

Maine Seaweed Council

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Seaweed is the State's Resource and Seaweed Harvest is a Fishery

A position statement to be used as educational material, for public distribution.

Whereas:

Title 1, Chapter 1, Section 2 of the Maine Revised Statutes Annotated (M.R.S.A.) states "The jurisdiction and sovereignty of the State extend to all places within its boundaries¹"; and "The State of Maine declares that it owns and shall control the harvesting of the living resources of the seas adjoining the coastline for a distance of 200 miles or to the furthest edge of the Continental shelf, whichever is greater¹;

And Whereas:

The M.R.S.A. further states, "The ownership of the waters and submerged land enumerated or described (above) shall be in this State unless it shall be with respect to any given parcel or area, in any other person or entity by virtue of a valid and effective instrument of conveyance or by operation of law¹;

And Whereas:

The harvest ("take"²) of seaweed ("marine organism"²) is clearly defined by the M.R.S.A. as a fishery (to "fish, the verb"²), and as "the State's seaweed resource"⁴;

And Whereas:

The harvest of seaweed is an activity licensed^{3 4}, regulated^{6 7}, and enforced⁵ by the State of Maine Department of Marine Resources based on this definition²; and harvesters of seaweed are required to report fishery landings data to the Landings Program of the State of Maine Department of Marine Resources^{3 7};

And Whereas:

The United States Department of the Treasury Internal Revenue Tax Code defines gross income from fishing as "income from catching, taking, harvesting, cultivating, or farming any kind of fish, shellfish (for example, clams and mussels), crustaceans (for example, lobsters, crabs, and shrimp), sponges, seaweeds, or other aquatic forms of animal and vegetable life"⁸;

And Whereas:

The Maine Seaweed Council maintains that the public trust rights in intertidal lands include the right to use intertidal land for fishing, fowling and navigation⁹; and "the right to harvest non-alluvial seaweed within the intertidal zone is not held by the proprietor, but rather remains in the public's *jus publicum* rights"¹⁰.

And Whereas:

"The Maine Seaweed Council strives to protect and promote the sustainable use of macroalgae harvested from and grown in the coastal waters of the State of Maine; develop and maintain a united voice to address regulatory, legislative and public concerns affecting the seaweed industry; and to promote a spirit of cooperation among the membership"¹¹;

Therefore

The Maine Seaweed Council will make every effort to uphold and preserve the rights of the duly licensed public to harvest seaweed for commercial or other purposes.

Respectfully submitted: L. Hudson
MSC March, 2009

¹ Appendix A: [MRSA Title 1, Chapter 1, Sovereignty and Jurisdiction §1-§3](#) - Page 2

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⁷ Appendix G: [13-188 DEPART. OF MARINE RESOURCES Chapter 8: LANDINGS PROGRAM](#) (abridged Regulation) - Page 8

⁸ Appendix H: [Internal Revenue Service, Publication 505](#) - Page 10

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¹¹ [Mission Statement of the Maine Seaweed Council](#)

Appendix A

Title 1, CHAPTER 1, SOVERIEGNTY AND JURISDICTION

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication is current to the end of the 123rd legislature, which ended December, 2008, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

§1. Extent of sovereignty and jurisdiction

The jurisdiction and sovereignty of the State extend to all places within its boundaries, subject only to such rights of concurrent jurisdiction as are granted by the State over places ceded by the State to the United States. This section shall not limit or restrict the jurisdiction of the State over any person or with respect to any subject, within or without its boundaries, which jurisdiction is exercisable by reason of citizenship, residence or for any other reason recognize by law. [1985, c. 802, §1 (AMD) .]

SECTION HISTORY

1979, c. 512, §1 (AMD) . 1985, c. 802, §1 (AMD) .

<http://www.mainelegislature.org/legis/Statutes/1/title1sec1.html>

§2. Offshore waters and submerged land

The jurisdiction of this State shall extend to and over and be exercisable with respect to, waters offshore from the coasts of the State as follows:

1. Marginal sea. The marginal sea to its outermost limits as said limits may from time to time be defined or recognized by the United States of America by international treaty or otherwise.

2. High seas. The high seas to whatever extent jurisdiction therein may be claimed by the United States of America, or to whatever extent may be recognized by the usages and customs of international law or by any agreement, international or otherwise to which the United States of America or this Sate may be party;

3. 2-A.-harvesting. The State of Maine declares that it owns and shall control the harvesting of the living resources of the seas adjoining the coastline for a distance of 200 miles or to the furthest edge of the Continental Shelf, whichever is greater, subject only to the boundary with Canada. Control over the harvesting of these living resources shall be by licenses or permits issued by the Department of Marine Resources;

[1973, c. 525, (NEW) .]

SECTION HISTORY

1973, c. 513, §22 (AMD) . 1973, c. 525, (AMD) .

<http://www.mainelegislature.org/legis/Statutes/1/title1sec2.html>

§3. Ownership of offshore waters and submerged land

The ownership of the waters and submerged land enumerated or described in section 2 shall be in this State unless it shall be with respect to any given parcel or area, in any other person or entity by virtue of a valid and effective instrument of conveyance or by operation of law.

<http://www.mainelegislature.org/legis/Statutes/1/title1sec3.html>

Appendix B

Title 12, §6001, Definitions (abridged)

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§6001. Definitions

For the purposes of this Part, the following words shall have the following meanings, unless a different meaning is required by the context. [1977, c. 661, §5 (new).]

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16. Fish, the noun. The noun "fish" means all finfish, squid and shrimp, or other marine animal, except lobsters, crabs, shellfish, scallops and marine worms. [1977, c. 661, §5 (new).]

17. Fish, the verb. The verb "fish" means to take or attempt to take any marine organism by any method or means. [1977, c. 661, §5 (new).]

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21. Intertidal zone. "Intertidal zone" means the shores, flats or other land between high and low water mark. [1977, c. 661, §5 (new).]

22. License. "License" means a document issued by the State to a named person authorizing that person to engage in particular activities. License includes a permit, but does not include a certificate or lease. [1977, c. 661, §5 (new).]

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26. Marine organism. "Marine organism" means any animal, plant or other life that inhabits waters below head of tide. [1997, c. 123, §1 (amd).]

27. Marine resources. "Marine resources" means all renewable marine organisms and the entire ecology and habitat supporting those organisms. [1977, c. 661, §5 (new).]

28. Marine resources' laws. "Marine resources' laws" means chapter 419 and Part 9 or any other statute authorizing the commissioner or department to undertake any activity, and any regulation authorized by these statutes. [1977, c. 661, §5 (new).]

29. Marine species. "Marine species" means all marine animals except lobster, shellfish, marine worms and elvers. [1995, c. 536, Pt. A, §3 (amd); §13 (aff).]

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32. Permit. "Permit" means license. [1977, c. 661, §5 (new).]

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38-A. Seaweed. "Seaweed" means all marine algae. [1983, c. 116, §1 (new)]

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48. Take, the verb. The verb "take" means to remove or attempt to remove a marine organism from its natural habitat. [1977, c. 661, §5 (new).]

<http://www.mainelegislature.org/legis/Statutes/12/title12sec6001.html>

Appendix C

Title 12, §6807, Seaweed harvesting rules

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§6807. Seaweed harvesting rules (REALLOCATED FROM TITLE 12, SECTION 6805)

The commissioner may adopt rules regulating the harvest of seaweed on a species-specific basis, including, but not limited to, the total number of licenses that may be issued, the designation of a harvesting season or seasons, the quantity of the resource that may be harvested in a season, areas that may be open or closed to harvest and gear and techniques that may be used in harvesting. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [RR 1999, c. 1, §19 (ral).]

<http://www.mainelegislature.org/legis/Statutes/12/title12sec6807.html>

Appendix D

Title 12, §6803, Seaweed Permit

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication is current to the end of the 123rd Legislature, which ended December, 2008, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

§6803. Seaweed permit

1. Permit required. Except as provided in subsections 1-A and 2, a person may not harvest, possess, ship, transport or sell seaweed without a current: [2003, c. 452, Pt. F, §23 (amd); Pt. X, §2 (aff).]

A. Resident seaweed permit; or

[2003, c. 452, Pt. F, §23 (new); Pt. X, §2 (aff).]

B. Nonresident seaweed permit.

[2003, c. 452, Pt. F, §23 (new); Pt. X, §2 (aff).]

1-A. Supplemental permit. An employee or immediate relation of a seaweed permit holder may harvest, possess or transport seaweed for commercial purposes with a current: [2003, c. 452, Pt. F, §24 (new); Pt. X, §2 (aff).]

A. Resident supplemental seaweed permit; or

[2003, c. 452, Pt. F, §24 (new); Pt. X, §2 (aff).]

B. Nonresident supplemental seaweed permit.

[2003, c. 452, Pt. F, §24 (new); Pt. X, §2 (aff).]

2. Exceptions. The following are not required to have a permit: [2001, c. 421, Pt. B, §50 (amd); Pt. C, §1 (aff).]

A. The holder of a current marine worm dealer's license;

[1989, c. 523, §2 (new).]

B. The holder of a current wholesale seafood license;

[1989, c. 523, §2 (new).]

C. A person who harvests, possesses, ships or transports no more than 50 pounds of seaweed a day for noncommercial purposes;

[2001, c. 421, Pt. B, §50 (amd); Pt. C, §1 (aff).]

D. Charitable or municipal organizations that harvest, possess, ship or transport seaweed for noncommercial use by that organization; or

[1989, c. 523, §2 (new).]

E. Anyone harvesting, possessing, shipping, transporting or selling seaweed that has detached naturally and is dead.

[2001, c. 421, Pt. B, §50 (amd); Pt. C, §1 (aff).]

3. Fees. The fee schedule for seaweed permits is as follows: [1999, c. 501, §2 (amd).]

A. Fifty dollars for a resident seaweed permit;

[1999, c. 501, §2 (amd).]

B. Two hundred dollars for a nonresident seaweed permit;

[1999, c. 501, §2 (amd).]

C. Twenty-five dollars for a resident supplemental seaweed permit; and

[1999, c. 501, §2 (amd).]

D. Fifty dollars for a nonresident supplemental seaweed permit.

[1999, c. 501, §2 (amd).]

4. Disposition of fees. All fees collected under this section accrue to the Seaweed Management Fund established in section 6806. [RR 1999, c. 1, §17 (cor).]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged. [2001, c. 421, Pt. B, §50 (new); Pt. C, §1 (aff).]

<http://www.mainelegislature.org/legis/Statutes/12/title12sec6803.html>

Appendix E

Title 12, §6806, Seaweed Management Fund

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§6806. Seaweed Management Fund (REALLOCATED FROM TITLE 12, SECTION 6804)

1. Fund established. The Seaweed Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund. [RR 1999, c. 1, §18 (ral).]

2. Permissible uses. The commissioner shall use the fund in accordance with a plan required under subsection 3 to research and manage the State's seaweed resources and to enforce the laws and rules related to seaweed. [RR 1999, c. 1, §18 (ral).]

3. Plan required. Beginning in calendar year 2000, the commissioner shall by May 1st of each year present a plan for expenditures from the fund for the next fiscal year to the joint standing committee of the Legislature having jurisdiction over marine resource matters. When developing the plan, the commissioner shall consult with harvesters and seaweed dealers. [RR 1999, c. 1, §18 (ral).]

<http://www.mainelegislature.org/legis/Statutes/12/title12sec6806.html>

Appendix F
13-188 DEPART. OF MARINE RESOURCES
Chapter 29: SEAWEED (abridged Regulation)

13-188 DEPARTMENT OF MARINE RESOURCES

Chapter 29: SEAWEED

29.01 Definitions.

- A. Lateral branching.
“Lateral branches” are branches that fork from the stalk or main axis of the seaweed.
- B. Holdfast.
The “holdfast” is the base of the seaweed plant that attaches the seaweed to the substrate.

29.05 Harvesting Restrictions for Rockweed.

- A. The seaweed *Ascophyllum nodosum*, also known as rockweed, must be harvested according to the following criteria:
 - (1) the lowest lateral branches shall remain undisturbed and attached to the main stalk of the rockweed that is attached to the substrate; and
 - (2) a minimum of 16 inches of the rockweed shall remain above the holdfast.

29.10 Reporting of Seaweed Harvesting: See Chapter 8.20(C) Landings Program

STATUTORY AUTHORITY: 12 MRSA §§6803, 6807, 6171

EFFECTIVE DATE:

October 22, 2000

NON-SUBSTANTIVE CORRECTIONS:

February 14, 2001 - punctuation of statutory references

AMENDED:

December 17, 2003 - filing 2003-467

<http://www.maine.gov/sos/cec/rules/13/chaps13.htm>

Appendix G
13-188 DEPART. OF MARINE RESOURCES
Chapter 8: LANDINGS PROGRAM (abridged Regulation)

13-188 DEPARTMENT OF MARINE RESOURCES

Chapter 8: LANDINGS PROGRAM

8.01 Definitions

- A. Except as modified, the definitions contained in 12 M.R.S.A. §6001 shall apply to this Chapter, in addition to the following;
1. .
 2. “Harvester” means a licensed person who removes marine organisms (plants or animals) from the marine environment for personal or commercial use.
 3. .
 4. “Catch” means all species removed from the marine environment by a licensed harvester.
 5. “Landing” means all harvested marine specie(s), in numbers or amounts, brought to shore and retained at the end of a trip.
 6. .

8.02 Compliance

Dealers and harvesters must comply with reporting requirements in this Chapter. Data collected pursuant to this Chapter is subject to the confidentiality provisions of 12 M.R.S.A. §6173 and DMR regulations Chapter 5. Failure to comply with these reporting requirements may result in the denial for renewal of a license or permit in accordance with 12 M.R.S.A. §6173(2). All data and reports shall be submitted to the Department of Marine Resource’s Landing Program unless specifically noted otherwise. See contact information in Chapter 8.01(6) above unless specifically noted otherwise. All data and reports shall be submitted to the Department by the 10th day of the following month; for example, reports for the month of January must be submitted by the dealer or harvester in time for the report to arrive at the Department by February 10th, unless otherwise noted.

8.20 Harvester Reporting

C. Seaweed (previously Chapter 29.10)

Each seaweed harvester required to be licensed under 12 M.R.S.A. §6803 must report harvesting activity for all seaweed species on forms supplied by the Department. Records must be kept on a daily basis, and the report must be mailed to the Department monthly. Reports for each month’s activity shall be mailed to the Department within 10 days of the end of the month. The report must include the following information for each day that harvesting occurs:

1. Name, permit number and phone number of licensed harvester;
2. Date(s) harvested;
3. Harvest area (bay, cove, river, ledge and or island);
4. County and town (use town codes provided, per instructions);
5. Harvesting methods (hand, knife, rake, mechanical, diver);
6. Total harvest time (number of hours);
7. Seaweed species; and
8. Pounds landed (wet).

STATUTORY AUTHORITY: 12 M.R.S.A. §6171, §6173

EFFECTIVE DATE:

December 17, 2003 - filing 2003-467

AMENDED:

December 17, 2003 - Section 8.05, filing 2003-468

December 17, 2003 - Section 8.10(B), filing 2003-469

<http://www.maine.gov/sos/cec/rules/13/chaps13.htm>

Appendix H
United States Department of the Treasury
INTERNAL REVENUE SERVICE

Publication 505 (2/2008), Tax Withholding and Estimated Tax

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Gross income from fishing. This is income from catching, taking, harvesting, cultivating, or farming any kind of fish, shellfish (for example, clams and mussels), crustaceans (for example, lobsters, crabs, and shrimp), sponges, seaweeds, or other aquatic forms of animal and vegetable life.

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<http://www.irs.gov/publications/p505/ch02.html#d0e6140>

Appendix I

Title 12, §573, Public trust rights in intertidal land

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§573. Public trust rights in intertidal land

1. Public trust rights. The public trust rights in intertidal land include the following:

A. The right to use intertidal land for fishing, fowling and navigation;

[1985, c. 782 (new).]

B. The right to use intertidal land for recreation; and

[1985, c. 782 (new).]

C. Any other trust rights to use intertidal land recognized by the Maine common law and not specifically abrogated by statute.

[1985, c. 782 (new).] [1985, c. 782 (new).]

2. Limitations. The rights described in subsection 1 do not include:

A. The removal from the intertidal land of any sand, soil, rocks or other minerals;

[1985, c. 782 (new).]

B. Interference with any structure, development or improvement erected or maintained on intertidal land in accordance with the laws of this State;

[1985, c. 782 (new).]

C. The depositing of any refuse or waste on intertidal land or in the water covering intertidal land; or

[1985, c. 782 (new).]

D. Use or operation of motorized vehicles other than navigable watercraft, unless specifically authorized by state law or municipal ordinance.

[1985, c. 782 (new).] [1985, c. 782 (new).]

3. Police powers. Municipalities shall have jurisdiction to exercise their police powers to control public use of intertidal land, except where such exercise is superseded by any state law. [1985, c. 782 (new).]

4. Other public rights. This chapter does not affect public rights in intertidal land arising from custom, prescription, implied dedication, acquiescence or any other source. This chapter does not affect public rights in dry sand areas upland from intertidal land arising from custom, prescription, implied dedication, acquiescence, the public trust doctrine or any other source.

[1985, c. 782 (new).]

PL 1985, Ch. 782, § (NEW).

<http://www.mainelegislature.org/legis/Statutes/12/title12sec573.html>