



British Columbia Aquaculture Regulatory Program Policy Discussion Policy Suite 1

Economic Prosperity Strategic Outcomes Committee
May 4, 2011



Purpose of presentation

A March 9, 2011 presentation outlined progress on the BC Aquaculture Regulatory Program (BCARP) and noted the intention to have a number of policies approved by implicated ADMs and the RDG, Pacific.

Sectoral and Regional input is being sought today on the following items:

- A proposed organizing framework for the policies along with a tentative schedule for approval
- Governance Policy on Decision-Making Levels
- Licensing Policy
- Statement on the Application of CEAA under BCARP
- Public Reporting Policy
- Compliance and Enforcement Strategy and AMD/C&P Protocol



Sustainable Aquaculture Fisheries Framework for BC

- DFO's Aquaculture Policy Framework was established in 2002 to guide sustainable development of aquaculture in Canada.
- In 2011, with new a new comprehensive regulatory responsibilities in British Columbia, DFO requires policy, guidance documents and tools to support implementation of the BC Aquaculture Regulatory Program.
- A Sustainable Aquaculture Fisheries Framework for BC will house this material with 4 main sections as follows:
 - Conservation and Ecosystem policies
 - Economic and Governance policies
 - Planning and Monitoring guidance and tools; and
 - Operational Implementation information.
- The framework will be published on Pacific Region website with links to other key sites, such as the new Sustainable Seafood site.



Sustainable Aquaculture Fisheries Framework (con't)

- Different parts of the framework will be rolled out over time (Annex 1):
 - Suite 1 includes items with time sensitivities as a result of external commitments or operational requirements; approval is targeted for May.
 - Suite 2 includes items with respect to environmental management, that will serve to document DFO's approach and rationale for December 2010 licence conditions, engagement, etc.; approval is targeted for June.
 - Suite 3, with variable targeted dates, includes items that are:
 - Less time sensitive;
 - Where more complex new analysis is required;
 - Where previous practice was not in place; or
 - Where fisheries/ecosystem integration is being considered.



Policy Suite 1 for today's discussion and early-May approval:

1. Governance Policy on Decision-Making Levels
2. Licensing Policy
3. Public Reporting Policy
4. Statement on the Application of CEAA under BCARP
5. Compliance and Enforcement Strategy and AMD/C&P Protocol



1. Governance Policy on Decision-making Levels

- The BC Aquaculture Regulatory Program requires decisions to be made on a variety of matters at different levels of complexity and implication from approval of program policies to operational decisions such as approval of data for updating of public reporting.
- In proposing decision-levels, the following factors have been considered:
 - Complexity of issues to be considered;
 - Implications users of the public resource in addition to First Nations' use;
 - Setting of Departmental precedence and the need to ensure coherence nationally;
 - Degree of expected contention internally or externally;
 - Timeliness of decisions requirements;
 - Moving the decision down to the lowest level within the above considerations



1. Governance Policy on Decision-making Levels (con't)

The following general decision-levels are proposed with further details in Annex 1:

<u>Decisions</u>	<u>Decision-level</u>
<p><i>Program policies</i></p> <ul style="list-style-type: none"> • Governance & environmental • Technical policies, plans and protocols 	<p>Minister or Deputy</p> <p>ADMs PP & EFM; RDG Pacific</p>
<p><i>Decisions within various policies</i></p> <ul style="list-style-type: none"> • Example 1: Licensing <ul style="list-style-type: none"> - New licences or where significant change - Technical requests for amendments - Administrative amendments (e.g., address change) • Example 2: Public Reporting <ul style="list-style-type: none"> - Analytical and performance reports - Licence-holder reports & raw data for posting 	<p>RDG Pacific Pacific Director, Aquaculture Licensing officer</p> <p>RDG Pacific Pacific Director, Aquaculture</p>



2. Licensing Policy

- Pacific Region has issued 701 aquaculture licences since December to operators who applied who had previously held a provincial aquaculture licence, for essentially the same operating conditions as indicated in the provincial licence (species, production volume, etc.).
- Pacific Region Aquaculture also issues separate licences for higher environmental risk aquaculture transfer activities and for transfers for non-aquaculture purposes.
- DFO is administering licenses and applications of an administrative nature or technical nature. DFO will continue to receive applications for new licences or where there is a significant change in expected environmental footprint but does not envisage making decisions on such requests until after Cohen recommendations are received.
- The policy is aimed at licence holders as an information document and also provides direction for staff; it would be posted on the web.
- The policy will be supported by:
 - Licence application forms with detailed information requirements, and
 - A consultation approaches for new licences or applications for significant changes.



2. Licensing Policy (con't)

- This policy:
 - Clarifies the scope of activities being managed under the new aquaculture regulatory regime;
 - Lays out typical licences that are required to carry out aquaculture activities;
 - Summarizes the matters covered by aquaculture licence conditions;
 - For the aquaculture and I&T licences, lays out categories of applications and approval levels;
 - Lays out the potential for cancellation or suspension of licences;
 - Describes eligibility to apply for an aquaculture licence;
- Regarding decision-making on applications during the Cohen Inquiry, the approach will be as follows:
 - Continued acceptance of applications;
 - Internal review of marine salmonid applications falling into the new/major change category but DFO does not envision undertaking external consultations or decisions on such applications;
 - Review and decisions on all non-salmonid marine finfish, shellfish, freshwater and enhancement applications, and marine salmonid applications falling into categories of re-issuance, administrative, name-change or technical.



4. Statement on How CEAA will Apply

- In the past, DFO Pacific Region has issued *Fisheries Act* section 35 authorizations to salmon operations, a *Canadian Environmental Assessment Act* trigger (CEAA); under the Pacific Aquaculture Regulations (PAR), aquaculture licences are now issued under the same authorities as capture fishery licences, and there is no DFO section 35 CEAA trigger.
- Transport Canada Navigable Waters Protection Act permits have also triggered CEAA in the past; given recent amendments to the Act, however, it is anticipated that many aquaculture sites may fall under a new permit category that does not trigger CEAA.
- The DFO CEAA statement lays out:
 - Background on the *Canadian Environmental Assessment Act (CEAA)*;
 - Scope of application of this approach (BC only);
 - Summary of how environmental risk assessment objectives, equally rigorous to the former CEAA requirements, will be met under the new regime.
- The statement is aimed externally as information and will be posted on the Regional site.



4. Statement on How CEAA will Apply (con't)

- The BC Aquaculture Regulatory Regime provides an environmental risk assessment of new licences or licences (New Licences) with significant increases in environmental footprint, that is as rigorous and comprehensive as CEAA:
 - A wide range of valued ecosystem components will be protected through aquaculture licence conditions (e.g., fish habitat, fish communities, SARA species); licence conditions are designed to improve enforceability of mitigation measures, and will permit adjustment of measures over time to reflect new knowledge;
 - Other ecosystem, social and economic components outside the scope of the *Fisheries Act*, will be considered and addressed through a revised New Licence review process being developed and coordinated with the Province (e.g., Federally managed components such as migratory birds and navigation; and Provincially managed component such as land use, archaeological sites, predators);
 - Cumulative impacts at the area level, along with interaction between other uses of the resource (e.g., fisheries) will be considered through Integrated Management of Aquaculture Plans and broader integrated fisheries and oceans planning approaches as these latter evolve;
 - First Nations engagement strategies will facilitate consideration of First Nations use of resources in planning and decision-making on issuance of “new licences”;
 - Public and stakeholder input will be facilitated through the IMAP advisory processes and the New Licence review processes being established, along with web posting of key information.



3. Public Reporting Policy

- DFO has signaled that public reporting of regulatory information will be increased significantly to support transparency in governance and to increase public confidence in the environmental management regime and its conservation and protection outcomes.
- This policy sets out:
 - The objective of transparency while respecting *Access to Information Act* and *Privacy Act* obligations;
 - The scope of regulatory information to be released, including:
 - Information related to licences and licence holders with a short list of information to be excluded; and
 - DFO's policies and programs supporting DFO's regulatory responsibilities;
 - The general form and timing of release of information, embedding service standards;
 - The intended publication methods (website only); and process to manage requests to withhold disclosure (DOJ is currently assessing the legality of the proposed process)
 - The importance of providing context where raw data is provided is recognized.
- The policy is aimed externally for information and will be posted on the Regional site.



3. Public Reporting Policy (con't)

- The policy will be accompanied by a Public Reporting Operational Plan.
- It is expected to be complemented in the future by a national federal/provincial/industry Aquaculture Sustainability Reporting Initiative which will cover a wide range of regulatory and non-regulatory matters and environmental, social, and economic aspects of sustainability.
- To manage potential implications to others stemming from this policy:
 - The Aquaculture Regulatory Information Management System being built to facilitate public reporting (and regulatory management) in BC, is being designed to support aquaculture-related licensing and data collection in other Regions;
 - Regulatory reporting in BC and the national Aquaculture Sustainability Reporting initiative will be harmonized in design;
 - There will be ongoing work with Fisheries Renewal and Resource Management as all groups develop and implement public reporting initiatives; and
 - Discussions will be held with Provinces under the CCFAM Strategic Management Committee on Aquaculture on DFO's plans for public reporting in BC.



5. Compliance and Enforcement Strategy

- The purpose of the strategy is to provide staff with direction to assist in the application of a compliance decision-making process for monitoring compliance of the industry.
- Given the technical nature of some of the environmental compliance work, BC aquaculture compliance activities will be divided between Pacific Aquaculture Management (AMD) and Conservation and Protection (C&P) staff.
- This strategy:
 - Defines objectives for the first year of implementation;
 - Describes the strategic approach; and
 - Incorporates a risk-based approach to decision-making consistent with the guiding principles of the National Compliance Framework (Three Pillars).
- The strategy is for internal use only.
- It is supported by a BC Aquaculture Compliance Protocol which clarifies roles and responsibilities of Pacific AMD and C&P staff.



5. Compliance and Enforcement Strategy (con't)

- Both documents would be approved by
 - Pacific Region: Regional Directors of C&P and Fisheries Management, the Regional Director of Aquaculture Management and the Regional Director General.
 - National Capital Region: Assistant Deputy Ministers of Program Policy and Ecosystems and Fisheries Management
- Outstanding work relates to:
 - the development of policy direction on which non-compliance issues are the highest priority and represent the highest risks to the environment;
 - The proper legal training and designation of Aquaculture Management staff so they have the authority to carry out their administrative and enforcement roles; this training is scheduled for May 9-13, in Courtenay, BC.



Next steps ...

- Tabling at Deputy Minister's Policy Committee;
- Approval of individual policies followed by web posting where the policy is to be made public; and
- Consultation internally and externally on a schedule for review of the suite of Sustainable Aquaculture Fisheries Framework policies and documentation.



ANNEXES

- 1. SAFF Components Schedule and Decision-level**
- 2. Schematic of BC Aquaculture Regulatory Regime**
- 3. Management of Valued Ecosystem and Social Components under the new BC Aquaculture Regulatory Regime**



Annex 1: SAFF Components Schedule and Decision-level

POLICY	DECISION-LEVEL
Suite 1 (approvals targeted for May 2011)	
• Sustainable Aquaculture (Fisheries) Framework	Minister
• Decision Making Authority Matrix	Minister
• Licensing Policy	Minister
• Statement on How CEAA Applies	Deputy
• Public Reporting Policy	Minister
• Compliance & Enforcement Strategy and Protocol	ADM/RDG
Suite 2 (approvals targeted for June 2011)	
• Application of an Ecosystem-Based Approach	Deputy
• Policies (9) for environmental management	ADM/RDG
• Policy on Use of Observers and Third Parties	ADM/RDG
• Use and approvals of Licence-holder Management Plans	ADM/RDG
• First Nations Engagement Strategy	Deputy
• Integrated management of Aquaculture Plan Guidelines	ADM/RDG
• Field Inspection and Other Operational Protocols	ADM/RDG
• Operational Plans (various/annual)	ADM/RDG



Annex 1: SAFF Components Schedule and Decision-level (con't)

Policy	Decision Level
Suite 3 (varied dates)	
• Application of the Precautionary Approach	Deputy
• Approach with respect to Species at Risk and SARA	Deputy
• Approach to Collaborative Arrangements – Off-farm	Deputy
• Aquaculture Management Performance Checklist	Deputy
• Sustainable Development of Aquaculture Policy and/or revision to Aquaculture Policy Framework (2002)	Minister
• Verification of Certification and Technical Qualifications	ADM/RDG
• Traceability Policy	Deputy
• Access of non-licence holders to aquaculture sites	ADM/RDG
• Risk Management Processes and Science/Management Interface	Deputy
• Licence fees (Target Spring 2012)	Minister
• Revised National Access to Resources (fish, space) for Aquaculture Purposes	Minister
DONE	
• Ocean-to-Plate Approach to Commercial Fisheries and Aquaculture	Deputy

Annex 2: British Columbia Aquaculture Regulatory Regime

AUTHORITIES

GUIDANCE

ENFORCEMENT TOOLS

SUSTAINABLE AQUACULTURE (FISHERIES) FRAMEWORK

- Conservation and Sustainable Use Policies
- Economic and Governance Policies
- Plans, Processes and Performance Monitoring tools
- Operational Guidelines

