

# BCFFF Response to the Request from the Province (FLNRO) for Comment from PAAT Members on 8 Proposed Regulation Changes (under the Federal BC Fishery Regulations) – October 2, 2012

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## Canvass the BCFFF membership

We sent the request for comments out to the BCFFF membership rather belatedly (Mid-August). Responses received have not been numerous but this is typical, especially when summer is involved and members are out and about. Respondents did not always provide comment on all 8 of the proposed changes. If people commented on a few proposals but not all, then we made the assumption that they had no problem with the ones that they left blank. A second request for input from the membership was made in September. This included the opportunity to express concerns on any freshwater angling regs). There were no replies.

## Results

### 1) Updated definition of “Artificial Fly”

**Response** – This proposed new definition was supported. There were a few comments/questions: 1) use metric for any measurements stated 2) Are hour glass “eyes” covered by this? Are they considered beads? 3) Needs further refinement (no details were given).

### 2) Sturgeon Handling

**Response** – All felt that this would be good. There was one comment that this should apply to all freshwater fish.

(PAAT member PC comment – I wonder if Washington State has solid data to support their reg? -- ie removal of the sturgeon, or part of the sturgeon, from the water causes harm? If they do have this, then there is no reason that the same impacts would not occur in BC. It seems that sturgeon anglers must take a picture of their catch if it is a good one. This would no longer be legal under this proposed reg. It is the wording, “in part or in whole” especially the “in part” that makes this proposal potentially controversial. On the surface asking folks for a yea or nay on this is like asking for a ruling on mother’s milk and apple pie – on the surface conservation minded anglers are going to support it.. This reg for sturgeon (and if applied to freshwater fish in general) would create a ton of law breakers and the COS would have a field day tracking down the owners of hero shots that are prolific on the internet.)

### 3) Catch Quota – greater flexibility for the Province to increase quotas to 10 or more (to accommodate special management circumstances)

**Response** – Supported – however a number of people did not respond to this specific proposal and a few obviously did not understand the reason for this proposed change.

### 4) Fish with more than one hook on a line (the “dropper fly” debate)

**Response** – This proposal elicited the strongest comments. All respondents commented on this proposal. The membership appears to be quite polarized on this one (this is about all we can really say about this). Here are some of the individual comments Pro and Con:

Pro = OK for fly fishing on stillwaters but not OK for streams; BC is the only jurisdiction that does not allow more than one hook when fly fishing – why?; the use of a dropper rig is a traditional aspect of fly fishing; this proposal has been a long time coming – good for lakes and resident fish streams but not for anadromous situations; should go with the flow (ie the rest of the world); the use of droppers is no more lethal to fish than any other method;

Con = creates discrimination in the angling community; unfair to 2 people in a boat in that each would be restricted to 2 hooks whereas the lone angler would be allowed 4 hooks; more hooks in the water is contrary to conservation; each angler should only be allowed one rod and one hook; there are more important fisheries issues to fight over than this; increases potential for mortality in catch and release situations;

5) Allow Ice Fishing with 2 Rods

**Response** – Some were strongly against this while others felt that it was only fair that to allow 2 ice fishing rods if an angler, alone in a boat, could use two rods.

6) Catch Quotas for Chinook, Shuswap Lake Rainbows, Gerard Rainbows( continue to record these numbers)

**Response** – If this recording of kill is supposed to be an extra enforcement incentive then it is problematic under the new e-licensing – so why bother with it? On the other hand, if the data from recording harvest of these fish is used for management purposes, then continue it.

7) Proposed definition of “Sport Fishing”

**Response** –Supported

8) Updated definition of “Natural Bait”

**Response** – Supported but there were several concerns/comments: where would floatants/sinkants, added to flies, sit in the new definition (ie additives not for the purpose of adding scent but for a different function)?

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## REQUEST FOR COMMENTS

**Sent:** Tuesday, August 21, 2012 9:34 AM

**Attach:** Sport Fish Regulations Mtg - Provincial Items.docx

**Subject:** Fw: PAAT Send-Out to BCFFF

BCFFF Club Contacts,

Please see the messages below and the attached. Response should go directly to Pete Caverhill <[pandlcaverhill@shaw.ca](mailto:pandlcaverhill@shaw.ca)>

Thanks,

Greg Gordon

acting BCFFF President

Begin forwarded message:

**To:** BCFFF (all)

**From:** Pete Caverhill (BCFFF rep on the Provincial Angling Advisory Team – PAAT)

### **Re: Comments/Concerns on Proposed Regulation Changes**

The Ministry has asked that PAAT members canvass their organisations on several proposed angling regulation changes that will apply in non-tidal waters. They are:

- 1) Updated definition of “Artificial Fly”
- 2) Sturgeon Handling
- 3) Catch Quota – greater flexibility for increasing quotas to 10 or more (to accommodate special circumstances)
- 4) Fish with more than one hook on a line (the “dropper fly” debate)
- 5) Ice Fishing with 2 Rods
- 6) Catch Quotas for Chinook, Shuswap Lake Rainbows, Gerard Rainbows
- 7) Proposed definition of “Sport Fishing”
- 8) Updated definition of “Natural Bait”

These are all angling regulation changes that come under the BC Sport Fishing Regulations which are Federal. Therefore, once the Province has done consultation on the proposed changes they will make a recommendation to Ottawa for the changes. It can be a long and cumbersome process. Please see the schedule that Victoria has provided and that I have copied and pasted below. **I will need comments from the BCFFF membership by the end of August.** Apologies for the short time frame. I screwed up back in May and missed attending to this e-mail request.

NOTE: please see the detailed descriptions of these proposed changes in the attached document provided by the Ministry of Lands, Forests and natural Resource Operations.

**Pete**

May 8/12 – From Stephen McIvor

Hello Provincial Angling Advisory Team,

## REQUEST FOR COMMENTS

Sorry to have missed you all in April.

Over the past few meetings there has been discussion around some of the angling regulations within the BC Sport Fishing Regulations (Federal Fisheries Act). The items listed in the attached document are a starting point for regulation discussions. However the discussion does not have to be limited to the items on the attached list. In the December, 2012 meeting there will be some time on the agenda to discuss the items in that list, or any other angling regulations that the team feels should be reviewed. It would be appreciated if you took this list back to your membership and solicited some feedback on the merit of further reviewing any of the items on the list. Of all the items, it is becoming apparent that the concept of allowing more than one hook on a line is of interest to stakeholders in at least 2 regions.

Logically, DFO will not consider any proposals that have not gone through a thorough consultation process and received public support. The preferred method to determine public support is primarily through the Provincial Angling Advisory Team and to a lesser extent the Angling, Hunting, and Trapping Public Engagement Website. Once the province is comfortable with the level of support and there is general agreement that regulatory amendments would benefit the recreational fishing experience in BC, the proposals would then be forwarded to staff at DFO.

I see the process being:

- 1) By December, 2012 (face to face meeting): The Provincial Angling Advisory Team “shortlists” the current regulations that may be perceived as detrimental or an obstacle to BC being the best destination in the world for a sustainable recreational fishery. The “shortlist” may include every item on the list and any additional items requested by the team or it may be shorter.
- 2) By February, 2013: Once the “shortlist” is compiled the team can propose and discuss solutions to the concerns identified in step 1.
- 3) By March, 2013: The Angling, Hunting, and Trapping Public Engagement Website will then be used to solicit the interests of a broader scope of anglers regarding the current regulation and the suggested or proposed solutions/regulatory amendments.
- 4) By April, 2013 (face to face meeting): Utilizing feedback from the public engagement website, PAAT will meet again, evaluate the responses and any additional information, and determine which proposals should be forwarded to DFO for federal consideration.

We may be required at some point to prioritize the issues in order to meet federal limits/restrictions.

Please note that expectations need to be managed through this process. As these are Federal regulations, there is a requirement to work with staff at the Department of Fisheries and Oceans to implement any change. Regulation amendments at the federal level can take up to four years. In the end it will be the decision of the Federal Minister to approve or reject any proposals put forward by the province, and we must all accept that any recommendations are just that, recommendations, and may not be approved in the end.

Prior to the December meeting I would like to have the interests of each member organization, on each item in the list, compiled and organized into one document. This will facilitate discussion and save valuable face to face time that can be used to further investigate the issues of verified concern. It is requested that the team discuss the list with their constituents over the summer and **provide feedback to me by September 1, 2012.**

## REQUEST FOR COMMENTS

If there are additional regulatory issues that you feel the team should consider please respond with a summary by the end of June, 2012.

Let me know if you have any questions.

Regards,

**Stephen MacIver**|*Policy & Regulations Analyst|Fish, Wildlife and Habitat Management Branch|Ministry of Forests, Lands, and Natural Resource Operations|Phone (250) 387- 9767|Email: [stephen.maciver@gov.bc.ca](mailto:stephen.maciver@gov.bc.ca)*

## BACKGROUND

**From: Stephen Peter MacIver**

Provincial Angling Advisory Team

The following list are topics for discussion for Provincial issues/concerns with the BC Sport Fishing Regulations (BCSFR).

- 1) Artificial Fly: Possible revision to the definition of "artificial fly". The current definition does not seem to reflect advancements/current practices in fly fishing and has become an issue for enforcement officers. Below is the current definition:

*“artificial fly” means*

*(a) in non-tidal waters, a single-pointed hook that is dressed only with fur, feathers, hair, textiles, tinsel, wire or any combination of those materials and to which no external weight or external attracting device is attached;*

Below is a suggested definition for discussion:

*Flies are single pointed hooks dressed by the method commonly known as fly tying. Flies are hooks dressed with feathers, or the fur, hair or hide from any animal. Flies may include any synthetic material, tinsel, wire, wood, foam, or metal or glass beads, not greater than 7/32 inch diameter. Lures commonly referred to as jigs are not considered as flies. Tube flies tied on a plastic or metal tube are considered flies. Manufactured pre-formed soft plastic lures (e.g. plastic eggs, insects, worms, etc.) applied to a hook with or without any other material are not flies.*

*Rationale:* Defines flies created by *fly tying*. The definition allows for any material to be used including beads up to the largest size presently available. It excludes the use of jigs. It allows for the use of tandem flies as long as *only one hook point* is present in the fly's design. It allows for the use of tube flies. It prevents the use of soft baits (Jensen eggs, pink rubber worms, etc.) as flies but still permits flies that would have a hard plastic like hot glue or epoxy in the design or a soft plastic like silicone or Softex used in the fly design.

- 2) Sturgeon Handling: There are no current regulations regarding the handling of sturgeon, and we rely on Best management Practices. It is being considered that sturgeon handling regulations similar to those in Washington State be implemented here in BC. In essence, the Washington State regulation prohibits removing the sturgeon in part or in whole from the water.
- 3) Quota: We are seeking more flexibility to increase quota to 10 or more per day for stocked lakes where the stocked species are not sterile and the feral populations have become a concern. In specific, there are a few lakes in the Omineca that were stocked with (unfortunately) fertile Brook trout in the early '90s and these populations have increased to the point where competition with native species is a concern, and fish size has decreased to the point where anglers are no longer interested in fishing these lakes. **Note:** Fisheries and

## BACKGROUND

Oceans Canada are currently moving forward to repeal Section 58 from the BCSFR, which would give the province the authority to set quotas on specific water bodies without limits. Section 58 of the BCSFR is copied at the end of this document.

- 4) Fish with more than one hook on a line and hook characteristics. All jurisdictions in Canada (with the exception of specific water bodies in Ontario) permit the use of 2, 3, or 4 hooks per line when fly fishing. BCSFR prohibit the use of more than one hook per line. Additionally, hook characteristics, such as gape, are regulated through the BCSFR. Should it be possible to provide the Director with the authority to vary these regulations?
- 5) Ice Fishing with 2 rods: current regulations stipulate that a person fishing alone can fish with two rods from a boat, ice fishermen can only fish with one rod. Individuals take a boat onto the frozen lake and fish with 2 rods. Should the wording for the ice fishing regulations be revised to prohibit the use of two rods when fishing through ice?
- 6) Catch quotas for Chinook, Shuswap Lake Rainbows, Gerard Rainbows: There are enforcement concerns for the current methods for recording catch of these fish. With new e-licensing it is possible for an angler to record their daily catch and simply print off a new licence when they get home. Do we need to record the number of fish caught on these waters? Are daily or annual quota regulations sufficient without the requirement to record catch?
- 7) Proposed definition of “Sport Fishing” for BCSFR

In 2009 the Department was unsuccessful in an appeal to overturn an unfavourable ruling in the matter of *R. v O’Donnell*.

Mr. O’Donnell was observed foul hooking fish with a treble hook, then mishandling the fish before throwing it back into the water. He was charged with foul hooking and use of prohibited gear under the *British Columbia Sport Fishing Regulations, 1996* (BCSFR), and failure to release fish in the least harmful manner under the *Fishery (General) Regulations*. The accused was found guilty of the latter offence, but was acquitted of the charges under the BCSFR as the Crown did not prove that he was “sport fishing.” “Sport fishing” is defined in the regulations as “fishing for recreational purposes.” Mr. O’Donnell argued that he was not fishing for recreational purposes but for sustenance and the Crown did not enter evidence of the licence he possessed to prove the assertion that he was sport fishing under the BCSFR. As a result the trial judge found that the Crown had failed to prove that Mr. O’Donnell was subject to the rules imposed on sports fishers by the regulations and acquitted him of those charges. This finding was upheld on appeal.

As a result of this decision, it was decided to investigate the possibility of an amendment to the BCSFR to express more clearly the intent that fishing carried out by an individual not authorized by another licence is considered “sport fishing” for the purpose of the regulations.

Proposed wording:

## BACKGROUND

*“Sport fishing” means fishing for recreation or for personal use, but does not include fishing under a licence issued under the Fishery (General) Regulations, the Pacific Fishery Regulations, 1993, the Marine Mammal Regulations or the Aboriginal Communal Fishing Licences Regulations.*

- 8) Definition of “Natural Bait”: Current definitions for bait only include natural substances, new synthetic products that are available do not fall under the definition of bait and are considered legal in lakes with a bait ban. Should the regulation be tightened up to include substances that attract fish through olfactory senses? Below is the current definition of “Natural Bait”:

*“natural bait” means any foodstuff or natural substance other than wood, cotton, wool, hair, fur or feathers. It does not include fin fish other than roe.*

Below is a suggested definition for discussion:

*Bait is any product that can be consumed by a fish including roe, any other fish or part of a fish, crustacean or shellfish; any aquatic or terrestrial invertebrate or insect; any organism that is alive or was once alive; any food or food product; any dough or paste, or any substance, either natural or artificially produced, that may produce scent that is part of the terminal tackle or is applied to the terminal tackle. Bait does not include any lure made of metal, wood, plastic or any synthetic that does not produce a scent or any lure made of feathers, or from the fur, hair or hide of any animal.*

*Rationale:* The definition describes any product, natural or artificial, that can be consumed by fish. Natural or artificial scents are included as bait. There is no inclusion of words like *fish attracting* which require proving in court. It excludes flies, and any lure made of metal, wood or plastic.

## BACKGROUND

*Section 58 of the British Columbia Sportfishing Regulations: Proposed to be repealed.*

**58.** No person shall catch and retain in a day a quantity of fish of a species set out in column I of an item of the table to this section, from all non-tidal waters, that exceeds the aggregate daily quota set out in column II of that item.

TABLE

Item	Column I Species	Column II Aggregate Daily Quota
1.	Rainbow trout	6
2.	Steelhead	1
3.	Cutthroat trout	6
4.	Brown trout	6
5.	Dolly Varden	6
6.	Lake trout	6
7.	Brook trout	6
8.	Bass	4
9.	Whitefish	15
10.	Arctic grayling	3
11.	Burbot	10
12.	Kokanee	25
13.	Northern pike	5
14.	Walleye	8
15.	White sturgeon	1
16.	Yellow perch	20
17.	Inconnu	1
18.	Black crappie	20
19.	Goldeye	10
20.	Crayfish	25