

§6072-C. Limited-purpose aquaculture license

1. License required. A person may not engage in the activities authorized under this section without a current limited-purpose aquaculture license or a lease issued under this Part authorizing the activities.

[PL 2001, c. 421, Pt. B, §10 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

2. Licensed activities. The holder of a limited-purpose aquaculture license may place marine organisms on the ocean bottom without gear or utilize approved aquaculture gear in a site in the coastal waters of the State to engage in certain aquaculture activities that meet the criteria established in subsection 2-A and in rules adopted by the commissioner. Except as provided in subsection 2-C, the license also authorizes unlicensed individuals to assist the license holder in the licensed activities only with the direct supervision of the license holder.

A. [PL 2017, c. 159, §6 (RP).]

B. [PL 2017, c. 159, §6 (RP).]

C. [PL 2017, c. 159, §6 (RP).]

D. [PL 2017, c. 159, §6 (RP).]

E. [PL 2017, c. 159, §6 (RP).]

F. [PL 2017, c. 159, §6 (RP).]

G. [PL 2017, c. 159, §6 (RP).]

[PL 2021, c. 52, §13 (AMD); PL 2023, c. 207, §20 (AFF).]

2-A. Criteria. The commissioner, or qualified professional department staff designated in writing by the commissioner, may issue a limited-purpose aquaculture license for certain aquaculture activities if:

A. The proposed activity generates no discharge into coastal waters; [PL 2017, c. 159, §6 (NEW).]

B. The applicant proposes to use aquaculture gear and markings approved by the commissioner in rules adopted pursuant to subsection 8; [PL 2017, c. 159, §6 (NEW).]

C. The gear, excluding mooring equipment, does not cover more than 400 square feet of area and the gear does not present an unreasonable impediment to safe navigation; [PL 2017, c. 159, §6 (NEW).]

D. The proposed activity does not unreasonably interfere with the ingress and egress of riparian owners; [PL 2017, c. 159, §6 (NEW).]

E. The proposed activity does not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases and licensed aquaculture activities in that area; [PL 2017, c. 159, §6 (NEW).]

F. The proposed location, species and activity do not present a risk to public health; [PL 2017, c. 159, §6 (NEW).]

G. The applicant holds no more than 3 other limited-purpose aquaculture licenses issued under this section; and [PL 2017, c. 159, §6 (NEW).]

H. The consent of the riparian owner is obtained if the proposed activity is located above the mean low-water mark. [PL 2017, c. 159, §6 (NEW).]

[PL 2017, c. 159, §6 (NEW).]

2-B. Exceptions. Upon request, the commissioner may grant the holder of a limited-purpose aquaculture license an exception to the requirement in subsection 2 that the license holder provide direct

supervision of unlicensed individuals assisting the license holder in the licensed activities at the license holder's limited-purpose aquaculture license site. The commissioner may grant exceptions to:

- A. A license holder who is also the holder of or has an ownership interest in an entity, including as a shareholder in a corporation, that holds a lease issued pursuant to section 6072, 6072-A or 6072-B; [PL 2021, c. 52, §14 (NEW); PL 2023, c. 207, §20 (AFF).]
- B. A license holder using specific gear types as specified in rule; or [PL 2021, c. 52, §14 (NEW); PL 2023, c. 207, §20 (AFF).]
- C. A license holder who has applied for a lease under section 6072 or 6072-A for an area that includes the area authorized by the license holder's existing limited-purpose aquaculture license. [PL 2021, c. 52, §14 (NEW); PL 2023, c. 207, §20 (AFF).]

The commissioner may adopt rules to implement this subsection, including, but not limited to, establishing requirements for an application for an exception and the reasons for which an exception may be granted.

[PL 2021, c. 52, §14 (NEW); PL 2023, c. 207, §20 (AFF).]

2-C. Primary assistant. The holder of a limited-purpose aquaculture license may designate one unlicensed individual as a primary assistant. Notwithstanding subsection 2, a primary assistant may conduct the licensed activities without the direct supervision of the license holder. If an individual is designated by the license holder as a primary assistant, the limited-purpose aquaculture license on which the individual is designated a primary assistant counts against the total number of licenses the primary assistant may hold under subsection 2-A, paragraph G. An individual may be the primary assistant on no more than 4 limited-purpose aquaculture licenses.

[PL 2021, c. 52, §15 (NEW).]

3. Eligibility. A limited-purpose aquaculture license may be issued only to an individual who is 12 years of age or older or to a municipal shellfish management committee established pursuant to section 6671 that has met any requirements established under subsection 3-A.

[PL 2019, c. 232, §1 (AMD).]

3-A. Educational courses. Prior to the issuance or renewal of a limited-purpose aquaculture license, the commissioner may require the applicant to complete any educational courses the commissioner determines appropriate, except that an applicant that is exempt from payment of an application fee as provided in subsection 6-A may not be required to complete an educational course. Educational courses may be provided by the department or by any public or private sector association or organization authorized by the commissioner. For any course provided by the department, the commissioner shall set an enrollment fee sufficient to recover all costs incurred by the department in providing the course.

[PL 2023, c. 98, §1 (AMD).]

4. License limitations. The issuance of a limited-purpose aquaculture license does not constitute the issuance of a lease of an area in, on or under the coastal waters.

[PL 1999, c. 567, §2 (NEW).]

4-A. Preference. If a person applies to lease an area that is the subject of a limited-purpose aquaculture license, the department shall notify the holder of the limited-purpose aquaculture license. If the holder of the limited-purpose aquaculture license documents to the department that that holder wants to lease the area, preference must be given as follows:

- A. First, to the person who holds the limited-purpose aquaculture license in the area and who submitted an application for a lease under section 6072 for the area; and [PL 2017, c. 159, §6 (NEW).]

B. Second, to the person who applied to lease the area, but does not hold a limited-purpose aquaculture license in the area. [PL 2017, c. 159, §6 (NEW).]
[PL 2017, c. 159, §6 (NEW).]

5. Application. The application for a limited-purpose aquaculture license must:

A. Be written on forms supplied by the commissioner; [PL 1999, c. 567, §2 (NEW).]

B. Identify the species to be cultivated; [PL 1999, c. 567, §2 (NEW).]

B-1. Identify whether the applicant is growing the organisms for commercial or personal use; [PL 2017, c. 159, §6 (NEW).]

C. Describe the proposed source of organisms to be grown in the approved aquaculture gear; [PL 1999, c. 567, §2 (NEW).]

D. Describe the location of the approved aquaculture gear deployment by coordinates or metes and bounds; [PL 1999, c. 567, §2 (NEW).]

D-1. Identify the shellfish growing area that is subject to the proposed license and its classification; [PL 2017, c. 159, §6 (NEW).]

E. Include a clear set of plans that includes at a minimum:

(1) A location plan with an overhead plan view showing the aquaculture gear deployed at the proposed location. The area occupied by the gear must be drawn to scale on the plan. The location plan must include a north arrow, ebb and flood directions, any federal or local channels and anchorages, any nearby structures and property lines for all riparian owners within 300 feet; and

(2) Two gear drawings, one with an overhead plan view and one with a cross-sectional elevation view of the approved aquaculture gear proposed to be used. The gear drawings must be clearly dimensioned and include, at a minimum, mean high-water and mean low-water marks and the dimensions, profiles and materials used in the construction, deployment and securing of the approved aquaculture gear; [PL 1999, c. 567, §2 (NEW).]

F. Include documentation that riparian landowners within 300 feet of the proposed activity have been notified of the license application and proposed activity; and [PL 1999, c. 567, §2 (NEW).]

G. Include documentation that the municipal harbor master or appropriate municipal officers have been notified of the license application and proposed activity. [PL 1999, c. 567, §2 (NEW).]

[PL 2017, c. 159, §6 (AMD).]

6. Fee. Except as provided in subsection 6-A, the application fee for a resident limited-purpose aquaculture license is \$100 and for a nonresident limited-purpose aquaculture license is \$400. The application fee is nonrefundable. All fees collected under this subsection must be deposited in the Aquaculture Research Fund established in section 6081.

[PL 2023, c. 98, §2 (AMD).]

6-A. Fee exemptions. The commissioner may not assess an application fee for a limited-purpose aquaculture license that is issued to:

A. A municipal shellfish management committee established pursuant to section 6671, as long as the organisms cultured on the license site are not used for commercial purposes; or [PL 2023, c. 98, §3 (NEW).]

B. A municipal officer for a municipal project, as long as the organisms cultured on the license site are not used for commercial purposes. [PL 2023, c. 98, §3 (NEW).]

[PL 2023, c. 98, §3 (NEW).]

7. Prohibition; molesting gear. A person other than a marine patrol officer, the licensed owner of the gear or the licensed owner's assistant, with written permission from the licensed owner, may not utilize, raise, lift, transfer, possess or in any manner molest any approved aquaculture gear that is deployed under a current limited-purpose aquaculture license.

A. [PL 2001, c. 421, Pt. B, §11 (RP); PL 2001, c. 421, Pt. C, §1 (AFF).]

B. [PL 2001, c. 421, Pt. B, §11 (RP); PL 2001, c. 421, Pt. C, §1 (AFF).]
[PL 2001, c. 421, Pt. B, §11 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

7-A. Prohibition; taking product. A person other than a marine patrol officer or the license holder, or the license holder's assistant with written permission from the license holder, may not take any marine organism grown by the license holder under the license in the area designated on the license and marked in accordance with applicable rules.

[PL 2013, c. 509, §7 (NEW).]

7-B. Prohibition; transporting organisms. A person may not transport organisms grown under a limited-purpose aquaculture license that is designated for personal use to an area that is the subject of a limited-purpose aquaculture license that is designated for commercial use.

[PL 2017, c. 159, §6 (NEW).]

8. Rules. The commissioner shall adopt rules to implement this section, including, but not limited to, rules establishing the type of gear that is approved aquaculture gear for the purposes of a limited-purpose aquaculture license, minimum standards for maintaining gear, methods of gear identification and license application and review procedures. The commissioner may adopt rules to limit the period of the year during which license applications may be submitted. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 52, §17 (AMD).]

9. Violation; restitution. A person who violates this section commits a civil violation for which a fine of not less than \$100 for each violation may be adjudged. If a person violates subsection 7 by cutting any lines or marker buoys or intentionally damaging approved aquaculture gear, the court shall also:

A. Order that person to pay to the owner of the approved aquaculture gear that was cut or damaged an amount equal to twice the replacement value of the gear that was damaged or lost as a result of the cutting or damaging action; and [PL 2001, c. 421, Pt. B, §12 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

B. Direct that person to provide the commissioner, upon making full payment as ordered by the court, proof of that payment. [PL 2001, c. 421, Pt. B, §12 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

[PL 2005, c. 92, §5 (AMD).]

10. Reporting requirement; confidentiality. A holder of a limited-purpose aquaculture license 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. Information provided in seeding and harvesting reports submitted by a license holder under this subsection is considered confidential information reported to the commissioner pursuant to section 6173.

[PL 2013, c. 509, §8 (NEW).]

SECTION HISTORY

PL 1999, c. 567, §2 (NEW). PL 2001, c. 421, §§B10-12 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 247, §16 (AMD). PL 2005, c. 92, §5 (AMD). PL 2007, c. 212, §2 (AMD). PL 2009, c. 229, §§5-7 (AMD). PL 2013, c. 509, §§6-8 (AMD). PL 2017, c. 159, §6 (AMD). PL 2019, c.

232, §1 (AMD). PL 2021, c. 52, §§13-17 (AMD). PL 2021, c. 52, §21 (AFF). PL 2023, c. 98, §§1-3 (AMD). PL 2023, c. 207, §20 (AFF).

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