



Fisheries and Oceans  
Canada

Pêches et Océans  
Canada

## **Expanding the Use of Tickets for Fisheries Act Offences**

Fishery (General) Regulations and Pacific Fishery Regulations, 1993

# **Pacific Region Consultation Summary**

for Consultations Conducted  
between January and June, 2004.

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## 1. Executive Summary

Fisheries and Oceans Canada (DFO) is responsible for the conservation and protection of Canada's marine resources. The *Fisheries Act* and regulations made pursuant to the Act provide the legal means to ensure this protection. Fishery Officers enforce the Act and Regulations using a number of approaches. These include: education, warnings, tickets, community based justice and prosecutions.

DFO is proposing to amend the *Fishery (General) Regulations* and the *Pacific Fishery Regulations, 1993* to amend and expand the schedule of ticketable offences in the *Fishery (General) Regulations* and to create a schedule of ticketable offences for the *Pacific Fishery Regulations, 1993*.

In Pacific Region, public consultation on this initiative took place from January 2004 to July 2004. Presentations are ongoing, as requests have been received from several First Nations for more information on the ticketing initiative. The comments received from these presentations will also be forwarded to DFO National Headquarters in Ottawa.

The consultation efforts were well received and many valuable comments were received. The most common responses regarding the appropriateness of the proposed fine levels were either that the fine levels seemed appropriate or that the fine levels were too low to act as a suitable deterrent for illegal commercial activities.

The following themes emerged from general comments received:

- A means of prosecuting minor habitat infractions should be developed;
- A means of directing monies received from fines back into conservation and stewardship of the resource would be beneficial; and
- Tickets should not be used to prosecute all offences, some will warrant a penalty higher than the fine amount proposed.

In general, the public considers the enforcement of the Fisheries Act an important means of conserving our fisheries resources and supports the ticketing initiative.

These consultations will be used in conjunction with similar consultations conducted in other regions of Canada in developing a regulatory impact analysis statement (RIAS). This RIAS will be published in the Canada Gazette and a response period will be provided for further public input.

## 2. Introduction

Fisheries and Oceans Canada (DFO) is responsible for the conservation and protection of Canada's marine resources. The *Fisheries Act* and regulations made pursuant to the Act, provide the legal means to ensure this protection. Fishery Officers enforce the Act and Regulations using a number of approaches. These include: education, warnings, tickets, community based justice and prosecutions.

DFO is proposing to amend the *Fishery (General) Regulations* and the *Pacific Fishery Regulations, 1993* to amend and expand the schedule of ticketable offences in the *Fishery*

*(General) Regulations* and to create a schedule of ticketable offences for the *Pacific Fishery Regulations, 1993*.

The *Fishery (General) Regulations* apply to fishing and related activities in all Coastal waters and in inland waters in British Columbia, the Yukon Territory, the Maritimes and the Northwest Territories. The *Pacific Fishery Regulations, 1993* apply to fisheries in waters of the Pacific Ocean. These Regulations do not apply to recreational fishing or to fishing for marine mammals. The *British Columbia Sport Fishing Regulations, 1996* apply to sport fishing in Canadian fisheries waters of the Pacific Ocean and of the Province. These Regulations contain a schedule of ticketable offences that will not be amended at this time.

The Department has a responsibility to consult Canadians prior to amending regulations. We solicited feedback from the general public, First Nations and the commercial fishing industry on the proposed fine levels. General comments on this initiative were also welcomed. Our aim was to ensure that the consultations were transparent, accountable, inclusive and well documented.

This report summarizes the consultation activities and feedback received by Pacific Region during the consultation on the use of tickets. The initial submission deadline of March 31, 2004 was extended to allow further time for comment and to respond to specific requests for presentations.

### 3. Consultation Approach

Consultation began in early January 2004. The consultation was publicized by a general fishery notice, by an article “In the Loop” and by letters and Workbooks mailed out to commercial fishing associations, First Nations and the Sport Fish Advisory Board Executive Committee.

In Pacific Region, fishery notices are sent via email to anyone who subscribes to the service. Subscribers can specify which fisheries are of particular interest to them and they will only receive notices concerning those fisheries. A fishery notice was posted on the Recreational fisheries notices system and sent to all commercial fishery categories on January 12, 2004. This notice advised the public and commercial fishers of the consultation and asked them to visit our website for further information.

“In the Loop” is an electronic newsletter sent every Friday to all employees in Pacific Region. An invitation to comment directing employees to the consultation website was posted on January 16, 2004.

A letter explaining the consultation process, an invitation to participate and copies of the Workbook were mailed to 45 commercial fishing associations, 264 First Nations Organizations and the nine members of the Sport Fish Advisory Board Executive Committee on January 7, 2004. The Sport Fishing Advisory Board provides advice to the Department on behalf of the 645 000 tidal and non-tidal recreational fishers in Pacific Region.

#### 3.1 Consultation Website

Pacific Region maintains a consultation website at:

[http://www-comm.pac.dfo-mpo.gc.ca/pages/consultations/consult\\_e.htm](http://www-comm.pac.dfo-mpo.gc.ca/pages/consultations/consult_e.htm)

This website contains links to pages describing on-going consultations in the Region. In early January 2004 a page was created describing the consultation on the use of tickets. This website included background material, a copy of the Consultation Workbook, an invitation to comment and an electronic form that could be used to electronically submit comments to the Department. The electronic form was set up to ask the same questions as the Consultation Workbook. The website is still available and will be used to publish this summary.

### 3.2 Consultation Workbook

A Consultation Workbook was developed. The Workbook included background material and provided participants with directed questions concerning proposed fine amounts, as well as a space to provide general comments. The Workbook was made available through the Consultation website, by mail and was handed out during presentations.

### 3.3 Presentations

Fishery Managers were asked to make presentations to their species advisory groups on an opportunistic basis and Fishery Officers were tasked with making presentations upon request from the public.

## 4. Consultation Website and Workbook Summary

The website and the Workbook divided the fines into five general categories and for each asked, "Do you feel that these are appropriate fines for these types of violations? If not, please explain why." The five categories were:

1. Offences related to general provisions;
2. Offences related to fishing without a licence;
3. Offences relating to fishing;
4. Graduated fines; and
5. Unlawful Handling and Use of Fish.

The website form provided a means of responding via email to the same questions posed in the Workbook. Of the twenty-five responses received, seventeen were completed website forms or Workbooks. The most popular format was the website form which was used in 11 of these 17 responses.

### 4.1 Offences related to general provisions

Six of the eleven respondents who answered this question indicated that they felt that the fine for importing a live fish of a prohibited species was too low. Two of the respondents felt that any fine related to a commercial venture should be higher and another respondent felt that the fines would be too low in some cases and too high in others. Two respondents agreed with the proposed fine amounts.

Fines too high	Agree with fines	Fines too low	Other
0/11	2/11	8/11	1/11

#### 4.2 Offences related to fishing without a licence

Eight of the twelve respondents who answered this question felt that the fines were too low to be an effective deterrent to illegal commercial activities. One respondent felt that the fine for fishing without a fisher’s registration card should be lower for the first offence and then increase exponentially for subsequent offences and one respondent suggested a sliding scale for all of these fines. Two respondents agreed with the proposed fine amounts.

Fines too high	Agree with fines	Fines too low	Other
0/12	2/12	8/12	2/12

#### 4.3 Offences relating to fishing

Three of the eleven respondents who answered this question felt that the proposed fine for leaving unattended or improperly marked gear in the water was too low. Three respondents indicated that fines for commercial activities should be much higher. One respondent felt that all proposed fines for offences related to fishing should be five hundred dollars in order to be consistent. One respondent felt that the proposed fine for failing to comply with conditions of licence was too high and that gear might be improperly marked due to theft. Three respondents agreed with the proposed fines.

Fines too high	Agree with fines	Fines too low	Other
1/11	3/11	6/11	1/11

#### 4.4 Graduated fines.

Four of the thirteen respondents who answered this question felt that the proposed fines were too low to act as a deterrent to commercial fishers. One respondent agreed with the fine for failing to return incidental catch but felt that the fines for retaining undersized fish were too low. One respondent felt that the maximum fine for retaining undersized sea urchins should be five hundred dollars. One respondent felt that the crew on board the vessel should also be fined. Six respondents agreed with the proposed fines.

Fines too high	Agree with fines	Fines too low	Other
1/13	6/13	4/13	2/13

#### 4.5 Unlawful Handling and Use of Fish.

Four of the eleven respondents who answered this question felt that the proposed fines were too low to act as a deterrent to commercial fishers. One respondent felt that the proposed fine for unlawfully buying, selling, trading or bartering was too low, but agreed with the proposed fine for possession of a recreationally caught fish whose weight, number or size could not be determined. Six respondents agreed with the proposed fines.

Fines too high	Agree with fines	Fines too low	Other
0/11	6/11	4/11	1/11

#### 4.6 Additional Comments

The Workbooks and the website form included a space for additional comments related to the ticketing initiative. These comments are provided below:

“Habitat infractions are an area that could benefit from ticketing as well. Most important though is where do these funds go? The best use would be to assist fish in the area affected. General revenue fines that aren’t large enough to act as a deterrent and are not given back to the resource do not have as great an impact as they could.”

“I am in agreement with increasing the use of ticketing to enforce the Fisheries Act or other acts for that matter against violators. I understand that violators who damage habitat or pollute streams don't get ticketed but instead get cases built, after multiple infractions, against them and are only then summoned to court. I also understand very few are prosecuted. Are they being taught a lesson (i.e. the violator)? Why not ticket those violators each time damage is done?”

“The fines must be reflective of the impact the violation has on the salmon and the stream environment, which is to say the cost to the system and its users, plus a penalty dependant of the degree of intent or negligence. I think a good portion of the money received for violations should be put back into stewardship and enhancement.”

“For habitat a ticket worded: Impact fish habitat without authorization would be useful. Fine amount could be determined by schedule – size affected, activity, organics or other, immediate fish value.”

“Most of the Fishermen & women I know are very conscientious in the protection our resource. It is our livelihood. Unfortunately there are those, both sport fishing and commercial who do not wish to live by the rules. Larger fines may at least cause them to think twice before acting”

“High first time offence fines would help discourage illegal commercial activity. Keeping the fines as a source of fisheries funding would be a good thing.”

“I think the dollar value of the fines is appropriate, however, I would like to see that more property is seized. (e.g. cars, trucks, ATV’s, boats) Any means of transportation that may have been used to facilitate the offence.”

“Commercial fines should be a minimum of three times as large as recreational fines.”

“I feel that the use of tickets for fishery offences is a good concept and that is only if they do not pertain to an Aboriginal Fisheries Strategy (AFS) agreement. Any enforcement action pertaining to an AFS agreement should follow the enforcement protocol that is attached to each AFS agreement.”

“This is a long time coming.”

#### 5. Summary of Comments Received Through Other Means

Some respondents chose not to use the Workbook or Internet form to send their comments to us. We received a number of letters, emails and telephone calls.

### **5.1 Telephone Calls**

Two phone calls expressing support for the initiative were received. One caller stated that he wholeheartedly supported the ticketing of transgressors of fishing rules and a member of a commercial fishing association called to voice his support for ticketing.

### **5.2 Letters and emails**

A commercial fishing association sent a letter stating that they discussed the ticketing initiative at their annual general meeting but did not support the use of tickets.

First Nations groups had a number of questions concerning how tickets would affect them and how tickets will affect existing enforcement protocols and the aboriginal charge approval policy. These letters were responded to on an individual basis.

## **6. Presentations**

A list of completed consultation meetings is provided below. Presentations are ongoing, as requests have been received from several First Nations for more information on the ticketing initiative. The comments received from these presentations will also be forwarded to DFO National Headquarters in Ottawa.

### **6.1 Halibut Advisory Board – December 3 and 4, 2004**

The Halibut Advisory Board represents commercial halibut fishers in British Columbia. A brief presentation on the proposed use of tickets was given during their meeting on December 4, 2003.

The following subjects were discussed following the presentation:

- The use of appearance notices for more serious offences.
- Updating of the Regulations concerning the commercial halibut fishery.
- Affect a ticket might have on a vessel that wished to continue fishing.
- If a ticket was considered a criminal offence.
- What happens to the money collected from the fines.

### **6.2 Taku River Management Committee – January 23, 2004**

Information on the proposed use of tickets was presented to committee composed of members of First Nations, commercial and recreational fishers. There were no requests for further information or questions.

### **6.3 British Columbia Aboriginal Fisheries Commission (BCAFC) - January 26, 2004**

The British Columbia Aboriginal Fisheries Commission had a number of questions concerning how tickets would affect their members. They requested that a presentation be made to their membership at their Annual General Meeting in April.



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#### **6.4 British Columbia Aboriginal Fisheries Commission (BCAFC) – April 1, 2004**

A presentation on the use of tickets was given at the Annual General Meeting of BCAFC. There were many questions about how tickets could be used in food, social and ceremonial fisheries.

#### **6.5 Whitehorse Public Meeting – May 12, 2004**

Information on the proposed use of tickets was presented at a public meeting held May 12, 2004 in Whitehorse, YT.

### **7. Summary and Conclusions**

The consultation efforts were well received and many valuable comments were received. The most common responses regarding the appropriateness of the proposed fine levels were either that the fine levels seemed appropriate or that the fine levels were too low to act as a suitable deterrent for illegal commercial activities.

The following themes emerged from general comments received:

- A means of prosecuting minor habitat infractions should be developed;
- A means of directing monies received from fines back into conservation and stewardship of the resource would be beneficial; and
- Tickets should not be used to prosecute all offences, some will warrant a penalty higher than the fine amount proposed.

In general, the public considers the enforcement of the Fisheries Act an important means of conserving our fisheries resources and supports the ticketing initiative.

### **8. Next Steps**

These consultations will be used in conjunction with similar consultations conducted in other regions of Canada in developing a regulatory impact analysis statement (RIAS). This RIAS will be published in the Canada Gazette and response period will be provided for further public input.