

**REGULATORY & LEGISLATIVE
FRAMEWORKS FOR LICENSING NEW
AQUACULTURE FARMS (ONSHORE &
OFFSHORE) IN THE ATLANTIC AREA
REGION (ANDALUCÍA REGION)**

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REGULATORY AND LEGISLATIVE FRAMEWORKS FOR LICENSING NEW AQUACULTURE FARMS (ONSHORE AND OFFSHORE) IN THE ATLANTIC AREA REGION (ANDALUCÍA REGION)

INTRODUCTION

As part of the programme of work included in Work Package Six of the Access2Sea project, Action Two involved Project Partners undertaking to characterise the project territory's regulatory and legislative frameworks for licensing new aquaculture farms in the Atlantic Area (onshore and offshore). The objective of this Action is to facilitate data comparison across the participating regions and to highlight best case models in regulatory and legislative frameworks.

Project Partners from the Andalucía region in the Access2Sea project collected the following information relating to the regulatory and legislative environment in their own region:

1. Policy Context for Aquaculture Regulation
2. Analysis of Socio-Economic Impact on Coastal Communities
3. Legislation and Regulations
4. Regulatory Agencies and their roles
5. Licensing Application Process
6. Identification of Best Practices in regulation and licensing
7. Related Scientific Publications

Andalucía Region

Partners: CEEI (LP) / CTAQUA (P4)
Country: SPAIN

1) Policy Context for Aquaculture Regulation in Andalucía

In relation to regulatory policies within the framework of the region of Andalucía for the Development of Marine Aquaculture activities, these are regulated by:

- Decree 58/2017 of April 18th
- Law 1/2002 of April 4th

The Decree specifies the corresponding processes to obtain authorizations or permits for the development of aquaculture activities related to:

- Marine Aquaculture Authorization.
- Environmental Authorization.
- Waste Discharge Permit.
- Concession for the Use of Space of Maritime-Terrestrial Public Domain.
- Concession for the Use of Space of Public Port Domain.
- Beaconing.

Likewise, spatial planning, control and development of marine fisheries and marine and seafood aquaculture, is regulated by Law 1/2002 of April 4.

The regulation and promotion of marine aquaculture, as an activity integrated in the fishing sector, will have the aim of maximising the use of natural resources and the rational and sustainable development of the activity respecting the environment and increasing its competitiveness.

The main regulatory agencies for these actions are the following:

- Directorate General for Fishery and Aquaculture.
- Directorate General for Prevention and Environmental Quality.
- Directorate General for Coastal and Maritime Sustainability.
- Public Ports Agency of Andalucía.
- National State Ports (Spanish Ministry of Development and the Public Ports Agency of Andalucía).

In relation to the authorization request procedure, it includes the following permits that must be assessed by its competent bodies:

- The Environmental authorization and the waste discharge permit have the General Directorate of Environmental Prevention and Quality as the competent body.
- The concessions for the use of the maritime-terrestrial public domain space have the General Directorate of Coastal and Maritime Sustainability as the competent body.
- The concessions for the use of the domain space of the Public Port have the Public Ports Agency of Andalucía as the competent body.
- The State Ports and the Public Ports Agency of Andalucía are the competent bodies for Beaconing authorizations.

Finally, in the regional framework, Andalucía has a Smart Specialization Strategy, the RIS3. The RIS3 Strategy is a challenge that the European Commission has launched to all regions with the final objective of promoting a new economic model, focused on companies, and based on a firm and determined commitment to innovation, science, technology, internationalization and training.

On the other hand, Andalucía has the Strategy for the Development of Marine Aquaculture 2014-2020. Within the framework of this strategy, lines are established within a sustainable and competitive development of aquaculture, acting on the promotion of innovation and technological development for the progress of aquaculture activities.

With respect to the national regulatory framework, these activities are focused on compliance with the National Multi-Annual Strategic Plan for Aquaculture.

The Spanish Aquaculture Strategic Plan is part of the new Common Fisheries Policy (CFP) and the European Maritime and Fisheries Fund (EMFF) and seeks to respond in strategic guidelines for the

sustainable development of aquaculture proposed by the European Commission (Com (2013) 229 final) concerning common priorities and needs for the development of the sector.

2) Analysis of Socio-Economic Impact on Coastal Communities

Research carried out by the Access2Sea Partners in Andalucía showed that a majority of respondents think that aquaculture activities in Andalucía have the potential to provide employment, as the sector is growing and will therefore create direct and indirect staff needs. When considering the different sectors, it was felt that currently the aquaculture sector is not considered by the public administration as a sector that creates stable employment and/or economic wealth. However, by establishing a network and cooperation between research and industry it could become more sustainable in sustaining employment and livelihoods. The academic view in this regard was that there are many influencing factors, like any sector, resulting more from the politics in the respective country than from the sector itself. It can create jobs, but it's not a wide-ranging sector that offers many employment opportunities. The response from public administration seemed to be more focused on the fact that the sector can offer stable employment, but this is dependent on availability of the required expertise.

Among the 36 respondents there was a clear consensus that products from aquaculture can enhance the supply of seafood. In fact, 21 respondents (55,3%), of which 8 were from the general public, 7 from the industry, 3 from public administration and 3 from academia, stated that the extent to which aquaculture activities contribute to enhancing seafood products from the sea is very significant, followed by 13 respondents (34,2%), of which 5 were from the general public, 5 from public administration, 2 from the industry and 1 from academia, consider it significant. Although the explanations ranged, there were clear overlaps between the advantages of consuming products from aquaculture compared to other sources. For example, the most common denominator among the responses are price/quality ratio, continuous availability, environmental benefits, e.g. avoiding overexploitation of wild populations, and standardized quality control from the start, e.g. avoiding risks of contamination and controlled animal welfare.

Among the 37 respondents, 17 (45,9%) state that the contribution to national tax revenue (national GDP) is minimal, followed by 10 (27%) giving the contribution slightly more importance. However, there was a clear consensus that a growing sector would, of course, create employment and, consequently, contribute not only to national GDP in Spain but also to regional economic growth in Andalucía.

3) Legislation and Regulations in Andalucía

The legislation concerning authorization for the development of marine aquaculture activities in Andalucía is included in the Decree 58 / 2017, of April 18 that regulates marine aquaculture in Andalucía.

This decree was published in the Official Gazette of the Andalusian Regional Executive and its aim is to establish the administrative process for marine aquaculture authorizations, as well as to regulate the registration of marine aquaculture facilities in the Official Register created for this purpose by Law 1 / 2002 of April 4, for the space planning, control and development of Maritime Fisheries and Shellfish and Marine Aquaculture.

The decree specifies the corresponding processes to obtain the following permits as well as competent bodies that regulate them:

- Marine Aquaculture Authorization
- Environmental Authorization
- Waste Discharge Permit
- Concession for the Use of Space of Maritime-Terrestrial Public Domain (if needed)
- Concession for the Use of Space of Public Port Domain. (if needed)
- Beaconing (if needed)

4) Regulatory Agencies and their roles in Andalucía

1. **Directorate General for Fishery and Aquaculture.** It belongs to the Andalusian Department of Agriculture, Livestock, Fishery and Sustainable Development. Main competent body for the regulation of the Marine Aquaculture Activities Authorization and for the incorporation of the new activity in the Register of Livestock Holdings (REGA).
2. **Directorate General for Prevention and Environmental Quality.** It belongs to the Andalusian Department of Agriculture, Livestock, Fishery and Sustainable Development. Competent body for the regulation of the Environmental Authorization and the Waste Discharge Permit.
3. **Directorate General for Coastal and Maritime Sustainability.** It belongs to the Spanish Ministry for Ecological Transition. Competent body for the regulation of the Concession for the Use of Space of Maritime-Terrestrial Public Domain. (if needed).

4. **Public Ports Agency of Andalucía.** It belongs to the Andalucían Department of Development, Infrastructures and Spatial Planning. Competent body for the regulation of the Concession for the Use of Space of Public Port Domain. (if needed).
5. **National State Ports** which belongs to the Spanish Ministry of Development, and the **Public Ports Agency of Andalucía** which belongs to the Andalucían Department of Development, Infrastructures and Spatial Planning, are both the two competent bodies for the regulation of the Beaconing (if needed).

5) Application Process in Andalucía

GENERAL PROCEDURE FOR MARINE AQUACULTURE ACTIVITIES AUTHORIZATION

1. COMPETENT BODY: **Directorate General for Fishery and Aquaculture** - ANDALUCÍAN DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERY AND SUSTAINABLE DEVELOPMENT.
2. CONTENT OF THE APPLICATION: The application form for the **Marine Aquaculture Activities Authorization** varies depending on the location and type of facility.
 - 2.1. Authorisation for **MARITIME-TERRESTRIAL PUBLIC DOMAIN** use of space
 - 2.2. Authorisation for **PRIVATE DOMAIN** use of space
 - 2.3. Authorisation for **PUBLIC PORT DOMAIN** use of space
 - 2.4. Authorisation for **EXPERIMENTAL PURPOSES** activities.
3. STEP 1: **Public information:** After legislative verification, the project is published in the Official Andalucían Gazette (BOJA). This step is not needed for PRIVATE DOMAIN.
4. STEP 2: **Official information and consultation:** Simultaneously with Public information, reports from different institutions and bodies are compiled.

After STEP 1 and STEP 2, the pertinent **Territorial Delegation** draws up the Technical Report

5. STEP 3: **Culture Authorization**: The **Directorate General for Fishery and Aquaculture** submits a motion for a resolution including the conditions of the culture authorization.

The Procedure for Marine Aquaculture Activities Authorization includes the following authorizations / permits:

1. Environmental Authorization
2. Waste discharge permit
3. Concession for the use of space of Maritime-Terrestrial Public Domain (if needed)
4. Concession for the use of space of Public Port Domain (if needed)
5. Beaconing (if needed)

1. ENVIRONMENTAL AUTHORIZATION

- I. COMPETENT BODY: **Directorate General for Prevention and Environmental Quality - ANDALUCÍA DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERY AND SUSTAINABLE DEVELOPMENT.**
- II. CONTENT OF THE APPLICATION:
 - Descriptive memory
 - Project location
 - Diagnostic of the territorial and environmental condition
 - Other relevant documents if requested
- III. STEP 1: **Public information**: After verification of environmental legislation compliance, the corresponding **Territorial Delegation** publishes the project dossier in the Official Andalusian Gazette (BOJA).
- IV. STEP 2: **Official information and consultation**: Simultaneously with Public information, the corresponding **Territorial Delegation** submits the project and the environmental study to the local councils affected.
- V.
- VI. STEP 3: **Authorization**: Issue of the environmental authorization report

2. WASTE DISCHARGE PERMIT

- I. COMPETENT BODY: **Directorate General for Prevention and Environmental Quality - ANDALUCÍA** DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERY AND SUSTAINABLE DEVELOPMENT.
- II. CONTENT OF THE APPLICATION: Application form for discharge permit in MARITIME-TERRESTRIAL PUBLIC DOMAIN and PUBLIC WATER DOMAIN.
- III. STEP 1: **Application:**
 - Waste discharge statement.
 - If construction permit is needed, a preliminary report should be requested to the Territorial Delegation of Agriculture, Livestock, Fishery and Sustainable Development.
 - Report request to the component unit of hydrological planning
- IV. STEP 2: **Public information:** After verification of environmental legislation compliance, the corresponding **Territorial Delegation** publishes the project dossier in the Official Andalusian Gazette (BOJA).
- V. STEP 3: **Official information and consultation:** Simultaneously with Public information, reports from different institutions and bodies are compiled.
- VI. STEP 4: **Authorization:** After STEP 2 and STEP 3, the **Andalusian department of Agriculture, Livestock, Fishery and Sustainable Development** draws up a report including the waste discharge conditions.

3. CONCESSION FOR THE USE OF SPACE OF MARITIME-TERRESTRIAL PUBLIC DOMAIN

- I. COMPETENT BODY: **Directorate General for Coastal and Maritime Sustainability – SPANISH MINISTRY FOR ECOLOGICAL TRANSITION.**
- II. CONTENT OF THE APPLICATION: Included in the **Marine Aquaculture Activities Authorization.**

- III. STEP 1: **Application:** The promoter delivers the application form for the authorization of Marine Aquaculture Activities to the **Directorate General for Coastal and Maritime Sustainability**, who in turn issues the project to the **Peripheral Coast Service (SPC)**.
- IV. STEP 2: **Preliminary report / SPC:** The SPC evaluates the documentation and draws up a preliminary report which is submitted to the **Directorate General for Coastal and Maritime Sustainability**.
- V. STEP 3: **Mandatory report / Directorate General for Coastal and Maritime Sustainability:** The **Directorate General for Coastal and Maritime Sustainability** draws up the mandatory and binding report about the viability of the concession and conditions of use of space.
- VI. STEP 4: **Concession:** The **Directorate General for Coasts** informs the promoter about the conditions of the use of space concession. Subsequently, if the promoter accepts the conditions, the **Directorate General for Fishery and Aquaculture** submits the concession of the use of space.

4. CONCESSION FOR THE USE OF SPACE OF PUBLIC PORT DOMAIN

- I. COMPETENT BODY: **Public Ports Agency of Andalucía** - ANDALUCÍAN DEPARTMENT OF DEVELOPMENT, INFRASTRUCTURES AND SPATIAL PLANNING.
- II. CONTENT OF THE APPLICATION: The application will include:
 - Holder / Entity identification
 - Accreditation of economic and technical solvency
 - Basic project adapted to spatial planning of the port service area
 - Economic and financial memory of the project
 - Compliance with the specific conditions
 - Provisional guarantee
 - Another relevant documents if requested
- III. STEP 1: **Public information:** Publication in the Official Andalusian Gazette (BOJA).

- IV. STEP 2: **Official information and consultation:** Simultaneously with Public information:
- If the spatial planning of the port service area is not yet approved, a report from the planning authorities will be requested.
 - If the application aims to use the Public Domain pertaining to the Lighthouses Service, it needs the approval from **State Ports** – SPANISH MINISTRY OF DEVELOPMENT.
- V. STEP 3: **Concession:** The corresponding **Territorial Delegation** receives the final resolution and informs the promoter.

5. BEACONING

- I. COMPETENT BODY: **State Ports** – SPANISH MINISTRY OF DEVELOPMENT. **Public Ports Agency of Andalucía** - ANDALUCÍAN DEPARTMENT OF DEVELOPMENT, INFRASTRUCTURES AND SPATIAL PLANNING.
- II. CONTENT OF THE APPLICATION: The promoter delivers along with the aquaculture project, the following documentation:
- Current situation and existing signs.
 - Brief justification.
 - Location map including potential shipping obstructions, bathymetry, northern march and graph scale.
- III. STEP 1: **Application for provisional beaconing:** The **Territorial Delegation** makes the beaconing request to **State Ports** for the distribution of beacons and type of signs requested.
- IV. STEP 2: **Provisional beaconing:** The provisional beaconing authorization is reported to the **Territorial Delegation**, who in turn informs the promoter.
- V. STEP 3: **Definitive beaconing:** **State Ports** evaluates the definitive beaconing prosecution history in the **Lighthouses Commission**.

OTHER PERMITS AND REGISTRATIONS

1. REGISTER OF LIVESTOCK HOLDINGS (REGA)

- I. COMPETENT BODY: **Directorate General for Agriculture and Livestock Production – ANDALUCÍA** DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERY AND SUSTAINABLE DEVELOPMENT.
- II. CONTENT OF THE APPLICATION: REGA registration form

2. DATA BASE FOR IDENTIFICATION AND REGISTRATION

- I. COMPETENT BODY: **Directorate General for Fishery and Aquaculture – ANDALUCÍA** DEPARTMENT OF AGRICULTURE, LIVESTOCK, FISHERY AND SUSTAINABLE DEVELOPMENT.
- II. CONTENT OF THE APPLICATION: To be made ex officio

Licence Periods, Terms and Conditions in Andalucía

Marine Aquaculture Authorisation. First evaluation of the project, consultation and public information

- Administrative resolution: It depends on the type of space requested in the application:
 - a. Private estates: 3 months
 - b. Maritime-Terrestrial Public Domain or Public Port Domain: 6 months
- Competent body: Directorate General for Fishery and Aquaculture

Environmental authorization, waste discharge and water collection (this license is processed in parallel with the Marine Aquaculture Authorisation)

- Administrative resolution to obtain the Unified Environmental Authorization (AAU): 4 months (extendable to 6 months)
- Competent body: Directorate General for Prevention and Environmental Quality

Concession for the use of space of Maritime-Terrestrial Public Domain / Public Port Domain (either of two must be submitted after the resolution of the AAU).

- Administrative resolution:
 - a. Maritime-Terrestrial Public Domain: 6 – 8 months (it might be extended in some projects)
 - b. Public Port Domain: Up to 8 months
- Competent body:
 - a. Maritime-Terrestrial Public Domain: Directorate General for Coastal and Maritime Sustainability
 - b. Public Port Domain: Public Ports Agency of Andalucía

Beaconing authorization (it must be submitted after the resolution of the AAU)

- Administrative resolution:
 - a. Provisional authorization: 1-2 months
 - b. Definitive authorization: 3-4 months
- Competent body: National State Ports and Public Ports Agency of Andalucía

Register of Livestock Holdings (REGA) (it is included in the Marine Aquaculture Authorisation)

- Administrative resolution: N/A

Competent body: Directorate General for Fishery and Aquaculture

6) Best practice in regulation and licensing in Andalucía

The Aquaculture Committee of Andalucía, which reports to the Andalusian Department of Agriculture, Livestock, Fishery and Sustainable Development, created in 2017 different working groups for the analysis and follow up of relevant aspects related to the development of aquaculture activities in Andalucía.

These **Working Groups** include different agents involved in aquaculture activities such as representatives of the regional administration, stakeholders or those selected as permanent members of the committee.

The main objective of these Working Groups is to serve as a tool for channelling the needs and tackling relevant constraints and difficulties in relation to the development of aquaculture activities. Working groups are divided in five different topics being **Group 4** specific for the **Use of concessions and authorizations**.

These Working Group have a **face-to-face annual session** where the issues of interest related to the use of concessions and authorizations for aquaculture activities are discussed and solutions and corrective measures are proposed for their future implementation. Also, the follow up of previous measures is carried out and amended if necessary.

7) References:

Official Gazette of the Andalucía Regional Executive (BOJA)

<https://www.juntadeandalucia.es/boja/2017/76/6>

✓ Lead Partner



CEEI Bahía de Cádiz
C/ Manantial, 13. Edificio CEEI
Polígono Ind. Las Salinas de San Jose Bajo
11500 El Puerto de Santa María (Cádiz) - Spain
Tlf: (+34) 956 860 654 / Fax: (+34) 956 860 028
E-mail: asuarez@ceeicadiz.com
Web: www.ceeicadiz.com

✓ Partners



Centro Tecnológico de
Acuicultura de Andalucía
Muelle Comercial S/N
11500 El Puerto de Santa María (Cádiz) - Spain
Tlf: (+34) 956 56 93 63
E-mail: mm.agraso@ctaqua.es
Web: www.ctaqua.es



Swansea University
Centre for Sustainable Aquatic Research
Wallace Stores, Singleton Park
SA2 8PP - Swansea
Tlf: +44(0) 1792 29 53 83
E-mail: p.n.howes@swansea.ac.uk
web: www.swansea.ac.uk



Údarás na Gaeltachta
Na Forbacha, Co. Dubhlin, Galway
Tel: 091-503100
Fax: 091-503101
E-mail: foh@udaras.ie
web: www.udaras.ie



Innovation & Management Centre
CLG T/A WESTBIC
11 Galway Technology Centre, Wellpark Road
Galway, H91 E2W5 - (Ireland)
Tlf: (+353) 86 2574978
E-mail: smccormack@westbic.ie
web: www.westbic.ie



Technopole Quimper Cornouaille
2 rue François Briant de Laubrière
29000 Quimper - Francia
Tlf: +33(0)298 100 200
E-mail: rachel.sellin@tech-quimper.fr
web: www.tech-quimper.fr



CIIMAR | Interdisciplinary Centre of Marine and
Environmental Research of the University of Porto
Novo Edifício do Terminal de Cruzeiros do Porto de Leixões
Avenida General Norton de Matos, S/N
4450-208 Matosinhos | Portugal |
Tlf: (+351) 223 401 852
E-mail: rodrigo.ozorio@ciimar.up.pt
web: www.ciimar.up.pt



University of Algarve
CRIA - Pavilhão B1
8005-139 Faro (Portugal)
Tlf: +351 289 800 097
E-mail: ajmarq@ualg.pt
web: www.ualg.pt



Investir en Finistère
46, quai de la Douane
CS 63825 29238, Brest cedex 2
Tlf: +33 (0)298 339 773
E-mail: a.coppens@investir29.fr
web: www.investir29.fr

✓ Associated Partners

✓ Technopole Brest Iroise
www.tech-brest-iroise.fr

✓ Cuideachta Feamainn Turtar Gorm Teo (TSC - Bleu Turtle)
www.theseaweedcompany.com

✓ Association of Aquaculture Marine
Businesses of Andalusia (ASEMA)
www.asemaonline.com

✓ Union Chamber of Algae and Marine Vegetables (CSAVM)
www.chambre-syndicale-algues.org



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