
FISHERIES

FI301*

Pearling Act 1990

**Pearling (General) Amendment
Regulations 1999**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Pearling (General) Amendment Regulations 1999*.

2. Commencement

These regulations come into operation on 1 January 2000.

3. The regulations amended

The amendments in these regulations are to the *Pearling (General) Regulations 1991**.

[* *Published in Gazette 27 December 1990, pp. 6337-66.*
*For amendments to 12 November 1999 see 1998 Index to
Legislation of Western Australia, Table 4, p. 228.*]

4. Regulation 3 amended

Regulation 3 is amended as follows:

- (a) by inserting before “In these” the subregulation designation “(1)”;
- (b) by deleting the definition of “approved”;
- (c) after the definition of “transport boat” by deleting the full stop and inserting a semicolon instead;
- (d) by inserting the following definitions in the appropriate alphabetical positions —

“

“approved”, except in relation to a form, means approved in writing by an inspector;

“approved form” means a form approved by the Executive Director;

“batch” means group of spat —

- (a) derived from broodstock brought together for the purpose of spawning; and
- (b) all of which were spawned at approximately the same time and from one settlement;

“broodstock” means pearl oysters which are over 120 mm in length and which are, or are intended to be, used for breeding;

“certificate of health” means certificate issued under the *Enzootic Diseases Regulations 1970* by a veterinary pathologist certifying that no clinical disease or significant pathogens were detected in the pearl oysters to which the certificate relates;

“Chief Inspector of Stock” has the same meaning as in Part 1 of the *Enzootic Diseases Regulations 1970*;

“grow out”, in relation to pearl oysters, means hold on a nursery site while the pearl oysters grow to the minimum length;

“hatchery” means building or place where the acclimatization, propagation, hatching, breeding, rearing or raising of pearl oysters is carried on or attempted to be carried on, but does not include a spat collector;

“hatchery (nursery) licence or permit” means hatchery licence or hatchery permit which is expressed to be for “hatchery options” or “hatchery quota”;

“length”, in relation to a pearl oyster, means dorso-ventral shell length, excluding the fingers;

“minimum length” means 120 mm or such other length as is declared by the Minister under subregulation (4);

“nursery site” means area, being all or part of a pearl oyster farm the farm lease for which allows the area to be used for the growing out of spat;

“pearling (seeding) licence or permit” means pearling licence or pearling permit which is expressed to be for “hatchery options” or “hatchery quota”;

“pearling (wildstock) licence or permit” means a pearling licence or pearling permit under which the holder of the licence is permitted to take wildstock;

“permit holder” means holder of a pearling permit or a hatchery permit;

“place” means any land, building, structure (whether permanent or temporary), tent, boat, aircraft or vehicle or any part of any land, building, structure, tent, boat, aircraft or vehicle;

“quarantine site” means area, being a pearl oyster farm the farm lease for which allows the area to be used for the purpose of quarantining and disease testing pearl oysters;

“settlement” means transition of pearl oysters from planktonic larvae to benthic spat, during which the pearl oysters attach to a substrate by means of byssi;

“spat” means pearl oysters at any stage prior to settlement or which, having settled, are less than the minimum length;

“spat collector” means object or device used to collect, or attempt to collect, spat;

“stock inspector” means inspector under the *Stock Diseases (Regulations) Act 1968*;

“wildstock” means pearl oysters, other than broodstock, that are —

- (a) taken from the wild;
- (b) acquired in accordance with regulation 44T(2)(a);
- (c) collected from a spat collector located on a pearl oyster farm operated by the person taking them and are more than 80 mm in length;
- (d) collected from any other spat collector and are more than 40 mm in length; or
- (e) obtained from a hatchery and are —
 - (i) more than 12 months old; or
 - (ii) more than 40 mm in length.

(e) by inserting the following subregulations —

“

- (2) For the purposes of these regulations the life of a pearl oyster is taken to commence on the day specified in the notice of settlement of spat form lodged by the licensee or permit holder who operates the hatchery where the pearl oyster was produced as the date of settlement of the batch of spat from which the pearl oyster was produced.
- (3) For the purposes of these regulations a pearl oyster is deemed to be over 40 mm in length if it is from a batch of pearl oyster spat the majority of which are, at the time the pearl oyster is taken, over 40 mm in length.
- (4) The Minister may from time to time, by notice published in the *Gazette*, declare that pearl oysters under a length specified in the notice are deemed to be spat.
- (5) In a notice under subregulation (4) the Minister may specify different lengths for the purposes of different pearling or hatchery activities.

”.

5. Regulation 4 amended

Regulation 4(2)(a) is amended by deleting “25°55'54.551 5" ” and inserting instead —

“ 22°56' 54.551 5" ”.

6. Regulation 6 amended

Regulation 6 is amended as follows:

- (a) by inserting before “An applicant” the subregulation designation “(1)”;
- (b) at the end of paragraph (c) by deleting the full stop and inserting a comma instead;
- (c) after paragraph (c) by inserting —

“

unless payment of that fee is waived by the Executive Director.

”;

- (d) at the end of the regulation by inserting the following subregulation —

“

- (2) A person requesting the Minister to publish a notice under section 19 of the Act shall pay to the Minister a fee of \$1 600.

”.

7. Regulation 9 replaced

Regulation 9 is repealed and the following regulation is inserted instead —

“

9. Transfers

An application under section 32 of the Act for a transfer is to be made to the Executive Director in an approved form (or, if no form is approved, in writing) with the appropriate fee as set out in the Table to this regulation.

Table

Lease, licence or right being transferred	Fee (\$)
Farm lease or a right conferred by a farm lease ..	500
Pearling licence or a right conferred by a pearling licence (other than a quota)	55
Hatchery licence or a right conferred by a hatchery licence (other than a quota)	55
All or part of a quota as referred to in section 32(5) of the Act	310

”.

8. Part heading amended

The heading to Part 3 is amended by deleting “PRESCRIBED”.

9. Regulations 11 and 12 replaced

Regulations 11 and 12 are repealed and the following regulations are inserted instead —

“

11. Annual notice of intent

A licensee or permit holder shall, before 15 November in each year, complete an annual notice of intent in an approved form in respect of the year next following that year and lodge that form with an inspector.

Penalty: \$2 000.

12. Notice of pearling or hatchery activity

A licensee or permit holder shall not carry out pearling or hatchery activities, nor allow any agent, employee or subordinate to carry out those activities, unless the licensee or permit holder has —

- (a) described the pearling or hatchery activities in a notice of pearling or hatchery activity in an approved form completed by the licensee or permit holder; and
- (b) at least 48 hours prior to the commencement of those activities, lodged that form with an inspector.

Penalty: \$2 000.

”.

10. Regulation 13 amended

- (1) Regulation 13(1) is amended by deleting “the form of Form P3 in the Schedule.” and inserting instead —
“ an approved form. ”.
- (2) Regulation 13(2) is amended as follows:
 - (a) in paragraphs (a) and (b) by deleting “Form P3” and inserting instead —
“ the daily log sheet ”;
 - (b) in paragraph (c) by deleting “in the space provided in the top left hand corner of Form P3” and inserting instead —
“ on the daily log sheet ”.

11. Regulation 14 amended

Regulation 14(1) is amended as follows:

- (a) by deleting “Form P3” and inserting instead —
“ the pearl oyster fishing daily log sheet ”;
- (b) by deleting “the form of Form P4 in the Schedule” and inserting instead —
“ an approved form ”.

12. Regulation 15 amended

- (1) Regulation 15(1) is amended by deleting “the form of Form P5” and inserting instead —
“ an approved form ”.
- (2) Regulation 15(4) is amended by deleting “Form P5” and inserting instead —
“ the dump record log sheet ”.

13. Regulations 16 to 19 replaced

Regulations 16, 17, 18 and 19 are repealed and the following regulations are inserted instead —

“

16. Transport log sheet

- (1) Unless otherwise approved and subject to subregulation (2) —
 - (a) the pilot of an aircraft, or the driver of a vehicle, which is used for transporting pearl oysters; or
 - (b) the master of a transport boat,shall, prior to the transport of pearl oysters, complete a transport log sheet in an approved form and shall keep

a paper copy of that log sheet on board the aircraft, vehicle or boat at all times while the pearl oysters to which the log sheet relates are on board.

Penalty: \$2 000.

- (2) Subregulation (1) does not apply to or in relation to pearl oysters —
- (a) transported entirely within the area of a pearl oyster farm (unless the pearl oysters are transported to or from a nursery site on that pearl oyster farm);
 - (b) transported directly from a dump to an operation boat or other place for the purpose of being subjected to pearl seeding operations; or
 - (c) held on board a boat actually engaged in taking, or attempting to take, pearl oysters.

17. Transport (seeding) log sheet

Unless otherwise approved, a person who transports pearl oysters to a place where they are to be subjected to pearl seeding operations shall —

- (a) prior to that transport, complete a transport (seeding) log sheet in an approved form in respect of the pearl oysters to be transported; and
- (b) carry a paper copy of the transport (seeding) log sheet with the person during that transport.

Penalty: \$2 000.

18. Pearl seeding log sheet

A licensee or permit holder shall complete a pearl seeding log sheet in an approved form for each day on which —

- (a) pearl oysters are received or held on board a boat or in any other place for the purpose of being subjected to pearl seeding operations; or
- (b) pearl seeding operations are carried out,

by 2200 hours on that day.

Penalty: \$2 000.

18A. Pearl oyster tag log sheet

A licensee or permit holder shall complete a pearl oyster tag log sheet in an approved form for each day on which pearl oyster identification tags issued to the licensee or permit holder are —

- (a) issued;
- (b) allocated by the licensee or permit holder to a boat crew;

- (c) affixed to designated containers; or
- (d) removed from designated containers.

Penalty: \$1 000.

18B. Notice of settlement of spat

A licensee or permit holder operating a hatchery in which settlement of a batch of spat occurs shall —

- (a) complete a notice of settlement of spat in an approved form within 24 hours of the completion of that settlement; and
- (b) lodge that form with an inspector within 3 days of the completion of the settlement of that batch of spat.

Penalty: \$2 000.

18C. Nursery site stock report

- (1) A licensee or permit holder who is licensed or permitted to use a nursery site shall —
 - (a) for each quarter (or such other period as is directed by an inspector) complete a nursery site stock report in an approved form; and
 - (b) lodge that form with an inspector within 7 days of the end of that quarter or other period.

Penalty: \$2 000.

- (2) In subregulation (1) —
“quarter” means period of 3 months ending on
31 March, 30 June, 30 September or 31 December.

19. Completion of forms

- (1) Forms approved for the purposes of this Part may be issued —
 - (a) in log books;
 - (b) as loose sheets; or
 - (c) in electronic form.
- (2) If a log book of forms is issued in respect of a particular aircraft, vehicle or boat, the person completing the forms in that log book shall —
 - (a) do so only in respect of that aircraft, vehicle or boat;
 - (b) use those forms in numerical sequence; and
 - (c) cause that log book to be retained on board the aircraft, vehicle or boat until 31 December of the year in which that log book was issued.

Penalty: \$2 000.

- (3) The licensee or permit holder under whose licence or permit an aircraft, vehicle or boat referred to in subregulation (2) is used shall retain every log book issued in respect of that aircraft, vehicle or boat for at least 2 years from 31 December in the year in respect of which that log book was issued.
Penalty: \$1 000.
- (4) A person completing a paper form must do so in indelible ink.
Penalty: \$1 000.
- (5) A person who completes an electronic form —
 - (a) need not sign the electronic form;
 - (b) must print out a paper copy of the completed form, sign it and record on it the date and time at which it was signed; and
 - (c) is taken to have completed the form only when paragraph (b) has been complied with.
- (6) Where a licensee or permit holder is required to complete a form, an agent or employee of the licensee or permit holder may complete the form on behalf of the licensee or permit holder, but the licensee or permit holder remains liable for ensuring that the form is properly completed.
- (7) An agent or employee completing a form under subregulation (6) must include on the form his or her name and the capacity in which he or she is engaged or employed by the licensee or permit holder.

19A. Lodgement of forms

- (1) A person required under this Part to lodge a form with an inspector may —
 - (a) lodge an electronic copy of the form in an approved electronic manner; or
 - (b) lodge a paper copy of the form by delivering or posting it to an inspector at Broome or at such other place as may be approved.
- (2) If a person lodges a form electronically the person must keep a paper copy of the form together with such documentation as is reasonably necessary to prove that the form was sent electronically and the time and date it was sent.
Penalty: \$1 000.
- (3) A person required by regulation 13, 15, 16, 18 or 18A to complete an approved form must lodge the form with an inspector —
 - (a) if a notice of pearling or hatchery activity has been lodged under regulation 12 in respect of

the period during which that form was completed, within 3 days of the end of the relevant operation; or

- (b) otherwise, within 14 days of the completion of the relevant activity.

Penalty: \$2 000.

- (4) Where a licensee or permit holder is required to lodge a form, an agent or employee of the licensee or permit holder may lodge the form on behalf of the licensee or permit holder, but the licensee or permit holder remains liable for ensuring that the form is properly lodged.

”.

14. Regulation 20 amended

Regulation 20(1) is amended as follows:

- (a) by deleting “regulation 19(5)” in the first place where it occurs and inserting instead —
“ regulation 18B, 18C or 19A(3) ”;
- (b) by deleting “regulation 19(5)” in the second place where it occurs and inserting instead —
“ that regulation ”.

15. Regulation 21 amended

- (1) Regulation 21(1) is amended by deleting “the written approval of an inspector” and inserting instead —
“ approval ”.
- (2) Regulation 21(2) is repealed and the following subregulation is inserted instead —

“

- (2) Subregulation (1) does not apply to or in relation to a pearl oyster if the pearl oyster —
 - (a) is removed from a designated container for the purpose of subjecting the pearl oyster to pearl seeding operations on board an operation boat;
 - (b) subject to paragraphs (e) and (f), is being held on a pearl oyster farm;
 - (c) is being taken by the holder of a pearl diver's licence;
 - (d) is spat which is being held in the hatchery in which it was produced;
 - (e) is spat which is being held on a nursery site and which is less than 90 mm in length;
 - (f) is spat which is being held in a spat collector; or
 - (g) is on a quarantine site.

”.

- (3) Regulation 21(3) is amended by deleting “the written approval of an inspector” and inserting instead —
“ approval ”.

16. Regulation 22 amended

- (1) Regulation 22(1) is amended by deleting “tagged”.
- (2) After regulation 22(1) the following subregulation is inserted —
“
(1a) The master of a catcher boat acting under subregulation (1) shall ensure that broodstock are not placed in the same designated container as wildstock.
Penalty: \$1 000.
”.

17. Regulation 24 amended

- (1) Regulation 24(1) is repealed and the following subregulation is inserted instead —
“
(1) An inspector shall, on the application of a licensee or permit holder —
(a) who satisfies the inspector that he or she wishes to —
(i) take wildstock or broodstock; or
(ii) remove pearl oysters from a nursery site for the purpose of subjecting them to pearl seeding operations;
(b) whose licence or permit is subject to a condition referred to in section 26(2)(c) or (d)(ii) of the Act; and
(c) who has lodged an annual notice of intent under regulation 11 for the calendar year during which the pearl oysters are to be taken or removed,
issue to the licensee or permit holder pearl oyster identification tags to identify the wildstock, broodstock or nursery grown oysters (as the case requires) to be taken or removed.
”.
- (2) Regulation 24(2) is amended as follows:
(a) by inserting after “licensee” in both places where it occurs —
“ or permit holder ”;
(b) by inserting after “licence” —
“ or permit ”.

18. Regulation 26 amended

Regulation 26(1)(a) is amended by inserting after “licensee”—
“ or permit holder ”.

19. Regulation 27 amended

Regulation 27 is amended as follows:

- (a) by inserting after “licensee” in each place where it occurs —
“ or permit holder ”;
- (b) in paragraph (a) by inserting after “licence” —
“ or permit ”.

20. Regulation 29 amended

- (1) Regulation 29(1) is amended by inserting after “pearl oysters” —
“ , other than pearl oysters being held on a nursery site, ”.
- (2) After regulation 29(2) the following subregulation is inserted —
“
 - (2a) Unless otherwise approved, a person shall not remove pearl oysters from a nursery site for the purpose of subjecting them to pearl seeding operations unless a tag has been affixed, in the manner described in subregulation (1), to the designated container in which those pearl oysters are being held.
Penalty: \$2 000.”.

21. Regulation 30 amended

- (1) Regulation 30(1) is amended as follows:
 - (a) by deleting “A” and inserting instead —
“ Subject to subregulation (1a), a ”;
 - (b) by inserting after “licensee” —
“ or permit holder ”.
- (2) After regulation 30(1) the following subregulation is inserted —
“
 - (1a) A person shall not remove a tag from a designated container that contains hatchery produced pearl oysters or pearl oysters collected from a spat collector until all pearl oysters in that container exceed the minimum length.”.

22. Division heading replaced

The heading to Division 1 of Part 5 is deleted and the following heading is inserted instead —

“

Division 1 — Dumps not on pearl oyster farms or holding sites following pearl seeding operations

”.

23. Regulation 32 amended

(1) Regulation 32(1) is amended as follows:

(a) in paragraph (b)(ii) by inserting after “licensee” —

“ or permit holder ”;

(b) by deleting paragraph (c) and inserting the following paragraph instead —

“

(c) the pearl oysters are dumped in tagged designated containers or the dumping of the pearl oysters other than in tagged designated containers has been approved;

”;

(c) after paragraph (d) by inserting the following paragraph —

“

(da) tagged designated containers holding broodstock are, if required by an inspector, attached to separate longlines from longlines to which containers holding wildstock are attached;

”;

(d) in paragraph (f)(ii) by inserting after “licensee” —

“ or permit holder ”;

(e) in paragraph (h) by inserting after “licensee” —

“ , or permit of the permit holder, ”.

(2) Regulation 32(2) is repealed.

24. Regulations 33 and 35 amended

Regulations 33(1) and 35 are amended by inserting after “licensee” in each place where it occurs —

“ or permit holder ”.

25. Division heading replaced

The heading to Division 2 of Part 5 is deleted and the following heading is inserted instead —

“

Division 2 — Dumps on holding sites following pearl seeding operation

”.

26. Regulation 36 amended

Regulation 36(1)(a)(ii) and (e)(ii) are amended by inserting after “licensee” —

“ or permit holder ”.

27. Parts 5A and 6 replaced

Parts 5A and 6 are repealed and the following Parts are inserted instead —

“

Part 5A — Holding pearl oysters on pearl oyster farms**38A. Farms to be marked and lit**

The holder of a farm lease shall mark and light those parts of the pearl oyster farm designated by an inspector in an approved manner so as to indicate their location to any vessels that may be in the area.

Penalty: \$2 000.

38B. Marking of sites on pearl oyster farms

The holder of a farm lease shall mark and identify —

- (a) all nursery sites and quarantine sites on the farm; and
- (b) any other areas of the farm on which pearl oysters are held,

in an approved manner, at all times while pearl oysters are held in that area.

Penalty: \$2 000.

38C. Certain pearl oysters to be kept separate

The holder of a farm lease shall, if required to do so by an inspector, keep pearl oysters designated by the inspector separate from other pearl oysters held on the pearl oyster farm in an approved manner.

Penalty: \$1 000.

Part 6 — Pearl seeding operations**39. Location of pearl seeding operations**

A person shall not carry out, or attempt to carry out, or permit or suffer his or her agent, employee or subordinate to carry out or attempt to carry out, pearl seeding operations other than —

- (a) on a pearl oyster farm (other than a nursery site or quarantine site);

- (b) on a holding site; or
- (c) at such other place as is approved.

Penalty: \$2 000.

40. Maximum number of pearl oysters which may be seeded at one time

A licensee or permit holder shall ensure that the number of pearl oysters that are subjected to pearl seeding during one operation does not exceed the number of pearl oysters specified in the notice of pearling or hatchery activity lodged in respect of the operation.

Penalty: \$2 000.

40A. Spat not to be seeded

A person shall not carry out, or attempt to carry out, or permit or suffer his or her agent, employee or subordinate to carry out or attempt to carry out, pearl seeding operations on pearl oysters that are spat.

Penalty: \$2 000.

41. Circumstances when loose pearl oysters may be held

A licensee or permit holder must ensure that —

- (a) loose pearl oysters; and
- (b) pearl oysters that are in designated containers that are not tagged,

are not held on a boat or other place other than for the purpose of subjecting them to pearl seeding operations.

Penalty: \$2 000.

”.

28. Regulation 42 amended

Regulation 42 is amended as follows:

- (a) by inserting before “A person” the subregulation designation “(1)”;
- (b) in paragraph (b) by deleting “an inspector has in writing approved that transport” and inserting instead —
“ that transport has been approved ”;
- (c) by deleting paragraph (d) and inserting the following paragraph instead —
“
 - (d) those pearl oysters are being transported —
 - (i) entirely within a nursery site;
 - (ii) entirely within a quarantine site; or

- (iii) from one part of a pearl oyster farm that is not a nursery site to another part of that farm that is also not a nursery site;
- (d) by deleting paragraph (g) and “or” immediately before it and inserting instead —
 - “
 - (g) if the pearl oysters are being transported —
 - (i) from a hatchery;
 - (ii) to a quarantine site; or
 - (iii) from a quarantine site,
a certificate of health is in force in relation to those pearl oysters and that transport has been approved;
 - (h) if the pearl oysters are being transported to a nursery site either —
 - (i) the pearl oysters are pearl oysters to which this subparagraph applies and both —
 - (I) a certificate of health is in force in relation to those pearl oysters; and
 - (II) that transport has been approved;
 - or
 - (ii) the pearl oysters are being transported from another nursery site on the same pearl oyster farm and that transport has been approved;
 - or
 - (i) in any other case, that transport has been approved.
- (e) at the end of the regulation by inserting the following subregulations —
 - “
 - (2) For the purposes of subregulation (1)(g) and (h) a certificate of health is taken to be in force in relation to pearl oysters if —
 - (a) a certificate of health has been issued in relation to a sample of pearl oysters taken from the batch of pearl oysters of which the pearl oysters to be transported are part;
 - (b) not more than 2 weeks have elapsed since that certificate was issued; and

- (c) no pearl oysters have been transported to the place from which the pearl oysters are to be transported since the tested sample was taken.
 - (3) Subregulation (1)(h)(i) applies to pearl oysters which were —
 - (a) collected using a spat collector located on the same pearl oyster farm as the nursery site;
 - (b) produced in a hatchery, or collected using a spat collector, located in the same zone as the nursery site and either —
 - (i) the pearl oyster farm on which the nursery site is located is more than 5 nautical miles from any other pearl oyster farm; or
 - (ii) the licensee or permit holder operating any pearl oyster farm which is within 5 nautical miles of the pearl oyster farm on which the nursery site is located has given written approval to the pearl oysters being transported to the nursery site without being quarantined;or
 - (c) transported to the nursery site from a quarantine site.
- ”.

29. Regulation 43 amended

- (1) Regulation 43(1) is amended as follows:
 - (a) by deleting “42(a)” and inserting instead —
“ 42(1)(a) ”;
 - (b) by deleting “in writing” in the second place where it occurs.
- (2) Regulation 43(2) is amended as follows:
 - (a) after paragraph (a) by inserting the following paragraph —
“ (aa) the driver of the relevant vehicle; ”;
 - (b) in paragraph (c) —
 - (i) by inserting after “licensee” —
“ or permit holder ”;
 - (ii) by inserting after “aircraft” —
“ , vehicle ”.

30. Regulation 44 amended

Regulation 44 is amended as follows:

- (a) by deleting “42(a)” and inserting instead —
“ 42(1)(a) ”;

- (b) in paragraph (b) by inserting after “aircraft” —
“ or vehicle ”.

31. Parts 7A, 7B, 7C, 7D and 7E inserted

After Part 7 the following Parts are inserted —

“

Part 7A — Hatcheries

44A. Cleaning of hatcheries

- (1) When a batch of spat which has been held in a tank at a hatchery is removed from the tank the licensee or permit holder operating the hatchery shall clean and disinfect the tank and all equipment used in the tank before any other pearl oysters are placed in the tank.
Penalty: \$2 000.
- (2) A licensee or permit holder operating a hatchery shall clean and disinfect the hatchery and all equipment used in the hatchery if directed to do so by an inspector or a stock inspector.
Penalty: \$2 000.
- (3) A licensee or permit holder who is required under this regulation to clean and disinfect a hatchery, tank or piece of equipment shall clean and disinfect it in accordance with the procedure set out in Division 1 of Schedule 2 or as directed in writing by an inspector or a stock inspector.
Penalty: \$2 000.

44B. Water, air and equipment used in hatchery

- (1) A licensee or permit holder operating a hatchery shall ensure that the seaward opening of a pipe used for the intake of sea water to be used in the hatchery is located —
- (a) at a distance not less than the approved distance; and
 - (b) in the approved direction,
- from the seaward opening of any pipe from which water used in the hatchery is discharged.
Penalty: \$2 000.
- (2) A licensee or permit holder operating a hatchery shall filter or treat —
- (a) water, air and equipment used in the hatchery; and
 - (b) waste water to be discharged from the hatchery,

in accordance with the standards set out in Division 2 of Schedule 2 or as directed by an inspector or a stock inspector.

Penalty: \$2 000.

44C. Batches to be kept separate

- (1) A licensee or permit holder operating a hatchery shall ensure that each batch of spat held in the hatchery is kept separate from other batches of spat in an approved manner.

Penalty: \$2 000.

- (2) A licensee or permit holder operating a hatchery shall take such steps as are necessary, or as are directed by an inspector, to prevent cross-infection between batches of spat held in the hatchery.

Penalty: \$2 000.

44D. Hatchery records

- (1) A licensee or permit holder operating a hatchery shall keep —

- (a) a general operations logbook containing the particulars required by subregulation (2); and
- (b) a batch logbook containing the particulars required by subregulation (3).

Penalty: \$2 000.

- (2) The general operations logbook is to set out —

- (a) in relation to each group of broodstock received by the hatchery —
 - (i) the number of pearl oysters in the group;
 - (ii) the tag numbers of those pearl oysters;
 - (iii) the name of the licensee or permit holder from whom the pearl oysters were obtained;
 - (iv) the location from which the pearl oysters were obtained;
 - (v) if the broodstock is sold, details of when and to whom it is sold;
 - (vi) if the broodstock is destroyed, details of when and how it is destroyed; and
 - (vii) if the broodstock is otherwise removed from the hatchery, details of when, why and to where it is removed;

and

- (b) in relation to each occasion on which the hatchery, a tank or any equipment is cleaned and disinfected under regulation 44A —
 - (i) the date and time when the cleaning and disinfecting were carried out;
 - (ii) details of any tanks and equipment that were cleaned and disinfected;
 - (iii) the reason for the cleaning and disinfecting; and
 - (iv) the method of cleaning and disinfecting used.
- (3) The batch logbook is to set out, in relation to each batch of pearl oysters produced in the hatchery —
 - (a) the tag numbers of the broodstock used to produce the spat;
 - (b) the batch number of the spat produced;
 - (c) the approximate number of spat hatched from those eggs;
 - (d) the times and dates when settlement starts and finishes;
 - (e) the approximate number of spat settled;
 - (f) each time spat are culled from the batch —
 - (i) the date of the cull;
 - (ii) the approximate number of spat retained after culling;
 - (iii) the condition of the spat which is culled; and
 - (iv) details of when and how the culled spat are disposed of;
 - (g) a weekly record of the size and stage of the spat;
 - (h) the date and time samples are taken from the batch in accordance with the *Enzootic Diseases Regulations 1970*;
 - (i) the size and approximate number of spat in the batch at the time the samples referred to in paragraph (h) are taken;
 - (j) the level of filtration of the water in which the spat are kept;
 - (k) if the broodstock is sold, details of when and to whom it is sold;
 - (l) if the broodstock is destroyed, details of when and how it is destroyed; and
 - (m) if the broodstock is otherwise removed from the hatchery, details of when, why and to where it is removed.

- (4) A licensee or permit holder shall, at the request of an inspector or stock inspector, allow the inspector or stock inspector to inspect the logbooks kept under subregulation (1).

Penalty: \$2 000.

44E. Source of broodstock for hatcheries

A licensee or permit holder operating a hatchery shall not allow pearl oysters to be used in the hatchery as broodstock unless the pearl oysters —

- (a) were produced in that hatchery; or
- (b) were taken from the wild from within the waters defined as Zones 1, 2 or 3 of the Western Australian pearl oyster fishery in the *Pearling (Joint Authority Pearl Oyster Fishing) (Declaration of Zones) Notice 1992*.

Penalty: \$2 000.

44F. Supply of hatchery produced spat restricted

A licensee or permit holder operating a hatchery shall not sell or supply to a person spat produced in the hatchery unless —

- (a) the water in which the spat are kept in the hatchery is filtered to 20 µm or finer; and
- (b) a certificate of health is in force in respect of the spat.

Penalty: \$2 000.

Part 7B — Spat collection

44G. Spat collection

- (1) A person shall not collect spat unless —
- (a) the person holds a licence or permit authorizing that person to collect spat;
 - (b) the person uses an approved spat collector; and
 - (c) the spat is collected on an area of a pearl oyster farm approved by an inspector.

Penalty: \$2 000.

- (2) Unless otherwise approved a person must not sell or supply to another person pearl oysters collected in a spat collector unless —
- (a) the pearl oysters are more than 40 mm in length and that other person holds a pearling (wildstock) licence or permit; or
 - (b) the pearl oysters are 40 mm or less in length and that other person holds a hatchery (nursery) licence.

Penalty: \$2 000.

- (3) Spat acquired by a person under subregulation (2)(a) is deemed to be wildstock taken by that person.

Part 7C — Quarantine sites

44H. Quarantine site not to be used for other purposes

A licensee or permit holder shall not use a quarantine site except to hold pearl oysters for the purposes of quarantine and disease testing.

Penalty: \$2 000.

44I. Quarantine permitted only on quarantine site

A licensee or permit holder shall not hold pearl oysters for the purposes of quarantine and disease testing except on a quarantine site.

Penalty: \$2 000.

44J. Cleaning of boats and equipment

- (1) If directed to do so by an inspector the master of a boat which is used on a quarantine site shall clean and disinfect the boat, and any equipment used in connection with the transport of pearl oysters, in accordance with the directions of the inspector.

Penalty: \$2 000.

- (2) In deciding whether cleaning and disinfecting is required, and if so how it is to be carried out, an inspector shall have regard to any advice of the Chief Inspector of Stock.

44K. Notification when quarantine site cleared

A licensee or permit holder using a quarantine site shall notify in writing an inspector at Broome within 24 hours after the last pearl oyster for the time being held on that site is transported from the site, dies or is destroyed.

Penalty: \$2 000.

44L. Spat to be held on quarantine site for 6 weeks

A licensee or permit holder using a quarantine site shall not remove a pearl oyster from that quarantine site within 6 weeks of it having been transported to that site unless —

- (a) it is removed for disease testing in accordance with these regulations or the *Enzootic Diseases Regulations 1970*;
- (b) it is dead and its disposal has been approved under regulation 44M; or

- (c) its removal is otherwise approved.

Penalty: \$2 000.

44M. Disposal of dead pearl oysters

When a pearl oyster which is more than 90 mm in length dies while it is being held on a quarantine site the licensee or permit holder using the quarantine site shall —

- (a) retain the dead pearl oyster until its disposal is approved; and
- (b) dispose of the dead pearl oyster in accordance with the directions of the inspector set out in the approval.

Penalty: \$2 000.

Part 7D — Nursery sites

44N. Nursery site not to be used other than as a nursery

A licensee or permit holder shall not use a nursery site except for the purpose of growing out pearl oysters.

Penalty: \$2 000.

44O. Growing out permitted only on nursery site

A licensee or permit holder shall not hold pearl oysters which are being grown out except on a nursery site.

Penalty: \$2 000.

44P. Nursery site to be used only by holder of hatchery (nursery) licence or permit

A person shall not hold pearl oysters on a nursery site except in accordance with a hatchery (nursery) licence or permit held by the person.

Penalty: \$2 000.

44Q. Spat to be held on nursery site until full size

A licensee or permit holder using a nursery site shall not remove a pearl oyster from that nursery site unless —

- (a) it is removed for disease testing in accordance with these regulations or the *Enzootic Diseases Regulations 1970*;
- (b) it is dead and its disposal has been approved under regulation 44R;
- (c) it is disposed of in accordance with regulation 44T; or
- (d) its removal is otherwise approved.

Penalty: \$2 000.

44R. Disposal of dead pearl oysters

When a pearl oyster that exceeds the minimum length dies on a nursery site the licensee or permit holder using the nursery site shall —

- (a) retain the dead pearl oyster until its disposal is approved; and
- (b) dispose of the dead pearl oyster in accordance with the directions of the inspector set out in the approval.

Penalty: \$2 000.

Part 7E — Growing-out spat and seeding grown-out pearl oysters**44S. Restrictions on spat which may be taken under a hatchery (nursery) licence**

- (1) This regulation is prescribed under section 26(2)(a) of the Act as a condition in respect of a licensee or permit holder who holds a hatchery (nursery) licence or permit.
- (2) Unless otherwise approved a licensee or permit holder may only take spat under a hatchery (nursery) licence or permit if the pearl oyster —
 - (a) is collected from a spat collector located on a pearl oyster farm (other than on a nursery site or quarantine site) operated by that licensee or permit holder and is not more than 80 mm in length;
 - (b) is —
 - (i) collected from any other spat collector; and
 - (ii) is not more than 40 mm in length at the time it is taken;
 - or
 - (c) is obtained from a hatchery or under regulation 44T(2)(b) and is not more than —
 - (i) 12 months old; and
 - (ii) 40 mm in length,at the time it is taken.

44T. Use or disposal of excess oysters from nursery site

- (1) This regulation is prescribed under section 26(2)(a) of the Act as a condition in respect of a licensee or permit holder who holds a hatchery (nursery) licence or permit.

- (2) Unless otherwise approved the holder of a hatchery (nursery) licence or permit must not sell or supply to another person pearl oysters which are being, or have been, grown out on a nursery site operated by that licensee or permit holder unless —
 - (a) the pearl oysters are more than 40 mm in length and that other person holds a pearling (wildstock) licence or permit; or
 - (b) the pearl oysters are 40 mm or less in length and 12 months old or younger and that other person holds a hatchery (nursery) licence or permit.

44U. Pearl seeding operations on grown-out oysters

- (1) This regulation is prescribed under section 26(2)(a) of the Act as a condition in respect of a licensee or permit holder who holds a pearling (seeding) licence or permit.
- (2) Unless otherwise approved the holder of a pearling (seeding) licence or permit may, under that licence or permit, only subject a pearl oyster to pearl seeding operations if the pearl oyster —
 - (a) was taken under a hatchery (nursery) licence or permit;
 - (b) has been grown-out on a nursery site operated by the holder of a hatchery (nursery) licence or permit; and
 - (c) has not previously been subjected to pearl seeding operations.

”.

32. Regulation 45 amended

Regulation 45 is amended as follows:

- (a) by deleting “with the written approval of the Executive Director or”;
- (b) by inserting after “or permit” —
“ or as otherwise approved ”.

33. Regulation 47 amended

Regulation 47 is amended by inserting after “licensee” —
“ or permit holder ”.

34. Regulation 48 amended

Regulation 48(2)(b) is amended by deleting “in writing”.

35. Regulation 48A inserted

After regulation 48 the following regulation is inserted —

“

48A. Sending of written documents electronically

A person who gives a document, other than a form to which regulation 19A applies, to another person by sending it electronically must keep a paper copy of the document together with a record of the day and time when it was sent.

”.

36. Schedule 2 replaced

Schedule 2 is repealed and the following Schedule is inserted instead —

“

Schedule 2 — Requirements for hatcheries

[Regulations 44A and 44B]

Division 1 — Cleaning and disinfecting

When a hatchery, tank or piece of equipment is required to be cleaned and disinfected it is to be —

- (a) mechanically cleaned by a brush or high pressure spray using a solution of 10 g sodium hydroxide per litre of water at 60°C; then
- (b) allowed to dry; then
- (c) disinfected by —
 - (i) keeping the surface of the place or thing wet for at least 60 minutes using a solution of either —
 - (I) 50-100 mg of free iodine per litre of water; or
 - (II) 60 mg of free chlorine per litre of water;
 - or
 - (ii) immersing the thing for at least 60 minutes in a solution containing sufficient sodium hydrochlorite to ensure that the residual chlorine concentration of the solution after 30 minutes is at least 10 mg per litre;
- then
- (d) rinsed using fresh water or sea water filtered —
 - (i) in the case of equipment to be used in the production of algal food for spat prior to settlement, to 0.2 µm; or
 - (ii) otherwise, to 0.1 µm;
- then
- (e) allowed to dry.

Division 2 — Treatment of water, air and equipment

1. Sea water to be used in the hatchery is to be treated, before it is so used, as follows —
 - (a) water which is to be used to rear spat is to be filtered to 20 μm or finer;
 - (b) water which is to be used in the production of algal food for spat is to be autoclaved or filtered to 20 μm ;
 - (c) water which is to be used for any other purpose is to be filtered to at least 20 μm using duplicate filters.
2. Air which is to be used in the production of algal food for spat is to be filtered, before it is so used, to 20 μm using sterile filters.
3. Equipment which is to be used in the production of algal food for spat is to be autoclaved, or cleaned and disinfected in accordance with Division 1, before each occasion on which it is so used.
4. Water to be discharged from the hatchery is to be filtered through sand or treated with a solution of 60 mg of free chlorine per litre of water before it is discharged.

”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.