

# *Background*

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BG-PR-10-003e

December 10, 2010

## **PACIFIC AQUACULTURE REGULATIONS**

On February 9, 2009 the British Columbia Supreme Court (BCSC) ruled that elements of the existing provincial aquaculture management regime applicable to activities of cultivation of fish are beyond provincial jurisdiction. As a result, the BCSC struck down the existing British Columbia (BC) provincial aquaculture licensing regime applicable to activities of cultivation of fish, suspending its decision for one year period providing time for the development of a regulatory regime under the federal *Fisheries Act*.

On January 26, 2010, the BCSC extended the suspension of its decision until December 18, 2010, providing the federal government with additional time to develop and implement a new federal regulatory regime for aquaculture in B.C.

In this period, Fisheries and Oceans Canada (DFO) has developed new regulations under the *Fisheries Act* to govern the aquaculture industry in British Columbia, which come into effect beginning December 18, 2010.

The Department has consulted with the Province of BC, industry, stakeholders, First Nations and environmental organizations on the new regulations. A key step occurred on July 10, 2010, when the draft *Pacific Aquaculture Regulations* were pre-published in the *Canada Gazette, Part I* for a 60-day public comment period. DFO received more than 900 e-mails, letters and faxed responses related to the draft regulations. This fall, the Department reviewed the comments and, where warranted, made changes to the draft regulations.

On December 8, 2010, the *Pacific Aquaculture Regulations* were published in the *Canada Gazette Part II*.

### **The Regulations**

The new regulations have been developed pursuant to the *Fisheries Act*. The new *Pacific Aquaculture Regulations* and the existing *Fishery General Regulations* provide the overarching regulatory framework for aquaculture in B.C.

The *Pacific Aquaculture Regulations* have been designed to be enabling, meaning they set out a suite of tools that DFO can use to tailor aquaculture licences to address the particular management and regulatory needs of each type of aquaculture activity conducted in B.C. The regulations and the *Fisheries Act* provide DFO with the powers necessary to effectively and efficiently regulate aquaculture in the province.

As of December 18, 2010 finfish, shellfish and freshwater aquaculture operations will require a federal aquaculture licence issued under the *Fisheries Act*, and, where applicable, a federal *Navigable Waters Protection Act* permit and a provincial Crown Lands tenure.



The new federal licence will address many of the same topics addressed under the provincial and DFO regulatory regime in place today. But the new federal regime will require more environmental monitoring to be undertaken by industry, more industry reporting to government. Licence information, monitoring and reporting data and other regulatory information provided to government by industry will be publicly shared via the DFO website making the industry performance far more transparent in the future. The Regulations will also provide flexibility to further improve the aquaculture regulatory regime in B.C.

The Regulations will reduce the administrative and regulatory complexities that existed under the former regulatory program by streamlining and simplifying the federal permits and authorizations that were required to undertake aquaculture activities in the province. The new federal aquaculture licence will address matters that were previously addressed separately, such as:

- Routine introductions and transfers issued under the *Fisheries General Regulations*, Sections 54 to 57;
- Nuisance seal permits issued under the *Marine Mammals Regulations*;
- Harmful Alteration Disruption and Destruction of Habitat authorizations issued under the *Fisheries Act*, Section 35;
- Incidental catch provisions; as well as,
- Escape recapture permissions

The federal government will have a strong enforcement and compliance program to ensure the regulation is adhered to.

As is the practice in all fisheries managed by DFO, program policies, science and integrated management planning processes and other engagement processes, will inform the evolution of conditions of licence and other management measures over time. Over the next few months, DFO will be working with First Nations, licence holders, and others as it develops processes and priorities to guide its work in these areas over time.

The Province will remain a key player in the management of the B.C. aquaculture industry. It will continue to issue leases, licence marine plant cultivation and manage business aspects of aquaculture such as work place health and safety.