



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

JANET T. MILLS  
GOVERNOR

PATRICK C. KELIHER  
COMMISSIONER

August 18, 2022

Dear coastal town manager, administrator, or selectboard member,

I am writing to provide some background information regarding the permitting process for marine aquaculture leases and licenses, and to inform your municipality about opportunities to participate in that process.

It has come to the attention of the Maine Department of Marine Resources (Department) that some coastal towns may be considering imposing moratoria on aquaculture siting or ordinances to regulate aquaculture siting within town boundaries. However, the Commissioner of Marine Resources holds exclusive jurisdiction to lease lands 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 (12 M.R.S.A. §6072 (1)). Municipalities have limited jurisdiction in the intertidal zone if they have an approved municipal shellfish ordinance (in accordance with 12 M.R.S.A. §6671) and may be authorized to issue municipal aquaculture permits (in accordance with 12 M.R.S.A. §6673), but this does not limit in any way the Commissioner's authority to issue leases and licenses in the coastal waters of the State. If your municipality is considering such moratoria or ordinance development, the Department would greatly appreciate the opportunity to review draft language prior to adoption so that we may provide comment on any jurisdictional concerns.

However, the Department's laws and rules provide several opportunities for the municipality to participate in the leasing process, even prior to a hearing. In fact, these laws and rules provide the municipality with additional opportunities to provide feedback when compared to other stakeholders that may engage with the leasing or licensing process. For example, before an applicant can submit a draft standard lease application, they must hold a pre-application meeting with the Department and municipality. The purpose of this meeting is for the applicant to present their proposed plan and for the municipality and Department staff to provide feedback. After a pre-application meeting, an applicant may submit a draft standard lease proposal to the Department. The draft application details the applicant's proposed operations and is reviewed by Department staff. After staff review the application and find that it is complete, applicants are responsible for holding a scoping session on their draft application. The scoping session is an opportunity for the applicant to present their proposal to the public and other stakeholders, including the municipality, prior to submitting a final application. Notice of scoping sessions is provided to the municipality. After a scoping session, applicants may submit a final lease proposal to the Department. After staff review the application and find that it is complete, notice of the complete application is sent to the municipality. The notice includes a Harbormaster Questionnaire (HMQ) for the Harbormaster or other municipal designee to complete. The HMQ requests local information about how the proposed site may affect navigation, fishing, and other considerations related to the lease decision criteria.

After a final application is deemed complete, Department science staff will visit the site and publish a site report that details their findings, which is one part of the record that the Department considers when evaluating a site. However, this is not the only information that is considered. For leases which require a public hearing, the hearing notice will be provided to the municipality, which includes information on the opportunity to intervene or to provide testimony. A municipality is granted intervenor status upon written request. At a public hearing, municipal officials, members of the public and other stakeholders who register to participate in the proceeding are given the opportunity to present testimony and evidence about the proposed lease site and decision criteria. Applicable testimony and evidence is also taken into consideration when evaluating a site. Although the example described above is specific to the standard lease application process and leases which require a hearing, each type of aquaculture lease or license type provides an opportunity for municipal review and input.

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As the state agency managing and regulating aquaculture, the Department welcomes opportunities to engage with municipal officials on issues of concern, and is happy to address questions regarding our existing application and evaluation process for marine aquaculture leases and licenses. We believe our existing process is robust and provides adequate opportunity for municipal engagement, as well as public participation, to ensure appropriate protection of existing uses. If you have further questions about our process, please feel free to contact me at [Meredith.Mendelson@maine.gov](mailto:Meredith.Mendelson@maine.gov) or 207-624-6553. You may also contact Marcy Nelson, Aquaculture Division Director ([Marcy.Nelson@maine.gov](mailto:Marcy.Nelson@maine.gov)).

Sincerely,



Meredith Mendelson  
Deputy Commissioner