

Aquaculture Licence and Lease Regulations

made under Section 64 of the
Fisheries and Coastal Resources Act
S.N.S. 1996, c. 25

O.I.C. 2015-338 (October 26, 2015), N.S. Reg. 347/2015

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Citation

1 These regulations may be cited as the Aquaculture Licence and Lease Regulations.

Definitions

2 In these regulations,

“Act” means the Fisheries and Coastal Resources Act;

“adjudicative amendment” means an amendment to an aquaculture licence or aquaculture lease that the Review Board is required by clause 49(b) or (c) of the Act to decide on;

“adjudicative hearing” means a public hearing held by the Review Board as required by Section 51 of the Act in accordance with the process set out in Sections 17 to 36;

“aquaculture development area” means an aquaculture development area designated by the Minister under clause 56(1)(a) of the Act;

“bottom shellfish with gear method” means a method of shellfish aquaculture using gear placed on the solum;

“bottom shellfish without gear method” means a method of shellfish aquaculture practised without using gear placed on the solum;

“development plan” means a document that specifies the technical aspects and feasibility of an aquacultural operation at a particular site;

“Farm Management Plan” means a farm management plan as required by the Aquaculture Management Regulations made under the Act;

“intervenor” means a person who is granted leave to intervene in an adjudicative hearing before the Review Board under Section 23;

“option to lease” means an option issued by the Minister under subsection 44A(4) of the Act to lease a tract of Crown land that is not designated as an aquaculture development area;

“prescribed fee” means a fee prescribed in Sections 76 to 78;

“reallocation”, in relation to an aquaculture site, means the issuance of an aquaculture licence or aquaculture lease for the aquaculture site after the revocation of its previous aquaculture licence or aquaculture lease, as referred to in clauses 54A(1)(f) and 58(1)(e) of the Act and subsection 59(2) of the Act;

“special experimental lease” means a special experimental lease granted by the Administrator under Section 55 of the Act;

“special experimental licence” means a special experimental licence granted by the Administrator under Section 55 of the Act;

“suspended shellfish method” means a method of shellfish aquaculture using gear placed in the water column;

“u-fish pond” means a pond stocked with fish that meets all of the following criteria:

- (i) it is located on private property,
- (ii) in the opinion of the Administrator, it is used primarily for the purpose of allowing persons to fish in the pond with rod and line for a fee.

Factors to be considered in decisions related to marine aquaculture sites

3 In making decisions related to marine aquaculture sites, the Review Board or Administrator must take all of the following factors into consideration:

- (a) the optimum use of marine resources;
- (b) the contribution of the proposed operation to community and Provincial economic development;
- (c) fishery activities in the public waters surrounding the proposed aquacultural operation;
- (d) the oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;
- (e) the other users of the public waters surrounding the proposed aquacultural operation;
- (f) the public right of navigation;
- (g) the sustainability of wild salmon;
- (h) the number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation;

Options to Lease

Details in call for proposals

4 A call for proposals for options to lease issued by the Minister must include any details the Minister considers necessary, including all of the following:

- (a) a description of the geographic area under consideration;
- (b) the types of species to be cultivated;
- (c) the method of cultivation to be used;
- (d) the deadline for submitting a proposal;
- (e) the number of options to be issued.

Unsolicited proposal for option to lease

5 The Minister may entertain an unsolicited proposal for an option to lease in a manner determined by the Minister.

Issuing options to lease

6 (1) The Minister may establish procedures for evaluating proposals for and issuing options to lease.

(2) The Minister has sole discretion in deciding whether to issue an option to lease and, if issued, whether to issue it

- (a) as set out in the proposal for the option; or
- (b) with variations from the proposal for the option.

(3) In deciding on a proposal for an option to lease, the Minister may take any of the following into consideration:

- (a) the potential benefits to the community and Province;
- (b) any previous record of the proponent related to aquacultural operations;
- (c) the ability of the proponent to carry out the proposal;
- (d) the concentration of current and proposed aquacultural operations, in order to ensure orderly development of the industry;
- (e) the suitability of the proposal, determined in accordance with any policies established by the Minister.

(4) Before issuing an option to lease, the Minister must notify the proponent that their proposal has been approved and that a fee to secure the option must be paid as required by Section 7 before the option to lease will be issued.

Fee required to secure option to lease

7 (1) To secure an option to lease, a proponent must pay the prescribed fee no later than 15 days after the date the Minister notifies the proponent under subsection 6(5)[(4)] of their successful proposal for the option to lease.

(2) The Minister must not issue an option to lease to a proponent who does not pay the prescribed fee as required by subsection (1).

Duration of option to lease

8 (1) Unless it is renewed under subsection (2), an option to lease expires on the date determined by the Minister, which must be no later than 6 months from the date the option is issued.

(2) At the written request of the holder, the Minister may grant an extension of up to 6 months to the duration of an option to lease.

Public notice of issued option to lease

9 (1) The Minister must publish notice of an issued option to lease on the Department's website and in the Royal Gazette Part I as soon as reasonably possible.

(2) Notice of an issued option to lease must include any information determined by the Minister.

(3) In addition to publishing notice of an issued option to lease as required by subsection (1), the Minister may do any of the following:

(a) notify any person, group of persons or organization, as determined by the Minister, of the issued option to lease;

(b) publish notice of the issued option to lease by any means determined by the Minister.

Scoping process for option to lease holder for marine aquaculture site

10 (1) Before submitting an application for an aquaculture licence or aquaculture lease for a marine aquaculture site in the area for which their option to lease was issued, an option to lease holder must complete a scoping process.

(2) The scoping process required by subsection (1) must be carried out as determined by the Minister and must include at least 1 public information meeting that is

(a) organized by the option to lease holder; and

(b) held in the community that the Minister determines is the most appropriate community closest to the location of the aquaculture site that is the subject of the option to lease.

(3) An option to lease holder must publish notice of the public information meeting required by subsection (2) in a manner determined by the Minister.

New application for a marine site in a non-designated area

11 (1) An option to lease holder who wishes to apply for an aquaculture licence or aquaculture lease must submit their application

(a) after completing the scoping process required by Section 10; and

(b) before their option to lease expires.

(2) In addition to any information required by the Minister under Section 46 of the Act, an option to lease holder must include all of the following with their application for an aquaculture licence or aquaculture lease:

(a) a report on the scoping process carried out under Section 10, including any details required by the Minister;

(b) a development plan that meets the criteria established by the Minister for the type of aquacultural operation to be carried out under the licence or lease.

Adjudicative Amendments

Scoping process for applicant for adjudicative amendment

12 (1) Before applying for an adjudicative amendment, the holder of the aquaculture licence or aquaculture lease must complete a scoping process.

(2) The scoping process required by subsection (1) must be carried out as determined by the Minister and must include at least 1 public information meeting that is

(a) organized by the holder of the aquaculture licence or aquaculture lease; and

(b) held in the community that the Minister determines is the most appropriate community closest to the location of the site that is the subject of the aquaculture licence or aquaculture lease.

(3) A prospective applicant for an adjudicative amendment must publish notice of the public information meeting required by subsection (2) in a manner determined by the Minister.

Applying for adjudicative amendment

13 An application for an adjudicative amendment must include any information or documentation that the Minister considers necessary to assess the application, including all of the following:

(a) a report on the scoping process carried out under Section 12, including any details required by the Minister;

(b) an updated development plan that meets the criteria established by the Minister for the type of aquacultural operation to be carried out under the amended aquaculture licence or lease.

Consultations on adjudicative amendment application

14 (1) On receipt of a completed application for an adjudicative amendment, the Minister must appoint an employee of the Department to undertake consultations with any of the following as required under the laws of the Province or of Canada with respect to the application:

(a) a department or agency of the Government of Nova Scotia;

(b) a department or agency of the Government of Canada.

(2) In addition to any required consultation referred to in subsection (1), the Minister may appoint an employee of the Department to undertake consultations with any person, group of persons or organization that the Minister considers necessary in the circumstances.

Performance review on application for adjudicative amendment

15 (1) On receipt of a completed application for an adjudicative amendment, the Minister must appoint an employee of the Department to conduct a performance review of the aquacultural operation that is the subject of the amendment.

(2) The Minister must determine the criteria for and scope of a performance review under this Section.

Minister must refer application to Review Board

16 The Minister must refer an application for an adjudicative amendment to the Review Board, along with all of the following:

- (a) a report on the outcomes of any consultations undertaken under Section 14;
- (b) a report on any outcomes of the performance review conducted under Section 15.

Adjudicative Hearings

Adjudicative hearing process

17 The Review Board must follow the adjudicative hearing process with respect to any of the following applications:

- (a) an aquaculture licence or aquaculture lease application with respect to a marine site in an area not designated as an aquaculture development area, as referred to in clause 49(a) of the Act;
- (b) an application for an adjudicative amendment.

Date of adjudicative hearing

18 (1) No later than 15 days after receiving an application referred by the Minister, the Review Board must set a date for an adjudicative hearing.

(2) The date of an adjudicative hearing must be at least 60 days but no later than 90 days after the date on which the Review Board sets the adjudicative hearing date under subsection (1).

(3) The Review Board must give the parties to an adjudicative hearing at least 60 days' written notice of the hearing date.

Public notice of adjudicative hearing

19 (1) At least 60 days before the date set for an adjudicative hearing, the clerk of the Review Board must publish notice of the adjudicative hearing on the Department's website and in the Royal Gazette Part I.

(2) Public notice of an adjudicative hearing must include all of the following information:

- (a) the nature of the hearing;
- (b) the time and place of the hearing;
- (c) the location of the aquaculture site that is the subject of the adjudicative hearing;
- (d) the species and method of cultivation proposed;
- (e) the applicant's name;
- (f) any information about the hearing that the Review Board determines should be made public.

(3) In addition to publishing notice of an adjudicative hearing as required by subsection (1), the clerk of the Review Board may publish the notice by any means determined by the Review Board.

Pre-hearing submissions for adjudicative hearing

20 Members of the public may submit written comments to the Review Board during the notice period provided for an adjudicative hearing and in the manner determined by the Review Board.

Location of adjudicative hearing

21 An adjudicative hearing must be held in the community that the Review Board determines is the most appropriate community closest to the aquaculture site that is the subject of the hearing.

Parties to adjudicative hearing

22 All of the following are parties to an adjudicative hearing:

- (a) the applicant;
- (b) any intervenor;
- (c) the Minister or the Minister's designate.

Request for intervenor status

23 (1) A person may request intervenor status from the Review Board.

(2) A request under subsection (1) must be in writing in a form determined by the Review Board and must be submitted to the Review Board no later than 10 days after the date that notice of the adjudicative hearing is published under Section 19.

(3) No later than 10 days after the date it receives a request for intervenor status, the Review Board must decide whether to grant or refuse the request.

(4) The Review Board must grant intervenor status to any person requesting it who, in the opinion of the Review Board, is substantially and directly affected by the hearing.

(5) A decision made by the Review Board with respect to intervenor status is final.

(6) No later than 5 days after deciding on a request for intervenor status, the Review Board must provide notice of its decision to the person requesting intervenor status and, if the request is granted, to each of the parties to the proceeding.

Copies of documents to intervenor

24 Promptly after receipt of any of the following documents referred by the Minister for an adjudicative hearing, the Review Board must provide copies of the documents to an intervenor in the hearing:

(a) for an application for a new aquaculture licence or aquaculture lease for a marine site in a non-designated area, the documents referred to in subsection 11(2);

(b) for an application for an adjudicative amendment, the documents referred to in Section 13.

Intervenors' evidence may be consolidated

25 The Review Board may require all or part of 2 or more intervenors' evidence to be consolidated if the Review Board determines that consolidation is necessary to avoid repetitive or cumulative evidence.

Copies of documents and correspondence to parties

26 (1) A party to an adjudicative hearing who files any correspondence or document with the Review Board, other than a document referred to in Section 24, must at the same time deliver a copy of the document or correspondence to each of the other parties to the adjudicative hearing.

(2) At the same time it delivers any correspondence to a party to an adjudicative hearing, the Review Board must deliver a copy of the correspondence to each of the other parties.

Review Board authority

27 (1) If procedures are not provided for in these regulations or in the Act, the Review Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it.

(2) The Review Board may dispense with, amend, vary or supplement all or part of the procedures for adjudicative hearings set out in these regulations if it is satisfied that the special circumstances of the application before it so require or it is in the public interest to do so.

Opening adjudicative hearing

28 The Review Board must open an adjudicative hearing by describing in general terms the purpose of the adjudicative hearing and the general procedure governing its conduct.

Adjourning and reconvening adjudicative hearing

29 (1) The Review Board may adjourn an adjudicative hearing and reconvene the adjudicative hearing at any time and at any place the Review Board considers appropriate.

(2) The Review Board must provide reasonable notice of the time and place of a reconvened hearing to the parties to the hearing and to the public.

Evidence at adjudicative hearing

30 (1) Evidence presented at an adjudicative hearing must be relevant to all of the following:

- (a) the proposed aquacultural operation, including its geographic location;
- (b) the factors to be considered by the Review Board as required by Section 3.

(2) The Review Board may exclude anything it considers to be hearsay, irrelevant, immaterial or unduly repetitious from the evidence presented at an adjudicative hearing.

(3) A party is not entitled to present the evidence of an expert witness at an adjudicative hearing unless

- (a) the evidence is in the form of a report that includes the expert's name, address and qualifications, along with a statement of the substance of the expert's proposed evidence; and
- (b) the party has provided the evidence to the Review Board and each of the other parties as required by subsection (5).

(4) A party to an adjudicative hearing may submit written evidence or present oral testimony to explain their position.

(5) At least 15 days before the date of an adjudicative hearing, a party who intends to present written or visual evidence at the adjudicative hearing must provide that evidence to the Review Board through an affidavit, with a copy to each of the other parties.

(6) The Review Board may take notice of any facts of which judicial notice could be taken.

Documentary and real evidence at adjudicative hearing

31 (1) The clerk of the Review Board must number or otherwise identify each document, material item and object offered and accepted as evidence in an adjudicative hearing.

(2) The Review Board may accept evidence submitted in the form of a copy or excerpt if the original is not readily available.

(3) The Review Board may require any person presenting a document or photograph as an exhibit to submit a specified number of copies, unless the document or photograph is determined to be unsuitable for reproduction.

Public participation in adjudicative hearing

32 (1) Any member of the public may participate in an adjudicative hearing by making a sworn oral statement or an affirmation providing the Review Board with all of the following information:

(a) their name;

(b) their place of residence;

(c) their position on the issues, subject to any limits, terms and conditions determined by the Review Board.

(2) The Review Board must limit the duration of oral testimony given by a member of the public to 6 minutes per person.

(3) To be considered by the Review Board, a sworn oral statement or an affirmation provided by any member of the public must be in relation to 1 or more of the factors set out in Section 3.

Questions at adjudicative hearing

33 (1) Each question at an adjudicative hearing must be directed to the Chair of the Review Board, who may invite the appropriate person to respond to the question.

(2) The Chair may exclude any question that, in the opinion of the Chair, is outside of the terms of reference of the Review Board or is needlessly repetitive in nature.

(3) The Chair may limit the number of questions that may be asked at an adjudicative hearing.

(4) A question addressed to a group of persons representing a party may be directed to a specific member of the group or all members present in person.

(5) If a question is directed to a specific member of a group representing a party and that person is unable to answer because of a lack of knowledge or qualification, the Chair may permit another member of the group to provide an answer.

(6) If a party is unable to answer a question without further consultation or research, the party must undertake to provide an answer on or before the close of the hearing or, if that is not possible, no later than 7 days after the close of the adjudicative hearing, and the clerk must provide the response to the person who asked the question and to any other person on request.

Conclusion of adjudicative hearing

34 (1) At the conclusion of an adjudicative hearing, the record of the hearing must be closed and, except by agreement of all parties or as specified by the Review Board in accordance with subsection (2), no other evidence may be entered into the record.

(2) The Review Board may re-open the record of an adjudicative hearing after it has been closed to take additional evidence on specific issues if the Review Board is not satisfied that all necessary information to make a decision has been presented.

Record of adjudicative hearing

35 (1) The clerk of the Review Board must keep a full and complete record for each adjudicative hearing.

(2) A record of an adjudicative hearing must include all of the following:

- (a) the application;
- (b) supporting documents;
- (c) all exhibits.

Decision on application for adjudicative hearing

36 (1) No later than 30 days after the date that an adjudicative hearing concludes, the Review Board must decide on the application and issue a written decision that includes the reasons for the decision.

(2) In setting out reasons in a written decision, the Review Board must include all of the following:

- (a) the findings of fact on the evidence related to the factors set out in Section 3;
- (b) the conclusions of law based on the findings of fact;
- (c) particulars of any deviations by the Review Board from the procedures for adjudicative hearings set out in these regulations, as allowed under subsection 24[27](2).

(3) Once a written decision on an application is issued by the Review Board, the clerk of the Review Board must

- (a) send a certified copy of the decision to each party to the adjudicative hearing on the application; and
- (b) publish a certified copy of the decision on the Department's website.

Deadline for implementing Review Board decision

37 An action of the Minister to implement a decision of the Review Board must be taken no later than 15 days after the closing date of the appeal period set out in Section 50 of the Act.

Administrative Decisions

Prescribed process for administrative decisions

38 (1) Except as provided in subsection (2), the process set out in Sections 39 to 42 is prescribed as the process to be followed by the Administrator in making a decision with respect to an application for any of the following:

- (a) an aquaculture licence or aquaculture lease in a designated aquacultural development area;
- (b) an aquaculture licence for a land-based aquaculture site;
- (c) an amendment of an aquaculture licence or aquaculture lease;
- (d) a renewal of an aquaculture licence or aquaculture lease;
- (e) an assignment of an aquaculture licence or aquaculture lease;
- (f) a special experimental licence or special experimental lease;
- (g) a reallocation of an aquaculture site.

(2) The administrative decision process prescribed by subsection (1) is not required for either of the following:

- (a) a routine amendment to an aquaculture licence or aquaculture lease that is required to correct an error or to address a revised policy or a regulatory change of the Government of Nova Scotia or of the Government of Canada;
- (b) a request for corresponding expiry dates under subsection 49[52](5).

Manner of applying to Administrator

39 Any application referred to in clauses 38(1)(c) to (f) must be made in a manner determined by the Administrator.

Consultations on application to Administrator

40 (1) On receipt of a completed application that is within the jurisdiction of the Administrator, the Administrator must undertake consultations with any of the following as required under the laws of the Province or of Canada with respect to the application:

- (a) a department or agency of the Government of Nova Scotia;
- (b) a department or agency of the Government of Canada.

(2) In addition to any required consultation referred to in subsection (1), the Administrator may undertake consultations with any person, group of persons or organization that the Administrator considers necessary in the circumstances.

Public submissions on application to Administrator

41 (1) On completion of any consultations conducted under Section 40 with respect to an application, the Administrator must publish a notice on the Department's website and in the Royal Gazette Part I inviting the public to submit written comments on the application to the Administrator within the 30 days following the date the notice is published.

(2) A public notice under subsection (1) must specify the period during which written comments may be submitted together with any additional information that the Administrator determines to be necessary.

(3) In addition to the means of publishing required by subsection (1), the Administrator may publish a notice inviting written comments on an application by any other means determined by the Administrator.

Original text does not include subsection 41(4).

(5) A member of the public may submit written comments about an application to the Administrator by mail, fax or e-mail.

(6) To be considered by the Administrator, a written submission from a member of the public must meet all of the following requirements:

(a) it must identify the person making the comments and include contact information;

(b) it must describe how the person making the comment is connected with the matter to be determined;

(c) it must be submitted within the 30-day period specified in the notice published under subsection (1);

(d) it must be in relation to 1 or more of the factors set out in Section 3.

Administrator's decision

42 (1) After the close of submissions under Section 41, the Administrator must decide on the application and issue a written decision that includes the reasons for the decision.

(2) On issuing a written decision, the Administrator must

(a) send a copy of the written decision issued to the applicant; and

(b) publish a copy of the decision on the Department's website.

Land-based Aquaculture

Factors to be considered in application for land-based aquaculture licence

43 In deciding on an application for a land-based aquaculture licence, the Administrator may take the following factors into consideration:

(a) the financial viability of the proponent and the proposed operation;

- (b) the extent to which the proposal is in accordance with the Act, the relevant regulations made under the Act and any guidelines or policies established by the Minister;
- (c) the technical viability of the proposed operation;
- (d) any factors that the Administrator considers relevant to the application.

Applications for land-based aquaculture

44 In addition to any information required by the Minister under Section 46 of the Act, an application for a land-based aquaculture licence must include a development plan together with any information or documentation that the Administrator considers necessary to assess the application.

U-fish operations

45 (1) Sections 43 and 44 apply to an application for an aquaculture licence for a u-fish pond.

(2) The holder of an aquaculture licence for a u-fish pond must not process and sell the aquacultural produce from their u-fish pond.

Special Experimental Leases and Licences

Applying for special experimental licence

46 A person who wishes to conduct aquaculture to do any of the following may apply for a special experimental licence:

- (a) test or develop new technology or methods;
- (b) carry out basic research;
- (c) test the technical feasibility of a aquaculture site.

Applying for special experimental lease

47 An applicant for a special experimental licence must also apply for a special experimental lease if the proposed aquaculture site is on Crown land.

Research purposes

48 Aquaculture conducted under a special experimental licence must be in support of research and must not be on a scale that exceeds the research purposes for which the special experimental licence or special experimental lease was granted.

Research results

49 (1) A holder of a special experimental licence must make a summary of the research results from the aquaculture conducted under the experimental licence available to the Minister.

(2) The Minister, in the Minister's sole discretion, may release the summary submitted under subsection (1) to the public in full or in part.

No assigning special experimental licence or lease

50 (1) A holder of a special experimental licence or special experimental lease must not assign the special experimental licence or special experimental lease.

(2) An assignment contrary to subsection (1) is void.

Conversion to commercial purpose

51 A holder of a special experimental licence or special experimental lease who wishes to apply for a commercial aquaculture licence or aquaculture lease for the same site must apply to the Minister in accordance with Section 46 of the Act and these regulations.

Terms and Conditions of Aquaculture Licences and Aquaculture Leases

Term and renewal of aquaculture licence or aquaculture lease

52 (1) Except as provided in subsection (3), the term of an aquaculture licence must not exceed 10 years, and an aquaculture licence may be renewed for further terms of no longer than 10 years each.

(2) Except as provided in subsection (3), the term of an aquaculture lease must not exceed 20 years, and an aquaculture lease may be renewed for further terms of no longer than 20 years each.

(3) A special experimental licence or a special experimental lease is valid for a term of 1 year and may be renewed annually for up to 5 years.

(4) On application by the holder of an aquaculture licence or aquaculture lease at least 6 months before its term expires, the Administrator may renew the licence or lease.

(5) On request by the holder of an aquaculture licence or aquaculture lease, the Administrator may amend the expiry date of the licence or lease so that it corresponds with the expiry date of another aquaculture licence or aquaculture lease granted to the same holder, but only if this does not result in the granting or renewal of a term longer than that permitted under subsection (1) or (2).

Application of Sections 54 to 58

53 Sections 54 to 58 apply to all aquaculture licences and [aquaculture] leases, including, unless otherwise specified, special experimental licences and [special experimental] leases.

Information included on licence or lease

54 (1) An aquaculture licence or aquaculture lease must indicate all of the following information:

- (a) the species that may be cultivated under the licence or lease;
- (b) the methods of cultivation authorized under the licence or lease;
- (c) the geographic coordinates of the boundaries of the site under the licence or lease.

(2) In addition to the requirements of subsection (1), an aquaculture licence or aquaculture lease may specify the maximum amount of aquacultural produce allowed on the site.

Location and marking

55 (1) An aquaculture licence holder must mark each of their sites in a manner determined by the Minister and keep each site marked during the term of their licence.

(2) An aquaculture licence holder must ensure all of the following:

- (a) that each of their sites is marked as required under subsection (1) before any development takes place at the site;

(b) that equipment and aquacultural produce related to any of their sites remain within the geographic boundaries of that site.

Security bond

56 (1) An aquaculture licence holder must ensure that a security bond is in place for the aquaculture site under the licence until a certificate of discharge has been issued by the Administrator.

(2) The holder of a new aquaculture licence must not begin their aquacultural operation until any applicable security bond has been approved by the Administrator.

(3) A person carrying out an aquacultural operation under an existing aquaculture licence on the date these regulations come into force must, no later than 18 months after that date, provide the Administrator with proof that any security bond required by this Section is in place and meets the requirements of this Section.

(4) A security bond must be in a form satisfactory to the Administrator.

(5) Except as provided in subsection (6), and subject to subsection (7) and (8), a security bond must be in an amount equal to the amount set out in the following table for the type of aquacultural operation carried out by the licensee:

Type of Aquacultural Operation	Security Bond Amount
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(6) For a holder of a special experimental licence, the amount required for a security bond is 50% of the applicable amount specified in subsection (5).

(7) The security bond amount required for an aquaculture licence holder who is licensed for more than 1 species class on a site is the highest amount listed in subsection (5) that is applicable to that licensee.

(8) The Minister may approve collective security arrangements for a group of aquaculture licence holders if the Minister is satisfied that those arrangements will effectively meet the requirements of this Section.

Access for riparian land owner

57 An aquaculture licence holder must conduct their aquacultural operation so as not to deprive any riparian land owner of reasonable access to and from the water adjacent to the land of the riparian land owner.

Recording and reporting requirements

58 (1) An aquaculture licence holder must maintain current and accurate records of all of the following with respect to their aquacultural operation:

- (a) all aquacultural produce sales, including the date, number or weight and destination of each sale;
- (b) all losses of aquacultural produce by any means, including predation and weather;
- (c) all on-site inventory;
- (d) any information that the Minister requires to be recorded.

(2) An aquaculture licence holder must retain each record maintained under subsection (1) at their normal place of business for at least 7 years from the date of the last entry in the record.

(3) On request, an aquaculture licence holder must provide the Minister or the Minister's designate with any information from their records that is specified in the request in the manner and within the time period specified in the request.

(4) An aquaculture licence holder must submit an annual report to the Minister at a time determined by the Minister that sets out any information required by the Minister concerning the aquaculture licence holder's use of the aquaculture site under the licence and the productivity of the site.

No sublicensing or subletting

59 (1) A holder of an aquaculture licence must not sublicense their interest in an aquaculture site.

(2) A holder of an aquaculture lease must not sublet their interest in an aquaculture site.

(3) A sublicense or sublease contrary to this Section is void.

Discontinuance of Aquacultural Operation at Marine Site

Request for certificate of discharge

60 (1) On revocation of an aquaculture licence or aquaculture lease by the Administrator under Section 59A of the Act, or on the decision of an aquaculture licence holder to discontinue their

marine aquacultural operation, the former aquaculture licence holder or aquaculture licence holder must obtain a certificate of discharge from the Administrator.

(2) A request to the Administrator for a certificate of discharge must include all of the following:

- (a) a remediation plan;
- (b) an anticipated date of completion of the remediation plan;
- (c) payment of any outstanding fees that are owed for the aquaculture licence or aquaculture lease.

(3) On receipt of a request for a certificate of discharge, the Administrator must do 1 of the following with respect to the remediation plan submitted with the request:

- (a) accept the remediation plan as submitted; or
- (b) establish an amended remediation plan with or without adjusting the anticipated date of completion of the remediation plan.

When Minister may remediate aquaculture site

61 (1) The Minister may remediate an aquaculture site at the risk and expense of a former aquaculture licence holder or aquaculture licence holder in either of the following circumstances:

- (a) the site is not remediated in accordance with the remediation plan by the anticipated date of completion provided in a request for a certificate of discharge under Section 60;
- (b) the site is abandoned without the former aquaculture licence holder or aquaculture licence holder first requesting a certificate of discharge from the Administrator.

(2) The Minister may draw on the security bond of the former aquaculture licence holder or aquaculture licence holder to remediate an aquaculture site.

Certificate of discharge

62 On completion of a remediation plan established under Section 60 or a remediation carried out by the Minister under Section 61, the Minister must issue a certificate of discharge to the former aquaculture licence holder or aquaculture licence holder and release any outstanding portion of their security bond.

Reallocated Marine Aquaculture Sites

Definition for Sections 64 to 67

63 In Sections 64 to 67, “proposal” means a proposal for the exclusive right to apply for reallocation of a marine aquaculture site.

Call for proposals

64 (1) The Administrator may issue a call for proposals.

(2) A call for proposals must include any details the Administrator considers necessary, including all of the following:

- (a) a description of the location and size of the aquaculture site;
- (b) the types of species to be cultivated;
- (c) the method of cultivation to be used;
- (d) the deadline for submitting a proposal.

Evaluating proposals

65 (1) The Administrator may establish the criteria for selecting a proposal and may, in the Administrator's sole discretion, do any of the following:

- (a) select a proposal as submitted;
- (b) select a proposal but require variations to the proposal;
- (c) not select any proposals.

(2) On selecting a proposal, the Administrator must notify the successful proponent of the selection and of any variations to the proposal required by the Administrator under clause (1)(b).

Application requirements for reallocation of marine aquaculture site

66 (1) A proponent whose proposal is selected by the Administrator and who wishes to apply for an aquaculture licence and aquaculture lease for the aquaculture site being reallocated must submit their application no later than 90 days after the date of the Administrator's notice under subsection 65(2).

(2) In addition to any information required by the Minister under Section 46 of the Act, an application referred to in subsection (1) must be accompanied by a development plan together with any information or documentation that the Administrator considers necessary to assess the application.

Aquaculture Development Areas

Definition for Sections 68 to 70

67 In Sections 68 to 70, "proposal" means a proposal for the exclusive right to apply for an aquaculture licence and aquaculture lease for a site in an aquaculture development area.

Call for proposals

68 (1) The Minister may issue a call for proposals.

(2) A call for proposals must include any details the Minister considers necessary, including all of the following:

- (a) a description of the location of the aquaculture development area;
- (b) the types of species to be cultivated;
- (c) the method of cultivation to be used;

- (d) the size of the sites within the aquaculture development area;
- (e) the deadline for submitting a proposal.

Evaluating proposals

69 (1) The Administrator may establish the criteria for selecting a proposal and may, in the Administrator's sole discretion, do any of the following:

- (a) select 1 or more proposals as submitted;
- (b) select 1 or more proposals but require variations to the proposal or proposals;
- (c) not select any proposals.

(2) On selecting a proposal, the Administrator must notify the successful proponent of the selection and of any variations to the proposal required by the Administrator under clause (1)(b).

Application requirements for licence and lease in aquaculture development area

70 (1) A proponent whose proposal is selected by the Administrator and who wishes to apply for an aquaculture licence and aquaculture lease for a site within the aquaculture development area must submit their application no later than 90 days after the date of the Administrator's notice.

(2) In addition to any information required by the Minister under Section 46 of the Act, an application referred to in subsection (1) must be accompanied by a development plan together with any information or documentation that the Administrator considers necessary to assess the application.

Performance Reviews Conducted by Administrator

Definition for Sections 72 and 73

71 (1) In Sections 72 and 73, "performance review" means a performance review of an aquacultural operation required by this Section.

(2) The Administrator or a person designated by the Administrator must conduct performance reviews of aquacultural operations at the times specified in Section 72.

(3) The Minister must determine the criteria for and scope of a performance review.

Timing of performance reviews

72 The times specified for performance reviews are as follows:

- (a) for a new aquaculture licence, following the first production cycle, as determined on initial issuance of the licence;
- (b) on receiving an application to assign the aquaculture licence or aquaculture lease for the operation;
- (c) on receiving an application to renew the aquaculture licence or aquaculture lease for the operation;

- (d) on receiving an application for an amendment to the aquaculture licence or aquaculture lease for the operation that is under the jurisdiction of the Administrator;
- (e) before entering the information related to that site into the aquaculture registry;
- (f) at any time the Minister considers a performance review to be necessary.

Outcomes of performance review

73 (1) On completion of a performance review, the Administrator must notify the aquaculture licence holder of the outcome of the review.

(2) In a notice under subsection (1), the Administrator may address concerns raised in the review by either

- (a) varying the terms and conditions of the aquaculture licence or aquaculture lease; or
- (b) revoking the aquaculture licence or aquaculture lease in accordance with Section 59A of the Act.

Fee Payments and Fee Waivers

Fees required

74 (1) A fee must be paid for each application, renewal, assignment and amendment of an aquaculture licence or aquaculture lease under the Act or these regulations.

(2) All fees are payable to the Minister of Finance and Treasury Board.

(3) All fees are non-refundable.

Application fee payable on date application submitted

75 An application under these regulations is not considered complete and ready for processing until the application fee is paid.

Prescribed Fees

Fee to secure option to lease

76 The fee to secure an option to lease is \$500.00.

Fees for aquaculture licence and aquaculture lease applications

77 (1) For an aquacultural operation at a marine aquaculture site that is in an area not designated as an aquaculture development area, or at a reallocated site, the application fee is as set out in the following table:

Application Type

Application Fee

Licence

Lease

New licence or lease for finfish operation

\$1000.00

\$1000.00

New licence or lease for operation using only bottom shellfish without gear operation

\$250.00
 \$250.00
 New licence for operation using bottom shellfish with gear method
 \$375.00
 \$375.00
 New licence or lease for suspended shellfish operation
 \$500.00
 \$500.00
 New licence or lease for operation using suspended method for marine plants or other species
 \$250.00
 \$250.00
 Amendment to add finfish to a non-finfish operation
 \$1000.00
 \$1000.00
 Amendment to add or change species, other than to add finfish to a non-finfish operation
 \$250.00
 per species
 \$250.00
 per species
 Amendment to change culture method to include suspended shellfish
 \$375.00
 \$375.00
 Amendment to change culture method to include bottom shellfish with gear
 \$250.00
 \$250.00
 Amendment to change culture method to include bottom shellfish without gear
 \$125.00
 \$125.00
 Amendment to change site boundaries
 \$500.00
 \$500.00
 Assignment
 \$250.00
 \$250.00
 Renewal, other than renewal of special experimental licence or lease
 \$500.00
 \$1000.00
 New special experimental licence or lease
 \$250.00
 \$250.00
 Renewal of special experimental licence or lease
 \$50.00
 \$50.00

(2) For an aquaculture site that is in an aquaculture development area, the application fee is as set out in the following table:

Application type	Application Fee
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Licence
 Lease
 New licence or lease for finfish operation
 \$2000.00
 \$2000.00
 New licence or lease for operation using only bottom shellfish without gear operation
 \$500.00
 \$500.00
 New licence for operation using bottom shellfish with gear method
 \$750.00
 \$750.00
 New licence or lease for suspended shellfish operation
 \$1000.00
 \$1000.00
 New licence or lease for operation using suspended method for marine plants or other species
 \$500.00
 \$500.00
 Amendment to add finfish to a non-finfish operation
 \$2000.00
 \$2000.00
 Amendment to add or change species, other than to add finfish to a non-finfish operation
 \$500.00
 per species
 \$500.00
 per species
 Amendment to change culture method to include suspended shellfish
 \$750.00
 \$750.00
 Amendment to change culture method to include bottom shellfish with gear
 \$500.00
 \$500.00
 Amendment to change culture method to include bottom shellfish without gear
 \$250.00
 \$250.00
 Amendment to change site boundaries
 \$1000.00
 \$1000.00
 Assignment
 \$250.00
 \$250.00
 Renewal, other than renewal of special experimental licence or lease
 \$500.00
 \$1000.00
 New special experimental licence or lease
 \$250.00
 \$250.00
 Renewal of special experimental licence or lease
 \$50.00
 \$50.00

(3) For a land-based aquaculture site, the application fee is as set out in the following table:

Application Type
Application Fee
Licence for new operation
\$500.00
Amendment to licence to add or change species
\$250.00
per species
Licence renewal
\$500.00
Licence assignment
\$250.00

Annual fees

78 (1) An aquaculture licence or aquaculture lease holder must pay an annual fee on each anniversary date of the issuance of the licence or lease.

(2) An annual fee that is not paid on the anniversary date of the issuance of the aquaculture licence or aquaculture lease is subject to a late fee.

(3) For any type of aquacultural operation, the following annual fees apply:

Item	Annual Fee
Aquaculture licence	\$398.10
Aquaculture lease	\$13.30/ha
Late fee	10% of annual fee amount or \$100, whichever is more

(4) If an amendment to an aquaculture lease results in a change to the annual fee, the annual fee payable for the year of the amendment is adjusted on a pro rata basis from the date of the amendment.

(5) The holder of an aquaculture licence to operate a u-fish pond is eligible for a rebate of \$124.60 on their annual fees.

Minister may waive fee

79 (1) The Minister may waive annual fees payable by a person in connection with an aquaculture licence or aquaculture lease if all of the following conditions are met:

(a) existing environmental, food safety, market or fish health conditions have resulted in a loss to the person;

(b) the loss referred to in clause (a) cannot, in the opinion of the Minister, be mitigated;

(c) significant hardship is demonstrated by the person.

(2) A fee waiver granted under subsection (1) may apply to any of the following:

- (a) 1 or more classes of aquacultural operations;
- (b) 1 or more species of aquacultural produce;
- (c) 1 or more geographic areas.

(3) A request to have a fee waived must be accompanied by any supporting information required by the Minister.

(4) Once a year, the Minister must review the records of fees waived during the preceding year.