

Canada – Québec Guide

Application for or Modification to an Aquaculture Site in a Marine Environment



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Direction de l'aquaculture et du développement durable

Transport Canada (TC) Navigable Waters Protection Program

In collaboration with:

Canadian Food Inspection Agency (CFIA)

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Canada – Québec Guide to Application for or Modification to an Aquaculture Site in a Marine Environment

This document, produced together by Fisheries and Oceans Canada (DFO) and the *Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec* (MAPAQ), introduces the approval or modification process for aquaculture sites in Québec. This guide and related forms are available at the locations specified hereafter. Additional information may be obtained at the Direction de l'aquaculture et du développement durable du MAPAQ and the DFO Aquaculture Coordinator Office.

This guide may be revised and updated on a regular basis. In all cases, legal texts take precedence.

Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

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This document is also available at the following address :

MAPAQ : http://www.mapaq.gouv.qc.ca/Fr/Pêche/Mariculture/Encadrement_reglementaire/
DFO : <http://www.qc.dfo-mpo.gc.ca/aquaculture/index-eng.asp>

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List of acronyms

CFIA	Canadian Food Inspection Agency
EA	Environmental affairs (TC)
RACO	Regional Aquaculture Coordinator Office (DFO)
CEHQ	Centre d'expertise hydrique du Québec (MDDEP)
CSMOPM	Comité sectoriel de main-d'œuvre des pêches maritimes
DADD	Direction de l'aquaculture et du développement durable (MAPAQ)
DGPAC	Direction générale des pêches et de l'aquaculture commerciales (MAPAQ)
RDFAM	Regional Directorate of Fisheries and Aquaculture Management (DFO)
EC	Environment Canada
CCG	Canadian Coast Guard (DFO)
FHM	Fish Habitat Management (DFO)
MAPAQ	Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec
MDDEP	Ministère du Développement durable, de l'Environnement et des Parcs
DFO	Fisheries and Oceans Canada
MRNF	Ministère des Ressources naturelles et de la Faune
CSSP	Canadian Shellfish Sanitation Program
NWPP	Navigable Waters Protection Program (TC)
MWQMP	Marine Water Quality Monitoring Program (EC)
EASR	Environmental Assessment Screening Report
SODIM	Société de développement de l'industrie maricole
TC	Transport Canada
MPA	Marine Protected Area

Federal Laws

CEAA	<i>Canadian Environmental Assessment Act</i>
SARA	<i>Species at Risk Act</i>
CSA 2001	<i>Canada Shipping Act, 2001</i>
FA	<i>Fisheries Act</i>
NWPA	<i>Navigable Waters Protection Act</i>

Provincial Laws

LAC	<i>Loi sur l'aquaculture commerciale (Act Respecting Commercial Aquaculture)</i>
LCMVF	<i>Loi sur la conservation et la mise en valeur de la faune (Act Respecting the Conservation and Development of Wildlife)</i>
LEMV	<i>Loi sur les espèces menacées ou vulnérables (Act Respecting Species at Risk or Vulnerable Species)</i>
LPAC	<i>Loi sur les pêcheries et l'aquaculture commerciales (Act Respecting Commercial Fisheries and Aquaculture)</i>
LQE	<i>Loi sur la qualité de l'environnement (Environment Quality Act)</i>
LRE	<i>Loi sur le régime des eaux (Watercourses Act)</i>

Introduction

This document introduces the regulatory analysis process for the application of aquaculture sites in marine environment and issuance process of provincial and federal licences and authorizations.

MAPAQ is the aquaculture gateway in Québec. The MAPAQ regional directorate for the relevant sector supports all proponents as they develop their projects and assists them as they complete their licence applications. MAPAQ and DFO ensure the proper coordination and processing of the application with other authorities involved.

Processing time

Analyses performed at the time of the evaluation of any application for an aquaculture site in a marine environment requires a minimum processing time of six months. Additional processing time may be required when the initial application is incomplete or if the site is located in an unclassified shellfish area or the application is subject to major usage conflicts. Proponents must take this time delay into account when submitting their application so they may implement well planned and orderly production operations.

By submitting all information required for the analysis of their application from the onset of their initial request, proponents contribute to the efficient processing and delivery of federal and Québec authorizations. In other respects, and because of the specificities pertaining to each aquaculture project, analysts involved may need to communicate with the proponents for additional information.

Proponents can find additional information pertaining to the various aspects of an aquaculture business start-up process in the SODIM and CSMOPM guides :

Guide de démarrage d'une entreprise maricole, <http://www.csmopm.qc.ca/csmopm/commander.aspx>

Available at the CSMOPM offices : 185-2, rue de la Reine, Gaspé (Québec) G4X 1T7

Tel: (418) 368-3774

Some of the information in this document was taken from national-scale federal guides.

Available in DFO's offices, or at the following address :

http://www.dfo-mpo.gc.ca/aquaculture/Library/index_f.htm

- Interim Guide to Application and Site Marking Requirements for Aquaculture Projects in Canada, Under the *Navigable Waters Protection Act*;
- Interim Guide to the Application of Section 35 of the *Fisheries Act* to Salmonid Cage Aquaculture Development;
- Interim Guide to Information Requirements for Environmental Assessments of Marine Finfish Aquaculture Projects;
- Interim Guide to Information Requirements for Environmental Assessments of Marine Shellfish Aquaculture Projects;
- Interim Guide to Consideration of Cumulative Environmental Effects Under the Canadian Environmental Assessment Act, Relative to Aquaculture Projects;
- Interim Guide to Consideration of Effects of Environmental Change on Socio-Economic Conditions Under the Canadian Environmental Assessment Act, Relative to Aquaculture Projects;
- Interim Guide to Fisheries Management's Role in the Evaluation of Aquaculture Site Applications.

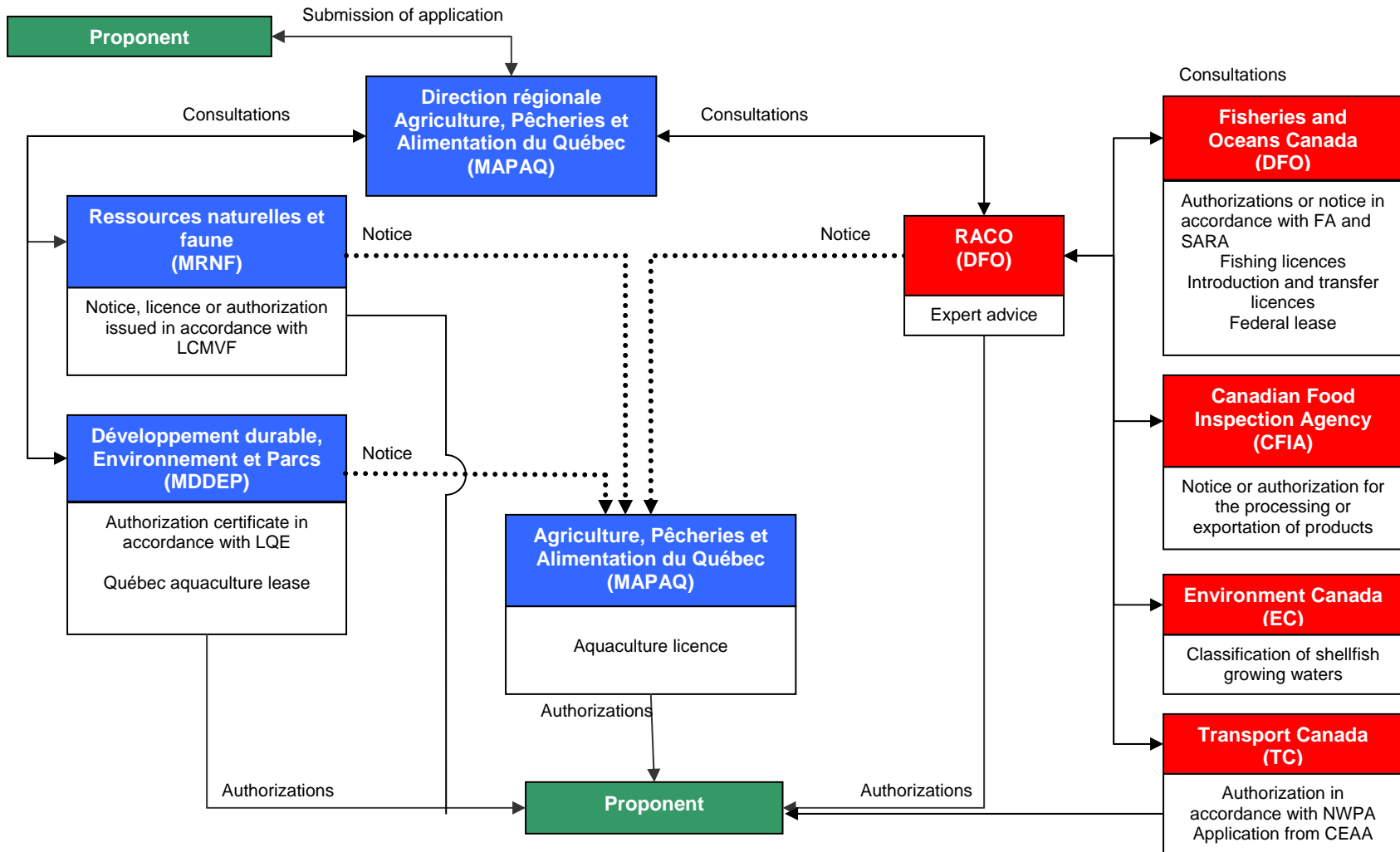
What steps should be taken?

The proponent is responsible for obtaining all licences and authorizations required for an aquaculture site before operations begin. He/she is also responsible for planning an approach that will give the departments and agencies a reasonable time to process and analyze the request. This time period depends on each project's specificities and may therefore vary.

In brief, the steps to follow are :

- The mariculturist must submit an application for an aquaculture licence to MAPAQ (manager of aquaculture activities in Québec). The proponent, with MAPAQ's collaboration, will then define its project. This step includes establishing the identity and location of the aquaculture site as well as drawing up a business development plan and a description of the farming activities (species farmed, quantity, etc.).
- Once all the required information has been gathered, the proponent must then complete the joint analysis form that will be used to analyze the application for an aquaculture site in a marine environment (Part A : sites for commercial purposes; Part B : sites for research and experimentation purposes) and submit this form to the relevant MAPAQ regional branch.
- MAPAQ then sends the completed application for detailed analysis to the relevant Québec ministries (FAPAQ and MENV) and to DFO (RACO) which will coordinate analysis of those aspects of the project that come under federal jurisdiction.
- In accordance with the project specifics, the relevant department and ministries may contact the proponent to request additional information in order to complete their analysis of the application.
- In most cases, the application will have to undergo an environmental assessment in compliance with the Canadian Environmental Assessment Act. This process is performed in conjunction with a public consultation period for the purpose of gathering comments from the public.
- At the end of the analysis process, the MAPAQ's DADD and the DFO's RACO ensure that all federal and Québec authorizations and licences required for operations are sent to the proponent.

Authorization and Licence Delivery Process Regarding Applications for Aquaculture Sites



What are the licences and authorizations required and who issues them?

In Québec, aquaculture activities are governed by several acts and regulations administered by different ministries, agencies and levels of government. The proponent will find a brief description of the required licences and authorizations in the following pages, as well as the mandates and roles of those involved in the analysis process.

LICENCES AND AUTHORIZATIONS REQUIRED TO RECEIVE APPROVAL FOR A MARICULTURE SITE

MAPAQ : Regional branch
Aquaculture licence

MRNF : Regional branch for wildlife management
Wildlife authorization for aquaculture projects, which could have an impact on wildlife habitats in accordance with the *Loi sur la conservation et la mise en valeur de la faune*.

MDDEP : Regional branch
Certificate of authorization for projects which could have an environmental impact in accordance with the Water Quality Act.

CEHQ
Aquaculture lease for the occupation of the State's hydric domain for aquaculture purposes.

TC : *Navigable Waters Protection Program*
Approval in accordance with the Navigable Waters Protection Act.

Environmental affairs
Application of the Canadian Environmental Assessment Act

DFO : *Fish Habitat Management*
Authorization to destroy, disrupt or damage a fish habitat in accordance with the Fisheries Act.

Sciences
Annual aquatic organism introduction and transfer licence.

Fisheries Management
Fishing licence for accessing wildlife resources.
Fishing licence for catching endangered species in accordance with the Species at Risk Act.
Fishing licence for transplantation purposes in accordance with the regulation amendments of the Atlantic Fishery Regulations, 1985.

Note :

Depending on the nature of the application, some of the licences and/or authorizations previously mentioned may not apply.

The proponent will find attached a brief summary of the main laws and acts which are considered during the analysis of his/her application or with which the proponent must comply during aquaculture operations.

Ministère de l'Agriculture des Pêcheries et de l'Alimentation du Québec (MAPAQ)

<http://www.mapaq.gouv.qc.ca/Fr/Peche/>

MAPAQ's mission is to influence and support the growth of Québec's bio-food industry within a perspective of sustainable development.

Aquaculture licence or authorization for research and experimentation purposes

□ **MAPAQ – Direction générale des pêches et de l'aquaculture commerciales (DGPAC)**

Three regional directorates oversee the development of mariculture activities : the Gaspé Peninsula Regional Directorate, Magdalen Islands Regional Directorate and North Shore Regional Directorate.

These entities analyze the relevance of information provided in the application in accordance with the area's development policies and are in charge of delivering the licences.

Ministère des Ressources naturelles et de la Faune (MRNF) – Faune Québec

<http://www.mrnf.gouv.qc.ca/>

The Ministère des Ressources naturelles et de la Faune du Québec must ensure the conservation and development of wildlife and wildlife habitat within a perspective of sustainable and harmonious development with respect to cultural, social, economic and regional issues.

Licence or authorization issued to ensure the conservation and development of wildlife and wildlife habitat

To this end, MRNF manages the *Regulation respecting wildlife habitats* under the *Act respecting the conservation and development of wildlife* (LCMVF).

The *Regulation respecting aquaculture and the sale of fish* (RAVP) under the *Act respecting the conservation and development of wildlife* (LCMVF) applies to the production, stocking, keeping in captivity, breeding and transport of freshwater fish and live anadromous and catadromous fish, and to the treatment of contagious and parasitic diseases in such fish. As well, this regulation applies to the purchase, sale and importation of these species, whether live or dead. To this end, Québec has been divided into twenty-seven fish-breeding areas and the regulation stipulates the activities that are permitted for each species in these areas.

The MRNF regional directorates issue authorizations for aquaculture projects which may have an impact on wildlife and wildlife habitat. There is a single gateway administrative agreement between MRNF and the *Ministère du Développement durable, de l'Environnement et des Parcs* to foster the exchange of information between these two ministries about projects taking place in aquatic environments.

Ministère du Développement durable, de l'Environnement et des Parcs du Québec (MDDEP)

<http://www.mddep.gouv.qc.ca/>

The *Ministère du Développement durable, de l'Environnement et des Parcs*'s mission is to ensure the protection of the environment within a perspective of sustainable development.

Certificate of authorization with respect to the protection of the environment

□ **MDDEP – Centre d'expertise hydrique du Québec (CEHQ)**

CEHQ is an MDDEP agency that oversees management of the water property in the domain of the State. The State's water property is composed of the beds of the largest lakes and watercourses in Québec.

Aquaculture lease

Managing water property in the domain of the State involves carrying out activities inherent to property management while ensuring the protection of the water property resource. Essentially, this means managing leases, licences, servitudes and acts of sufferance as well as selling some portions of the water property in the domain of the State or transferring some portions of said property to other jurisdictions.

Fisheries and Oceans Canada (DFO)

<http://www.dfo-mpo.gc.ca/>

The DFO's mission is to offer the Canadian population safe and accessible navigable waterways, healthy and productive aquatic ecosystems and sustainable fisheries and aquacultures.

Within this context, DFO administers the acts corresponding to its mission and ensures they are properly applied. While analyzing aquaculture site applications, the Department ensures, amongst other things, the respect of the *Species at Risk Act* (SARA), the *Navigable Waters Protection Act* (NWPA), the *Fisheries Act* (FA) and the *Canada Oceans Act* (COA).

□ **DFO – Regional Aquaculture Coordinator Office (RACO)**

The Regional Aquaculture Coordinator Office of the Fisheries and Aquaculture Management Branch's receives applications for aquaculture sites from MAPAQ, and ensures their follow-up within the federal government. It also makes sure that all participants concerned are consulted.

Supported by DFO specialists, the RACO answers questions and concerns from users and the public alike.

□ **DFO – Fish Habitat Management (FHM)**

In matters of aquaculture, the Fish Habitat Management Branch ensures that within the framework of the application of the Fishery Act (FA), projects carried out in an aquatic environment will not cause a net loss of the fish habitat production capacity.

Authorization according to the Fishery Act

In some cases, the use of an aquaculture site involves introducing or transferring aquatic organisms. If need be, the proponent must file a request as specified in the *National Code on Introductions and Transfers of Aquatic Organisms* (<http://www.dfo-mpo.gc.ca/Science/enviro/ais-eae/code-eng.htm>). The introduction of exotic species in a certain area could result in the introduction of harmful organisms and pathogens, competition with respect to feeding, space and fish spawning areas, modification of habitats and predation of indigenous species. The Code determines the procedures required to assess projects involving the introduction or transfer of aquatic organisms. Its goal is to limit the repercussions on fishery resources, habitats and farmed or aquaculture species.

Licences for introduction and transfer of aquatic organisms

When capturing or fishing activities are required for maintaining aquacultural activities, DFO's sectoral office issues a licence, if need be. In some cases DFO may require from the proponent a relocation of the aquaculture project for the protection of resources or for sanitary reasons.

Fishing licence for supplying wild aquatic resources

As well, some aquacultural activities may, directly or indirectly, affect an endangered species listed in the Species at Risk Act (SARA). According to the SARA, it is forbidden to kill, harm, harass or capture an endangered species which is listed as extirpated, endangered or threatened species. In such cases where aquacultural activities might

Licence for activities pertaining to species at risk

contravene the SARA specifications, a licence may be issued if foreseen activities meet the conditions specified by SARA.

Finally, a fishing licence for the purpose of transplantation may be issued for the purpose of fishing clams, mussels or oysters, regardless of season limits or closed season forecasts for the purpose of transplantation in an environment promoting growth, condition or accessibility.

Fishing licence for transplantation purposes

Transport Canada

<http://www.tc.gc.ca/eng/quebec/nwp-menu-1424.htm>

□ **Navigable Waters Protection Program (NWPP)**

The Navigable Waters Protection Program's objective is to protect the public's right to navigation and marine safety in Canada's waterways, evaluate the impact of aquaculture sites and more specifically the location and dimension of the site and the required marking system. The program takes into account the existing infrastructures and characteristics of local navigation categories, as well as the navigable waterway and ensures their safe accessibility.

As well, the NWPP coordinates public consultations pertaining to navigational aspects, examines the various user's requirements and impacts on marine navigation from aquaculture sites. In cases of incompatibility or usage conflicts, NWPP may propose necessary adjustments in collaboration with proponents, federal and provincial departments involved and any other navigational waterway users.

When preliminary consultations with federal departments involved tend to indicate that the project will not encounter any major objections, the NWPP will communicate with the proponent and inform him of its responsibilities with respect to the issuance of the approval.

The Navigable Waters Protection Act comprises two approval options. The NWPP officer is responsible for determining which sections of law and processes must be met by the proponent. Most of the aquaculture projects require an approval in accordance with section 5 (1) and (2) of the NWPA. This approval process encompasses amongst other things, the recording of documents and a notice period.

Recording of documents and notice period in accordance with section 9 of the NWPA

In order for the public to be able to comment on the project, the proponent must record all documents describing the proposed project at the Office of Publication of Rights and/or any other specified location, nearest the project and publish a notice in Canada's Official Gazette as well a minimum of one local newspaper. The proponent must wait for instructions from the NWPP agent before beginning any of the approval process steps.

Pursuant to the publication of the notice, a delay of one month is allotted to enable the public to forward any comments. This approval is a trigger of the Canadian Environmental Assessment Act (CEAA) and an environmental evaluation (EE) will be done. Comments received will be taken into account in the application and integrated into the Draft Environmental Assessment Screening Report (DEASR), if they are relevant. Final federal approvals and authorizations which trigger the CEAA will only be delivered when the DEASR concludes that the project is not susceptible to generate major negative environmental impacts in consideration of mitigation measures to be undertaken.

The Navigable Waters Protection Act may also issue an approval in accordance with Sections 5 (1) and (3). This option is used only for aquaculture projects presenting only minor impacts on navigation and the NWPP agent will determine if the recording of documents and notice period are required. This type of approval is not a trigger for the Canadian Environmental Assessment Act (CEAA).

A final approval delivered in accordance with the NWPA will be valid for a period of 5 years. The proponent is in charge of renewing the NWPA approval as well as informing the navigable waters protection program of any modification brought about to the aquaculture site as well as meeting all approval requirements.

□ **Environmental Affairs (EA)**

At the time of the NWPA approval process, EA oversees the performance of the project environmental evaluation (EE) based on information supplied by the proponent and the present state of knowledge. That means that the environmental effects on the biophysical and human environment and the project will not trigger any major negative impact before issuance of the final NWPA approval.

The Canadian Environmental Assessment Act (CEAA) which regulates this procedure through the Canadian Environmental Assessment Agency will ask the federal organizations to evaluate the project before making a decision. The public may consult all projects submitted by accessing the Canadian Environmental Assessment Registry at the following Internet site: <http://www.ceaa-acee.gc.ca/default.asp?lang=En&n=D75FB358-1>

Draft Environmental Assessment Screening Report (DEASR)

The DEASR describes the scope of the project, the range encompassed by the environmental assessment (EA), the impact on the environment and mitigation measures to be undertaken for the purpose of avoiding any major negative impact. Once the DEASR is completed, a decision will be rendered by the EA - TC manager.

Canadian Shellfish Sanitation Program (CSSP)

The Canadian Shellfish Sanitation Program is jointly administered by DFO, the Canadian Food Inspection Agency (CFIA) and Environment Canada (EC). Its primary objective is to reduce the potential health risks associated with the consumption of bivalve shellfish and the protection of public health. CFIA verifies that shellfish are free of toxins. Water quality is monitored and sources of pollution are detected in accordance with the Shellfish Water Quality Protection Program (SWQPP). Shellfish harvesting sites are classified according to their ability to produce shellfish which meet the requirements pertaining to water quality and harvesting site sanitary conditions. Within this context, harvesting sites are subject to periodic sampling.

If the proposed aquaculture site is located in an area affected by toxic algae, marketing will be forbidden each time the maximum allowed level of toxins is reached. If the market targeted by the proponent is outside Québec, the products (fish, molluscs or echinodermata) must be prepared in a federally-approved plant.

When an application for an aquaculture site is presented, the proponent must be sure the site meets with the standards of the Canadian Shellfish Sanitation Program (CSSP). All information pertaining to the status of shellfish areas may be obtained at the following Internet site:

<http://www.mollusca.gc.ca>

When an application for an aquaculture site involves a harvesting site or sector that has never been classified, there must be an assessment performed of sources of pollution. Pursuant to this assessment, a sampling plan must be implemented in order to assess the water's bacteriologic quality. Under these conditions, additional delays may be encountered by the proponent.

Classification

When an application for an aquaculture site involves a site that has never been classified, a sampling protocol is implemented and may require up to one year before being completed.

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APPENDIX I

Laws and regulations

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<i>Fish Inspection Act (R.S., 1985, ch. F-12)</i>	16
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Here is a brief overview of the main acts that could affect aquaculture analyses or operations. The present information is supplied for information purposes only. Proponents should refer to the complete texts of specific acts and regulations for exact legal content.

Legislation under provincial jurisdiction

Act respecting commercial aquaculture (R.S.Q., c. A-20.2)

http://www2.publicationsduQuébec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_20_2/A20_2.html

Definition of aquaculture

- Section 1 defines aquaculture as being the cultivation or raising of aquatic organisms, in particular fish, amphibians, echinoderms, shellfish, crustaceans or plants, except organisms cultivated or raised for aquarium fish keeping purposes.
- This act applies to aquaculture carried on for commercial purposes and, in the waters in the domain of the State, to aquaculture carried on for research or experimentation purposes. It also applies to the operation of fishing ponds for commercial purposes.
- Moreover, this activity is limited to the production of listed organisms or their products, to which are added specific activities such as the production or farming of said organisms or products. If an organism or product is not included on the list, the related activity is not aquaculture within the meaning of the *Act*. Consequently, evaluation of an aquaculture activity is meaningful when said activity involves the concepts of production or farming.

Licences

- The *Act respecting commercial aquaculture* sets the term of a licence at 10 years. Licences may be renewed for another 10-year period. However, a licence may be issued or renewed for a shorter period, if the Minister considers it advisable. MAPAQ issues one licence for each aquaculture site.
- Moreover, licence costs are indexed on January 1 of each year, based on the consumer price index for the period from October 1 to September 30 of the previous year. This index is available at the end of October.

Commercial Aquaculture Regulation (R.S.Q., c. A-20.2, r.1)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/A_20_2/A20_2R1_A.HTM

Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/C_61_1/C61_1_A.html

- Section 128.6 of the *Act* stipulates that “No person may, in a wildlife habitat, carry on an activity that may alter any biological, physical or chemical component specific to the fish or animal’s habitat concerned,” without proper authorization. To this end, *Faune Québec* can impose the conditions it deems appropriate and notably, require the applicant to submit a guarantee in compliance with what is specified by regulation.

Before issuing authorization pursuant to Section 128.6 of the *Act*, the *Faune Québec* takes into account the features of the environment, the nature of the proposed activity, the economic and social impacts of the proposed activity on the conservation of wildlife and its habitat, and the possibility of developing an alternative habitat.

Regulation respecting wildlife habitats (R.S.Q., c. C-61.1, r. 18)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/C_61_1/C61_1R18_A.HTM

- The *Act respecting the conservation and development of wildlife* and *Regulations respecting wildlife habitats* apply only to land in the public domain. In an aquatic environment, *Faune Québec* files an application with the *Centre d'expertise hydrique* du Québec (CEHQ), asking it to verify the tenure of a proposed site. In many cases, the lots are privately held, but the bed of the watercourse is in the public domain.
- The *Regulation respecting wildlife habitats* recognises 11 types of habitats that must appear on a plan drawn up by the Minister; however, the fish habitat is not mapped out in any specific manner. It encompasses all waterways appearing in a territory, including those that flow intermittently. The *Regulation* defines fish habitat as being “a lake, a swamp, a marsh, a floodplain delimited by the mean high-water level for a 2-year period or a watercourse, frequented by fish, [...]; where the limits of a floodplain cannot be established as indicated, they shall correspond to the natural high-water mark;”.

Regulation respecting aquaculture and the sale of fish (R.S.Q., c. C-61.1, r. 7)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/C_61_1/C61_1R7_A.HTM

- Conscientious application of this *Regulation* makes it possible to protect indigenous fish species and their habitats while fostering the development of Québec's wildlife patrimony and the conservation of its biodiversity.
- This *Regulation* applies to the production, stocking, keeping in captivity, breeding and transport of freshwater fish and live anadromous and catadromous fish, and to the treatment of contagious and parasitic diseases in such fish, [...].
- It provides for the division of the territory of Québec into fish-breeding areas. Under these provisions, Québec is divided into 27 areas, each of which is subject to specific breeding restrictions and conditions.
- It also covers breeding ponds, baitfish, transport, stocking, roe or milt extraction, importation and sale.
- It applies to the importation of roe and farmed fish.

Act respecting threatened or vulnerable species (R.S.Q., c. E-12.01)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/E_12_01/E12_01_A.html

- The purpose of the Act is to designate as threatened or vulnerable flora or fauna species that live in Québec or are imported to Québec
- Québec's *Ministère du Développement durable, de l'Environnement et des Parcs* ensures the application of the *Act* for the floristic species designated under this *Act* while the *Ministère des Ressources naturelles et de la Faune* is responsible for wildlife species.
- The *Regulation respecting threatened or vulnerable wildlife species and their habitats* grants a status to a wildlife species and in some cases, defines its legal habitat.
- The wildlife species and habitats designated under this act are governed by the *Act respecting the conservation and development of wildlife* (Chapter C-61.1).

Regulation respecting threatened or vulnerable wildlife species and their habitats (R.S.Q., c. E-12.01, r.0.4)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/E_12_01/E12_01R0_2_3_A.HTM

Ministerial Order concerning the establishment of the list of threatened or vulnerable vertebrate wildlife species which are likely to be so designated and a list of threatened or vulnerable wildlife species which are likely to be so designated (R.S.Q., 1981, c. E-12-01, r.1)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/E_12_01/E12_01R1_A.HTM

Environment Quality Act (R.S.Q., c. Q-2)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/Q_2/Q2_A.html

□ Emission of a Contaminant

According to Section 20 of the *Environment Quality Act*, “No one may emit, deposit, issue or discharge or allow the emission, deposit, issuance or discharge into the environment of a contaminant in a greater quantity or concentration than that provided for by regulation of the Government. The same prohibition applies to the emission, deposit, issuance or discharge of any contaminant the presence of which in the environment is prohibited by regulation of the Government or is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the soil, vegetation, wildlife or property.

□ Certificate of Authorization

According to Section 22 of the *Act*, “No one may erect or alter a structure, undertake to operate an industry, carry on an activity or use an industrial process or increase the production of any goods or services if it seems likely that this will result in an emission, deposit, issuance or discharge of contaminants into the environment or a change in the quality of the environment, unless he first obtains from the Minister a certificate of authorization.

However, no one may erect or alter any structure, carry out any works or projects, undertake to operate any industry, carry on any activity or use any industrial process or increase the production of any goods or services in a constant or intermittent watercourse, a lake, pond, marsh, swamp or bog, unless he first obtains a certificate of authorization from the Minister.

□ Application

The application for authorization must include the plans and specifications of the structure or of the proposed use of an industrial process, operation of an industry or increased production. It must contain a description of the proposed thing or activity, indicate its precise location and include a detailed assessment in compliance with the regulations of the Government as to the quantity or concentration of contaminants expected to be emitted, deposited, issued or discharged into the environment through the proposed activity.

Regulation respecting the application of the Environment Quality Act (R.S.Q., c. Q-2, r.1.001)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/Q_2/Q2R1_001_A.HTM

Watercourses Act (R.S.Q., c. R-13)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/R_13/R13_A.html

Section 28 stipulates that the Minister is authorized to grant a lease of a part of the water property for aquaculture purposes on the following conditions:

- 1 the maximum term of the lease is 20 years;
- 2 the lessee must, throughout the term of the lease, hold the required licence, where applicable, under the Act respecting commercial aquaculture (R.S.Q., c. A-20.2) to operate a fish-breeding establishment or to cultivate or harvest aquatic plants;

- 3 the annual rent payable, without being less than \$254, is :
- a) \$2.54/hectare for the first 5 years, then \$5.08/hectare for the following years, if facilities are present;
 - b) \$0.51/hectare for the first 10 years, then \$1.02/hectare for the following years, if no facilities are present.

Regulation respecting water property in the domain of the State (R.S.Q., c. R-13, r.1.1)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/R_13/R13R1_1_A.HTM

Pesticides Act (R.S.Q., c. P-9.3)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/P_9_3/P9_3_A.html

The goal of the *Pesticides Act* is to encourage a rational and safe use of these products. It stipulates the mechanisms that make it possible, notably, to ensure that those who use and sell pesticides are qualified to do so and aware of the dangers of these products, set the rules governing the storage, use and sale of pesticides, and find out which pesticides are sold and used in Québec.

Regulation respecting permits and certificates for the sale and use of pesticides (R.S.Q., c. P-9.3, r. 0.1)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=3&file=/P_9_3/P9_3R0_1_A.HTM

Engineers Act (R.S.Q., c. I-9)

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/I_9/I9_A.html

The *Engineers Act* states that engineers have as their field of practice, industrial work or equipment involving the safety of employees or the public. As such, cages used for the breeding of saltwater fish must be approved by a member of the *Ordre des ingénieurs du Québec*.

Federal Jurisdiction Acts

Species at Risk Act (R.S., 2002, ch. 29)

<http://lois.justice.gc.ca/eng/S-15.3/20100714/index.html>

- Section 32 states that “No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species. No person shall possess, collect, buy, sell or trade an individual of these species.”
- Section 33 forbids anyone from damaging or destroying the residence of one or more individuals of a wildlife species that is listed as an endangered or threatened species.
- Section 58 forbids anyone from destroying any part of the critical habitat of any listed endangered or threatened species.
- Section 73 states that certain activities, such as scientific research on the conservation of a species, an activity that increases the chances of survival in the wild or an activity that affects the species incidentally, could receive a licence, if the activities meet the different conditions listed in the Species at Risk Act (SARA).

Navigable Waters Protection Act (R.S., 1985, ch. N-22)

<http://laws.justice.gc.ca/en/N-22/index.html>

- Sections 5 and 6 indicate that a work which impedes navigation must be approved by the Minister according to the procedures the Minister deems relevant.

Navigable Waters Works Regulations

<http://laws.justice.gc.ca/eng/C.R.C.-C.1232/20100714/index.html>

2001 Canada Shipping Act (R.S., 2001, ch. 26)

<http://laws.justice.gc.ca/en/C-10.15/index.html>

- *Private Buoy Regulations*
- *Collision Regulations*
- *Boating Restriction Regulations*

Fisheries Act (R.S., 1985, ch. F-14)

<http://laws.justice.gc.ca/en/F-14/text.html>

- Section 32 states that it is prohibited to destroy fish by any means other than fishing.
- Section 35 states that it is prohibited to alter, disrupt or destroy a fish habitat, unless having the authorization to do so.
- Section 36 states that it is prohibited to discharge any deleterious substances into an aquatic environment.

Fishery (General) Regulation (SOR/93-53)

<http://laws.justice.gc.ca/eng/SOR-93-53/20100714/index.html>

- The general provisions of the *Fishery Regulations* govern fishing activities, in particular in matters of what species, period and gear are authorized.
- Section 52 stipulates that a licence may be issued for experimental or scientific purposes.
- Section 55 indicates that no person may transfer live fish without a licence.

Management of Contaminated Fisheries Regulations (SOR/90-351)

<http://laws.justice.gc.ca/eng/SOR-90-351/20100714/index.html>

- Section 3 stipulates it is forbidden to fish or catch and retain in the area prohibited due to contamination any species of fish specified in the order unless holding a licence to do so.

Fish Health Protection Regulations (C.R.C., ch. 812)

<http://laws.justice.gc.ca/eng/C.R.C.-C.812/20100714/index.html>

- Section 3 stipulates that it is forbidden to import cultured fish or eggs of wild fish without an import licence.

Oceans Act (R.S., 1996, ch. 31)

<http://laws.justice.gc.ca/eng/O-2.4/20100714/index.html>

In effect since 1997, the main objective of this Act is the conservation and protection of oceans and their marine resources. This Act enables the Minister to take the following measures :

- Create marine protected areas for the conservation and protection of fish and their habitats,
- Elaborate an integrated management strategy for activities that are carried out in, or have an effect on estuaries, coastal and marine waters to elaborate and implement integrated management plans for these activities,
- Elaborate measures to conserve and protect the health of marine ecosystems.

Canadian Environmental Assessment Act (R.S., 1992, ch. 37)

<http://laws.justice.gc.ca/eng/C-15.2/20100714/index.html>

- Certain sections of the law can trigger the CEAA. In such a case, the project must undergo an environmental assessment carried out under the CEAA. This Act enables the framing of the project's analysis process, public access to analysis documents and targets the integration into analysis of the aspects of biological, cultural and socio-economic wealth.
- The CEAA also comes into effect when the project is funded by the federal government, whether the latter transfers landed property or is the proponent.

Fish Inspection Act (R.S., 1985, ch. F-12)

<http://laws.justice.gc.ca/en/F-12/index.html>

The *Fish Inspection Act* enables the Minister to elaborate standards regarding processes and products and to promote the application so that fish, seafood, products and by-products meet the acceptable sanitation, quality and identification criteria.

Fish Inspection Regulation (C.R.C., ch. 802)

<http://laws.justice.gc.ca/en/F-12/C.R.C.-c.802/index.html>

- Certain Sections forbid the out-of-province exportation of
 - A – molluscs (wild or aquaculture-raised)
 - From unapproved shellfish harvesting areas (6 (l) b).
 - Unless they have been prepared (culled, wrapped, shelled, etc.) in a certified facility [14 (3)].
 - Except if a test approved by the president of the CFIA shows that the molluscs are free of toxins (23.b)
 - B – live aquaculture finfish, unless it was prepared in a certified facility or by the holder of fish exportation licence (14(5))

Canadian Environmental Protection Act (1999) (R.S., 1999, ch. 33)

<http://laws.justice.gc.ca/en/C-15.31/index.html>

- Pollution control
- Management of waste and other matter
- Disposal at sea

Two regulations associated with this Act may be applicable if the proponent abandons his/her aquaculture site and leaves the installations at sea :

Disposal at Sea Regulations (SOR/2001-275)

<http://laws.justice.gc.ca/en/C-15.31/SOR-2001-275/index.html>

Regulations Respecting Applications for Licences for Disposal at Sea (SOR/2001-276)

<http://laws.justice.gc.ca/en/C-15.31/SOR-2001-276/index.html>

Migratory Birds Convention Act, 1994 (R.S., 1994, ch. 22)

<http://laws.justice.gc.ca/en/M-7.01/>

This Act favours the conservation and protection of migratory birds and their habitats. The Act and its Regulations govern the designation and management of migratory bird sanctuaries, as well as the establishment of hunting restrictions and measures prohibiting anyone from disturbing (e.g., killing, taking or injuring) the birds, their eggs and their nests for motives other than hunting.

According to the regulations, it is forbidden to deposit deleterious substances in migratory bird habitats.

Migratory birds include the species described in Canadian Wildlife Service's (CWS) Occasional Paper called *Birds Protected in Canada under the Migratory Birds Convention Act*.

- Mandatory licence for certain activities that take place in migratory bird sanctuaries.
- Proximity of areas known to be reproduction, stopover and wintering areas for migratory birds.
- Disturbance of birds during reproduction, nesting and other sensitive cycles.
- Monitoring and deterrence of birds attracted by the site. Licences may be required.

Canada/US Bilateral Agreement on Shellfish Sanitation

- This agreement which was signed in 1948 allows the harmonization of the procedures to inspect mollusc handling facilities or mollusc cultivation areas when shellfish is intended for exportation.

APPENDIX II

Joint Canada – Québec Forms

- Part A – Application for or modification to a shellfish site for commercial purposes
- Part B – Application for or modification to an aquaculture site for research and experimentation purposes