

Aquaculture Activities Regulations (SOR (Statutory Orders and Regulations)/2015-177)

Regulations are current to 2024-05-01

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FISHERIES ACT

Registration 2015-06-29

Aquaculture Activities Regulations

Whereas the Governor in Council has made the *Regulations Establishing Conditions for Making Regulations under Subsection 36(5.2) of the Fisheries Act*^a under subsection 36(5.1)^b of the *Fisheries Act*^c;

^aSOR/2014-91^bS.C. 2012, c. 19, s. 143(2)^cR.S., c. F-14

And whereas the conditions established in those Regulations for the exercise of the regulation-making power of the Minister of Fisheries and Oceans under subsection 36(5.2)^b of that Act have been met;

Therefore, the Minister of Fisheries and Oceans, pursuant to subsections 35(3)^d and 36(5.2)^b of the *Fisheries Act*^c, makes the annexed *Aquaculture Activities Regulations*.

^dS.C. 2012, c. 19, s. 142(4)

Ottawa, June 26, 2015

GAIL SHEA
Minister of Fisheries and Oceans

Interpretation

Definitions

1 The following definitions apply in these Regulations.

Act means the *Fisheries Act*. (*Loi*)

aquaculture means the cultivation of fish. (*aquaculture*)

aquaculture licence means any of the following:

- (a) a lease or licence issued or granted by the Minister under section 7 or 58 of the Act, or its regulations, for the purpose of aquaculture;
- (b) a lease granted by the government of a province under subsection 59(1) of the Act for the cultivation of oysters;
- (c) a provincial licence or authorization for the operation of an aquaculture facility. (*permis d'aquaculture*)

barren substrate means benthic substrate on which there are no visible organisms. (*substrat stérile*)

biochemical oxygen demanding matter means any organic matter that contributes to the consumption of oxygen that is dissolved in water or sediment. (*matière exerçant une demande biochimique en oxygène*)

Monitoring Standard means the *Aquaculture Monitoring Standard*, as amended from time to time, that is produced by the Minister and maintained on the Department of Fisheries and Oceans website. (*Norme*)

soft bottom means a benthic substrate that consists of loose particles such as clay, mud, marl, sand, pebbles, gravel, shells or small stones. (*fond meuble*)

Deleterious Substances

Specified substances

2 For the purpose of paragraph 36(4)(c) of the Act, the following classes of substances deposited in the operation of an aquaculture facility are specified to be deleterious substances:

- (a) drugs whose sale is permitted or otherwise authorized, or whose importation is not prohibited, under the *Food and Drugs Act*;
- (b) pest control products that are registered, or whose use is authorized, under the *Pest Control Products Act*; and
- (c) biochemical oxygen demanding matter.

Deposit

Conditions applicable to deposits

3 An owner or operator of an aquaculture facility may, subject to the conditions set out in sections 4 to 14, deposit a deleterious substance specified in section 2 in any water or place referred to in subsection 36(3) of the Act.

Conditions

Aquaculture facility

4 The deleterious substance must be deposited in the operation of the aquaculture facility and the facility must be operated under an aquaculture licence.

Drugs

5 In the case of a deposit of a drug,

- (a) if by or under an Act of Parliament the drug may only be sold under a prescription, it must be prescribed by a person who is duly authorized to practise veterinary medicine
 - (i) under the laws of the province in which the aquaculture facility is located, or
 - (ii) under the laws of any province, if the aquaculture facility is not located in a province;
- (b) the owner or operator of the facility must take measures to minimize the risk of an accidental deposit of the drug; and
- (c) if the drug is deposited to control a pest as defined in the *Pest Control Products Act*, the owner or operator must consider, before depositing the drug, whether there are alternatives to the deposit of that drug and make a record of that consideration.

Pest control products

6 In the case of a deposit of a pest control product,

- (a) if the pest control product is registered, the owner or operator of the aquaculture facility must use it in compliance with any conditions specified under the *Pest Control Products Act*, including any conditions relating to the place where it may be used and the quantity and concentration that may be used;
- (b) if the pest control product is not registered, it must be authorized to be used by the owner or the operator under subsection 21(5) or 41(1) of the *Pest Control Products Act* or have been exempted from registration by a regulation made under paragraph 67(1)(z.4) of that Act;
- (c) the owner or the operator must consider, before depositing the pest control product, whether there are alternatives to the deposit of that pest control product and make a record of that consideration; and
- (d) the owner or the operator must notify the Minister, at least 72 hours before the deposit, of the product name of the pest control product and the time, date and geographic coordinates of the deposit.

Measures to reduce detriment

7 (1) The owner or the operator of the aquaculture facility must, in depositing a deleterious substance referred to in paragraph 2(a) or (b), take reasonable measures to minimize detriment to fish and fish habitat outside the facility, having regard to

- (a) the cost and effectiveness of the available measures;
- (b) the degree and nature of the detriment that may result from the deposit; and
- (c) the physical characteristics of the facility and the type of aquaculture that is engaged in.

Feces and unconsumed feed

(2) In the case of an aquaculture facility that cultivates finfish and that is operated under an aquaculture licence that permits a standing biomass of more than 2.5 t or an annual production of more than 5 t, the owner or operator of the facility must take reasonable measures to minimize the deposit of fish feces and unconsumed feed, having regard to the factors set out in paragraphs (1)(a) to (c).

Information required before depositing

8 (1) In the case of an aquaculture facility located in tidal waters for the cultivation of finfish that commences operations after the day on which these Regulations come into force, the owner or operator of the facility must submit the following information to the Minister at least 300 days before making a first deposit of a deleterious substance in the operation of the facility:

- (a) the predicted contours of the footprint of the biochemical oxygen demanding matter that will be deposited by the facility, calculated in accordance with the Monitoring Standard;
- (b) a survey conducted in accordance with the Monitoring Standard that identifies the fish and fish habitat on the seabed that is leased for the operations of the facility and in the water column above the seabed;
- (c) the bathymetry of the seabed that is leased for the operations of the facility, measured in accordance with the Monitoring Standard; and
- (d) in the case of a facility located over a soft bottom, the additional information that is specified in the Monitoring Standard concerning the seabed that is leased for the operations of the facility.

Exception

(2) Despite subsection (1), if an aquaculture facility commences operations during the 300 days after the day on which these Regulations come into force, the owner or operator of the facility must provide the information referred to in paragraphs (1)(a) to (d) within 30 days after the day on which the operations were commenced.

Monitoring Standard

(3) The studies undertaken to obtain the information referred to in paragraphs (1)(a) to (d) must be conducted in accordance with the Monitoring Standard.

Non-application

(4) Subsections (1) and (2) do not apply to an aquaculture facility whose aquaculture licence, if issued or granted, permits a maximum standing biomass of 2.5 t or less or a maximum annual production of 5 t or less.

Applications affecting contours of footprint

9 (1) If the owner or operator of an aquaculture facility located in tidal waters that cultivates finfish makes an application under federal or provincial law that, if approved, would authorize any activity that is likely to increase the predicted contours of the footprint of the biochemical oxygen demanding matter deposited by the facility, the owner or the operator must conduct the studies necessary to obtain the information referred to in paragraphs 8(1)(a) to (d) and submit the information to the Minister within 30 days after the day on which the application was made.

Non-application

(2) Subsection (1) does not apply to an aquaculture facility whose aquaculture licence, if amended, permits a maximum standing biomass of 2.5 t or less or a maximum annual production of 5 t or less.

Substrate sampling and restocking

10 (1) In the case of an aquaculture facility that is located over a soft bottom and cultivates finfish in tidal waters in or adjacent to Quebec, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island or Newfoundland and Labrador, the owner or operator of the facility

(a) must take samples of the benthic substrate in the manner and at the times and locations specified in the Monitoring Standard and determine the concentration of free sulfide in the samples in accordance with that Standard;

(b) must take additional samples of the benthic substrate, in the manner and at the times and locations specified in the Monitoring Standard, if

(i) in the case of a facility located in tidal waters in or adjacent to Quebec, Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland and Labrador, the mean concentration of free sulfide as calculated at the locations specified in the Monitoring Standard exceeds 3000 µM, and

(ii) in the case of a facility located in tidal waters in or adjacent to British Columbia, the mean concentration of free sulfide as calculated at 30 m and 125 m from the structure that contains the cultivated fish exceeds 1300 µM and 700 µM, respectively; and

(c) must not restock the facility if the concentrations of free sulfide exceed the applicable concentration limits set out in paragraph (b).

Visual monitoring instead of sampling

(2) The owner or operator of an aquaculture facility must conduct visual monitoring in accordance with section 11 instead of the sampling described in subsection (1) if the owner or the operator cannot obtain, from each of the locations specified in the Monitoring Standard, benthic substrate samples that

(a) contain substrate to a depth of at least 5 cm; and

(b) have a volume of at least 15 ml and undisturbed sediment-water interface.

Visual monitoring of substrate

11 (1) This section applies to aquaculture facilities that cultivate finfish in the waters referred to in subsection 10(1) but

(a) are not located over a soft bottom; or

(b) are located over a soft bottom in respect of which subsection 10(2) applies.

Monitoring and restocking

(2) The owner or operator of a facility referred to in subsection (1)

(a) must conduct visual monitoring of the benthic substrate in the manner and at the times and locations specified in the Monitoring Standard;

(b) must not, if the facility is located in tidal waters in or adjacent to Quebec, Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland and Labrador, restock the facility if the visual monitoring shows the presence of *Beggiatoa* species or similar bacteria, marine worms or barren substrate in more than 70% of the locations specified in the Monitoring Standard; and

(c) must not, if the facility is located in tidal waters in or adjacent to British Columbia, restock the facility if visual monitoring shows that *Beggiatoa* species or similar bacteria or marine worms cover

(i) 10% or more of any four segments of substrate specified in the Monitoring Standard that are within 100 m to 124 m from the fish containment structure, or

(ii) 10% or more of

(A) the two contiguous segments of substrate specified in the Monitoring Standard that are within 116 m to 124 m from the fish containment structure, and

(B) the two or more contiguous segments of substrate specified in the Monitoring Standard that are within 124 m to 140 m from the fish containment structure.

Notification of Minister

12 (1) The owner or operator of an aquaculture facility that cultivates finfish that is located in tidal waters in or adjacent to Quebec, Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland and Labrador must notify the Minister if the following occurs:

- (a) the concentration limits set out in subparagraph 10(1)(b)(i) are exceeded; or
- (b) *Beggiatoa* species or similar bacteria, marine worms or barren substrate are present to the extent referred to in paragraph 11(2)(b).

Notification — British Columbia facilities

(2) The owner or operator of an aquaculture facility that cultivates finfish that is located in tidal waters in or adjacent to British Columbia must notify the Minister if the following occurs:

- (a) the concentration limits set out in subparagraph 10(1)(b)(ii) are exceeded; or
- (b) *Beggiatoa* species or similar bacteria or marine worms are present to the extent referred to in paragraph 11(2)(c).

Time for notification

(3) The owner or operator of an aquaculture facility that cultivates finfish that is located in tidal waters must notify the Minister within 14 days after the day on which the samples of the substrate were taken or the visual monitoring conducted, as the case may be.

Fish morbidity or mortality

13 (1) If fish morbidity or mortality outside the aquaculture facility is observed from any part of the facility within 96 hours after the deposit of any drug or pest control product referred to in paragraph 2(a) or (b), the owner or operator of the facility must immediately notify a fishery officer of

- (a) the name of the facility and its operator;
- (b) the geographic coordinates of the fish observed;
- (c) the estimated number and, if known, species of the fish observed; and
- (d) the product name of the drug or pest control product deposited and the date of the deposit.

Minister's directions

(2) If the owner or operator of an aquaculture facility is directed by the Minister to undertake measures under subsection 36(6) of the Act, and the Minister advises the owner or the operator that the direction is related to a notification made by them under subsection (1), the owner or the operator must cease depositing the drug or pest control product referred to in subsection (1) until they have complied with the Minister's directions.

Annual report

14 The owner or operator of an aquaculture facility must submit an annual report to the Minister, and retain a copy of it, in accordance with section 16.

Section 35 of the Act

Prescribed works, undertakings, activities and conditions

15 (1) For the purposes of paragraph 35(2)(a) of the Act,

- (a) the following works, undertakings and activities are prescribed:
 - (i) the installation, operation, maintenance or removal of an aquaculture facility, and
 - (ii) measures to control biofouling or the presence of fish pathogens or pests in the aquaculture facility; and
- (b) the following conditions are prescribed for the carrying on of those works, undertakings and activities:

- (i) the aquaculture facility is operated under an aquaculture licence,
- (ii) the owner or operator of the facility takes reasonable measures to mitigate the risk of serious harm to fish outside the facility that are part of a commercial, recreational or Aboriginal fishery, having regard to
 - (A) the effectiveness of the available measures,
 - (B) the degree of serious harm that may result from the carrying on of the works, undertakings and activities, and
 - (C) the physical characteristics of the facility and the type of aquaculture that is engaged in at the facility, and
- (iii) the owner or operator submits an annual report to the Minister in accordance with section 16.

Exception — deleterious substances

(2) The deposit of deleterious substances is not prescribed for the purpose of paragraph (1)(a).

Exception — *Pacific Aquaculture Regulations*

(3) Subsection (1) does not apply to any work, undertaking or activity carried on in any waters or place referred to in section 2 of the *Pacific Aquaculture Regulations*.

Report

Annual report

16 (1) An annual report must be submitted in a form acceptable to the Minister and contain the following information in respect of the operation of the aquaculture facility during the calendar year:

- (a) for each deposit of a drug or pest control product during the year,
 - (i) the product name of the drug or pest control product or the common chemical names of its active ingredients,
 - (ii) the purpose of the deposit,
 - (iii) the date, quantity and geographic coordinates of the deposit, and
 - (iv) the record of consideration of alternatives referred to in paragraph 5(c) or 6(c);
- (b) a description of any measures taken under paragraph 5(b), section 7 and subparagraph 15(1)(b)(ii);
- (c) in the case of a facility referred to in section 10,
 - (i) the concentrations of free sulfide referred to in subsection 10(1), or
 - (ii) if visual monitoring is required under subsection 10(2), the visual monitoring data collected; and
- (d) if a fishery officer was notified of fish morbidity or mortality in accordance with subsection 13(1), the information provided to the officer.

Due date of report

(2) An annual report must be submitted to the Minister on or before April 1 of the year following the year that is the subject of the report.

Copy of report to be retained

(3) An owner or operator of an aquaculture facility must retain a copy of the annual report in the facility for a period of two years after the day on which it is submitted to the Minister.

Information prior to coming into force

(4) For greater certainty, an owner or operator of an aquaculture facility is not required to include information in an annual report in respect of any period before the day on which these Regulations come into force.

Canadian Food Inspection Agency

Paragraph 35(2)(a) of Act

17 (1) For the purposes of paragraph 35(2)(a) of the Act, the disposal of fish by the President of the Canadian Food Inspection Agency for the purposes of fish pathogen or pest control and the *Health of Animals Act* is prescribed.

Deposit of deleterious substance

(2) The President of the Canadian Food Inspection Agency may, for the purposes of fish pathogen or pest control and the *Health of Animals Act*, deposit a deleterious substance referred to in paragraph 2(a) or (b) in any water or place referred to in subsection 36(3) of the Act.

Coming into Force

Registration

18 These Regulations come into force on the day on which they are registered.

Date modified:

2024-05-13