

ONTARIO FEDERATION OF ANGLERS & HUNTERS

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Ontario Conservation Centre

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Leala Pomfret-Schiller
Fish and Wildlife Policy Branch - Fisheries Section
Ministry of Natural Resources and Forestry
300 Water Street, 5th Floor, North Tower
Peterborough, Ontario
K9J 3C7

Dear Leala:

Subject: ERO # 019-1502 - Changes to modernize Ontario's approach to licensing aquaculture

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest, non-profit, fish and wildlife conservation-based organization, representing 100,000 members, subscribers and supporters, and 725 member clubs. We appreciate the opportunity to provide comment on the Ministry of Natural Resources and Forestry's (MNRF) proposal for changes to modernize Ontario's approach to licensing aquaculture and would like to highlight the following points for consideration.

Intergovernmental relations

The OFAH views aquaculture as an ecologically acceptable industry, provided the licensing and operational aspects are carried out in strict accordance with the applicable Acts, regulations, and government policy. Federal and provincial governments must develop aquaculture policies that provide appropriate regulatory mechanisms to develop best management practices, to allow for enforcement and compliance monitoring, and to facilitate adequate emergency responses.

The MNRF has been involved with Fisheries and Oceans Canada's proposal to develop an aquaculture-specific Act to improve management, provide greater regulatory consistency, and to create long-term conditions to support the growing aquaculture sector in Canada. We insist on evidence that the two levels of government are working together on addressing aquaculture policy and regulation. Moreover, regulation changes to the MNRF's licence program should also intersect with non-regulatory and regulatory roles and responsibilities of other ministries and their mandates including the Ministry of the Environment, Conservation and Parks (MECP) and the Ministry of Agriculture, Food and Rural Affairs (MAFRA).

Primary regulation changes

It is important for aquaculture licensing regulations to evolve and be adaptable. The Ontario Government has identified that the current regulatory framework doesn't adequately address the range and risk of operations in the province. Therefore, we agree that changes should be made to help address the growing spectrum of aquaculture operations in a way that reduces environmental risks to Ontario's valuable fisheries.

Our primary concerns are with open water cage facilities but, in general, without proper monitoring of all types of operations in the aquaculture sector, there could be serious ecological consequences. We urge the MNRF to establish a dedicated inspection program to address the wide range of licensing regulations and conditions. We recommend greater MNRF oversight between established regulations, enforcement action and penalties, and that the MNRF consider appointing, training, and strategically deploying competent inspectors to ensure that the regulatory regime is effective. Below, we specifically provide feedback on the three changes listed in the MNRF's aquaculture proposal:

1. Making it easier and more cost effective for educational institutions and facilities to undertake aquaculture research by exempting certain low-risk research facilities culturing fish from requiring an aquaculture licence. The facilities would be required to meet criteria intended to maintain environmental protections and protect native fish populations.

If the MNRF chooses to move forward with this change, there must be tracking mechanisms in place to allow for random or routine inspections, and to help facilitate compliance. A lack of knowledge of what "low-risk" research facilities are operating across the landscape, and where these facilities are located, has the potential for high-risk outcomes. Additionally, the criteria that sets out which operations this would apply to must be carefully outlined, listing the detailed requirements, as well as setting appropriate penalties for any infractions.

2. Establishing the ability to change FWCA licences and authorizations, including their conditions. This proposed change would enable greater flexibility to respond to the evolving needs of aquaculture operators, while ensuring that facilities are developed and conducted in an environmentally sustainable manner.

Aquaculture operations in Ontario are growing and diversifying, so implementing provisions to allow for greater flexibility for changing licences and authorizations, including their conditions, is necessary to help ensure operations are being done in a sustainable manner. These aspects are important developments to licensing regulations made under the Fish and Wildlife Conservation Act, but must also be supported by adequate compliance monitoring and suitable penalties. Enforcement capacity should be enhanced, along with staff that are appropriately trained in aquaculture facility inspections and familiar with the applicable rules, regulations, and licensing conditions. We would also like to recommend that for proponent-driven requests that the MNRF factor in and consider the applicant's compliance history in the risk assessment process.

3. Changing decision-making power from Lieutenant Governor in Council (LGIC) to Minister on prescribing species of fish that may be cultured in Ontario. This proposed change would reduce approval timelines for industry and support facilities wishing to diversify and grow their operations more quickly.

Changing the decision-making power from LGIC to Minister is relatively benign, but there is potential for broader implications that fall under the mandates of other government agencies if they are not formally involved in the amendment process to Schedule B. For this reason, the MECP and other relevant ministries should be included and accountable for their involvement.

The benefit of delegating authority from LGIC to Minister is that the process to request an amendment to Schedule B to either add or remove species eligible for culture in Ontario will be streamlined and more time efficient. That said, under this change in regulation decision-making powers, we urge that the MNRF maintain and, where possible, further develop and improve the existing risk assessment process.

Additional regulatory considerations

In 2016, we provided feedback to the Application Guidelines for Cage Aquaculture Facilities (EBR Registry Number: 012-5045), and highlighted concerns we had related to cumulative effects of multiple stressors on a given waterbody (believed to account for the largest loss in fisheries productivity over the long term). With cumulative effects now recognized in the federal Fisheries Act, it becomes all the more relevant and important to consider these things in the application process, including proximity and scale of new and expanding aquaculture facilities.

Under the same submission, we recommended to the MNRF that the species eligible for culture in Ontario under Schedule B of the Ontario Regulation 664/98 be separated into two lists; one list for “less risky” species, and a second list for species that pose a potential ecological threat that should be cultured in a more secure setting on land (e.g. Goldfish, Common Carp, Tilapia). We recommend that the MNRF use an aquatic invasive species lens for adding or removing approved species from the list and on any regulatory change, including a risk assessment for any new species under consideration. We also feel that the regulatory burden on a facility should be tied to the level of risk it has in the species it hosts, and that facilities should also require a suitability assessment for culturing “higher risk” species.

Enhancing set fines

Along with inspections and ensuring compliance with conditions, the repercussions and penalties associated with aquaculture operations should be thoroughly reviewed. As such, we would like to recommend that the MNRF examine the current set fines under Ontario Regulation 664/98 and ensure that all appropriate fines have been established and included, as well as consider creating additional set fines, where feasible, to cover all aspects of aquaculture licences.

Closing remarks

In the posting on the approach to modernizing licensing aquaculture, the proposal summary and details speak to streamlining the regulatory framework, and reducing unnecessary red tape and regulatory burden on business. While these are important considerations, we are worried that focusing on these aspects of the regulations too much without adequate conservation considerations could have negative consequences for Ontario’s fisheries. We are concerned that with the current state of the economy there is a risk that aquaculture sector business enhancements may be prioritized over Ontario’s tremendously valuable recreational and commercial fisheries that rely on robust and rigorous conservation measures. The MNRF is responsible for managing Ontario’s fisheries, and we want to make sure this remains a primary focus throughout this process.

For adequate consultation, the ministry needs to provide the specific legislative changes that this proposal puts forward. The OFAH looks forward to being able to comment on the draft changes as they become available.

Yours in Conservation,



Adam Weir
Fisheries Biologist

AW/jb

cc: OFAH Board of Directors
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