

SECTION: Aquaculture

SUBSECTION: Source of Fish or Gametes

SUBJECT: Provision of Fish or Gametes from the Provincial Fish Culture Program

POLICY/PROCEDURE: FisPp.9.5.1

ISSUE DATE: August 2004

DEFINITIONS

In this policy / procedure,

- “*Act*” means the *Fish and Wildlife Conservation Act* (FWCA)
- “*aquaculture*” is defined in the *Act* and means the breeding or husbandry of fish, and the verb “culture” has, with respect to fish, a corresponding meaning
- “*artificial waters*” are described in clause 3(2)(b) of the Ontario Fishery Regulations made under the *Fisheries Act* and may be referred to as *artificial ponds* in this policy. The water body (e.g. pond) must be artificial and meet the following additional criteria: It cannot be on a regional flood plain. It must be wholly within the boundaries of privately-owned land. It can contain water from surface run-off, natural springs, ground water or water pumped from a stream or lake; however, it cannot have a connection or outflow to natural waters. Use is restricted to non-commercial purposes and fish deposited into the water body must be obtained from either an aquaculture facility licensed under the provincial *Act* or a commercial fishing operation licensed under the provincial *Act*
- “*culture*” is defined in the definition of “aquaculture” and when used as a verb with respect to fish has a corresponding meaning with *aquaculture*
- “*Ontario waters*” and “*waters of Ontario*” refer to the natural waters of Ontario and does not include artificial ponds

RATIONALE

Revisions to the *aquaculture* regulations in 1995 expanded the list of species eligible for *aquaculture*. To culture many of these new species the industry required access to wild stocks. The Ontario Ministry of Natural Resources (OMNR) will assist by allowing the collection of fish or gametes directly from *Ontario waters* (FisPp.9.5.2 - Collection of fish gametes / Issuance of Licence to Collect Fish for Aquaculture) and by making available surplus stock from OMNR fish culture stations or OMNR egg collections.

The use of wild stocks is encouraged by OMNR as a means of avoiding imports of fish into the province. However, OMNR has an obligation to ensure that wild stocks are protected and the government receives fair compensation for Crown resources.

This policy / procedure identifies the process for acquiring wild fish or gametes from provincial fish culture stations.

PROGRAM DIRECTION

The intent is for individual operators and the *aquaculture* industry to become self-sufficient and not to remain dependent on provision of fish from the fish culture system or wild fish or egg collections (FisPp. 9.5.2). Individuals applying for a Licence to Collect Fish for Aquaculture should be advised of this and encouraged to develop their own hatchery-maintained brood stocks.

OMNR may assist by provision of fish or gametes excess to the Ministry's requirements from brood stocks held at OMNR fish culture stations e.g. brook trout, lake trout, brown trout. Prices for fish or gametes will be established by Fish Culture Section.

PROCEDURE

Provision of stocks from OMNR Fish Culture Stations

The holder of an aquaculture licence may request a supply of fish or gametes from the Ministry to meet an identified need to develop a brood stock, proceed with culture of a given species, or to enhance the genetics of an existing stock.

An OMNR office receiving an inquiry about the availability of fish from the OMNR Fish Culture Section should:

1. Direct interested parties to contact the Manager of Fish Culture Section, Fish and Wildlife Branch in order to obtain information about what stocks are in the OMNR system and to identify an interest in a particular stock or stocks.

The Manager of Fish Culture Section will ensure that:

1. The requester is advised of availability of stocks and options to obtain;
2. Any costs associated with getting the eggs/stocks, established by Fish Culture Section and set out in periodic bulletins will be charged; and
3. No guarantee is provided with respect to fish health or viability of the eggs or fish.

Arrangements to obtain eggs/fish:

1. Purchasers must arrange for transportation of the fish or gametes from the source to their facility;
2. At the time of pick-up, purchasers must show that their facility is licensed for the species in question;
3. The purchaser must provide payment to OMNR in the form of a certified cheque or money order at the time or prior to receipt of the fish;
4. An invoice/receipt will be issued by OMNR using a format set out by the Manager of Fish Culture Section; and
5. Appropriate financial procedure to have the payment identified as cost recovery to the Fish and Wildlife SPA must be followed.

REFERENCES

Legal References

- *Fish and Wildlife Conservation Act*
Section 83 - fees and royalties
Section 84 - sale of products and services
- Fish Licencing Regulation
Section 19
- *Fisheries Act*
- Fish Health Protection Regulations

Related References

- Policies and procedures
 - FisPp.9.2.1 - Issuance of Aquaculture Licence, Renewals, Transfers, Amendments, Refusals and Cancellations
 - FisPp.9.5.2 - Collection of fish or gametes / Issuance of Licence to Collect Fish for Aquaculture
 - FisPp.9.5.3 - Administration of Federal Fish Health Protection Regulations with respect to the importation of live fish or gametes into Ontario

SECTION: Aquaculture

SUBSECTION: Source of Fish or Gametes

SUBJECT: Collection of fish or gametes / Issuance of Licence to Collect Fish for Aquaculture

POLICY/PROCEDURE: FisPp.9.5.2

ISSUE DATE: August 2004

DEFINITIONS

In this policy / procedure,

- “*Act*” means the *Fish and Wildlife Conservation Act* (FWCA)
- “*aquaculture*” is as defined in the *Act* and means the breeding or husbandry of fish, and the verb “culture” has, with respect to fish, a corresponding meaning
- “*artificial waters*” are described in clause 3(2)(b) of the Ontario Fishery Regulations made under the *Fisheries Act* and may be referred to as *artificial ponds* in this policy. The water body (e.g. pond) must be artificial and meet the following additional criteria: It cannot be on a regional flood plain. It must be wholly within the boundaries of privately-owned land. It can contain water from surface run-off, natural springs, ground water or water pumped from a stream or lake; however, it cannot have a connection or outflow to natural waters. Use is restricted to non-commercial purposes and fish deposited into the water body must be obtained from either an aquaculture facility licensed under the provincial *Act* or a commercial fishing operation licensed under the provincial *Act*
- “*culture*” is defined in the definition of “*aquaculture*” and when used as a verb with respect to fish has a corresponding meaning with *aquaculture*.
- “*fish*” is defined in the *Act* as having the same meaning as in the *Fisheries Act* and therefore includes:
 - a) parts of fish
 - b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and
 - c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals
- “*Ontario waters*” and “*waters of Ontario*” refer to the natural waters of Ontario and does not include artificial waters

RATIONALE

Revisions to the *aquaculture* regulations in 1995 expanded the list of species eligible for *aquaculture*. To culture many of these new species the industry required access to wild stocks. The Ontario Ministry of Natural Resources (OMNR) will assist the industry by allowing the collection of fish or gametes directly from *Ontario waters* (and by allowing for the provision of fish or gametes from the Provincial Fish Culture Program - FisPp.9.5.1).

The use of wild stocks is encouraged by OMNR as a means of avoiding imports of fish into the province, thereby reducing the risk of genetic contamination and introduction and transfer of infectious fish disease agents. However, OMNR has an obligation to protect fish species, particularly during vulnerable periods of their life history such as spawning and to minimize damage to the natural resource by the collection process.

Accordingly, the Ontario Fishery Regulations require a licence to take fish from Ontario waters. The licence issued by the OMNR is required for the collection of fish or gametes from the wild (Section 28, Fish Licensing Regulation).

This policy / procedure identifies the process for aquaculturists to acquire fish or gametes from Ontario waters and the procedure to issue a Licence to Collect Fish for Aquaculture.

PROGRAM DIRECTION

The intent is for individual operators and the *aquaculture* industry to become self-sufficient and not to remain dependent on wild fish or egg collections. Individuals applying for a Licence to Collect Fish for Aquaculture should be advised of this and encouraged to develop hatchery-maintained brood stocks.

However, there are circumstances where ongoing collections from Ontario waters may be appropriate:

- a) where hatchery-maintained brood stocks are not practical (e.g. coho or chinook salmon) or not yet feasible due to poorly understood broodstock husbandry techniques (e.g. walleye);
- b) where the donor population is underutilized and/or is able to sustain ongoing collections (e.g. white sucker, common carp);
- c) where fish are being cultured for stocking into Ontario waters and where there is a desire to maintain the local genetic diversity.

OMNR is responsible for the management of the fisheries resources in the province and must ensure that any use or development of those resources is sustainable and maintains the integrity of ecosystems. It must be recognized that the taking of fish or gametes from *Ontario waters* has the potential to cause significant damage to the fish populations from which they are taken and therefore when it is permitted safeguards are in place to ensure that the risk of damage is minimal.

Therefore:

- applications for the collection of fish and gametes will be considered on a case by case basis, and licences may be issued with conditions where appropriate;
- the issuance of a Licence to Collect Fish for Aquaculture has to be seen as part of the use of the entire stock of fish in *Ontario waters*. Allocation will be based on conservation needs first, aboriginal and treaty rights second (*Sparrow vs. Regina*, Supreme Court of Canada, 1990), then all other users including *aquaculture*;
- the costs of assessment of fish stocks required to determine if there are sufficient fish stocks to issue the licence without infringing on allocation priorities, will be borne by the applicant;
- local conditions and other resource users will be taken into account and stakeholders may be consulted in reaching decisions on collections from *Ontario waters*. Due to allocation principles associated with commercial bait harvest blocks, the person licenced for the block in question should be consulted in all cases where the application is for collection of bait fish species. OMNR may make a decision without consensus among all interests; and
- the applicant is responsible for any costs associated with collection of fish from *Ontario waters*.

Approval of a request to collect fish or gametes from fish populations in *Ontario waters* will be evaluated on a case-by-case basis and will be granted through the issuance of a Licence to Collect Fish for Aquaculture (Fish Licensing Regulation, section 28). Where sensitive species or locations are involved, the applicant may be required to demonstrate that they have the skills to minimize impact on the natural resource. Where the applicant does not have these skills, OMNR may direct that the applicant make alternate arrangements, at the applicants expense, to ensure that the collections are done by individuals with the necessary expertise.

The following criteria are used to control the harvesting of fish or gametes from Ontario waters and will be identified by Ministry staff and reflected in the licence conditions:

- a) limitations on the watersheds, water bodies and sites from which fish may be collected;
- b) restrictions on catching, retaining, gamete taking, holding and release of fish, according to species, stock, location and intended use;
- c) limitations on the gear and equipment permitted for the taking and holding of fish;
- d) the timing of fish or gamete collections will be specified according to hours/day, number of days, number of net sets/lifts and number of fish to be caught and/or retained;
- e) mandatory reporting of harvest activities and results will be a condition of licensing, including fish/eggs collected, time and catch/effort, net/capture location and dates.

A licence is valid only for the dates and times specified on the licence and must be reissued each year.

Environmental Assessment Act considerations

A licence to collect fish for use in aquaculture must be screened and evaluated in accordance with the direction set out the “Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects”. For further information and details staff should refer to the Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects, and consult their lead EA contact.

ISSUANCE PROCEDURE

For collection of fish or gametes from the Great Lakes, approval must be obtained from the Lake Manager. For collections from direct Great Lakes tributaries, approval must be obtained from the Area Supervisor in consultation with the Lake Manager. For collection from all other waters, the approval of the Area Supervisor must be obtained.

District Office/Great Lake Management Unit:

1. Obtains an application for a Licence to Collect Fish for Aquaculture (Form FW1015) from the Fish and Wildlife Documentation Site. Licences (Form FW0013) will be issued from the Electronic Licence Information System (ELIS).
2. Provides or sends application forms to current licence holders and new applicants on request and receives the completed application.
3. Ensures that the applicant has correctly completed the application and that the proper licence fee has been received.
4. Where the applicant is a corporation, includes a list of names and addresses of the corporation’s officers.
5. Checks that the applicant is approved to culture the species for which the application is being made.
6. Informs the applicant of the requirement to follow the direction set out the “Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects”.
7. Recommends approval or refusal of the Licence to Collect Fish for Aquaculture.
8. If the licence is refused, provides reason for the refusal to the applicant and advises the applicant of their right to a hearing before a Hearing Officer (FWPp.2.2.1 - Cancellation or refusal of a fish and wildlife licence and notification requirements) if the refusal is for reasons of conservation and management of fish.
9. If the licence is approved, where sensitive species or locations are involved, requires the applicant to demonstrate that they have the skills to minimize impact on the natural resource.

Where these skills are not demonstrated, advises the applicant that a condition of the licence will be that they must arrange for the collection to be done by competent individuals such as a consultant or contractor. Reminds applicant that all costs associated with collection are the responsibility of the applicant.

Sets out all costs as a condition of licence to ensure there is understanding from the applicant.

10.1 Issuer completes all sections of the Licence to Collect Fish for Aquaculture and places such terms and conditions on the licence as are warranted, regarding:

- species and stock
- waterbody and specific location(s)
- alternate collection arrangements where the applicant has not demonstrated skills to minimize impact on the natural resource
- fishing gear and equipment permitted
- timing of collection including start/finish dates, times of day
- number of fish to be caught and/or retained
- handling, retaining and (if applicable) release of fish
- reporting requirements (including reporting of culture success, usage of stocks and/or final destination of stocks, particularly in cases where ongoing collections from Ontario waters are to be considered)
- handling and disposal of mortalities
- instruction on what to do with non-target species
- sets out that no guarantee can be provided with respect to health or viability.

10.2 Signs each copy of licence.

10.3 Has applicant sign each copy of his or her licence.

10.4 Gives one copy of licence to applicant.

10.5 Files copy in District/Lake Management Unit and enters the data into the appropriate Ministry information database.

11. Monitors collection of fish or gametes as appropriate.

REFERENCES

Legal References

- *Fish and Wildlife Conservation Act*
 - Subsection 36(5) - abandonment or spoilage of flesh
 - Section 37 - possession of nets
 - Section 47 - aquaculture
 - Subsection 57(1) - transport of containers
 - Section 60 - issuance of licences
 - Section 62 - licence conditions
 - Section 71 - refusal of licences - general
 - Section 72 - refusal of licence on conservation or management grounds
 - Section 75 - cancellation of licences on conservation or management grounds
 - Section 76 - notice of proposal to cancel a licence
 - Section 77 - hearing process
 - Section 83 - fees and royalties
 - Section 84 - sale of products and services
- Fish Licencing Regulation
 - Section 28 - licence to collect fish from Ontario waters
 - Section 29 - transportation of fish
 - Section 30 - non-application of sections of the *Act*
- *Environmental Assessment Act*
- Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects

Related References

Policies and procedures

- FisPp.9.2.1 - Issuance of Aquaculture Licence, Renewals, Transfers, Amendments, Refusals and Cancellations
- FisPp.9.5.1 - Provision of Fish or Gametes from the Provincial Fish Culture Program