

chapter A-20.2, r. 1

Commercial Aquaculture Regulation

Act respecting commercial aquaculture
(chapter A-20.2, s. 42).



The fees prescribed in the Regulation have been indexed as of 1 January 2019 pursuant to the notice published in Part 1 (French) of the Gazette officielle du Québec of 8 December 2018, page 813. (ss. 11, 12, 13, 14, 15)

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CHAPTER I

LICENCES

DIVISION 1

LICENCE SUBCLASSES

1. The subclasses of aquaculture licences issued by the Minister of Agriculture, Fisheries and Food are

- (1) land-based; and
- (2) aquatic.

A land-based aquaculture licence authorizes the carrying on of aquaculture in an artificial cultivation or raising unit, such as a basin or an artificial lake.

An aquatic aquaculture licence authorizes the carrying on of aquaculture in a natural lake or watercourse, or offshore.

O.C. 607-2008, s. 1.

2. The subclasses of fishing pond licences issued by the Minister are

- (1) permanent;
- (2) temporary; and
- (3) mobile.

A permanent fishing pond licence authorizes the regular operation of a fishing pond having a basin that cannot be moved.

A temporary fishing pond licence authorizes the operation, for less than 21 consecutive days, of a fishing pond having a basin that cannot be moved. That licence may be issued only to the holder of a land-based aquaculture licence.

A mobile fishing pond licence authorizes the operation, for not more than 12 months, of a fishing pond having a basin capable of being moved from one location to another.

O.C. 607-2008, s. 2.

DIVISION 2

LICENCE ISSUANCE

3. A person applying to the Minister for the issue of a licence must apply in writing and submit

- (1) the person's name and address and, in the case of a legal person, a partnership, an association or a body, the name of the representative;
- (2) the name under which the undertaking is operated, if different from the name in paragraph 1;
- (3) the business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1);

(4) except in the case of an application for a mobile fishing pond licence, the address of the proposed site of operations;

(5) the person's telephone number and fax number, if any; and

(6) the class and subclass of the licence applied for.

The application must be signed by the person concerned or the person's representative.

O.C. 607-2008, s. 3.

4. In addition to the conditions required by the Act respecting commercial aquaculture (chapter A-20.2), a person applying for a licence must submit with the application

(1) a summary of the project for which the licence is applied for, containing the information in section 5;

(2) a layout plan meeting the construction, layout and equipment standards set out in this Regulation and containing the information in section 6;

(3) in the case of an application for a land-based aquaculture licence or a permanent or temporary fishing pond licence, a copy of the person's title of ownership, lease or any other document granting or promising a right of occupancy, conditional on the issue of the licence;

(4) a certificate from the municipality attesting that the project complies with municipal by-laws; and

(5) the fees and charges payable under Chapter II.

O.C. 607-2008, s. 4.

5. The project summary required under paragraph 1 of section 4 must specify

(1) the species that will be cultivated, raised or kept in captivity and, where applicable, the part of the life cycle involved;

(2) the cultivation or raising method;

(3) for an aquaculture licence application, the duration of a production cycle;

(4) for an aquaculture licence application for an aquaculture site in the domain of the State, the proposed maximum production volume of aquatic organisms and an estimate of the time required to reach that volume; and

(5) for a fishing pond licence application, the proposed volume of fish to be kept in captivity.

O.C. 607-2008, s. 5.

6. The layout plan required under paragraph 2 of section 4 must include a sketch of the facilities and indicate,

(1) for land-based aquaculture licence and permanent or temporary fishing pond licence applications,

(a) the location and dimensions of the proposed aquaculture site or fishing pond and, in the case of an aquaculture site, of each of its cultivation or raising units;

(b) the water supply sources and their flow in the summer low water period;

(c) the water processing equipment and other facilities that will be necessary for the proposed maximum production volume or the proposed volume of fish to be kept in captivity; and

(d) a sketch showing the flow of water in the facilities from the supply sources to the receiving environment;

(2) for an aquatic aquaculture licence application,

(a) the geographic coordinates, the area and depth of the proposed aquaculture site and its location on a nautical chart;

(b) the equipment and facilities that will be immersed until the proposed maximum production volume is reached, their number, dimensions, location and the immersion schedule; and

(c) the annual schedule of the seasonal adjustments of the equipment and facilities, including when they are placed into and removed from the water; and

(3) for a mobile fishing pond licence application,

(a) the dimensions of the basin forming the fishing pond;

(b) the places where and dates on which the basin will be installed and removed that are known at the time of the application;

(c) where applicable, the water processing equipment; and

(d) where applicable, the place where the fish are kept in captivity while the mobile fishing pond is not in operation.

O.C. 607-2008, s. 6.

DIVISION 3

LICENCE RENEWAL

7. A licence holder applying to the Minister for renewal of the licence must apply in writing and submit

- (1) the information required by section 3;
- (2) the project summary referred to in section 5;
- (3) the layout plan described in section 6; and
- (4) the fees payable under Chapter II.

An application for renewal and the fees must be received by the Minister before the licence expires.

O.C. 607-2008, s. 7.

DIVISION 4

LICENCE AMENDMENT

8. A licence holder applying to the Minister for a licence amendment must apply in writing and submit

- (1) a description of the modification for which the licence amendment is applied for;
- (2) the consequences of the modification on authorized activities and the proposed maximum production volume or proposed volume of fish to be kept in captivity; and
- (3) if applicable, the modified layout plan.

In the case of a material modification, the licence holder must also submit the fees payable under Chapter II.

“Material modification” means

- (1) a modification to the layout plan;
- (2) a modification of the proposed maximum production volume or the proposed volume of fish to be kept in captivity;
- (3) an addition of or change in species; or
- (4) a change in the cultivation or raising method.

O.C. 607-2008, s. 8.

9. A holder of a mobile fishing pond licence proposing to install the basin of the fishing pond in a place and on a date not known at the time of the licence application must inform the Minister in writing of the place where and dates on which the basin will be installed and removed at least 2 weeks before the basin is installed.

Despite subparagraph 1 of the third paragraph of section 8, the modification is not a material modification.

O.C. 607-2008, s. 9.

DIVISION 5

LICENCE TRANSFER

10. A licence holder applying to the Minister for authorization to transfer the licence must apply in writing and submit

- (1) a declaration from the transferee containing
 - (a) the information required by section 3;
 - (b) the project summary referred to in section 5 that demonstrates the absence of any material modification of the activities, equipment and facilities proposed at the time the licence was issued; and
 - (c) the fees payable under Chapter II;
- (2) a copy of any document attesting to or promising transfer of the ownership of the undertaking, conditional on the transfer of the licence; and
- (3) a report on the licence holder’s activities since the end of the period covered by the last annual report, containing the information in section 26.

O.C. 607-2008, s. 10.

CHAPTER II

ADMINISTRATIVE CHARGES AND FEES

11. The administrative charges payable to open a file at the time of the application for the issue of an aquaculture licence, a permanent fishing pond licence or an authorization to carry out research and experimentation are \$120.

The charges are deductible from the fees for the issue of the licence or authorization.

O.C. 607-2008, s. 11.

12. The fees for the issue, renewal or transfer of a licence are

(1) \$299 for an aquaculture licence or a permanent fishing pond licence;

(2) \$60 for a temporary fishing pond licence; and

(3) \$180 for a mobile fishing pond licence, or \$120 if the person also holds an aquaculture licence or a permanent fishing pond licence.

O.C. 607-2008, s. 12.

13. The fees for the issue of an authorization to carry out research and experimentation are \$299.

O.C. 607-2008, s. 13.

14. The fees for a licence amendment because of a material modification are \$180.

O.C. 607-2008, s. 14.

15. The annual fees for an aquaculture licence and a permanent fishing pond licence are \$120.

O.C. 607-2008, s. 15.

16. The charges and fees under sections 11 to 15 are adjusted on 1 January of each year based on the percentage change in the general Consumer Price Index for Canada for the 12-month period ending on 30 September of the preceding year. That change is the ratio between the index for the above-mentioned period and the index for the period that precedes it. The index for a period is the average of the monthly indexes published by Statistics Canada. The charges and fees are reduced to the nearest dollar if they contain a fraction of a dollar less than \$0.50; they are increased to the nearest dollar if they contain a fraction of a dollar equal to or greater than \$0.50.

The Minister is to publish the results of the adjustment under this section in the *Gazette officielle du Québec* and, if the Minister considers it appropriate, inform the public by any other means.

O.C. 607-2008, s. 16.

17. The administrative charges and fees under this Chapter are payable to the Minister of Finance.

O.C. 607-2008, s. 17.

CHAPTER III

BOOKS, REGISTERS AND OTHER DOCUMENTS

18. A licence holder must enter in the books or registers the information concerning

(1) the aquatic organisms cultivated, raised or kept in captivity, as provided in section 19;

(2) the feeding of the aquatic organisms, as provided in section 20;

(3) the health of the aquatic organisms, as provided in section 21;

(4) the non-prescription products used to treat the aquatic organisms, as provided in section 22; and

(5) the water processing products and the cleaning products for the equipment and facilities in contact with the aquatic organisms, as provided in section 23.

O.C. 607-2008, s. 18.

19. The information to be provided under paragraph 1 of section 18 concerning the aquatic organisms cultivated, raised or kept in captivity must be entered for each species according to number or weight and size or age category, and pertains to

(1) all the supplies, stating for each of them

(a) the genetic line or strain;

(b) the name and address of the supplier;

(c) the date of receipt; and

(d) the name and address of the carrier;

(2) the production of seeds, eggs, spats, cuttings, rhizomes, stolons or tubers and the eggs or spats harvested or the number of collectors used for that purpose and the date on which they were put into or removed from the water;

(3) the inventories of the aquatic organisms, including each inventory date;

(4) in the case of an aquaculture licence, the sales, including their date and, for wholesale sales, the name and address of each purchaser, the shipping date and the intended purposes for which the aquatic organisms are to be used;

(5) in the case of a fishing pond licence, the fish caught by fishers on each day of operation; and

(6) any massive loss of the aquatic organisms, including the date and cause of the event and the disposal method and site.

O.C. 607-2008, s. 19.

20. The information to be provided under paragraph 2 of section 18 concerning the feeding of the aquatic organisms must be entered by food type, whether as dry or semi-moist food, live products or fertilizers, and pertains to

(1) supplies, including the product name and quantity, the supplier's name and address and the date of receipt; and

(2) in the case of food prepared by the licence holder, the information in paragraph 1 for each ingredient used in the preparation.

O.C. 607-2008, s. 20.

21. The information to be provided under paragraph 3 of section 18 concerning the health of the aquatic organisms pertains to

(1) consultations with veterinarians or specialists, including their name and professional address, the date and purpose of the consultation, the diagnostic and, where applicable, the proposed treatment and its duration;

(2) the date of the various analyses and their results and the name and professional address of the persons who made them;

(3) the purchase of prescription products such as drugs, vaccines or medicinal foods, including the product name and quantity, the supplier's name and address and the date of receipt; and

(4) if a treatment is administered, the dates on which it begins and ends, the method of administration and, if a waiting period is required, the daily water temperature of each cultivation or raising unit, or fishing pond basin, containing the treated aquatic organisms.

O.C. 607-2008, s. 21.

22. The information to be provided under paragraph 4 of section 18 concerning non-prescription products used to treat aquatic organisms pertains to

(1) supplies, including the product name and quantity, the supplier's name and address and the date of receipt; and

(2) the use of the products, including the date and method of administration and the quantity or concentration used.

O.C. 607-2008, s. 22.

23. The information to be provided under paragraph 5 of section 18 concerning the water processing products and the cleaning products for the equipment and facilities in contact with the aquatic organisms is to specify the name of the product used, the date and method of use, and the quantity or concentration used.

O.C. 607-2008, s. 23.

24. Despite section 18, a licence holder's invoices, veterinary prescriptions, analysis reports and other supporting documents may stand in lieu of the books or registers if they contain the information required by sections 18 to 23.

O.C. 607-2008, s. 24.

25. A licence holder must keep in chronological order the invoices, veterinary prescriptions, analysis reports and other supporting documents throughout the duration of a production cycle, plus 3 years. The licence holder must also keep, for the same duration as of the last entry, the books, registers and other documents used in the aquaculture activities.

O.C. 607-2008, s. 25.

CHAPTER IV

ANNUAL REPORT AND OTHER DOCUMENTS

26. Not later than 15 February of each year, holders of an aquaculture licence and a permanent fishing pond licence must provide the Minister with a report on their activities for the preceding calendar year which must include

(1) any change in the information required by section 3;

(2) the production of the aquatic organisms cultivated, raised or kept in captivity for each species according to number or weight and size or age category, including

(a) total supplies;

(b) annual production of seeds, eggs, spats, cuttings, rhizomes, stolons or tubers and the total number of eggs or spats harvested;

(c) cumulative losses;

(d) in the case of an aquaculture licence, total sales broken down according to the purposes for which the aquatic organisms are to be used;

(e) the estimated biomass of remaining fish at the end of the calendar year; and

(f) in the case of a fishing pond licence,

i. the total number of fish caught by fishers; and

ii. the quantity of fish disposed of pursuant to the second paragraph of section 40;

(3) the food used by food type, whether as dry or semi-moist food, live products or fertilizers, including product names and total quantities used; and

(4) in the case of a land-based aquaculture licence, measurement of the operation's average water flow rate.

The licence holder must submit the annual fees payable under Chapter II with the annual report.

O.C. 607-2008, s. 26.

27. Not later than 2 months after the end of activities, the holder of a temporary or mobile fishing pond licence must provide the Minister with a report containing the information required by the first paragraph of section 26.

O.C. 607-2008, s. 27.

CHAPTER V

OPERATION STANDARDS

DIVISION 1

CONSTRUCTION, LAYOUT AND EQUIPMENT STANDARDS

28. The equipment and facilities used in the operation of an aquaculture site or fishing pond must be designed so that the premises may be maintained in the clean and safe state required to ensure the aquatic organisms remain healthy and innocuous and to prevent any hazard to the health or safety of the public, the environment and wildlife, and must conform to the following requirements:

(1) the equipment and facilities in contact with the aquatic organisms must be made from materials that do not let toxic products be diffused through the water and be installed so as to function according to intended use;

(2) the equipment and facilities must be installed so as to allow cleaning and disinfection of the surfaces in contact with the aquatic organisms;

(3) separate rooms, compartments or containers, closed and protected against any deterioration or contamination, must be used to store

(a) food;

(b) non-prescription products used to treat the aquatic organisms, water processing products and cleaning products;

(c) medications and other prescription products; and

(d) fuels;

- (4) in the case of a land-based aquaculture site or fishing pond,
 - (a) the equipment and facilities must allow solid residual matter from the operation to be retained and removed;
 - (b) the equipment and facilities must allow the cultivation or raising units or the fishing pond to be fully drained; and
 - (c) the water supply must be of sufficient quantity and of a quality necessary to provide adequate conditions for the aquatic organisms to be raised or kept in captivity;
- (5) in the case of a land-based aquaculture site whose cultivation or raising units are outdoors and in the case of a fishing pond, the perimeter of the units or basin must be laid out so as to prevent any risk of contamination caused by surface water runoff;
- (6) in the case of a land-based aquaculture site, foot baths containing an efficient disinfectant and material necessary for washing and disinfecting hands must be installed in a place reserved for that purpose at the entrance of each closed building intended for fish production;
- (7) in the case of an aquatic aquaculture site, the equipment and facilities must be laid out so as to allow direct and safe access to the site;
- (8) in the case of a fishing pond, the basin must be built or located away from any lake or watercourse; and
- (9) where fish or amphibians are raised or kept in captivity, the equipment and facilities must be designed to ensure they remain confined and to prevent their release into the natural environment.

O.C. 607-2008, s. 28.

29. The tanks of vehicles used to transport live aquatic organisms must have been designed so that the surfaces in contact with the aquatic organisms may be cleaned and disinfected.

O.C. 607-2008, s. 29.

30. A holder of an aquatic aquaculture licence who is not required to install lights, buoys or other marks under the Navigable Waters Works Regulations (C.R.C. c. 1232) is exempt from the application of the second paragraph of section 17 of the Act.

O.C. 607-2008, s. 30.

DIVISION 2

STANDARDS FOR CULTIVATION, RAISING AND CAPTIVITY

31. Aquaculture sites and fishing ponds must be operated in such manner that the premises may be maintained in the clean and safe state required to ensure the aquatic organisms remain healthy and innocuous and to prevent any hazard to the health or safety of the public, the environment and wildlife, and must conform to the following requirements:

- (1) the equipment and facilities of an aquaculture site and a fishing pond in contact with the aquatic organisms must be emptied of fish and cleaned before the arrival of a new batch of fish and be disinfected if there is a risk of contamination;
- (2) the equipment and facilities must be kept in good working order;
- (3) separate rooms, compartments or containers, closed and protected against any contamination, must be used to store

- (a) food not currently being used;
 - (b) non-prescription products used to treat the aquatic organisms, water processing products and cleaning products;
 - (c) medications and other prescription products; and
 - (d) fuels;
- (4) the aquatic organisms must be handled in such a way as to prevent any contamination;
- (5) the aquaculture site or the fishing pond must be operated in such a way as to ensure the fish and amphibians remain confined and to prevent their release into the natural environment;
- (6) the solid residual materials from the operation of a land-based aquaculture site and a fishing pond must be removed from the cultivation or raising units or the fishing pond,
- (a) before the production of a new batch in the case of a land-based aquaculture site; and
 - (b) at least once a year in the case of a fishing pond;
- (7) in the case of a land-based aquaculture site, the foot baths installed must be maintained and the disinfectant they contain must be kept efficient;
- (8) in the case of a land-based aquaculture site whose cultivation or raising units are outdoors and in the case of a fishing pond, the perimeter of the units or basin must be kept clean and free of any debris or rubbish; and
- (9) in the case of a land-based aquaculture site whose cultivation or raising units are indoors, the inside of the building must be kept clean and free from any debris or rubbish.

O.C. 607-2008, s. 31.

32. In the course of aquaculture activities, a licence holder may only use cleaners, disinfectants or pesticides that meet the standards prescribed by the Food and Drugs Act (R.S.C. 1985, c. F-27) or the Pest Control Products Act (S.C. 2002, c. 28), or that are entered on the Reference Listing of Accepted Construction Materials, Packaging Materials and Non-Food Chemical Products published by the Canadian Food Inspection Agency, accessible on its site at the address <http://www.inspection.gc.ca>.

O.C. 607-2008, s. 32.

33. A licence holder who raises fish or amphibians or keeps them in captivity must immediately inform the Minister of any accidental release and take all necessary measures to recover the fish or amphibians.

O.C. 607-2008, s. 33.

34. A licence holder who becomes aware that there has been a massive loss of the aquatic organisms must immediately inform the Minister and give the cause of the loss.

O.C. 607-2008, s. 34.

35. Subject to an order issued under Chapter II of the Plant Protection Act (chapter P-39.01) or Division I of the Animal Health Protection Act (chapter P-42), a licence holder who becomes aware that the aquatic organisms are unfit for consumption or that their safety is not assured must dispose of the aquatic organisms by

- (1) landfilling or incineration in a facility that complies with the Environment Quality Act (chapter Q-2);

(2) recovery of the aquatic organisms by the holder of a permit to operate a dismembering or salvage plant issued under subparagraph *c* or *d* of the first paragraph of section 9 of the Food Products Act (chapter P-29) or by a waste removal undertaking;

(3) composting in accordance with the Environment Quality Act; or

(4) ***(in force subject to section 49, par. 2)*** processing into a product referred to in paragraph 5 of sections 9.3.1.14 and 10.3.1.18 of the Regulation respecting food (chapter P-29, r. 1) by the holder of a permit to operate a marine or fresh water product processing factory or packing-house issued under subparagraph *e* or *f* of the first paragraph of section 9 of the Food Products Act.

Despite the first paragraph, the licence holder may store the aquatic organisms prior to their disposal if they are stored in accordance with the Environment Quality Act.

O.C. 607-2008, s. 35.

36. An aquaculture licence holder must carry on the activities only within the limits of the aquaculture site indicated on the licence.

O.C. 607-2008, s. 36.

37. An aquatic aquaculture licence holder who performs operations in the aquaculture site to control pests and invasive or predatory species must do so in a way that does not interfere with surrounding activities.

O.C. 607-2008, s. 37.

38. The holder of an aquaculture licence for an aquaculture site in the waters in the domain of the State who is the sub-lessee of a lease for aquaculture purposes issued under the Watercourses Act (chapter R-13) is exempt from the application of section 19 of the Act.

O.C. 607-2008, s. 38.

39. All persons must use the foot baths, if any, and wash and disinfect their hands.

O.C. 607-2008, s. 39.

40. A holder of a fishing pond licence may not keep fish in captivity for purposes other than recreational fishing.

Despite the first paragraph, if there is an exceptional surplus of fish at the time the pond is closed for winter or within 15 days preceding the expiry of the licence, the holder of a permanent fishing pond licence may, after informing the Minister in writing, sell the remaining fish either live or dead. The holder of a temporary or mobile fishing pond licence may, on ceasing activities, sell or give the live remaining fish to the holder of an aquaculture licence or a permanent fishing pond licence.

O.C. 607-2008, s. 40.

CHAPTER VI

DEVELOPMENT AND YIELD STANDARDS

41. Subject to a licence amendment or unforeseeable or uncontrollable circumstances, the holder of an aquaculture licence for an aquaculture site in the domain of the State must occupy and operate the aquaculture site in a continuous and increased manner until the proposed maximum production volume is attained, as provided in the licence holder's project summary referred to in section 5, and thereafter maintain that occupancy and operation level for the entire duration of the licence.

O.C. 607-2008, s. 41.

CHAPTER VII

AMENDING PROVISIONS

42. The Commercial Aquaculture Regulation (O.C. 1311-87, 87-08-26) is revoked, except to the extent provided for by section 48 of the Act to amend the Animal Health Protection Act and other legislative provisions and to repeal the Bees Act (2000, chapter 40) in respect of section 14 of that Regulation.

O.C. 607-2008, s. 42.

43. *(Amendment integrated into section 1 of the Regulation respecting the registration of agricultural operations and the payment of property taxes and compensations (French) (O.C. 340-97, 97-03-19)).*

O.C. 607-2008, s. 43.

44. *(Amendment integrated into section 4 of the Regulation respecting the signing of certain permits of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (O.C. 1541-95, 95-11-29)).*

O.C. 607-2008, s. 44.

45. The Règlement sur la définition d'un produit agricole (R.R.Q., 1981, chapter P-28, r. 3) is revoked.

O.C. 607-2008, s. 45.

46. *(Amendment integrated into section 13 of the Regulation respecting the alienation and leasing of agricultural lands in the domain of the State (O.C. 4-90, 90-01-10)).*

O.C. 607-2008, s. 46.

CHAPTER VIII

TRANSITIONAL AND MISCELLANEOUS

47. Land-based aquaculture sites and fishing ponds operated by holders of an aquaculture or fishing pond licence on 9 July 2008 are exempt from the application of paragraphs 4, 5 and 8 of section 28 and paragraph 6 of section 31 as regards the infrastructures, equipment and facilities built and used on that date.

Despite the foregoing, that exemption no longer applies to land-based aquaculture sites and fishing ponds if they cease to be operated permanently or for more than 12 consecutive months.

O.C. 607-2008, s. 47.

48. A member of the personnel of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation or a position holder in that department is exempt from the application of sections 22 and 23 of the Act for the carrying out, in the performance of their duties, of research and experimentation activities in aquaculture in the waters in the domain of the State.

O.C. 607-2008, s. 48.

49. This Regulation comes into force on 10 July 2008 except

(1) *(Omitted);*

(2) subparagraph 4 of the first paragraph of section 35 with regard to the holder of a permit to operate a fresh water product processing factory or packing-house, which will take effect upon the coming into force of subparagraph *f* of the first paragraph of section 9 of the Food Products Act (chapter p-29).

O.C. 607-2008, s. 49.

UPDATES
O.C. 607-2008, 2008 G.O. 2, 2542
S.Q. 2010, c. 7, s. 282

