

Subject <b>Aquaculture on Private Land – Conditions of Licence</b>		Policy <b>FisPp.9.2.3</b>	
Compiled by – Ministry Natural Resources	Division Policy	Date Issued August 2004	
Branch Biodiversity	Section Fisheries Policy		
Replaces Directive Title Same	Number FI 2.06.03	Dated August 1995	Page 1 of 5

## 1.0 DEFINITIONS

In this policy / procedure,

- “Act” means the *Fish and Wildlife Conservation Act* (FWCA)
- “aquaculture” is as defined in the *Act* and means the breeding or husbandry of fish, and the verb “culture” has, with respect to fish, a corresponding meaning
- “aquarium” is as defined in subsection 24(3) of the Fish Licensing Regulation made under the *Act* and means an artificial container used to culture fish for personal use or the aquarium trade
- “aquarium trade” is as defined in subsection 24(3) of the Fish Licensing Regulation made under the *Act* and means the culturing, buying or selling of aquarium, tropical or ornamental fish for the pet or hobby market
- “artificial waters” are described in clause 3(2)(b) of the Ontario Fishery Regulations made under the *Fisheries Act* and may be referred to as *artificial ponds* in this policy. The water body (e.g. pond) must be artificial and meet the following additional criteria: It cannot be on a regional flood plain. It must be wholly within the boundaries of privately-owned land. It can contain water from surface run-off, natural springs, ground water or water pumped from a stream or lake; however, it cannot have a connection or outflow to natural waters. Use is restricted to non-commercial purposes and fish deposited into the water body must be obtained from either an aquaculture facility licensed under the provincial *Act* or a commercial fishing operation licensed under the provincial *Act*.
- “culture” is defined in the definition of “aquaculture” and when used as a verb with respect to fish has a corresponding meaning with *aquaculture*
- “fish” is defined in the *Act* as having the same meaning as in the *Fisheries Act* and therefore includes:
  - a) parts of fish
  - b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and

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- c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals
- "*Land-based aquaculture*" describes those facilities culturing fish in tanks, raceways, or ponds (including mine or gravel pits).
- "*receiving waters*" are those waters connected to the discharge from an aquaculture facility. Waters are considered to be connected to the discharge up to a physical or ecological barrier (e.g. temperature) to the species in question.

## 2.0 RATIONALE

By controlling the culture of fish (Section 19, Fish Licensing Regulation), the Ontario Ministry of Natural Resources (OMNR) seeks to minimize the risk of ecological damage resulting from *aquaculture* activities. In addition, licensing reduces the potential for illegal traffic in wild *fish* by providing a paper trail for legitimate *fish* sales.

The regulation and licence provides for the culture and sale of eligible fish species. Under the authority of this licence fish are cultured and sold for purposes such as human consumption, stocking, use as bait and fee for fishing operations. The licence is valid only for the location(s) and species named.

This policy/procedure describes conditions of licence for aquaculture on private land.

## 3.0 PROGRAM DIRECTION

Licence conditions are important to clearly set out the legal framework for the conduct of the specific aquaculture operation. Certain conditions are set out in regulation and require no further clarification (e.g. reporting occurrence of Schedule C disease organisms - Subsection 22(1) Fish Licensing Regulation). Conditions that are set out in regulation should not be restated on the licence as a condition but can be restated in a covering letter.

Other sections of the Fish Licensing regulation require that additional information be set out on the licence (see below).

Finally, OMNR retains the flexibility to attach additional conditions (Section 62 *Fish and Wildlife Conservation Act*) if the specific circumstances require it (e.g. the genetic source of specified *fish* species may be set out as a condition of licence and disease testing may be required as a condition of licence where there is a known concern (e.g. largemouth bass virus (LMBV) in bass imported from the US). However, these should only be used where clearly necessary for conservation and management purposes so as to maintain provincial consistency in aquaculture licence conditions.

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## 4.0 PROCEDURE

### 4.1 Conditions for private land aquaculture

An aquaculture licence is valid only for the location(s) and species named on the licence. A hybrid can only be cultured if it is explicitly listed on the approved species list and named on the licence.

Where there are multiple locations on a licence or varying security levels within a single location the species and associated conditions must be set out for each location and/or security level. The operator may be required to provide a detailed site plan with security (escape prevention measures) clearly identified for each location.

A regulated condition of licence is the mandatory reporting of the detection of Schedule C *fish* disease agents (or any other disease organisms of which the Manager of Fish Culture Section, Fish and Wildlife Branch, has notified the licence holder) and a requirement to not sell or dispose of such *fish* except under the direction of the District/Lake Manager (Section 22, Fish Licensing Regulation).

The holder of an aquaculture licence who discovers the presence of such disease organisms must report the detection to the District/Lake Manager. The District/Lake Manager will immediately notify the Manager of Fish Culture Section, Fish and Wildlife Branch, who upon notification will provide further direction for sale or disposal of the infected fish to the District/Lake Manager. Note that there are no provisions for compensation to an aquaculture operator for losses that may result from the resulting direction on sale or disposal of the infected fish.

Other conditions are addressed in the regulations, but must be defined on the face of the licence. These are as follows:

1) The attachment of a description of facility security measures and requirement to maintain facility security (risk of escape) status (Clause 21(1)(a) Fish Licensing Regulation).

The identification of security measures as a condition of licence (Subsection 19(2); Clauses 21(1)(a) and (b)) can be a critical component of an approved licence to ensure that the risk of ecological damage is minimized. All facilities that will be approved for the culture of species requiring a medium (F2) or high (F1) level of security must have a description of facility security measures attached to the licence with a condition setting out that these specific measures must be maintained unless otherwise authorized through an amendment of the licence by OMNR.

2) Reporting of escape of *fish* (Clause 21(1)(d) Fish Licensing Regulation).

The operator of an aquaculture facility is required by regulation to report significant escapes (defined on the licence) to OMNR, preferably as soon as possible, but no later

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than 12 hours after the escape is discovered. Reports are to be directed to the District/Lake Manager.

## 4.2 Guideline for Reportable Escapes

Please see FisPp.9.2.5 - Risk Analysis and Facility Security for definitions of facility security and details on risk analysis. Requirements on reporting escapes are set on a site/species specific basis. Generally, the higher the security requirement the lower the threshold for reporting escapes should be, to the point where any escape of a species licensed for culture under high security conditions should be reported. The risk assessment model assumes that escapes from medium security facilities will be small in number and very irregular in occurrence, while in low security facilities periodic large escapes are expected (but not a regular free flow of fish out of the facility). Thresholds for species requiring low security should be based on a reasonable level of detection for the species, life stage, and location in question. Where appropriate (for example where a high trigger level for immediate reporting is set) conditions can also be set to require additional periodic reporting (e.g. quarterly or annual) or reporting based on cumulative triggers.

The occurrence of escapes is not an offence against the regulations or *Act*. However, escapes may be viewed as a trigger to inspect and possibly re-evaluate measures that are in place to prevent the escapement of *fish*. This is especially true of facilities requiring classification as F1 or F2.

Note that Clause 21(1)(b) of the Fish Licensing Regulation provides authority (which has been delegated to the District/Lake Manager) to require a licence holder to correct any deficiencies that are identified in an inspection of the facility security measures.

3) Unless set out in the licence, the operator must seek direction from the District/Lake Manager and/or the District Manager regarding possible recapture of escaped fish. The licence may set out terms and conditions to allow for pre-approved method(s) of recapture of escaped *fish* (Clause 21(1)(d) - Fish Licensing Regulation). This could include:

- allowable gear;
- time periods when pre-approval does or does not apply;
- specific locations where pre-approval is allowed; and
- reporting to OMNR that recapture attempts were made.

Note that OMNR will not require mandatory recapture of *fish* which escape from a facility licensed to culture those *fish*.

Finally, as noted in the program direction, OMNR retains the flexibility to attach additional conditions (Section 62 *Fish and Wildlife Conservation Act*) if the circumstances require it (e.g. specifying the genetic source of *fish* species). However, these should only be used where clearly necessary for conservation and management purposes so as to maintain provincial consistency in aquaculture licence conditions.

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The steps for issuing an aquaculture licence are described in FisPp.9.2.1 - Issuance of Aquaculture Licence, Renewals, Transfers, Amendments, Refusals and Cancellations.

Applicants for an aquaculture licence should be made aware of additional approvals that may be required from the Ontario Ministry of Environment (OMOE) for the taking of water (Permit to Take Water) and effluent treatment (Certificate of Approval for Industrial Sewage Works). In addition, approvals may be required from local authorities such as a Conservation Authority regarding flood plains, or a Municipality regarding zoning. These are obtained independently from OMNR licences. OMNR will not withhold the aquaculture licence pending other approvals.

## **5.0 REFERENCES**

### **5.1 Legislative References**

- *Fish and Wildlife Conservation Act*
  - Subsection 36(5) - abandonment or spoilage of flesh
  - Section 37 - possession of nets
  - Section 47 - aquaculture
  - Section 51- buying or selling fish
  - Subsection 57(1) - transport of containers
  - Section 60 - issuance of licences
  - Section 62 - licence conditions
- Fish Licencing Regulation
  - Section 19 - application for aquaculture licence
  - Section 20 - aquaculture licence authorizations and limitations
  - Section 21 - aquaculture licence conditions
  - Section 22 - aquaculture licence holder disease reporting requirements
  - Section 23 - transfer of an aquaculture licence
  - Section 24 - exemptions for aquariums and the aquarium trade
  - Schedule B - species eligible for culture in Ontario
  - Schedule C - fish disease agents

### **5.2 Directive Cross References**

- Policy and procedures
  - FisPp.9.2.1 - Issuance of Aquaculture Licence, Renewals, Transfers, Amendments, Refusals and Cancellations
  - FisPp.9.2.5 - Risk Analysis and Facility Security