- c. the form and terms of leases;
- d. standards for the approval or denial of leases;
- e. administration of leases;
- f. the transfer or renewal of leases;
- g. marking grounds and testing;
- h. fees;
- i. recording of leases;
- j. bonds; and
- k. such other matters as are appropriate to the leasing program.

6. Department authority. Notwithstanding any of the provisions of this section:

- a. any person engaging in the cultivation or harvesting of shellfish in a shellfish cultivation zone pursuant to this section shall obtain a permit in accordance with section-0316 of this title; and
- b. the department shall regulate and control the use of certain types of vessels and equipment for harvesting shellfish, requirements for reseeded, the right to enter upon such leased lands for reseeded or making shellfish population surveys, and enforce all other applicable state laws relating to said underwater lands.

7. Duties of the county clerk. Leases issued pursuant to this section shall be recorded in the office of the county clerk in the manner and form to be determined by local law as provided in subdivision five of this section.

8. Summary proceedings. Upon the failure of a lessee to pay the rental on any date due under the terms of the lease or upon revocation as provided for by local law pursuant to subdivision five of this section, the county may, after written notice to the lessee declare the lease cancelled as of the date set forth in such notice, and may immediately thereafter evict the lessee from such lands. The provisions of article seven of the real property actions and proceedings law shall apply and govern the procedure in such case.

9. Disposition of fees and rents. All fees and rents received shall be deposited into the general fund of the county. However, in the alternative, nothing shall prohibit the county of Suffolk, by local law, from establishing a special fund for the promotion of aquaculture where such fees and rents shall be deposited.

10. [Expires and deemed repealed July 1, 2026, pursuant to L.2016, c. 322, § 2.] Suffolk county shall be authorized to allow the underwater lands at Gardiner's and Peconic Bays within the shellfish cultivation zone to be used for the implementation of a pilot program to conduct research and scientific assessment of the feasibility of seaweed cultivation. Such pilot program shall be limited to persons holding a lease from Suffolk county for shellfish cultivation and shall be limited to a total of five acres of such cultivation zone provided that any one person may be authorized to conduct seaweed cultivation on no more than one acre of the lease. Suffolk county shall provide a report to the legislature and the department on the pilot program no later than January first, two thousand twenty-six.

Oregon Seaweed Provisions (Index)

Wild Harvest

- OR. REV. STAT. ANN. § 274.885 - Leasing Kelp Fields
- OR. REV. STAT. ANN. § 274.890 - Time Allowed Lessee for Survey and Erection of Plant
- OR. REV. STAT. ANN. § 274.895 - Kelp Removed Without Lease
- OR. ADMIN. R. 141-142-0020 - General Provisions
- OR. ADMIN. R. 736-021-0090 - Cultural, Historic, Natural and Wildlife Resources

Aquaculture Provisions

Definitions

- OR. ADMIN. R. 141-082-0255 - Aquaculture
- OR. ADMIN. R. 141-125-0120 - Authorizing Special Uses on State-Owned Land

Leases and Licenses

- OR. REV. STAT. ANN. § 274.040 - Sale or Lease of Submerged Lands
- OR. ADMIN. R. 141-125-0100 - Purpose and applicability
- OR. ADMIN. R. 141-125-0110 - Policies
- OR. ADMIN. R. 141-125-0130 - Application Requirements
- OR. ADMIN. R. 141-125-0140 - Application Review and Approval
- OR. ADMIN. R. 141-125-0150 - Competitive Bidding Process
- OR. ADMIN. R. 141-125-0170 - General Terms and Conditions
- OR. ADMIN. R. 141-125-0180 - Insurance and Bond
- OR. ADMIN. R. 141-125-0190 - Termination
- OR. ADMIN. R. 141-125-0200 - Assignment and Subleasing

Oregon Seaweed Statutory Provisions

Oregon Stat., Tit. 25, Ch. 274, Tidal Submerged and Submersible Lands

§ 274.040. Submersible and submerged lands; sale or lease; easements

(1) Except as provided in ORS 274.043, in ORS 274.085 for leases of submersible lands acquired as an investment for the Common School Fund, in ORS 274.530 (1) for leases of submersible lands of less than one year's duration, in ORS 274.530 (3) for licenses of less than three years' duration, in ORS 274.873 for proprietary authorizations within Oregon's territorial sea as defined in ORS 196.405 and in subsections (2) and (3) of this section, submersible lands owned by the State of Oregon may be leased only to the highest bidder, bidding at least the minimum amount designated by the Department of State Lands under subsection (6) of this section for the lease of any such lands, after being advertised not less than once each week for two successive weeks in one or more newspapers of general circulation in the county in which the lands are situated. However, any owner of lands abutting or fronting on such submersible lands shall have the preference right to lease the lands unless the submersible lands are occupied by a person claiming the right of occupancy under a conveyance recorded before January 1, 1981, from the present owner or predecessor in interest of lands abutting or fronting the submersible lands. If so, the occupant of the submersible lands shall have the preference right to lease the lands. An easement or license related to utility service on the submersible lands does not establish a preference right under this subsection. The lands shall be leased for the amount designated by the department under subsection (6) of this section as the minimum amount for the lease of any such lands. The preferences provided in this subsection apply to any lease of submersible land for one year or more offered or issued under ORS 274.530. The preferences provided in this subsection do not apply to any lease offered or issued by the department under ORS 274.705 to 274.860. The preference for the owner of lands provided in this subsection does not apply to the renewal of an existing lease where the lessee is in compliance with all the terms and conditions of the lease.

(2) Submersible lands owned by the State of Oregon that are determined by the State Land Board to be available for sale may be sold only to the highest bidder, after being advertised not less than once each week for two successive weeks in one or more newspapers of general circulation in the county in which the lands are situated. However:

- (a) No such lands shall be sold for less than for a fair appraised value as determined by an appraiser appointed by the department.
- (b) All sales of such submersible lands shall be approved by the State Land Board.
- (c) Any owner of lands abutting or fronting on such submersible lands shall have the preference right to purchase such lands for the fair appraised value provided that the sale of such lands be approved by the State Land Board.

(3)

(a) The department may grant, to any person holding a permit from the Water Resources Director authorizing the impoundment for beneficial use of the waters of any lake or stream, easements over submerged and submersible lands for flowage and storage of waters, and for the construction, maintenance and operation of any structures or facilities necessary for the use of the water under the terms of the permit upon payment of just compensation by the grantee.

(b) In addition to the authority of the department under paragraph (a) of this subsection to grant easements over submerged and submersible lands, a person holding a water right permit, water right certificate, proposed or final order approving a water right permit or court decree evidencing a water right may occupy state-owned submerged and submersible lands for the construction, maintenance and operation of any structure or facility necessary for the use of water if the proposed use under the permit, certificate, order or decree is for irrigation or domestic use. The department may not charge for the occupation of state-owned submerged and submersible lands pursuant to this paragraph, nor may the department require that a person obtain written documentation to substantiate the permission granted under this paragraph. Upon request by the Department of State Lands, the Water Resources Department shall provide information to the Department of State Lands regarding any change of use of the water right. A person may continue to occupy state-owned submerged and submersible lands pursuant to this paragraph until:

(A) The water right permit is canceled pursuant to ORS 537.260;

(B) The water right is canceled pursuant to ORS 540.641; or

(C) The water is no longer being applied to irrigation or domestic use.

(c) An easement or the permission granted under this subsection may not be construed to be a sale or lease of the submerged and submersible lands within the meaning of subsections (1) and (2) of this section.

(d) A person granted an easement or permission to use or occupy state-owned submerged and submersible lands under this subsection shall indemnify and hold harmless the state from all liability and claims arising from or attributable to the use or occupation.

(4) All easements or the permission granted pursuant to subsection (3) of this section shall be subject to conditions that will ensure the safety of the public and the preservation of economic, scenic and recreational values and to lawful rules promulgated by state agencies affected by the activities of the grantee.

(5) Nothing in this section affects the provisions of ORS 509.505, 509.510, 511.606 to 511.806, 622.270 or 622.320 to 622.350.

(6) The Department of State Lands shall designate the minimum acceptable amount for the lease of any submerged and submersible lands otherwise authorized by law, other than any lease offered or issued by the department under ORS 274.705 to 274.860.

(7) For the purpose of sale, the value of state-owned submerged and submersible lands shall be determined by an appraiser appointed by the department.

(8) The act of any person entering into an agreement with the department under this section or ORS 274.530 for the lease of submerged and submersible lands shall not be considered a waiver by such person of any claim of ownership in the submerged and submersible lands described in the agreement.

§ 274.885. Leasing kelp fields

The Department of State Lands may lease submerged lands owned by the State of Oregon for the purpose of harvesting kelp and other seaweed after consultation with the State Fish and Wildlife Commission.

§ 274.890. Time allowed lessee for survey and erection of plant

The first lease issued to an applicant under ORS 274.885 to 274.895 with respect to any submerged lands may allow the applicant six months in which to make a practical survey of the field which the applicant has leased, and another 12 months in which to erect a plant and commence operation. The lessee shall, within six months of the time of obtaining the lease, make or cause to be made a practical survey showing the amount and condition of kelp within the territory described in the lease, and shall file a copy of the survey with the Director of the Department of State Lands within six months. Upon the failure of the lessee so to do, the lease shall be canceled by the Department of State Lands.

§ 274.895. Kelp removed without lease

Except in the case of a person harvesting or removing less than 2,000 pounds of wet kelp each year for the purposes of human consumption for the person's personal use, a person may not harvest or remove any kelp or other seaweed from any submerged lands owned by the State of Oregon unless the person has first obtained a lease from the Department of State Lands.

Oregon Seaweed Regulatory Provisions

Oregon Admin. Rules, Ch. 141, Div. 82 (Rules Governing the Management of, and Issuing of Leases, Licenses and Registrations for Structures on, and Uses of State-Owned Submerged and Submersible Land)

141-082-0255. Definitions

(unrelated definitions deleted)...

“Aquaculture” means the culture, farming, or harvesting of food fish, shellfish, and other plants (exclusive of kelp which is governed by Division 125 of the Department’s administrative rules) and animals in fresh or salt-water areas. Aquaculture practices include, but are not limited to, the hatching, seeding or planting, cultivating, feeding, raising, and harvesting of planted or natural species so as to maintain an optimum yield, and the processing of plants or animals.

...

Oregon Admin. Rules, Ch. 141, Div. 125 (Administrative Rules for Authorizing Special Uses on State-Owned Land)

141-125-0100. Purpose And Applicability

(1) These rules:

- (a) Apply to the management of state-owned Trust and Non-Trust Land for special uses.
- (b) Establish a process for authorizing such uses through the granting of leases, licenses and, short-term access authorizations (hereafter collectively referred to as a special use authorization).
- (c) Do not apply to the granting of proprietary authorizations for uses specifically governed by other Department administrative rules.

(2) A special use is one not governed by other Department administrative rules. Special uses include, but are not limited to, using state-owned land (including historically filled land) for:

- (a) Agriculture;
- (b) Communications facilities;
- (c) Industrial, business, commercial and residential purposes;
- (d) Native seed harvesting;
- (e) Scientific experiments and demonstration projects;

- (f) Conventions, sporting and other events;
- (g) Recreational cabins;
- (h) Commercial outfitting and guiding services;
- (i) Motion picture filming and set construction;
- (j) Renewable energy projects including, but not limited to wind turbines and wind farms, solar energy installations, geothermal resources installations and biomass generating facilities, and their related transmission lines within the authorized area;
- (k) Removal of semiprecious stones, petrified wood and fossils for commercial purposes;
- (l) Parking lots;
- (m) Materials and equipment storage;
- (n) Warehouses;
- (o) Marine service and repair facilities on state-owned upland;
- (p) Resorts and recreational facilities;
- (q) Golf courses;
- (r) Upland quarries;
- (s) Geological investigations;
- (t) Liquefied natural gas receiving plants;
- (u) Grazing on land other than that designated as rangeland;
- (v) Removal of juniper and other trees, plants or biomass for commercial use; and
- (w) Removal of sunken logs, woody debris and abandoned pilings for their commercial value.

(3) The Director may determine other uses and developments similar to those specified in OAR 141-125-0100(2) that are also subject to a special use authorization and these rules.

141-125-0110. Policies

- (1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction “with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”
- (2) All Trust Land will be managed in accordance with the need to maximize long-term financial benefit to the Common School Fund.
- (3) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition a special use authorization on state-owned land.
- (4) The use of state-owned land for the placement of communications facilities is recognized by the Department as a conditionally allowable use of that land, subject to and consistent with the requirements and provisions of the Telecommunications Act of 1996 and other applicable federal, state, and local laws.
- (5) Each individual use of, or development placed on state-owned land will constitute a separate discrete activity subject to payment of compensation as required by these or other applicable Department rules, or as determined by the Director.
- (6) Uses of, and developments placed in, on or over state-owned land pursuant to a special use authorization will conform with local (including comprehensive land use planning and zoning ordinance requirements), state, and federal laws.
- (7) The Department will not grant a special use authorization if it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area. Such a determination will be made by the Department after consulting with holders of leases, licenses, permits and easements granted by the Department in the requested area, and other interested persons.
- (8) All uses subject to these rules must be authorized by a special use authorization issued by the Department. Authorization to occupy state-owned land cannot be obtained by adverse possession regardless of the length of time the use or development has been in existence.
- (9) The Department may:
 - (a) Conduct field inspections to determine if uses of, and developments in, on or over state-owned land are authorized by, or conform with the terms and conditions of a special use authorization and, if not,

(b) Pursue whatever remedies are available under law to ensure that the unauthorized uses subject to a special use authorization are either brought into compliance with the requirements of these rules or removed.

(10) The Department will honor the terms and conditions of any existing valid lease or license for a special use granted by the Department including any that entitle the lessee or licensee to renewal if the holder of the authorization has complied with all terms and conditions of the authorization and applies to the Department for a renewal as prescribed in these rules.

(11) Holders of a license to conduct a demonstration project for a land-based (that is, not on state-owned submerged and submersible land) wind farm geothermal resource installation or solar energy installation will be given the first right to apply for a lease for the area authorized under the license.

(12) The Department may, at its discretion, authorize a demonstration project for a land based renewable energy project as part of a lease with the commercial electrical energy generating installation.

(13) The Department may, at its discretion, deny a special use authorization if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of a special use authorization offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-125-0110.

(14) Notwithstanding the provisions of ORS 274.885, the Department will not allow or authorize the removal of kelp or other seaweed for commercial purposes.

(15) Notwithstanding the provisions of these rules, the Department may:

(a) Initiate projects involving special uses of, or developments in, on or over the land it manages by itself or in conjunction with other persons;

(b) Request proposals for special uses of, or developments on land it manages and select and award a lease through a competitive bid process to develop the use(s) or development(s) based on the policies provided in OAR 141-125-0110; and

(c) Negotiate and accept compensation in the form of services in lieu of monetary payments provided for in these rules.

141-125-0120. Definitions

(unrelated definitions deleted)...

“Biomass” refers to renewable organic matter such as agricultural crops and residue, wood and wood waste, animal and human waste, aquatic plants and organic components of municipal and industrial wastes.

...

“Lease” is a written authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions. The term of a lease is for one to 30 years.

...

“License” is a written authorization issued by the Department to a person allowing the non-exclusive, short-term use of a specific area of state-owned land for a specific use under specific terms and conditions. A special use license has a maximum term of less than three years.

...

“Special Use” is a use of state-owned land not specifically governed by other Department administrative rules. Special uses are listed in OAR 141-125-0100(2) and (3).

“Special Use Authorization” is a lease, license or short-term access authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions.

...

“Submerged Land” means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

...

141-125-0130. Application Requirements for a Lease or License

(1) Any person wanting to use state-owned land for any of the purposes described in OAR 141-125-0100(2) and (3) must:

(a) Apply in writing to the Department for a lease or license using a form provided by the Department; and

(b) Submit a non-refundable application processing fee payable to the Department to cover the administrative costs of processing the application and issuing the authorization.

(2) The application processing fee for a lease or license is \$750.

(3) Unless otherwise allowed by the Director, a fully completed application for a lease or license must be submitted to the Department at least 180 calendar days prior to the proposed use or placement of a development subject to these rules in, on or over state-owned land.

141-125-0140. Lease or License Application Review and Approval Process

(1) Upon receipt of an application for a lease or license, the Department will determine:

- (a) If the application is complete;
- (b) If the subject area is available for the requested use;
- (c) What method will be used to determine the amount of compensation payable to the Department pursuant to OAR 141-125-0150 and 0160;
- (d) If a lease or license under these rules is the required form of authorization, and
- (e) If additional information is required concerning the:
 - (A) Proposed use of the state land; and
 - (B) Applicant's financial status, or past business or management practices, or both.

(2) The Department will then advise the applicant of its determination concerning each of the five factors in OAR 141-125-0140(1). Applications determined by the Department to be incomplete, or for an area in which the use would be incompatible will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If an application rejected for incompleteness is resubmitted within 90 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

(4) If more than one application for a specific area is received by the Department for the same or conflicting uses subject to authorization by a lease, the Department may:

- (a) Determine which proposed use best fulfills the policies specified in OAR 141-125-0110, and accept and proceed with that application and deny the others; or
- (b) If neither use is determined by the Department to be demonstrably better, make the subject area available to the public by auction.

(5) Upon acceptance by the Department, the application will be circulated to various local, state and federal agencies and other interested persons including tribal governments, adjacent property holders, affected lessees and permittees, and easement holders for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence of state or federal listed threatened and endangered species (including candidate species), and archaeological and historic resources within the requested area that may be disturbed by the proposed use;

(b) Conformance of the proposed use with local, state, and federal laws and rules;

(c) Conformance of the proposed use with the local comprehensive land use plan and zoning ordinances;

(d) Conformance with the policies described in OAR 141-125-0110 of these rules; and

(e) Potential conflicts of the proposed use with existing or proposed uses of the requested area.

(6) If the application is for a communications facility, the Department will request comments from the Federal Communications Commission, Public Utility Commission of Oregon, and any other persons owning or leasing communications facilities who advise the Department that they want to receive such applications.

(7) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper copies of an application available to any person upon request.

(8) After receipt of comments concerning the proposed use, the Department will advise the applicant in writing:

(a) If changes in the use or the requested lease or license area are necessary to respond to the comments received;

(b) If additional information is required from the applicant, including but not limited to a survey of:

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; and/or

(B) Archaeological and historic resources within the requested area.

(c) If the area requested for the lease or license will be authorized for use by the applicant through a lease or license, and

(d) Whether the subject area will be made available to the public through competitive bidding pursuant to OAR 141-125-0150. Only requests for leases may be subject to competitive bidding.

(9) If the Department decides to issue a lease to the applicant without competitive bidding, or a license, the Department will notify the applicant in writing of:

(a) The amount of compensation pursuant to OAR 141-125-0160 that the applicant must remit to the Department to obtain the authorization;

(b) Any insurance and surety bond required by the Department pursuant to the requirements of OAR 141-125-0180; and

(c) A draft copy of the lease or license.

(10) The Department will not grant a lease or license to an applicant until:

(a) It has received all fees and compensation specified in these rules, and evidence of any required insurance and surety bond; and

(b) The requirements of OAR 141-125-0170(4) of these rules have been met;

(11) In addition to the provisions of OAR 141-125-0140(9), a special use authorization issued by the Department will not be valid until the holder has received all other authorizations required by the Department (such as a Removal-Fill Permit under ORS 196.800 to 196.990) and other applicable local, state, and federal governing bodies to use the state-owned land in the manner requested.

(12) The Director may refer any applications for a lease or license to the Land Board for review and approval.

(13) If an application is received and accepted by the Department for a lease on state-owned submerged and submersible land, the Department will, pursuant to the requirements of ORS 274.040, offer a preference right to lease to the eligible party as defined in OAR 141-125-0120(32) and (33), hereafter referred to as the preference right holder. The Department will take the following steps to offer this preference right:

(a) If the proposed lease area consists of a single parcel, or two or more contiguous parcels owned by the same person, the Department will extend the boundaries of the single parcel or combined group of single-ownership parcels perpendicular to the thread of the stream creating a single lease parcel that fronts and abuts the upland ownership.

(b) If the proposed lease area consists of parcels having different owners, the Department will subdivide the requested lease area into smaller parcels by extending lines perpendicular to the thread of the stream from the boundaries of, or within the boundaries of the adjacent riparian tax lot so that there is a separate lease parcel for each parcel of property that fronts and abuts the lease area.

(c) In accordance with the proposed use(s), the Department will calculate in a manner consistent with OAR 141-125-0160 a minimum annual compensatory payment for each lease parcel.

(d) The Department will notify each preference right holder in writing that a lease application has been approved by the Department and provide 30 calendar days from the date that the letter is postmarked for the preference right holder to exercise the preference right to take the lease at the established minimum annual compensatory payment.

(e) If the preference right holder has accepted the offer of a preference right to lease and has executed the lease form and all other documents and remitted the required minimum annual lease rental payment within the required 30 calendar day period, the Department will execute the lease.

(f) If the preference right holder does not exercise the preference right to take a lease applied for by another person, the Department will prepare and publish an advertisement for bids pursuant to ORS 274.040 and hold a public auction pursuant to OAR 141-125-0150. The highest qualified bidder will be awarded the lease. The minimum bid amount will be set by the Department.

141-125-0170. General Terms and Conditions

(1) The term of a special use lease will not exceed 30 years unless otherwise approved by the Director. The Department will determine the length of a lease based on the nature of the use intended for the requested site. The Department may, at its discretion, provide as a provision of the lease that it may be renewed for a term to be determined by the Department.

(2) The term of a license will be less than three years. A license may, upon receipt by the Department of a written request, be renewed up to two times at the discretion of the Department for a maximum term of one year each time.

(3) Leases and licenses will be offered by the Department for the minimum area determined by the Department to be required for the requested use.

(4) A special use authorization issued by the Department will be on a form supplied by the Department that has been approved for legal sufficiency by the Department of Justice pursuant to ORS 291.045 to 291.047 (Public Contract Approval).

(5) The holder of a lease or license may request the Department close all or portions of the authorized area to public entry or restrict recreational use by the public to protect the persons, property, developments and/or crops from harm.

(6) The Department or its authorized representative(s) will have the right to enter into and upon the authorized area at any time for the purposes of inspection or management, or to conduct noxious plant or pest abatement, or for wildfire control.

(7) The holder of a special use authorization must dispose of all waste in a proper manner and must not permit debris, garbage or other refuse to either accumulate within the authorized area or be discharged into any waterway.

(8) Unless otherwise agreed to in writing as a provision of the authorization, the holder of a special use authorization may not interfere with lawful public use of an authorized area, or obstruct free transit across state land, or intimidate or otherwise threaten or harm public users of state land.

(9) The holder of a special use authorization must cooperate and comply with:

(a) Appropriate county agencies and the Oregon Department of Agriculture in the detection, prevention and control of noxious plants. The Department will rely on the Oregon Department of Agriculture for information concerning which noxious plants present on an authorized area require corrective action by the lessee or licensee, or the Oregon Department of Agriculture or its agents;

(b) The Oregon Department of Agriculture and the Department in the management of plant pests and diseases; and

(c) The Department and other agencies in the detection, prevention and control of wildfires on an authorized area.

(10) Unless otherwise agreed to in writing in the special use authorization, the holder of the authorization, must remove any or all developments as directed by the Department within 90 calendar days of the date of the expiration or termination of the authorization. The holder of a lease for a renewable energy project must remove any or all developments as directed by the Department within one year of the date of the expiration or termination of the authorization. If the holder of the special use authorization refuses to remove the subject developments, the Department may remove them and charge the holder for doing so.

(11) The holder of a special use authorization will not allow any other use to be made of, or occur on the site or facility that is not specifically authorized:

(a) By that authorization; or

(b) By the Department in writing prior to the use.

(12) The holder of a special use authorization must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to insect or animal infestation, soil erosion or the growth of noxious plants.

(13) The holder of a special use authorization must maintain all buildings, machinery, equipment and similar structures and improvements located within the authorized area in a good state of repair as determined by the Department.

(14) If requested by the Department, a holder of a special use authorization must present evidence to the Department prior to the use that they have obtained:

- (a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use;
- (b) Any authorization that may be required to obtain access or to cross land belonging to a person other than the Department to undertake the use; and
- (c) A surety bond and comprehensive or commercial general liability insurance required by the Department.

(15) The Department may require that a person who is granted a:

- (a) Special use license by the Department to conduct an investigation or demonstration project using wind, solar energy or biomass to generate electricity to provide the results obtained from the investigation or demonstration project, or both, to the Department, or
- (b) Short term access authorization by the Department for scientific or research purposes to provide the data obtained or developed from the investigation (for example, geological core logs or biological surveys) to the Department.

(16) The holder of a lease or license will indemnify the State of Oregon and the Department of State Lands against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area. Additionally, the Department may require that the holder of a short term access agreement also provide the same indemnification contingent on the use of the authorized area requested.

(17) A holder of a lease or license that provides for a renewal must reapply to the Department using a form provided by the Department and remit the required application processing fee to the Department. Unless otherwise allowed by the Director, this form must be received by the Department along with the required application processing fee at least 180 calendar days prior to the expiration of the lease or license for which renewal is requested.

141-125-0180. Insurance and Bond

(1) The Department, in the exercise of its reasonable discretion, may require the holder of a special use authorization to obtain insurance in a specified amount if the use, in the opinion of the Department, constitutes a risk to public safety, or to the State of Oregon.

(2) The Department may request that the applicant for, or the holder of a special use authorization provide information concerning the use of the area to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use.

(3) The Department may, at its discretion, require that the holder of a special use authorization obtain a surety or bid bond in an amount specified by the Department (or a cash deposit in an amount equal to the surety bond and which names the State of Oregon as co-owner) to ensure that they will perform in accordance with all terms and conditions of an authorization.

141-125-0190. Termination of a Special Use Lease, License or Short Term Access Authorization For Default

(1) If the holder of a special use authorization fails to comply with these rules or the terms and conditions of the authorization, or otherwise violates laws governing their use of the authorized area, the Department will notify the holder of the authorization in writing of the default and demand correction within a specified time frame.

(2) If the holder of a special use authorization fails to correct the default within the time frame specified, the Department may:

(a) Modify or terminate the authorization; and

(b) Request the Attorney General to take appropriate legal action against the holder of the authorization.

141-125-0200. Assignment of Special Use Leases and Permits; Subleasing

(1) A lease in good standing is assignable.

(2) Licenses and short-term access authorizations are non-assignable.

(3) To assign a lease, the lessee must submit a:

(a) Notice of proposed assignment on a form provided by the Department at least 60 calendar days prior to the date that the assignment is to occur; and

(b) Non-refundable assignment processing fee of \$750 payable to the Department.

(4) The Department may request additional information concerning the proposed assignment.

(5) A lessee or licensee wanting to offer a sublease or sublicense to another person must:

(a) Obtain prior written authorization from the Department by applying to the Department on a form provided by the Department at least 60 calendar days prior to the date that the sublease or sublicense is desired;

(b) Submit a non-refundable sublease or sublicense review fee of \$250 along with the application form; and

(c) If the lease or license is for a communications facility, submit to the Department the amount provided in OAR 141-125-0160(5)(a)(B) for each sublessee or sublicensee at the end of each calendar year.

Oregon Admin. Rules, Ch. 141, Div. 142 (Rules Governing the Establishment and Management Marine Reserves and Marine Protected Areas in the Territorial Sea)

141-142-0020. General Provisions

(1) The Department will only grant an authorization or a removal-fill permit for a regulated removal-fill activity if the use, or removal, fill or alteration of material is necessary to study, monitor, evaluate, enforce or protect or otherwise further the studying, monitoring, enforcement and protection of the marine reserve, marine protected area or seabird protection area.

(2) Applicants for an authorization within a marine reserve, marine protected area or seabird protection area must provide evidence suitable to the Department and other reviewing agencies that their proposed use meets the requirements of OAR 141-142-0020(1) and the management plan adopted and in force for the area at the time the application is submitted.

(3) The Department will honor the terms and conditions of any valid authorization (including any provisions providing for a right of renewal) previously granted by the Department for a use existing within an area designated as a marine reserve, marine protected area, or seabird protection area at the time of its designation if the holder of the authorization is, and continues to be in full compliance with the terms and conditions of the authorization.

(4) The Department will condition any authorization to use or place a structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine protected area or seabird protection area to require that the holder receive all other authorizations required by the Department (such as a Removal-Fill Authorization under ORS 196.800 to 196.990) and other local, state, and federal entities before using the area.

(5) Any person applying to the Department for an authorization to place any structure on, in or over state-owned submerged and submersible land in an area designated as a marine reserve, marine protected area, or seabird protection area must describe in the application how they will remove the structure pursuant to the requirements of the Territorial Sea Plan.

(6) Notwithstanding the provisions of ORS 274.885 to 274.895, no person may harvest or remove any kelp or other seaweed for any purpose within an area designated as a marine reserve or marine protected area unless expressly authorized by the Department to do so in order to study, monitor, evaluate, enforce or otherwise further the purpose of the marine reserve, marine protected area or seabird protection area.

Oregon Admin. Rules, Ch. 736, Div. 21 (General Ocean Shore State Recreation Area Rules)

736-021-0090. Cultural, Historic, Natural and Wildlife Resources

(1) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on the ocean shore state recreation area, unless the department has authorized that activity by a permit issued under ORS 390.235 and OAR 736-051-0060 to 736-051-0080.

(2) Except with the written permission of the department or as allowed by sections (3) or (4) of this rule, a person may not:

(a) Pick, cut, mutilate, trim, uproot, or remove any living vegetation;

(b) Dig up or remove any sand, soil, rock, historical or fossil materials; or

(c) Place, remove, roll, move any stones, logs or other objects to gain access to the ocean shore state recreation area.

(3) A persons who is an enrolled member of an Indian Tribe as defined in ORS 97.740 may collect natural products as part of their traditional cultural heritage, in accordance with procedures established by the department and in state rules. Upon request by a park employee, a person collecting natural products under this section must present tribal enrollment identification or a department-issued Special Tribal Use Permit.

Removal for Personal Use:

(4) A person may remove small quantities of natural products from the ocean shore state recreation area for personal use without a permit as provided in subsections (a) and (b). However, the department may restrict removal of natural products to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

...

(b) **Living or non-living seaweed and marine plant** harvesting or collecting for non-commercial, personal consumption is allowed as provided in paragraphs (A) through (H) of this subsection. The department may restrict removal of aquatic vegetation to certain species, areas of the ocean shore state recreation area, quantities, and time of year.

(A) A person may harvest living seaweed and marine plants annually beginning March 1 and ending June 15.

(B) A person may harvest non-living seaweed and marine plants all year. However, in any western snowy plover-managed area, a person may not harvest non-living seaweed and marine plants during seasonal closures beginning March 15 and ending September 15.

(C) A person may not cut or disturb eel grass (*Zostera* spp.), surf grass (*Phyllospadix* spp.) or sea palm (*Postelia* sp.) in any area.

(D) A person may not harvest or collect any species listed on the “Rare, Threatened and Endangered Species of Oregon” published by the Oregon Biodiversity Information Center.

(E) A person may harvest no more than a one-gallon volume container per day; up to three gallons per calendar year.

(F) Each person collecting must use an individual container and may not combine collections in the same container with another person.

(G) A person may harvest only by hand using a knife or similar instrument. A person may only harvest live vegetation by cutting or picking; tearing or using tined instruments, such as rakes or forks, is prohibited. A person may remove loose or drift plants. A person may not remove or disturb a holdfast.

(H) A person may not pick, cut, mutilate, trim, uproot, remove or attempt to take or possess any living or non-living plants in marine reserves, marine protected areas, marine gardens, intertidal research reserves, and wildlife or habitat refuges.

(5) For any area of the ocean shore state recreation area that is also either a marine reserve or marine protected area, regulations pertaining to collection or removal of natural products are provided in division 29, OAR chapter 635, division 12, and OAR chapter 141, division 142.

(6) In order to remove or collect quantities of natural products greater than the limits listed in this rule, a person must obtain a special-use permit from the department.

Removal for Commercial Use:

(7) In order to remove or collect natural products for commercial use, a person must obtain a permit as provided in OAR chapter 736, division 20.

Other Collecting Activities:

(8) **Fishing**, shellfishing, and collecting of other marine invertebrates for personal or commercial use are regulated by the Oregon Department of Fish and Wildlife (ODFW) under rules in OAR chapter 635.

(9) A person may engage in **recreational prospecting** as provided in this section. However, the department may restrict disturbance or removal to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) A person may remove sand from the ocean shore state recreation area for personal prospecting use. A person may remove a maximum of one five-gallon volume container per day; for up to 20 gallons per person per calendar year.

(b) Equipment is limited to hand-operated instruments;

(c) A person may not use motorized equipment, including solar, battery operated pumps, or other similar motorized devices;

(d) A person may not use chemicals, heavy metals or other aids to separate metals;

(e) A person may not prospect in waters of the state without written permission from ODFW regarding in-stream work periods. A person may not interrupt or divert water flow or in any way restrict the movement of fish or wildlife;

(f) A person may not disturb, take, or move wildlife, vegetation or other natural resources in the prospecting process;

(g) If a person moves rocks in the prospecting process, the person must return the prospecting area to original condition before leaving the ocean shore state recreation area;

(h) A person may not prospect in any western snowy plover-managed area, during seasonal closures beginning March 15 and ending September 15;

(i) A person may not disturb more than one cubic yard of materials at any individual site, or more than a total of five cubic yards within a one-quarter mile radius; and

(j) A person may not stake or file a mining claim or leasehold location.

(10) **Scientific research:** A person may only engage in scientific research, including product removal for research, pursuant to a written permit from the department's Salem headquarters and any other required state or federal permits. For example, a person who wishes to capture or handle marine and freshwater fish and shellfish and other marine invertebrates for scientific or educational purposes from the waters of Oregon, including the ocean shore state recreation area, must obtain a valid scientific taking permit from the Oregon Department of Fish and Wildlife, as provided in OAR chapter 635, divisions 7 and 43.

(11) **Metal detecting:** A person may use a metal detector or similar device on the ocean shore state recreation area without a written permit from the department in the areas noted in the "Detecting Allowed" list, published on the OPRD website.

Additional Rules for Natural Resource Protection:

(12) A person may not place items such as logs, rocks, ropes, structural members or other objects; remove, bury, roll stones or other objects; carve, dig caves or sculpt in sand dunes or sea cliffs, in a way that endangers visitors or damages ocean shore resources.

(13) A person may not do any of the following within the ocean shore recreation area:

(a) Hunt, collect, pursue, trap, kill, injure, harass or molest any wildlife, disturb or damage their habitat, disturb tidal pools, gather eggs or other live material, except as allowed in this rule. However, a person may detain or remove injured wildlife for rehabilitation efforts. A person must release injured or orphaned wildlife to a licensed wildlife rehabilitator as soon as feasible and in accordance with OAR chapter 635, divisions 44 and 56.

(b) Feed, give or offer food to wildlife;

(c) Discharge any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon or device capable of injuring any person or wildlife, except as allowed by section (14).

(14) The director may authorize the use of firearm and other predator control methods by designated individuals for natural resource management purposes.

Rules for Western Snowy Plover Management Areas:

(15) In the western snowy plover management areas the following additional rules apply, which are adopted based on the department's Habitat Conservation Plan for Western (Coastal) Snowy Plover:

(a) **Occupied Sites:** In areas the department designated as occupied sites for western snowy plovers, the following apply:

(A) All recreation is restricted within dry sand demarked areas beginning March 15 and ending September 15. The department may declare restrictions ended on July 15 due to a discontinuation of nesting. The boundaries of "dry sand" areas may be identified with symbolic fencing (roping), signs, or both.

(B) A person may not operate a motorized or non-motorized vehicle or flying apparatus, including but not limited to kites, gliders and air balloons on the wet sand adjacent to demarked dry sand areas, except persons the department has approved to perform administrative, enforcement or scientific duties.

(C) Dogs are prohibited on the wet sand adjacent to demarked dry sand areas.

(D) Other recreational activities, such as camping and recreational fires, that could not typically occur on wet sand due to waves are also prohibited.

(E) Walking and any other passive activity not otherwise mentioned here are allowed on the wet sand.

(F) Horseback riding on the wet sand of beaches with occupied sites is allowed, unless horseback riding is otherwise restricted by special rules that pertain to areas adjacent to coastal cities and detailed in division 30.

(b) **Unoccupied Sites:** In areas the department has designated as unoccupied sites for western snowy plovers:

(A) A handler must leash dogs with a leash length of six feet or less and keep the dog under physical control at all times.

(B) Motorized and non-motorized vehicles are prohibited beginning March 15 and ending September 15. The department may declare the restrictions to end on July 15 due to a lack of nesting. The department may allow a person performing administrative, enforcement or scientific duties to use motorized or non-motorized vehicles when on official duty.

(C) The department will use signs placed at approaches to an unoccupied, actively managed area to convey restricted portions and duration to visitors.

(c) To manage the restoration efforts for the western snowy plover, the department will:

(A) Implement the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(B) Implement specific site plans designed for each area identified in the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(C) Implement the rules in this section, which apply to department-owned, leased or managed properties, as well as areas owned privately or by local governments that have been identified in the conservation plan or the site plans, and areas adjacent to occupied or unoccupied federal land; and

(D) Take any other action deemed necessary to the restoration effort.

Rhode Island Seaweed Provisions (Index)

Wild Harvest

- R.I. CONST., Art. 1, § 17 - Fishery rights--Shore privileges--Preservation of natural resources
- R.I. GEN. LAWS ANN. § 46-11-1 - Taking of Seaweed by Inhabitants of Barrington
- R.I. GEN. LAWS ANN. § 46-11-2 - Privilege Restricted to Barrington Inhabitants

Aquaculture

Definitions

- R.I. GEN. LAWS § 6A-9-102 – Secured Transactions - Definitions
- R.I. GEN. LAWS § 20-10-2 – Aquaculture - Definitions
- 250-40 R.I. CODE R. § 00-1.7 - Aquaculture of Marine Species in Rhode Island Waters -Definitions

Leases

- R.I. GEN. LAWS § 20-10-6 Leases

Permits and licenses

- R.I. GEN. LAWS § 20-10-4 - Application for a Permit to Conduct Aquaculture
- R.I. GEN. LAWS § 20-10-5 - Procedures for Approval
- R.I. GEN. LAWS § 20-10-12 - Permits and Licenses for the Taking, Possession, Sale, Importation, and Transportation of Species Used in Aquaculture
- R.I. GEN. LAWS § 20-10-16.1 - License or Permit Suspension or Revocation
- 250-40 R.I. CODE R. § 00-1.8 - Permitting and Licensing Requirements

Post-Harvest

N/A

Rhode Island Seaweed Constitutional and Statutory Provisions

Constitution of the State of Rhode Island and Providence Plantations, Art. I (Declaration of Certain Constitutional Rights and Principles)

§ 17. Fishery rights--Shore privileges--Preservation of natural resources

The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state, including but not limited to fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and passage along the shore; and they shall be secure in their rights to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values; and it shall be the duty of the general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate resource planning for the control and regulation of the use of the natural resources of the state and for the preservation, regeneration and restoration of the natural environment of the state.

RI Stat. Tit. 46, Ch. 11 (Seaweed)

§ 46-11-1. Taking of seaweed by inhabitants of Barrington

The inhabitants of the town of Barrington may, at all times between the rising and setting of the sun, take up and carry off from the public beach in Barrington, extending west from Hyde's Hole to land now or formerly of the heirs of John Watson, with their vehicles, not exceeding two (2) loads of seaweed each in any one day; provided, that no person shall take more than one load of seaweed in any one day, until all who have repaired to the beach with their teams shall have obtained one load each.

§ 46-11-2. Privilege restricted to Barrington inhabitants

No person other than an inhabitant of the town of Barrington shall be permitted to take or carry off from the beach any seaweed in any manner whatsoever.

RI Stat. Tit. 6a, Ch. 9, Part 1, Subpart 1 (Short Title, Definitions, and General Concepts)

§ 6a-9-102. Definitions

(a) **Chapter 9 definitions.** In this chapter:
(unrelated definitions deleted)

...

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

- (i) Crops grown, growing, or to be grown, including:
 - (A) Crops produced on trees, vines, and bushes; and
 - (B) Aquatic goods, including seaweeds, produced in aquacultural operations;
- (ii) Livestock, born or unborn, including fish, shellfish and other aquatic goods produced in aquacultural operations;
- (iii) Supplies used or produced in a farming operation; or
- (iv) Products of crops or livestock in their unmanufactured states.

RI Stat. Tit. 20, Ch. 10 (Aquaculture)

§ 20-10-2. Definitions

As used in this chapter:

- (1) “Aquaculture” refers to the cultivation, rearing, or propagation of aquatic plants or animals under either natural or artificial conditions;
- (2) “CRMC” means the coastal resources management council;
- (3) “Director” or “department” means the director of or the department of environmental management;
- (4) “MFC” means the marine fisheries council;
- (5) “Water column” means the vertical extent of water, including the surface thereof, above a designated area of submerged bottom land.

§ 20-10-4. Application for a permit to conduct aquaculture

Any applicant desiring a permit to conduct aquaculture shall file with the CRMC a written application in any form that it may prescribe, setting forth the following information:

- (1) The name and address of the applicant;
- (2) A description of the location and amount of submerged land and water column to be subject to the permit;
- (3) A description of the aquaculture activities to be conducted, including:
 - (i) Whether those activities are to be experimental or commercial;

(ii) A description of the species to be managed or cultivated within the permitted area; and

(iii) A description of the method or manner of aquaculture activity;

(4) An assessment of the current capability of the applicant to carry out those activities; and

(5) Any other information that the CRMC may by regulation require.

§ 20-10-5. Procedures for approval

(a) Upon submission of a completed application to the CRMC, the CRMC shall notify the director, the MFC and any other parties that the CRMC may by regulation designate.

(b) No application shall be approved by the CRMC or a permit granted prior to the consideration of recommendations by both the director and the MFC.

(c) The director shall review the application to determine whether the aquaculture activities proposed in the application are:

(1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state;

(2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state.

(d) The MFC shall review the application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries.

(e) The approval by the CRMC shall be subject to any public hearings, consistent with chapter 35 of title 42, that it may require.

§ 20-10-6. Leases

(a) The CRMC, in accordance with chapter 6 of title 37, is authorized and empowered, when it shall serve the purposes of this chapter, to lease the land submerged under the coastal waters of the state, including any coastal ponds or estuaries to coastal rivers, and the water column above those submerged lands, to an applicant who has been granted an aquaculture permit pursuant to the provisions of this chapter; provided, that the CRMC finds that a lease giving the applicant exclusive use of the submerged lands and water column, including the surface of the water, is necessary to the effective conduct of the permitted aquaculture activities.

(b) Those leases shall be granted for a term concurrent with the term of the aquaculture permit and may be renewed from time to time upon renewal of the aquaculture permits.

(c) Those leases shall be subject to the terms and conditions of the aquaculture permit, and any renewal of the permit, and the provisions of this chapter and the rules and regulations adopted under this chapter. Failure to comply with the terms and conditions of the permit or renewal, or the provisions of this chapter, or the rules and regulations adopted under this chapter, shall be grounds for termination of the lease at the discretion of the CRMC.

(d) Any assignment or sublease of the whole or any part of the area subject to lease shall constitute a breach of the lease and constitute cause for the termination of the lease, unless that assignment or subletting has received the prior approval of the CRMC.

§ 20-10-12. Permits and licenses for the taking, possession, sale, importation, and transportation of species used in aquaculture

(a) The director is authorized and empowered to grant permits for, issue licenses for, and establish rules and regulations governing the taking, possession, sale, importation, and transportation of animal or plant species utilized in aquaculture; provided, however, that in the case of bivalves, no approval shall be given for the sale, possession, use, storage, or transportation of those species for human consumption without the written approval and permission of the director of health.

(b) Any person who takes, possesses, imports, or transports any animal or plant species as delineated in subsection (a) without a permit issued by the director shall be guilty of a misdemeanor and subject to imprisonment of not more than one year or a fine not exceeding five hundred dollars (\$500), or both. The animal or plant species possessed, imported, or transported by that person may be forfeited to the state.

(c) In accordance with rules and regulations established under this section, permits issued by the director may provide for specific exemptions, notwithstanding other provisions of law, from quotas, catch or bag limits, seasons, minimum-size limits and other such restrictions on commercial fishing as the director, in consultation with the council, may determine to be inappropriate to commercial aquaculture.

(d) Any person who is granted permits for the conduct of aquaculture by the CRMC and the director in accordance with this chapter shall obtain a commercial aquaculture license to sell aquaculture products in the state to licensed fish and shellfish dealers. The license shall be issued by the department on a calendar-year basis for an annual fee of two hundred dollars (\$200).

§ 20-10-16.1. License or permit suspension or revocation

The permit or license of any person who has violated the provisions of this chapter, or the rules and regulations issued pursuant to it, including anyone holding a license or permit found guilty of a violation in accordance with § 20-10-16(b), may be suspended or revoked by the CRMC or the director as the CRMC or the director shall determine by regulation. Any person aggrieved by

an order of suspension or revocation may appeal this order in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

Rhode Island Seaweed Regulatory Provisions

RI Admin. Code, Tit. 250, Ch. 40, Subchapter 00, Part 1 (Aquaculture of Marine Species in Rhode Island Waters)

40-00-1.7. Definitions

(A) As used in these rules and regulations, the following words and phrases have the following meanings: (unrelated definitions deleted)

...

3. "Aquaculture" means the cultivation, rearing, or propagation of aquatic plants or animals, hereinafter referred to as cultured crops, under natural or artificial conditions.

4. "Aquaculture facility" means any properly permitted aquaculture operation, either in upland areas or in the State's waters or submerged lands.

5. "Aquaculture lease" means the permitted area for which the Coastal Resources Management Council (CRMC) issues a lease in which aquaculture can be conducted. Leases are discretionary and granted for the express purpose of allowing aquaculture activities on the State's submerged lands or in the water column. Certain types of permitted activities, such as experimental aquaculture operations, may not require a lease.

6. "Aquaculturist" means the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental or restoration aquaculture in Rhode Island.

...

11. "Cultured crops" means aquatic or marine animals or plants:

(a) That are in the location, water column or artificial conditions specified in a valid aquaculture permit issued pursuant to R.I. Gen. Laws § 20-10-3 or that have been taken by the holder of such permit from the location, water column or artificial conditions specified in such permit, or,

(b) That have been produced by aquaculture methods outside the state and have not been commingled with wild stocks that are in or have been removed from the waters of the state. Appropriate bills of sale, bills of lading and proper tags used in accordance with § 1.11 of this Part, therein and all other applicable state and federal laws and regulations shall be prima facie evidence of the origin of cultured crops inside or outside the state.

...

40-00-1.8. Permitting and Licensing Requirements

A. Aquaculture shall only be conducted within the waters of the state in a manner consistent with the best public interest, with particular consideration given to the effect of aquaculture on other uses of the free and common fishery and navigation, and the compatibility of aquaculture with the environment of the waters of the state. Applications shall be reviewed for consistency with R.I. Gen. Laws Title 20 and no license shall be issued or renewed to any person where the application is found to be in conflict with any requirement found in these statutes.

B. Aquaculture License: An Aquaculture license from the Director is required for an individual to sell to licensed fish and shellfish dealers cultured crops from an aquaculture lease or facility permitted by CRMC and operated in accordance with the aquaculturist's approved operational plan.

1. Application shall be made on forms as prescribed by the Director and may be submitted at any time during the year. The license shall be issued on a calendar year basis (expiring December 31) with an annual fee of two hundred dollars (\$200).

2. Under no circumstances shall a license be granted for species that are not endemic to Rhode Island, without prior approval from the Director with the advice of the Biosecurity Board. Determination of what species are endemic to Rhode Island shall be determined by the Director.

3. No license shall be renewed unless the applicant's aquaculture activities are conducted in accordance with the approved operational plan. The operational plan must be updated, resubmitted to CRMC, and approved by DEM prior to any operational changes.

C. Coastal Resources Management Council (CRMC) Assent or Permit: An aquaculturist must apply for and receive a Coastal Resources Management Council (CRMC) Assent or permit to conduct aquaculture in accordance with R.I. Gen. Laws Chapter 20-10. No application shall be approved by CRMC prior to the consideration of recommendations by the Department of Environmental Management (DEM) Director, who shall consult with and obtain input from appropriate divisions and offices within the department, the Rhode Island Marine Fisheries Council and the Department of Health.

1. The Director may review the application to determine whether the aquaculture activities proposed in the application are not likely to cause and adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state, and not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state, and for consistency with other state statutes as applicable.

2. The RI Marine Fisheries Council (RIMFC) may review the CRMC application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries. The RIMFC shall provide a recommendation to the CRMC consistent with R.I. Gen. Laws § 20-10-5.

D. As applicable or required, a R.I. Pollutant Discharge Elimination System (RIPDES) permit shall be obtained from DEM Office of Water Resources.

E. Water quality at any site used for open water aquaculture or land-based aquaculture must meet the water quality criteria appropriate to the aquaculture activity as determined by the DEM Office of Water Resources. As applicable or required, a Water Quality Certification shall be obtained from DEM Office of Water Resources.

RI Admin. Code, Tit. 650, Ch. 20, Subchapter 00, Part 1 (Red Book)

20-00-1.1. Authorities and Purpose, Definitions and Procedures

1.1.2. Definitions

(A) Definitions for this Part are as follows:

(unrelated definitions deleted)

...

10. "Aquaculture" (refer to definitions of "marine aquaculture" and "freshwater aquaculture" in § 1.1.2 of this Part herein.)

...

65. "Freshwater aquaculture" means the culture of aquatic species under natural or artificial conditions in freshwater ponds, tanks, raceways or other freshwater impoundments located within the coastal zone or in inland locations throughout the state.

...

87. "Marine aquaculture" means the culture of aquatic species under natural or artificial conditions in the state's waters including but not limited to: fish farming utilizing pens, tanks, or impoundments (which may be land-based); the culture of shellfish on the sea floor in permitted and leased areas, in cages, or suspended from structures in the water; and the culturing of aquatic plants. Note: land-based aquaculture operations (i.e., above mean high water) are also regulated under § 1.3.1(C) of this Part.

...

1.1.12. Fees

A. R.I. Gen. Laws § 46-23-6(4)(iii) authorizes the Council to "grant licenses, permits, and easements for the use of Coastal Resources, which are held in trust by the state for all its citizens, and impose fees for private use of such resources."

B. The Council requires fees for land created by the filling of tidal waters and the long term (dead) storage of vessels. Factors to be considered in establishing the fee include:

1. The degree of preemption associated with the activity or alteration involved;
2. The degree of irreversibility associated with the activity or alteration;

3. The value of opportunities for other activities lost to the public as the result of the activity; and
4. The economic return to the applicant resulting from pursuing the activity of making the permitted alterations.

C. Payments required by the fee shall be determined by the Council upon the completion of a professional appraisal based on the criteria listed above. The Assent recipient shall bear the cost of the appraisal.

D. Where public access is provided, the fee may be reduced by Council. In considering the reduction of fees, the Council shall determine the amount of public access, the potential use by the public of this public access, and any other relevant considerations.

E. A Council Assent for aquaculture activities within tidal waters and coastal ponds excluding seasonally deployed aquaculture apparatus such as spat collectors and experimental gear sites, as approved by the council, may include a lease for the approved site.

1. The annual lease fee is seventy-five (\$75.00) for half an acre or less, one hundred and fifty dollars (\$150.00) for a half to one acre, and one hundred dollars (\$100.00) for each additional acre. Annual lease fees are payable in full, in advance, on the first business day in the month of January of each year during the Assent period. Any assignment or sublease of the whole or any portion of a leased area shall constitute a breach of the lease and be cause for termination of the lease, unless such assignment or subletting has received the prior approval of the Council.

2. In the event a lease holder fails to make full payment of the annual lease fee within the time period established within the lease, for each rental year, the lease agreement shall be terminated, and all Assents and authorities granted shall be revoked. In the event the leased area is not actively used for a period of one year, the lease shall be terminated and the Assent shall be revoked. Lease holders shall be notified sixty (60) days prior to such revocation and may appeal the revocation to the full Council.

3. Persons wishing to deploy small scale seasonal apparatus such as spat collectors or experimental aquaculture gear, shall apply for a Council Assent and may, at the discretion of the full Council be charged a lease fee.

F. Whenever the Council receives an application for assent or modification of an assent for an activity or alteration which has already occurred, or has been constructed or partially constructed, the Council may charge an administrative fee, in addition to any other fees required by the Council which shall be assessed at the time the Council grants an assent. The Council shall assess the administrative fee taking into account the additional demand on Council resources, and/or any adverse impacts to the coastal environment and/or the adjacent waterway. This shall not be construed to, and in no way shall, prohibit the Council from seeking any other remedies it deems appropriate.

Washington Seaweed Provisions (Index)

Wild Harvest

WASH. REV. CODE § 77.15.390 – Seaweed - Unlawful taking - Penalty

WASH. REV. CODE § 77.15.160 - Infractions

WASH. REV. CODE § 79.135.400 – Seaweed - Marine Aquatic Plants Defined

WASH. REV. CODE § 79.135.410 - Commercial Harvest and Import Restrictions

WASH. REV. CODE § 79.135.420 – Seaweed - Harvest and possession violations - Penalties and Damages

WASH. ADMIN CODE § 352-32-350 - Seaweed Harvest (Public Use of State Park Areas)

Aquaculture

Definitions

WASH. REV. CODE 15.85.020 – Aquaculture Marketing Definitions

WASH. ADMIN. CODE § 220-370-050 – Definitions – Aquaculture Disease Control

Leases

WASH. REV. CODE § 79.135.110 - Leasing Beds of Tidal Waters

WASH. REV. CODE § 79.135.120 - Leasing Lands for Shellfish Cultivation or Other Aquaculture Use

WASH. REV. CODE § 79.135.140 - Leasing Lands for Shellfish Cultivation and other Aquaculture Uses – Survey and Boundary Markers

WASH. REV. CODE § 79.135.150 - Renewal Lease - Application

Registration

WASH. ADMIN. CODE § 220-370-060 - Aquatic Farm Registration Required

WASH. ADMIN. CODE § 220-370-070 - Aquatic Farm Registration Form

Import

WASH. ADMIN. CODE § 220-370-230 - Kelp Importation

Recordkeeping and Reporting

WASH. ADMIN. CODE § 220-370-160 - Duties of Aquatic Farmers

WASH. ADMIN. CODE § 220-370-170 - Description of Aquatic Farm Production Report

Disease Control

WASH. ADMIN. CODE § 220-370-220 - Marine Plant Aquaculture Disease Control

Post-Harvest

WASH. REV. CODE § 79.135.040 - Sale of Aquaculture Products by Leaseholder

Washington Seaweed Statutory Provisions

Revised Code of Wash., Tit. 15, Ch. 15.85 (Agriculture and Marketing: Aquaculture Marketing)

§ 15.85.020. Definitions

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) “Aquaculture” means the process of growing, farming, or cultivating private sector cultured aquatic products in marine or fresh waters and includes management by an aquatic farmer.

(2) “Aquatic farmer” is a private sector person who commercially farms and manages the cultivating of private sector cultured aquatic products on the person's own land or on land in which the person has a present right of possession.

(3) “Private sector cultured aquatic products” are native, nonnative, or hybrids of marine or freshwater plants and animals that are propagated, farmed, or cultivated on aquatic farms under the supervision and management of a private sector aquatic farmer or that are naturally set on aquatic farms which at the time of setting are under the active supervision and management of a private sector aquatic farmer. When produced under such supervision and management, private sector cultured aquatic products include, but are not limited to, the following plants and animals:

Scientific Name	Common Name
Enteromorpha	green nori
Monostroma	awo-nori
Ulva	sea lettuce
Laminaria	konbu
Nereocystis	bull kelp
Porphyra	nori
Iridaea	
Haliotis	abalone
Zhlamys	pink scallop
Hinnites	rock scallop
Tatinopecten	Japanese or weathervane scallop
Protothaca	native littleneck clam
Tapes	manila clam
Saxidomus	butter clam
Mytilus	mussels
Crassostrea	Pacific oysters
Ostrea	Olympia and European oysters
Pacifasticus	crayfish
Macrobrachium	freshwater prawn
Salmo and Salvelinus	trout, char, and Atlantic salmon

Oncorhynchus	salmon
Ictalurus	catfish
Cyprinus	carp
Acipenseridae	Sturgeon

Private sector cultured aquatic products do not include herring spawn on kelp and other products harvested under a herring spawn on kelp permit issued in accordance with RCW 77.70.210.

(4) “Department” means the department of agriculture.

(5) “Director” means the director of agriculture.

Revised Code of Wash., Tit. 77, Ch. 77.15 (Fish and Wildlife: Fish and Wildlife Enforcement Code)

§ 77.15.160. Infractions

The following acts are infractions and may be cited and civil penalties imposed as provided under chapter 7.84 RCW, to include detentions for a reasonable period and investigations as provided in RCW 7.84.030. The civil provisions of this section are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses:

(a) Fishing and shellfishing infractions:

...

(5) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

(A) While the person is not in possession of the license required by chapter 77.32 RCW; or

(B) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

...

§ 77.15.390. Seaweed-- Unlawful taking--Penalty

(1) A person is guilty of unlawful taking of seaweed if the person takes or possesses seaweed and:

(a) The person has not purchased a personal use shellfish and seaweed license issued to Washington residents or nonresidents under chapter 77.32 RCW; or

(b) The person takes or possesses seaweed in an amount that is two times or more of the daily possession limit of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

Revised Code of Wash., Tit. 79, Ch. 79.135 (Public Lands: Aquatic Lands - Oysters, Geoducks, Shellfish, Other Aquacultural Uses and Marine Aquatic Plants)

§ 79.135.040. Aquaculture products--Sale by leaseholder

Aquaculture products produced on leased state-owned aquatic land may be sold by the leaseholder as prescribed by the department without competitive bid or public auction and consistent with statutes governing aquaculture leases on state-owned aquatic land.

§ 79.135.110. Leasing beds of tidal waters for shellfish cultivation or other aquaculture use

(1) The beds of all navigable tidal waters in the state lying below extreme low tide, except as prohibited by Article XV, section 1 of the state Constitution shall be subject to lease for the purposes of planting and cultivating oyster beds, or for the purpose of cultivating clams or other edible shellfish, or for other aquaculture use, for periods not to exceed thirty years.

(2) Nothing in this section shall prevent any person from leasing more than one parcel, as offered by the department.

§ 79.135.120. Leasing lands for shellfish cultivation or other aquaculture use--Who may lease--Application--Deposit

Any person desiring to lease tidelands or beds of navigable waters for the purpose of planting and cultivating oyster beds, or for the purpose of cultivating clams and other edible shellfish, shall file with the department, on a proper form, an application in writing signed by the applicant and accompanied by a map of the lands desired to be leased, describing the lands by metes and bounds tied to at least two United States government corners, and by the reference to local geography as shall suffice to convey a knowledge of the location of the lands with reasonable accuracy to persons acquainted with the vicinity, and accompanied by a deposit of ten dollars. The deposit shall be returned to the applicant in case a lease is not granted.

§ 79.135.140. Leasing lands for shellfish cultivation or other aquaculture use--Survey and boundary markers

Before entering into possession of any leased tidelands or beds of navigable waters, the applicant shall have the lands surveyed by a registered land surveyor, and the applicant shall furnish to the department and to the director of fish and wildlife, a map of the leased premises signed and certified by the registered land surveyor. The lessee shall also mark the boundaries of the leased premises by piling monuments or other markers of a permanent nature as the director of fish and wildlife may direct.

§ 79.135.150. Renewal lease--Application

The department may, upon the filing of an application for a renewal lease, inspect the tidelands or beds of navigable waters, and if the department deems it in the best interests of the state to re-lease the lands, the department shall issue to the applicant a renewal lease for a further period not exceeding thirty years and under the terms and conditions as may be determined by the department. However, in the case of an application for a renewal lease it shall not be necessary for the lands to be inspected and reported upon by the director of fish and wildlife.

§ 79.135.400. Seaweed—Marine aquatic plants defined

Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

“Marine aquatic plants” means saltwater marine plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free-floating state. Marine aquatic plants include but are not limited to seaweed of the classes Chlorophyta, Phaeophyta, and Rhodophyta.

§ 79.135.410. Seaweed--Personal use limit--Commercial harvesting prohibited--Exception -- Import restriction

(1) The maximum daily wet weight harvest or possession of seaweed for personal use from all state-owned aquatic lands and all privately owned tidelands is ten pounds per person. The department in cooperation with the department of fish and wildlife may establish seaweed harvest limits of less than ten pounds for conservation purposes. This section shall in no way affect the ability of any state agency to prevent harvest of any species of marine aquatic plant from lands under its control, ownership, or management.

(2) Except as provided under subsection (3) of this section, commercial harvesting of seaweed from state-owned aquatic lands, and all privately owned tidelands is prohibited. This subsection shall in no way affect commercial seaweed aquaculture.

(3) Upon mutual approval by the department and the department of fish and wildlife, seaweed species of the genus *Macrocystis* may be commercially harvested for use in the herring spawn-on-kelp fishery.

(4) Importation of seaweed species of the genus *Macrocystis* into Washington state for the herring spawn-on-kelp fishery is subject to the fish and shellfish disease control policies of the department of fish and wildlife. *Macrocystis* shall not be imported from areas with fish or shellfish diseases associated with organisms that are likely to be transported with *Macrocystis*. The department shall incorporate this policy on *Macrocystis* importation into its overall fish and shellfish disease control policies.

§ 79.135.420. Seaweed--Harvest and possession violations--Penalties and damages

(1) It is unlawful to exceed the harvest and possession restrictions imposed under RCW 79.135.410.

(2) A violation of this section is a misdemeanor, and a violation taking place on state-owned aquatic lands is subject to the provisions of RCW 79.02.300.

(3) A person committing a violation of this section on private tidelands which he or she owns is liable to the state for treble the amount of damages to the seaweed resource, and a person trespassing on privately owned tidelands and committing a violation of this section is liable to the private tideland owner for treble the amount of damages to the seaweed resource. Damages recoverable include, but are not limited to, damages for the market value of the seaweed, for injury to the aquatic ecosystem, and for the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

Washington Seaweed Regulatory Provisions

Wash. Admin. Code, Tit. 220, Fish, Ch. 220-370 (Department of Fish and Wildlife: Aquaculture)

§ 220-370-050. Definitions--Aquaculture disease control (unrelated definitions deleted)

For purposes of this chapter, the following definitions apply:

(1) “Aquaculture products” are defined as private sector cultured aquatic products propagated, farmed, or cultivated on aquatic farms under the supervision and management of an aquatic farmer, or such products naturally set on lands under the active supervision and management of an aquatic farmer.

...

(6) “Marine plant” is defined as nonvascular plants belonging to the phyla Chlorophyta, Phaeophyta, or Rhodophyta and vascular plants belonging to the family Zosteraceae when growing in marine or estuarine waters, and includes the seeds, spores, or any life-history phase of the plants.

...

§ 220-370-060. Aquatic farm registration required

(1) It shall be unlawful for any person to cultivate aquatic products (private sector cultured aquatic products as defined under RCW 15.85.020(3)) without the aquatic farmer having first registered the aquatic farm with the department. Any aquatic farm must be registered with the department prior to the commencement of culture activities. The department shall grant registration to qualified persons within seven days of the receipt of a complete aquatic farm registration form.

(2) Aquatic farm registrations are nontransferable. In the event there is a change of ownership of an aquatic fish farm established under chapter 220-370 WAC the aquatic farm registration issued to the previous owner shall be invalid.

(3) Registrations must be renewed annually, prior to December 31 for the succeeding calendar year. Reporting of aquaculture activity (WAC 220-370-160) during the previous calendar year shall constitute renewal for the following year.

§ 220-370-070. Aquatic farm registration form--Required information

If asked by an aquatic farmer, the department will prepare, print, and distribute an aquatic farm registration form. The following information must be provided by the aquatic farmer:

(1) The name, mailing address, and telephone number of the individual or company that owns or leases the aquatic farm;

- (2) The name and telephone number of a contact person immediately responsible for operation of the aquatic farm;
- (3) The department of health (DOH) shellfish certification number if DSHS requires a certification number;
- (4) The common name of aquatic species being cultured;
- (5) The method(s) of culture the aquatic farmer is using on the farm;
- (6) If it is a freshwater or onshore aquatic farm, the legal description, street address, county, aquaculture district, and the number of separate tracts or facilities within the district that comprise the aquatic farm(s);
- (7) If it is a marine aquatic farm, the name of bay or inlet, county, and aquaculture district for the farm(s);
- (8) The signature of the company official or owner;
- (9) A site drawing of the aquatic farm and a brief narrative description of the facility and its operation. Freshwater farms must also identify the source of culture water, where the water is discharged, and the watershed where the facility is located;
- (10) Documentation of ownership or present right of possession of the land comprising the aquatic farm.

§ 220-370-160. Duties of aquatic farmers

- (1) It is unlawful for an aquatic farmer shipping out-of-state or selling private sector cultured aquatic products to fail to:
 - (a) Keep complete and accurate records showing the quantity of products sold and the location of the aquatic farm where products were grown; and
 - (b) Completely, accurately, and legibly prepare an aquatic farm production report.
- (2) An aquatic farm production report must document each aquatic farm's monthly production and contain the information required in WAC 220-370-170 (1)(a) through (g). Aquatic farmers must submit aquatic farm production reports for each quarter to the department within thirty days of the end of each quarter for which production is reported.
- (3) The aquatic farmer must retain copies of quarterly production reports for one year and make the reports available for inspection upon request by authorized department personnel.

(4) Violation of this section is a misdemeanor, punishable under RCW 77.15.350, Inspection and disease control of aquatic farms--Rules violation--Penalty.

§ 220-370-170. Description of aquatic farm production report

(1) There is hereby created an aquaculture production report form to be prepared, printed and distributed on request by the department. The aquatic farmer shall provide the following information:

- (a) Firm name: Name of aquaculture firm and telephone number.
- (b) Firm address: Address of aquaculture firm.
- (c) Aquatic farm numbers: Department assigned aquatic farm registration number and location number.
- (d) Species: Common name of species grown at aquatic farm site.
- (e) Quantity harvested for sale: Quantity, in production units, of each species harvested for sale. The production may be shown in pounds, dozens, gallons, bushels or bags.
- (f) Unit value: Value per production unit.
- (g) Signature: Signature of firm executive or authorized representative and date signed.

(2) The aquaculture production report shall be used for reporting of aquaculture production as specified in WAC 220-370-160.

§ 220-370-220. Marine plant aquaculture disease control

(1) It is unlawful for any person to import into the state of Washington marine plant aquaculture products without having first obtained a permit to do so issued by the department. A copy of the permit shall accompany the imported marine plant aquaculture products at all times until the initial point of entry into the marine environment, and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure the protection of aquaculture products and native marine plants from disease or pests when the director concludes there is a reasonable risk of disease or pest transmission associated with marine plant aquaculture products.

(3) For *Porphyra yezoensis* and *P. tenera*, the director will issue import and transfer permits if the plants are in the form of:

- (a) Unialgal conchocelis culture of free living material; or

(b) Conchocelis-phase culture in shells after the shells and conchocelis have been washed and soaked in fresh water for at least twenty-four hours; or

(c) Blade phase on netting after two weeks at a temperature of minus twenty degrees centigrade or lower.

(4) For import of other species, the department will consider at least the following criteria, which may require the importer to provide a detailed life history and comply with the requirements of SEPA:

(a) The ability of the marine plant aquaculture product to naturally reproduce or interbreed with existing species in state waters.

(b) The ability of the marine plant aquaculture product to compete with existing species.

(5) Importation of marine plant aquaculture products for scientific study in a laboratory or under other controlled conditions is allowed without having obtained a permit when measures are taken to prevent release of the products or release of their gametes, spores, or tissue fragments into state waters. The director may inspect facilities to ensure appropriate control measures.

(6) For purposes of verification of the disease-free status of the marine plant aquaculture product in subsections (3), (4), and (5) of this section, the department may require sufficient samples for evaluation. In event of failure to obtain permit approval, consideration will be given to introduction after laboratory production of a second generation.

(7) It is unlawful to transfer marine plant aquaculture products between any of the following geographic areas without having first obtained a transfer permit: Columbia River; Pacific Ocean waters; Willapa Harbor; Grays Harbor; Puget Sound. No transfer permit is necessary for transfer within any of the geographic regions described above. When required, a copy of the transfer permit shall accompany the marine plant aquaculture products at all times until the products are reintroduced into state waters, and the transfer permit must be presented upon request to department employees.

(8) Violation of these rules, or the condition of any permit may result in suspension or revocation of the permit.

(9) In the event of denial, suspension, or revocation of an importation or transfer permit, the affected person may appeal the decision to the director. Additional appeals may be made through the Administrative Procedure Act (chapter 34.04 RCW). A suspended or revoked permit will remain suspended or revoked during the appellate process.

§ 220-370-230. Kelp importation--Permit required--Disease control

(1) It is unlawful for any person to import kelp into the state of Washington for use in the herring spawn on kelp fishery without first having obtained a permit to do so issued by the department. A copy of the permit must accompany the imported kelp at all times until the kelp is placed into the marine environment and must be presented upon request to department employees.

(2) The director may impose permit conditions as necessary to ensure protection of aquaculture products and native species from disease when the director concludes that there is a risk of disease transmission associated with the imported kelp.

(3) A kelp import permit is not transferrable.

(4) Violation of these rules or the conditions of a permit may result in suspension or revocation of the kelp import permit. In the event of denial, suspension or revocation of a kelp import permit, the affected party may appeal through the Administrative Procedure Act. A suspended or revoked permit will remain suspended or revoked during the appeal process.

Wash. Admin. Code, Tit. 352, Ch. 352-32 (Parks and Recreation Commission: Public Use of State Park Areas)

§ 352-32-350. Seaweed Harvest

(1) For the purposes of this section, seaweed is defined as all species of marine algae and flowering sea grasses.

(2) Pursuant to RCW 79A.05.165(1), all state park areas are closed to the harvest of seaweed except Fort Ebey, Fort Flagler and Fort Worden state parks which are open to the noncommercial harvest of seaweed in accordance with RCW 79.96.210 from April 16 - May 15 each year. Seaweed harvesting in state park areas is limited to posted park hours.

(3) Seaweed shall be harvested using the following techniques: The leaves of bull kelp (*Nereocystis*) will be cut no closer than twenty-four inches (61 cm) above the bulb, and short stemmed kelps such as sugar wrack (*Laminaria*) and wing kelp (*Alaria*) are to be cut no closer than twelve inches (30 cm) above the anchor point. Cutting will be done using a knife or similar instrument, leaving the anchor point in place at all times. No tearing of the plants from the substrate or trimming is allowed, and rakes, tined forks, or similar tools are prohibited. The limit weight is ten pounds wet weight (fresh-picked before cleaning) per person per day, and drying or partial drying is prohibited prior to weighing. Each harvester must use a scale to determine when the harvest weight limit has been reached, and use their own container. Multiple limits may not be combined in the same container.

(4) The director or designee may take immediate action to reduce harvest levels where there is evidence of environmental damage. Such state park areas shall post changes in the daily harvest limits to inform the public of the reduced harvest levels.

(5) No person shall harvest or possess any seaweed within a state park area closed to harvest pursuant to subsection (2) or (4) of this section, except as necessary for scientific research authorized in writing by the environmental program manager at state parks.

(6) Any violation of this section is an infraction under chapter 7.84 RCW.