

REGULATIONS CONCERNING THE HARVESTING OF OYSTERS FROM VACANT CROWN FORESHORE

Fisheries Act, R.S.B.C. **Fisheries Act Regulations**

- 9 (1) (a) No person shall take or have in his possession oysters for commercial purposes other than from a registered oyster lease or a registered oyster licensed area, except as authorized by a permit issued to him by the minister. A permittee under this subsection may only dispose of the oysters so taken to a registered oyster lease holder.
- (b) A person who gathers oysters from Crown land for any purpose other than domestic consumption unconnected with any kind of commercial transaction, shall be conclusively deemed, for the purposes of these regulations, to have taken them for commercial purposes.
- (c) A person who gathers oysters from Crown land shall be conclusively deemed, for the purposes of these regulations, to have taken them for commercial purposes unless on the day he gathers them
- (i) he shucks them on the foreshore and their volume when shucked is 500 ml or less, or
 - (ii) he does not shuck them on the foreshore and they are 15 or fewer.
- (d) A person who has in his possession more oysters than
- (i) 30 oysters in the shell, or
 - (ii) 1 litre of shucked oysters
- shall, where the oysters are from Crown land, be conclusively deemed, for the purposes of these regulations, to have them in his possession for commercial purposes.
- (e) Paragraph (d) does not apply where a person acquires oysters that were not gathered in contravention of these regulations.
- (2) The minister may issue permits for the purpose of this section, but each permit so issued
- (a) shall require application on a form supplied by the minister, 30 days prior to the applied permit date,
 - (b) shall cover a specific operation over a specific area of Crown foreshore and shall be for a period not to exceed 30 days,
 - (c) shall exclude all dispositions made under the provisions of the *Land Act* either prior to or subsequent to the issuance of the permit,
 - (d) shall be under such terms and conditions as the minister may prescribe,
 - (e) shall be subject to the payment of a prescribed fee of \$75 for each area from which oysters are to be taken,
 - (f) shall be subject to the riparian rights of upland owners fronting on the Crown foreshore covered by the permit,
 - (g) shall require the permittee to leave the foreshore in a clean, safe and sanitary condition to the satisfaction of the minister,
 - (h) shall require the permittee to save the Crown harmless from any claims which may be made against the Province of British Columbia by reason of anything done, or left undone, by the permittee, and
 - (i) shall be subject to the Sanitary Control of Shellfish Fisheries Regulations (P.C. 1972-2406, Canada).
- (3) Every person who is granted a permit to harvest oysters under this section shall render a statement, on a form supplied by the minister, within 10 days of the expiry date of such permit. This statement shall record the production and disposition of shellstock under the permit and shall be submitted to the Marine Resources Branch.
- (4) Every person who harvests oysters under a permit granted under this section shall jointly with the statement in subsection (3) above pay to the Minister of Finance and Corporate Relations a royalty equal to \$25 per ton on all oysters (shellstock) taken.
- (5) Any person who violates any provision of this section is liable, on summary conviction, to a fine of not less than \$25 and not more than \$1 000.
- (6) Under this section, permits granted to take oysters commercially from foreshore fronting Indian reserves must require written upland owners' consent. Nothing in the foregoing shall prevent, restrict or control the harvesting of oysters in the above mentioned areas by an Indian, as defined in the *Indian Act*, for personal food purposes.
- (7) Pursuant to this section, a permit issued for the harvesting of oysters from contaminated vacant Crown foreshore must comply with the Sanitary Control of Shellfish Fisheries Regulations, P.C. 1972-2406.
- (8) Pursuant to this section, all harvesters must hold a valid personal commercial fishing licence.

NOTE: For the purpose of these regulations, an "area" shall be the same as that defined in Section 2 of the Federal Pacific Fishery Management Plan.