

Fisheries Inspectors

Policy and Procedures Manual

Ministry of Agriculture, Food and Fisheries
Licensing and Compliance Branch
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1. Introduction

1.1. Purpose of this manual

The purpose of this manual is to:

- Provide guidance to Fisheries Inspectors and related officials in the exercise of their statutory mandate and powers,
- Enhance the quality and consistency of inspections and investigations conducted pursuant to the *BC Fisheries Act* and *Fish Inspection Act* and their regulations,
- Ensure transparency and accountability in respect of the processes and procedures used by Fisheries Inspectors.

Use of this manual is subject to the following warnings and conditions:

- This manual is subject to regular review and revision.
- This manual does not have the force of law and it does not alter in any way the relevant legislation and regulations. Although references to relevant sections of the acts and regulations are included in this manual, full quotations are not included in most cases, and Fisheries Inspectors should always consult the acts and regulations directly to review the specific relevant provisions.
- Fisheries Inspectors should recognize that every case is unique, and if they believe that the policy and procedures set out in this manual are not appropriate for a specific case they should consult the Chief Inspector for additional guidance.
- In any case where this manual suggests or requires that a Fisheries Inspector or other official consult with the Chief Inspector, it is understood that the Chief Inspector will consult with the Manager of the Licensing and Compliance Branch and legal counsel to the Ministry of Agriculture, Food and Fisheries (the “Ministry”) as appropriate.

1.2. Who does this manual apply to?

This manual is intended primarily for Fisheries Inspectors employed by the Ministry of Agriculture, Food and Fisheries, Licensing and Compliance Branch, but it will also be made available to other officials employed by other agencies who are designated as Fisheries Inspectors under the relevant legislation.

This manual focuses primarily on the functions and duties of Fisheries Inspectors, but also addresses related powers and functions of other officials such as the Manager of Aquaculture, Aquaculture Inspectors, and persons exercising certain authority on behalf of or delegated from the Minister of Agriculture Food and Fisheries.

1.3. Process for obtaining guidance and legal advice

Fisheries Inspectors should feel free to raise any questions with the Chief Inspector at any time. They should also request legal advice at any time where a question of authority, jurisdiction, information disclosure or other legal issue arises or may arise. Requests for legal advice should be directed to legal counsel to the ministry by or under the direction of the Manager of the Licensing and Compliance Branch.

1.4. Process for adoption, review, comment and revision

This policy manual becomes effective upon review and approval by the Deputy Minister. The Ministry's Executive may from time to time provide additional general policy objectives and direction to the Licensing and Compliance Branch but specific enforcement activities and decisions should be guided by the terms of this manual.

This manual will be made publicly available. It can be viewed on the ministry website (<http://www.gov.bc.ca/agf/>), or a copy can be obtained from the ministry for the cost of reproduction.

Any person having comments or suggestions is invited to provide them to:

Manager of Licensing and Compliance Branch
Ministry of Agriculture, Food and Fisheries
2500 Cliffe Ave
Courtenay, BC V9N 5M6

Tel. (250) 897-7540

Fax (250) 334-1410

2. Guiding principles

Fisheries Inspectors should respect the oath taken pursuant to section 3(2) of the *Fish Inspection Act*, which states:

- (a) *I will faithfully and honestly perform my duties as an inspector under the Fish Inspection Act;*
- (b) *I will not, except in the discharge of my duties, disclose to any person any information that comes to me as an inspector;*
- (c) *I will not, either directly or indirectly, engage or in any way carry on the business of trading or dealing in fish or marine plants during my term of office as an inspector of fisheries."*

In addition, Fisheries Inspectors are expected to adhere to the following guiding principles.

2.1. Compliance with mandate and limitations of authority

Fisheries Inspectors should comply with their statutory mandate and the limitations of their authority. They should not knowingly take any action that is beyond their authority.

2.2. Independence

2.2.1. Personal independence

Fisheries Inspectors should maintain personal independence in respect of all functions taken in the course of their duties. This means that they should avoid assuming responsibility for any matter where a personal relationship (family, financial, previous employment, etc.) exists that could give rise to a reasonable apprehension of bias. The impression of bias or perceived bias in a decision or action of a Fisheries Inspector results in a public and client loss of confidence in the ability of the ministry to regulate in a fair and consistent manner. It is important to recognize that the test is "reasonable apprehension" of bias, and no actual bias need exist for personal independence to be compromised. In any case where a Fisheries Inspector believes a question of personal independence may exist, he or she should consult the Chief Inspector.

2.2.2. Institutional independence

Institutional independence means that Fisheries Inspectors should perform their enforcement functions **independently** from other organizations or other branches and divisions of the ministry that may have different interests and mandates.

Institutional independence does not require that Fisheries Inspectors remain completely isolated from other officials or organizations with an interest in fisheries licensing and inspection matters. To the contrary, ongoing general communication with such persons and bodies assists the work of Fisheries Inspectors. However, specific inspection and enforcement decisions should be made by Fisheries Inspectors based solely on their assessment of the facts and applicable regulatory provisions, with direction from the Chief Inspector or Manager, Licensing and Compliance Branch.

2.3. Impartiality

Fisheries Inspectors should be impartial in all dealings. Impartiality means that a person does not take sides in respect of a matter, that she or he treats the various parties in a fair and equal way, that she or he does not reach any conclusion until sufficient investigation and analysis has occurred, and that any analysis and conclusion is based upon objective, principled criteria.

2.4. Fairness

Fisheries Inspectors should respect the principles of administrative fairness and natural justice. In basic terms, this requires that decision-making processes be open and transparent, and that persons be informed of potential findings or determinations that may adversely affect their interests (before those findings and determination are made) so that they can ensure their position is made known. It also requires that any decision affecting a person be made by an impartial Decision-Maker.

The specific procedural requirements necessary to respect the principles of administrative fairness and natural justice will depend on the facts of each case and the interests at stake. In general, greater procedural protections should be afforded when the decision-making function is of a judicial or quasi-judicial nature, and when a person has substantial interests at stake.

Although it is not possible to state in the abstract what will be required in each specific case, the following principles are intended to provide general guidance.

-
- In the context of routine inspections, the principles of administrative fairness and natural justice generally require that people be informed of the nature of and authority for the inspection, and that they be provided with the opportunity to provide information they consider relevant.
 - In the context of investigations (e.g. where an inspector has reason to believe that there may be non-compliance with a provision of the relevant act, regulation or licence condition that warrants further consideration), the principles of administrative fairness and natural justice generally require that the person be informed of the matter that is the subject of the investigation,¹ the possible outcomes to the investigation, and the decision-making process. They should also be given a chance to make their views known.
 - In the context of sanctions and enforcement (e.g. licence revocation or charges for alleged commission of offences), the procedural requirements of the principles of administrative fairness and natural justice are greatest. They include formal notification, disclosure of information obtained as a result of the investigation, and a hearing process. They may also include the right to be represented by legal counsel, the right to question witnesses and the right to be provided reasons for a decision. More detail on licence sanction protocols is provided later in this report.

The context specific requirements of administrative fairness and natural justice will be discussed further below. Any questions that arise in any specific case should be raised with the Chief Inspector.

2.5. Respect

Fisheries Inspectors should at all times treat parties with respect. They should ensure that personal conflict and opinions do not affect the exercise of their professional duties.

2.6. Confidentiality

Fisheries Inspectors should maintain confidentiality regarding all matters that come to their attention in the course of their duties (whether of a personal or business nature), unless disclosure is permitted or required as a function of their duties, or as otherwise provided in the *Freedom of Information and Protection of Privacy Act*. Any questions regarding the application of the *Freedom of Information and Protection of Privacy Act* should be raised with the Chief

¹ The issue of the nature and timing of disclosure is discussed further in section 6.4.1 below.

Inspector. The Chief Inspector may contact the Ministry's Freedom of Information officer or legal counsel for guidance.

2.7. Professionalism

Fisheries Inspectors should maintain professional standards of conduct, commensurate with the statutory powers and functions granted to them. Any person dealing with a Fisheries Inspector should be able to clearly understand that the Fisheries Inspector is performing a specific statutory function and is not making decisions or taking actions for personal purposes or based on personal opinions. Professionalism does not, however, require that persons be treated in an unduly officious or impersonal manner.

2.8. Communication and Confidentiality Protocols

The following confidentiality protocols must be applied and respected:

- The protocol for sharing of information must include the need for institutional independence from other staff in the ministry, and implementation of appropriate safeguards around sharing of information with staff outside of the Licensing and Compliance Branch.
- While under way, an investigation being conducted or participated in by Inspection staff is considered highly confidential.
- As appropriate, where an activity has resulted in a significant impact or concern, an appropriate briefing note will be forwarded to the Executive of affected agencies. Compliance and enforcement manager(s) will be responsible for development of the briefing notes.
- Distribution of investigative material is limited to operational staff. Reports to Crown Counsel and other investigative material should be located in a secure location with limited branch access.
- As provided in the joint agency Service Agreement, if recommended charges are approved by Crown on an investigation, Compliance and Enforcement Managers may decide to advise Executive and Communications staff once charges have been sworn in and the parties and/or company has been advised.

3. Overview of federal / provincial fisheries regulation

The breakdown of regulatory authority between the federal and provincial governments in the area of fisheries is complicated. In addition to the relevant provisions of the *Constitution Act, 1867*, the federal and provincial governments have established a memorandum of understanding and inter-delegation of powers to make administration of fisheries management and related matters as efficient as possible.

The following summary table is intended for general purposes only. In cases where jurisdictional challenges are raised, the Chief inspector should be consulted.

Federal role	Provincial role
Management of tidal fisheries (all forms) and management of non-tidal salmon fisheries. ²	Management of non-tidal commercial fisheries and non-tidal recreational fisheries (except salmon) ³
Management of wild clam harvesting ⁴	Management of commercial wild oyster harvesting ⁵
-	Regulation of aquaculture ⁶
Management of marine plant harvest in waters outside provincial boundaries ⁷	Management of commercial marine plant harvest in BC waters ⁸
Processing of fish for international and interprovincial trade ⁹	Processing of fish for intra-provincial trade ¹⁰

3.1. Distribution of fisheries related functions amongst ministries and agencies

3.1.1. Fisheries and Oceans Canada

² See federal *Fisheries Act* and related regulations including *Fishery (General) Regulation*, *Pacific Fishery Regulation* and *BC Sport Fishing Regulation*.

³ See *BC Fisheries Act* (s. 8), *BC Fisheries Regulation*, federal *Fishery (General) Regulation* (s. 6), *BC Wildlife Act* (s. 12) and *BC Angling and Scientific Collection Regulation and Freshwater Fish Regulation*.

⁴ See *Federal Fisheries Act*, s. 1 definition of "fish" and s. 7.

⁵ See *BC Fisheries Act Regulations* s. 8-9.

⁶ See *BC Fisheries Act* and *Aquaculture Regulation*, *Canada/British Columbia Memorandum of Understanding on Aquaculture Development*.

⁷ *Federal Fisheries Act*, s. 44-47.

⁸ *BC Fisheries Act* s. 24 and *Fisheries Act Regulations* s. 5-6.

⁹ See federal *Fish Inspection Act* and *Fish Inspection Regulation* and Canada – British Columbia Memorandum of Understanding on Coordination of Fish Inspection Programs.

¹⁰ See *BC Fish Inspection Act* and *Fish Inspection Regulation* and Canada – British Columbia Memorandum of Understanding on Coordination of Fish Inspection Programs.

Fisheries and Oceans Canada is responsible for administering the federal *Fisheries Act* and regulations. It is also responsible for the Coast Guard, including administration of the federal *Navigable Waters Protection Act*.

3.1.2. Ministry of Agriculture, Food and Fisheries

The Ministry of Agriculture, Food and Fisheries is responsible for administering several pieces of legislation and regulations relevant to the work of Fisheries Inspectors. The principal acts and regulations are:

- *Fisheries Act* (Appendix 10.1)
 - *Fisheries Act Regulations* (Appendix 10.2)
 - *Aquaculture Regulation* (Appendix 10.3)
- *Fish Inspection Act* (Appendix 10.4)
 - *Fish Inspection Regulation* (Appendix 10.5)
 - *Form of Oath Regulation* (Appendix 10.6)

Effective November 2002, Inspectors in the Licensing and Compliance Branch have also been designated as special Conservation officers pursuant to the Service Agreement found in Appendix 10.16

In addition, the Ministry administers the following acts:

- *Animal Disease Control Act* (as it relates to fish or aquatic plants)
- *Farm Practices Act Protection (Right to Farm) Act* (as it relates to fish or aquatic plants)
- *Farming and Fishing Industries Development Act* (as it relates to fish or aquatic plants)
- *Wildlife Act* (as it relates to fish or aquatic plants)
- *Pharmacists, Pharmacy Operations and Drug Scheduling Act* (part 8 regarding the sale of medicated feeds and veterinary drugs)

3.1.3. Ministry of Water Land and Air Protection

The Ministry of Water Land and Air Protection is responsible for the provincial Conservation Officer Service. Conservation Officers are automatically designated as Fisheries Inspectors under the BC *Fisheries Act*.

The Ministry of Water Land and Air Protection is responsible for administration of various acts including the *Wildlife Act* (except parts related to fish), the *Water Act*, and the *Waste Management Act* (including the *Finfish Aquaculture Waste Control Regulation* and the *Land-Based Fin Fish Waste Control Regulation*). The *Waste Management Act* is of particular relevance to aquaculture operations. It prohibits the introduction of fish waste into the environment unless a person acts in compliance with the *Finfish Aquaculture Waste Control Regulation* or holds some other form of authorization under the act. This Act is enforced by Conservation Officers, Waste Management Officers as well as Ministry staff that have been delegated authority under the Act and are acting in accordance under the joint ministries service agreement, described in Appendix 10.17.

3.1.4. Ministry of Health

The Ministry of Health regulates, among other things, food safety. This is effected under the authority of the *Health Act*. Inspection functions are performed by Public Health Inspectors in respect of places that sell or serve food for human consumption.

Public Health Inspectors may also be appointed as Fisheries Inspectors under the *Fish Inspection Act* for the purposes of conducting inspection of processing facilities regulated under the *Fish Inspection Act*, *Fisheries Act* and relevant regulations. Public Health Inspectors, employed by the Food Protection Programs, Ministry of Health, conduct the majority of inspections at fish processing plants licensed under the *Fisheries Act* that are engaged in processing fish solely for sale within the province.

3.1.5. Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) administers various pieces of federal legislation and related regulations, including the federal *Fish Inspection Act*.

CFIA inspectors under the *Fish Inspection Act* (Canada) are designated as Fisheries Inspectors under the BC *Fish Inspection Act*. They inspect fish processing facilities that are involved in inter-provincial and international trade, for compliance with both federal and provincial legislation and regulations.

3.1.6. Service Agreements

Government representatives are committed to coordinating responsibilities in the area of inspection, compliance and enforcement to eliminate inter-agency

overlaps, reduce duplication of efforts, increase efficiencies, and to demonstrate a strong, integrated and accountable inspection, compliance and enforcement program.

A number of service agreements have been developed between agencies with overlapping interests.

3.1.6.1. Coordination of Fish Inspection Programs

The province, represented by the Ministries of Health and Agriculture, Food and Fisheries and the federal government represented by the Canadian Food Inspection Agency have entered into an inspection memorandum of understanding that identifies inspection responsibilities of each respective agency. Details of this Memorandum of Understanding are found in Appendix 10.16.

3.1.6.2. Coordination of Aquaculture Compliance and Enforcement Programs

The Ministry of Agriculture, Food and Fisheries, Ministry of Water, Land and Air Protection, Land and Water BC and Ministry of Sustainable Resource Management have identified and clarified respective roles regarding finfish and shellfish aquaculture compliance and enforcement activities. The service agreement in outlines each agency's specific responsibilities, identifies projected resource requirements and develops protocols for dealing with issues that may arise on occasion in relation to the inspection and compliance activities of shellfish and finfish farms.

4. Specific licensing and operational requirements relevant to Fisheries Inspectors

4.1. Fish buying stations

Definition of fish buying station

Section 12 of the *Fisheries Act* defines “fish buying station” to include any building, vehicle or vessel in BC or its coastal waters used for buying, collecting, assembling, transporting, conveying, packing or carrying fish direct from a fisher.

Licence requirement

Section 13(2) of the *Fisheries Act* requires a person to hold a licence to operate a fish buying station. This requirement does not however apply to persons who hold a processing licence and purchase fish or aquatic plants from a fisher at that facility (*Fisheries Act*, s. 13(3)(a))¹¹, or to persons who purchase fish, except shellfish from a fisher for that person’s personal use (*Fisheries Act*, s. 13(3)(b)). Fish Buying Station Licences may be issued pursuant to s. 14(2) of the *Fisheries Act*.

Requirement to keep licence on premises

Section 18 of the *Fisheries Act Regulations* requires the holder of a Fish Buying Station Licence to keep the licence or a certified copy on the premises referred to in the licence, so that it may be viewed by an inspector upon request. Failure to produce the licence upon request constitutes an offence (*Fisheries Act Regulations*, section 18(4)).

Specific requirements for establishment and operation

Section 23 of the *Fish Inspection Regulation* provides that a Fish Buying Station Licence may only be issued by the Minister if the establishment meets the requirements set out in Schedule E. These include operational requirements that must be complied with on an ongoing basis.

¹¹ Trucks or vessels that purchase fish from fishers on behalf of processors at locations other than the processing facility do require fish buying station licences.

Limitations on who fish can be bought from

Persons that hold a fish processing or fish buying licence are not permitted to purchase fish or aquatic plants from a person who was not licenced to harvest them under federal or provincial law (*Fisheries Act*, s. 23).

Record keeping and reporting

Holders of Fish Buying Station Licences must keep records and produce reports as required by the minister, pursuant to section 20 of the *Fisheries Act*. This includes production of the Annual Fisheries Production Schedule.

Holders of Fish Buying Station Licences must also submit weekly reports to Fisheries and Oceans Canada, in accordance with the requirements set out in section 19 of the *Fisheries Act Regulations*.

Sanctions

Persons operating fish buying stations that fail to comply with the relevant requirements of the *Fisheries Act*, *Fisheries Act Regulations* or the terms of a fish buyers licence commit an offence under section 25 of the *Fisheries Act*. (See section 6.8.2. below.)

In addition, Fish Buying Station Licences may be suspended or revoked in accordance with the provisions of section 18 of the *Fisheries Act* as well as section 16 (a) of the *Fish Inspection Regulation*. (See section 6.8.2.4. below.)¹²

4.2. Processors

Definition of processing

Section 12 of the *Fisheries Act* defines “processing” to include “eviscerating, filleting, icing, freezing, canning, packaging, smoking salting, cooking, pickling, drying, preserving or preparing fish or aquatic plants for market in any other manner.” The definition however does not include eviscerating, icing, freezing or packaging on board a vessel upon which the fish are harvested.

A similar (but not identical) definition of processing is contained in section 1 of the *Fish Inspection Act*.

¹² The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

Licence requirement

According to section 13(1) of the *Fisheries Act*, a person must not process fish or aquatic plants, or operate a processing plant in BC, unless the person holds a licence for that purpose.¹³ It is important to note that section 13 applies to both processing and operating a processing plant. Processing licences may be issued under s. 14 (2) of the *Fisheries Act*.

Specific requirements for establishment and operation

Processing and processing plant licences may be issued under section 14(2) of the *Fisheries Act*, provided the establishment meets the applicable requirements of Schedule A of the *Fisheries Inspection Regulations* (see *Fisheries Inspection Regulations* section 14).

“Establishment” is defined in section 1 of the *Fish Inspection Act* as “any place where fish are handled, processed, graded or stored”.

Fish processors and processing plants must also comply with the applicable provisions of the following provisions of the *Fish Inspection Regulation*:

- Part II - Labeling
- Part III - Code Marking
- Part IV - Canned Fish
- Part V – Fresh and Frozen Fish
- Part VI – Pickled, Spice and Marinated Fish
- Part VII – Salted Fish

Processing required in federally registered facilities in certain cases

Some processing facilities may be registered under the federal *Fish Inspection Act* as well as the BC *Fisheries Act*, where they are engaged in inter-provincial and international trade. Although there is no general requirement that fish destined for intra-provincial sale be processed at a federally registered facility, several exceptions exist:

- According to Section 12(1.1) of the BC *Fish Inspection Regulations*, a person must not sell or attempt to sell bivalve molluscs unless they were processed at a federally registered facility.

¹³ Section 22 of the *Fisheries Act* imposes a similar requirement for the operation of dogfish and fish offal reduction plants and shell fish canneries.

- Farmed fish must be processed at federally registered facilities unless the processor has obtained written permission from the minister to process at a provincial licenced plant. (*Aquaculture Regulation* sections 10(1) and 10(3))

Record keeping and reporting

Holders of processing licences must keep records and produce reports as required by the minister, pursuant to section 20 of the *Fisheries Act*. This includes production of the Annual Fisheries Production Schedule.¹⁴

Holders of processing licences must also submit weekly reports to Fisheries and Oceans Canada, in accordance with the requirements set out in section 19 of the *Fisheries Act Regulations*.

Sanctions

Failure to comply with the relevant requirements of the *Fisheries Act*, *Fisheries Act Regulations* or the terms of a processors licence or processing plant licence constitutes an offence under 25 of the *Fisheries Act*. (See section 6.8.2. below.)

Processing licences may be suspended or revoked in accordance with the provisions of section 18 of the *Fisheries Act*. Similarly Section 16 of the *Fish Inspection Regulation* provides that the minister may cancel a licence if in his opinion the establishment is not maintained in accordance with the applicable requirements of Schedule A, or if it does not meet the operating requirements of Schedule B. (See s. 6.8.2.4. below.)¹⁵

4.3. Vendors

Licence requirement

A Fish Vending Licence is required under section 13(4) of the *Fisheries Act* for fishers to sell fish to persons for their individual use.

A Fish Vending Licence is not available for the direct sale of shellfish, as they must be processed at a federally registered facility (see *Fish Inspection Regulation*, s. 12(1.1), above).

¹⁴ Additional requirements apply to certain types of processors. For example, licenced cold-storage facilities must produce an Annual Report of Frozen Fish and large commercial canning facilities must produce a Weekly Report of Canning.

¹⁵ The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

Vendor's licences may be issued under s. 14 of the *Fisheries Act*. They are issued to individuals and not facilities.

Specific requirements for establishment and operation

Vendors must sell fish in accordance with the *Fisheries Act Regulation (Fisheries Act, s. 13(6))*. Section 19 of the *Fisheries Act Regulations* requires the person to provide a weekly report to Fisheries and Oceans Canada in Vancouver.

Vendors must also comply with the relevant requirements of Part V of the *Fish Inspection Regulation* pertaining to sale of fish, as well as the requirements of Schedule F pertaining to retail fish outlets (see *Fish Inspection Regulation, s. 24*).

Vendors must also not sell or offer to sell any fish intended for human consumption that is tainted, decomposed or unwholesome. (*Fish Inspection Act, s. 9(3)*)

Record keeping and reporting

Holders of Fish Vending Licences must submit weekly reports to Fisheries and Oceans Canada, in accordance with the requirements set out in section 19 of the *Fisheries Act Regulations*.

Sanctions

Failure to comply with the relevant requirements of the *Fisheries Act, Fisheries Act Regulations* or the terms of a Fish Vending Licence constitutes an offence under section 25 of the *Fisheries Act*. Similarly, a person who sells tainted, decomposed or wholesome fish commits an offence under section 9(4) of the *Fish Inspection Act*.

In addition to the above, vendors licences may be suspended or revoked in accordance with the provisions of section 18 of the *Fisheries Act*. (See section 6.8.2.4. below).¹⁶

¹⁶ The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

4.4. Brokers

Definition of broker

“Fish Broker” is defined in section 2 of the *Fish Inspection Regulation* to mean a person who buys or offers to buy fish whether on the person’s own behalf or as agent for another. The definition however excludes persons licenced under section 13 or 22 of the *Fisheries Act*, or those purchasing for personal use or resale to others for personal use.

Licence requirement

Section 22(1) of the *Fish Inspection Regulation* provides that only fish brokers and persons licenced under section 13 or 22 of the *Fisheries Act* can purchase fish from a fisher for resale or processing. Similarly, section 22(2) states that a person must not act as or be held out as a fish broker unless they hold a Fish Broker Licence.

Fish Broker Licences are issued under section 23.1 of the *Fish Inspection Regulation*.

Record keeping and reporting

Holders of Fish Broker Licences must keep records and produce reports as required by the minister, pursuant to section 20 of the *Fisheries Act*. This includes production of the Annual Fisheries Production Schedule.

Holders of Fish Broker Licences must also submit weekly reports to Fisheries and Oceans Canada, in accordance with the requirements set out in section 19 of the *Fisheries Act Regulations*.

Sanctions

Failure to comply with the relevant requirements of the *Fish Inspection Act*, *Fish Inspection Regulation* or the terms of a Fish Broker Licence constitutes an offence under section 9 of the *Fish Inspection Act*. (See section 6.8.2. below.) In addition, licences may be suspended or revoked in accordance with the provisions of section 23.1(3) of the *Fish Inspection Regulation*. (See section 6.8.2.4. below).¹⁷

¹⁷ The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

4.5. Wild oyster harvests

Licence requirement

Any person who harvests wild oysters for commercial purposes is required to have a permit (*Fisheries Act Regulations*, s. 9(1)). A person who possesses more than 30 oysters in the shell or 1 litre of shucked oysters is deemed to have them for commercial purposes (s. 9(1)(d)).

Permits for commercial harvest of wild oysters may be issued under section 9(2) of the *Fisheries Act Regulations* in accordance with the requirements set out therein.

Record keeping and reporting

Holders of wild oyster harvest permits must keep records and produce reports as required by section 9(3) of the *Fisheries Act Regulations*.

Other requirements

Permit holders must also comply with the other provisions of section 9, including the obligation to hold a valid Fisher Registration Card (personal commercial fishing licence) (s. 9 (1)(8)), the obligation to pay royalties (s. 9(4)), and the requirement to deliver oysters only to a registered leaseholder (s. 9(1)).

Sanctions

Any person who violates a provision of section 9 of the *Fisheries Act Regulation* commits an offence (s. 9 (5)).

4.6. Marine plants

Licence requirement

Any person who harvests marine plants from the waters of British Columbia for commercial purposes must hold a licence issued under section 24 of the *Fisheries Act*.

Record keeping and reporting

Holders of licences to harvest marine plants must keep records and produce reports as required by section 6(8) of the *Fisheries Act Regulations*.

Other requirements

A person who holds a Licence To Harvest Marine Plants must comply with the other provisions of section 24 of the *Fisheries Act* and sections 5-6 of the *Fisheries Act Regulations*. These include, among other things, an obligation pay to the government a royalty on all marine plants harvested and requirements to use specified equipment.

Minister may suspend harvest

Section 6(7) of the *Fisheries Act Regulations* provides that the Minister may suspend harvest of marine plants in any area for a period of time “where proper resource management dictates”.

Sanctions

A person who harvests marine plants for commercial purposes without a Licence To Harvest Marine Plants, or who otherwise breaches the relevant provisions of the *Fisheries Act* and *Fisheries Act Regulations* commits an offence under section 25 of the *Fisheries Act*. (See section 6.8.2. below). In addition, licences may be suspended or revoked under s. 18 of the *Fisheries Act*.¹⁸

4.7. Non-tidal recreational

The Director of Fisheries within the Ministry of Water Land and Air Protection regulates non-tidal recreational fisheries (other than salmon) through delegated authority granted under section 6 of the federal *Fishery (General) Regulations* and section 12 of the provincial *Wildlife Act*. These regulations are enforced by federal Fisheries Officers and provincial Conservation Officers. Conservation officers are appointed Fishery Officers by authority of Section 5 of the *Fisheries Act* (Canada).

Sanctions

A person who fishes or takes fish without a licence commits an offence under section 10 of the *Fisheries Act*. (See section 6.8.2. below.)

¹⁸ The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

4.8. Aquaculture

Definition of Aquaculture

“Aquaculture” is defined in section 1 of the *Fisheries Act* to mean the growing and cultivation of fish and aquatic plants for commercial purposes, in any water environment or in human made containers of water. It includes the growing and cultivation of shellfish on, in or under the foreshore or in water.

Licence requirements

Section 13(5) of the *Fisheries Act* prohibits any person from carrying on the business of aquaculture at any location or facility in BC unless the person holds a licence for that purpose.

In addition, section 2 of the *Aquaculture Regulation* prohibits a person from possessing, selling, buying, introducing in the province or transplanting fish or aquatic plants for the purposes of aquaculture, unless the person holds a Commercial Aquaculture Licence (or is acting on behalf of a holder of a licence).

The Minister may issue licences for aquaculture under section 14(2) of the *Fisheries Act*.

Licence inspection and enforcement is the responsibility of provincial Fisheries Inspectors. This includes finfish and shellfish aquaculture operations, tidal and non-tidal (marine or freshwater).

Specific requirements for establishment and operation

No person may release fish or aquatic plants from an aquaculture facility unless authorized to do so by the terms and conditions of a licence (*Aquaculture Regulation*, s. 3(1)).

A holder of a Commercial Aquaculture Licence must take reasonable precautions to prevent escape of fish or aquatic plants from an aquaculture facility or during transport (*Aquaculture Regulation*, s. 3(2) and s. 11).

A holder of a Commercial Aquaculture Licence must take reasonable measures to control mitigate, remedy and confine the effects of an escape or suspected escape. (*Aquaculture Regulation*, s. 3(3))

Reasonable measures under subsection 2 and 3 requires that the holder of a Commercial Aquaculture Licence must be in compliance with the standards of practice in Appendix 2 of the *Aquaculture Regulation*.

A holder of a Commercial Aquaculture Licence or anyone acting on behalf of the licence holder must verbally report any escape or evidence of an escape to the Manager of Aquaculture within 24 hours of the discovery. The *Aquaculture Regulation* also requires that a written report be produced within one week of the discovery (*Aquaculture Regulation*, s. 4).

A holder of a Commercial Aquaculture Licence must keep a record of drugs administered to fin fish and must provide a statement upon delivery of the fish to a fish buyer or processor specifying the aquaculture licence number, the species of fish, the date of harvest, the name of the processing plant, the quantity of fish harvested, a lot number for the fish, and information about the last administration of drugs to the fish, (*Aquaculture Regulation*, s. 8).

A holder of a Commercial Aquaculture Licence must ensure staff are appropriately trained to conduct the business of aquaculture in a manner that prevents escapes and enables staff to detect and respond to escapes. (*Aquaculture Regulation* s. 7)

Record keeping and reporting

Holders of a Commercial Aquaculture Licence must maintain accurate written inventory records and inspection and maintenance records. (*Aquaculture Regulation* s. 5 and 6)

Holders of aquaculture licences must keep records and produce reports as required by the minister, pursuant to section 20 of the *Fisheries Act*.¹⁹ This includes production of the quarterly production reports and the Annual Aquaculture Statistical Report.

Buying and processing requirements pertaining to aquaculture specifically

Fin fish grown through aquaculture operations must be processed at a federally registered processing facility unless written consent of the minister has been obtained for exemption to this requirement. In that case the fish may be processed at a facility holding a valid provincial processing licence, (*Aquaculture Regulation*, s. 10). (This requirement does not however apply to packaging of fin fish by a retailer for sale by the retailer (s. 10(2).) The

¹⁹ See also section 2 of the *Shellfish Regulation*.

requirement of section 10 of the *Aquaculture Regulation* does not apply to shellfish aquaculture producers, they are still required to have their products processed at a federally registered processing facility, by virtue of section 12(1.1) of the *Fish Inspection Regulation*.

If the fin fish are delivered by a fish buyer to a processor, the fish buyer must provide a copy of the information referred to above ((*Aquaculture Regulation*, s. 8(4)) to the processor.

A processor must retain statements issued under section 8 (whether received directly from the aquaculture licence holder or a fish buyer) for one year (*Aquaculture Regulation*, s. 8(6)).

Sanctions

Failure to comply with the relevant requirements of the *Fisheries Act*, *Fisheries Act Regulations*, *Aquaculture Regulation* or the terms of an aquaculture licence constitutes an offence under section 25 of the *Fisheries Act* (see section 6.8.4 below). In addition, such licences may be suspended, revoked or refused to be renewed in accordance with the provisions of section 18 and 19 of the *Fisheries Act*. (See section 6.8.2 below).²⁰

²⁰ The Minister may also refuse to issue further licences to a person, as provided by section 19 of the *Fisheries Act*.

5. Authority of fisheries inspectors

5.1. Delegation

5.1.1. Nature of delegated powers generally

- Can use only for purposes contemplated by act or regulation that gives the authority

A person who holds delegated powers must use them only for the purposes for which they are granted.

Powers granted under the *Fish Inspection Act* and *Regulations* will generally be taken to apply to inspection of matters licenced, regulated or otherwise arising under both the *Fish Inspection Act* and the *Fisheries Act* (and their regulations) unless a contrary intention is evidenced (expressly or impliedly) in either of the Acts and their regulations. Any questions in this regard should be raised with the Chief Inspector.

- Delegatee cannot further delegate powers.
- A Fisheries Inspector should not delegate his or her powers to any other person.
- Includes incidental powers.

Section 22 of the *Interpretation Act* provides that, "If in an enactment power is given to a person to do or enforce the doing of an act or thing, all the powers that are necessary to enable the person to do or enforce the doing of the act or thing are also deemed to be given". Although this provision may be relevant to the authority of Fisheries Inspectors in some instances, it should not be relied upon as a source of authority for a specific action without first consulting the Chief Inspector, who will contact legal counsel to the Ministry as appropriate.

5.1.2. Who holds delegated authority regarding fisheries inspections under BC law?

5.1.2.1. Fisheries Inspectors

A person may be appointed under the *Fisheries Act*, the *Fish Inspection Act*, or both. The relevant legislative provisions are section 2 of the *Fisheries Act* and sections 3 and 4 of the *Fish Inspection Act*.

The following persons are inspectors under the BC *Fish Inspection Act*

- Persons appointed under section 3
- Inspectors under the federal *Fish Inspection Act*, and
- Fishery Officers under the federal *Fisheries Act*.

The following persons are inspectors under the BC *Fisheries Act*

- Inspectors under the *Fish Inspection Act* (see above),
- Conservation Officers,
- Officers and constables of the provincial police force, and
- Fishery Guardians under the federal *Fisheries Act*.

Unless stated otherwise, a reference in this manual to a “Fisheries Inspector” means a person who holds the powers of an inspector under both the *Fisheries Act* and the *Fish Inspection Act*.

Current practice is for inspectors to be appointed by Order in Counsel under the *Fish Inspection Act*. These inspectors are deemed inspectors of fisheries under the *Fisheries Act*.

5.1.2.2. Aquaculture Inspectors

Section 12 of the *Aquaculture Regulation* under the BC *Fisheries Act* allows the Minister to appoint Aquaculture Inspectors. Aquaculture Inspectors hold the powers set out in the *Aquaculture Regulation*.

In most cases, Fisheries Inspectors will also be appointed Aquaculture Inspectors under the *Aquaculture Regulation*.

5.1.2.3. Manager of Aquaculture

Within the Ministry of Agriculture Food and Fisheries, there is a person designated as the Manager of Aquaculture. The Manager of Aquaculture is the person to whom reports of escapes must be made (*Aquaculture Regulation* s. 4).

The Minister has appointed the Manager of the Licensing and Compliance Branch as the Manager of Aquaculture. The Manager of Aquaculture may also be appointed as a Fisheries Inspector, an Aquaculture Inspector or both.

5.1.3. How is appointment effected?

Fisheries Inspector appointments are achieved under section 3(1) of the *Fish Inspection Act* by Order-in-Council. The Fisheries Inspector is required to swear an oath (See *Form of Oath Regulation*, (Appendix 10.6)) before commencing their duties.

Fisheries Inspectors under the *Fisheries Act* may be appointed under the *Public Service Act*. (*Fisheries Act*, s. 2 (2)).

The Manager of Aquaculture and Aquaculture Inspectors may be appointed by the Minister. This appointment should be in writing.

5.1.4. Providing proof of delegated authority where necessary

Fisheries Inspectors should be able to provide written proof of authority to any party who requests such. Fisheries Inspectors employed by the Ministry and appointed under the *Fish Inspection Act* have been provided photo-identification cards and Fisheries Inspector badges for this purpose.

5.2. Overview of powers

5.2.1. Powers subject to the *Charter*.

The powers granted to Fisheries Inspectors are subject to the terms of the *Canadian Charter of Rights and Freedoms*. Section 8 of the *Charter* is of particular relevance. It states:

Every person has the right to be secure against unreasonable search and seizure.

There is a significant body of case law defining what constitutes a “search” or “seizure” for the purposes of section 8 of the *Charter*, and when a search or seizure will be considered “unreasonable”. These will depend on various factors, including whether the person in question has a reasonable expectation of privacy in the place or thing being searched or seized and the nature of the inspection or enforcement activity being undertaken.

In general, searches and seizures will be considered reasonable in the absence of a warrant if:

- (i) the premises inspected are engaged in a licenced activity and the inspection is conducted in accordance with statutory authority,

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- (ii) the premises are not a private dwelling place (including home, trailer, vehicle or private quarters in camp facilities),
 - (iii) the inspection is conducted during normal business hours, and
 - (iv) goods are seized for the purposes of protection of public health and safety.

If a Fisheries Inspector intends to undertake an inspection or seizure that does not meet each of the foregoing requirements, he or she should consult with the Chief Inspector, who will consult with legal counsel. In some cases it may be necessary to obtain a warrant under the *Offence Act* (see section 21-22 and Forms 1 and 3) to ensure that the proposed search or seizure is not “unreasonable”. In such cases, the Chief Inspector and legal counsel will provide guidance as to the process for obtaining and executing a search warrant.

5.2.2. Power to compel production of documents

5.2.2.1. Fisheries Act

5.2.2.1.1. Marine harvest and processing records

Section 6(8) and 6(13) of the *Fisheries Act Regulations* provide a Fisheries Inspector with the authority to inspect records pertaining to harvest and processing of marine plants.

5.2.2.1.2. Vending records

Section 20(5) of the *Fisheries Act* provides that a person who is required to keep records of operation for a fish vending licence (s. 20(4)) must produce them on demand of a Fisheries Inspector.

5.2.2.1.3. Aquaculture Regulation

Section 12(3) of the *Aquaculture Regulation* states that a licence holder must provide a Fisheries Inspector or an Aquaculture Inspector with any document that the licence requires be made available for inspection.

5.2.2.2. Fish Inspection Act

5.2.2.2.1. Processing, transporting and marketing records

Section 6(1)(b) of the *Fish Inspection Act* provides that an inspector may, at any time:

Require to be produced for inspection, or for the purpose of obtaining copies of it or extracts from it, any books, shipping bills, bills of lading or other documents or papers relating to the processing, transporting and marketing of fish.

5.2.2.3. General right to make copies

According to section 27(7) of the *Interpretation Act*, the power to inspect or require the production of documents includes the right to make copies or extracts of the records, even if the relevant provision of the act or regulation is silent on the point.

5.2.3. Power to enter private property / inspect

5.2.3.1. Fisheries Act

Section 3 of the *Fisheries Act* states:

For enforcing this Act, or otherwise in the discharge of duties, the minister, director of fisheries, supervisor of fisheries and inspector of fisheries may

- (a) enter on and pass through or over private property without being liable for trespass, and
- (b) without warrant, enter any premises, building, boat, car or other place on or about which any fishing implements or apparatus are located, and may inspect or examine all fishing implements and apparatus found there.

Even though the section 3(b) powers are expressly stated to be available “without warrant”, section 8 of the *Charter* would override this provision if a court held that a search was not, in the absence of a warrant, considered to be reasonable (see section 5.2.1 above). As such, Fisheries Inspectors should consult with the Chief Inspector before undertaking any entry or inspection of a place that might potentially raise Charter concerns. This would particularly apply to searches of any place that there is reason to believe is a dwelling place, including homes, trailers and personal quarters in camp facilities.

Aquaculture Regulation

Section 12(2) of the *Aquaculture Regulation* provides Aquaculture Inspectors with the authority to enter an aquaculture facility during normal business hours to investigate the conduct of the business of aquaculture and compliance with the *Fisheries Act*, the *Aquaculture Regulation* and the aquaculture licence conditions.

Fisheries Inspectors do not have the powers of an Aquaculture Inspector under section 12(1) of the *Aquaculture Regulation* unless they are appointed as Aquaculture Inspectors.

5.2.3.1.1. Sport caught fish

Section 13(1) of the *Fisheries Act Regulations* provide that “all sport caught fish, either frozen, canned or in the process of being frozen or canned, shall be subject to inspection by an inspector.” In addition, section 13(4) states that, “[a]n operator shall make readily available to an inspector any processed sport caught fish for which inspection is required under these regulations”. These powers are in addition to the general powers granted to Fisheries Inspectors under the *Fisheries Act* (discussed above). Under s. 12 of the *Fisheries Act Regulations* inspector means an Inspector of Fisheries appointed under the *Fisheries Act*.

5.2.3.2. Fish Inspection Act

Section 6(1) of the *Fish Inspection Act* states:

An inspector may at any time do any of the following:

- (a) enter any establishment or any vehicle, steamship, boat, car or aircraft used for the carriage or storage of fish, and may open any container that the inspector has reason to believe contains fish.

In addition, section 3 of the *Fish Inspection Regulation* provides that all fish are subject to inspection by an inspector under the *Fish Inspection Act*. Section 4 also states, “the owner of fish or a person acting on his or her behalf must make readily accessible to an inspector any fish or containers for which inspection or re-inspection is required under these regulations”.

Although the provisions discussed above under the *Fish Inspection Act* and *Fish Inspection Regulation* do not expressly use the words “without warrant” (as does s. 3 of the *Fisheries Act*), Fisheries Inspectors do not require a search warrant for every inspection taken under these provisions. The requirement for a search

warrant will depend on whether the inspection would constitute an unreasonable search, having regard to the principles discussed above in section 5.2.1.

5.2.4. Power to seize, detain, take samples, dispose and forfeiture

5.2.4.1. Fisheries Act

5.2.4.1.1. Seizure and forfeiture where offence committed

Section 25 (7) of the *Fisheries Act* provides that fish “on or about an establishment on or after the time an offence occurs at that establishment” may be seized by a Fisheries Inspector. It also states that “on the direction of the Minister” the fish may be forfeited to the government and sold with the proceeds to be paid into the consolidated revenue fund”.

When a Fisheries Inspector proposes to conduct a seizure pursuant to this section, the Chief Inspector should be consulted in advance if possible. If practicable, arrangements should be made to preserve the fish until proceedings for the alleged offence are complete. In cases where preservation of this fish is not practicable, it should be sold and the proceeds held until proceedings for the alleged offence are complete.

5.2.4.1.2. Taking samples of sport caught fish

Section 13(3) of the *Fisheries Act Regulations* provides that an inspector may take samples of sport caught fish free of charge, for the purposes of inspection.

5.2.4.2. Fish Inspection Act

5.2.4.2.1. Taking samples

Section 6(1)(c) of the *Fish Inspection Act* provides that a Fisheries Inspector may “take any samples of fish required for inspection”. A similar provision is contained in section 3 of the *Fish Inspection Regulation*.

5.2.4.2.2. Seizure, detention and forfeiture

Sections 8(1) to 8(4) of the *Fish Inspection Act* govern seizure, detention and forfeiture of fish and containers for offences “under this act”. They permit an inspector to seize fish and containers where the inspector has “reasonable grounds” to believe an offence has been committed. The fish and containers can be detained for a specified period and, if the person is convicted of an offence

under the act or regulations, the fish and containers are forfeited to the government and may be sold.

In addition to physical seizure of fish, section 7 of the *Fish Inspection Regulation* also permit Fisheries Inspectors to “detain” fish by attaching a numbered tag which specifies the word “held”, a brief description of the lot detained, the date and signature of the Fisheries Inspector. The owner or person in possession of the fish must be notified (s. 7(2) and 7(3)), and they are prohibited from moving or selling the fish (s. 7(4)) unless an inspector is satisfied the requirements of the regulations are met and so indicates in writing (s. 7(5)).

Fisheries Inspectors can also “tag” unacceptable equipment, utensils, rooms or compartments under section 25(1) of the *Fish Inspection Regulations*. Section 21(2) prohibits a person from using the tagged equipment, utensil, room or compartment until the tag is removed by a Fisheries Inspector.

5.2.4.2.3. Destruction of tainted fish

Section 5(2) of the *Fish Inspection Regulation* provides that “fish that is tainted, decomposed or otherwise unwholesome shall be disposed of by the owner” under the direction of a Fisheries Inspector to prevent the possibility of the fish being marketed or consumed. The terms tainted, decomposed or unwholesome are defined in section 1 of the *Fish Inspection Regulation*.

The power to order destruction should only be used after reasonable steps have been taken to confirm whether the fish is “tainted, decomposed or unwholesome”. If circumstances permit and it is otherwise deemed appropriate, the Fisheries Inspector should consider taking samples of the fish for testing and either seizing or detaining the remainder. However, in any case where the Fisheries Inspector believes these are not reasonable options consistent with the protection of public health, he or she may order the destruction without testing.

The Chief Inspector should be consulted before issuing any order for the destruction of fish, if that can be achieved without jeopardizing the protection of public health.

5.2.5. Other powers under the *Offence Act*

In any case where a Fisheries Inspector believes that the powers and authority available under the *Fisheries Act*, *Fish Inspection Act* or relevant regulations are not sufficient to address the needs of a particular situation, they should consult with the Chief Inspector to consider whether supplementary powers may be available under the *Offence Act*. The Chief Inspector should consult with legal

counsel before approving any such action based on the authority provided by the Offence Act.

5.3. Prohibition on obstruction of inspector

Section 6 of the *Fisheries Act* makes it an offence to obstruct, hinder, delay or interfere with a Fisheries Inspector in the discharge of duties and powers under the *Fisheries Act*.

Section 6(2) of the *Fish Inspection Act* contains a similar prohibition, and section 6(3) provides that a person must not aid or assist another person in obstructing, impeding or refusing to admit a Fisheries Inspector. Contravention of these provisions constitutes an offence under section 9(5).

In any case where an inspector believes that a person may be violating any of these provisions, they should draw the provision to the attention of the person in question. If that does not resolve the matter, the inspector should consult with the Chief Inspector, who will consult legal counsel to the ministry or Crown Counsel if he or she believes prosecution for an offence is appropriate in the circumstances.

6. Process for inspections and investigations

6.1. Routine inspections

Routine inspections will take place at any time considered appropriate by a Fisheries Inspector, and at any time directed by the Chief Inspector.

The purpose of routine inspections is to monitor activity and assess compliance with the applicable provisions of the acts, regulations and licence conditions.

Inspections will generally be undertaken in accordance with the inspection check lists contained in the appendices pertaining to:

- Fish buying stations (Appendix 10.12 ,10.13 and 10.14)
- Processors
- Vendors
- Brokers
- Finfish aquaculture facilities (Appendix 10.9, 10.10 and 10.11)
- Shellfish aquaculture facilities (Appendix 10.15)

6.2. Deciding whether to conduct an investigation

An investigation differs from a routine inspection in that it occurs in circumstances where a Fisheries Inspector believes that there may be a potential concern about non-compliance with a relevant provision of the acts, regulations or licence conditions.

The decision to undertake an investigation may be made based upon information obtained through routine inspections, through self-reporting, or as a result of information obtained from third parties. It should be made in consultation with the Chief Inspector if possible. The Chief Inspector should be notified of all investigations undertaken by an inspector.

If the Fisheries Inspector is aware of ongoing or potential involvement of other regulatory or enforcement agencies (e.g. Fisheries and Oceans Canada, the Canadian Food Inspection Agency or Conservation Officers) in any investigation the relationship of the various investigations and the appropriate degree of cooperation should be discussed with the Chief Investigator.

6.3. Investigative planning and preparation

6.3.1. Investigative plan

Before commencing an investigation a Fisheries Inspector should develop an investigation plan. It should address the following issues.

- Nature of the issues in question
- Relevant provisions of the acts, regulations and licence conditions
- Information required
- Plan for obtaining the information (written requests, telephone calls, in person interviews, site visits etc.)
- Basis of inspector's authority to obtain the information
- Consideration of any potential *Charter* issues
- Consideration of whether any expert assistance will be required (e.g. sample testing)
- Consideration of when and how notice will be given to interested parties.
- Process for detention / seizure if appropriate.
- Consideration of whether / when / how other agencies should be involved
- Consideration of whether legal advice is required.

These issues are discussed further below.

There is no specific format for recording an investigative plan, but it should be noted in writing in all cases.

6.4. Investigative practices and procedures

6.4.1. Providing notice of investigation

6.4.1.1. Purpose

The purpose of notifying a party that they are the subject of an investigation is to ensure that they have an adequate opportunity to present their positions and relevant information. The requirement for a timely notice is a matter of administrative fairness and natural justice.

In the case of an investigation leading to an offence charge, other than criminal, where the Fisheries Inspector is making a decision that that will affect the person's interest (e.g. seizure and or destruction of fish) the requirement for notice will be greatest. Where the investigation may lead to licence sanction

procedure, the requirement for the notice of investigation is lesser as the subject will be provided with an opportunity to make their views known at a formal hearing.

6.4.1.2. Who is entitled to notice?

Any party who is the subject of or could reasonably be expected to have their interests affected by an investigation should generally be advised of this fact.

6.4.1.3. What form should notice take?

It is generally sufficient to provide oral notice of an investigation. In cases involving significant potential consequences notice should also be given in writing. Formal licence sanction licensing hearings require written notice.

6.4.1.4. When should notice be provided?

Notice should generally be given as soon as a decision has been made to commence an investigation. Notification may however be delayed if it could reasonably be expected to unduly compromise the investigation itself. In such cases, the Fisheries Inspector should make a note to file as to why notification was delayed and when it was in fact provided.

6.4.2. Obtaining information

6.4.2.1. Personal interviews

Fisheries Inspectors may obtain information from personal interviews, which may be conducted in person or by telephone. Personal interviews may be preferable if there are physical objects or documents to review and discuss where credibility is at issue, or where the person has difficulty with telephone communication (for example, due to language or hearing limitations).

6.4.2.1.1. Administering oaths

Fisheries Inspectors may administer oaths and take and receive affidavits, declaration and affirmations. . (Section 6(4) of the *Fish Inspection Act*).

The purpose of obtaining information under oath or by way of affidavit is to impress upon the person the importance of truth telling, and to therefore enhance the credibility and reliability of such information.

If an inspector believes it is appropriate to obtain information under oath or by way of affidavit they should consult with the Chief Inspector and counsel to the ministry to ensure that the appropriate form and process is used for the circumstances in question.

6.4.2.1.2. Interviewing techniques

Fisheries Inspectors should adopt appropriate interview techniques to ensure that appropriate information is obtained while at the same time ensuring a fair and respectful interview climate.

Inspectors may choose to use open questions (e.g. "Explain to me what happened"), or they may wish to seek answers to specific questions (e.g. "At what time did you first realize an escape had occurred"). In many cases it is appropriate to begin an interview with open questions and to move to specific issues as the interview proceeds.

6.4.2.1.3. Recording of interviews

Fisheries Inspectors may wish to record interviews and discussions, particularly when there is a great deal of information to discuss and recording can minimize the need for note taking. However, Fisheries Inspectors should not record interviews without the consent of all other parties to the discussion. This information should be sought at the beginning of the discussion, by explaining why it would be helpful to record the discussion.

If an inspector records an interview, the other parties to the conversation should be offered a copy of the recording if they so desire.

If a Fisheries Inspector believes another party is taping an interview without the Inspector's consent, they should ask the party whether this is the case. The Fisheries Inspector has no legal authority to prohibit recording of such discussions by another party, but in any cases where a party is taping the discussion the inspector should consider whether he or she wishes to make an independent recording of the conversation.

6.4.2.1.4. Information provided by informants

In some cases a person may provide information to a Fisheries Inspector regarding an offence allegedly committed by a third party and they may ask that the information be kept confidential (particularly from the subject of the report). This may include situations where the informant believes they would be made the subject of retaliation if the offender learned who had provided the information.

Fisheries Inspectors do not have the ability to guarantee such parties that the information will be kept confidential, as this may ultimately depend on the rights of parties under the *Freedom of Information and Protection of Privacy Act*, or on disclosure that may be required as part of a court process. Inspectors may however indicate that they will take all possible steps to avoid disclosure, including refusal to pursue charges if that cannot be done without disclosing the identity of the informant

6.4.2.2. Written requests for information

Written requests for information may be most appropriate if:

- Oral requests have not been adequately responded to
- There is a need to refer to specific legal authority to obtain information
- The party specifically wants the request in writing
- There is a need to formally document requests
- Important deadlines exist
- The request is complex

6.4.2.3. Site visits

Site visits are an important part of a Fisheries Inspector's duties as they permit the inspector to obtain direct knowledge of the activities undertaken at a particular location. They should be carried out in accordance with the following principles:

Obtain consent if possible

If a Fisheries Inspector intends to enter property for the purposes of inspection or investigation, they should attempt to obtain the consent of the concerned parties in a courteous manner. Inspectors should not rely upon legal authority to enter without the party's consent unless necessary.

Ensure use of powers appropriate to issue or function in question.

As noted above in section 5.2.3, there are a variety of powers in the *Fisheries Act*, *Fish Inspection Act* and related regulations pertaining to powers of entry and inspection. The powers of entry and inspection differ somewhat among the *Fisheries Act*, *Fisheries Inspection Act* and subordinate regulations, and before relying on any such power the inspector should carefully consider whether it

applies to the specific function in question. They should also consider whether there are any potential concerns about violation of a person's *Charter* rights.

Any questions in this regard should be discussed with the Chief Inspector in advance.

6.4.2.4. Photographing or videotaping a site

Fisheries Inspectors may wish to photograph or videotape a site as part of an inspection or investigation. In any such case the inspector should take steps to ensure continuity in the control of the film or recording (see section 6.4.2.5.1 below).

Fisheries Inspectors should attempt to obtain the consent of the relevant party or parties before taking photographs or videotape. Inspectors may however take photographs or videotape without consent if this is necessary to the inspection or investigation function, and doing so would not constitute an unreasonable invasion of the privacy rights of the part in question (see section 5.2.1 above). Any questions in this regard should be discussed with the Chief Inspector in advance of the site visit if possible.

6.4.2.5. Seizure, detention and disposal of goods

The powers of inspectors to seize, detain and dispose of goods are discussed in section 5.2.4 above. The use of these powers is subject to the same principles discussed in section 6.4.2.3., (above).

6.4.2.5.1. Preservation and continuity of evidence

In any case where a Fisheries Inspector seizes documents or goods that may be used as evidence in any subsequent proceedings, it is important that they take steps to ensure that the integrity of the evidence is preserved at all times after seizure. The Inspector should be able to testify (if necessary) as to the manner in which the evidence was seized, marked, handled and stored, how access to the evidence was limited, who had access to it, and generally what other steps were taken to ensure that the integrity of the evidence was not compromised.

Any questions that may arise in this regard should be discussed with the Chief Inspector in advance of the seizure if possible, or immediately thereafter in other cases.

6.4.3. Note taking and documentation

Note taking is an essential element of a Fisheries Inspector's function. Notes may be used to aid subsequent inspections or investigations, to address challenges to an inspector's conduct, or to aid and supplement oral evidence in court if necessary.

Fisheries inspectors should adopt a standard practice of note taking. By adopting a standard practice, inspectors will be able to readily confirm the process by which notes were taken, even if they cannot directly recall the manner in which any specific notation was made. This will also enable them to address allegations by parties that a conversation occurred when the inspector does not believe that to be the case. It will also enable them to testify in court (if necessary) as to how notes were prepared even if the inspector cannot recall preparing the specific notes in question.

When conducting in-person interviews, Fisheries Inspectors should advise the other party or parties of their intention to take notes before doing so.

Notes of a conversation should summarize in brief form the issues discussed and the statements or positions of each party. They should be drafted during or as soon after the conversation as possible, and should indicate the date and time the conversation took place. Notes should also contain sketches of relevant physical evidence and sites where appropriate.

Inspectors should ensure that notes are drafted in a professional and objective tone. They should always remember that the notes may be subject to the review of other parties if a person is charged with an offence and court proceedings ensue.

Notes should be stored in the files pertaining to the matter in question. If notes are originally recorded in separate bound note books, copies of the notes should be made and placed in relevant files on a regular basis.

6.4.4. Use of experts

Fisheries Inspectors are encouraged to consider the use of experts to assist with inspections and investigations whenever appropriate. Experts may be helpful for various issues such as determining whether fish are tainted, or assessing the physical properties of escape prevention devices at aquaculture facilities. In some cases, experts may be available in other agencies (e.g. the Canadian Food Inspection Agency), who will be able to assist without charge.

If resources are required to obtain expert services, the Fisheries Inspector should first obtain the approval of the Chief Inspector unless that is not practicable and there are important public health or safety issues at stake. In those cases, the Chief Inspector should be consulted as soon as possible in any event.

6.4.5. Case conferencing

Fisheries Inspectors are encouraged to hold informal case conferences with one another or the Chief Inspector at any time to discuss questions or issues of concern regarding the inspectors' mandate.

Fisheries Inspectors may also confer with other agencies in respect of a specific inspection or investigation to the extent necessary for the inspector to perform his or her functions under the *Fisheries Act*, *Fish Inspection Act* and related regulations. Any additional consultations with other enforcement agencies should not occur without the prior approval of the Chief Inspector.

The Chief Inspector will convene a meeting of Fisheries Inspectors 3-4 times per year, and will also schedule regular conference calls. The purpose of these meetings and conference calls will be to discuss issues of common concern, to consider common and effective approaches to inspection and investigation practices, and to identify systemic or recurring issues.

6.4.6. No power of detention or arrest

Fisheries Inspectors do not have any powers to detain or arrest a person in respect of an offence under the *Fisheries Act* or the *Fish Inspection Act* and related regulations.

6.5. Documenting the outcome of an investigation

Fisheries Inspectors should in all cases document the results of an investigation. The specific nature and degree of documentation will depend on the circumstances and whether the report is to be referred to another party for further consideration (e.g. the minister or Crown Counsel). Generally, the report should contain the following elements:

- Summary of the matter investigated
- Process of investigation and persons interviewed
- Evidence obtained during the investigation
- Position of the parties involved

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- Analysis of the facts (reference relevant acts, regulations and licence terms and conditions)
 - Conclusions and recommendations

A sample incident report template is set out in Appendix 10.18 and 10.19.

A Fisheries inspector may ask the Chief Inspector to review and comment upon a draft investigation report.

6.6. Providing affected parties with an opportunity to comment on the report

If a decision may be made that adversely affects a party, the investigation report may be disclosed to the party before the decision is made in order to provide the party with an opportunity to comment.

In some cases there may be compelling reasons not to disclose an investigative report or portions of it (e.g., if it identifies informants who may be the subject of potential retribution). In all cases before a report is shared the Chief Inspector will be consulted. The Chief Inspector will consult with legal counsel to the ministry as necessary to determine the appropriate course of action in the circumstances.

6.7. Finalization of report and referral to Decision-Maker as appropriate

Once any responses to an investigation report have been received from relevant parties, the report and the response should be referred to the appropriate Decision-Maker such as Crown Counsel, or in the case of possible licence sanctions, the Minister or Deputy Minister.

In the case of a referral to the Minister, the referral should be made to the Manager of Licensing and Compliance, with a copy to the Chief Inspector. The Manager of Licensing and Compliance may refer the matter to the Minister, Deputy Minister or other person who has been given the authority to exercise the function of the Minister in the circumstances. Where the investigator recommends licence sanction or cancellation, the Minister or other person with the Minister's authority should not be provided with the final report but only summary information necessary to explain the need for the hearing. This is because the Minister or Deputy Minister is the decision maker at the licence sanction hearing and making the full administrative report available to him or her before the hearing might affect fairness principles. Licence sanction policy is provided in Section 6.8.2.4.3 of this manual.

6.8. Possible outcomes of the investigation

6.8.1. No contravention of act, regulations or licence terms and conditions

If an inspector determines after an investigation that there has been no lack of compliance with the relevant acts, regulations and licence conditions, he or she shall notify the party who was the subject of the investigation.

6.8.2. Apparent contravention of relevant acts, regulations or licence terms and conditions

If a Fisheries Inspector believes that there has been a lack of compliance with a provision of the relevant acts, regulations or licence conditions, he or she may take any of the following courses of actions (provided they are available for the specific contravention in question, as discussed below).

6.8.2.1. Warning

Although there is no specific authority in the acts or regulations to provide a warning, Fisheries Inspectors have discretion to issue a warning and permit a person to remedy an apparent contravention within a specified time period before taking any enforcement action.

The decision whether to provide that opportunity is one for the Fisheries Inspector to make in her or his discretion. Factors to consider may include the history of compliance by the person in question, the nature of the matter, any issues of public safety and whether delay would jeopardize the effectiveness of subsequent action if necessary. In these cases, the Inspector should notify the party (orally or in writing) of the corrective or remedial action required and the date or time by which it should be complete. The Inspector should ensure that appropriate follow-up action is undertaken to confirm whether the remedial action has been completed.

6.8.2.2. Charge for provincial offence (ticket or report to Crown Counsel)

Who should be charged

Section 85 of the *Offence Act* specifies persons who are considered parties to an offence. It includes everyone who actually commits the offence, as well as those who aid, abet and counsel a person in the commission of an offence.

Both individual persons and corporations can be charged with committing an offence. The decision whether to charge in the name of a person or a corporation is one for the discretion of the Fisheries Inspector. Factors to consider will include the nature of the alleged contravention, the role and level of responsibility of the person in question, the degree of certainty regarding the identity of the corporation and the potential importance of establishing a series of contraventions by a single entity. Whenever possible, the Fisheries Inspector should consult with the Chief Inspector before issuing the ticket.

Time limitation

Section 3(2) of the *Offence Act* provides that unless an enactment provides otherwise, the time limit for commencing proceedings in respect of an offence is six months after the time when the subject matter of the proceedings arose.

Distinction between violation tickets and reports to Crown Counsel

Section 11 of the *Offence Act* provides that proceedings for an alleged offence may be commenced either by the issuance of a violation ticket, or laying of an Information (which may follow a report to Crown Counsel).

Violation tickets

In general, the violation ticket process is more expedient than making a report to Crown Counsel and laying an Information. A person can simply pay the specified fine without a court appearance. If a person wishes to contest the ticket they may do so in accordance with the process set out on the ticket. If this occurs and the person is convicted, the judge can impose a penalty equal to, or greater or lesser than the fine specified on the ticket.

Violation tickets may be appropriate if the Inspector believes an offence has been committed, but the nature and circumstances of the offence do not warrant a report to Crown Counsel (discussed below). Violation tickets may also be an appropriate means of documenting repeated incidents of non-compliance, which can be considered in future licence issuance, suspension or revocation processes and prosecutions.

Report to Crown Counsel

A report to Crown Counsel may be appropriate in cases where the indicated penalty for a violation ticket is not appropriate to the nature or circumstances of the offence, if there is significant impact on a person or the environment, if there

is a persistent pattern of contravention, or if it is believed a court proceeding may be in the public's interest. It is also appropriate in respect of the limited matters where a violation ticket cannot be issued (see below). A court appearance is required for a person against whom an Information has been laid.

Deciding whether to issue a violation ticket or make a report to Crown Counsel

The decision whether to issue a violation ticket or make a report to Crown Counsel should be made by the lead investigator, having regard to all relevant factors and subject to the processes set out below. However, in any case where the Inspector believes a report to Crown Counsel *may* be warranted, he or she should discuss the matter with the Chief Inspector. The Inspector or Chief Inspector may also consult with the Manager of Licensing and Compliance and the ministry's legal counsel.

The Ministry's Executive should not be involved in any decision whether to issue a violation ticket or make a report to Crown Counsel, but should be provided information regarding the general status of enforcement matters as appropriate. Section 2.8 of this manual provides further information on communication and confidentiality protocols

Specific comments pertaining to the process for violation tickets and laying an Information are set out below.

6.8.2.2.1. Process for violation ticket

Offences for which violation tickets may be issued

Violation tickets may be issued by Fisheries Inspectors for violation of nearly any provision of the *Fisheries Act*, *Fisheries Act Regulations*, *Shellfish Regulation*, *Aquaculture Regulation*, *Fish Inspection Act*, and *Fish Inspection Regulation*. The only exceptions are sections 28 and 13(1) of the *Fisheries Act* (as it relates to operation of a processing plant without a licence.) (See *Offence Act*, s. 14 (Appendix 10.7) and *Violation Ticket Administration and Fines Regulation* (Appendix 10.8)).

Information that should be included on the ticket

Section 14(4) of the *Offence Act* states that a violation ticket should be in the prescribed form and should contain:

- a statement of the alleged offence,
- a statement of the ticketed amount applicable to the alleged contravention,

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- an address at which notice of an intention to dispute the ticket may be delivered (e.g. local government agent's office or court registry),
 - a statement that if the ticket is not contested in the manner and time provided the person will be deemed to have pleaded guilty.

Section 14(8) provides that the use of any word or expression authorized by regulation to designate an offence, or a general description of the offence, is sufficient. The specific words pertaining to these various offences (and the amounts payable) are set out in schedule 2 of the *Violation Ticket Administration and Fines Regulation* (Appendix 10.8). When entering the amount payable, the amount noted must be the total of the fine and victim surcharge levy.

Standard form violation tickets will be issued to each Fisheries Inspector.

Proof of service

The alleged offender should be asked to sign at the bottom of the ticket to acknowledge service. They should be advised that acknowledgement of service of the ticket does not constitute an admission of guilt. If the person refuses to sign, the Fisheries Inspector should complete the Certificate of Service on the back of the top copy of the ticket.

Forwarding tickets to ICBC

Tickets should be forwarded to Violation Ticket Dispute Processing Unit, P.O. Box 3750, Victoria, British Columbia, V8W 3Y5.

In the event a violation ticket is contested, the ticket will be referred to the provincial court registry. The registry will contact the Fisheries Inspector regarding the time and place of hearing. If a ticket is contested, the Fisheries Inspector should contact Crown Counsel and provide a copy of the violation ticket. A follow up report to Crown Counsel on the violation will be requested by the Crown.

Forwarding Copies to the Ministry of Water Land Air Protection

Pursuant to the Compliance and Enforcement Service Agreement, a copy of each violation ticket issued should be forwarded to the Senior Conservation Officer at Water Land Air Protection, 101 – 370 South Dogwood Street, Campbell River, V8W 6Y7.

Questions

Questions regarding the process for administration of violation tickets should be raised with the Chief Inspector, who may consult with ICBC or legal counsel to the Ministry.

6.8.2.2.2. Process for report to Crown Counsel / laying an Information

Discussion with Chief Investigator and contacting Crown Counsel

If a Fisheries Inspector decides to proceed with a report to Crown Counsel, they should first submit a draft of the report to the Chief Inspector. The Chief Inspector will review the draft report and provide any comments or raise any questions deemed appropriate.

The Inspector or the Chief Inspector may also discuss the draft report with the Manager of the Licensing and Compliance Branch. The Manager of the Licensing and Compliance Branch may discuss the matter with legal counsel to the Ministry or Crown Counsel if they deem that appropriate.

The final decision as to whether to make a report to Crown Counsel, and the content of the report, should be determined by the lead Inspector, in consultation with the Chief Inspector.

If a decision is made to proceed with a report to Crown Counsel, the Fisheries Inspector should contact the appropriate Crown Counsel. The ministry's legal counsel can assist in contacting the appropriate Crown Counsel if requested.

Content of report to Crown Counsel

The Fisheries Inspector should confirm with Crown Counsel the form and nature of report he or she requires in respect of the issue in question. Unless directed otherwise, the report to Crown Counsel should be in the form set out in Appendices 10.20 to 10.23.

When drafting a report to Crown Counsel it is important to ensure that all relevant information is included, not only that which supports the proposed charge. Reports to Crown Counsel will be disclosed (with limited exceptions) to the alleged offender if a decision is made to proceed with charges.

Decision whether to charge

Crown Counsel will make a decision on whether to pursue recommended charges. The decision will be based on whether Crown believes there is a substantial likelihood of conviction, and if so, whether it is in the public's interest to proceed with charges.

If a decision is made to proceed with charges, Crown Counsel will draft the Information and send it to the inspector who will swear it before a Justice of the Peace. The inspector may ask the Crown Counsel for procedural guidance in this regard. The Justice of the Peace will then decide whether to issue a summons or similar order compelling the attendance of the party before court to face charges. Crown Counsel will direct the Fisheries Inspector in regards to further proceedings, including the date, time, location and process for testifying in court.

6.8.2.2.3. Appearing in court

If a person contests a violation ticket or Crown Counsel proceeds with charges that result in a trial, a Fisheries Inspector may be required to appear in Provincial Court. The inspector would be notified by the Court or Crown Counsel as to the specific date, time and location of any such hearing.

In trials resulting from the laying of an Information or violation ticket, the Crown will be represented by Crown Counsel and the inspector will likely be called upon to testify as a witness.

The following points are intended to provide practical guidance to inspectors who appear in court. These points are of a summary nature and Fisheries Inspectors are encouraged to obtain additional familiarity with the court process by attending provincial court as an observer. The Chief Inspector will also provide guidance and training pertaining to courtroom procedure, in consultation with legal counsel to the ministry.

6.8.2.2.3.1. Preparing for Court

Fisheries Inspectors should assemble and review the relevant evidence and documents before appearing in Court. This may include the violation ticket, documents, photographs, report to Crown Counsel, etc. Fisheries Inspectors should also review their notes of an event in advance of appearing in court if their memory of the events is not clear. They should however recognize that they may be asked by counsel for the accused whether they reviewed their notes, and if so

they will likely be required by the court to make them available for the accused or his or her counsel to review.

In any case, the inspector should bring copies of any documents, photographs etc. that she or he intends to rely on in court.

6.8.2.2.3.2. Arriving at the court

Inspectors should arrive at court at least 30 minutes ahead of the scheduled hearing time.

In the case of contested violation tickets, the inspector should determine from a registry official which courtroom the matter will be heard in, and should go to that room before the scheduled hearing time. A Court Clerk will usually be present in the room 15-20 minutes before the judge arrives, and the Court Clerk should be advised of the inspector's name and the case he or she is appearing for. The inspector should then sit in the back of the court until the trials begin and their case is called.

The Fisheries Inspector should speak with Crown Counsel in advance of the hearing date to determine a specific time and place to meet Crown Counsel at the courthouse in advance of the hearing. Crown Counsel will consult with the Court Clerk and advise the Fisheries Inspector of the procedure to be followed.

6.8.2.2.3.3. When the judge enters the courtroom

The Court Clerk or Sheriff will leave the courtroom to summon the judge when it is time for proceedings to commence. All parties in the courtroom will be asked to stand as the judge enters the room and should remain standing until the judge sits down. Fisheries Inspectors, as officers of the Crown, should bow to the judge as he or she sits down.

6.8.2.2.3.4. When the case is called

At the beginning of each trial the Court Clerk will read out the name of the matter. (e.g. "The Crown versus John Richard Smith").

Crown Counsel will appear before the judge and the inspector can sit at the back of or outside the courtroom (as directed by Crown Counsel) until called as a witness.

6.8.2.2.3.5. *Trial procedure*

After introductions are made, the judge will ask the Crown to begin its case. The standard court process is as follows:

- Opening statements by the Crown.

This is a very brief statement by the representative of the Crown as to what the charge is, what evidence will be introduced to support the charge, who will be called to testify, and the penalty sought.

- Presentation of the Crown's case.

The Crown Counsel will call witnesses to testify. This will usually include the Fisheries Inspector and may include other persons as well.

The Crown's evidence should generally be presented in chronological order. It should cover all material elements of the offence. This would include the date, location, identification of accused, evidence of offence being committed, the action taken by the inspector and any other material elements of the offence which may be assessed from a careful reading of the relevant provisions of the act and regulations.

The Crown should generally prove "beyond a reasonable doubt" that the accused committed the offence for which they were charged. However, this requirement is subject to section 98 of the *Offence Act*, which places the burden of proof on the defendant to show he or she was licensed for an activity that, in the absence of a licence or permit, would constitute an offence.

Witnesses for the Crown may be cross-examined by the accused or her or his counsel. On cross-examination a person may ask "leading" questions. These are questions that limit the possible responses and which may imply a particular answer. E.g. "So what you are saying is that you failed to secure the sample in a sealed container after removing it from the site?"

- Opening statement by the accused (if any).
- Presentation of the defense.

The accused may testify in his or her own defense, although this is not required. The accused may also ask other witnesses to testify.

In some cases an accused may not present any evidence, and will simply make a submission to the Court that the evidence presented by the Crown is not sufficient to show that the offence was “beyond a reasonable doubt” committed by the accused, and as such they should be acquitted.

- Rebuttal.

The Crown may rebut any information represented by the accused that could not have been reasonably expected to arise during presentation of the defense.

- Closing statements.

The Court may ask the parties if they have any closing statements. The purpose of a closing statement is to summarize the evidence and to indicate how it proves beyond a reasonable doubt that the offence was committed.

6.8.2.2.3.6. General points regarding appearing as a witness

- The Crown Counsel will call the inspector as a witness, and they should step forward at that point.
- When the inspector enters the witness box the Court Clerk will ask them to hold the Bible in their right hand, and will ask, “Do you swear the evidence you are about to give is the truth, the whole truth and nothing but the truth, so help you God?” The Inspector should respond, “Yes I do”. An inspector may also “affirm” which involves a similar process, but does not have any religious connotations. If that is the case they should advise the judge accordingly before taking the oath.
- A witness may sit down in the witness box after being sworn if noted to do so by the judge.
- The Crown Counsel will ask the inspector questions. The inspector should answer the questions clearly and directly. After questioning by Crown Counsel, the inspector may be cross-examined by the accused or his or her counsel.
- If a witness is unclear of the meaning of a question they should ask for clarification before answering.

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- The inspector should present the relevant the evidence in a chronological and clear manner. The judge may ask the inspector questions and the inspector should respond to such questions in a clear and forthright manner.
 - The most important point for a witness, particularly for a Crown witness, is to ensure honesty and integrity. Inspectors should understand and remember that the role of the Crown in offence proceedings is not to secure a conviction. Rather, it is to ensure that justice is done. Inspectors should therefore at all times ensure that their evidence is straightforward, honest and clear, even if the evidence does not support a conviction.
 - Evidence should be presented in a clear and audible voice. Inspectors should resist the temptation to speak too quickly, and should recognize that the judge will likely be taking notes of the testimony. They should not be concerned if the judge does not look at them during testimony.
 - Witness should address their remarks to the court and not the person asking them questions.
 - Witnesses should not generally offer more information than is requested by the party questioning them.
 - Inspectors should not allow themselves to become frustrated or antagonized by any person who may be cross-examining them. It is important during cross-examination for the witness to remain calm, to answer the questions in a forthright way, and to avoid becoming upset or disconcerted.
 - If an inspector is asked at trial to reveal the identity of an informant, a request can be made to the judge to be excused from answering such a question if the person who provided the question has indicated a reasonable basis for wanting their identity kept confidential. If the judge refuses to excuse the inspector from answering the question, a request can be made to stand down so that other options can be considered. This may include calling the informant to seek permission to disclose their identity. If that consent is not obtained a request to stay the proceedings can be made.
 - Witnesses may refer to notes to assist their memory, but should obtain the judge's permission to do so. The judge will likely allow the accused person or his or her counsel to review the notes and to ask questions about them. For this reason it is important that notes be taken at the time or as soon as possible after an event, and that a standard practice of note taking be followed (see section 6.4.3 above). The purpose of reviewing such notes is

simply to assist with recollection and the evidence admitted by the court is generally the oral testimony, not the notes themselves.

- If an inspector wishes to introduce real evidence in support of their case (e.g. documents, photographs, sketches, test results, tape recordings or physical objects), they should be “authenticated” by a witness. To authenticate that evidence the witness should be able to testify as to their personal knowledge of the source of the evidence, the manner in which it was obtained and stored, and controls placed upon access to the evidence (see section 6.4.2.5.1. above). They will also be required to allow the accused or his or her counsel to review the evidence before it is admitted. Once admitted the court will assign an exhibit number to the item. If an inspector requires special equipment to present real evidence (e.g. a video machine) they should advise the Court Registry at least 2 weeks in advance.
- When providing copies of documents or other real evidence to the judge, the material should be handed to the court clerk and not the judge directly.
- Witnesses should not express any personal opinions about a matter, unless they are qualified as an expert to do so. Inspectors would rarely be asked to testify as an expert witness, and this would likely occur, if at all, only in cases where Crown Counsel is involved.
- Inspectors should generally avoid use of “hearsay” evidence if possible. Hearsay evidence is evidence about statements made by another person that are tendered in support of the truth of that statement. For example, “Ms. Smith told me that she saw the accused selling fish at this location every Friday”. Normally the Crown would be expected to have Ms. Smith testify on this point if it is essential to the charge. However, there are various exceptions to the hearsay rule. One important exception pertains to admissions made by the accused out of court. In any case where hearsay evidence seems an important part of a case, the matter should be discussed with legal counsel to the ministry or Crown Counsel in advance of the trial.
- Witnesses for the Crown should wait in the corridor until being called to testify. This ensures that their evidence is not influenced by the prior testimony of other parties. (This obviously does not apply to situations where the inspector represents the Crown in the absence of Crown Counsel and also testifies as a witness).

General points regarding courtroom conduct

- The judge in provincial court should be referred to as “Your Honour”.
- Inspectors should stand at any time they are addressing the court or testifying.
- Inspectors should at all times act in a dignified manner that is respectful of the Court and the court process. They should not make any comments, facial expressions or other responses to statements made by other parties.
- Inspectors must appear in court in uniform. Hats should be carried, not worn.
- Whenever a judge is present, a Fisheries Inspector should face the judge and bow after entering or just before exiting the door at the rear of the courtroom.

6.8.2.3. Offences under the federal *Fisheries Act*, *Criminal Code* or other legislation

If a Fisheries Inspector discovers information that she or he believes may be evidence of the commission of an offence under the federal *Fisheries Act*, the *Criminal Code*, or other legislation, the inspector should advise the appropriate enforcement official as soon as possible. The Chief Inspector should also be advised of any such matters. This approach should be consistent with the Compliance and Enforcement Service Agreement.

6.8.2.4. Licence related penalties

6.8.2.4.1. Revocation or suspension

There are various provisions in the *Fisheries Act*, *Fish Inspection Act*, regulations and licence conditions pertaining to the suspension or revocation of licences. Licence suspension or cancellation is a penalty that may be imposed, in addition to any other penalty imposed under the acts and regulations.

The specific provisions and procedural requirements relevant to the various forms of licences are discussed above in section 4. In general, licence suspensions or revocations may be an appropriate option to consider in cases of serious contraventions or where there is a pattern of conduct that indicates unwillingness or inability to comply with applicable law.

6.8.2.4.2. Non-renewal or non-issuance of licence

Section 19 of the *Fisheries Act* provides the minister with authority to refuse to re-new or issue a licence to any person where:

- The person's licence has been revoked, or
- The minister is satisfied that the person has violated a provision of Part 3 of the *Fisheries Act*, the regulations or a condition of a licence, or has "conducted the business of the licensee's establishment in contravention of the spirit and intent" of Part 3.

The provisions of section 19 apply only to licences issued under Part 3 of the *Fisheries Act*. This includes licences for fish buying stations, processors, processing plants, vendors and aquaculture. A similar provision is however also found in section 24(10) regarding licences for the harvest of marine plants.

There are no similar express provisions in the acts or regulations regarding other licences issued under different parts of the *Fisheries Act* or the *Fish Inspection Act* and regulations (e.g. harvest licences and broker's licences). However, the minister retains discretion whether to issue further licences in all cases, and previous contravention's of the acts, regulations and licence conditions is a relevant factor which may nonetheless be considered in future licensing decisions.

6.8.2.4.3. Procedure for Oral Hearings concerning Licence Sanctions under the British Columbia Fisheries Act (sections 18 & 19)

All proceedings under sections 18 or 19 of the British Columbia *Fisheries Act* must follow the rules of administrative fairness. Most importantly, the licensee or applicant (the "Licensee") must be told of the case against them and given the opportunity to respond to it.

Even though section 18 of the British Columbia *Fisheries Act* only requires a hearing if the licensee requests one and section 19 is silent about hearings, the better approach in all cases in which licence privileges are in jeopardy under section 18 or section 19 is to proceed by way of hearing, with notice to the Licensee.

If a Fisheries Inspector or Aquaculture Inspector believes a licence suspension or revocation under section 18 of the British Columbia *Fisheries Act* may be

warranted, they should provide a copy of an investigation report to the Chief Inspector and the Manager, Licensing and Compliance Branch (the “Manager”).

If a Fisheries Inspector or Aquaculture Inspector believes the past conduct of a person or company warrants refusal of licence renewal under section 19 of the British Columbia *Fisheries Act*, they should consult with the Chief Inspector and the Manager.

In either case, if the Manager believes that the allegations can be proven on a balance of probabilities, the Manager should refer the matter to the Minister or Deputy Minister as the Decision-Maker. The Manager should specify what action the Manager wishes the Decision-Maker to take and provide the Decision-Maker with allegations (the less detail the better) sufficient to persuade the Decision-Maker to convene a hearing.

If the Decision-Maker does not elect to convene a hearing, the Manager should consider any other actions available in the circumstances.

If the Decision-Maker elects to proceed by way of oral hearing in determining whether to suspend, revoke, or refuse to reissue a licence under the British Columbia *Fisheries Act*, the following procedure applies:

6.8.2.4.3.1. Written notice

The Decision-Maker should give written notice of the hearing to the subject Licensee and send a copy of that notice to the person who will present the case (the “Presenter”) for the provincial government (the “Government”) and against the Licensee at the hearing. The Decision-Maker should ensure that the Licensee receives the notice at least 45 days in advance of the proposed hearing date. The notice should contain the following:

- Notice of the Decision-Maker’s intent to conduct a hearing on a specified date to determine whether to suspend, revoke, or refuse to reissue, as applicable, the Licensee’s identified licence. The notice should make it clear that the hearing may proceed even if the Licensee does not attend.
- The allegations made by the Presenter against the Licensee.
- A reminder that at the hearing the Licensee may be represented by counsel.

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- The name, address, telephone number and fax number of the Presenter and a request to the Presenter, by copy of the notice, to supply the Licensee with details of the allegations.
 - A copy of the British Columbia *Fisheries Act* and these procedures.

6.8.2.4.3.2. *Hearing Date*

The Decision-Maker may set a new hearing date on receipt of a reasonable request for adjournment or if the Decision-Maker during the course of a hearing requires additional information.

6.8.2.4.3.3. *Presenter*

The Manager should arrange for a Presenter to make the case for the Government. This may be a lawyer, Fisheries Inspector, Aquaculture Inspector, or other official from the Government.

6.8.2.4.3.4. *Disclosure*

The Presenter should disclose all relevant documents to the Licensee at least 20 days before the hearing. "Documents" include correspondence, compliance inspection reports, articles, photographs, maps, charts and any other materials such as legislation, policies, or case law that the Presenter plans to present, refer to, or rely on at the hearing.

6.8.2.4.3.5. *Witness List*

The Presenter should disclose to the Licensee at the same time as all relevant documents a list of witnesses to be called by the Presenter at the hearing.

6.8.2.4.3.6. *Document Copies*

The Presenter should provide three copies of all relevant documents at the time and place of the hearing so that there is one copy available to be entered as a formal exhibit, one copy for the Decision-Maker, and one copy for the Licensee.

6.8.2.4.3.7. *Room size and Seating*

The Decision-Maker should arrange to hold a hearing in a community or place most convenient to the Presenter and the Licensee and in a room of sufficient size and in such a way that:

- The Decision-Maker is seated at a table facing both participants.

- The Presenter is seated at a table facing the Decision-Maker.
- The Licensee is seated at a table facing the Decision-Maker.
- There is a table with seating for any witnesses.
- There is seating in the room for a reasonable number of other interested persons, unless the Decision-Maker exercises his or her discretion to conduct a closed hearing.

6.8.2.4.3.8. Recording Events and Counsel for Decision Maker

The Decision-Maker should arrange for the following:

- The means to create a permanent audio recording of the hearing.
- Counsel for the Decision-Maker, if the Decision-Maker wishes.

6.8.2.4.3.9. Commencement of the Hearing

The Decision-Maker should commence the hearing as follows:

- Declare that the hearing has started.
- Introduce himself or herself and his or her counsel, if applicable.
- Ask the Presenter and the Licensee or person representing the Licensee to introduce themselves.
- Ask that all statements be made to the Decision-Maker (unless a participant is asking questions of a witness), with only one person speaking at a time.
- Ask the Presenter and the Licensee in turn to specify the order they are seeking, the names of their witnesses and to estimate how long their case will take.

6.8.2.4.3.10. Advising the Participants

The Decision-Maker should then consider advising the participants of the following, as applicable:

- The statutory authority for the Decision-Maker to hold the hearing.
- The swearing or affirming of witnesses is required.
- The participants are free to call witnesses or enter documents, subject to rulings on their relevance.
- All documents, if entered, will be recorded with individual exhibit numbers.
- The Presenter will be called upon first.
- Once the case for the Government is complete, the Licensee or Licensee's representative will be heard.
- At the conclusion of the direct examination of each witness, the other participant may cross-examine that witness.
- The Decision-Maker may also question a witness at any time, but should wait until after cross-examination is finished in most cases.
- On the request of a participant or on the Decision-Maker's initiative, a witness may be requested to wait outside the hearing room prior to giving his or her evidence.
- Except with leave of the Decision-Maker, once a participant's case is made there will be no other opportunity to call evidence.
- Except with leave of the Decision-Maker, once a witness has stood down there will be no further opportunity to question that witness.
- After presenting evidence, the Presenter will be first to make argument, followed by the Licensee.

6.8.2.4.3.11. Hearing the Case

The Decision-Maker should then hear the case. The following procedural sequence should be followed:

1. Government's case.

1.1 Opening remarks, if any.

- 1.2 Witnesses:
 - 1.2.2 Swear or affirm to tell the truth.
 - 1.2.3 Examination by Presenter.
 - 1.2.4 Cross-examination by Licensee or representative.
 - 1.2.5 Any final questions from the Decision-Maker.
 - 1.2.6 Re-examination by Presenter, if applicable (only on points arising out of cross-examination or from Decision-Maker's questions).
2. Licensee's case.
 - 2.1 Opening remarks, if any.
 - 2.2 Witnesses:
 - 2.2.1 Swear or affirm to tell the truth.
 - 2.2.2 Examination by the Licensee or representative.
 - 2.2.3 Cross-examination by the Presenter.
 - 2.2.4 Any final questions from the Decision-Maker.
 - 2.2.5 Re-examination by the Licensee or representative, if applicable (only on points arising out of cross-examination or from the Decision-Maker's questions).
3. Government's argument.
4. Licensee's argument.

6.8.2.4.3.12. Rules of evidence

The Decision-Maker is not bound to follow the rules of evidence used in courts.

6.8.2.4.3.13. Previous Decisions

The Decision-Maker is not bound by his or her previous decisions or the

decisions of other administrative agencies. Each case should be decided on its own merits.

6.8.2.4.3.14. Closed or Open Hearings

Hearings will normally be open to the public. The Decision-Maker may, however, exercise his or her discretion to conduct a closed hearing if he or she considers it appropriate.

6.8.2.4.3.15. Decision

When the hearing is concluded, the Decision-Maker may announce his or her decision immediately or may reserve. The Decision-Maker should provide the participants with written reasons for his or her decision. The Decision-Maker is encouraged to do this in a timely way.

6.8.2.4.3.16. Absence of Licensee

If a Licensee does not appear at a hearing, but service of the notice of hearing is established, the Decision-Maker may hold the hearing in the Licensee's absence.

7. File and caseload management

7.1. File opening and management

Maintaining comprehensive and secure case files is considered a key accountability relative to the mandate of the Licensing and Compliance Branch

A file will be opened for every licensing or enforcement issue that requires action from the Inspectors. These files will be opened by the inspectors by initiating a case number and entering the relevant information on the occurrence ledger. Initial documentation must include a copy of the Initial Incident report.

The file is then forwarded to the Senior Inspector for review, preferably on the same day. If the incident requires further action, a “bring forward” date will be assigned, usually 30 days. If the investigation can not be completed before the bring forward date, the file is to be brought to the Senior Inspector for review with a request for new bring forward date.

Each file should be organized in a similar fashion. First document should be the Initial Incident Report, then any follow up documents required for the investigation, from oldest entry at the bottom to the newest entry on top. Inspectors are to use the Continuation Report form to document their actions. Documents are to be fastened to the right side of the file folder. Only a few documents are to be stapled on the left side, exhibit report, incident file checklist or referral to WLAP form.

Each Inspector will keep his files in a separate plastic file holder which is to be returned to the locked filing cabinet at the end of every day.

Should a file be removed from someone else’s file holder or filing cabinet, inspectors must ensure an index card is placed in its place. Each Fisheries Inspector is responsible for the files assigned to him. File folders are not to be taken out of the office as files may contain original documents which can not always be replaced. Should material from a file be required in the field, photocopies should be made.

Only the Senior Inspector or his designate can approve file closure. Once a case is concluded, then the file is sent to the compliance clerk for filing. If case relates to finfish inspections, once it is concluded, it will be forwarded to the compliance clerk and then the closed file will be placed in the “green” enforcement file for retention.

7.2. Prioritizing files

Files should be accorded priority in cases where a compelling reason to do so exists. This would include concerns about possible threat to health or safety, possibility of irreparable harm and concern a person may escape if appropriate action is not taken. Fisheries Inspectors should also designate matters as a priority if so directed by the Chief Inspector.

8. Complaints / challenges to decisions and actions of Fisheries Inspectors

8.1. Informal methods of resolution

If a party raises a concern about a decision or action of a Fisheries Inspector, the inspector should attempt to resolve the concern consensually if possible. This may involve providing an explanation of the decision or action, reconsideration of the decision or action if possible, or having the matter reviewed by a colleague to obtain an additional perspective. The decision whether to pursue such an option is in the sole discretion of the Fisheries Inspector, and these options need not be pursued if the inspector does not consider them appropriate in the circumstances.

8.2. Internal complaint review process

If a person expresses concern about a decision or action of a Fisheries Inspector that cannot be resolved informally with the inspector, they should be referred to the Chief Inspector. The Chief Inspector should consider the concern and take the action he or she deems appropriate in the circumstances. This may include:

- Requesting the Fisheries Inspector to reconsider the decision,
- Requesting another Fisheries Inspector to conduct a further inspection or review,
- Confirming the action or decision of the Fisheries Inspector,
- If possible modifying the action or decision of the Fisheries Inspector.

If a person expresses concern about a decision or action of the Chief Inspector that cannot be resolved informally, they should be referred to the, Manager, Licensing and Compliance, who shall review and attempt to resolve the matter.

8.3. Formal appeals

Section 7 of the *Fish Inspection Act* provides that any person “aggrieved by a decision of an inspector in respect of any inspection, grading, marking or other matter under this Act or the regulations may appeal to the minister in accordance with the procedure prescribed by the regulations”.

Section 9 and 10 of the *Fish Inspection Regulation* in turn provides that an interested person may appeal such a decision in writing, and the minister should order a reinspection provided:

- The identity of the fish or containers of fish in dispute have been preserved,
- The request for reinspection was made within 30 days of the disputed inspection, and
- The fish or containers of fish do not have in or upon them any poisonous or harmful substance.

There is no right of appeal from a decision of a Fisheries Inspector or Aquaculture Inspector taken under the *Fisheries Act*, the *Fisheries Act Regulations* or the *Aquaculture Regulation*.

8.4. Ombudsman

If a party remains unsatisfied with a decision or action of a Fisheries Inspector or Chief Inspector, despite efforts to resolve the matter through the internal complaint review process or by formal appeal (where applicable), they have the option to take a complaint to the Office of the Ombudsman. The Ombudsman has authority to investigate complaints about decisions or actions taken by government agencies in the course of public administration. The Ombudsman will contact the Fisheries Inspector if a complaint regarding the Fisheries Inspector's conduct is accepted and investigated.

8.5. Judicial review

Parties may also challenge decisions and actions taken pursuant to the *Fisheries Act*, the *Fish Inspection Act* and all subordinate regulations in the B.C. Supreme Court pursuant to the *Judicial Review Procedure Act*. On judicial review a court will seek to ensure that a statutory Decision-Maker exercised his or her authority in accordance with their jurisdiction and in accordance with the principles of administrative fairness and natural justice. A judicial review is not an appeal on the merits of a decision, and if the court concludes the decision or action was improperly taken it will usually refer the matter back to the Decision-Maker for reconsideration. A court will not usually on judicial review substitute its own decision on the merits for that of the Decision-Maker.

If a Fisheries Inspector is advised that a party intends to seek judicial review of a decision they should advise the Chief Inspector.

9. Miscellaneous

9.1. Resolution of third party complaint

Fisheries Inspectors may from time to time receive complaints from third parties regarding the conduct of a person licenced under the *Fisheries Act* or the *Fish Inspection Act* and related regulations (e.g. noise, odour or traffic resulting from a licenced facility). In any such case efforts should be made to resolve the conflict consensually if possible and appropriate in the circumstances.

In any case where a Fisheries Inspector pursues dispute resolution options, the following principles should be applied:

- The parties should be clearly advised of the proposed dispute resolution process (e.g. whether the Fisheries Inspector will attempt to mediate a solution, whether the dispute will be referred to another party etc.),
- The Fisheries Inspector should remain impartial in the dispute between the parties,
- Efforts to resolve the matter consensually cannot alter the inspector's authority to make a decision or take action under the relevant act, regulations or licence if appropriate,
- The Fisheries Inspector cannot participate in or accept any resolution that would be contrary to the provisions of the relevant acts, regulations or licences.

Within these principles, Fisheries Inspectors are encouraged to be creative and to seek practical resolutions whenever possible. Where a resolution is achieved the inspector should document the resolution and provide a copy of the documentation to each party.

Complaints that cannot be resolved that relate to the operation of aquaculture facilities may be referred to the Farm Practices Board under the *Farm Practices Protection (Right to Farm) Act*.

9.2. Threats to personal safety

If a Fisheries Inspector has reason to believe that the safety of any party may be threatened during an inspection or investigation they should consult with the Chief Inspector in advance. This Chief Inspector will provide direction as appropriate. This may include requiring a second inspector attend the inspection or investigation, or requesting a police officer to attend in appropriate cases.

If a Fisheries Inspector is at any time physically assaulted, threatened or has any reason to believe that their personal safety may be at risk during an inspection or investigation, they should withdraw from the situation immediately. In such situations, the inspector should consult the Chief Inspector as soon as possible. The Chief Inspector will provide direction to the inspector, which may include providing a report to the police. Additional details on personal safety are found in the Safety Manual attached as Appendix 10.26.

9.3. Approval of travel expenses

Unless directed otherwise, Fisheries Inspectors should obtain travel approval as required by Ministry policy. If travel is required on an urgent basis the inspector should contact the Chief Inspector (or, if he or she is not available) the Manager, Licensing and Compliance, who may grant immediate approval for the travel.

9.4. Inquiries and discussion with media

Fisheries Inspectors should not provide comments regarding outstanding licensing or enforcement issues to any person, except where that is necessary as part of an investigation. Any request for information made by a party who is the subject of an investigation will be referred to the Chief Inspector, who will refer the caller to the responsible Fisheries Inspector.

All public or media inquiries regarding the status of any licence, inspection or investigation matter will be referred to the Manager, Licensing and Compliance. The Manager, Licensing and Compliance will either respond to the inquiry or refer the matter to another appropriate official.

9.5. Notifying the Chief Inspector of significant developments

Fisheries Inspectors should advise the Chief Inspector of any significant developments or potential developments that may warrant management attention or that may result in public comment on the work of the Licensing and Compliance Branch.

9.6. Boat safety

The Ministry shall make boating safety training available for Fisheries Inspectors who may be required to use a boat in the course of their duties.

Under no circumstances may a Fisheries Inspector operate a boat in the course of their duties unless they have satisfied the Chief Inspector that they have the requisite skill and training to safely operate a boat. The Chief Inspector may impose limits or restrictions on the operation of boats for any Fisheries Inspector.

No Fisheries Inspector is permitted to operate a boat unless accompanied by a second person. Additional details on boating procedures are found in the Safety Manual attached as Appendix 10.26.

9.7. Travel procedures

If an inspector is traveling (by vehicle, boat or airplane) they should comply with the requirements for trip details and check as identified in the local Health and Safety Program, attached as Appendix 10.26.

9.8. Uniforms

Fisheries Inspectors are required to wear a uniform while on duty during government working hours, unless otherwise authorized by the manager. Details of the uniform policy can be found in Appendix 10.25 "Standard Uniform Issuance and Entitlement Policy".

9.9. Health and Safety

A Field Operations Manual has been developed for workers safety and will be used in conjunction with the Ministry of Agriculture, Food and Fisheries "Core Requirements" and "General Field Operations Manual."

The contents of the “Specific Field Operations Manual” comprise work procedures for those field operations undertaken by the Resource Development and Sustainability Division of the Ministry. Details of the manual are found in Appendix 10.26.

9.10. Bio-security Measures for Salmon Farm Site Visits

The Provincial *Fisheries Act* permits inspectors to enter premises and/or pass over private property without being held liable for trespass for inspection of farm sites as specified in the Act. A bio-security protocol has been developed to ensure that inspectors are aware of the fish health and disease implications arising from the movements of personnel, boats, equipment and other materials that could result in the inadvertent transfer of pathogenic agents between fish farm sites and/or companies.

The protocol is designed to minimize the risk of compromising the health of farm sites yet enable inspectors to perform their duties as required. Details of the protocol are found in Appendix 10.24.

9.11. Police Checks

All new staff are required to undergo background checks as security precautions prior to appointment as an Inspector of Fisheries or an Aquaculture Inspector.

10. Appendices

Acts and Regulations

- 10.1. Fisheries Act**
- 10.2. Fisheries Act Regulations**
- 10.3. Aquaculture Regulation**
- 10.4. Fish Inspection Act**
- 10.5. Fish Inspection Regulations**
- 10.6. Form of Oath Regulation**
- 10.7. Offence Act**
- 10.8. Violation Ticket Administration**

Inspection Checklists and Compliance Reports

- 10.9. Salmon Farm Inspection Checklist**
- 10.10. Salmon Farm Compliance Report - MAFF**
- 10.11. Salmon Farm Compliance Report WLAP**
- 10.12. Construction Standards for Shore Based Fish Buying Stations**
- 10.13. Operation Standards for Shore Based Buying Stations**
- 10.14. Construction and Operations Standards for Vehicle Buying Stations**
- 10.15. Shellfish Aquaculture Inspection Checklist**

Service Agreements:

- 10.16. Canada and British Columbia Memorandum of Understanding on Fish Inspection**

- 10.17. Coordination of Compliance and Enforcement Programs between Ministry of Agriculture, Food and Fisheries, Ministry of Water, Land and Air Protection, Ministry of Sustainable Resource Management, and Land and Water British Columbia Inc.**

Investigative and Crown Counsel Report Templates:

- 10.18. Incident Tracking Form**
- 10.19. Incident Tracking Continuance**
- 10.20. Report to Crown Counsel**
- 10.21. Report to Crown - Narrative**
- 10.22. Report to Crown - Accused Supplement**
- 10.23. Report to Crown - Witnesses**

Miscellaneous:

- 10.24. Salmon Farm Inspection Bio-security Measures**
- 10.25. Policy on Uniform Usage and Replacement**
- 10.26. Staff Safety Program**