



Western Australia

Pearling Act 1990

Pearling (General) Regulations 1991

Pearling (General) Regulations 1991

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Western Australia

Pearling Act 1990

Pearling (General) Regulations 1991

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Pearling (General) Regulations 1991* ¹.

2. Commencement

These regulations shall come into operation on the day, or the first of the days, as the case requires, fixed under section 2 of the Act ¹.

3. Terms used

- (1) In these regulations, unless the contrary intention appears —
approved, except in relation to a form, means approved in writing by an inspector;

approved form means a form approved by the CEO;

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 form one settlement;

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

catcher boat means boat used to take, or attempt to take, pearl oysters;

certificate of health has the meaning given in the *Fish Resources Management Regulations 1995* regulation 144A;

designated container or ***panel*** means container of a type specified in Schedule 1;

dump, when used as —

- (a) a noun, means area of Western Australian waters where pearl oysters are held or placed; or
- (b) a verb, means place pearl oysters on a dump;

filled, in relation to a designated container, means filled with the number of pearl oysters prescribed by regulation 5 in respect of containers of the particular type to which the designated container belongs;

fleet master means master of a boat nominated in a notice of pearling or hatchery activity to be the fleet master of 2 or more boats using the same dump;

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”;

holding site means area of Western Australian waters to which a prohibition or restriction made under section 19 of the Act applies, which prohibition or restriction is expressed to be made for the purposes of this definition;

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

licensee means holder of a pearling licence or hatchery licence;

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

notice of pearling or hatchery activity means notice of pearling or hatchery activity referred to in regulation 12;

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;

operated pearl oyster dump means dump —

- (a) situated within a holding site; and
- (b) used solely for the purpose of dumping pearl oysters which have been seeded in pearl seeding operations;

operation boat means boat used for carrying out pearl culture techniques;

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;

returned pearl oyster dump means dump —

- (a) situated within a holding site; and
- (b) used solely for the purpose of dumping pearl oysters which have been subjected to pearl seeding operations but have not been seeded;

seeding means specific pearl culture technique of inserting a nucleus into a pearl oyster;

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;

tag means pearl oyster identification tag issued under regulation 24(1);

tagged designated container means designated container to which a valid tag has been affixed;

transport boat means boat used for transporting pearl oysters;

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

- (a) taken from the wild; or
 - (b) acquired in accordance with regulation 44T(2)(a); or
 - (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; or
 - (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.
- (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.

*[Regulation 3 amended in Gazette 17 Dec 1999 p. 6200-2;
15 Apr 2011 p. 1415; 24 Sep 2013 p. 4386-7.]*

Part 2 — Prescribed matters

4. Geocentric Datum of Australia (Act s. 4(1))

- (1) The Geocentric Datum of Australia (the **GDA**) is the prescribed Australian datum for the purposes of section 4(1) of the Act.
- (2) The reference ellipsoid for the GDA is the Geodetic Reference System 1980 (**GRS80**) ellipsoid with a semi-major axis of 6 378 137 m exactly and an inverse flattening (1/f) of 298.257 222 101.
- (3) The reference frame for the GDA is realised by the coordinates of the following Australian Fiducial Network geodetic stations referred to the GRS80 ellipsoid determined within the International Earth Rotation Service Terrestrial Reference Frame 1992 (ITRF92) at the epoch of 1994.0 —

No.	Name	South Latitude	East Longitude	Ellipsoidal Height
AU 012	Alice Springs	23° 40' 12.44592"	133° 53' 07.84757"	603.358 m
AU 013	Karratha	20° 58' 53.17004"	117° 05' 49.87255"	109.246 m
AU 014	Darwin	12° 50' 37.35839"	131° 07' 57.84838"	125.197 m
AU 015	Townsville	19° 20' 50.42839"	146° 46' 30.79057"	587.077 m
AU 016	Hobart	42° 48' 16.98506"	147° 26' 19.43548"	41.126 m
AU 017	Tidbinbilla	35° 23' 57.15627"	148° 58' 47.98425"	665.440 m
AU 019	Ceduna	31° 52' 00.01664"	133° 48' 35.37527"	144.802 m
AU 029	Yaragadee	29° 02' 47.61687"	115° 20' 49.10049"	241.291 m

[Regulation 4 inserted in Gazette 19 Aug 2003 p. 3713-14.]

5. Numbers of pearl oysters prescribed in respect of particular types of containers (Act s. 8(4))

For the purposes of section 8(4) of the Act, the number of pearl oysters prescribed in respect of a particular type of container referred to in Schedule 1 is a number equal to the total number of compartments, pockets or slots in a container of that type.

6. Application fees (Act s. 19, 22)

- (1) An application under section 22 of the Act for the issue or renewal of a lease, licence or permit referred to in the Table is to be accompanied by the application fee set out opposite the lease, licence or permit, unless payment of the fee is waived by the CEO.

Table

Lease, licence or permit	Application fee (\$)
Farm lease	2 283
Pearling licence or permit	395
Hatchery licence or permit	395

- (2) A person requesting the Minister to publish a notice under section 19 of the Act shall pay to the Minister a fee of \$1 683.

[Regulation 6 amended in Gazette 30 Jun 1992 p. 2874; 29 Jun 1993 p. 3171; 28 Jun 1994 p. 3014; 22 Dec 1995 p. 6170; 17 Dec 1999 p. 6202; 28 Jun 2002 p. 3068; 7 Oct 2003 p. 4381; 15 Nov 2005 p. 5598; 10 Jul 2007 p. 3417; 15 Apr 2011 p. 1416.]

7. Requirements prescribed in respect of holders of pearl divers' licences (Act s. 26(2)(a))

- (1) For the purposes of section 26(2)(a) of the Act, the holding by the holder of a pearl diver's licence of a current certificate from a medical practitioner to the effect that —
- (a) the medical practitioner has examined that holder in accordance with Australian Standard 2299 entitled "Underwater air breathing operations"; and
 - (b) in the opinion of the medical practitioner, that holder is fit to work as a professional diver using a diving

apparatus involving the use of compressed air for 12 months from the date of that certificate, while diving is a requirement prescribed in respect of that holder.

- (2) That part of the Australian Standard referred to in subregulation (1)(a) which provides that medical examinations for commercial divers are to be carried out at 6 monthly intervals does not apply in respect of examinations carried out for the purposes of this regulation in accordance with that Australian Standard.

- (3) In subregulation (1) —

current certificate means certificate the date of which is not more than 12 months prior to the date of the diving referred to in that subregulation;

medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

[Regulation 7 amended in Gazette 29 Apr 2011 p. 1523.]

8. Annual fees for certain licences (Act s. 27(1)(b))

For the purposes of section 27(1)(b) of the Act, the annual fee for a licence referred to in the Table is the fee set out opposite the licence.

Table

Licence	Fee (\$)
Pearl diver's licence	80
Pearl boat licence	80
Pearl boat master's licence	80

[Regulation 8 inserted in Gazette 15 Apr 2011 p. 1416.]

9. Transfers (Act s. 32)

- (1) A request under section 32 of the Act for the approval of a transfer is to be made to the CEO 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	716
Pearling licence or a right conferred by a pearling licence (other than a quota)	80
Hatchery licence or a right conferred by a hatchery licence (other than a quota)	80
All or part of a quota as referred to in section 32(5) of the Act	442

- (2) A request for the approval of a transfer (an *approved transfer*) under section 32(5) of the Act of part, or all, of a quota (the *approved quota*) may be made in relation to a permanent or temporary approved transfer, but the request can be made only if the holder of the licence from which part, or all, of the quota is to be transferred —
- has returned to an inspector any tags issued in relation to the approved quota; and
 - in relation to a permanent approved transfer — has paid any outstanding fee for the issue or renewal of the licence (including any instalments that are not yet due).
- (3) On an approved transfer taking place, the conditions of the licence from which, and of the licence to which, the approved quota is transferred are varied as specified by the CEO by notice in writing served on the holder of the licence.
- (4) Without limiting subregulation (3), a notice under that subregulation to the holder of a licence is to specify the

variation in the quota that applies to the licence as a result of the approved transfer.

- (5) In the case of a temporary approved transfer, any variation under subregulation (3) to the conditions of a licence ceases to have effect on the expiry of the period during which the approved transfer has effect.

[Regulation 9 inserted in Gazette 17 Dec 1999 p. 6203; amended in Gazette 28 Jun 2002 p. 3068-9; 10 Sep 2002 p. 4594-5; 7 Oct 2003 p. 4381; 15 Nov 2005 p. 5598; 10 Jul 2007 p. 3418; 15 Apr 2011 p. 1416-17.]

9A. Payment by instalments (Act s. 27(1)(a))

- (1) If a notice made under section 27(1)(a) of the Act provides for the payment by instalments of an annual fee set out in that notice, the fee may be paid in 2 or 3 instalments in accordance with that notice.
- (2) If a fee referred to in subregulation (1) is to be paid by instalments, a surcharge of —
- (a) 10% of that fee; or
 - (b) any lesser percentage of that fee, if such a percentage is specified in the notice,
- is payable with the first instalment.
- (3) If an instalment of a fee, including the surcharge if payable with the instalment, is not paid on or before the day specified in the notice (the *due date*) —
- (a) the full amount outstanding of the fee becomes immediately payable; and
 - (b) the authority conferred by the lease, license or permit to which the fee applies is of no effect during the period from the due date until the day on which the full amount outstanding of the fee is paid.
- (4) In subregulation (3) —

full amount outstanding of the fee includes the surcharge payable under subregulation (2).

[Regulation 9A inserted in Gazette 18 Dec 1998 p. 6758.]

10. Prescribed manner of sale of seized pearl oysters or pearl oyster spat (Act s. 55(1)(a), (b))

For the purposes of section 55(1)(a)(ii) and (b)(i) of the Act, the CEO may, with the approval in writing of the Minister, sell the relevant pearl oysters or pearl oyster spat —

- (a) at public auction; or
- (b) by tender or by private treaty.

[Regulation 10 amended in Gazette 15 Apr 2011 p. 1417.]

Part 3 — Forms

[Heading amended in Gazette 17 Dec 1999 p. 6203.]

11. Annual notice of intent

- (1) 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.

- (2) Within 14 days after part, or all, of a quota is transferred under section 32(5) of the Act, the holder of the licence from which, and the holder of the licence to which, part, or all, of the quota is transferred are each to complete a new notice of intent and lodge it with an inspector.

Penalty: \$2 000.

[Regulation 11 inserted in Gazette 17 Dec 1999 p. 6203; amended in Gazette 10 Sep 2002 p. 4595.]

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.

[Regulation 12 inserted in Gazette 17 Dec 1999 p. 6203.]

13. Pearl oyster fishing daily log sheet

- (1) Subject to subregulation (2), the master of a catcher boat shall complete for each day on which pearl oysters are taken or attempted to be taken by 2200 hours on that day a pearl oyster fishing daily log sheet in an approved form.

Penalty: \$2 000.

- (2) In completing a pearl oyster fishing daily log sheet under subregulation (1), the master of the relevant catcher boat shall —
- (a) complete the section of the daily log sheet headed “Dive time” in respect of each dive made from that catcher boat immediately that dive ends; and
 - (b) complete, subject to regulation 14, the section of the daily log sheet headed “Pearl oyster taken by diver number” in respect of each dive made from that catcher boat within 20 minutes of the end of that dive; and
 - (c) enter the date on the daily log sheet at the beginning of each day and, in any event, before the first dive is made from that catcher boat on that day.

Penalty: \$2 000.

[Regulation 13 amended in Gazette 17 Dec 1999 p. 6204.]

14. Diver’s catch record log sheet

- (1) The master of a catcher boat required by regulation 13(2)(b) to complete the section of the pearl oyster fishing daily log sheet headed “Pearl oyster taken by diver number” may, instead of completing that section within 20 minutes of the end of the dive concerned, complete a diver’s catch record log sheet in an approved form in respect of each dive made from the catcher boat.
- (2) The master of a catcher boat who completes a diver’s catch record log sheet under subregulation (1) shall —
- (a) complete the diver’s catch record log sheet within 20 minutes of the end of the dive to which it relates; and

- (b) transfer the information entered in each diver's catch record log sheet completed during the course of a particular day to the pearl oyster fishing daily log sheet completed under regulation 13 in respect of that day by 2200 hours on that day.

Penalty: \$2 000.

[Regulation 14 amended in Gazette 17 Dec 1999 p. 6204.]

15. Dump record log sheet

- (1) Subject to this regulation, the master of a boat which is used —
 - (a) to take and dump pearl oysters; or
 - (b) to take pearl oysters which are transferred to a dump boat and dumped; or
 - (c) to transport and dump pearl oysters,shall make a complete record of that dumping for each day of that dumping in a dump record log sheet in an approved form by 2200 hours on that day.

Penalty: \$2 000.
- (2) Subregulation (1) does not apply to or in relation to pearl oysters dumped —
 - (a) on a pearl oyster farm; or
 - (b) on an operated pearl oyster dump or returned pearl oyster dump.
- (3) When 2 or more boats, the masters of which are required by subregulation (1)(a) or (b) to make a complete record of dumping on the same dump, are under the control of a fleet master —
 - (a) the fleet master shall comply with subregulation (1)(a) or (b), as the case requires, in respect of both or all of those boats as if the fleet master were the master of each of those boats; and

- (b) the master of each of those boats (other than the fleet master) shall not comply with subregulation (1)(a) or (b), as the case requires, in respect of his or her boat.

Penalty: \$2 000.

- (4) The complete record referred to in subregulation (1) shall for the purposes of subregulation (3) be taken to be one copy of the dump record log sheet containing the necessary particulars in respect of both or all of the boats referred to in subregulation (3).

[Regulation 15 amended in Gazette 17 Dec 1999 p. 6204.]

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); or
 - (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.

[Regulation 16 inserted in Gazette 17 Dec 1999 p. 6204-5.]

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.

[Regulation 17 inserted in Gazette 17 Dec 1999 p. 6205.]

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.

[Regulation 18 inserted in Gazette 17 Dec 1999 p. 6205.]

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

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

Penalty: \$1 000.

[Regulation 18A inserted in Gazette 17 Dec 1999 p. 6205-6.]

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.

[Regulation 18B inserted in Gazette 17 Dec 1999 p. 6206.]

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.

[Regulation 18C inserted in Gazette 17 Dec 1999 p. 6206.]

19. Completion of forms

- (1) Forms approved for the purposes of this Part may be issued —
 - (a) in log books; or
 - (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; and
 - (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; and
 - (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.

[Regulation 19 inserted in Gazette 17 Dec 1999 p. 6206-7.]

19A. Lodgment 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.

[Regulation 19A inserted in Gazette 17 Dec 1999 p. 6207-8.]

20. Power of inspector to direct delivery of form

- (1) Notwithstanding anything in these regulations, an inspector may, if he or she considers it necessary to do so, in writing direct a person required by this Part to complete a form referred to in regulation 18B, 18C or 19A(3) to deliver, or cause to be delivered, that form to such person at such time and place as are specified in that direction instead of lodging that form in accordance with that regulation.
- (2) A person to whom a direction is given under subregulation (1) shall comply with that direction.

Penalty: \$2 000.

[Regulation 20 amended in Gazette 17 Dec 1999 p. 6208.]

Part 4 — Designated containers and tags

21. Pearl oysters to be held in designated containers

- (1) Subject to this regulation, a person shall not, without approval, hold pearl oysters otherwise than in a designated container.
Penalty: \$1 000.
- (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; or
 - (b) subject to paragraphs (e) and (f), is being held on a pearl oyster farm; or
 - (c) is being taken by the holder of a pearl diver's licence; or
 - (d) is spat which is being held in the hatchery in which it was produced; or
 - (e) is spat which is being held on a nursery site and which is less than 90 mm in length; or
 - (f) is spat which is being held in a spat collector; or
 - (g) is on a quarantine site.
- (3) A person shall not, without approval, hold in a designated container more pearl oysters than the number prescribed by regulation 5 in respect of containers of the type to which the designated container belongs.
Penalty: \$1 000.

[Regulation 21 amended in Gazette 17 Dec 1999 p. 6208-9.]

22. Pearl oysters to be placed in tagged designated containers after being taken

- (1) The master of a catcher boat shall, subject to subregulation (2), ensure that pearl oysters taken by diving from the catcher boat

are placed in designated containers within 20 minutes of the end of the dive during which that taking took place.

Penalty: \$1 000.

- (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.

- (2) It is a defence to a charge of committing an offence under subregulation (1) to show that —

- (a) a threat to the safety of the crew of the catcher boat from which the relevant dive was made prevented compliance with that subregulation; or
- (b) the catch of pearl oysters made during the relevant dive was so large that it was not possible to comply with that subregulation in respect of all or any of the pearl oysters in that catch.

[Regulation 22 amended in Gazette 17 Dec 1999 p. 6209.]

23. Manner in which designated containers to be filled

The master of a catcher boat shall, unless an inspector otherwise directs in writing, ensure that the designated containers on board the catcher boat are filled consecutively in such a way that no more than 2 partly filled designated containers are on board the catcher boat at any one time.

Penalty: \$1 000.

24. Issue and allocation of pearl oyster identification tags

- (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;

and

- (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) A licensee or permit holder to whom tags have been issued shall allocate sufficient of those tags to each boat used by or on behalf of the licensee or permit holder for the purposes of his or her licence or permit to enable the crew of that boat to comply with these regulations.

[Regulation 24 amended in Gazette 17 Dec 1999 p. 6209.]

25. Tag specifications

Each tag shall —

- (a) be of a locking type; and
- (b) carry a serial number.

26. Use and possession of tags

- (1) A person, other than —
 - (a) a licensee or permit holder to whom particular tags have been issued; or
 - (b) a member of the crew of a boat to which particular tags have been allocated under regulation 24(2) who uses, or has in his or her possession, those tags on board the boat,shall not use or have in his or her possession those tags.

Penalty: \$2 000.

- (2) A person who uses any tags shall do so in the order of their serial numbers.

Penalty: \$2 000.

[Regulation 26 amended in Gazette 17 Dec 1999 p. 6210.]

27. Transfer of tags

When particular tags have been allocated to a boat under regulation 24(2), the licensee or permit holder who so allocated those tags shall not transfer those tags to another boat unless —

- (a) the other boat is used by or on behalf of that licensee or permit holder under his or her licence or permit; and
- (b) that licensee or permit holder has recorded that transfer in the relevant notice of pearling or hatchery activity.

Penalty: \$2 000.

[Regulation 27 amended in Gazette 17 Dec 1999 p. 6210.]

28. Boat not to be used for taking pearl oysters unless tags allocated to, and on board, boat

A person shall not use, or permit or suffer his or her agent, employee or subordinate to use, a boat to take or attempt to take pearl oysters unless —

- (a) tags have been allocated under regulation 24(2) or transferred in accordance with regulation 27 to, and are on board, the boat; or
- (b) an inspector has in writing exempted the boat from the operation of this regulation.

Penalty: \$2 000.

29. Affixing of tags

- (1) Subject to subregulation (2), a person who is placing pearl oysters, other than pearl oysters being held on a nursery site, in a designated container shall, as soon as the designated container

is full, affix a tag to the designated container by pulling the locking tail of the tag through the locking head of the tag.

Penalty: \$2 000.

- (2) If there are insufficient pearl oysters with which to fill the last designated container in which pearl oysters are placed after the last dive of the day has been made, the person who is placing pearl oysters in that designated container shall affix a tag to that designated container in the manner specified in subregulation (1) as soon as the last pearl oyster has been placed in that designated container.

Penalty: \$2 000.

- (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.

- (3) A person shall not affix a tag to a designated container if another tag is already affixed to the designated container.

Penalty: \$2 000.

[Regulation 29 amended in Gazette 17 Dec 1999 p. 6210.]

30. Removal of tags

- (1) Subject to subregulation (1a), a licensee or permit holder to whom tags have been issued shall ensure that, unless an inspector directs otherwise in writing, all of those tags which have been affixed to designated containers are removed therefrom by midnight on 31 December of the year in which those tags were so affixed.

Penalty: \$1 000.

- (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.

- (2) A person who removes a tag from a designated container shall render the tag incapable of being used again under these regulations.

Penalty: \$1 000.

[Regulation 30 amended in Gazette 17 Dec 1999 p. 6210.]

Part 5 — Dumping of pearl oysters

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

[Heading inserted in Gazette 17 Dec 1999 p. 6211.]

31. Division 1 not to apply to certain dumps

This Division does not apply to or in relation to a dump made —

- (a) in accordance with —
 - (i) any relevant condition of a licence; or
 - (ii) any written direction given by an inspector, by the holder of a farm lease within his or her pearl oyster farm; or
- (b) on a holding site with pearl oysters which have been subjected to pearl seeding operations on board an operation boat situated on the holding site.

32. When dumping of pearl oysters permissible

- (1) A person shall not dump or attempt to dump, or permit or suffer his or her agent, employee or subordinate to dump or attempt to dump, pearl oysters unless —
 - (a) that dump has been identified by a number in a dump record log sheet referred to in regulation 15 before the pearl oysters are dumped; and
 - (b) that dump is marked by a master buoy consisting of a surface float —
 - (i) which has a diameter of 75 cm or more; and
 - (ii) which is branded with the number of that dump as recorded in the dump record log sheet referred to in paragraph (a) preceded by an approved abbreviated reference to the licensee or permit holder using that dump; and

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(iii) which has attached to it an aluminium radar reflector with a surface area of not less than 1.5 m²;

and

- (ba) where an inspector has required that the dump be marked and lit so as to indicate its location to any vessels that may be in the area, the dump is marked and lit in an approved manner; and
 - (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; and
 - (d) all tagged designated containers referred to in paragraph (c) are when dumped attached to a long-line which has surface floats 15 cm in diameter attached to each end of the long-line; and
 - (da) tagged designated containers holding broodstock are, if required by an inspector, attached to separate long-lines from long-lines to which containers holding wildstock are attached; and
 - (e) the 2 surface floats referred to in paragraph (d) are branded with the same identifying number, which number is different from the identifying number with which the surface floats attached to any other long-line at that dump are branded; and
 - (f) all long-lines at that dump are within a radius of 200 m of the surface float referred to in paragraph (b) or of a surface float which —
 - (i) has a diameter of 75 cm or more; and
 - (ii) is branded with an approved abbreviated reference to the licensee or permit holder using that dump;
- and
- (g) all tagged designated containers attached to a long-line are capable of holding the number of pearl oysters

prescribed by regulation 5 in respect of containers of the type to which those tagged designated containers belong; and

- (h) those pearl oysters were taken under the licence of the licensee, or permit of the permit holder, using that dump.

Penalty: \$2 000.

[(2) deleted]

[Regulation 32 amended in Gazette 8 Dec 1998 p. 6570; 17 Dec 1999 p. 6211.]

33. Nomination and duties of fleet masters

- (1) If 2 or more boats are to use the same dump or dumps, the licensee or permit holder using that dump or those dumps shall in the relevant notice of pearling or hatchery activity completed by that licensee or permit holder nominate one of the masters of those boats to be the fleet master of those boats at that dump or those dumps.

Penalty: \$2 000.

- (2) A fleet master shall ensure that this Division is complied with in respect of the pearl oysters dumped by the boats to which his or her nomination relates.

Penalty: \$2 000.

[Regulation 33 amended in Gazette 17 Dec 1999 p. 6211.]

34. Map of long-lines in relation to master buoy

The master of a boat using a dump or, if 2 or more boats are using a dump, the fleet master nominated in respect of the dump, shall —

- (a) subject to paragraph (b), make and retain on board his or her boat an accurate and up to date map showing the identifying numbers referred to in regulation 32(1)(e) of the long-lines on the dump and the disposition of those

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long-lines in relation to the master buoy referred to in regulation 32(1)(b); and

- (b) if so requested by an inspector, lend to the inspector for a reasonable time the map referred to in paragraph (a) or provide the inspector with a legible copy of that map.

Penalty: \$2 000.

35. Only one licensee or permit holder to use particular dump

A licensee or permit holder shall not use, or permit or suffer his or her agent, employee or subordinate to use, a dump which is already used by or on behalf of another licensee or permit holder.

Penalty: \$2 000.

[Regulation 35 amended in Gazette 17 Dec 1999 p. 6211.]

Division 2 — Dumps on holding sites following pearl seeding operation

[Heading inserted in Gazette 17 Dec 1999 p. 6211.]

36. When dumping of pearl oysters subjected to seeding operations permissible on holding sites

- (1) Subject to subregulation (2), a person shall not dump or attempt to dump, or permit or suffer his or her agent, employee or subordinate to dump or attempt to dump, pearl oysters which have been subjected to pearl seeding operations on a holding site unless —
 - (a) the holding site is marked by a master buoy consisting of a surface float —
 - (i) which has a diameter of 75 cm or more; and
 - (ii) which is branded with a number identifying that surface float preceded by an approved abbreviated reference to the licensee or permit holder using the holding site; and

- (iii) which has attached to it an aluminium radar reflector with a surface area of not less than 1.5 m²;
- and
- (aa) where an inspector has required that the holding site be marked and lit so as to indicate its location to any vessels that may be in the area, the holding site is marked and lit in an approved manner; and
 - (b) those pearl oysters are dumped in designated containers; and
 - (c) all designated containers referred to in paragraph (b) are when dumped attached to a long-line which has surface floats 15 cm in diameter attached to each end of the long-line; and
 - (d) the 2 surface floats referred to in paragraph (c) are branded with the same identifying number, which number is different from the identifying number with which the surface floats attached to any other long-line on the holding site are branded; and
 - (e) all long-lines on the holding site are within a radius of 200 m of the surface float referred to in paragraph (a) or of a surface float —
 - (i) which has a surface diameter of 75 cm or more; and
 - (ii) which is branded with an approved abbreviated reference to the licensee or permit holder using the holding site;
- and
- (f) all designated containers attached to a long-line are capable of holding the number of pearl oysters prescribed by regulation 5 in respect of containers of the type to which those designated containers belong.

Penalty: \$2 000.

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- (2) A person shall not dump or attempt to dump, or permit or suffer his or her agent, employee or subordinate to dump or attempt to dump, in the same dump on a holding site both pearl oysters which have been seeded in pearl seeding operations and pearl oysters which have been subjected to pearl seeding operations but have not been seeded.

Penalty: \$2 000.

*[Regulation 36 amended in Gazette 8 Dec 1998 p. 6570;
17 Dec 1999 p. 6212.]*

37. Duties of masters of operation boats

The master of an operation boat situated on a holding site shall ensure that the Act and these regulations are complied with in respect of the holding site.

Penalty: \$2 000.

38. Map of long-lines in relation to master buoy

The master of an operation boat shall —

- (a) subject to paragraph (b), make and retain on board the operation boat an accurate and up to date map showing the identifying numbers referred to in regulation 36(1)(d) of the long-lines on the holding site on which the operation boat is situated and the disposition of those long-lines in relation to the master buoy referred to in regulation 36(1)(a); and
- (b) if so requested by an inspector, lend to the inspector for a reasonable time the map referred to in paragraph (a) or provide the inspector with a legible copy of that map.

Penalty: \$2 000.

Part 5A — Holding pearl oysters on pearl oyster farms

[Heading inserted in Gazette 17 Dec 1999 p. 6212.]

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.

[Regulation 38A inserted in Gazette 17 Dec 1999 p. 6212.]

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.

[Regulation 38B inserted in Gazette 17 Dec 1999 p. 6212.]

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.

[Regulation 38C inserted in Gazette 17 Dec 1999 p. 6212.]

Part 6 — Pearl seeding operations

[Heading inserted in Gazette 17 Dec 1999 p. 6212.]

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

Penalty: \$2 000.

[Regulation 39 inserted in Gazette 17 Dec 1999 p. 6212-13.]

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.

[Regulation 40 inserted in Gazette 17 Dec 1999 p. 6213.]

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.

[Regulation 40A inserted in Gazette 17 Dec 1999 p. 6213.]

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.

[Regulation 41 inserted in Gazette 17 Dec 1999 p. 6213.]

Part 7 — Transporting of pearl oysters

42. When transporting of pearl oysters permissible

- (1) A person shall not transport or attempt to transport, or permit or suffer his or her agent, employee or subordinate to transport or attempt to transport, pearl oysters by any means on, in, over or from Western Australian waters unless —
- (a) those pearl oysters are in tagged designated containers and prior notice of that transport has been given in a notice of pearling or hatchery activity; or
 - (b) prior to that transport, those pearl oysters have been —
 - (i) held on a holding site; and
 - (ii) subjected to pearl seeding operations on the holding site referred to in subparagraph (i); and
 - (iii) held in designated containers,and that transport has been approved; or
 - (c) those pearl oysters have been taken by, and are being held on, a catcher boat and the catcher boat is still actually engaged in taking pearl oysters; or
 - (d) those pearl oysters are being transported —
 - (i) entirely within a nursery site; or
 - (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;or
 - (e) those pearl oysters are, on the day on which they are taken by a catcher boat, transported by the catcher boat or a dump boat, in tagged designated containers, directly to the nearest dump (other than a dump on a pearl oyster farm); or

- (f) those pearl oysters are —
 - (i) in designated containers; and
 - (ii) held on or transported to an operation boat situated on a holding site; and
 - (iii) transported entirely within the holding site referred to in subparagraph (ii);or
- (g) if the pearl oysters are being transported —
 - (i) from a hatchery; or
 - (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; or
- (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.

Penalty: \$2 000.

- (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; and
- (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; or
 - (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.

[Regulation 42 erratum in Gazette 11 Jan 1991 p. 47-8; amended in Gazette 17 Dec 1999 p. 6213-15.]

43. Variation of notice of transport

- (1) Prior notice of transport referred to in regulation 42(1)(a) may be varied by notice lodged —
- (a) in writing; or
 - (b) by facsimile or telex transmission,
- with an inspector at Broome or at such other place as may be approved not less than 24 hours before the relevant transport

takes place, and prior notice of transport so varied has the same effect as prior notice of transport not so varied.

- (2) Notice may be lodged under subregulation (1) by —
- (a) the pilot of the relevant aircraft; or
 - (aa) the driver of the relevant vehicle; or
 - (b) the master of the relevant boat; or
 - (c) the licensee or permit holder using the relevant aircraft, vehicle or boat.

[Regulation 43 amended in Gazette 17 Dec 1999 p. 6215.]

44. Contents of notices

Prior notice of transport referred to in regulation 42(1)(a) or notice lodged under regulation 43(1) shall state —

- (a) the date of transport; and
- (b) the identifying particulars of the aircraft or vehicle, or the name and number of the boat, to which the relevant notice relates; and
- (c) the source, location, number and destination of the pearl oysters to be transported, and the time and date of arrival of those pearl oysters at that destination,

and, if any of the particulars referred to in paragraph (a), (b) or (c) is omitted from the relevant notice, that notice is deemed not to have been given or lodged, as the case requires.

[Regulation 44 amended in Gazette 17 Dec 1999 p. 6215-16.]

Part 7A — Hatcheries

[Heading inserted in Gazette 17 Dec 1999 p. 6216.]

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.

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.

Penalty: \$2 000.

*[Regulation 44A inserted in Gazette 17 Dec 1999 p. 6216;
amended in Gazette 24 Sep 2013 p. 4387.]*

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.

Penalty: \$2 000.

[Regulation 44B inserted in Gazette 17 Dec 1999 p. 6216-17; amended in Gazette 24 Sep 2013 p. 4387.]

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.

[Regulation 44C inserted in Gazette 17 Dec 1999 p. 6217.]

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 —

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- (i) the number of pearl oysters in the group; and
 - (ii) the tag numbers of those pearl oysters; and
 - (iii) the name of the licensee or permit holder from whom the pearl oysters were obtained; and
 - (iv) the location from which the pearl oysters were obtained; and
 - (v) if the broodstock is sold, details of when and to whom it is sold; and
 - (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; and
 - (ii) details of any tanks and equipment that were cleaned and disinfected; and
 - (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; and
 - (b) the batch number of the spat produced; and
 - (c) the approximate number of spat hatched from those eggs; and
 - (d) the times and dates when settlement starts and finishes; and

- (e) the approximate number of spat settled; and
 - (f) each time spat are culled from the batch —
 - (i) the date of the cull; and
 - (ii) the approximate number of spat retained after culling; and
 - (iii) the condition of the spat which is culled; and
 - (iv) details of when and how the culled spat are disposed of;
 - and
 - (g) a weekly record of the size and stage of the spat; and
 - (h) the date and time samples are taken from the batch in accordance with the *Fish Resources Management Regulations 1995* Part 13A; and
 - (i) the size and approximate number of spat in the batch at the time the samples referred to in paragraph (h) are taken; and
 - (j) the level of filtration of the water in which the spat are kept; and
 - (k) if the broodstock is sold, details of when and to whom it is sold; and
 - (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, allow the inspector to inspect the logbooks kept under subregulation (1).

Penalty: \$2 000.

[Regulation 44D inserted in Gazette 17 Dec 1999 p. 6217-19; amended in Gazette 24 Sep 2013 p. 4387.]

r. 44E

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.

[Regulation 44E inserted in Gazette 17 Dec 1999 p. 6219.]

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.

[Regulation 44F inserted in Gazette 17 Dec 1999 p. 6219.]

Part 7B — Spat collection

[Heading inserted in Gazette 17 Dec 1999 p. 6219.]

44G. Spat collection

- (1) A person shall not collect spat unless —
- (a) the person holds a licence or permit authorising that person to collect spat; and
 - (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.

[Regulation 44G inserted in Gazette 17 Dec 1999 p. 6219-20.]

Part 7C — Quarantine sites

[Heading inserted in Gazette 17 Dec 1999 p. 6220.]

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.

[Regulation 44H inserted in Gazette 17 Dec 1999 p. 6220.]

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.

[Regulation 44I inserted in Gazette 17 Dec 1999 p. 6220.]

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 Executive Officer of the department of the Public Service principally assisting the Minister to whom the administration of the *Fish Resources Management Act 1994* is for the time being committed in the administration of that Act.

*[Regulation 44J inserted in Gazette 17 Dec 1999 p. 6220;
amended in Gazette 24 Sep 2013 p. 4387.]*

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.

[Regulation 44K inserted in Gazette 17 Dec 1999 p. 6220.]

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 *Fish Resources Management Regulations 1995* Part 13A; or
- (b) it is dead and its disposal has been approved under regulation 44M; or
- (c) its removal is otherwise approved.

Penalty: \$2 000.

[Regulation 44L inserted in Gazette 17 Dec 1999 p. 6220-1; amended in Gazette 24 Sep 2013 p. 4387.]

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.

[Regulation 44M inserted in Gazette 17 Dec 1999 p. 6221.]

Part 7D — Nursery sites

[Heading inserted in Gazette 17 Dec 1999 p. 6221.]

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.

[Regulation 44N inserted in Gazette 17 Dec 1999 p. 6221.]

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.

[Regulation 44O inserted in Gazette 17 Dec 1999 p. 6221.]

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.

[Regulation 44P inserted in Gazette 17 Dec 1999 p. 6221.]

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 *Fish Resources Management Regulations 1995* Part 13A; or
- (b) it is dead and its disposal has been approved under regulation 44R; or
- (c) it is disposed of in accordance with regulation 44T; or

(d) its removal is otherwise approved.

Penalty: \$2 000.

*[Regulation 44Q inserted in Gazette 17 Dec 1999 p. 6221;
amended in Gazette 24 Sep 2013 p. 4387.]*

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.

[Regulation 44R inserted in Gazette 17 Dec 1999 p. 6222.]

**Part 7E — Growing out spat and seeding grown out
pearl oysters**

[Heading inserted in Gazette 17 Dec 1999 p. 6222.]

**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; or
 - (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.

[Regulation 44S inserted in Gazette 17 Dec 1999 p. 6222.]

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.

[Regulation 44T inserted in Gazette 17 Dec 1999 p. 6222-3.]

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; and
 - (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.

[Regulation 44U inserted in Gazette 17 Dec 1999 p. 6223.]

Part 8 — General

45. Miscellaneous offences

A person shall not, except in accordance with a condition imposed on a licence or permit or as otherwise approved —

- (a) take or attempt to take, or permit or suffer his or her agent, employee or subordinate to take or attempt to take, pearl oysters by any means except by diving and by hand; or
- (b) have on board a boat any equipment capable of being used for the taking of pearl oysters, other than pearl diving equipment; or
- (c) kill, or permit or suffer his or her agent, employee or subordinate to kill, a pearl oyster except for —
 - (i) pearl seeding operations on a holding site or pearl oyster farm; or
 - (ii) pearl harvesting purposes on a pearl oyster farm;or
- (d) have on board a catcher boat any dead pearl oyster; or
- (e) conduct or attempt to conduct, or permit or suffer his or her agent, employee or subordinate to conduct or attempt to conduct, pearl culture techniques except on a holding site or pearl oyster farm.

Penalty: \$2 000.

[Regulation 45 amended in Gazette 17 Dec 1999 p. 6223.]

46. Sizes of letters and numbers on floats

A person who for the purposes of these regulations brands a float with letters or numbers or both shall do so with letters or numbers or both each of which is not less than 6 cm high and 1 cm wide.

Penalty: \$500.

47. Persons who may use, or transport pearl oysters to, holding sites

A person, other than a licensee or permit holder authorised under section 19 of the Act to use a holding site, shall not —

- (a) use the holding site for pearling or hatchery activities; or
- (b) transport pearl oysters to the holding site, without the written approval of the CEO.

Penalty: \$2 000.

[Regulation 47 amended in Gazette 17 Dec 1999 p. 6223; 15 Apr 2011 p. 1417.]

48. Pearl boat licence number

- (1) A pearl boat licence shall identify the boat in respect of which it is issued by assigning to that boat a number, consisting of letters and numbers or numbers only, which is different from the number assigned to any other boat by another pearl boat licence.
- (2) The master of a boat in respect of which a pearl boat licence is issued shall ensure that there is at all times legibly painted —
 - (a) in black on a yellow background; and
 - (b) in letters and numbers or numbers only, as the case requires, each of which is not less than 30 cm high and 5 cm wide or is of such other dimensions as are approved,

on both sides of the hull of that boat at the turn of the bow the number assigned to that boat by the pearl boat licence.

Penalty: \$500.

- (3) A person shall not own, control or use a boat bearing a number referred to in subregulation (2) unless a pearl boat licence is in force in respect of that boat.

Penalty: \$500.

r. 48A

- (4) A person who owns or controls a boat bearing a number referred to in subregulation (2) shall not permit or suffer another person to use that boat unless a pearl boat licence is in force in respect of that boat.

Penalty: \$500.

[Regulation 48 amended in Gazette 17 Dec 1999 p. 6223.]

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.

[Regulation 48A inserted in Gazette 17 Dec 1999 p. 6224.]

[49. *Omitted under the Reprints Act 1984 s. 7(4)(f).]*

Schedule 1

[Regulations 3 and 5]

Designated containers

Type	Specification
6 pocket panel	<p>The frame of this panel is made of steel, is of a flat, rigid construction with a maximum length of 870 mm and a maximum width of 510 mm and is covered with mesh net.</p> <p>This panel contains 6 mesh net pockets, each of which has a maximum length of 290 mm and a maximum width of 230 mm.</p>
8 pocket panel	<p>The frame of this panel is made of steel, is of a flat, rigid construction with a maximum length of 910 mm and a maximum width of 460 mm and is covered with mesh net.</p> <p>This panel contains 8 mesh net pockets, each of which has a maximum length of 230 mm and a maximum width of 230 mm.</p>
9 pocket panel	<p>The frame of this panel is made of steel, is of a flat, rigid construction with a maximum length of 590 mm and a maximum width of 560 mm and is covered with mesh net.</p> <p>This panel contains 9 mesh net pockets, each of which has a maximum length of 230 mm and a maximum width of 230 mm.</p>
10 compartment basket	<p>The frame of this basket is made of steel, is of a rigid, rectangular construction and has a maximum length of 710 mm, a maximum width of 220 mm and a maximum depth of 220 mm.</p> <p>This basket contains 10 compartments, each of which is made of steel, is of a rigid, rectangular construction and has a maximum length of 70 mm, a maximum width of 220 mm and a maximum depth of 220 mm.</p>

Schedule 2 — Requirements for hatcheries

[Regulations 44A and 44B]

[Heading inserted in Gazette 17 Dec 1999 p. 6224.]

Division 1 — Cleaning and disinfecting

[Heading inserted in Gazette 17 Dec 1999 p. 6224.]

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 1 inserted in Gazette 17 Dec 1999 p. 6224.]

Division 2 — Treatment of water, air and equipment

[Heading inserted in Gazette 17 Dec 1999 p. 6225.]

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.

[Division 2 inserted in Gazette 17 Dec 1999 p. 6225.]

Notes

¹ This reprint is a compilation as at 26 August 2011 of the *Pearling (General) Regulations 1991* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Pearling (General) Regulations 1991</i>	27 Dec 1990 p. 6335-66 (erratum 11 Jan 1991 p. 47-8)	1 Jan 1991 (see r. 2 and <i>Gazette</i> 21 Dec 1990 p. 6199)
<i>Pearling (General) Amendment Regulations 1991</i>	26 Apr 1991 p. 1864	26 Apr 1991
<i>Pearling (General) Amendment Regulations 1992</i>	30 Jun 1992 p. 2873-4	1 Jul 1992 (see r. 2)
<i>Pearling (General) Amendment Regulations 1993</i>	29 Jun 1993 p. 3170-2	1 Jul 1993 (see r. 2)
<i>Pearling (General) Amendment Regulations 1994</i>	28 Jun 1994 p. 3014-15	1 Jul 1994 (see r. 2)
<i>Pearling (General) Amendment Regulations (No. 2) 1995</i>	22 Dec 1995 p. 6170-1	1 Jan 1996 (see r. 2)
<i>Pearling (General) Amendment Regulations (No. 2) 1998</i>	8 Dec 1998 p. 6570-1	8 Dec 1998
<i>Pearling (General) Amendment Regulations (No. 3) 1998</i>	18 Dec 1998 p. 6757-8	18 Dec 1998
<i>Pearling (General) Amendment Regulations 1999</i>	17 Dec 1999 p. 6199-225	1 Jan 2000 (see r. 2)
Reprint of the <i>Pearling (General) Regulations 1991</i> as at 26 Apr 2000 (includes amendments listed above)		
<i>Pearling (General) Amendment Regulations (No. 2) 2002</i>	28 Jun 2002 p. 3068-9	1 Jul 2002 (see r. 2)
<i>Pearling (General) Amendment Regulations 2002</i>	10 Sep 2002 p. 4594-5	10 Sep 2002
<i>Pearling (General) Amendment Regulations 2003</i>	19 Aug 2003 p. 3713-14	8 Nov 2003 (see r. 2 and <i>Gazette</i> 2 Sep 2003 p. 3923)
<i>Pearling (General) Amendment Regulations (No. 2) 2003</i>	7 Oct 2003 p. 4380-1	7 Oct 2003

Pearling (General) Regulations 1991

Citation	Gazettal	Commencement
<i>Pearling (General) Amendment Regulations 2005</i>	15 Nov 2005 p. 5597-8	15 Nov 2005
Reprint 2: The <i>Pearling (General) Regulations 1991</i> as at 5 May 2006 (includes amendments listed above)		
<i>Pearling (General) Amendment Regulations 2007</i>	10 Jul 2007 p. 3417-18	r. 1 and 2: 10 Jul 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jul 2007 (see r. 2(b))
<i>Pearling (General) Amendment Regulations 2011</i>	15 Apr 2011 p. 1415-17	r. 1 and 2: 15 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2011 (see r. 2(b))
<i>Pearling (General) Amendment Regulations (No. 2) 2011</i>	29 Apr 2011 p. 1523	r. 1 and 2: 29 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Apr 2011 (see r. 2(b))
Reprint 3: The <i>Pearling (General) Regulations 1991</i> as at 26 Aug 2011 (includes amendments listed above)		
<i>Pearling (General) Amendment Regulations 2013</i>	24 Sep 2013 p. 4386-7	r. 1 and 2: 24 Sep 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Sep 2013 (see r. 2(b))

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
approved	3(1)
approved form.....	3(1)
approved quota.....	9(2)
approved transfer	9(2)
batch.....	3(1)
broodstock.....	3(1)
catcher boat	3(1)
certificate of health	3(1)
current certificate	7(3)
designated container	3(1)
due date.....	9A(3)
dump	3(1)
filled.....	3(1)
fleet master.....	3(1)
full amount outstanding of the fee	9A(4)
GDA.....	4(1)
grow out	3(1)
GRS80.....	4(2)
hatchery.....	3(1)
hatchery (nursery) licence or permit	3(1)
holding site.....	3(1)
length	3(1)
licensee	3(1)
medical practitioner	7(3)
minimum length.....	3(1)
notice of pearling or hatchery activity	3(1)
nursery site.....	3(1)
operated pearl oyster dump	3(1)
operation boat	3(1)
panel.....	3(1)
pearling (seeding) licence or permit.....	3(1)
pearling (wildstock) licence or permit	3(1)
permit holder.....	3(1)
place.....	3(1)
quarantine site.....	3(1)
quarter.....	18C(2)
returned pearl oyster dump	3(1)
seeding.....	3(1)
settlement.....	3(1)
spat.....	3(1)

spat collector	3(1)
tag	3(1)
tagged designated container	3(1)
transport boat	3(1)
wildstock.....	3(1)