

# PERFORMANCE AUDIT

## Report Highlights



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## Aquatic Land Lease Rates: Assessing process consistency

DNR manages state-owned aquatic lands, which include tidelands, shorelands, harbor areas and beds of navigable waters. Washingtonians rely on these aquatic lands for food, commercial enterprises, recreation and environmental benefits. State law directs DNR to “strive to provide a balance” of four fundamental public benefits: Encouraging public use and access; Fostering uses for the land that can only take place on the water; Ensuring environmental protection; Using renewable resources. Generating revenue is also considered a benefit whenever doing so is consistent with the four core benefits.

One aspect of DNR’s management responsibilities is to administer leases that allow private and public organizations to use state aquatic lands. These leases generated about \$13.6 million in revenue in 2022. Aquatic land leases include those for water-dependent uses, such as marinas, and aquaculture, such as oyster farming. The method for setting the lease rate differs depending on the use. Rates are one part of a larger leasing process for DNR, which includes other factors such as environmental protection. This audit examined whether the process for determining lease rates for state-owned aquatic lands contributed to fairness for leaseholders and the state by being consistent across similar lease types. It focused on water-dependent and aquaculture leases because they are favored uses in state law.

### **Water-dependent leases: DNR’s process supports consistency in rates, but limited documentation hinders its ability to demonstrate this**

Leases for marinas, docks, piers and other water-dependent uses comprise around 80 percent of all DNR-managed leases. A formula set out in statute that relies on the value of neighboring “upland” parcels determines the rates for these leases. The resulting standardized, formula-driven process for setting water-dependent rates has both disadvantages and benefits. The process is more transparent and reduces administrative burdens, but is less flexible than, for example, case-by-case negotiations.

We identified multiple elements of DNR’s process targeted at setting rates consistently, including templates, policies and procedures, as well as lease reviews. However, selecting the appropriate upland parcel for use in the rent formula introduces complexity to the process. DNR lacked documentation to reliably demonstrate it followed a consistent process for selecting upland parcels for some leases we reviewed, which can make it difficult for agency staff to understand earlier decisions as they determine future rates.

## Aquaculture leases: DNR uses a negotiation process which means rates can vary; written guidance could foster long-term consistency

Leases for oyster, clam and other types of aquaculture make up less than 10 percent of all leases and about 5 percent of lease revenue. Negotiating aquaculture lease rates, as allowed by law, can offer DNR flexibility but at the price of greater consistency. State law directs DNR to set rates through competitive bidding or negotiation; it does not hold DNR to any specific requirements to ensure lease rates are consistent for similar properties and uses. DNR considers many broad factors when determining an aquaculture lease rate, including the specific industry, location, and other benefits to the state such as protecting native vegetation. DNR had a standardized process for more than half of aquaculture leases, comprising mussels and Pacific Coast oysters. DNR sets the remainder of aquaculture lease rates individually, which can vary as do the unique circumstances of each lease. DNR relies on institutional knowledge to foster consistency for these leases, but we could not assess its success due to limited documentation. Written guidance would help DNR foster consistency in aquaculture lease rate determinations.

## Better documentation and data would help DNR reduce the risk of inconsistent lease rates

DNR's lease files sometimes lacked essential or helpful elements describing lease rate determinations, such as alternative parcel selection explanations for water-dependent leases or rent calculation spreadsheets for aquaculture leases. Documenting how lease rates were determined more completely could help DNR employees access information about current and historical leases easily and reliably, to help ensure they determine rates in a manner consistent with other similar leases. DNR's data system was missing key fields the agency would need to assess consistency; other information, such as lease size, was present in the data but unreliable. While some of this information may have been present in individual lease files, having all necessary information in a centralized data management system would help DNR better assess rate consistency. It would help agency staff draw on historical information as they determine future rates and allow managers to monitor and analyze data consistency.

## State Auditor's Conclusions

One of the most important services a performance audit can provide is bringing transparency to areas where different interests are unsure of the facts. Members of the Legislature requested a performance audit to clarify how the Department of Natural Resources (DNR) develops and sets rates for leases of public aquatic lands in two areas: water-dependent activities (such as marinas) and aquaculture (such as oyster farming). We identified several elements of DNR's process aimed at setting aquatic land leases rates consistently. However, the agency could not easily demonstrate it followed a consistent process for all water-dependent and aquaculture leases. This was true in certain instances regarding the selection of alternative upland parcels when calculating the value of water-dependent leases, and in some aquaculture leases for which staff relied on institutional knowledge and only limited documentation. Although there was insufficient documentation and data to fully determine whether current rates are set consistently, that itself is an important finding. DNR can enhance its processes to foster and demonstrate consistency in its leases by more completely documenting how it determines lease rates and by improving its data. Our report includes recommendations to do just that.

## Recommendations

We made a series of recommendations to DNR to better foster consistency in the rate-determining process for both water-dependent and aquaculture lease types. They seek to reduce the risk of future inconsistent lease rates in the long term through implementing standard, consistent documentation as well as complete, reliable data for both lease types. We also addressed improving the aquaculture rate-determination process.