



Ecology Action Centre Submission on Bill No. 24 Fisheries and Coastal Resources Act (amended)

Law Amendment, Monday Oct. 25, 2021

Simon Ryder-Burbidge
Marine Conservation Campaigner
Ecology Action Centre

Dear Legislators,

I am writing to you today on behalf of the Ecology Action Centre (EAC). The EAC is Atlantic Canada's largest environmental charity, and we have been advocating for the health of the marine ecosystems that sustain our ocean economy for more than two decades now.

We have also been involved in evidence-based advocacy work surrounding aquaculture for more than 10 years in Nova Scotia, supporting communities working to protect their local bays, keep their home waters clean, and build thriving local economies. We were invited contributors to the 2014 Doelle-Lahey Commission report focused on the development of low-impact, high-value aquaculture in Nova Scotia. It was this Commission that provided the basis for the 2015 regulatory system now in place, including the establishment of an Aquaculture Regulatory Advisory Committee to the Minister, of which we are a member.

We thank you for the opportunity to speak to Bill 24 and raise a series of concerns with the current draft for your consideration.

As noted, we are members of the Minister's Advisory Committee for aquaculture regulations along with others in the seafood, fisheries, and aquaculture industry, Rights holders, and stakeholders. Revisions to regulations are typically discussed within this Committee to ensure expert input can be heard by the Minister. We are concerned that this process did not take place prior to the introduction of this Bill, much less any option for general public consultation and input.

Indeed, we were pleased to see the new government campaign on a promise to consult widely with Nova Scotians on the future of aquaculture in our province, and we hope to see that promise upheld prior to any changes to the ARB. In this case, one of the key reasons we are concerned by the lack of consultation and the haste of this Bill is that the **mandatory 5-year aquaculture regulatory review process under the Fisheries and Coastal Resources Act (FCRA) has not yet taken place.**

Under the FCRA, the government is legally required to conduct a full-scale review of the Act and regulations every five years, and we are now more than a full year overdue. This regulatory review was established so that all parties with a stake in Nova Scotia's aquaculture policy could provide



feedback on the workings of the current regulatory system. This review is the most appropriate forum through which to discuss changes to the ARB process, and we urge its completion prior to the establishment of any amendments to aquaculture law. If the Bill goes forward first, the credibility of the regulatory review process and future consultation efforts by this government may be undermined in the public eye.

While we ultimately hope to see Bill 24 held until formal consultation outside of law amendments can take place, following are several other concerns related to the ARB revisions now proposed.

Our first major concern with Bill 24 is that the effort to speed through ARB hearings may limit the ability of experts, community members, stakeholders, and Rights holders to participate in the process. While we sympathize with the intent to address the backlog of sites now requiring an ARB hearing, the solution to this backlog is not to impede the opportunity for public participation by conducting multiple ARB hearings at a time. Some coastal communities are currently facing several aquaculture proposals at once.

Second, the current process for intervention as a member of the public is very involved, and requires significant amounts of both time and resources, if not legal or institutional assistance. First to make one's case for intervention, and then to prepare oneself for the multi-day hearing, call witnesses, gather evidence, build arguments and deal with both provincial and industry lawyers. Even as a long-standing contributor to aquaculture policy in Nova Scotia and a member of the Minister's Advisory Committee, the EAC was denied intervener status for an upcoming hearing. Indeed, the bar for ARB intervention is high, and if local residents are faced with multiple hearings at once, we are almost certain to see participation rates plunge with the time and effort now required. This will stifle the Board's ability to appropriately evaluate a particular proposal, as they will not hear all of the relevant evidence necessary to make the best decision possible. In this scenario, the ARB process will render little value beyond a veneer of fair judgement.

We are also troubled by the potential for inconsistency that may come into play with proposed changes. The three-person Board was established to ensure balance and consistency in decision-making. While appointing more Board members may help with capacity, allowing a single Board member to make a decision could make the consistent application of decision criteria much more difficult. With three Board members overseeing a decision, each can act as a check on the other, vetting judgements and reducing the potential for bias. In that same spirit, allowing the Chair to rule with finality in the case of a split Board will allocate a significant power to the position and further reduce balance.

We recognize the potential need for a process that is "right-sized" for low-impact projects like appropriately-scaled shellfish and seaweed aquaculture operations. But we do not think that this stand-alone Bill is right way to achieve that outcome. As an alternative, we strongly encourage you



to bring these amendments into the larger, mandatory regulatory review process where important voices can make contributions. This more holistic review would allow for a much deeper assessment of the current regulatory system, and will provide opportunities to refine the entire ARB and adjudicative process in meaningful ways. We have yet to discuss other options that could help to alleviate pressure on the current Board – for example: a risk-based system looking at species, farm type and scale; or a “fit-for-scale” application amendment through which shellfish and seaweed aquaculture projects with a low ecological risk profile face a reduced licensing burden relative to large-scale finfish proposals. These concepts could all be on the table through the regulatory review process, and a more collaborative approach to Bill 24 should ensure a higher level of confidence in the system going forward.

In conclusion, we stand with the coastal communities most impacted by changes to aquaculture law and policy as a member of the Healthy Bays Network, and we ask you to hold off on the proposed changes to the Fisheries and Coastal Resources Act now before you. There is much that our new Minister should know about the perspective of coastal communities in relation to aquaculture development in this province, and we simply ask for a chance to make that perspective available through formal consultation processes prior to the implementation of these amendments or others.

We thank you very much for the opportunity to present this case today. Please do not hesitate to reach out with any follow-up questions that you may have.

Sincerely,

Simon Ryder-Burbidge

Marine Campaign Coordinator

Kjipuktuk, Mi'kmaw Territory

2705 Fern Ln., Halifax, NS

c: 343-363-1070

e: sryderburbidge@ecologyaction.ca