

Regulation pertaining to Establishing and Expanding Aquaculture Establishments, Pet Shops, etc.

Issued by the Ministry of Fisheries and Coastal Affairs 17 June 2008 pursuant to the Act of 19 December 2003 no. 124 relating to Food Production and Food Safety etc., (The Food Act) § 3, § 7 and § 19, cf. delegation of authority decision of 19 December 2003 no. 1790, and the Act of 20 December 1974 no. 73 pertaining to animal welfare § 30, cf. delegation of authority decision of 6 February 2004 no. 307.

EEA reference: The EEA agreement appendix 1 chap. I (directive 2006/88/EU).

§ 1. Purpose

The purpose of this regulation is to promote good aquatic animal health and ensure good fish and decapod welfare.

§ 2. Scope

This regulation applies to Norwegian terrestrial territory and territorial waters, facilities on the Norwegian continental shelf, Svalbard, Jan Mayen, the Norwegian dependencies, Norway's Economic Zone, the Jan Mayen Fisheries Zone and the Svalbard Fisheries Protection Zone.

This regulation pertains to health requirements for aquaculture establishments and aquaculture areas for molluscs, including installations for put-and-take fishing, and pet shops, garden centres, garden ponds, commercial aquariums and wholesalers having aquarium animals where there is a direct outlet to natural water masses and no treatment of effluent water.

This regulation pertains to fish and decapod welfare requirements at aquaculture establishments, apart from pet shops, garden ponds, commercial aquariums and wholesalers having aquarium animals.

This regulation does not pertain to recovery pens and short-term storage nets which are established in capture-based aquaculture.

This regulation pertains to anyone planning to operate or who operates an aquaculture establishment or aquaculture area for molluscs who shall register or apply for licensing of the establishing, expansion or other significant change in an aquaculture establishment or aquaculture area for molluscs.

§ 3. Definitions

In this regulation:

- a) *Aquaculture establishments* means: Any locality, physically limited area or installation run by an aquaculture venture at which aquaculture animals are farmed, excluding localities, areas or installations at which wild aquatic animals are harvested or caught destined for consumption, are kept temporarily awaiting slaughter without being fed. Aquaculture venture here means any private or public venture, whether idealistic or not, which carries out any kind of activity linked to the farming, keeping or cultivating of aquaculture animals.
- b) *Aquaculture animal(s)* means: All life stages, including sexual products and resting stages of all aquatic animals farmed at an aquaculture establishment or an aquaculture area for molluscs, including all aquatic animals which have lived in the wild and which are intended for an aquaculture establishment or an aquaculture area for molluscs.
- c) *Aquaculture area for molluscs* means: A production area and area of cultivation at which all the aquaculture establishments are operated under a joint bio-security system.
- d) *Aquarium animals* means: All aquatic animals which are kept, farmed or sold only for decoration.
- e) *Aquatic animals* means:

1. fish belonging to the superclass *Agnatha*, and fish belonging to the classes *Chondrichthyes* and *Osteichthyes*
 2. molluscs belonging to the phylum *Mollusca*
 3. crustaceans belonging to the subphylum *Crustacea*
- f) *Bio-security system* means: The applicable steps to prevent, monitor and combat aquatic animal diseases.
 - g) *Establishing* means: The placing of aquaculture establishments or aquaculture area for molluscs at a locality which is geographically defined.
 - h) *Sea ranching* means: Aquaculture of crustaceans and molluscs in the form of bottom culture without the animals being held in captivity.
 - i) *Installation* means: Facilities at which aquaculture animals are fed, treated or kept, including moorings. An installation may consist of several production units.
 - j) *Installation for put-and-take fishing* means: Ponds or other installations at which the population is maintained only for put-and-take fishing when stocked with aquaculture animals.
 - k) *Watercourse* means: All still or running surface water having a year-round supply of water, with appurtenant bottom and banks up to the highest floodwater level, including main and side watercourses with appurtenant catchment area.

§ 4. *Requirements pertaining to reporting and registration*

A person who owns or wishes to establish:

- a) aquaculture establishments at which aquatic animals are only kept without being sold, or
 - b) aquaculture establishments which sell only small amounts of aquaculture animals for consumption by end-users or to a local retailer who sells directly to end-users,
- shall report this to the Norwegian Food Safety Authority on the required form.

This report shall at a minimum contain data about who is responsible, the geographical location, intake water and effluent water, whether the effluent water is treated, and data about the species and number of aquatic animals, the size of the aquaculture establishment, the amount which is ultimately sold for human consumption and to whom. Changes to such data shall also be reported to the Norwegian Food Safety Authority.

Aquaculture establishments as mentioned in the first paragraph can be ordered to take preventative steps to hinder the spreading of infectious disease, if the aquaculture establishment poses an unacceptable risk of infection due to its proximity to a watercourse or other aquaculture-related facility. If such preventative steps cannot reduce sufficiently the risk of infection, the Norwegian Food Safety Authority can order the aquaculture establishment(s) as mentioned in the first paragraph to cease operation.

§ 5. *Requirements for licensing*

Establishing aquaculture establishments and aquaculture area for molluscs, expanding the extent of production and all other significant changes in aquaculture establishments or aquaculture area for molluscs already licensed shall be approved by the Norwegian Food Safety Authority. The requirements for licensing pertain to aquaculture establishments which produce and sell aquarium animals.

§ 6. *Requirements for licensing application*

The licensing application shall contain the data necessary to assess whether a license may be granted, and which conditions may have to be set, and shall at the least contain the following:

- a) The name of the owner of the aquaculture establishment, address, and contact information such as e-mail address, telephone number and mobile telephone number.

- b) Information about whether the application pertains to the establishing of a new venture or a change in a license already granted.
- c) The species and development stage, production form, operational form and extent.
- d) A map and the coordinates describing the location, a drawing of the aquaculture establishment and an overview of any intake of water and water drainage.
- e) A contingency plan, including a plan for measures to prevent infection and promote hygiene and welfare measures to prevent and tackle outbreaks of infectious diseases, mass death and other critical situations.
- f) An internal control system demonstrating that requirements for sound operation in terms of preventing infection and promoting welfare, including risk-based health checks, maintaining good water quality and log-keeping, can be fulfilled.
- g) Documentation of the suitability of the locality to ensure good fish and decapod welfare, including water-quality data, the amount of water and any natural factors of significance for welfare. For terrestrial installations, the amount of water shall be documented by stating the amount of water which is available in the water source, the stated hydraulic capacity compared to a specified production plan for the installation.

Letter e does not apply to sea ranching.

When applying for licensing of an aquaculture area for molluscs, the data pursuant to the second paragraph letter a shall be stated for the individual aquaculture establishment within the aquaculture area. Data pursuant to the second paragraph letter b to letter f shall be stated for the whole aquaculture area.

Additional information may be required if necessary to assess whether a license can be granted.

§ 7. *Conditions assessed for licensing*

For a license to be granted establishing the aquaculture establishment, or aquaculture area for molluscs, must not pose an unacceptable risk of infection being spread, including the risk of infection entering the aquaculture establishment or aquaculture area for molluscs and its surrounding environment.

When assessing the risk of infection, particular emphasis shall be placed on the distance from the watercourse, another aquaculture-related premises, other aquaculture-related premises and groups of aquaculture establishments. Emphasis shall also be placed on which species is to be produced, the operational form and extent thereof.

For aquaculture establishments in the sea and aquaculture area for molluscs, apart from sea ranching, the distance to other aquaculture-related premises and watercourse is assessed mainly based on the location of the production units. For terrestrial aquaculture establishments, the distance to other aquaculture-related premises and watercourse is assessed mainly based on water intake and drainage.

There shall be an internal control system demonstrating that requirements for sound operation in terms of preventing infection and promoting welfare can be met, including a contingency plan, risk-based health checks, maintaining good water quality and log-keeping.

The aquaculture establishment must be able to ensure the species' requirements for a good living environment. That there is sufficient water supply of adequate quality shall be ensured. The establishment shall be located and constructed so there is low risk of the aquaculture animals being injured or their unnecessary suffering. When assessing welfare, information about the installation's design and equipping and its location, the locality shall be assessed against the background of the form of production and water data.

Terms and conditions may be set for licensing.

§ 8. *Change in and withdrawal of license*

The Norwegian Food Safety Authority can change or withdraw the license mentioned in § 5 if:

- a) There are significant breaches of the terms and conditions of the license or of provisions in or pursuant to the Food Act or the Animal Welfare Act.
- b) It emerges that the state of disease or knowledge about disease or welfare factors have changed significantly since the license was granted.
- c) Another location, form of production or change in the extent of production could improve significantly the health or welfare at the aquaculture establishment, aquaculture area for molluscs or surrounding environment.

§ 9. *Reorganizing extent of production from volume to maximum permitted biomass*

Licenses for establishing or expanding aquaculture establishments granted before 1 January 2005, limited in volume, are from this time forth limited in terms of biomass. Each 1 m³ of licensed volume henceforth now consists of 65 kg of maximum permitted biomass.

For aquaculture establishments in the sea producing on-growing fish in Troms and Finnmark licensed before 1 January 2005 for up to 36,000 m³, 1 m³ henceforth consists of 75 kg of maximum permitted biomass. For aquaculture establishments having a licensed volume of over 36,000 m³, 1 m³ nonetheless consists of only 65 kg of maximum permitted biomass.

§ 10. *Inspection and decisions*

The Norwegian Food Safety Authority inspects and makes decisions to implement the provisions stated in and pursuant to this regulation in accordance with the Food Act § 23 and the Animal Welfare Act § 23.

§ 11. *Dispensations*

The Norwegian Food Safety Authority can in special cases grant dispensations from the provisions in this regulation, providing such does not conflict with Norway's international obligations, including the EEA agreement.

§ 12. *Penalties*

Deliberate or negligent violation of this or orders issued pursuant to it are punishable pursuant to the Food Act § 28 and the Animal Welfare Act § 31.

§ 13. *Entry into force and transitional provisions*

This regulation enters into force 1 August 2008. Simultaneously, the regulation of 16 January 2004 no. 279 pertaining to the licensing and expansion of aquaculture establishments and the registration of ornamental ponds is repealed.

Applications for approval from pet shops, garden centres, garden ponds, commercial aquariums and wholesalers which have already been established shall be sent to the Norwegian Food Safety Authority by 1 January 2009.