

Off-Bottom Macroalgae Culture Permit

Application Instructions



Department of
Environmental
Conservation

The culture of marine plant and animal life in any tidal waters of New York requires a permit or license from the New York State Department of Environmental Conservation (DEC) pursuant to [state law](#) and [regulation](#), whether for commercial or non-commercial purposes. Commercial-scale cultivation of **macroalgae** such as sugar kelp (*Saccharina latissima*), gracilaria (*Gracilaria tikvahiae*), and other native macroalgal species has the potential to diversify and strengthen New York's mariculture industry while improving water quality through bioextraction, which is the removal of excess nutrients such as nitrogen from coastal waters through cultivation and harvest of macroalgae.

Research institutions, environmental protection organizations, municipalities, or commercial shellfish farm operators that plan to cultivate native sugar kelp or other native species of macroalgae in tidal waters of the State in 2022 and beyond **must hold an Off-Bottom Macroalgae Culture Permit**. Commercial shellfish farm operators, municipalities or research institutions already holding an Off-Bottom Culture (OBC) permit that wish to cultivate sugar kelp/macroalgae are required to amend their existing permit. All others (organizations, businesses, or individual) are required to obtain a new permit.

IMPORTANT: Before applying, you must have secured, or be in the process of obtaining, the appropriate written authorization (lease agreement, license, letter of permission) to access the underwater land parcel on and above which your proposed macroalgae cultivation operation will be sited from the local government (County, Town), state agency or other person or entity having title or legal control of the parcel, or be able to demonstrate personal title or legal control.

Permitting Organizations

In addition to DEC's OBC permit, macroalgae cultivation may require additional permits or approvals from the following federal and state agencies ([links to agency web pages and applications/instructions provided](#)):

✓ [US Department of the Army Corps of Engineers, New York District](#)

- [Joint Application for Permit](#) – Joint Application Form August 2016 with [Instructions](#)
- [Environmental Questionnaire](#)
- Project Drawings ([Sample](#), see page 3)
- [FCAF](#) – Federal Consistency Assessment Form, to be used for projects that will occur within and/or directly affect the New York State Coastal Area
- USACE's [Nationwide General Permit Program](#) includes Nationwide Permit #55 - Seaweed Mariculture Activities, effective March 15, 2021.

✓ [United States Coast Guard Private Aids to Navigation \(PATON\) Permits](#)

- [USCG PATON permit application](#) with [Instructions](#)
- PATON permit applications for nautical aids used to mark the boundaries of a mariculture site, and/or the location of cultivation gear or lines that may be floating, suspended in the water column, or resting on the bottom, are completed and submitted electronically (*registration required*)

Additional resources: [USCG Auxiliary First District Northern Navigation Systems](#)

Federal regulations concerning private aids to navigation: [33 CFR 66.01 – Aids to Navigation Other Than Federal or State](#)

✓ [New York State Department of State, Office of Planning & Development](#)

- [FCAF](#) – Federal Consistency Assessment Form, to be used for projects that will occur within and/or directly affect the New York State Coastal Area
- ****Please Note**** The Federal Consistency Assessment Form (FCAF) is accessible from both the USACE NY District and NYSDOS websites. The NYSDOS website also has a list of Consistency Review Resources that may be helpful in completing the FCAF.

✓ [New York State Environmental Quality Review Act \(SEQR\) Forms](#)

- [SEAF Part 1](#)
- Projects or activities requiring review and approval through permit issuance by a state or local agency are subject to review under the SEQR Act. This includes mariculture operations, which are typically classified as 'Unlisted' actions. To comply with SEQR, the applicant must complete **Part 1 of the Short Environmental Assessment Form (SEAF)** and submit it along with all other required applications.

For questions about these instructions and permit application, contact us:

- **Phone:** (631) 444-0489 **Mail:** NYSDEC Division of Marine Resources, Shellfish Management Unit
Email: fw.marine@dec.ny.gov 123 Kings Park Blvd., Kings Park, NY 11754

Supplementary Information & Cultivation/Operational Plan Requirements

In addition to completing the Off-Bottom Culture permit application form (2 pages), the applicant is required to submit the following **supplementary information** (as applicable) and a **Cultivation/Operational Plan** for the application to be considered complete.

- A. A copy of the written authorization (e.g., lease agreement, license, letter of permission) to access the underwater land parcel on and above which your proposed culture operation will be sited** from the local government (County, Town), state agency or other person or entity having title or legal control of the parcel. If title or legal control is other than local government or state agency, then a copy of the deed or other legal documentation verifying this private ownership is required, whether you as applicant are the owner or are obtaining access from the owner (e.g., lessee). If final authorization is contingent on you first securing permits from involved agencies, then a letter or notice of intent to lease, license or grant access to the parcel from the entity having title or legal control is required.

At a minimum, the written authorization to access the underwater land parcel, or letter/notice of intent to lease/license/grant access should identify:

1. local government (County, Town), state agency or other person or entity having title or legal control of parcel
 2. you as applicant (or as representative of business entity that is the applicant)
 3. location of parcel (waterbody and lat/long coordinates of boundaries)
 4. authorized activity (e.g., establish a macroalgae farm)
 5. term of the authorization (duration of lease, license, etc.)
 6. dated signatures of all parties
- B. Aerial-view site map** (e.g., navigational chart, GIS imagery) **or survey** showing the specific location of the culture operation relative to the shoreline, with boundaries of the underwater land parcel involved clearly delineated, and corner/center points labeled in latitude/longitude coordinates formatted to decimal degrees given to the nearest 00.000000 degree (e.g., 41.070956° N, -71.856822° W), distances between boundaries labeled in feet, and shortest distance from shoreline labeled in feet or miles.
- C. Four (4) site photos** taken from the approximate center of the underwater land parcel facing north, south, east, west and labeled accordingly to give a visual representation of the parcel's location relative to shoreline features/landmarks.
- D. Nautical aids to navigation specifications** for the buoys or other markers that will be established and maintained to delineate the boundaries of the underwater land parcel used for the culture operation. (*Establishing and maintaining buoys or other markers to delineate parcel boundaries is a standard condition of Off-Bottom Culture permits. USCG Private Aid to Navigation (PATON) permitting requirements may apply depending on buoy/marker specifications and/or access program requirements. Nautical aids to navigation used for aquaculture farms are considered "special purpose" by USCG and must be colored Yellow. Refer to the USCG section on page 1 of these instructions for more information*).
- E. Vessel information** for any vessel(s) that will be involved with the culture operation, including make, length, registration number, and docking location.
- F. Cultivation/Operational Plan** that includes all species listed in the application. The written plan should include the following sections for each species:
1. Source of species to be cultured (e.g., identify facility, address, representative)
Please note Importation of macroalgae for introduction into New York waters requires a separate importation permit from this office once an off-bottom culture permit has been issued.
 2. Description of a typical production cycle for each species from deployment through harvest.
 3. Description of onsite (and offsite if applicable) husbandry practices for each species, including time of year, methods, frequency and gear/equipment used (e.g., describe any cleaning/fouling removal, pre-harvest preparation activities, etc.). If husbandry practices will involve the services of a person or business other than applicant, identify.

4. Description of harvesting activities for each species, including methods and gear/equipment used.
5. **Off-Bottom Culture Gear** detailed descriptions and specifications for:
 - a. **each off-bottom culture gear type** to be used for cultivation, including manufacturer (if applicable), dimensions (length x width x height in feet or inches), fabrication materials, and a representative photo or drawing of each gear type with dimensions labeled if possible
 - b. **gear and equipment used for deploying, anchoring, and marking** each off-bottom culture gear type to be used for cultivation (e.g., rope lines, fasteners, anchoring systems, and marker buoys)

(drawings should be neat and legible; descriptions/specifications, and images/drawings sourced from gear/equipment manufacturer's website or literature are acceptable)]
6. **Deployment System & Gear Quantities** Description of the deployment system used for each off-bottom culture gear type including anchoring, buoying, and marking of the gear (as applicable) on the underwater land parcel, including **the total quantity (units) of that gear type to be deployed**. For culture gear deployed on rope lines, include: (1) length of lines in feet; (2) number of units of gear per line and spacing between units in feet; (3) total number of lines and spacing between lines in feet. If gear deployment will occur in phases over time, describe these phases (e.g., describe the total quantities of off-bottom culture gear and associated, lines, anchors, buoys/markers anticipated in the first year of operations and an estimate of what these quantities scale up to at full capacity usage of the underwater land parcel). Also describe any seasonal variation in gear deployment, such as removal of gear (or submerging floating gear) during the winter months.
7. **Representative Drawings of Off-Bottom Culture Gear & Deployment Systems as Deployed On-Site** Include drawings depicting each off-bottom culture gear type and associated deployment system (anchoring, buoying, and marking systems, as applicable) as they would appear deployed on-site in both a **plan (aerial) view** and a **cross-sectional view**, using a separate 8.5" x 11" sheet to illustrate each view. Drawings should be neat, legible and provide enough detail that your gear deployment strategy is clearly understood.
 - a. **Plan view drawing** should indicate direction with a north arrow label and depict how the gear and associated systems will be arrayed spatially across the site. A representative measurement of the distance between gear, or lines of gear, should be labeled in feet. If the applicant proposes to divide the underwater land parcel into various sub-parcels to accommodate different macroalgae species and/or cultivation methods, and/or other mariculture activities like shellfish farming, these should be identified on the drawing with their approximate area in acres or square feet, and boundary coordinates in decimal degrees format labeled. Any proposed sub-parcels and their use should be adequately described in the applicant's Cultivation/Operational Plan.
 - b. **Cross-sectional view drawing** should indicate mean low (MLW) and mean high water (MHW) depth in feet throughout the site and (1) above any off-bottom culture gear that will be resting directly on the bay-bottom; (2) above and below any gear suspended in the water column; (3) below gear floating at the surface, as well as height of floating gear above the surface.
8. **Purpose of the Cultivation Activity** whether commercial, non-commercial or both. What are the intended uses of the harvested product (e.g., food, compost, research)? If there is a research component to the activity, identify all institutions and persons involved and what data are being collected. If the activity is associated with a proposed or funded research project or grant, provide a copy of the proposal, scope of work and any other relevant documentation.

Submission Instructions

Once you have completed, signed, and dated all agencies' application forms and produced all required supplementary information and your Cultivation/Operational Plan, you are ready to assemble your final, multi-agency application and submit it to each agency according to their instructions.

You should prepare four copies (hard or electronic as applicable) of the final application:

- 1) NYSDEC Shellfish Management Unit
- 2) USACE NY District
- 3) NYSDOS Office of Planning & Development
- 4) **One to retain for your own reference and records**

You do NOT need to submit a copy of your final application to USCG as part of the PATON permit application process, if applicable. Refer to the USCG section of these instructions on page 1 for PATON permit application information.

Before Submitting, Please Note:

- **The identity of the applicant, whether an individual, business entity, or other organization must be consistent on all agencies' applications**, associated supplementary information, the Cultivation/Operational Plan AND the lease agreement, license, letter of permission, title, etc., establishing an off-bottom culture operation (e.g., if access to a parcel of underwater land is granted to you as an individual, your name should appear as applicant consistently on all documentation).
- Any applicant that is a business entity (e.g., limited liability company, corporation, d/b/a) will be required to demonstrate "active" status in good standing prior to issuance of an off-bottom culture permit.
- Once submitted, your application, associated supplementary information and Cultivation/Operational Plan are subject to requests for public access to records under [New York State Freedom of Information Law \(FOIL\)](#). If you believe that your application contains proprietary information, then those portions of the application should be clearly marked to be easily identified as such.

Submit Copies of the Final Application To:

(Excerpted from each agency's instructions with updates where necessary)

1. NYSDEC Shellfish Management

Send one hard copy to:

NYSDEC Division of Marine Resources
Shellfish Management Unit
123 Kings Park Blvd.
Kings Park, New York 11754

Email an electronic copy (pdf) to:

fw.marine@dec.ny.gov

2. USACE NY District

Send one hard copy to:

US Army Corps of Engineers
New York District
ATTN: Regulatory Branch, Room 1937
26 Federal Plaza
New York, NY 10278-0090

Phone: (917) 790-8511

Email an electronic copy to:

CENAN-R-Permit-App@usace.army.mil

REGULATORY AND PERMITS COVID-19 CHANGES:

Effective immediately the New York district regulatory branch will only be accepting permit applications electronically through the following email address: CENAN-R-Permit-App@usace.army.mil. For specific details on this new process please read the Special Public Notice titled "REGULATORY OPERATIONS IN RESPONSE TO COVID-19 AND REQUEST FOR ELECTRONIC APPLICATION SUBMITTAL" within the Announcements page of our Regulatory page at: <https://www.nan.usace.army.mil/Missions/Regulatory/Non-Project-Specific-Special-Public-Notices/>

3. NYSDOS Office of Planning & Development

Phone: (518) 474-6000

Send one hard copy to:

New York State Department of State Office of Planning and Development
Attn: Consistency Review Unit
One Commerce Plaza – Suite 1010
99 Washington Avenue
Albany, New York 12231



OFFICE USE ONLY

Date Issued _____
Permit Year _____
Approval By _____

Off-Bottom Macroalgae Culture Permit Application

FOR QUESTIONS ABOUT THIS APPLICATION, CONTACT US:

Phone: (631) 444-0489

Email: fw.marine@dec.ny.gov

Mail: NYSDEC Division of Marine Resources, Shellfish Management Unit
123 Kings Park Blvd., Kings Park, NY 11754

APPLICANT INFORMATION (Individual or representative if applicant is a business)

First Name:	MI:	Last Name:
Business Name (if applicable):		

Address (home or physical address):		Business Address (if different or mailing address):
Home Phone Number:	Cell Phone Number:	Email Address:

CULTURE ACTIVITY

Indicate All Species to be Cultured:

<input type="radio"/> Sugar kelp (<i>Saccharina latissima</i>)	<input type="radio"/> Gracilaria (<i>Gracilaria tikvahiae</i>)
<input type="radio"/> Other (identify common name & species name): _____	

Location of Culture Activities: Identify waterbody, latitude/longitude coordinates defining boundaries of underwater lands to be used for proposed culture activities in decimal degrees (e.g., 41.071414° N, 71.856297° W), total area and water depth range.

Waterbody:	Coordinates:
Total Area of Culture Operation (Acres or Sq Feet)	Water Depth Range (average high- and low-tide, feet/inches):

Applicant's authorization to access and use underwater lands and overlying water column for proposed culture activities is based upon: (check one)

<input type="radio"/> Applicant's ownership or other direct ownership	<input type="radio"/> Town Lease/License Name of Town: _____ License/Parcel ID #: _____
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If applicant's ownership or other direct ownership, documentation of ownership is required: (check one)

<input type="radio"/> Copy of Title or Deed Enclosed	<input type="radio"/> Copy is on file with NYSDEC
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If other than applicant's direct ownership, identify the type of agreement that exists between applicant and the owner of the underwater lands:

<input type="radio"/> Lease Agreement	<input type="radio"/> Letter of Permission	<input type="radio"/> Other
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Name of Party Agreement is With:	
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The applicant understands and agrees to the following:

1. The Department of Environmental Conservation reserves the right to require a valid copy of any involved title documents, leases, grants, or other agreements involved with underwater land control, as herein specified or claimed, prior to the issuance of an Off-Bottom Culture Permit. The issuance of such Permit shall be contingent upon and subject to the existence and continuation of land-owner approval, including that of the New York State Office of General Services, where applicable.
2. Approval of the United States Department of the Army Corps of Engineers (USACE) and the United States Coast Guard (USCG) is required for all Off-Bottom Culture structures and applicable navigational aids placed in the navigable waters of the Marine and Coastal District. The validity of any Off-Bottom Culture Permit issued in connection with this application shall be contingent upon the applicant's continued possession of valid USACE and USCG permits issued in connection with the activities herein described. The revocation, suspension or absence of these Federal permits, or of any other State or Federal permits required in connection with the Off-Bottom Culture activities herein described, shall render any Off-Bottom Culture Permit issued in connection with this application null and void.

NO PERMIT FEE REQUIRED AT THIS TIME.

Allow up to 30 days for review of your application. If your application is complete, you will receive a notice of complete application by mail and/or email with further guidance on the remaining steps for issuance, including fee payment and additional NYSDEC permits that may be required for your culture operation. If your application is incomplete, you will receive a notice of incomplete application by mail and/or email with further instructions on how to complete your application.

Please sign below and mail this application and supplementary documents to:

NYSDEC Division of Marine Resources
Shellfish Management Unit
123 Kings Park Blvd., Kings Park, NY 11754

Applicant's Signature Title Date

Application Checklist

Preparation	
Application Forms	<ul style="list-style-type: none"> • NYSDEC Off-Bottom Culture permit application • USACE/NY State Agency Joint permit application & Environmental Questionnaire • USCG PATON permit application (<i>online</i>) • NYSDOS FCAF • SEQR SEAF Part 1
Supplementary Information & Cultivation/Operational Plan	<ul style="list-style-type: none"> • Access authorization • Aerial-view site map/survey • Site photos (4) • Navigational aid specs • Vessel information • Cultivation/Operational Plan <ul style="list-style-type: none"> – Species source(s) – Descriptions of (<i>for each species</i>): <ul style="list-style-type: none"> ▪ Production cycles ▪ Husbandry practices ▪ Harvest activities – Descriptions, specs, photos, drawings of: – Off-bottom culture gear – Gear/equipment for deploying, anchoring, marking – Deployment systems & gear quantities – Drawings of gear/deployment systems on-site <ul style="list-style-type: none"> ▪ Plan view ▪ Cross-sectional view – Purpose (commercial/non-commercial)
Submission	
1. New York State Department of Environmental Conservation (NYSDEC) Shellfish Management Unit	
2. US Army Corps of Engineers New York District (USACE)	
3. New York State Department of State Office of Planning and Development (NYSDOS)	