



Proposal COM (2018) 368 final (Control Regulation)

Measures relating to the specific consideration of vessels used in aquaculture, the traceability of aquaculture products and recreational shellfish fishing

Recommendation – March 2019



Advice on the European Commission's Proposal

COM (2018) 368 final for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control

Measures relating to the specific consideration of vessels used in aquaculture, the traceability of aquaculture products and recreational shellfish fishing

Legal basis	Art. 44 of regulation (UE) 1380/2013
Procedure	2.b (initiative to EC)
References / documents	European Commission, 2016. Dutch Policy Guideline on tetrodotoxin in live bivalve molluscs
CELEX main document	2016/175/NL
Other ID	
Working Group responsible	Shellfish Working Group
Rapporteur	Bruno Guillaumie
Internal legal basis	Art. 3 of AAC statutes and 6 of MAC statutes
Internal ID	2017/002
WG Meetings / Written consultation dates	Version / revision
<ul style="list-style-type: none"> • SWG meeting, 03/10/2018 • HWG written consultation, 07/11/2018 • Circulation, draft final, 28/11/2018 	Presentation of the Industry opinion First draft advice v1rev0 v1rev1 agreed on 14/12/2018
EXCOM meetings	
<ul style="list-style-type: none"> • AAC circulated the 14/12/2018 	Adopted on 27/03/2019
Notifications	
EC – DG MARE	[29/03/2019]
PE – Rapporteur, MP Isabelle Thomas	[29/03/2019]
MS – Fisheries' Directors at Council level	[29/03/2019]
Follow up and comment received	



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1 Explanatory statement

The definition of fishing vessels and the principle of registration of these vessels in national files consolidated at the European level in the corresponding Community register exists since the adoption of Regulation 2371/2002 (Articles 3 and 15) in 20 December 2002. In 2004, a Commission regulation specified the functioning of the Community fishing fleet register (Regulation (EC) No 26/2004 of 30/12/2003). Regulation 1380/2013 of 11/12/2013 modifies that of 2002 by incorporating the principles set out above in Articles 4 (definition) and 24 (file). Finally, the Implementing Regulation of (EU) 2017/218 of 6 February 2017 amends the 2013 Regulation by defining aquaculture vessel in Article 2(d) to introduce a registration derogation in Article 3.

The proposal for a revision of this regulation is today on the Council and Parliament table through the Commission proposal CM (2018) 368 final. The concept of catching vessels would be added (Article 1 (k) (34)) and a number of derogations concerning fishing vessels of less than 15 or 12 meters were repealed, thus making new provisions for this type of vessels compulsory. The vast majority of aquaculture service vessels measuring less than 15 meters, they were covered by these exemptions. The repeal of the derogations makes it necessary to define aquaculture vessels, whose purpose is only to transport personnel, livestock or cultivation equipment as well as farmed and cultivated products for the purpose of handling them until their harvest, provided that they are and remain the private property of the operator, natural or legal person, and that their reproduction is controlled. The necessary control of fishing and catching vessels with a view to managing and preserving a common and shared natural resource is therefore, for aquaculture vessels handling a controlled resource since its reproduction until its harvesting, an operator's private ownership from the beginning to the end of the operating cycle, is totally irrelevant. It is therefore necessary to include a definition of the aquaculture vessel in the CFP Regulation No 1380/2013 rather than Regulation No 1442/2009, which regulates only part of the Common Fisheries Policy. This way, distinction is ensured and the management regime of aquaculture vessels is separated from that of fishing vessels.

The new provisions following the amendments to Regulation No 1224/2009 will therefore not apply to the aquaculture vessels. Considering that certain vessels can be used both for fishing and aquaculture activities, it is necessary in that case to define the rules that the most stringent rules should apply: those for fishing vessels. Finally, it is necessary to register these vessels so as to know the existing means for aquaculture exploitation on the one hand, and allow, under conditions to frame, the change of use of these vessels. Indeed, certain fishing vessels may, by their shape or by the nature of the zootechnical activities practiced, be converted into aquaculture vessels and vice versa, for example, dredging vessels.

For information, a quick survey among AAC Members makes it possible to estimate the fleet of aquaculture vessels as follows:

Member State	Number of vessels	Remarks
France	5 924	And about 6000 annexes
Spain	4 613	3337 rafts +1276 vessels ; and about 2000 annexes
Italy	3 000	1000 < 10m ; 10m < 2000 <22m
The Netherlands	82	
Ireland	74	
TOTAL « shellfish »	13 693	8 000 annexes
Croatia	6	
Finland	11	
France	30	
Germany	3	
Greece	1	
Ireland	111	
Italy		
Romania		About 1 500 annexes used in fish farming ponds (estimation because no obligation to register vessels less than 8m)
Spain	100	
The Netherlands	112	
United Kingdom	3	
[...]		
TOTAL « finfish »	377	1 500 annexes
TOTAL « aquaculture »	14 070	9 500 annexes

In addition, the AAC agrees that it is relevant to define and number the batches of aquaculture products on the EU market and the imports from third countries. The AAC considers that the provisions already in force in the 2002 Food Law and the 2004 "Hygiene Package", in particular those relating to food products of animal origin, are sufficient in this respect. The concepts of traceability and approval of marine living resources operators dealt with in Article 58 (5) (a) and (b), as well as those relating to the specificities of imported marine products dealt with in Article 56a (6), should therefore specify that aquaculture products are governed by the relevant provisions analysed in detail in the Annex to this advice.

Furthermore, the AAC very much welcomes the idea of the proposed provisions for the registration and declaration of recreational anglers in Article 55, particularly those that collect shellfish off the coasts of the European Union. Indeed, the pressure exerted by the latter on wild stocks is high in some places. These stocks are the breeding adults that emit gametes at open sea. It is the overabundant larvae resulting from the crossing of these gametes that are captured by shellfish farmers to be bred. It is therefore relevant to identify the level of recreational catches on the shellfish stocks of our coasts. In addition to registration and reporting, the AAC believes that wild shellfish recreational fishermen should be organized into representative structures so that they can be involved in a consensus dialogue. The representation of these structures within the professional organisations of fisheries and aquaculture should, in return, be ensured. Additionally, the AAC considers that a fee, even symbolic, should be set up by the Member States on a voluntary basis. Part of this

fee should be used for monitoring, studying and control of wild shellfish beds, even these missions are conducted by professional fisheries or aquaculture organisations. A secondary act should specify the application of these main principles. As an illustration, some studies on recreational fishermen are underway in France with funding from IFOP and the LIFE program. A first research by the French Department of Maritime Fisheries and Aquaculture, the research institute IFREMER and a BVA survey concluded in 2009 at an average penetration rate of 5.1% of the population over 15 years in metropolitan France and 8.47% in the French Overseas. The number of recreational fishermen is thus estimated in this survey at 2.450 million in mainland France and 135 000 in overseas regions, a total 2.585 million for an estimated catch of 15.000 t of shellfish. Since then, the work and field surveys continue through a strong network of experts. The results and recommendations are published on a website: <http://www.pecheapied-loisir.fr/>

2 Proposal of amendments

Union aquaculture vessel: an aquaculture vessel flying the flag of a Member State and registered in the Union

AAC proposes to add an Article 4bis, by adding the following 6 paragraphs to Article 24 of Regulation 1380/2013:

1. *Member States shall record information on the ownership, characteristics of vessels, their equipment and the activities of Union flagged vessels which are required for the management of the measures provided for in this Regulation.*
2. *Member States shall present to the Commission the information referred to in paragraph 1.*
3. *The Commission shall maintain a register of the EU aquaculture fleet containing the information it receives pursuant to paragraph 2.*
4. *The Commission shall adopt implementing acts setting out the technical operational requirements applicable to the recording, format and methods of transmission of the information referred to in paragraphs 1, 2 and 3. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 47 (2).*
5. *In the context of this registration, mixed aquaculture vessels are considered by the Commission as fishing vessels and meet the same requirements as the latter.*
6. *The Commission shall take the necessary measures to enable the records relating to catching vessels, aquaculture vessels and mixed aquaculture vessels to communicate*

with each other in order to facilitate the change of status of a vessel, while framing such a change of destination.

It is proposed to add a derogation for aquaculture vessels from the obligations imposed on fishing vessels in Articles 9, 9a, 10, 12, 14, 15 and 15a, inserted at the end of Article 24a as follows:

7. Aquaculture vessels do not fall within the scope of Articles 9, 9a, 10, 12, 14, 15 and 15a.

It is proposed to add an exception to Article 56a (6)

6. This article shall only apply to fishery product falling under Chapter 3 and under heading 1604 and 1605 of chapter 16 of the Combined Nomenclature established by Council Regulation (EEC) N°2658/87. Aquaculture product shall comply with the provisions of article 11 and 12 of Regulation (CE) N° 854/2004.

It is proposed to add an exception to Article 58 (5) (a):

5 a) Information on lots of fishery products, except products imported into the Union, the information referred to in paragraph 2 shall include : [list without change] information of aquaculture products shall comply with provisions of article 18 of regulation (CE) N°178/2002 and annexes II and III of regulation (CE) N°853/2004.

It is proposed to add an exception to Article 58 (5) (b):

5 b) the unique fishing trip identification number(s) referred to in Article 14(2)(a) of all fishery products included in the lot. The registration number of the aquaculture production unit referred to in article 4, and paragraphs 3 to 7 of Chapter I of Section VII (Annex III) of regulation (CE) N°853/2004 shall be mentioned.

It is proposed to complement Article 55 (recreational fishing) by inserting two new paragraphs 3 and 4, the following ones being renumbered:

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- 3 *Registration or licensing system referred to in paragraphs 1 and 2 may be subject to fee. Whole or part of this fee should be affected to professional organizations recognized by Member-States for the purpose of management and control of recreational products or resources, especially natural shellfish beds.*
 - 4 *Natural and legal persons involved in recreational fishing referred to in paragraphs 1 and 2 should be encouraged to organize themselves on a voluntary basis in organizations that should be recognize by the competent authority in Member-States.*
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3 Dissenting opinion

EXPRESSED BY 20% OF THE EXECUTIVE COMMITTEE OF THE AQUACULTURE ADVISORY COUNCIL.

The European commission's definition of "catching vessels" is clear that this does not include "Aquaculture service vessels". We therefore do not see a need to make further proposal on that aspect including a "derogation". However, it is important that when an aquaculture service vessel is also utilized as a catching vessel, then the "catching vessel" definition applies, and so do all the other rules.

We support the need to register all vessels active in European waters and their purpose. Therefore, aquaculture service vessels as well as vessels used for recreational purposes should be registered.

We support the need to monitor the activities of recreational fisheries, including to study and understand their impacts on shellfish populations. However, we disagree with imposing a fee within the Control Regulation, as we do not see that this should be the purpose of this Regulation. Furthermore, we believe that this is not the prerogative of the EU, but that of the Member States to establish such a fee when establishing and applying the rules of recreational fishing licenses.

With regards to the EU controlling how recreational fisheries organize themselves – this is also not the prerogative of the EU to mandate citizens to organize themselves. Nevertheless, the EU can support citizen's initiatives to organize themselves. For the purpose of controlling recreational activities, it is the Member States to ensure that citizens are abiding with the rules.

With regards to lots, we understand the problem with being able to sell aquaculture products directly to the consumer if this is placed in lots. Nevertheless, we believe that if the rule is to be established for fishing then this should also apply to aquaculture. If the rule is to be deleted completely regarding lots or amended, then we would propose that it is also included control of marketed products that are to be directly sold to the consumer.

We disagree with the exceptions related to traceability of aquaculture products from the Union and believe that these rules should apply to aquaculture products as well regardless if the product is to be sold in a lot or not.

4 Appendix: Shellfish products as food products of animal origin

Sanitary approval of dispatchers, traceability of breeding lots as well as products imported or exported

4.1 TRACEABILITY OF BVM

Traceability for BVM is defined in Article 3 of Regulation (EC) No 178/2002. BVMs meet the definition of foodstuff (Article 2). Article 18 gives the general principles of traceability which are further developed in Annex II (Section I) and Annex III (Section VII) of Regulation (EC) No 853/2004.

Paragraphs 3 to 7 of Chapter I of Section VII (Annex III) of Regulation (EC) No 853/2004 set out the documentation requirements to transfer batches of shellfish between the different actors of the shellfish food sector: creation of a **registration document** with different information depending on the shipment destination of shells.

The concept of **identification/labelling mark** applied to products for sale is described in Section I of Annex II (Regulation (EC) No 853/2004) and in Annex III, Section VII Chapter VII. Several regulations are to be cross-referenced to know all the information to be written on a shipping label (see image below).



1. Règ. (CE) n°1224-2009 art.58 §5 f)
2. Règ. (UE) n°1379-2013 art.35 §1 b)
3. Règ. (UE) n°1379-2013 art.35 §1 c) et art. 38 §1 c)
4. Règ. (CE) n°1224-2009 art. 58 §5 e)
5. Règ. (UE) n°1379-2013 art. 38 §2
- 5 Prime.
6. Numéro d'agrément sanitaire

7. Règ. (UE) n°1379-2013 art.35 §1 a) + Règ., (CE) n°853/2004
8. Règ. (CE) n°1224-2009 art.58 §5 c)
9. Règ. (CE) n°1224-2009 art.58 §5 d)
10. Règ. (UE) n°1379-2013 art.35 §1 e) + Règ. (CE) n°853/2004 chap. VII section VII de l'annexe III
11. Traçabilité interne
12. Accords interprofessionnels dénomination

This work summarizes all the information related to BVM labelling. The notion of batch is not regulated. This traceability is specific to the company, hence the non-definition of "batch" and "batch number" in the regulations.

4.2 HEALTH APPROVAL

According to Article 4 of Regulation (EC) No 853/2004, the establishments handling products of animal origin subject to the requirements of Annex III of that Regulation may only operate if the Competent Authority provides them with a health approval in accordance with Regulation (EC) No. 854/2004. Thus, sanitary approval is provided to the purification and shipping centres if they meet the requirements of the said regulations and of Annex II, Section VII of Regulation No. 853/2004.

It should be noted that establishments that only provide primary production activities, (...) the storage of products that do not require temperature regulation, (...) retail sales activities other than those to which this Regulation applies in accordance with Article 1 (5) (b), do not need to obtain a health approval.

4.3 IMPORT AND EXPORT: TRACEABILITY REQUIREMENTS

The requirements for the **traceability of imported BVM** not originating in the EU are summarized in Article 6 of Regulation 853/2004. In particular, imports may take place only if:

- The third country of dispatch appears on a list, drawn up in accordance with Article 11 of Regulation (EC) No 854/2004, of third countries from which the importation of this product is authorized;
- Similarly for the establishment from which the product was shipped and in which the product was obtained or prepared (Article 12 of Regulation N ° 854/2004);
- Similarly for the production area from which the BVM originate (Article 13 of Regulation 854/2004);
- The product complies with the requirements of Article 5 of Regulation No. 853/2004 relating to the health and identification mark, the requirements of Regulation (EC) No. 852/2004 and the import conditions defined according to EU legislation governing controls on imports of products of animal origin;
- Certificates and other documents are required, as required by Article 14 of Regulation (EC) No. 854/2004.

Article 12 of Regulation No. 178/2002 sets out the general principles for **the export of foodstuffs** from the European Union. Foodstuffs exported or re-exported shall comply with the applicable requirements of food law, unless otherwise provided by the authorities of the importing country or in the laws, regulations, standards, codes of practice and other legislative and administrative procedures in force in the importing country. Thus, traceability requirements for exported products are decided between the EU and the exporting country. The requirements are different depending on the countries.



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