

Aquaculture Leasing and Licensing Process

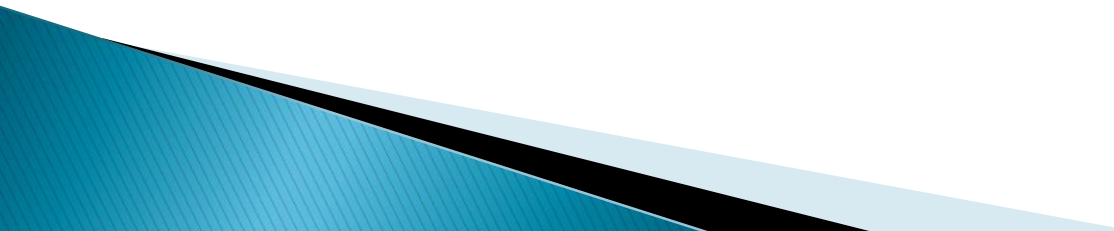
Municipal Marine Resource Management
Training

July 2024

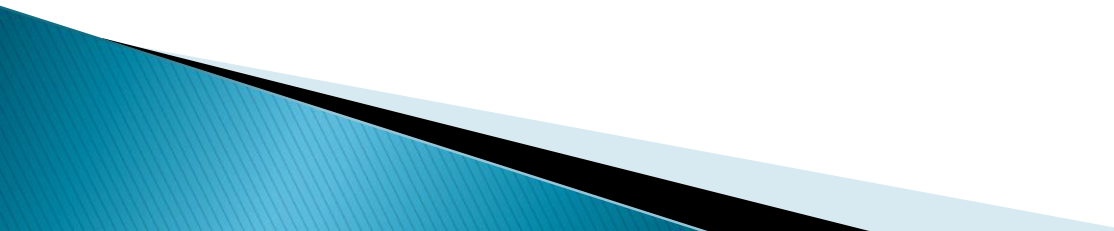


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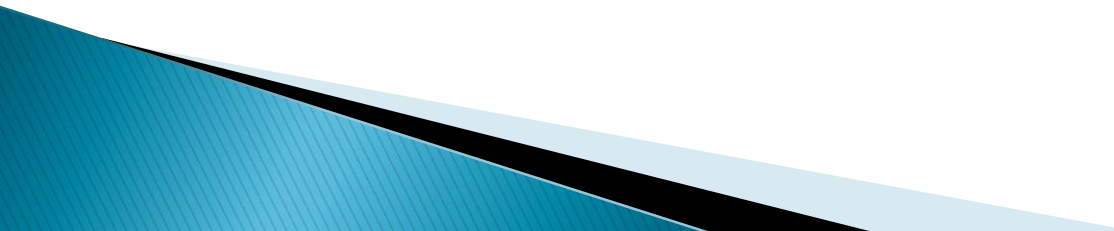
Key Takeaways

- ▶ Municipal feedback is important
 - ▶ Opportunities for feedback vary by scale of the site
 - ▶ Criteria, criteria, criteria!
 - ▶ Better understanding of process/resources
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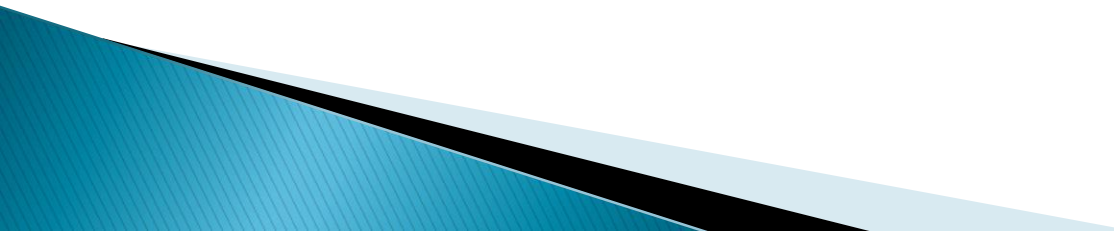
What is Aquaculture?

- ▶ “Aquaculture” means the culture or husbandry of marine organisms by any person. In order to qualify as aquaculture, a project must involve affirmative action by the individual to improve the growth rate, survivability or quality of the organism. Chapter 2.05 Regulations
 - ▶ Basically, it is farming in the ocean.
 - ▶ Occurs on three types of sites: LPAs, Experimental leases, and Standard Leases
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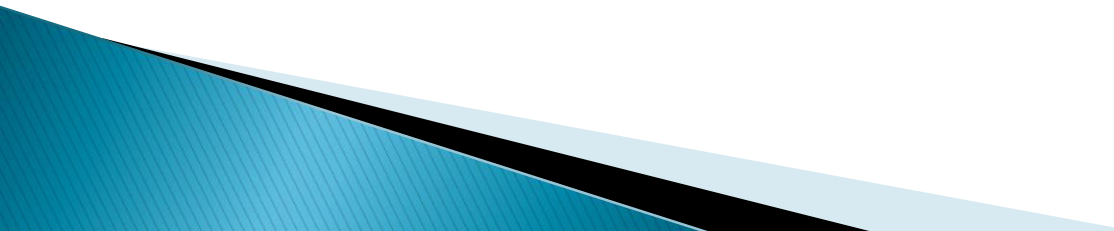
Gear and Species

- ▶ Growers might use gear, free plant, or a combination of techniques.
 - ▶ Seasonal changes to gear configuration
 - ▶ American oysters (*C. virginica*), scallops (*P. Magellanicus*), blue mussels (*M. edulis*), sugar kelp (*L. saccharina*), and salmon (*S. salar*) are example of species grown in Maine.
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Aquaculture Application Processing

- ▶ Legislature delegated authority to DMR to issue LPAs and leases.
 - ▶ Legislature also created the statutes governing the review and issuance of aquaculture sites.
 - ▶ The authority is exclusive, but the process provides for municipal participation.
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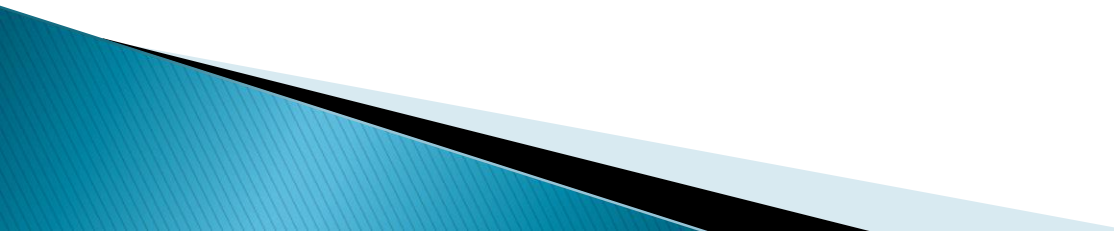
How are Sites Evaluated?

- ▶ All proposals have an established set of decision criteria—created by the Legislature
 - ▶ DMR must evaluate applications in consideration of the decision criteria.
 - ▶ Feedback needs to be specific to the decision criteria!
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Municipal Review of LPAs



LPA's

- ▶ Limited in scale and scope
 - ▶ ≤ 400 sq ft. in size
 - ▶ Annual licenses, but may be renewed
 - ▶ “Permit by rule”
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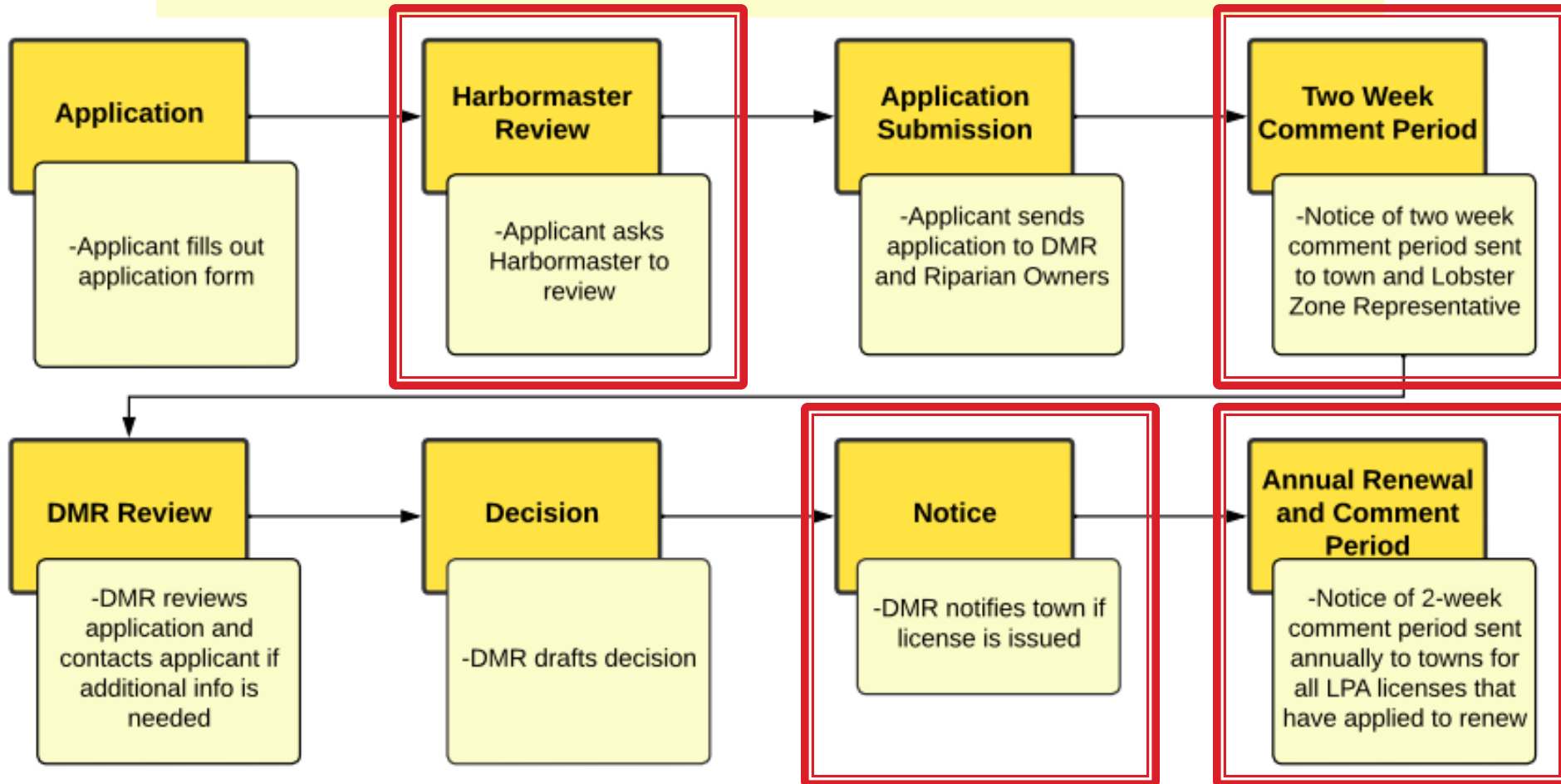
LPA Decision Criteria

- The gear does not present an unreasonable impediment to safe navigation;
- The proposed activity does not unreasonably interfere with the ingress and egress of riparian owners;
- 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;



Maine DMR Limited Purpose Aquaculture (LPA) Application Process

12 MRS § 6072-C and DMR Rules Chapter 2.90



Before we jump into leases...

- ▶ Harbormaster Questionnaire

- ▶ Hearings

Quasi-judicial

Formal

- ▶ Intervenor

Towns don't have to apply

- ▶ Appeals (judicial review)

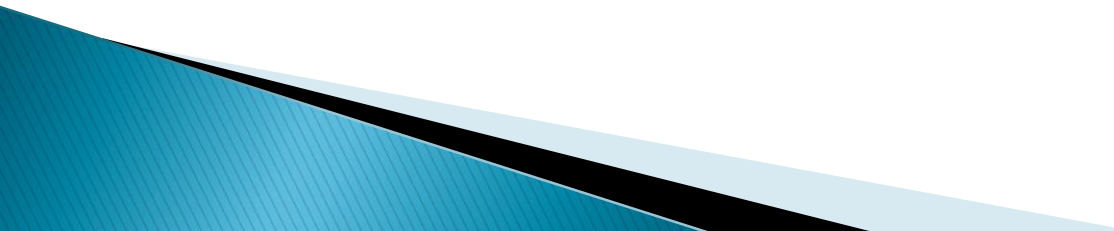
Handled in court



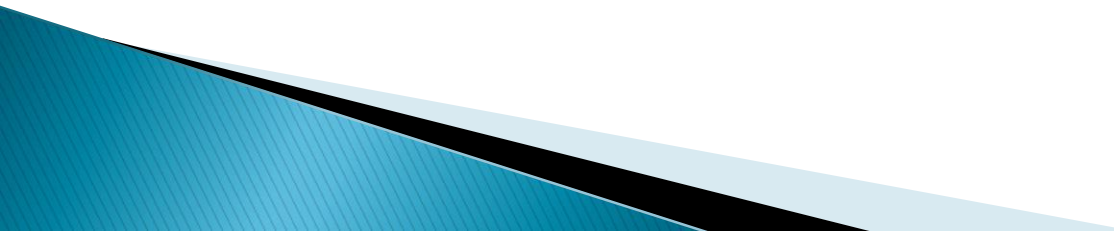
Municipal Review of Experimental Leases



Experimental Leases

- ▶ Up to 3-year terms
 - ▶ Up to 4 acres
 - ▶ Held for commercial or scientific purposes
 - ▶ Leases for commercial purposes are non-renewable
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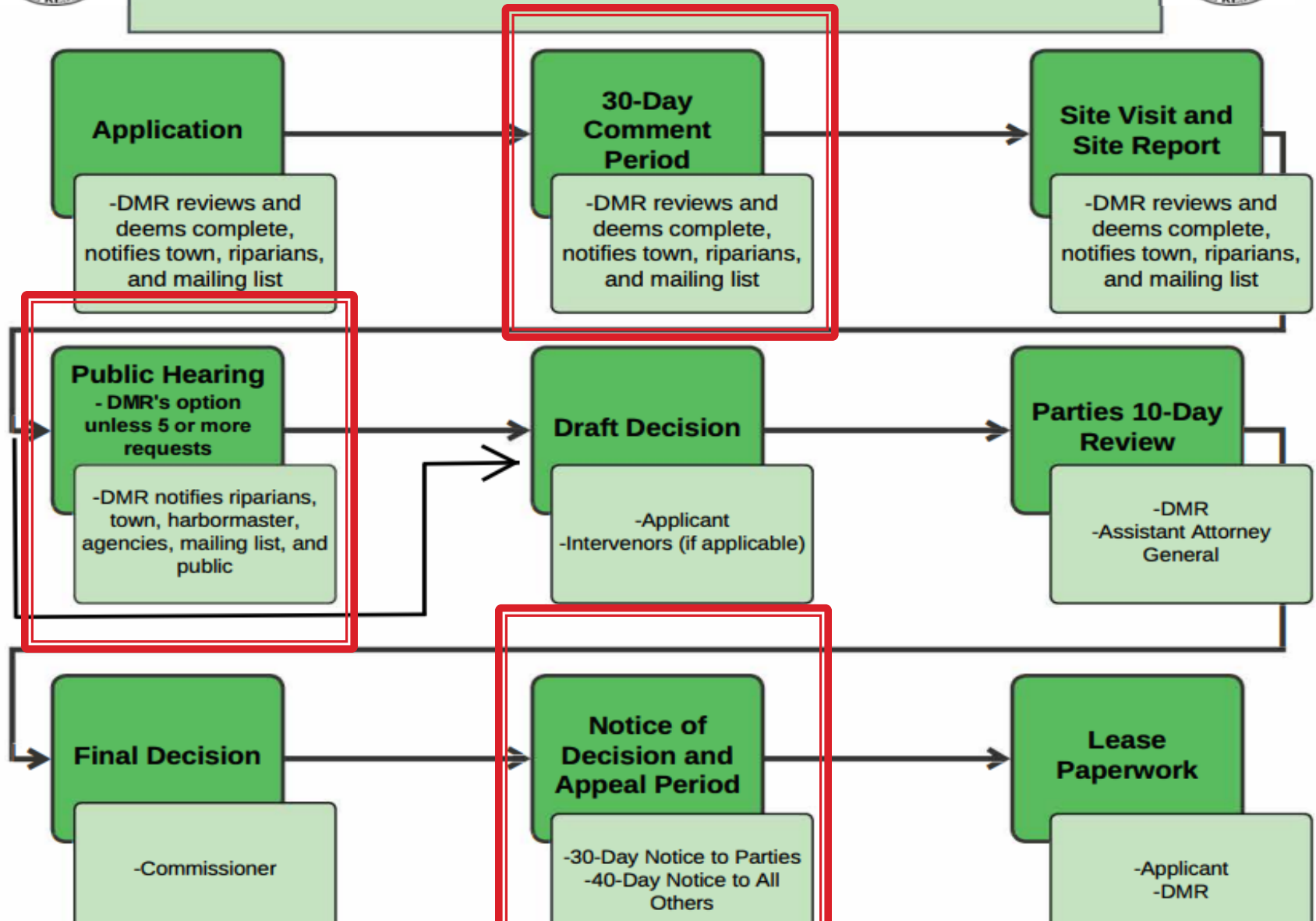
Experimental Lease Decision Criteria

- Ingress and egress of riparian owners;
 - Navigation;
 - Fishing or other uses of the area;
 - Other aquaculture uses;
 - Ability of the site and surrounding areas to support ecologically significant flora and fauna; or
 - Public use or enjoyment within 1,000 feet of beaches, parks, or docks owned by local, state, or federal governments; and
 - The applicant must demonstrate that there is an available source of organisms to be cultured for the lease site.
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Maine DMR Experimental Lease Application Process

12 MRS § 6072-A and DMR Rules Chapter 2.64




Municipal Review of Standard Leases



Standard Leases

- ▶ Up to 20-year terms
- ▶ Up to 100 acres
- ▶ Can be renewed, transferred, amended, and expanded

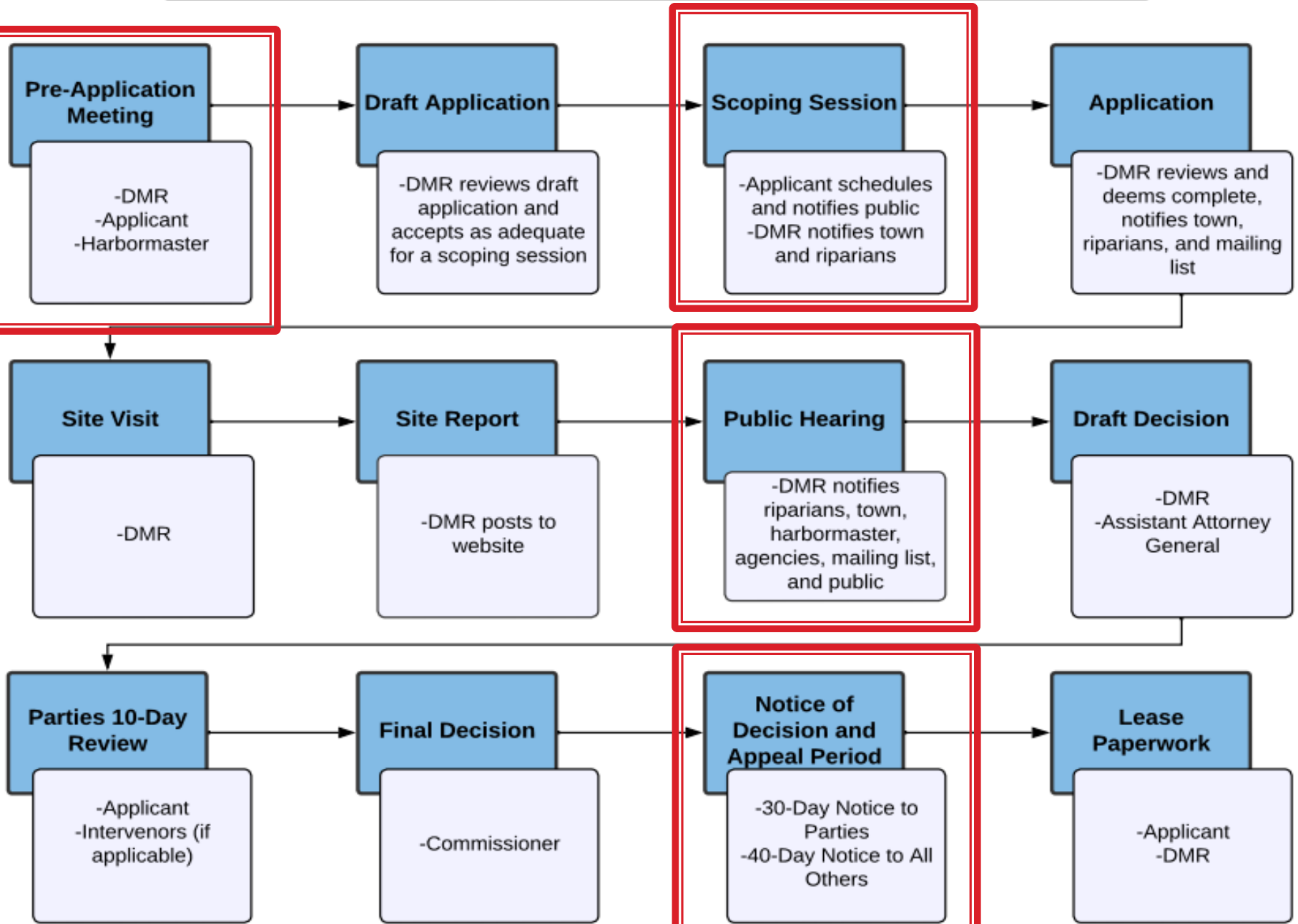
Standard Lease Decision Criteria

- Ingress and egress of riparian owners;
 - Navigation;
 - Fishing or other uses of the area;
 - Other aquaculture uses;
 - Ability of the site and surrounding areas to support ecologically significant flora and fauna; or
 - Public use or enjoyment within 1,000 feet of beaches, parks, or docks owned by local, state, or federal governments or **certain government-owned conserved land**;
 - Lease must not result in unreasonable impact from **noise** or **light** at the boundaries of the lease site, and it must comply with DMR rules to **minimize the visual impact** of the lease; and
 - The applicant must demonstrate that there is an available source of organisms to be cultured for the lease site.
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Maine DMR Standard Lease Application Process

12 MRS § 6072 and DMR Rules Chapter 2.07 and following sections



Summary of Municipal Review

Municipal Review Opportunity	LPAs	Experimental Lease	Standard Lease
Signature Required?	Yes	No	No
Comment Period?	Yes	Yes	No
Hearing?	No	Maybe	Yes
Harbormaster Questionnaire?	No	Yes	Yes
Pre app Meetings?	No	No	Yes

Additional permissions if site is above MLW and town has a shellfish conservation program

Effective Participation/Feedback

- ▶ The law provides opportunities for participation but is not prescriptive about format.
 - ▶ Speak to the criteria.
 - ▶ Be as detailed as possible.
 - ▶ Resources.
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