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LPA “Owner/Operator” FAQ (Updated July 29, 2024)

Effective January 1, 2025, all LPA(s) will be subject to the “owner/operator” requirement, which is described below. This document summarizes frequently asked questions about this new requirement.

What is an LPA license?

- LPA stands for **Limited Purpose Aquaculture** license
- An LPA license is a one-year **license** to culture specific species using particular gear types that cover no more than 400 square feet.
- An LPA is **not a lease**.
- An LPA expires December 31st each year.

What is changing?

- The Department is implementing the law establishing an “owner/operator” requirement, under which an LPA license holder must directly supervise individuals that are engaged in licensed activities *or* designate a primary assistant to supervise the licensed activities.
- This means that the LPA license holder or primary assistant must be physically present anytime other assistants are working on the respective LPA(s).
- This applies to all LPAs held by any individual regardless of their purpose.

What is the history of this requirement?

- This is required by statute ([see 12 M.R.S.A. §6072-C\(2\)](#)). This requirement was initially established in 2021, so it is already part of existing law.
- The January 1, 2025, effective date was intended to provide time for the Department and industry to prepare for the transition to the “owner/operator” requirement.
- We understand people may have forgotten or generally be unaware that this law was enacted due to the delayed implementation, however since this is already part of existing law, you should focus on preparing for implementation by learning more about the requirements.

What is a primary assistant?

- The primary assistant is designated by the LPA license holder to oversee work on the site when the holder cannot be present. If any other assistants are doing work on the site, the LPA license holder or primary assistant need to be physically present.
- The primary assistant designation is per LPA site. If you hold licenses for multiple LPAs, you must make a designation separately for each LPA license you hold.
- A primary assistant declared on one LPA license can only supervise activities on that specific site. It does not apply to any other LPA licensed sites you may hold, unless that individual is also designated as primary for the other sites.
- The primary assistant designation counts against the total number of LPAs the primary assistant may hold. For example, if someone is designated as a primary assistant on two LPAs, they can only hold two LPAs in their name. If an individual is a primary assistant on four LPAs, they can't hold any LPAs in their name.
- The primary assistant needs to be able and willing to provide direct supervision of licensed activities on the site.
- Once the designation is made, it cannot be modified until the time of LPA license renewal.

Do you have to designate a primary assistant?

- No, but if you do not designate a primary assistant then you must be physically present anytime assistants are conducting work on LPA(s) you hold.
- Do not designate a primary assistant on sites that qualify for an exemption.

What exemptions apply?

LPA license holders may claim an exemption to the owner/operator requirement and primary assistant designation under the following circumstances:

1. The LPA license holder has an experimental or standard **lease** in their name *or* has an ownership interest in a company that holds an experimental or standard **lease**. Please note that an LPA is a license not a lease! If you hold multiple LPAs, that does not allow you to claim an exemption.
2. The LPA license holder has applied for an experimental or standard **lease** site in their name *and* the LPAs in question are within the boundaries of the proposed site; or has an ownership interest in a company that has applied for an experimental or standard **lease** *and* the LPAs in question are within the boundaries of the proposed site. Please note that an LPA is a license not a lease! If you hold multiple LPAs, that does not allow you to claim an exemption.

How will this change be implemented by the Department?

- LPAs expire December 31st each year. This provision needs to be incorporated for every LPA license renewed and issued in 2025.
- Existing LPAs: The Department will collect information needed to implement this provision during the LPA license renewal process, which begins October 1, 2024. As part of the renewal process, the Department will ask each LPA license holder to rename all assistants and provide the opportunity to designate a primary assistant or claim an exemption.
- New Applications (2025): LPA license applications will be updated with questions reflecting this new requirement. The new application will be posted to DMR's website on September 30, 2024. Any application received on or after October 1, 2024, will need to be on the new application form, and will be issued in 2025 (provided decision criteria are met).
- The owner/operator requirement will continue to be considered each time an LPA license is renewed or issued-2025 and beyond.

What can I do to prepare if I already hold LPAs?

- You and the listed assistants should start planning now. This change will likely require modifications to existing operations.
- Look at your current LPA licenses and think about your proposed operations. If you can't be physically present each time work occurs on the LPA site and you can't claim an exemption, then plan on designating a primary assistant who would need to be present in your absence.
- Communication is critical! If you need to designate a primary assistant, then **talk with all your assistants about your plans**. The assistants listed on your LPAs may have LPA sites in their name or might be listed as an assistant on someone else's LPAs, who also intends to list them as a primary. You should also make sure that the person you intend to designate wants to provide direct supervision of activities on the site!
- Designating someone as a primary assistant will count against the total number of LPAs they can hold in their name. For example, if they currently hold four LPAs in their name then they may need to relinquish site(s) to be designated as your primary assistant, or you would need to designate someone else as a primary assistant.
- You must ensure your designated primary assistant is eligible to be listed (i.e. no more than 4 total LPAs in their name as the LPA license holder **or** primary assistant).
- If LPA(s) you hold are eligible for an exemption, you should think about how that may impact primary assistant designations or other aspects of your operations.

What's helpful to remember as I prepare?

- LPAs cannot be transferred, so site(s) may need to be relinquished to comply with this law.
- LPAs cannot be amended once they are issued. You will not have an opportunity to change the primary assistant designation or other assistants until the next renewal cycle (fall 2025 for 2026 licenses).
- Exemptions can only be claimed once a year at the time of renewal or when a new application is submitted.
- You should finalize plans prior to October 1, 2024, because this is when the renewal period begins, and the new LPA license application becomes effective.

What can I expect as this is implemented?

- The renewal application will look different this year as additional questions are added to collect information to implement this requirement.
- Renewed LPA licenses may not be issued until spring 2025 as the Department works to ensure that each LPA complies with the owner/operator requirement.
- LPA license holders who complete the renewal application and quiz by the regulatory deadline will be able to continue operating their sites while the Department processes the application.
- The Department recognizes that this is a significant change and will be sending several reminders and updates to LPA license holders throughout the summer and fall. Please check your email regularly!

Frequently Asked Questions (FAQs)

- 1. If I have four LPAs in my name, can I be listed as a primary assistant on someone else's LPA license?**
 - No. The owner/operator requirement states that the primary assistant designation counts against the total number of LPAs that you may hold. If you already hold 4 LPA licenses, then you cannot be listed as a primary assistant on anyone's LPA license.
- 2. If I designate a primary assistant on my LPA license, how many other assistants may I list?**
 - The primary assistant counts as one of the 3 assistants you may list on an LPA license.

3. I might need to relinquish one or more LPA licenses that I hold. How do I relinquish a site?

- If you wish to relinquish the LPA license **as part of the renewal process**, which begins in early October you would specify on the renewal application that you plan to relinquish the site. This means that on January 1, the site would be terminated, and you would then be given 90 days to remove all gear, product, and moorings. Once you indicate that you are relinquishing the site, that area becomes available for someone else to apply for a new site.
- If you wish to relinquish the LPA license **at any other time of year**, you need to notify DMR in writing. Please send an email to DMRaquaculture@maine.gov and list the acronym(s) of the site(s) you plan to relinquish. DMR will respond to that email giving you 90 days to remove all gear, product, and moorings. Once you indicate that you are relinquishing the site, the area becomes available for someone else to apply for a new site.

4. I currently have four LPA licenses in my name, so I can't be listed as a primary on anyone else's LPA license. However, if I relinquish one of my LPA licenses, can I be listed as a primary assistant on someone else's LPA license?

- Yes. Once a license is relinquished, then you may be listed as a primary assistant on one LPA license. However, once an LPA license is issued it cannot be modified so it would be up to you and the individual who wishes to list you as a primary to coordinate accordingly. For example, if you do not notify DMR of the relinquishment (see #3 above) and someone tries to designate you as a primary then their LPA license would be issued without a primary because our records would indicate that you currently hold four LPAs.

5. After relinquishing an LPA license does all my gear, product, and moorings have to be removed?

- Yes. Holders are given 90 days from the date the site is relinquished to remove gear, product, and moorings from the water.

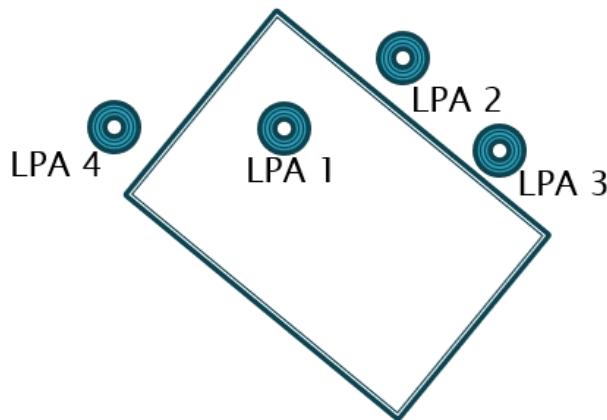
6. I want to give my LPA license site to someone else. Can I turn over my site to a person of my choosing?

- In accordance with law, LPA licenses are non-transferable. You would need to relinquish the site before a new application could be entertained for the same area. It would be up to you and the new applicant to coordinate that process including the removal of any gear, product, moorings associated with the relinquishment of one site and the possible authorization of a new one. As a new application would need to be received and processed, it is possible that the new application would be denied if it does not meet the criteria for issuance.
- Please note that once a site is relinquished the holder is given 90 days to remove all gear, product, and moorings. There are no exceptions to this requirement and the Department does not coordinate such transitions on behalf of the existing holder and a new applicant.

7. Can an assistant harvest product from my LPA for me while I'm out of town if I did not designate a primary assistant and the site does not have any exemptions?

- No, you must be physically present to supervise the assistants if you did not designate a primary assistant and will need to wait to harvest until you are back.

8. I have applied for a standard lease in my name and hold four LPA licenses. The boundaries of the proposed lease site and the location of the existing LPAs are depicted below. Which LPAs would qualify for an exemption?



- Only LPA 1 would qualify for the exemption because it is within the boundaries of the proposed lease site.

9. I have four LPA licenses in my name and work for a company that holds a lease. However, I don't own the company or have any ownership interest in the company. Do my LPAs qualify for an exemption?

- No, your 4 LPAs do not qualify for an exemption because you do not have ownership interest in the company that holds the lease.

10. What does ownership interest in a company mean?

- Ownership interest generally means that you have an ownership stake in a company that holds a lease including as a shareholder. The Department anticipates conducting rulemaking in late fall to further clarify the ownership interest provision, so that it is clear how much of an ownership stake an individual would need to have to qualify.
- The rulemaking process will provide an opportunity to comment on a proposed rule. Notice of the rulemaking proposal will be sent via email to lease and LPA license holders via GovDelivery.
- Exemptions specific to this provision will be determined after the rule becomes effective.

11. Can I designate a primary assistant once my license has been issued?

- No, LPAs cannot be modified after the license is issued.

12. Can I change the primary assistant once my license has been issued?

- No, LPAs cannot be modified after the license is issued. Certain changes are only entertained at the time of renewal.

13. What's the difference between LPA license and aquaculture lease sites?

- LPA licenses cannot exceed 400 square feet in size. Experimental leases can be up to 4 acres in size and standard leases can be up to 100 acres in size.
- LPA licenses expire annually on December 31st each year. Leases are issued for multiple years and the date and year they end is dependent upon the date and year of initial issuance.
- LPA licenses have certain educational requirements that the holder must complete at the time of renewal. Leases do not have these requirements.
- LPA licenses require the applicant obtain the signature of a Harbormaster or other municipal officer prior to the proposal being sent to DMR. Leases have a different review process and obtaining these signatures is not required.
- LPA licenses, with limited exception, can only be issued to individuals. Leases can be held by individuals and legal entities (i.e. companies).
- For Maine residents, it is \$100 to apply for and subsequently renew an LPA license. For non-Maine residents the fee is \$400. The application fee for an experimental lease is \$750 and the application fee for a standard lease is \$1,500. There are also no differences in the fees between residents and non-residents.

14. How do I know if I have an LPA license or hold an aquaculture lease?

- Review the points listed above (in question 14) and think about how they apply to site(s) you hold.
- Look at a copy of the decision that authorized the site(s). If the top of the decision states: '2024 Limited-Purpose Aquaculture License Expires December 31, 2024,' then it is an LPA.
- If you need a copy of the LPA license, please email DMRaquaculture@maine.gov

15. Can I claim an exemption after my LPA license has been issued?

- No, LPA licenses cannot be modified after the license has been issued and this includes claiming an exemption. Exemptions can only be claimed at the time of renewal or at the time an initial application is submitted.

16. How do I know if I qualify for an exemption?

- The Department is working on developing an electronic “exemption planning tool” to help LPA license holders determine whether they may be able to claim an exemption. We will send an update when that tool launches.
- In the meantime, we have developed a flow chart that may be helpful to review. It can be accessed here: <https://www.maine.gov/dmr/aquaculture/aquaculture-announcements>