

South Australia

## **Aquaculture Regulations 2005**

under the *Aquaculture Act 2001*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Aquaculture Regulations 2005*.

### 2—Commencement

These regulations will come into operation on 1 October 2005.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

***abalone*** means abalone (*Haliotis* spp.) of all species;

***accredited laboratory*** means a laboratory accredited by the National Association of Testing Authorities and capable of detecting oxidised nitrogen, ammonia and soluble phosphorous at concentrations of 0.1 mg/L or less and total suspended solids at 5 mg/L or less;

***Act*** means the *Aquaculture Act 2001*;

***antifoulant*** means a chemical substance designed for application to water submerged surfaces to inhibit the growth of plants, animals or other organisms on those surfaces;

***aquaculture waste*** means waste generated in the course of carrying on aquaculture, but does not include waste created by living aquatic organisms;

***disease*** includes any bacterium, virus, parasite, insect or other organism or agent capable of causing disease in animals or humans;

***farming structure*** includes sea cages and racks, longlines and submerged lines used for aquaculture, together with their associated baskets, barrels, lanterns and other culture units;

***finfish*** means all members of the classes *Myxini*, *Actinopterygii* and *Elasmobranchii*;

***GDA94*** means the Geocentric Datum of Australia 1994;

***large marine vertebrates*** means sharks, seals, sea lions, dolphins and whales;

***licence area*** means the area of the licence described on the public register under section 80 of the Act;

***licensee*** means the holder of an aquaculture licence;

***protected animal*** means—

- (a) a protected animal within the meaning of the *National Parks and Wildlife Act 1972*; or
- (b) a great white shark (*Carcharodon carcharias*);

***reporting day***, in relation to a licence, means the day falling 1 month before the anniversary of the day on which the licence was granted;

***reporting year***, in relation to a licence, means the 12 months preceding the day falling 2 months before the anniversary of the day on which the licence was granted;

*sea cage* means a floating farming structure used for aquaculture comprised of or incorporating a net;

*tuna* means southern bluefin tuna (*Thunnus maccoyii*);

*WGS84* means the World Geodetic System 1984;

*zone* means an aquaculture zone, a prospective aquaculture zone, an aquaculture exclusion zone or an aquaculture emergency zone.

- (2) Without limiting when the number of aquatic organisms farmed under a licence that die within a period of 24 hours will be taken to be **unusually high**, the number will be taken to be unusually high if it is 20% (or more) greater than the average number of aquatic organisms farmed under the licence that have died each day over the preceding 3 months.

## Part 2—General provisions supporting Act

### 4—Procedures for making aquaculture policies

For the purposes of section 12(4)(a) of the Act, the following bodies are prescribed:

- (a) Aboriginal Legal Rights Movement Incorporated;
- (b) Conservation Council of South Australia Incorporated;
- (c) Local Government Association of South Australia;
- (d) Seafood Council SA;
- (e) SA Fishing Industry Council Incorporated;
- (f) South Australian Aquaculture Council;
- (g) South Australian Recreational Fishing Advisory Council;
- (h) if the policy is expressed to apply only in relation to 1 or more zones or areas—
  - (i) any registered representatives of native title holders or claimants to native title in land comprising or forming part of a zone or area to which the policy applies; and
  - (ii) any person holding an aquaculture licence or aquaculture lease over an area comprising or forming part of a zone or area to which the policy applies; and
  - (iii) any regional NRM Board (within the meaning of the *Natural Resources Management Act 2004*) responsible for a region comprising or forming part of a zone or area to which the policy applies;
- (i) if the policy is not expressed to apply only in relation to 1 or more zones or areas—all regional NRM Boards (within the meaning of the *Natural Resources Management Act 2004*).

## **5—Amendment of aquaculture policies by notice in Gazette**

The Minister may, by notice in the Gazette under section 14(1) of the Act, amend an aquaculture policy in order to make a change of the following kind:

- (a) for identifying, varying the boundaries of, or revoking, an aquaculture emergency zone;
- (b) if in the opinion of the Minister there is ambiguity as to the boundary of an aquaculture zone, prospective aquaculture zone, aquaculture exclusion zone or aquaculture emergency zone—to remove the ambiguity.

## **6—Transfer of production leases**

For the purposes of section 39(2) of the Act, the following details are prescribed:

- (a) the full name, address and telephone number of the transferor and transferee;
- (b) the number of the production lease.

## **7—Reference of matters to EPA**

For the purposes of section 59(3) of the Act, the prescribed period is 6 weeks.

## **8—Aquaculture Resource Management Fund**

For the purposes of section 79(3) of the Act—

- (a) the prescribed percentage of fees (other than expiation fees) paid under the Act is 100%; and
- (b) the prescribed percentage of penalties recovered in respect of offences against the Act is 100%.

# **Part 3—Regulation of licensed activities**

## **Division 1—General**

### **9—Aquaculture waste**

- (1) A licensee must ensure that—
  - (a) aquaculture waste does not cause an unsightly or offensive condition at the licence area; and
  - (b) aquaculture waste is secured or treated in a manner designed to prevent it being blown, washed or swept off the licence area.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A licensee must ensure that if aquaculture waste is blown, washed or swept off the licence area it is recovered as soon as practicable.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 10—Use of chemicals

- (1) A licensee must ensure that a substance is not used for therapeutic or prophylactic purposes or as an antifoulant in the course of aquaculture carried on under the licence unless—
- (a) it is a registered veterinary chemical product, within the meaning of the *Agricultural and Veterinary Products (Control of Use) Act 2002*, and is used in accordance with—
    - (i) the instructions on the approved label for the product within the meaning of that Act; or
    - (ii) a permit within the meaning of that Act; or
  - (b) the licensee has obtained the written approval of the Minister to use the substance in that way.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A licensee must ensure that a substance is not used as a disinfectant in the course of aquaculture carried on under the licence unless—
- (a) it is 1 of the following:
    - Citric acid
    - Hydrogen peroxide
    - Iodophore
    - Sodium carbonate
    - Sodium hydroxide
    - Sodium hypochlorite
    - Virkon (registered trademark); or
  - (b) the licensee has obtained the written approval of the Minister to use the substance in that way.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 11—Notification of unusually high mortality rate and duty to isolate unaffected organisms

If an unusually high number of aquatic organisms farmed under a licence die within a period of 24 hours (see regulation 3(2)) and the cause is not immediately apparent, the licensee must ensure that—

- (a) the Minister is immediately notified by means of a telephone call to the number provided to the licensee for the purpose; and
- (b) the Minister is, as soon as practicable after having been notified, given a written and signed notice containing the following:
  - (i) the licence number;
  - (ii) the name of the species affected;

- (iii) the number or biomass (or an estimate of the number or biomass) of aquatic organisms that have died;
  - (iv) details of any clinical signs observable in the organisms prior to death;
  - (v) the number or biomass (or an estimate of the number or biomass) of aquatic organisms that show similar clinical signs but have not died;
  - (vi) details of circumstances that may be contributing factors such as extreme weather, power failures, poor water quality or water temperature; and
- (c) all reasonable steps are taken to isolate aquatic organisms apparently affected from aquatic organisms not apparently affected.

Maximum penalty: \$5 000.

Expiation fee: In the case of an offence against paragraph (a) or paragraph (b)—\$315.

## 12—Aquatic organisms affected with disease

- (1) If a licensee knows, or ought reasonably to know, that an aquatic organism proposed to be introduced into the licence area is or may be affected with a disease, the licensee must ensure that the aquatic organism is not introduced into the licence area without the prior written approval of the Minister.

Maximum penalty: \$5 000.

- (2) If a licensee knows, or ought reasonably to know, that an aquatic organism being farmed under the licence is or may be affected with a disease, the licensee must ensure that the aquatic organism is not removed from the licence area unless—
- (a) it is removed for testing; or
  - (b) it is removed for disposal (other than by sale or supply to another); or
  - (c) it is removed in accordance with the written approval of the Minister obtained by the licensee.

Maximum penalty: \$5 000.

- (3) If an unusually high number of aquatic organisms farmed under a licence die within a period of 24 hours (see regulation 3(2)) and the cause is not immediately apparent, the licensee will be taken to know that the aquatic organisms may be affected with a disease.

## 13—Stock register

- (1) A licensee must maintain a stock register in accordance with this regulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The stock register must contain (in a readily understandable and legible form)—
- (a) the following information in respect of aquatic organisms supplied to the licensee:
    - (i) the date on which the aquatic organisms were received by the licensee;

- (ii) the name and address of the person who supplied the aquatic organisms;
  - (iii) the species of aquatic organisms;
  - (iv) the number or biomass of aquatic organisms received;
  - (v) the age or developmental stage of the aquatic organisms when received;
  - (vi) details identifying the place at which the aquatic organisms were last reared before supply or the place at which the aquatic organisms were collected;
  - (vii) a copy of any health certification that accompanied the aquatic organisms; and
- (b) the following information in respect of aquatic organisms collected by the licensee:
- (i) details identifying the authority under the *Fisheries Act 1982* under which the aquatic organisms were collected;
  - (ii) the date the aquatic organisms were collected;
  - (iii) details identifying the place at which the aquatic organisms were collected;
  - (iv) the species of aquatic organisms;
  - (v) the number or biomass of aquatic organisms collected;
  - (vi) the age or developmental stage of the aquatic organisms when collected; and
- (c) the following information in respect of aquatic organisms bred by the licensee:
- (i) the date (or an estimate of the date) the aquatic organisms were bred;
  - (ii) the species of aquatic organisms;
  - (iii) details identifying the broodstock used to breed the aquatic organisms;
  - (iv) the number or biomass (or an estimate of the number or biomass) of aquatic organisms bred; and
- (d) the following information in respect of aquatic organisms supplied by the licensee to another person:
- (i) the date on which the aquatic organisms were supplied;
  - (ii) the name and address of the person to whom the aquatic organisms were supplied;
  - (iii) the species of aquatic organisms;
  - (iv) the number or biomass of aquatic organisms supplied;
  - (v) the age or developmental stage of the aquatic organisms when supplied;

- (vi) a copy of any health certification provided by the licensee to accompany the aquatic organisms; and
- (e) the following information in respect of aquatic organisms that have died during aquaculture:
  - (i) the species of aquatic organisms;
  - (ii) the date (or an estimate of the date) the aquatic organisms died;
  - (iii) the number or biomass (or an estimate of the number or biomass) of aquatic organisms that have died;
  - (iv) the age or developmental stage of the aquatic organisms at death;
  - (v) a description of how and where the aquatic organisms were disposed of; and
- (f) details of treatment administered for therapeutic or prophylactic purposes to aquatic organisms kept under the licence including—
  - (i) the reasons for the treatment; and
  - (ii) the dates on which the treatment was administered; and
  - (iii) the name (including trade or patent name) of each substance used as part of the treatment and the dosages or amounts administered; and
  - (iv) information that identifies the aquatic organisms that received treatment by reference to tank or cage number or by other means.
- (3) A record required to be entered in the stock register must be entered within 7 days after the event to which it relates.
- (4) A record entered in the stock register must be retained for 5 years from the date on which it was entered.

#### **14—Periodic returns**

A licensee must, on a date or dates determined by the Minister in each year, provide the Minister with a periodic return containing such information as the Minister requires in the manner and form determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **Division 2—Aquaculture in State waters**

#### **15—Application of Division**

This Division applies to aquaculture leases and to aquaculture licences authorising aquaculture in an area comprised of State waters or State waters and adjacent land within the meaning of the *Harbours and Navigation Act 1993*.

## **16—Requirement to mark-off area and maintain structures or equipment used to mark-off area**

The holder of an aquaculture lease is guilty of an offence if—

- (a) the boundaries of the marked-off area of the lease are not marked off or indicated in the manner required under the conditions of the lease or a corresponding licence; or
- (b) the structures or equipment used to mark off or indicate the boundaries of the marked-off area of the lease under the conditions of the lease or a corresponding licence are not maintained in good working condition.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **17—Farming structures**

(1) A licensee must ensure that—

- (a) sea cages used for aquaculture are clearly marked with the licence number; and
- (b) farming structures being used for aquaculture are—
  - (i) except when being placed into position, moved or recovered—
    - (A) securely fixed or moored in place so as to remain wholly within the licence area; and
    - (B) anchored in a manner that minimises the impact on the benthos; and
  - (ii) maintained in good working condition; and
- (c) equipment used to secure, anchor or mark the position of a farming structure is located wholly within the licence area; and
- (d) if the aquaculture involves the use of a floating culture unit in subtidal waters—the distance between the unit and the sea floor is at least 3 metres at all times unless otherwise approved in writing by the Minister; and
- (e) stocked sea cages are not located in the same place that stocked sea cages have been located within the preceding 12 months.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(2) A licensee must ensure that if a farming structure used for aquaculture, or any equipment used to secure, anchor or mark the position of the structure, is blown, washed or swept off the licence area, the structure or equipment is recovered as soon as practicable.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 18—Health certificates for abalone farmed on navigable vessel

- (1) A licensee authorised to carry on abalone aquaculture on a navigable vessel as it operates within an area of State waters must ensure that the following requirements are complied with in respect of aquaculture stock brought on to the vessel:
- (a) the aquaculture stock must be comprised of abalone that have been hatchery reared in South Australia;
  - (b) the abalone must be accompanied by a certificate—
    - (i) that is in a form approved by the Minister; and
    - (ii) that has been issued—
      - (A) by a veterinary diagnostic laboratory accredited by the National Association of Testing Authorities; and
      - (B) within the previous 14 days; and
      - (C) following examination of at least 30 abalone; and
    - (iii) that certifies that the abalone in the test sample are not affected with a notifiable condition within the meaning of the *Livestock Act 1997* and do not display signs of being affected with a disease;
  - (c) at least 2 days before the abalone are brought on to the vessel the Minister must be provided with a copy of the certificate referred to in paragraph (b).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A licensee authorised to carry on abalone aquaculture on a navigable vessel as it operates within an area of State waters must ensure that at least once in each 6 month period the Minister is provided with a copy of a certificate—
- (a) that is in a form approved by the Minister; and
  - (b) that has been issued—
    - (i) by a veterinary diagnostic laboratory accredited by the National Association of Testing Authorities; and
    - (ii) within the previous 14 days; and
    - (iii) following examination of at least 30 abalone that have been farmed on the vessel for at least 1 month; and
  - (c) that certifies that the abalone in the test sample are not affected with a notifiable condition within the meaning of the *Livestock Act 1997* and do not display signs of being affected with a disease.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 19—Strategies relating to escape of stock and interaction with seabirds and large marine vertebrates

- (1) A licensee must—
- (a) have a written strategy approved by the Minister—

- (i) for minimising the risk of the escape of aquaculture stock into the wild; and
- (ii) for minimising adverse interactions with seabirds and large marine vertebrates resulting from aquaculture carried on under the licence; and

(b) ensure that activities under the licence conform with the approved strategy.

Maximum penalty: \$5 000.

(2) If, at any time, the Minister is not satisfied as to the adequacy of an approved strategy, the Minister may require the strategy to be resubmitted for approval within a specified period in a modified form (which may be specified by the Minister).

(3) If a licensee fails to resubmit a strategy as required, the licensee is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(4) Before requiring a strategy to be resubmitted, the Minister must give the licensee written notice of the proposed action, inviting the licensee to make written submissions in relation to the proposed action within a period specified in the notice (being not less than 14 days from the day on which the notice is given to the licensee).

(5) Subregulation (1) does not apply to a licensee who held a licence immediately before the commencement of this regulation until 6 months after that commencement.

(6) A licensee who held a licence immediately before the commencement of this regulation must submit a written strategy (as referred to in subregulation (1)) for approval within 3 months after the commencement of this regulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **20—Notification of entanglement of certain animals**

If a protected animal becomes confined in or entangled in a farming structure or other equipment used in connection with aquaculture, the licensee must—

- (a) immediately after becoming aware of the situation notify the Minister by means of a telephone call to the number provided to the licensee for the purpose; and
- (b) within 2 days after becoming aware of the situation notify the Minister in writing of the action taken to deal with the situation.

Maximum penalty: \$5 000.

## **21—Notification of escape of stock or damage that may lead to escape of stock**

A licensee must—

- (a) within 12 hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure, or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the Minister (by means of a telephone call or fax to the number provided to the licensee for the purpose) of the escape or damage, including the following details:

- (i) the species of aquatic organisms affected;
  - (ii) the date (or an estimate of the date) on which the escape or damage took place;
  - (iii) the number and biomass (or an estimate of the number and biomass) of aquatic organisms that have escaped;
  - (iv) the age or developmental stage of the aquatic organisms at the time of their escape;
  - (v) details of the circumstances in which the escape or damage took place; and
- (b) within 7 days after becoming aware of the escape or damage notify the Minister in writing of the action taken to deal with it.

Maximum penalty: \$5 000.

Expiation fee: In the case of an offence against paragraph (b)—\$315.

## **22—Environmental monitoring and reporting—farming of molluscs in subtidal area**

- (1) If a licence authorises the farming of molluscs in a subtidal area, the licensee must cause a benthic assessment recording to be made as follows:
- (a) a colour videotape of the sea floor must be made at least once each reporting year at approximately the same time in each year;
  - (b) the underwater path videotaped must transect at least 100 metres of the licence area, originating within the licence area, proceeding parallel to and within 2 metres of longlines or other farming structures and finishing at least 50 metres outside the boundary of the licence area;
  - (c) the path must include at least 1 anchor of a farming structure and an area of at least 1 metre of the sea floor either side of the anchor;
  - (d) the path must follow, as close as practically possible, a straight line;
  - (e) the same path must be videotaped each reporting year;
  - (f) the videotape must be continuously recorded from start to finish with no editing breaks;
  - (g) the videotape must start and finish with an above water 360° pan of the horizon lasting at least 30 seconds per pan;
  - (h) a minimum width of 2 metres of sea floor must be in the field of view at all times;
  - (i) the angle of videotaping to the sea floor must be approximately 45°;
  - (j) the correct date and time must be continuously present on the videotape;
  - (k) footage must be steady and taken at a very slow pace of approximately 1 metre every 2 to 4 seconds and must stop at the site of any anchor videotaped for at least 30 seconds;
  - (l) the camera lens must be focussed on the sea floor at all times;

- (m) the path videotaped must be adequately lit to show benthic flora and fauna colours (so that the lighting level is equivalent to that produced by 2 high intensity discharge underwater metal halide 10 watt lamps);
- (n) the videotape must be examined after the recording and, if it is not of sufficient quality to enable a satisfactory assessment of the benthic environment of the path required to be videotaped, a further recording must be made;
- (o) a written record must be made of the location (using WGS84 or GDA94 datum) of the start and finish of the path videotaped and of the date and time of the start and finish of the videotaping;
- (p) a written record must be made detailing each of the following for each 10 metres of the path videotaped:
  - (i) the level of sedimentary disturbance resulting from biological activity (bioturbation);
  - (ii) undulation;
  - (iii) natural organic waste;
  - (iv) aquaculture waste including detached farming shell debris;
  - (v) sand colour;
  - (vi) macroalgal cover;
  - (vii) seagrass cover;
  - (viii) microbial mats (for example, *Beggiatoa sp*);
  - (ix) blue-green algal mats;
  - (x) sponge cover;
  - (xi) the presence of—
    - (A) holothurians (sea cucumbers);
    - (B) ascidians (sea squirts);
    - (C) razor fish (*Pinna sp*);
    - (D) scallops;
    - (E) crabs;
    - (F) gastropods;
    - (G) fish;
    - (H) seahorses and sea dragons.

Maximum penalty: \$5 000.

- (2) If a licence authorises the farming of molluscs in a subtidal area, the licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year—
  - (a) containing the following:
    - (i) a map showing—

- (A) the boundary of the licence area; and
  - (B) the location (using WGS84 or GDA94 datum) of the corners of the licence area; and
  - (C) the location (using WGS84 or GDA94 datum) of farming structures and the number, dimensions and spacing of the structures; and
  - (D) the location (using WGS84 or GDA94 datum) of the underwater path videotaped for the benthic assessment recording;
- (ii) for each month—
    - (A) the amount and type of supplemental feed used in the licence area; and
    - (B) the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in the licence area;
  - (iii) such of the following details as are known about interaction that has occurred between large marine vertebrates and farming structures or equipment, personnel or aquaculture stock:
    - (A) the date of the interaction;
    - (B) the species of marine vertebrate involved;
    - (C) the location of the interaction;
    - (D) a description of the nature of the interaction;
  - (iv) if the author of the report is not the licensee—the author's name and address; and
- (b) accompanied by a copy of the benthic assessment recording made for the reporting year (in a format approved by the Minister) and the records made in conjunction with the recording.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) This regulation does not apply to a licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters.

### **23—Environmental monitoring and reporting—farming of molluscs in intertidal area**

If a licence authorises the farming of molluscs in an intertidal area, the licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year containing the following:

- (a) a map showing—
  - (i) the boundary of the licence area; and
  - (ii) the location (using WGS84 or GDA94 datum) of the corners of the licence area; and

- (iii) the location (using WGS84 or GDA94 datum) of farming structures and the number, dimensions and spacing of the structures;
- (b) for each month—
  - (i) the number of pacific oysters found in the licence area and not contained within a farming structure; and
  - (ii) the location in which they were found; and
  - (iii) a statement of whether they have been removed;
- (c) for each month—the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in the licence area;
- (d) such of the following details as are known about interaction that has occurred between large marine vertebrates and farming structures or equipment, personnel or aquaculture stock:
  - (i) the date of the interaction;
  - (ii) the species of marine vertebrate involved;
  - (iii) the location of the interaction;
  - (iv) a description of the nature of the interaction;
- (e) if the author of the report is not the licensee—the author's name and address.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **24—Environmental monitoring and reporting—farming of finfish**

- (1) If a licence authorises the farming of finfish, the licensee must cause a benthic assessment recording to be made as follows:
  - (a) a colour videotape of the sea floor must be made at least once each reporting year at approximately the same time in each year;
  - (b) at least 3 underwater paths must be videotaped as follows:
    - (i) 1 must be within the licence area originating as close as practicable to the side of a sea cage used for aquaculture under the licence and proceeding in the direction of the prevailing current (down current) for 150 metres; and
    - (ii) 1 must be within the licence area originating as close as practicable to the opposite side of the same sea cage and proceeding in the opposite direction of the prevailing current (up current) for 150 metres; and
    - (iii) 1 must be outside the licence area originating at the midpoint of the prevailing down current boundary of the licence area and proceeding at right angles to the boundary for 150 metres (the *off-site transect*);
  - (c) the same off-site transect must be videotaped each year;
  - (d) the videotape of each path must be continuously recorded from start to finish with no editing breaks;

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- (e) the videotape of each path must start and finish with an above water 360° pan of the horizon lasting at least 30 seconds per pan;
  - (f) a minimum width of 2 metres of sea floor must be in the field of view at all times;
  - (g) the angle of videotaping to the sea floor must be approximately 45°;
  - (h) the correct date and time must be continuously present on the videotape;
  - (i) footage must be steady and taken at a very slow pace of approximately 1 metre every 2 to 4 seconds;
  - (j) the camera lens must be focussed on the sea floor at all times;
  - (k) each path videotaped must be adequately lit to show benthic flora and fauna colours (so that the lighting level is equivalent to that produced by 2 high intensity discharge underwater metal halide 10 watt lamps);
  - (l) the videotape must be examined after the recording and, if it is not of sufficient quality to enable a satisfactory assessment of the benthic environment of the paths required to be videotaped, a further recording must be made;
  - (m) a written record must be made of—
    - (i) the location (using WGS84 or GDA94 datum) of the start and finish of each path videotaped and of the date and time of the start and finish of the videotaping of each path; and
    - (ii) the location of the sea cage concerned (using WGS84 or GDA94 datum);
  - (n) a written record must be made detailing each of the following for each 10 metres of each path videotaped:
    - (i) the level of sedimentary disturbance resulting from biological activity (bioturbation);
    - (ii) undulation;
    - (iii) natural organic waste;
    - (iv) aquaculture waste including waste baitfish and pellets;
    - (v) sand colour;
    - (vi) macroalgal cover;
    - (vii) seagrass cover;
    - (viii) microbial mats (for example, *Beggiatoa sp*);
    - (ix) blue-green algal mats;
    - (x) sponge cover;
    - (xi) the presence of—
      - (A) holothurians (sea cucumbers);
      - (B) ascidians (sea squirts);
      - (C) razor fish (*Pinna sp*);

- (D) scallops;
- (E) crabs;
- (F) gastropods;
- (G) fish;
- (H) seahorses and sea dragons.

Maximum penalty: \$5 000.

- (2) However, subregulation (1) only applies in a particular reporting year to a licence authorising the farming of tuna if the Minister notifies the licensee in writing of its application at least 1 month before the commencement of the reporting year.
- (3) The Minister may, by notice in writing to a licensee authorised to farm finfish, require the licensee to prepare, within a period specified in the notice (but not more than once in each reporting year) a report on the health of benthic infaunal communities in the licence area and to take and analyse samples as specified in the notice for the purposes of the report.
- (4) A licensee must comply with a notice given under subregulation (3).

Maximum penalty: \$5 000.

- (5) If a licence authorises the farming of finfish, the licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year—
  - (a) containing the following:
    - (i) a map showing—
      - (A) the boundary of the licence area; and
      - (B) the location (using WGS84 or GDA94 datum) of the corners of the licence area; and
      - (C) the location (using WGS84 or GDA94 datum) of farming structures and the number, dimensions and spacing of the structures; and
      - (D) the location (using WGS84 or GDA94 datum) of fallowed areas and the period for which the areas were fallow; and
      - (E) if the licensee is required to make a benthic assessment recording—the location (using WGS84 or GDA94 datum) of each of the underwater paths videotaped for the benthic assessment recording;
    - (ii) for each month—
      - (A) an estimate of the number and biomass of finfish in the licence area; and
      - (B) the amount and type of supplemental feed used in the licence area; and
      - (C) the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in the licence area;

- (iii) such of the following details as are known about interaction that has occurred between large marine vertebrates and farming structures or equipment, personnel or aquaculture stock:
  - (A) the date of the interaction;
  - (B) the species of marine vertebrate involved;
  - (C) the location of the interaction;
  - (D) a description of the nature of the interaction;
- (iv) if the author of the report is not the licensee—the author's name and address; and
- (b) if the licensee is required to make a benthic assessment recording—accompanied by a copy of the benthic assessment recording made for the reporting year (in a format approved by the Minister) and the records made in conjunction with the recording; and
- (c) if the licensee is required to prepare a report on the health of the benthic infaunal communities—accompanied by a copy of the report.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **25—Environmental monitoring and reporting—navigable vessels**

- (1) If a licence authorises the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters, the licensee must carry out water testing as follows:
  - (a) water samples must be collected at least 6 times per reporting year (at intervals not closer than 2 months) at approximately the same times and dates in each year;
  - (b) samples of water to be used for aquaculture on the vessel must be collected as follows:
    - (i) the samples must be representative samples of water to be used on the vessel;
    - (ii) 2 samples must be collected;
  - (c) samples of waste water discharged from the vessel must be collected as follows:
    - (i) the samples must be representative samples of water discharged from the vessel (after the water has been treated ready for discharge);
    - (ii) the samples must be of waste water resulting from the use of the water sampled under paragraph (b);
    - (iii) if there is only 1 point at which waste water is discharged from the vessel—at least 2 samples must be collected directly from the discharge point;
    - (iv) if there is more than 1 discharge point—a sample must be collected directly from at least 2 of the discharge points;

- (d) the samples must be tested for oxidised nitrogen (as nitrogen  $\text{NO}_3 + \text{NO}_2$ ), ammonia (total as nitrogen  $\text{NH}_4 + \text{NH}_3$ ), soluble phosphorous and total suspended solids in an accredited laboratory;
- (e) the samples must be collected in a manner and using containers that comply with the requirements of the testing laboratory.

Maximum penalty: \$5 000.

- (2) If a licence authorises the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters, the licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year—
  - (a) containing the following:
    - (i) the dates on which water samples were collected;
    - (ii) for each month—
      - (A) the amount and type of supplemental feed used in aquaculture on the vessel; and
      - (B) the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in aquaculture on the vessel;
    - (iii) if the author of the report is not the licensee—the author's name and address; and
  - (b) accompanied by a copy of the results of the testing of the water samples provided by the laboratory.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **Division 3—Aquaculture not in State waters**

### **26—Application of Division**

This Division applies to aquaculture licences authorising aquaculture in an area not comprised of State waters or State waters and adjacent land within the meaning of the *Harbours and Navigation Act 1993*.

### **27—Environmental monitoring and reporting—general**

- (1) If the licence is designated by the Minister (in the licence or by notice in writing to the licensee) as having a medium or high environmental risk profile, the licensee must carry out water testing as follows:
  - (a) in the case of a licence designated as having a medium environmental risk profile—water samples must be collected at least once each reporting year at approximately the same time and date from approximately the same locations;
  - (b) in the case of a licence designated as having a high environmental risk profile—water samples must be collected at least 3 times per reporting year (at intervals not closer than 3 months) at approximately the same times and dates in each year from approximately the same locations;

- (c) samples of water from the body of water from which water is obtained for aquaculture must be collected as follows:
- (i) the samples must be representative samples of water used for aquaculture in the licence area;
  - (ii) if there is only 1 point at which waste water is discharged from the licence area—2 samples must be collected either from water located upstream of the aquaculture activity or from water that is at least 500 metres away from the discharge point;
  - (iii) if there is more than 1 discharge point—a sample must be collected from at least 2 different sites (separated from each other by at least 500 metres) either located upstream of the aquaculture activity or from water that is at least 500 metres away from a discharge point;
- (d) samples of waste water discharged from the licence area must be collected as follows:
- (i) the samples must be representative samples of water discharged from the licence area (if applicable, after the water has been treated ready for discharge);
  - (ii) if there is only 1 point at which waste water is discharged from the licence area—at least 2 samples must be collected at a location adjacent to or directly from the discharge point;
  - (iii) if there is more than 1 discharge point—a sample must be collected at a location adjacent to or directly from at least 2 of the discharge points;
- (e) the samples must be tested for oxidised nitrogen (as nitrogen  $\text{NO}_3 + \text{NO}_2$ ), ammonia (total as nitrogen  $\text{NH}_4 + \text{NH}_3$ ), soluble phosphorous and, except if there is a settlement pond for discharge waters, total suspended solids in an accredited laboratory;
- (f) the samples must be collected in a manner and using containers that comply with the requirements of the testing laboratory.

Maximum penalty: \$5 000.

- (2) A licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year—
- (a) containing the following:
    - (i) a map showing the location relative to land holding boundaries of the following:
      - (A) farming structures (and also showing the number and dimensions of the structures);
      - (B) intake and discharge pipes used in the course of carrying on aquaculture;
      - (C) sheds or other structures used in the course of carrying on aquaculture;

- (D) bodies of water in the vicinity that have the potential to be affected by the aquaculture;
  - (E) if the licensee is required to carry out water testing—the places at which water samples were collected;
  - (ii) in respect of water used in the course of aquaculture—
    - (A) a description of where and how the water has been sourced; and
    - (B) a statement of whether the water was fresh, brackish or saline; and
    - (C) for each month—the volume in litres of water used;
  - (iii) in respect of water discharged from farming structures—
    - (A) a description of where and how the water has been discharged (including details of bodies of water to which it has been discharged); and
    - (B) a statement of whether the water has been treated before discharge and, if it has, a statement of how the water has been treated; and
    - (C) for each month—the volume in litres of water discharged;
  - (iv) if the licensee is required to carry out water testing—the dates on which water samples were collected;
  - (v) for each month—
    - (A) the amount and type of supplemental feed used in connection with each farming structure in the licence area; and
    - (B) the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in the licence area;
  - (vi) if the author of the report is not the licensee—the author's name and address; and
- (b) if the licensee is required to carry out water testing—accompanied by a copy of the results of the testing of the water samples provided by the laboratory.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## **28—Environmental monitoring and reporting—live organisms reared during transport**

- (1) If a licence authorises the use of a farming structure designed to be transported by road or rail, the licensee must carry out water testing as follows:
  - (a) water samples must be collected at least 3 times per reporting year (at intervals not closer than 3 months) at approximately the same times and dates in each year;

- (b) samples of waste water discharged from the structure must be collected as follows:
- (i) the samples must be representative samples of water discharged from the structure;
  - (ii) if there is only 1 point at which waste water is discharged from the structure—at least 2 samples must be collected directly from the discharge point;
  - (iii) if there is more than 1 discharge point—a sample must be collected directly from at least 2 of the discharge points;
- (c) the samples must be tested for oxidised nitrogen (as nitrogen  $\text{NO}_3 + \text{NO}_2$ ), ammonia (total as nitrogen  $\text{NH}_4 + \text{NH}_3$ ), soluble phosphorous and total suspended solids in an accredited laboratory;
- (d) the samples must be collected in a manner and using containers that comply with the requirements of the testing laboratory.

Maximum penalty: \$5 000.

- (2) If a licence authorises the use of a farming structure designed to be transported by road or rail, the licensee must, on or before the reporting day in each year, provide to the Minister a report for the preceding reporting year—
- (a) containing the following:
    - (i) the dates on which water samples were collected;
    - (ii) for each month—
      - (A) the amount and type of supplemental feed used in the structure; and
      - (B) the amount and type of chemicals (including but not limited to therapeutic or prophylactic substances, antifoulants and disinfectants) used in the structure;
    - (iii) if the author of the report is not the licensee—the author's name and address; and
  - (b) accompanied by a copy of the results of the testing of the water samples provided by the laboratory.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## Part 4—Miscellaneous

### 29—Defects in applications

- (1) The Minister may request an applicant to remedy a defect or deficiency in an application or accompanying document or information required by or under the Act or these regulations.
- (2) If an applicant in relation to whom a request has been made under subregulation (1) fails to comply with the request within 3 months, the Minister may refuse the application.

### 30—Powers of fisheries officer

- (1) A fisheries officer may—
  - (a) require a person who is required to keep records under these regulations or in accordance with licence conditions to produce the records for inspection; and
  - (b) make copies of or take extracts from those records; and
  - (c) take photographs, films or audio, video or other recordings for the purposes of the administration or enforcement of the Act or these regulations.
- (2) Part 3 Division 3 of the *Fisheries Act 1982* is to be read as if—
  - (a) the additional powers conferred on fisheries officers by this regulation were conferred by section 28 of that Act; and
  - (b) section 28(2b)(a) read as follows:
    - (a) the premises are used by a licensee for activities authorised by the licence; or

### 31—Exemptions

- (1) Subsections (2) to (6) (inclusive) of section 12 of the Act do not apply to an aquaculture policy providing for standard conditions of lease in the form set out in Schedule 2.
- (2) Section 17 of the Act does not apply to aquaculture carried on through the South Australian Research and Development Institute.
- (3) Section 19 of the Act does not apply to an aquaculture licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters.

### 32—Fees

- (1) The fees set out in Schedule 1 are prescribed for the purposes of the Act.
- (2) The Minister may waive or refund a fee (or part of a fee) payable under the Act or these regulations if satisfied that it is appropriate to do so in a particular case.
- (3) The Minister may enter into an arrangement with a person for payment of a periodic fee by instalments.
- (4) A fee payable to the Minister under the Act or these regulations may be recovered by the Minister by action in a court of competent jurisdiction as a debt due to the Minister.

## Schedule 1—Fees

### 1—Application fees

The following application fees are payable under the Act:

- (a) application for consent to transfer development lease (section 36)—\$745;
- (b) application for aquaculture licence authorising aquaculture in a lease area (section 49)—\$2 415;
- (c) application for aquaculture licence authorising aquaculture in an area other than a lease area (section 49)—

- (i) for an aquaculture licence classified by the Minister (by virtue of the low level of intensity of farming to be carried on under the licence) as a class A licence—\$685;
  - (ii) for an aquaculture licence classified by the Minister (by virtue of the medium level of intensity of farming to be carried on under the licence) as a class B licence—\$1 095;
  - (iii) for an aquaculture licence classified by the Minister (by virtue of the high level of intensity of farming to be carried on under the licence) as a class C licence—\$2 080;
- (d) application to vary conditions of aquaculture licence authorising aquaculture in a lease area (section 52)—
- (i) if the variation relates only to the farming system authorised to be used under the licence—\$1 240;
  - (ii) if the variation relates only to the species of aquatic organisms authorised to be farmed under the licence—\$1 520;
  - (iii) if the variation relates to both the farming system authorised to be used and the species authorised to be farmed under the licence—\$2 020;
  - (iv) in any other case—\$340;
- (e) application to vary conditions of aquaculture licence authorising aquaculture in an area other than a lease area (section 52)—\$225;
- (f) application for renewal of aquaculture licence (section 53)—no fee;
- (g) application for consent to transfer aquaculture licence (section 55)—
- (i) in the case of a corresponding licence—\$860;
  - (ii) in any other case—\$225.

## 2—Periodic fees

- (1) A licensee authorised under the licence to carry on aquaculture in a lease area must, before the payment date fixed by the Minister for the financial year by written notice given to the licensee, pay to the Minister, in respect of each financial year, a fee of the following amount:
- (a) for a licence to farm tuna—the amount obtained by multiplying \$65 by the number of hectares in the licence area;
  - (b) for a licence to farm finfish other than tuna—the amount obtained by multiplying \$165 by the number of hectares in the licence area;
  - (c) for a licence to farm abalone in a subtidal area—the amount obtained by multiplying \$150 by the number of hectares in the licence area;
  - (d) for a licence to farm molluscs other than abalone in a subtidal area—the amount obtained by multiplying \$220 by the number of hectares in the licence area;

- (e) for a licence to farm molluscs (including abalone) in an intertidal area—the amount obtained by multiplying \$315 by the number of hectares in the licence area;
  - (f) for a licence to farm algae—the amount obtained by multiplying \$40 by the number of hectares in the licence area;
  - (g) for a licence authorising the storage of sea cages—the amount obtained by multiplying \$40 by the number of hectares in the licence area.
- (2) If 2 or more licences are held in respect of the same area—
- (a) the licensee is only liable for 1 fee under subclause (1); and
  - (b) the fee payable is the higher or highest of the fees that would be payable under subclause (1) but for this subclause.
- (3) A licensee authorised under the licence to carry on aquaculture in an area other than a lease area must, before the payment date fixed by the Minister for the financial year by written notice given to the licensee, pay to the Minister, in respect of each financial year, a fee of the following amount:
- (a) for an aquaculture licence classified by the Minister (by virtue of the low level of intensity of farming to be carried on under the licence) as a class A licence—\$125;
  - (b) for an aquaculture licence classified by the Minister (by virtue of the medium level of intensity of farming to be carried on under the licence) as a class B licence—
    - (i) in the case of a licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters or the use of a farming structure designed to be transported by road or rail—\$1 340;
    - (ii) in any other case—\$165;
  - (c) for an aquaculture licence classified by the Minister (by virtue of the high level of intensity of farming to be carried on under the licence) as a class C licence—
    - (i) in the case of a licence authorising the carrying on of aquaculture on a navigable vessel as it operates within an area of State waters or the use of a farming structure designed to be transported by road or rail—\$3 085;
    - (ii) in any other case—\$1 625.

### **3—Proportion of periodic fee payable before grant of licence**

A person who applies for an aquaculture licence must, before the licence is granted, pay to the Minister a fee of an amount calculated by multiplying—

- (a) the periodic fee that would have been payable by the person had the person held the licence at the last date for payment of periodic fees; and
- (b) the proportion that the number of whole months between the grant of the licence and the next 30 June bears to 12 months.

## **Schedule 2—Aquaculture policy**

### **Aquaculture (Standard Lease Conditions) Policy 2005**

under the *Aquaculture Act 2001*

#### **1—Short title**

This policy may be cited as the *Aquaculture (Standard Lease Conditions) Policy 2005*.

#### **2—Standard conditions of aquaculture lease**

The provisions of this policy constitute conditions of an aquaculture lease.

#### **3—Variation of lease or lease conditions**

- (1) Subject to this clause, an aquaculture lease or its conditions may be varied, at the request or with the consent of the lessee, by the Minister by written notice to the lessee.
- (2) The variation must not extend the area of the lease or the class of aquaculture that may be carried on in the area (see section 25(2)(c) of the *Aquaculture Act 2001*).
- (3) If the variation consists of or involves the substitution of the area leased:
  - (a) the variation may not be made if the lease is registered under the *Real Property Act 1886*; and
  - (b) if the original area leased was within an aquaculture zone or prospective aquaculture zone, the new area leased must not be within a different aquaculture zone or prospective aquaculture zone; and
  - (c) the variation may not be made unless the holder of each corresponding licence has requested or consented to a variation of the conditions of the licence by substitution of the licence area and the EPA has approved the variation (to take effect on the variation of the lease).

## **Schedule 3—Related variations and revocations**

### **Part 1—Preliminary**

#### **1—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

### **Part 2—Variation of *Fisheries (Exotic Fish, Fish Farming and Fish Diseases) Regulations 2000***

#### **2—Variation of regulation 4—Interpretation**

- (1) Regulation 4, definition of *fish farm*—delete the definition
- (2) Regulation 4, definitions of *operator* and *povidone-iodine*—delete the definitions

### **3—Revocation of regulations 9 to 22**

Regulations 9 to 22 (inclusive)—delete the regulations

### **4—Variation of regulation 23—Powers of fisheries officer in relation to fish suffering from prescribed notifiable disease**

Regulation 23(1)—delete ", other than farm fish,"

### **5—Revocation of regulations 24 to 26**

Regulations 24 to 26 (inclusive)—delete the regulations

### **6—Variation of regulation 27—Prohibition against importation or possession of live fish**

Regulation 27—after subregulation (2) insert:

- (3) Subregulation (1) does not apply in relation to live fish brought into the State as aquaculture stock for aquaculture carried on under the *Aquaculture Act 2001*.

### **7—Revocation of regulations 28 and 29**

Regulations 28 to 29 (inclusive)—delete the regulations

### **8—Revocation of Schedule 6**

Schedule 6—delete the Schedule

## **Part 3—Variation of *Fisheries (Fish Processors) Regulations 1991***

### **9—Variation of regulation 4—Interpretation**

- (1) Regulation 4, definition of *eligible applicant*—delete the definition and substitute:

*eligible applicant*, in relation to an application for registration or renewal of registration as a fish processor under section 54 of the Act, means the holder of a fishery licence or an aquaculture licence who applies for registration as a fish processor for the sole purpose of processing fish taken or farmed under the licence for sale to a person who—

- (a) is an unregistered fish processor; and
- (b) carries on a business in the course of which fish is sold, or fish is supplied as a meal or part of a meal, directly to the public;

- (2) Regulation 4—after the definition of *the Act* insert:

*aquaculture licence* means a licence under the *Aquaculture Act 2001*;

### **10—Variation of regulation 7—Persons not required to be registered as fish processors (section 54 of Act)**

Regulation 7(b)—delete paragraph (b) and substitute:

- (b) a person—

- (i) who is the holder of a fishery licence or an aquaculture licence; and
- (ii) who only processes fish taken or farmed under the licence for sale to a registered fish processor or directly to persons who consume the fish.

#### **11—Variation of regulation 8—Written records to be kept**

Regulation 8(5)—delete subregulation (5) and substitute:

- (5) The holder of a fishery licence or an aquaculture licence is not required to comply with this regulation in relation to fish taken or farmed under the licence.

#### **12—Variation of regulation 9—Returns to be lodged with Executive Director of SARDI**

Regulation 9(3)—delete subregulation (3) and substitute:

- (3) The holder of a fishery licence or aquaculture licence is only required to comply with this regulation in relation to fish sold or delivered to an unregistered fish processor.

#### **13—Variation of regulation 11—Procedure to be followed if registered fish processor obtains fish from unlicensed person**

- (1) Regulation 11(1)—delete "or in the course of the operation of a registered fish farm"
- (2) Regulation 11(1)(b)(i)(B)—delete subsubparagraph (B) and substitute:
  - (B) —
    - (a) if the fish were taken in the course of recreational fishing—"Rec";
    - (b) if the fish were farmed under an aquaculture licence—"FF"; and

### **Part 4—Variation of *Fisheries (General) Regulations 2000***

#### **14—Variation of regulation 26—Marking of receptacles in which fish are transported, consigned for sale etc**

Regulation 26(1)(f)—delete paragraph (f) and substitute:

- (f) if the person is the holder of a fishery licence or aquaculture licence—the person's licence number.

### **Part 5—Revocation of *Aquaculture Regulations 2002***

#### **15—Revocation**

The *Aquaculture Regulations 2002* are revoked.

## **Legislative history**

### **Notes**

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

### **Principal regulations**

| Year | No  | Reference                      | Commencement   |
|------|-----|--------------------------------|----------------|
| 2005 | 205 | <i>Gazette 22.9.2005 p3413</i> | 1.10.2005: r 2 |