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Fish and Seafood Act

FISH AND SEAFOOD LICENSING REGULATION

Note: Check the Cumulative Regulation Bulletin 2015 and 2016
for any non-consolidated amendments to this regulation that may be in effect.

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Schedule

Part 1 — Definitions and Deeming Provision

Definitions

1 In this regulation:

"Act" means the Fish and Seafood Act;

"applicant" includes an applicant to renew a licence;

"aquatic plant culturer" means a person who holds an aquatic plant culture licence;

"aquatic plant group" means a group of aquatic plant species as described in the Schedule;

"aquatic plant species" means a species of aquatic plant as described in the Schedule;

"bivalve mollusc" means all or part of a shellfish of the phylum Mollusca, class Bivalvia, commonly known as a clam, oyster, scallop or mussel, whether or not the shellfish has been shucked;

"cold storage facility" means a facility used primarily for the purpose of freezing fish or storing frozen fish;

"commercial fisher" means a person who

(a) holds a fisher's registration card as described in Item 1 of Part I of Schedule II to the Pacific Fishery Regulations, 1993 (Canada),

(b) holds a commercial fishing licence of a category described in Item 3 of Part I of Schedule II to the Pacific Fishery Regulations, 1993 (Canada), or

(c) is designated as a person who is authorized to fish under a communal licence issued under the Aboriginal Communal Fishing Licences Regulations (Canada) and who distributes fish for a commercial purpose;

"container" means any form of container or packaging used in relation to fish or aquatic plants;

"contaminated" has the meaning set out in section 3 (3) of the Act;

"equipment" includes containers, utensils and any items used to carry out an activity under a licence;

"federal licence" means a licence or other authorization issued under a federal enactment;

"fish receiver" means a person who holds a fish receiver licence;

"fisher vendor" means a person who holds a fisher vendor licence;

"food contact surface" means that part of equipment with which fish or aquatic plants normally come into contact;

"fresh", in relation to fish, means dead but not frozen;

"harvest agreement" means the following:

(a) a harvest agreement within the meaning of settlement legislation;

(b) an agreement described in section 7 of the Nisga'a Final Agreement Act;

"harvest plan proposal" means a harvest plan proposal made in accordance with section 10 [harvest plan proposal];

"licence", in relation to a licence issued under this regulation, means one or more of the following, as applicable in the context:

(a) an aquatic plant culture licence issued with respect to activities described in section 3 [aquatic plant culture licence];

(b) a wild aquatic plant harvester licence issued with respect to activities described in section 8 [wild aquatic plant harvester licence];

(c) a fisher vendor licence issued with respect to activities described in section 16 [fisher vendor licence];

(d) a fish receiver licence issued with respect to activities described in section 21 [fish receiver licence];

(e) a seafood processor licence issued with respect to activities described in section 27 [seafood processor licence];

"licensed facility" means a facility used by a person who holds a licence for the purpose of carrying out activities authorized by the person's licence, whether or not the facility is specifically referenced in the licence;

"provincial food enactment" means the following:

(a) the Food Safety Act;

(b) the Public Health Act;

(c) a regulation made under the Food Safety Act or the Public Health Act with respect to the processing or distribution of food for public consumption;

"seafood processor" means a person who holds a seafood processor licence;

"transport" includes to

(a) load for transport, and

(b) unload after transport;

"transporter" means a person who transports fish or aquatic plants that may be distributed to the public for human consumption, whether or not the transporter holds a licence under this regulation;

"wild aquatic plant harvester" means a person who holds a wild aquatic plant harvester licence.

Seafood present in licensed facility

2 Fish and aquatic plants present in a licensed facility are deemed to be intended for distribution to the public for human consumption, unless an inspector is satisfied that the fish and aquatic plants will not be distributed to the public for human consumption.

Part 2 — Aquatic Plant Culturers

Aquatic plant culture licence

3 A person must not grow aquatic plants that may be distributed to the public for human consumption unless the person

(a) holds an aquatic plant culture licence, or

(b) is an employee, acting in the course of his or her employment, of a person who holds an aquatic plant culture licence.

Application for licence

4 Subject to section 7 (4) of the Act, an applicant for an aquatic plant culture licence must include with the application a fee of \$50.

Expiry of licence

5 (1) An aquatic plant culture licence expires on the date set by a licensing officer under section 7 (2) (d) of the Act.

(2) A licensing officer may not set a licence term under subsection (1) for a period longer than 10 years.

Aquatic plant culturer records

6 An aquatic plant culturer must keep records that include at least the following information:

(a) a description of the aquatic plants grown, divided according to aquatic plant group and aquatic plant species;

(b) the quantity of aquatic plants grown;

- (c) with respect to each delivery of aquatic plants distributed by the aquatic plant culturer,
- (i) the quantity of aquatic plants distributed,
- (ii) the contact information of the person to whom aquatic plants were distributed, and
- (iii) the amount received for the aquatic plants.

Part 3 — Wild Aquatic Plant Harvesters

Division 1 — Licensing

Waivers by licensing officers

7 The following powers of a licensing officer may not be exercised with respect to a class of persons:

- (a) to waive a requirement under this Division;
- (b) to set a different schedule under section 15 (3) [submission of harvest records and royalties].

Wild aquatic plant harvester licence

8 (1) A person must not harvest wild aquatic plants that may be distributed to the public for human consumption unless the person

- (a) holds a wild aquatic plant harvester licence,
- (b) is an employee, acting in the course of his or her employment, of a person who holds a wild aquatic plant harvester licence,
- (c) is exempt under subsection (3) or is an employee, acting in the course of his or her employment, of a person who is exempt under subsection (3), or
- (d) is exempt under subsection (5) or (6).

(2) A person who possesses 100 kg of aquatic plants or more, measured while wet, is deemed to have harvested the aquatic plants for the purpose of distribution to the public for human consumption.

(3) Subject to subsection (4), a person is exempt from the requirement to hold a wild aquatic plant harvester licence if

- (a) a licensing officer waives that requirement,
 - (b) harvested aquatic plants will be used for an educational or experimental purpose only, and
 - (c) harvested aquatic plants will not be further used for a commercial purpose.
- (4) A person who is exempt, under subsection (3), from the requirement to hold a licence must comply with section 13 [harvest of aquatic plants] as if the person were a wild aquatic plant harvester.

(5) A person is exempt from the requirement to hold a wild aquatic plant harvester licence if the person harvests wild aquatic plants only

- (a) for a food, social or ceremonial purpose,
- (i) further to an aboriginal right, or
- (ii) in accordance with a provision of a final agreement with a treaty first nation or the Nisga'a Final Agreement, and
- (b) in accordance with all applicable Nisga'a laws or laws made by a treaty first nation, if any.

(6) A person is exempt from the requirement to hold a wild aquatic plant harvester licence if

- (a) a harvest agreement that applies to the person provides that a licence is not required, and
- (b) the person harvests wild aquatic plants only in accordance with
 - (i) a harvest agreement, and
 - (ii) all applicable Nisga'a laws or laws made by a treaty first nation, if any.

Application for licence

9 (1) Subject to section 7 (4) of the Act and subsection (2) of this section, an applicant for a wild aquatic plant harvester licence must include with the application

- (a) a fee of \$110, and
 - (b) a harvest plan proposal, if required by a licensing officer.
- (2) If a person is required under a harvest agreement to hold a wild aquatic plant harvester licence, the person
- (a) must include with the application for the licence a fee and a harvest plan proposal in accordance with the terms and conditions of the harvest agreement, or
 - (b) is exempt from the requirement to submit
 - (i) an application fee if the harvest agreement provides that no fee is payable for the licence, and

(ii) a harvest plan proposal if the harvest agreement provides that a licensing officer may not request a harvest plan proposal.

(3) For a licence to be issued with respect to the following year, an applicant must apply for the licence on or before October 1 unless

- (a) a licensing officer waives this requirement, or
- (b) a harvest agreement provides otherwise.

Harvest plan proposal

10 (1) In determining whether to issue a wild aquatic plant harvester licence, a licensing officer must consider the management of aquatic plant resources.

(2) For the purpose of subsection (1) but subject to section 9 (2) (b) (ii) [application for wild aquatic plant harvester licence], a licensing officer may require an applicant to submit a harvest plan proposal.

(3) A harvest plan proposal must include at least the following:

- (a) scientific information, including data, respecting
 - (i) the distribution and quantity of the aquatic plants to be harvested in the proposed harvest area, divided according to aquatic plant group and aquatic plant species, and
 - (ii) the environment and ecology of the proposed harvest area;
- (b) a description of the proposed method of harvesting aquatic plants and the equipment to be used;
- (c) a description, based on scientific information and including data, of the potential adverse effects of the proposed harvest on the environment and ecology of the proposed harvest area;
- (d) any additional information required by the licensing officer.

Terms and conditions on licence

11 (1) Without limiting section 7 (2) (d) of the Act but subject to the terms and conditions of an applicable harvest agreement, if any, a licensing officer may impose limits or conditions on a wild aquatic plant harvester licence with respect to the following:

- (a) the geographic area within which harvesting of aquatic plants may occur;
- (b) the quantity of aquatic plants that may be harvested;
- (c) the aquatic plants that may be harvested, described by aquatic plant groups, aquatic plant species or both.

(2) Without limiting section 7 (2) (d) of the Act or subsection (1) of this section, a licensing officer who receives a harvest plan proposal may

- (a) impose limits or conditions on a wild aquatic plant harvester licence with respect to harvesting equipment, the methods of harvest or both, and
- (b) require the harvest plan proposal to be modified and implemented according to the licensing officer's directions.

Expiry of licence

12 (1) A wild aquatic plant harvester licence expires

- (a) on the date set by a licensing officer under section 7 (2) (d) of the Act, or
- (b) according to the terms and conditions of an applicable harvest agreement, if any.

(2) A licensing officer may not set a licence term under subsection (1) (a) for a period longer than 3 years.

Division 2 — Requirements

Harvest of aquatic plants

13 (1) In this section, "holdfast" means that part of an aquatic plant by which the aquatic plant is attached to the substrate.

(2) A wild aquatic plant harvester must ensure that aquatic plants are not harvested under a wild aquatic plant harvester licence except in accordance with this section.

(3) Unless permitted in writing by a licensing officer or under the terms and conditions of an applicable harvest agreement, if any, the following harvest methods are prohibited:

- (a) harvesting by raking, dredging or diving;
- (b) harvesting by any method that impairs
 - (i) the regrowth of the aquatic plant, including practices that harvest the holdfast itself or strain, break or tear the aquatic plant from all or part of the holdfast, or
 - (ii) the integrity of the aquatic plant bed within the area permitted to be harvested;

(c) harvesting detached aquatic plants from the foreshore in any manner that disturbs or exposes the substrate.

(4) Unless permitted in writing by a licensing officer or under the terms and conditions of an applicable harvest agreement, if any, harvesting must be done by hand, using a sharp cutting instrument.

Wild aquatic plant harvester records

14 (1) A wild aquatic plant harvester must keep records in accordance with

(a) this section, or

(b) the terms of an applicable harvest agreement, if any.

(2) A harvest record must include at least the following information with respect to each harvest made during the term of the licence:

(a) the licence number;

(b) the date and location of the harvest;

(c) the aquatic plant species harvested;

(d) the weight of the harvest

(i) divided according to aquatic plant species,

(ii) measured while the aquatic plants are wet, and

(iii) expressed in tonnes, to the nearest tenth of a tonne.

(3) If no harvest was made during the term of the licence, the harvest record must include the licence number and a statement indicating that no harvest was made.

(4) A distribution record must include at least the following information with respect to each delivery of aquatic plants distributed by the wild aquatic plant harvester:

(a) the quantity, expressed in tonnes, of aquatic plants distributed;

(b) the contact information of the person to whom aquatic plants were distributed;

(c) the amount received for the aquatic plants.

Submission of harvest record and royalties

15 (1) Subject to the terms and conditions of an applicable harvest agreement, if any, a wild aquatic plant harvester must submit to a licensing officer, in accordance with this section,

(a) the harvest records prepared under section 14 [wild aquatic plant harvester records], and

(b) a royalty payment determined in accordance with subsection (4).

(2) Subject to subsection (3), harvest records and royalty payments must be submitted as follows:

(a) within 10 days after harvesting under the licence ends or the licence expires, whichever is earliest;

(b) if the term of the licence is for more than one year,

(i) before December 31 of the first year of the term and

(ii) annually after the first submission, until paragraph (a) applies.

(3) Without limiting section 7 (2) (d) of the Act, a licensing officer may require harvest records and royalty payments to be submitted sooner or more often than would be required under subsection (2), and may set a schedule for this purpose.

(4) With respect to each tonne or part of a tonne, measured while wet, of aquatic plants harvested from each aquatic plant group, the amount of the royalty payment owing is as follows:

(a) for aquatic plants within aquatic plant group 1, 2 or 5, \$10;

(b) for aquatic plants within aquatic plant group 3, 4 or 7 to 9, \$50;

(c) for aquatic plants within aquatic plant group 6, \$100.

Part 4 — Fisher Vendors

Fisher vendor licence

16 (1) A commercial fisher must not distribute the commercial fisher's catch to a person unless the commercial fisher

(a) holds a fisher vendor licence and distributes the catch only

(i) to a person holding a licence or other authorization under a provincial food enactment, or

(ii) to a person directly from the vessel from which the catch was harvested,

(b) is exempt under subsection (2), or

(c) is an employee, acting in the course of his or her employment, of a person referred to in paragraph (a) or

(b).

(2) A commercial fisher is exempt from the requirement to hold a fisher vendor licence if the commercial fisher distributes fish only as follows:

- (a) to a fish receiver or a seafood processor;
- (b) to a person who holds a federal licence to
 - (i) possess, process, store or transport fish, or
 - (ii) operate a cold storage facility that stores frozen fish.

Application for licence

17 Subject to section 7 (4) of the Act, an applicant for a fisher vendor licence must include with the application a fee of \$30.

Expiry of licence

18 (1) A fisher vendor licence expires on the date set by a licensing officer under section 7 (2) (d) of the Act.

(2) A licensing officer may not set a licence term under subsection (1) for a period longer than one year.

Part 6 requirements applicable to fisher vendors

19 (1) A fisher vendor must comply with the following provisions as if the fisher vendor were a seafood processor:

- (a) section 32 (1) (b) [general construction requirements];
- (b) section 33 [washrooms and hand washing stations], unless only containers of fish are handled and not the fish themselves;
- (c) section 34 [maintenance of licensed facility];
- (d) section 35 (b) [pests];
- (e) section 36 [equipment and food contact surfaces];
- (f) section 37 [cold storage equipment];
- (g) section 38 [protection of food];
- (h) section 40 [temperature, water and ice standards];
- (i) section 42 (a) [sanitation];
- (j) section 43 [hygiene];
- (k) section 44 [illnesses];
- (l) section 45 [animals];
- (m) section 49 [no storage of unnecessary items].

(2) If a provision referred to in subsection (1) applies to an employee, the provision is deemed to also apply to the fisher vendor while the fisher vendor is

- (a) present in the fisher vendor's licensed facility, or
- (b) personally engaging in activities under the fisher vendor's licence.

Fisher vendor records

20 A fisher vendor must keep records with respect to each delivery of fish distributed by the fisher vendor that include at least the following information:

- (a) the contact information of the person to whom fish were distributed, if that person is a person described in section 16 (1) (a) (i) or (2) (a) or (b) [fisher vendor licence];
- (b) the date of distribution;
- (c) the quantity of fish distributed, divided according to species;
- (d) the amount received for fish distributed.

Part 5 — Fish Receivers

Fish receiver licence

21 (1) A person must not possess, store or transport fish the person receives directly from a commercial fisher and that may be distributed to the public for human consumption unless the person

- (a) holds a fish receiver licence,
- (b) is exempt under subsection (2), or
- (c) is an employee, acting in the course of his or her employment, of a person referred to in paragraph (a) or (b).

- (2) A person is exempt from the requirement to hold a fish receiver licence if one of the following applies:
- (a) the person holds a licence or other authorization under a provincial food enactment and receives fish directly from a fisher vendor;
 - (b) the person holds a seafood processor licence;
 - (c) the person holds a federal licence to
 - (i) possess, process, store or transport fish or aquatic plants, or
 - (ii) operate a cold storage facility that stores frozen fish.

Application for licence

22 Subject to section 7 (4) of the Act, an applicant for a fish receiver licence must include with the application a fee as follows:

- (a) to receive salmon, \$230;
- (b) to receive fin fish other than salmon, \$150;
- (c) to receive roe herring, \$230;
- (d) to receive invertebrates, \$150.

Expiry of licence

23 (1) A fish receiver licence expires on the date set by a licensing officer under section 7 (2) (d) of the Act.

(2) A licensing officer may not set a licence term under subsection (1) for a period longer than one year.

Part 6 requirements applicable to fish receivers

24 (1) A fish receiver must comply with the following provisions as if the fish receiver were a seafood processor:

- (a) section 32 (1) (b), (2) (a) and (3) [general construction requirements];
 - (b) section 33 [washrooms and hand washing stations], unless only containers of fish are handled and not the fish themselves;
 - (c) section 34 [maintenance of licensed facility];
 - (d) section 35 [pests], except that if the licensed facility is not fully enclosed, only section 35 (b) applies;
 - (e) section 36 [equipment and food contact surfaces];
 - (f) section 37 [cold storage equipment];
 - (g) section 38 [protection of food];
 - (h) section 40 [temperature, water and ice standards];
 - (i) section 42 (a) [sanitation];
 - (j) section 43 [hygiene];
 - (k) section 44 [illnesses];
 - (l) section 45 [animals];
 - (m) section 46 (a) [storage of chemicals];
 - (n) section 49 [no storage of unnecessary items].
- (2) If a provision referred to in subsection (1) applies to an employee, the provision is deemed to also apply to the fish receiver while the fish receiver is
- (a) present in the fish receiver's licensed facility, or
 - (b) personally engaging in activities under the fish receiver's licence.

Fish receiver records

25 (1) A fish receiver must keep records, in accordance with this section, with respect to each delivery of fish

- (a) received by the fish receiver, and
 - (b) distributed by the fish receiver.
- (2) Records must include at least the following information:
- (a) if applicable, the federal licence number of the person from whom fish were received;
 - (b) the contact information of the person
 - (i) from whom fish were received, or
 - (ii) to whom fish were distributed;
 - (c) the date and location of receipt or distribution;
 - (d) the quantity of fish received or distributed, divided according to species and, if processed, manner of processing;

(e) the amount paid or received for fish received or distributed.

Part 6 — Seafood Processors

Division 1 — Definitions

Definitions

26 In this Part:

"cultured fish" means fish that have been raised domestically under a federal licence;

"pest" means any animal, whether vertebrate or invertebrate, that is potentially harmful to the sanitary operation of a licensed facility;

"sanitize" means to treat equipment by any method that destroys disease-causing micro-organisms for the purpose of preventing fish and aquatic plants from becoming unsafe food;

"sport caught fish" means fish that have been harvested

(a) under a tidal water sport fishing licence issued under section 17 of the British Columbia Sport Fishing Regulations, 1996 (Canada), or

(b) in accordance with section 15 (1) of the Wildlife Act.

Division 2 — Licensing

Seafood processor licence

27 A person must not process fish or aquatic plants, or operate a cold storage facility that stores frozen fish, that may be distributed to the public for human consumption unless the person

(a) holds a seafood processor licence,

(b) is exempt under section 28 [exemptions from licence requirement], or

(c) is an employee, acting in the course of his or her employment, of a person referred to in paragraph (a) or (b).

Exemptions from licence requirement

28 (1) In this section, "exempt" means exempt, under this section, from the requirement to hold a seafood processor licence.

(2) A commercial fisher is exempt if the commercial fisher

(a) only stuns, bleeds, heads, eviscerates, ices, freezes or packages fish, and

(b) engages in the processing activities referred to in paragraph (a) only

(i) while at sea and aboard the commercial fisher's own vessel, and

(ii) with respect to the commercial fisher's own catch.

(3) A fish receiver is exempt if the fish receiver only ices fish received under that fish receiver's licence.

(4) A person who holds a licence or other authorization under a provincial food enactment is exempt if the person processes fish or aquatic plants, or operates a cold storage facility that stores frozen fish, only in connection with the activities regulated under the enactment.

(5) A person is exempt if the person

(a) only stuns, bleeds, heads, eviscerates, fillets, ices, freezes or packages sport caught fish, and

(b) engages in the processing activities referred to in paragraph (a) only for the person who caught the fish.

(6) A person is exempt if the person holds a federal licence to

(a) process fish or aquatic plants, or

(b) operate a cold storage facility that stores frozen fish.

(7) A person who raises cultured fish by freshwater aquaculture is exempt if the person

(a) only stuns, bleeds, heads, eviscerates, ices or packages the person's own cultured fish, and

(b) distributes the cultured fish only

(i) to a person who holds a seafood processor licence, or

(ii) to the public from the place where the fish are raised, at a seasonal farmer's market or similar temporary location.

- (8) A person who raises cultured fish by marine aquaculture is exempt if the person
- (a) only stuns, bleeds, or ices the person's own cultured fish, and
 - (b) distributes the cultured fish only to a person who holds a federal licence to process fish.

Conditions of exemption

29 (1) A person who is exempt under section 28 (6) must comply with all of the following as if the exempt person were a seafood processor:

- (a) Division 6 [Records Requirements] of this Part;
 - (b) section 66 [reporting information to minister].
- (2) A person who is exempt under section 28 (7) or (8) must comply with both of the following as if the exempt person were a fisher vendor:
- (a) section 20 [fisher vendor records];
 - (b) section 66.

Application for licence

30 (1) Subject to section 7 (4) of the Act, an applicant for a seafood processor licence must include with the application a fee as follows:

- (a) to only freeze or store frozen fish,
 - (i) \$420, if the cold storage facility has a capacity of more than 80 m³, or
 - (ii) \$110, if the cold storage facility has a capacity of 80 m³ or less;
- (b) to process salmon by canning,
 - (i) \$1 800, if 32.66 tonnes or more is intended to be packaged, or
 - (ii) \$900, if less than 32.66 tonnes is intended to be packaged;
- (c) to process salmon, if paragraph (a), (b) or (e) does not apply, \$640;
- (d) if paragraph (a) or (e) does not apply,
 - (i) to process fin fish other than salmon or roe herring, \$290,
 - (ii) to process roe herring, \$640,
 - (iii) to process invertebrates, \$290, and
 - (iv) to process freshwater fish, \$50;
- (e) to process sport caught fish, \$210;
- (f) to process aquatic plants, \$210.

(2) An applicant must include with the application a copy of the design and construction plans, including specifications, as follows:

- (a) if applying for a new seafood processor licence, for the facility to which the application relates;
- (b) if applying to renew a seafood processor licence, of any alterations made to the licensed facility during the most recent term of the licence.

(3) An applicant must submit a separate fee with respect to

- (a) each facility in which or on which the applicant intends to operate under the licence, whether or not all or part of the facility is also used by another person or for another purpose, and
- (b) each activity referred to in subsection (1) in which the applicant intends to engage under the licence.

Expiry of licence

31 (1) A seafood processor licence expires on the date set by a licensing officer under section 7 (2) (d) of the Act.

(2) A licensing officer may not set a licence term under subsection (1) for a period longer than one year.

Division 3 — Construction and Equipment Requirements

General construction requirements

32 (1) A seafood processor must ensure that all of the following requirements are met with respect to the seafood processor's licensed facility:

- (a) the licensed facility is designed so as to ensure that activities carried out under the licence will be carried out in a manner that prevents fish and aquatic plants from becoming unsafe food;
- (b) the licensed facility is constructed from materials that are
 - (i) suitable for their intended purpose, and
 - (ii) durable, easily cleaned and free from any noxious or toxic substance;

(c) there is no direct access between the licensed facility and
(i) living quarters, or
(ii) areas in which activities are carried out that are incompatible with meeting the duty set out in section 38 [protection of food];

(d) the licensed facility is of sound construction overall.

(2) A seafood processor must ensure that the seafood processor's licensed facility is equipped with both of the following:

(a) artificial lighting adequate in intensity and designed or protected to permit activities carried out under the licence to be carried out in a manner that will prevent fish and aquatic plants from becoming unsafe food;

(b) ventilation equipment that prevents the accumulation of smoke, grease, water vapour and objectionable odours.

(3) A seafood processor must ensure that the seafood processor's licensed facility is connected to, or that employees have ready access to, a waste disposal system that cannot cause fish and aquatic plants to become unsafe food.

Washrooms and hand washing stations

33 A seafood processor must ensure that employees of the seafood processor's licensed facility have ready access to washrooms and hand washing stations that

(a) are adequate in number for all employees,

(b) have hot and cold running water, and

(c) are equipped with soap in a dispenser and a method of hand drying that uses single service products.

Maintenance of licensed facility

34 A seafood processor must ensure that the seafood processor's licensed facility is maintained so as to ensure that fish and aquatic plants cannot become unsafe food.

Pests

35 A seafood processor must ensure that the seafood processor's licensed facility is constructed and maintained so as to be

(a) free, to the greatest extent possible, of pests,

(b) free of conditions that lead to the harbouring or breeding of pests, and

(c) protected against the entrance of pests.

Equipment and food contact surfaces

36 A seafood processor must ensure that all equipment in the seafood processor's licensed facility meets all of the following requirements:

(a) the equipment is constructed from materials that

(i) are durable and suitable for their intended purpose, and

(ii) ensure that food contact surfaces are easily cleaned and free from any noxious or toxic substance,

(b) the equipment is in good working order, and

(c) the equipment is used in a manner that will prevent fish and aquatic plants from becoming unsafe food.

Cold storage equipment

37 (1) A seafood processor must ensure that refrigeration equipment in the seafood processor's licensed facility meets all of the following requirements:

(a) the equipment is adequate, in both type and capacity, to meet the needs of the persons carrying out activities under the licence;

(b) the equipment is capable of maintaining temperatures necessary to comply with section 40 (1) [temperature standards];

(c) the equipment is equipped with a device to measure temperature that is accurate to within 1°C.

(2) A seafood processor must ensure that the temperature inside refrigeration equipment in the seafood processor's licensed facility is measured and recorded at least once in each 24 hour period.

Division 4 — Food Safety and Sanitation Requirements

Protection of food

38 A seafood processor must ensure that the seafood processor's licensed facility is operated, and activities carried out under the licence are conducted, in a manner that will prevent fish and aquatic plants from becoming unsafe food.

Food safety plans

39 (1) In this section:

"critical control point" means a procedural step, when carrying out activities under a licence, at which an action can be taken to prevent, eliminate, or reduce to an acceptable level, the risk of fish and aquatic plants becoming unsafe food;

"critical limit" means a threshold, limit or standard that must be met at a critical control point to ensure that fish and aquatic plants do not become unsafe food.

(2) A seafood processor must do all of the following:

- (a) develop and maintain a food safety plan in accordance with subsection (3);
- (b) ensure that the food safety plan is implemented in the seafood processor's licensed facility;
- (c) keep records respecting
 - (i) the results of monitoring and verification activities under the food safety plan, and
 - (ii) the corrective actions that have been taken when critical limits have not been met;
- (d) keep the food safety plan in a conspicuous location in the seafood processor's licensed facility;
- (e) make the food safety plan and the records referred to in paragraph (c) available to an inspector on request;
- (f) review the food safety plan, and change it if necessary,
 - (i) at least annually, and
 - (ii) if any significant change is made to the construction or operation of the seafood processor's licensed facility.

(3) A food safety plan must be in writing and must identify all of the following:

- (a) those hazards that may cause fish and aquatic plants to become unsafe food, and the measures needed to address those hazards;
- (b) the process and information used for the purpose of identifying the hazards and measures under paragraph (a);
- (c) based on the hazard analysis under paragraph (a), all critical control points and, for each critical control point,
 - (i) the critical limit, and
 - (ii) procedures to monitor the critical control point and to determine whether the critical limit has been met;
- (d) if a critical limit has not been met, corrective actions that must be taken to meet the critical limit or eliminate unsafe food;
- (e) verification procedures, including procedures, tests, sampling and other evaluative methods, to be taken to ensure that monitoring procedures under paragraph (c) (ii) and corrective actions under paragraph (d) are being carried out as intended;
- (f) the form of the records that must be kept under subsection (2) (c).

(4) A seafood processor must change the seafood processor's food safety plan in accordance with the directions of an inspector.

Temperature, water and ice standards

40 (1) A seafood processor must ensure that fish in the seafood processor's licensed facility are maintained as follows:

- (a) in the case of live fish, at a temperature and in other conditions suitable to the species of fish;
- (b) in the case of fresh fish, at a temperature of no less than 0°C and no more than 4°C;
- (c) in the case of frozen fish, at a temperature of -18°C or less.

(2) A seafood processor must ensure that water and ice used in the seafood processor's licensed facility for the purpose of carrying out activities under the licence is of adequate quality to prevent fish and aquatic plants from becoming unsafe food.

Sanitation plans

41 (1) A seafood processor must do all of the following with respect to the seafood processor's licensed facility:

- (a) develop and maintain a sanitation plan in accordance with subsection (2);
 - (b) ensure that the sanitation plan is implemented;
 - (c) keep records respecting activities carried out for the purpose of implementing the sanitation plan;
 - (d) make the sanitation plan and the records referred to in paragraph (c) available to an inspector on request.
- (2) A sanitation plan must be in writing and must identify all of the following:
- (a) the cleaning and sanitizing requirements, with respect to the licensed facility and all equipment used in the licensed facility, necessary to keep fish and aquatic plants from becoming unsafe food;
 - (b) the cleaning and sanitizing agents, and pesticides, used in the licensed facility, including their concentrations, uses and storage requirements.
- (3) A seafood processor must change the seafood processor's sanitation plan in accordance with the directions of an inspector.

Sanitation

42 A seafood processor must ensure that the seafood processor's licensed facility and the equipment used in the licensed facility are maintained in a condition that will prevent fish and aquatic plants from becoming unsafe food, including ensuring that

- (a) equipment is regularly sanitized, with food contact surfaces kept as free as possible of disease-causing micro-organisms, and
- (b) pest-proof containers for the disposal of refuse are readily accessible.

Hygiene

43 (1) A seafood processor must ensure that employees, while in the seafood processor's licensed facility,

- (a) wear clothing, footwear and coverings on their hands that is clean and appropriate to the activity in which employees are engaged,
 - (b) exhibit cleanliness and good personal hygiene, and
 - (c) do not engage in any activity that may cause fish and aquatic plants to become unsafe food.
- (2) A seafood processor must ensure that employees wash their hands as often as necessary to prevent fish and aquatic plants from becoming unsafe food.
- (3) A seafood processor must ensure that persons do not use tobacco or vapour products, within the meaning of the Tobacco and Vapour Products Control Act, in any area of the licensee's licensed facility where fish or aquatic plants are processed, stored or distributed.

Illnesses

44 A seafood processor must not permit a person suspected to suffer from, or be the carrier of, an illness communicable through food to come into contact with any fish, aquatic plants or equipment in the licensee's licensed facility.

Animals

45 A seafood processor must ensure that live animals are not in or on the seafood processor's licensed facility, except as follows:

- (a) a guide dog or a service dog within the meaning of the Guide Dog and Service Dog Act is permitted, except in any area in which fish or aquatic plants are processed or stored;
- (b) live fish may be kept as permitted by an inspector.

Storage of chemicals

46 A seafood processor must ensure that chemicals, cleansers and similar agents are stored in the seafood processor's licensed facility

- (a) in a manner that cannot cause fish and aquatic plants to become unsafe food, and
- (b) in containers that are clearly labelled to identify the contents.

Storage of packaging, ingredients and additives

47 (1) A seafood processor must ensure that the following items, if stored in the seafood processor's licensed facility, are stored only in dedicated areas in the licensed facility:

- (a) items to be used as packaging, including labels;
- (b) ingredients and additives used in processing.

(2) A seafood processor must ensure that items, ingredients and additives referred to in subsection (1) are each

(a) stored in a manner that will protect them from conditions that may cause them to become damaged or altered in a manner that may cause fish and aquatic plants to become unsafe food, and

(b) clearly identified with a label.

Storage of inedible products and fish offal

48 A seafood processor must ensure that unsafe food, fish offal and byproducts are stored in containers that are

(a) kept separate from fish, aquatic plants and products that may be distributed for human consumption, and

(b) are clearly labelled as being unfit for human consumption.

No storage of unnecessary items

49 A seafood processor must ensure that items that are not required for the carrying out of activities under the licence are not stored in or on the seafood processor's licensed facility.

Division 5 — Receiving and Processing Requirements

Prohibitions on processing

50 (1) A seafood processor must not process fish or aquatic plants unless the fish or aquatic plants are received by the seafood processor from one of the following sources:

(a) a person who holds a licence under this regulation with respect to the fish or aquatic plant, as applicable;

(b) a person who holds a licence or other authorization under a provincial food enactment;

(c) subject to subsection (2), a person who holds a federal licence to conduct activities in relation to food for public consumption;

(d) a person having lawful authority to harvest the fish or aquatic plant.

(2) A seafood processor must not receive for processing cultured fish raised by marine aquaculture unless the cultured fish have been previously processed or held by a person holding a federal licence to process cultured fish.

Processing lobsters and crab

51 A seafood processor must not process any lobster or crab that is dead before processing begins, unless the lobster or crab is being further processed after previous processing.

Federal canning regulations apply

52 (1) This section applies despite section 3 of the Fish Inspection Regulations (Canada).

(2) A seafood processor must comply with all applicable requirements and prohibitions of the following provisions of the Fish Inspection Regulations (Canada) as if the seafood processor was a registered establishment within the meaning of that regulation:

(a) section 34;

(b) section 35;

(c) section 37;

(d) section 38 (1);

(e) section 39 (1);

(f) section 40 (1);

(g) section 42;

(h) sections 47 to 50.

(3) For the purposes of section 49 of the Fish Inspection Regulations (Canada), the requirements of section 25 of that regulation also apply.

Processing bivalve molluscs

53 (1) A seafood processor must not receive bivalve molluscs for processing unless

(a) the bivalve molluscs have been previously processed or held by a person holding a federal licence to process bivalve molluscs, and

(b) the processed bivalve molluscs are in containers that are tagged according to the requirements of the Canadian Shellfish Sanitation Program Manual of Operations, made under section 15 (8) (c) of the Fish Inspection Regulations (Canada).

(2) A seafood processor must ensure that shucked bivalve molluscs are packed for transport and distribution only in containers that are sealed in a manner that readily allows detection of any tampering.

Information on sport caught fish containers

54 (1) A seafood processor must ensure that marks made in accordance with this section are legible, readily visible and permanent.

(2) A seafood processor must ensure that each container of sport caught fish is marked with all of the following:

(a) the species of fish in the container;

(b) the name of the seafood processor, as shown on the seafood processor's licence, and the address of the seafood processor;

(c) the date on which the fish were processed;

(d) the words, "sport caught fish — not for sale".

(3) A seafood processor must ensure that each carton of containers of sport caught fish is marked with all of the following:

(a) the information required under subsection (2) (b) and (d);

(b) the name of the fisher who harvested the fish.

(4) For the purposes of subsection (2) (c), the date must be expressed in the format "year month day", as follows:

(a) the year must be expressed by using all 4 numerals that comprise the year;

(b) the month must be expressed by using the code that corresponds to the month as shown in the table below:

January: JA May: MA September: SE

February: FE June: JN October: OC

March: MR July: JL November: NO

April: AL August: AU December: DE

(c) the day must be expressed by using the 2 numerals that comprise the calendar date, with the first numeral being "0" if the calendar date is less than 10.

Tracking system for sport caught fish

55 (1) A seafood processor who processes sport caught fish must ensure that processed sport caught fish are distributed only to the fisher who harvested the fish.

(2) For the purpose of subsection (1), a seafood processor must have in place a system that does all of the following:

(a) marks or otherwise identifies sport caught fish, on receipt for processing, in a manner that enables a person to readily determine the fisher of the sport caught fish;

(b) maintains the mark or other identification throughout processing and until distribution;

(c) verifies on distribution that the recipient of the processed sport caught fish is the fisher.

Division 6 — Records Requirements

Seafood processor receipt and distribution records

56 (1) A seafood processor must keep records, in accordance with this section, with respect to each delivery of fish and aquatic plants

(a) received by the seafood processor for processing, and

(b) distributed by the seafood processor.

(2) Records must include at least the following information:

(a) if applicable, the licence number or federal licence number of the person from whom fish or aquatic plants were received;

(b) the contact information of the person

(i) from whom fish or aquatic plants were received, or

(ii) to whom fish or aquatic plants were distributed;

(c) the date of receipt or transport for distribution;

- (d) the quantity of
 - (i) fish received or distributed, divided according to species and, once processed, manner of processing, and
 - (ii) aquatic plants received or distributed, divided according to aquatic plant group and aquatic plant species;
 - (e) the amount paid or received for fish and aquatic plants received or distributed;
 - (f) the contact information of the transporter that distributed the fish or aquatic plants.
- (3) A seafood processor that distributes bivalve molluscs must do both of the following:
- (a) in addition to the information required under subsection (2), include the information contained on the tag referred to in section 53 (1) (b) [processing bivalve molluscs];
 - (b) provide to a transporter of the bivalve molluscs a copy of the information referred to in paragraph (a).

Other seafood processor records

57 (1) In this section:

"custom processing" means the processing of fish and aquatic plants for the purpose of returning the fish and aquatic plants to the person from whom they were received;

"processing for distribution" means the processing of fish and aquatic plants for the purpose of distributing the fish and aquatic plants to persons other than the person from whom they were received.

- (2) A seafood processor must keep records, in accordance with this section, with respect to each calendar month or part of a calendar month the seafood processor is engaged in activities under the licence.
- (3) Employment records must include at least the following information:
 - (a) the number of employees, divided according to the type of activity in which those employees are primarily employed;
 - (b) the number of employees engaged in custom processing activities, with those activities divided according to species.
- (4) Processing records must include at least the following information, divided according to custom processing activities and processing for distribution activities:
 - (a) the total quantity of fish and aquatic plants received by the seafood processor;
 - (b) the total quantity of fish and aquatic plants processed by the seafood processor, divided according to species and manner of processing.

Part 7 — Seafood Transporters and Distributors

Division 1 — Transporters

Operational requirements

58 (1) A transporter must ensure that all equipment the transporter uses to transport fish and aquatic plants is constructed from materials that

- (a) are durable and suitable for their intended purpose, and
- (b) ensure that food contact surfaces are easily cleaned and free from any noxious or toxic substance.

(2) A transporter must ensure that all equipment the transporter uses to store fish and aquatic plants is constructed in a manner that protects the fish and aquatic plants from becoming unsafe food.

Temperature of transported fish

59 (1) A transporter of fish must ensure that the temperature of fish being transported is maintained in accordance with section 40 (1) [temperature, water and ice standards].

(2) A transporter of fish must comply with section 40 (2) as if the transporter were a seafood processor.

Live bivalve mollusc transporter records

60 (1) A transporter of live bivalve molluscs must carry during transport the record referred to in section 56 (3) (b) [seafood processor receipt and distribution records].

(2) A transporter must provide the record referred to in section 56 (3) (b) to the person who receives the bivalve molluscs.

Division 2 — Seafood Distributors

Must keep record of live bivalve molluscs

61 A person who receives live bivalve molluscs from a transporter must do both of the following:

(a) add to the record received under section 60 (2) [live bivalve mollusc transporter records] a notation of the date on which the bivalve molluscs were received;

(b) keep the record referred to in paragraph (a) for at least one year.

No distribution of unlawfully processed aquatic plants

62 A person must not distribute, or offer to distribute, to the public for human consumption an aquatic plant that has been processed by a person other than a person who holds, or who is exempt from holding, a seafood processor licence.

Part 8 — General Records Requirements

How to express quantity

63 Subject to section 14 [wild aquatic plant harvester records], a person who must keep a record of the quantity of fish or aquatic plants grown, harvested, received, distributed or transported, must express the quantity as follows:

(a) with respect to fish or aquatic plants grown, harvested or received, in kilograms or tonnes;

(b) with respect to fish or aquatic plants distributed or transported, in kilograms, tonnes or as the number of cartons distributed, if a description is given of the

(i) number of containers in each carton, and

(ii) the weight of each container.

How to express amounts paid and received

64 A person who must keep a record of the amount paid or received for fish and aquatic plants received or distributed, must express the amount in Canadian dollars.

Records to be kept for 3 years

65 Subject to any provision to the contrary, a person who must keep records under this regulation must ensure that each record is kept for a period of at least 3 years.

Reporting information to minister

66 (1) Subject to subsection (2) and the terms of an applicable harvest agreement, if any, a person who must keep a record under this regulation, other than a transporter, must report to the minister the information, or a consolidation of the information, that the person must keep

(a) annually, for the period beginning January 1 and ending December 31, and

(b) as required by the minister.

(2) Subsection (1) (a) does not apply to the following records:

(a) harvest records prepared under section 14 [wild aquatic plant harvester records];

(b) records respecting food safety plans prepared under section 39 [food safety plans];

(c) records respecting sanitation plans prepared under section 41 [sanitation plans].

Part 9 — Transitional

Deemed licences

67 (1) For the purposes of section 66 (1) and (3) of the Act, a person who holds a licence issued under the Fish Inspection Act or the Fisheries Act, as those Acts read immediately before their repeal, to do an activity described in

(a) section 3 [aquatic plant culture licence] of this regulation is deemed to hold an aquatic plant culture licence for the purpose of doing that activity,

(b) section 8 [wild aquatic plant harvester licence] of this regulation is deemed to hold a wild aquatic plant harvester licence for the purpose of doing that activity,

(c) section 16 [fisher vendor licence] of this regulation is deemed to hold a fisher vendor licence for the purpose of doing that activity,

(d) section 21 [fish receiver licence] of this regulation is deemed to hold a fish receiver licence for the purpose of doing that activity, or

(e) section 27 [seafood processor licence] of this regulation is deemed to hold a seafood processor licence for the purpose of doing that activity.

(2) A licence that a person is deemed to hold under this section expires on the earliest date as follows:

(a) in the case of a fisher vendor licence, a fish receiver licence or a seafood processor licence, on December 31, 2017;

(b) in any case, on the date

(i) of expiry as set out on the licence issued under the Fish Inspection Act or the Fisheries Act, as applicable, or

(ii) set by a licensing officer on giving notice to the person who holds the licence.

Repeal of Part

68 This Part is repealed January 1, 2019.

Schedule

Aquatic plants

[section 1]

Interpretation

1 In this Schedule, the notation "spp." refers to all species within the genus preceding the notation.

Group 1 aquatic plants

2 The following species of aquatic plants are classed within group 1:

(a) *Macrocystis integrifolia*;

(b) *Nereocystis luetkeana*.

Group 2 aquatic plants

3 The following species of aquatic plants are classed within group 2:

(a) *Agarum* spp.;

(b) *Alaria* spp.;

(c) *Costaria costata*;

(d) *Cymathere triplicata*;

(e) *Egregia menziesii*;

(f) *Eisenia arborea*;

(g) *Saccharina sessile*;

(h) *Laminaria* spp.;

(i) *Pleurophycus gardneri*;

(j) *Pterygophora californica*.

Group 3 aquatic plants

4 The following species of aquatic plants are classed within group 3:

(a) *Agardhiella tenera*;

(b) *Ahnfeltia* spp.;

(c) *Endocladia muricata*;

(d) *Gelidium* spp.;

(e) *Gloiopeltis furcata*;

(f) *Gracilaria* spp.;

(g) *Gracilariopsis sjoestedtii*;

(h) *Gymnogongrus* spp.

Group 4 aquatic plants

5 The following species of aquatic plants are classed within group 4:

(a) *Gigartina* spp.;

(b) *Iridaea* spp.

Group 5 aquatic plants

6 The following species of aquatic plants are classed within group 5:

- (a) *Cystoseira geminata*;
- (b) *Fucus* spp.;
- (c) *Sargassum muticum*.

Group 6 aquatic plants

7 The following species of aquatic plants are classed within group 6:

- (a) *Enteromorpha* spp.;
- (b) *Monostroma* spp.;
- (c) *Porphyra* spp.;
- (d) *Rhodomenia* spp.;
- (e) *Ulva* spp.

Group 7 aquatic plants

8 The following species of aquatic plants are classed within group 7:

- (a) *Phyllospadix* spp.;
- (b) *Zostera marina*.

Group 8 aquatic plants

9 *Salicornia* spp. are classed within group 8.

Group 9 aquatic plants

10 All species of aquatic plants not classed within any of groups 1 to 8 are classed within Group 9.

[Provisions relevant to the enactment of this regulation: Fish and Seafood Act, S.B.C. 2015, c. 14, sections 59, 60, 65 and 66]

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