

§6072-B. Emergency aquaculture lease for shellfish

1. Authority. The commissioner may issue an emergency aquaculture lease for areas in, on and under the coastal waters including the public lands beneath those waters and portions of the intertidal zone for the emergency aquaculture relocation of shellfish from an area for which a lease has been issued pursuant to section 6072 or section 6072-A when the health and safety of those shellfish are threatened.

[PL 1997, c. 231, §6 (NEW).]

2. Limitation. The commissioner may not issue a lease under this section unless:

A. The applicant holds a lease pursuant to section 6072 or 6072-A, except that this paragraph does not apply if the department is the applicant; [PL 2021, c. 557, §2 (AMD).]

B. The applicant demonstrates to the commissioner that the health and safety of shellfish at the leased area are threatened; and [PL 1997, c. 231, §6 (NEW).]

C. The commissioner determines the relocation of those shellfish to an emergency aquaculture lease area would not threaten the water quality of the receiving waters or the health of marine organisms in those waters. [PL 1997, c. 231, §6 (NEW).]

[PL 2021, c. 557, §2 (AMD).]

3. Permission of intertidal land owners. The commissioner may not grant an emergency aquaculture lease unless the applicant obtains the written permission of every owner of intertidal land in, on or over which the emergency aquaculture activity occurs.

[PL 1997, c. 231, §6 (NEW).]

4. No fee. The commissioner may not charge a fee for an emergency aquaculture lease.

[PL 1997, c. 231, §6 (NEW).]

5. Suspended culture. A person issued an emergency aquaculture lease under this section may construct or operate in the coastal waters of the State a facility for the suspended culture of shellfish.

[PL 1997, c. 231, §6 (NEW).]

6. Limit on duration. An emergency aquaculture lease may not be issued for a period greater than 6 months.

[PL 1997, c. 231, §6 (NEW).]

7. Extension of emergency aquaculture lease. If a person who holds an emergency aquaculture lease submits an application under section 6072 or 6072-A for all or a portion of that lease area before the emergency aquaculture lease expires, and if the commissioner's decision under section 6072 or 6072-A occurs after the expiration of that emergency aquaculture lease, the emergency aquaculture lease remains in effect until the commissioner makes a decision. If the commissioner grants that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until the effective date of the lease issued under section 6072 or 6072-A. If the commissioner denies that person a lease under section 6072 or 6072-A, that person's emergency aquaculture lease remains in effect until 30 days after the commissioner's decision.

[PL 2011, c. 93, §7 (AMD).]

8. Public notice. Upon granting an emergency aquaculture lease, the commissioner shall provide notice to the municipality in which the emergency aquaculture lease area is located. Within at least 30 days from granting an emergency aquaculture lease, the commissioner shall publish notice of the emergency aquaculture lease in a newspaper of general circulation in the lease area. The notice must describe the area leased and list any restriction in the leased area.

[PL 1997, c. 231, §6 (NEW).]

9. Actions required of lease holder. After being granted an emergency aquaculture lease, a lessee shall:

A. Record the lease in the registry of deeds of each county in which the leased area is located; and [PL 1997, c. 231, §6 (NEW).]

B. Mark the leased area in a manner prescribed by the commissioner. [PL 1997, c. 231, §6 (NEW).]
[PL 1997, c. 231, §6 (NEW).]

10. Conditions. The commissioner may establish conditions that govern the use of the emergency aquaculture lease 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. The commissioner may grant the lease on a conditional basis until the lessee has acquired all the necessary federal, state and local permits. A lease may not be approved unless the commissioner has received certification from the Department of Environmental Protection that the project will not violate the standards ascribed to the receiving waters classification in Title 38, section 465-B.
[PL 1997, c. 231, §6 (NEW).]

11. Rules. The commissioner may adopt rules to establish application requirements, a process for application review and a process for deciding upon lease applications and otherwise implement the provisions of this section.
[PL 1997, c. 231, §6 (NEW).]

Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [PL 1997, c. 231, §6 (NEW).]

SECTION HISTORY

PL 1997, c. 231, §6 (NEW). PL 2011, c. 93, §7 (AMD). PL 2021, c. 557, §2 (AMD).

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