

Ministry of Agriculture
Summary of 2015 Consultation Feedback
Fish and Seafood Act's Regulations

November 2015

Introduction:

In September 2015, the Ministry of Agriculture distributed a consultation document to more than 700 stakeholders (see Appendix 1 for complete list) including seafood associations, partner agencies, First Nations and all ministry licence holders to invite their input into the development of the regulations under the province's new *Fish and Seafood Act*. The British Columbia government developed this new Act following industry consultation conducted in 2012 (see Appendix 1 for further details). The *Fish and Seafood Act* was passed by the Legislature in May 2015, and will be brought into force by way of these new regulations in spring 2016. At that time, the *Fish and Seafood Act* will replace the *Fisheries Act* and the *Fish Inspection Act*.

The scope of the 2015 consultation was limited to those in BC's seafood industry who handle, process or distribute fish, aquatic plants, or seafood intended for human consumption within the province. The regulation of all fisheries, including First Nations fisheries and recreational fisheries, were not within the scope of this consultation as they are the exclusive responsibility of the Government of Canada. As well, the regulation of marine finfish and shellfish aquaculture are also the responsibility of the Government of Canada and therefore not part of this consultation.

Objective of the Consultation:

The objective of the consultation was to solicit industry feedback on the Ministry's proposed new regulatory requirements, the impact that these requirements might have and to determine what opportunities might exist for the Ministry to work with industry to facilitate a smooth transition to the proposed new requirements.

The consultation focused on three key elements:

- A review of licensing requirements for buying, handling, transporting, processing and selling fish, and for harvesting and processing aquatic plants, with the goal of reducing the regulatory burden by eliminating unnecessary licences.
- Improving food safety standards for the fish and seafood sector by bringing all operations into alignment with current food safety standards for other regulated food commodity sectors in British Columbia. This will protect public health by comprehensively and consistently managing the risks of foodborne illness across the continuum of food production and processing.
- Continuing the collection of important economic data while streamlining reporting requirements and eliminating duplication where possible.

Survey:

A total of 812 consultation documents (including a questionnaire) were distributed to: 711 current licence holders, 62 partner agencies, 21 First Nations, and 18 industry associations. The primary method of distribution was via email (85%), and where email addresses were not available, they were distributed by regular mail (15%). Generally speaking, the consultation documents were distributed on September 1, 2015 with a requested response by September 30, 2015. Reminders for a response were sent on September 24, 2015.

The Ministry received 76 responses representing a 9.4% response rate.

Licence Holders:

The number of licence holders that responded was 58 (out of 711) representing an 8% response rate; this group accounted for 76% (58 out of 76) of the total number of responses.

Partner Agencies:

The number of partner agencies that responded was 9 (out of 62) representing a 15% response rate; this group accounted for 12% (9 out of 76) of the total number of responses.

Industry Associations:

The number of industry associations that responded was 8 (out of 18) representing a 44% response rate; this group accounted for 11% (8 out of 76) of the total number of responses.

First Nations:

The number of First Nations that responded was 1 (out of 21) representing a 5% response rate; this group accounted for <1% of the total number of responses.

Proposed Licensing and Regulatory Program Changes:

1. Licensing

The existing licensing system regulates the buying, selling, distributing and processing of fish and aquatic plants within the province. It is the intent of government to reduce regulatory burden, where possible, by thoroughly reviewing the rationale for licensing each type of operation. In some cases, licences will no longer be required for certain activities, such as operations processing fish for non-human consumption.

The following licensing changes are proposed:

- a. The new **Seafood Processing Licence** will replace the current **Fish/Aquatic Plant Processing Licence** and will be required for a person to operate a fish or aquatic plant processing facility, including a cold storage facility not regulated under the Food Premises Regulation, in British Columbia or its coastal waters.

A number of exemptions are proposed where a licence will not be required:

- A fisher conducting limited processing, while at sea, for the purpose of preserving their catch.
- An operator processing fish at a federally registered fish processing plant.
- A facility regulated under the Food Premises Regulation, such as a restaurant or retail store, where fish and seafood is being processed for sale at that location.
- A cold storage facility regulated under the Food Premises Regulation that is storing multi-commodity products (e.g. fish, beef).
- A producer stunning and bleeding cultured marine fish on site.
- A producer conducting limited processing of cultured freshwater fish on site, for sale at farm gate or temporary food market.
- An operator conducting limited processing of sport-caught fish for the purpose of preserving the sport-fisher's catch.

- b. The new **Receiving Licence** will replace the current **Fish Buying Station Licence**. The licence name will be changed to more accurately reflect the activity and is required for a person that operates one of the following: a land-based facility, a vehicle, or a vessel that is used to receive fish directly from a commercially licensed fisher.

A number of exemptions are proposed where a licence will not be required:

- An individual operating a vehicle used to receive fish directly from a licensed fisher for their own personal consumption.
- An individual holding a **Seafood Processing Licence** will not be required to also have a land-based **Receiving Licence** for that processing location.
- An operator of a restaurant or a retail store that is regulated under the Food Premises Regulation and is receiving fish directly from a licensed fisher for sale at that location.
- An operator of a federally registered fish processing facility that is receiving fish directly from a licensed fisher will not be required to also have a land-based **Receiving Licence** for that processing location.
- An operator of a federally licensed commercial fishing or packing vessel.
- A fisher transporting their own catch.

- c. The current **Fisher's Vending Licence** will be retained. This licence is required for a commercially licensed fisher who is selling their own catch directly to the public for personal consumption. Under the new licensing model, a fisher will now be able to also sell to an operator of a restaurant or a retail store that is regulated under the Food Premises Regulation. Currently, a restaurant or a retail store wanting to receive fish directly from a licensed fisher requires a **Fish Buying Station Licence**.

- d. The current **Aquatic Plant Harvesting Licence** will be retained. This licence is required for a person to harvest aquatic plants intended for human consumption. In the existing model, an **Aquatic Plant Harvesting Licence** is required for the harvest of all aquatic plants whether intended for either human or non-human consumption. An exemption is proposed for an individual harvesting product for their own personal use, up to a prescribed maximum

amount. A new proposal may require the preparation and submission of a harvest plan in certain cases, at the Minister's discretion.

- e. The **Aquaculture Licence** will be retained. This licence is required only for a person who is operating an aquaculture facility that is not licensed by the Government of Canada. Specifically, the culture of aquatic plants will continue to be licensed by the Province.
- f. The current **Fish Brokers Licence** will no longer be required as there is no food safety rationale for doing so. Currently, an individual that is not physically handling fish but is purchasing fish directly from a licensed fisher requires this licence. In the proposed licensing model, any individual that is physically handling fish will be required to meet the applicable food safety requirements.

Consultation feedback:

Licence Holders:

- 88% (29 out of 33 respondents) support the proposed licensing model.
- No respondents indicated that they do not support the proposed licensing model.
- Comments included:
 - Support the proposed model as it reduces regulatory burden by eliminating unnecessary licences, through the proposed exemption for federally registered facilities (4 responses).
 - Support the proposed model as it reduces regulatory burden by eliminating unnecessary licences, through the proposed exemption for retailers/restaurants to receive fish direct from fishers (1 response).
 - Support the proposed model as it provides better clarity in terms of when a licence is required (1 response).

Industry Associations:

- Three Associations support the proposed licensing model as it reduces regulatory burden on industry by eliminating unnecessary licences through the proposed exemptions.
- One Association is seeking further clarification regarding the proposed exemption for those processing sport-caught fish.

Partner Agencies:

- Two Partner Agencies support the proposed licensing model as it reduces regulatory burden by eliminating unnecessary licences through the proposed exemptions.

First Nations:

- One First Nation is seeking clarification with respect to provincial/federal jurisdiction as it relates to their right to fish.

What this is telling us:

Overall, the proposed licensing model is largely supported, by those who responded, and in particular, strong support for the Ministry's efforts to reduce regulatory burden by eliminating unnecessary licences. Some clarification is still required in regard to what level of processing will be permitted without a licence being required (i.e., sport-caught fish, cultured freshwater fish, and fisher's onboard exemption).

Recommendations:

- *Proceed with the proposed licensing model.*
- *Clarify what level of processing will be permitted without a licence being required (i.e., sport-caught fish, cultured freshwater fish, and fisher's onboard exemption).*

2. Food Safety Standards

The purpose of the new fish and seafood safety standards are to promote the production of safe, high quality seafood through a modern, effective and efficient regulatory framework that protects public health. The regulatory framework will cover all activities associated with processing, transporting, handling and selling of fish or aquatic plants. The new regulations will update basic operational and construction standards that all facilities must meet.

In terms of fish and seafood processing requirements in particular, regulations will allow for flexibility in meeting prescribed outcomes, and will allow for the use of new technologies (e.g. modified atmospheric packaging) in response to market shifts away from traditional processing methods (e.g. drying, salting) to contemporary methods.

The responsibility for safe seafood will rest with industry participants who will be required to develop, maintain and follow a written Food Safety Plan based on the Hazard Analysis Critical Control Point (HACCP) system. The HACCP system controls or eliminates hazards that cause foodborne disease outbreaks by identifying critical control points, critical limits, and providing methods for monitoring and controlling them.

The written Food Safety Plan will address food safety risks related to facility maintenance, employee hygiene, sanitation procedures, product flow, food handling (including time and temperature controls), record-keeping and recall procedures. Some operations will also require information on recipe formulation, if they are processing ready-to-eat products or making products with a number of ingredients.

Consultation feedback:

Licence Holders:

- 80% (36 out of 45 respondents) already have some form of a Food Safety Plan.
- 84% (32 out of 38 respondents) indicated no significant issues with adopting a Food Safety Plan.
- 16% (6 out of 38 respondents) indicated significant issues with adopting a Food Safety Plan.
- Comments included:

- Support the new requirement for Food Safety Plans in order to ensure a level playing field between federal and provincial processing plants (3 responses).
 - Do not support the new requirement for Food Safety Plans as there is no need from a food safety perspective (1 response).
 - Do not support the new requirement for Food Safety Plans due to the inherent high cost (1 response).
- 24% (9 out of 38 respondents) indicated that the following support, on the part of government, would help industry's development of Food Safety Plans including:
 - Guidelines/Best Practices document (6 responses)
 - Step-by-step instructions (2 responses)
 - Access to funding (2 responses)
 - Example of Food Safety Plans (1 response)
 - Seminars (1 response)
 - Adequate transition period (1 response)
 - Access to HACCP Specialist familiar with industry (1 response)

Industry Associations:

- Three Associations support the new requirement for Food Safety Plans in order to better protect public health.
- One Association supports the new requirement for Food Safety Plans but also wants to ensure that government's expectations of Food Safety Plans should vary in proportion to the size and scope of the operation.
- One Association does not support the new requirement for Food Safety Plans as it puts smaller operators at a competitive disadvantage to larger operators since it would be onerous for some of the smaller operators to comply.
- One Association expressed some concern that the new requirement for Food Safety Plans for those holding a Fisher's Vending Licence might be too burdensome.
- One Association supports the creation of a future traceability system and offers to be part of its development.
- Two industry associations indicated that the following support, on the part of government, would help industry's development of Food Safety Plans including:
 - Adequate transition period.
 - Guidelines/Best Practices document.

Partner Agencies:

- One Agency supports the new requirement for Food Safety Plans in order to better protect public health.
- Four Agencies support the creation of a future traceability system.

First Nations:

- No response from First Nations regarding Food Safety Plans.

What this is telling us:

Overall, with only a few exceptions, there is general support for Food Safety Plans, by those who responded, as it better protects public health. The principal concern of those opposed feel that the burden (i.e., cost and time) associated with implementing written Food Safety Plans will adversely impact their operations.

A large percentage (80% of respondents) of our existing licence holders indicated that they already have some form of a Food Safety Plan in place. Additionally, an equally large percentage (84% of respondents) of our existing licence holders does not anticipate significant issues associated with adopting a Food Safety Plan.

Only a relatively small percentage (24% of respondents) of our existing licence holders indicated that support, on the part of government, would help industry's development of Food Safety Plans. Those supports included the development and availability of documentation, access to funding, and an adequate transition time.

Recommendations:

- *Proceed with the new requirement for written Food Safety Plans.*
- *Develop an implementation plan, including support needed from government for licence holders to assist them with their development of written Food Safety Plans.*
- *Determine an appropriate implementation schedule to allow industry adequate transition time to comply with the new requirement for written Food Safety Plans.*

3. Economic Data Collection and Statistical Reporting:

The collection of timely, relevant, accurate and comprehensive economic data is important to the Ministry and the seafood sector it supports. The resultant analysis and reporting ensures that the economic contribution of BC's seafood sector is accurately reported and represented in national and international arenas and is used to support policy and programming decisions. The Province will continue to require reporting of volumes, species, products and wholesale value of fish and seafood processed or sold by buyers, vendors and processors.

Consultation feedback:**Licence Holders:**

- 79% (19 out of 24 respondents) did not have any suggestions for improving the existing data reporting process.
- 21% (5 out of 24 respondents) did have suggestions for improving the existing data reporting process.
- Comments included:
 - Reporting process should be electronic (e.g. on-line portal) rather than paper-based (2 responses).
 - Reporting process should be simplified (2 responses).

- Reporting process should reduce duplication and improve coordination of reporting between provincial and federal governments (3 responses).
- Reporting process should gather only relevant data given that reporting is time consuming and expensive (2 responses).

Industry Associations:

- Two Associations support the Ministry's ongoing collection of economic data, in addition to new social data (e.g., fisherman's home port, landing location, processing location).
- Two Associations seek clarification regarding how economic data (e.g., species, weights, landed value) will be collected in the future.
- One Association recommended that reporting process should reduce duplication and improve coordination of reporting between provincial and federal governments.
- One Association indicated that government reporting on data collected from industry is inadequate and not timely.

Partner Agencies:

- One Agency supports Ministry's ongoing collection of economic data.

First Nations:

- No response from First Nations regarding collection of economic data.

What this is telling us:

Overall, there is general support for the ongoing collection of information from participants within the seafood industry, by those who responded. However, some respondents also noted that the information being collected must be accurate, comprehensive and streamlined so that overlaps and duplication (i.e., with Federal Government requirements) are eliminated.

A large percentage (79% of respondents) of our existing licence holders did not have any suggestions for improving the existing data reporting process. The balance of the licence holders (21% of respondents) did have suggestions for improving the existing data reporting process. These suggestions included that the reporting process should be electronic, simplified, rationalized, and modified to reduce duplication and to improve coordination between government agencies.

Recommendations:

- *Continue collecting data from industry participants.*
- *Rationalize the existing data reporting process (including existing data set) to clarify data reporting requirements and methodology.*
- *Work towards harmonizing and streamlining data reporting process with the Federal Government to minimize overlaps and duplication.*

Acknowledgement

Thank you to all who took the time to contribute to the survey. Your constructive comments and observations are appreciated.

The Ministry of Agriculture recognizes and values the economic and social importance of the seafood industry in British Columbia and will use your feedback in support of developing the new regulatory environment.

Appendix 1 – 2015 Consultation Contact List:

Sector	Group/Agency
Industry Associations	BC Seafood Alliance Seafood Producers Association of BC Fisheries Council of Canada Canada Seafood Merchants & Processors Association Small Scale Food Processors Association BC Salmon Farmers Association Food Processing HR Council BC Restaurant and Food Service Association BC Shellfish Growers Association Canadian Federation of Independent Grocers Canadian Council for Professional Fish Harvesters Fisheries Council of Canada BC Chefs' Association Sports Fish Advisory Board BC Food Processors Association Sports Fishing Institute BC Food Processors Association BC Salmon Marketing Council
First Nation	Aboriginal Aquaculture Association Maa-nulth Joint Fisheries Committee Nisga'a Lisims Government Tsawwassen First Nation (2) BC First Nations Fisheries Council Nuu-chah-nulth Tribal Council Nanwakolas First Nations Allied Tsimshian Tribes Association Sencot'en Alliance Te'mexw Treaty Association Wuikinuxv Kitasoo Nuxalk Tribal Council Coastal First Nations (Turning Point) Naut'sa Mawt Tribal Council Hul'qumi'num Treaty Group Okanagan Nation Alliance Yuuluilath First Nation Sliammon First Nation Yale First Nation Kayukth Chektles7eth First Nation Native Brotherhood of BC
Partner Agencies	Union of BC Municipalities Community Economic Development Committee Coastal Community Network BC Wildlife Federation Comox Valley Regional District BC Ministry of Jobs, Tourism and Innovation BC Ministry of Aboriginal Relations and Reconciliation

	<p>BC Ministry of Environment (3) BC Intergovernmental Relations Secretariat (2) BC Ministry of Health (2) BC Stats BC Ministry of Forests, Lands and Natural Resource Operations (4) Fish Safe BC Western Economic Diversification Canada Ontario Ministry of Natural Resources (2) Saskatchewan Environment Alberta Corporate Business Support Branch Alberta Sustainable Resource Development Ministère de l'Agriculture, des pêcheries et de l'alimentation du Québec Nova Scotia Department of Fisheries and Aquaculture Northwest Territories Department of Environment and Natural Resources (2) New Brunswick Agriculture Research Station Newfoundland and Labrador Department of Fisheries and Aquaculture (2) Yukon Department of Environment Prince Edward Island Department of Fisheries, Aquaculture and Rural Development Manitoba Conservation and Water Stewardship Nunavut Department of Environment Fisheries and Oceans Canada (9) Canadian Food Inspection Agency (2) Environment Canada Agriculture Canada Statistics Canada Sea Agra Seafood Ltd. GSGislason & Associates Ltd. Nelson Bros Fisheries Ltd. United Fishermen and Allied Workers' Union-UNIFOR Island Health Authority Fraser Health Authority Vancouver Coastal Health Authority Interior Health Authority Northern Health Authority BC Center for Disease Control David Suzuki Organization</p>
Licence Holders	<p>Fish & Aquatic Plant Processing Licence holders (305) Fish Buying Station Licence holders (204) Fishers' Vending Licence holders (186) Fish Brokers Licence holders (16) Aquatic Plant Harvesting Licence holders (40)</p>
<p><i>n</i> = where more than 1 individual was contacted, the number of contacts is indicated in parenthesis</p>	

APPENDIX 2 – Background:

British Columbia's seafood sector, with a wholesale value of approximately \$1.4 billion, is a significant contributor to the provincial economy. It is made up of diverse industries including commercial fisheries, First Nations fisheries, marine and freshwater finfish, shellfish and aquatic plant aquaculture and the processing, buying, and selling of seafood.

To ensure that British Columbia supports a strong, dynamic fish and seafood sector that continues to contribute to the economy, protects public health and advances consumer confidence, in 2012 the Ministry of Agriculture consulted with stakeholders and the public regarding the province's fish and seafood policy.

The 2012 consultation included discussions with federal and provincial agencies, as well as a public web-based consultation where representatives from 57 organizations provided input. This included First Nations, fishers, industry associations, and local government representatives. The following general themes emerged:

- Licensing should be rationalized and fees adjusted to reflect program costs.
- The food safety and regulatory environment requires sufficient flexibility to promote an outcome-based approach resulting in equivalent food safety standards between provincial and federal processing plants, and accommodation of ongoing technological changes.
- Industry values data, but its collection must be accurate, comprehensive and streamlined to eliminate duplication and make dissemination more timely and efficient.
- Industry sees value in traceability systems.
- Industry supports penalty increases to better reflect the relative risk and impact of the infraction.

The British Columbia government developed a new *Fish and Seafood Act* following industry consultation conducted in 2012. This new Act has a stronger focus on public health and safety, a modern framework focusing on outcome-based results and flexibility to assist adoption of new processing technologies.

The new legislation includes the following measures to support sustainability and enhance consumer confidence in the safety of British Columbia seafood:

- Enabling the creation of a traceability system that will ensure fish and seafood processed in British Columbia can be followed from point of landing to finished product.
- Prohibiting the possession and distribution of illegally caught, cultured, harvested or processed fish or seafood.
- Enhancing inspection and enforcement tools that provide authority for inspectors to issue orders for persons to undertake corrective actions or to refrain from an activity. This includes orders for the destruction of contaminated food, recall orders if unsafe fish or seafood has been distributed and other actions to protect public health and safety.

- Ensuring administrative fairness by providing opportunities for operators to have licensing decisions reconsidered and reviewed and for persons to request reconsideration or review of orders.
- Requiring operators to record all transactions including, for example, information such as fish and seafood species, size, weight and source to support future traceability requirement.
- Requiring operators to ensure staff are properly trained to ensure safe food handling and preparation.
- Increasing penalties for offences, to a maximum of \$50,000 a day for individuals and \$200,000 a day for corporations.
- Enabling administrative penalties which do not involve costly and time consuming court proceedings.