



New South Wales

# Fisheries Management (Aquaculture) Amendment (Movement of Oysters) Regulation 2013

under the

Fisheries Management Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

KATRINA HODGKINSON, MP  
Minister for Primary Industries

## Explanatory note

The object of this Regulation is to impose conditions on aquaculture permits for the purpose of the control of oysters in estuarine waters. For that purpose, oyster-producing estuaries have been divided into 3 categories: high-risk, low-risk and no-risk. The conditions imposed by this Regulation prohibit or restrict the movement of oysters of any species, and of oyster cultivation material and catching material, between estuaries (depending on the risk category of the two estuaries concerned) as follows:

- (a) the movement of unculled oysters, catching material and unclean cultivation material from high-risk estuaries to low-risk estuaries is prohibited,
- (b) the movement of unculled oysters, catching material and unclean cultivation material from high-risk estuaries or low-risk estuaries to no-risk estuaries is prohibited,
- (c) certain movements of culled oysters between estuaries is prohibited,
- (d) the Department must be notified of movements of oysters, catching material and cultivation material other than those within an estuary or for direct sale for human consumption,
- (e) records are required to be kept of movements of oysters, catching material and cultivation material other than those within an estuary or for direct sale for human consumption.

This Regulation is made under the *Fisheries Management Act 1994*, including section 152 (1) (a) (which provides that an aquaculture permit is subject to conditions prescribed by the regulations), section 212 (which provides for the imposition of conditions on aquaculture permits to control noxious fish) and section 289 (the general regulation-making power).

## **Fisheries Management (Aquaculture) Amendment (Movement of Oysters) Regulation 2013**

under the

Fisheries Management Act 1994

### **1 Name of Regulation**

This Regulation is the *Fisheries Management (Aquaculture) Amendment (Movement of Oysters) Regulation 2013*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## Schedule 1 Amendment of Fisheries Management (Aquaculture) Regulation 2012

### [1] Part 2 Aquaculture permits

Insert after Division 2:

### Division 2A Permit conditions relating to movement of oysters and material between estuaries

#### 7A Definitions

In this Division:

**bulk oysters** means oysters removed from cultivation material and placed in any container, receptacle, bin, bag or other thing used for containing oysters for shipment.

**catching material** means equipment and materials placed in an estuary on which oyster larvae from natural spawning events can settle and includes sticks or slats (whether or not they are used to on-grow oysters).

**clean cultivation material** means cultivation material from which all overcatch has been removed or killed.

**culled oyster** means an oyster that has been subject to the process of culling.

**culling** means the process of separating clumps of oysters to on-grow or grade, which may (but need not) include either or both of the following:

- (a) the removal of overcatch from oysters,
- (b) the removal of oysters from catching materials or cultivation materials.

**cultivation material** means equipment and materials used for the purpose of cultivating oysters within an estuary and includes trays, baskets and cylinders but does not include catching material.

**high-risk oyster-producing estuary** means any of the following estuaries and, in each case, includes all the waters of that estuary, including all its lakes, lagoons, inlets, channels, creeks and tributaries:

- (a) Botany Bay/Georges River,
- (b) Hawkesbury River (including Patonga Creek),
- (c) Hunter River,
- (d) Port Stephens.

**identifiable Pacific Oyster** means Pacific Oyster overcatch that has a shell height of greater than 25mm.

**low-risk oyster-producing estuary** means any of the following estuaries and, in each case, includes all the waters of that estuary, including all its lakes, lagoons, inlets, channels, creeks and tributaries:

- (a) Bega River,
- (b) Bermagui River,
- (c) Brisbane Water,
- (d) Burrill Lake,
- (e) Camden Haven River,
- (f) Clyde River,
- (g) Crookhaven River/Shoalhaven River,
- (h) Hastings River,

- (i) Lake Conjola,
- (j) Merimbula Lake,
- (k) Nelson Lagoon,
- (l) Manning River,
- (m) Moruya River,
- (n) Pambula River,
- (o) Tomaga River,
- (p) Towamba River (Kiah),
- (q) Tuross Lake,
- (r) Wallaga Lake,
- (s) Wallis Lake,
- (t) Wagonga Inlet,
- (u) Wapengo Lagoon,
- (v) Wonboyn River.

***no-risk oyster-producing estuary*** means any of the following estuaries and, in each case, includes all the waters of that estuary, including all its lakes, lagoons, inlets, channels, creeks and tributaries:

- (a) Bellinger River/Kalang River,
- (b) Brunswick River,
- (c) Clarence River,
- (d) Macleay River,
- (e) Nambucca River,
- (f) Richmond River,
- (g) Sandon River,
- (h) Tweed River,
- (i) Woolli River.

***overcatch*** means wild oysters (including wild Pacific Oysters) and other aquatic fouling organisms (such as barnacles) that have settled on cultivation material or directly on oysters under cultivation.

***oyster*** includes the Akoya Pearl Oyster being the species *Pinctada imbricata* (Pteriidae family).

***Oyster Shipment Log Book*** means a logbook in a form approved by the Director-General of the Department for purposes that include the purpose of complying with conditions imposed by this Division or of complying with the Act.

***Pacific Oyster*** means the species *Crassostrea gigas* (Ostreidae family).

***shell height*** means the distance from the hinge of the oyster shell to the most distant shell edge.

***unclean cultivation material*** means cultivation material that has not had all overcatch removed or killed.

***unculled oyster*** means an oyster that has not been subject to the process of culling.

#### **7B Certain movement of uncultured oysters is prohibited**

- (1) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that uncultured oysters are

not moved from a high-risk oyster-producing estuary to a low-risk oyster-producing estuary.

- (2) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that uncultured oysters are not moved from a high-risk oyster-producing estuary or low-risk oyster-producing estuary to a no-risk oyster-producing estuary.
- (3) This clause does not apply to:
  - (a) uncultured Pacific Oysters cultivated in accordance with an aquaculture permit, all of which have a shell height of no more than 50 millimetres, or
  - (b) uncultured oysters of any other species cultivated in accordance with an aquaculture permit, all of which have a shell height of no more than 25 millimetres.

**7C Certain movement of catching material or unclean cultivation material is prohibited**

- (1) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that catching material or unclean cultivation material is not moved from a high-risk oyster-producing estuary to a low-risk oyster-producing estuary.
- (2) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that catching material or unclean cultivation material is not moved from a high-risk oyster-producing estuary or low-risk oyster-producing estuary to a no-risk oyster-producing estuary.

**7D Certain movement of culled oysters is prohibited**

- (1) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that culled oysters are not moved from a high-risk oyster-producing estuary to a low-risk oyster-producing estuary if there are more than 5 identifiable Pacific Oysters per:
  - (a) 10 trays, or
  - (b) 20 baskets, or
  - (c) 20 cylinders, or
  - (d) 10 trays worth of bulk oysters.
- (2) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must ensure that culled oysters are not moved from a high-risk oyster-producing estuary or low-risk oyster-producing estuary to a no-risk oyster-producing estuary if there are more than 2 identifiable Pacific Oysters per:
  - (a) 10 trays, or
  - (b) 20 baskets, or
  - (c) 20 cylinders, or
  - (d) 10 trays worth of bulk oysters.
- (3) This clause does not apply to:
  - (a) culled Pacific Oysters cultivated in accordance with an aquaculture permit, all of which have a shell height of no more than 50 millimetres, or

- (b) culled oysters of any other species cultivated in accordance with an aquaculture permit, all of which have a shell height of no more than 25 millimetres.

**7E Prior notification and record keeping required if oysters, catching material or cultivation material are moved from oyster-producing estuaries**

- (1) It is a condition of every aquaculture permit that authorises aquaculture with respect to oysters that the permit holder must:
  - (a) notify the Department in accordance with this clause if oysters, catching material or cultivation material are to be moved from an oyster-producing estuary to another estuary or to any other premises, and
  - (b) keep and maintain a record in accordance with this clause of any occasion when oysters, catching material or cultivation material is moved from an oyster-producing estuary to another estuary or to any other premises.
- (2) All such movements of oysters, catching material and cultivation material must be notified to the local office of the Department for the estuary from which the oysters, catching material or cultivation material are moved, by telephone or in person, not less than 48 hours and not more than 2 weeks prior to movement.
- (3) That notification must include details of the following:
  - (a) the name of the shipping permit holder,
  - (b) the size of the oysters (that is, whether they are Pacific Oysters with a shell height greater than 50 mm or another species with a shell height greater than 25 mm),
  - (c) the species of oyster,
  - (d) the type of cultivation material or catching material,
  - (e) the estimated date and time of shipment,
  - (f) the estuary from which the oysters, catching material or cultivation material will be moved,
  - (g) the estuary to which the oysters, catching material or cultivation material will be moved,
  - (h) the permit number.
- (4) The record referred to in subclause (1) (b) of any occasion when oysters, catching material or cultivation material are moved from an estuary to another estuary or to any other premises must be made in the Oyster Shipment Log Book before the oysters, catching material or cultivation material leave the relevant estuary.
- (5) Four copies of the record must be made, two of which must be dealt with as follows:
  - (a) the original white sheet must accompany the shipment and be given to the holder of the permit for the receiving estuary who receives the oysters, catching material or cultivation material,
  - (b) the blue copy must be sent by post to the Department (at the postal address of Locked Bag 1, Nelson Bay, NSW 2315), or by fax to the Department (on (02) 4982 1107) no later than 5 days after the end of the calendar month in which the movement occurred.

- (6) It is a condition of the aquaculture permit in respect of the area to which oysters, catching material or cultivation material are moved that the holder must keep the original sheet provided under subclause (5) (a) for at least 2 years.
- (7) The notification and record keeping obligations imposed by this clause do not apply to:
  - (a) movements of oysters, catching material or cultivation material within an estuary, or
  - (b) movements of packaged, purified or market grade oysters from an estuary in circumstances when those oysters are consigned directly to a market, a wholesaler or a retailer.