

MAINE STATE LEGISLATURE

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CHAPTER 413

RESEARCH AND DEVELOPMENT

Sec.

- 3701. Acquisition of flats and waters.
- 3702. Agreements, leases and grants.
- 3703. Research by private interests.
- 3704. Interference or unlawful taking.

§ 3701. Acquisition of flats and waters

The commissioner may take any flats or waters, not exceeding an area of 2 acres in extent in any one location, and may hold the same for a period not exceeding 10 years for use by the commissioner, or by the United States Fish and Wildlife Service, for the purpose of scientific research relative to shellfish or other fish over which the commissioner has jurisdiction, subject to the following provisions:

1. Written permission from riparian owners required. Whenever the commissioner deems it necessary in the furtherance of the objectives and purposes of this section to take any flats or waters, he shall obtain written permission from the riparian owners thereof to control the flats or waters.

2. Public hearing; notice. After receiving permission provided in subsection 1, the commissioner shall hold a public hearing in the municipality where the flats and waters are located.

A. The commissioner shall cause notice of the public hearing, containing the character, extent and location of the flats or waters to be taken, and the time for which taken, to be posted in 2 public places in the municipality where the waters or flats are situated. He shall cause the notice to be published once not less than 7 days prior to the date of hearing in a newspaper published in the county where the flats or waters are situated.

3. The taking; marking of area; public notice. After the hearing the commissioner may, for the purposes authorized in this section, take the flats or waters.

A. The commissioner shall cause the area so taken to be plainly posted and bounded by suitable marks and ranges.

B. The commissioner shall cause public notice of the taking of such waters and flats to be given by publishing notice once

in a newspaper published in the county where the flats or waters are situated.

R.S.1954, c. 38, § 19; 1959, c. 331, § 1.

§ 3702. Agreements, leases and grants

The commissioner may by written agreement, lease or grant, under such terms or conditions as may be agreed upon with the owner, take possession of suitable shellfish grounds, flats, waters and water rights not limited to 2 acres in area, with necessary shore rights, and may use and operate the same for the purposes of section 3701.

1. Recording of agreement, lease or grant. The commissioner shall record any agreement, lease or grant executed under this section in the registry of deeds in each county where the flats or waters are located.

2. Public hearing; notice of hearing and taking; marking of area. The commissioner shall hold the public hearing, give notice of the hearing, publish notice of the taking and mark the area taken as provided in section 3701.

R.S.1954, c. 38, § 19; 1959, c. 331, § 1.

§ 3703. Research by private interests

Any person or corporation interested in scientific research relating to shellfish, or other fish over which the commissioner has supervision, or in the cultivation and development of the shellfish industry for economic purposes, may apply to the commissioner setting forth the desire to make experiments relative to the cultivation and conservation of particular marine species. Upon receipt of the application by the commissioner, the following procedure must be followed:

1. Commissioner to be satisfied certain requirements are met before notice of hearing. The commissioner shall give notice of a hearing on the application if he is satisfied that all the following provisions are met:

A. That the application contains sufficient information to show that the applicant is entitled to the certificate provided in this section;

B. That information contained in the application is true;

C. That the applicant either owns, or has consent, so far as the same can be granted, from the owner of the flats,

shore rights or waters where the work is to be undertaken;
and

D. That the granting of the certificate provided in this section will not unreasonably interfere with navigation.

2. Notice of hearing; how; contents. The commissioner shall then give notice of the hearing as follows:

A. The commissioner shall cause the notice to be published once a week for 2 consecutive weeks in some newspaper published in the county where the proposed location is situated.

B. The commissioner shall state in the notice the time and place of the hearing, the name of the applicant and the general area where the work is to be undertaken.

3. Commissioner may issue certificate to set area apart upon hearing. If, upon hearing, the commissioner is satisfied that the interests of the State will be promoted by the experiments, he shall issue a certificate setting apart so much of such shores, flats and water privileges, not exceeding one acre in extent to any one applicant, for such length of time, not exceeding a period of 6 years, as in his judgment may be necessary and proper to accomplish the ends sought.

4. Applicant to record certificate. The applicant shall record the certificate in the registry of deeds of each county where the flats or waters are located.

5. Applicant to give public notice of certificate. The applicant shall cause public notice of the issuance of the certificate by publishing the certificate once in a newspaper published in the county where the area to be used is located, by posting a copy of the certificate in a conspicuous place near that area and by recording a copy of the certificate with the clerk of the municipality where the area is located.

6. Applicant to mark area. The applicant shall place stakes or other monuments upon the adjoining upland so as to designate the area set apart as specified by the commissioner in the certificate.

R.S.1954, c. 38, § 20; 1959, c. 331, § 1.

§ 3704. Interference or unlawful taking

It is unlawful for any person, during the period that any shores, flats or waters are taken or used under this chapter, to

take, dig, fish or in any manner destroy any marine species within the area used or taken, or to interfere with the shores, flats and waters so used or taken.

1. Penalty. Whoever violates any provision of this section shall be punished by a fine of not less than \$50 nor more than \$100 for each offense, or by imprisonment for not more than 90 days.

R.S.1954, c. 38, § 21; 1959, c. 331, § 1.