



The SOS Marine Conservation Foundation
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Regulatory Operations, Aquaculture Management Directorate
Fisheries and Oceans Canada
Room 14S010, 200 Kent Street
Ottawa, Ontario KIA 0E6

Email: PAR-RPA@df0-mpo.gc.ca

Dear Mr. Porter,

Re: Representation Concerning Proposed *Pacific Aquaculture Regulations*

This correspondence is in response to the Department of Fisheries and Oceans (DFO) proposed *Pacific Aquaculture Regulations (Regulations)* and the associated *Regulatory Impact Analysis Statement* published on July 10, 2010.

The SOS Marine Conservation Foundation (SOS Foundation), through the *Save Our Salmon Initiative*, works collaboratively with government and other organizations to create a strategic approach to aquaculture that will achieve the two fundamental goals:

- Protect B.C.'s wild salmon stocks and the marine environment from the negative impacts of open net-cage salmon farms, and
- Establish B.C. as a leader in creating a globally renowned, stable and viable salmon aquaculture industry.

The Save Our Salmon Initiative is guided by a Solutions Advisory Committee composed of successful business leaders, entrepreneurs and philanthropists with a proven track record of identifying opportunities and solving difficult problems to create economic benefits. On July 3, 2009, the SOS Foundation provided the DFO Aquaculture Management Directorate with a discussion document titled *A Sustainable Future for BC Aquaculture: A Framework of Strategic Initiatives*, dated June 2009. In that submission we set out a three point plan to achieve these goals:

- Provide a more transparent and accountable licensing regime and effective enforcement;
- Create the conditions necessary for the industry to embrace technological innovation; and

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- Immediately undertake steps to protect the most critical and threatened wild salmon stocks.

On December 10, 2009, representatives of the SOS Foundation's *Save Our Salmon Initiative's* Solutions Advisory Committee attended the Department of Fisheries and Oceans' (DFO) Federal Regulation in British Columbia for Aquaculture meeting in Campbell River, B.C. On February 26, 2010, a formal written submission building on the July 2009 submission and responding to the information provided at that meeting and the related Fisheries and Oceans Canada discussion document titled *Federal Regulation in British Columbia and National Strategic Action Plan Initiative for Aquaculture, Fisheries and Oceans Canada* was also made to DFO's Aquaculture Management Directorate. On July 12, 2010, a representative of the SOS Marine Conservation Foundation's Solutions Advisory Group also attended a conference call with DFO representatives Andrew Thomson and Trevor Swerdfager providing a brief overview of the proposed *Regulations* (Briefing Call).

We sincerely believe that British Columbia Supreme Court ruling in February 2009, effectively transferring regulation of the B.C. salmon aquaculture to DFO, created a significant opportunity to rebuild public confidence in the regulation of salmon aquaculture in B.C. Accordingly, we, along with many other stakeholders, have invested significant time and resources into providing input into the development of the new regulatory regime.

Upon reviewing the proposed *Regulations*, it is difficult to describe the disappointment and sense of lost opportunity we collectively experienced. Based on our conversations with a wide range of stakeholders in B.C., we know that this response is shared by many others. Contrary to the statements in the RIAS regarding the consideration given to consultation inputs, we believe it is essential for the Governor General in Council to know the range and number of stakeholder responses received from B.C. that indicate their consultation input is not reflected in the proposed *Regulations*.

Specifically, Section 4 enables but does not obligate the Minister to apply a wide range of terms and conditions to aquaculture licences. We agree this "could" facilitate management of the salmon aquaculture industry. However, contrary to the *RIAS*, the *Regulations* do not provide clarity to the Canadian regulatory environment for aquaculture. Enabling provisions do not provide insight or certainty into the terms and conditions that will apply to a licence and they do not address the transparency and accountability required to rebuild public confidence in salmon aquaculture regulation in B.C. This is particularly so in the absence of any requirement (or intention per the Briefing Call) for DFO to consult with the public on licence applications.

Further, the *Regulations* incorporate a number of authorizations, such as the harmful disruption or destruction of habitat (Section 35 of the *Fisheries Act*) and the deposition of deleterious substances (Section 36 of the *Fisheries Act*) into the licensing process. The RIAS states: "*Due to consolidation of federal and provincial licences and authorizations to one licence, it is expected there would be some savings of administrative costs by*

aquaculture companies. Financial uncertainty and risk for farms would be reduced through specific provisions for management of environmental aspects.” However, these benefits to the aquaculture companies come at a direct cost to other stakeholders by removing environmental assessment triggers with no compensating certainty in licence terms and conditions or transparency and accountability for interactions with the marine environment.

This is compounded by the lack of consideration given to cumulative effects. The possible future development of Integrated Management of Aquaculture Plans appears to be the only mechanism for DFO to consider cumulative effects in the proposed regulatory regime. The absence of consideration of cumulative effects in individual licensing decisions effectively ignores the current reality of high densities of open-net salmon farms in areas such as the Broughton Archipelago and the Discovery Islands that has given rise to the high level of public concern over the salmon aquaculture sector in B.C. and contradicts advice from organizations such as B.C.’s Pacific Salmon Forum calling for ecosystem based management. This is particularly an issue with the removal of CEAA triggers which also removes a mechanism for cumulative effects assessment.

Finally, under the *Fisheries Act*, a licence may be issued for a term up to nine years, with no mechanism available under the *Fisheries Act* to amend or revoke the licence. Currently licences are issued for a one year term. There is also no clearly defined regime for compliance and enforcement. This is a substantial change which is not justifiable given the growing body of peer reviewed, published science in established journals into the impacts of the current approach to salmon aquaculture on fish and fish habitat.

Statements in the RIAS that these *Regulations* will “*boost...consumer confidence*”, “*decrease environment effects by strengthening environmental protection measures*”, “*increase public reporting on performance*” and “*be more transparent by requiring increased reporting on environmental monitoring results and performance by licence holders, and providing increased and more timely public reporting of such environmental performance information*” are not substantiated in the text of the *Regulations* and must be questioned by legislators.

Overall, we respectfully submit that the stated objective of the proposed regulatory regime to “*ensure the proper management of aquaculture, particularly with respect to the protection and conservation of fish and fish habitat, in an open and transparent manner*” is not being met. The *Regulations* fail to provide the necessary transparency and accountability required to address the lack of public confidence in aquaculture regulation in B.C. We believe that the only way this “enabling” approach to salmon aquaculture regulation will be acceptable is to put a credible mechanism in place to address DFO’s conflicting mandates to protect fish and fish habitat, pursuant to the *Fisheries Act* and policies such as *Canada’s Policy for the Conservation of Wild Pacific Salmon*; and its management objects and related advocacy role to promote growth of the aquaculture industry. As set out in our past submissions, one mechanism to do this is the development of an independent Aquaculture Licensing Board and an Aquaculture

Practices Review Board when licences and licence conditions are intended to be the principle management tool for aquaculture in B.C.

We recognize the development of a mechanism such as an independent aquaculture licensing board may take some time to develop. In the interim no new salmon aquaculture licences should be issued and the renewal of existing salmon aquaculture licences should be limited to one year terms. Environment Canada should also be called upon to independently monitor the salmon aquaculture industry in B.C.

Finally, we request that the Application section of the Regulations be reviewed to ensure there is clarity over the regulation of land based closed containment aquaculture in B.C.

Thank you for this opportunity to respond to the proposed Regulations. If you have any questions regarding this submission, please contact me at eric@saveoursalmon.ca.

Regards,

Eric Hobson
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The SOS Marine Conservation Foundation

cc list:

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