

Practice Directive 40:20:10 (A)

Fishing Industry – Assessing Spawn on Kelp Harvesters

Effective Jan 1, 2002

Reference Fishing Industry Regulation 5(1)

Unless the Board already determines,

(a) a fish-processing establishment licensed or required to be licensed under the Fisheries Act of the Province which, directly or indirectly, acquires fish from a commercial fisherman shall pay assessments on the fish bought, obtained or paid for by or through such fish-processing establishment, except where the fish are acquired under another such fish-processing establishment;

Reference Assessment Policy number 40:20:10

In the fishing industry, the employer for assessment payment purposes is basically the first commercial buyer of the catch. A commercial buyer or other commercial recipient of fish who directly or indirectly acquires fish from a commercial fisher is responsible for paying the assessment on those fish, except where they are obtained from another commercial buyer or recipient who has or should have already paid the assessment on those fish.

Practice

Spawn-on-kelp is harvested under a permit from the Department of Fisheries and Oceans. Once the product is harvested, it is typically taken to a processing plant. Depending on the agreement made between the processing plant and the fisher, the processing plant may:

- process the fish and purchase the product directly from the fisher
- process the fish, store the product, and ship the product to a third party (determined by the fisher) who buys the finished product
- process the fish, store the product, make arrangements with a third party to buy the product

In some cases, when a third party buys the product, the processor may receive payment from the third party, deduct processing costs and/or commission for arranging the sale, and pay the remaining amount directly to the fisher.

Consistent with Fishing Industry Regulation 5(1) and Assessment Policy 40:20:10, in all cases, the processing company, who is the first commercial buyer or commercial recipient of the fish from the fisher, is responsible for paying assessments on the product purchased.

For clarification, the following scenarios demonstrate varying situations of a fish processing company responsible for paying assessment when acquiring spawn on kelp.

1. Fisher harvests spawn-on-kelp and sells to Company A, a fish processing company.
Company A, who is the first commercial recipient of the fish, is responsible for paying WCB assessments.
2. Fisher harvests spawn-on-kelp and sends the product to Company A to process the fish. Company A agrees to be paid a fixed amount for processing the product. Company B, located in Japan wants to buy the product. The fisher organizes the sale through Company B's representative. Company A ships the product to Company B.
Company A, who is the first commercial recipient of the fish from the commercial fisher, is responsible for paying WCB assessments.
3. Fisher harvests spawn-on-kelp and sends the product to Company A to process the fish. Company A finds a buyer and organizes the sale of the product to Company B, located in Japan. After processing the product, Company A delivers the product to Company B. Company B pays Company A for the product. Company A deducts its commission for processing and organizing the sale and pays the fisher the balance.
Company A, who is the first commercial recipient of the fish from the commercial fisher, is responsible for paying WCB assessments.
4. Fisher harvests spawn-on-kelp and sends the product to Company A to process the fish. Company A finds a buyer and organizes the sale of the product to Company B, located in B.C. After processing the product, Company A delivers the product to Company B. Company B pays Company A for the product. Company A deducts its commission for processing and organizing the sale and pays the fisher the balance.
Company A, who is the first commercial recipient of the fish from the commercial fisher, is responsible for paying WCB assessments.