

**Service Agreement
on
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.**

1. Agreed Upon Vision:

A sustainable aquaculture industry that meets high standards for environmental protection and has a high level of public confidence in the compliance and enforcement role of government.

2. Lead Agency Concept:

The Ministry of Agriculture, Food and Fisheries is the lead agency for aquaculture development in British Columbia. Critical functions and authorities also reside within the Ministry of Water, Land and Air Protection (MWLAP), the Ministry of Sustainable Resource Management (MSRM), and Land and Water British Columbia Inc. (LWBC), hereafter referred to as the “agencies”.

The lead agency concept is designed to deliver services, permits and approvals to industry through a single window via service agreements, delegations of authority and pre-approval agreements with other agencies in all three levels of government.

3. Development of Service Agreement:

Provincial government representatives are committed to coordinating responsibilities in the area of compliance and enforcement to eliminate inter-agency overlaps, reduce duplication of efforts by single agency presence in the field for compliance activities, increase efficiencies, and to demonstrate a strong, integrated and accountable compliance and enforcement regime.

The agencies wish to identify and clarify respective roles regarding finfish and shellfish aquaculture compliance and enforcement activities, outline specific responsibilities, identify projected resource requirements, and develop protocols for dealing with issues that may arise on occasion.

3. Development of Service Agreement - continued:

This multi-signatory Service Agreement sets out the agreed upon approach between agencies of interest, outlines specific roles and responsibilities, training requirements, implementation timelines and required communication and protocols in responding to identified issues.

4. Goals of Service Agreement:

Development of this Service Agreement is based on the following common goals:

- efficient use of staff resources to minimize duplication;
- one window approach to aquaculture development;
- high level of compliance;
- early intervention to avoid non-compliance;
- effective enforcement, successful prosecution and rehabilitation where required;
- public confidence; and,
- transparency.

5. Performance Based Standards:

This Service Agreement recognizes that government is committed to the development of performance based standards in three key areas: waste management; fish health; and escape prevention. This Service Agreement also recognizes that agencies are working towards a performance-based management regime that acknowledges the key environmental standards.

Signatories to this agreement also acknowledge that application of a combination of regimes, including “rules-based” and “results-based” will be required on an interim basis, until government is satisfied that industry has either achieved or exceeded objectives in the areas of waste management, fish health and escape prevention.

6. Environmental Monitoring

For the purpose of this Service Agreement, it is agreed that environmental monitoring activities pursuant to the *Aquaculture Waste Control Regulation* will remain with the lead regulatory agency, MWLAP, with participation by MAFF Inspection staff. Similarly, the administration of the dive audit program will remain with the lead regulatory agency, MAFF.

6. Environmental Monitoring – continued:

Environmental monitoring activities are to be conducted by biological monitoring staff (technicians, biologists, statisticians) at MWLAP, and, for this reason, are not considered part of the Service Agreement. Specific environmental monitoring activities include:

- conducting reviews of industry environmental monitoring data;
- annual monitoring of sediments at salmon farms;
- development of appropriate sampling protocols and quality assurance/control programs;
- establishing priorities for ministry monitoring of sediments at salmon farms; and,
- conducting environmental sampling at salmon farms, providing feedback to facility.

The agencies agree to conduct joint environmental monitoring activities on site in order to achieve harmonization between compliance inspections and on-site activities. This agreement is subject to operational considerations such as scheduling.

The specific provision on Environmental Monitoring will be reviewed at the end of the first year to ensure identified objectives are being met in the most effective and efficient manner.

7. Compliance and Enforcement – Roles and Responsibilities:

For the purpose of this Service Agreement, it is agreed that MAFF has the lead role in compliance and that MWLAP has the lead role in enforcement. MWLAP will also assume the lead role in consultation with MAFF when environmental conditions at marine finfish facilities exceed the “trigger” level established in the *Aquaculture Waste Control Regulation*.

“Compliance” is defined as conducting the following activities:

- site specific management plan development;
- awareness, education, promotion and training activities;
- partnership and practices activities;
- monitoring, inspections and audits;
- administrative remedies pertaining to agency’s licensing authority;
- early intervention to prevent non-compliance;
- provision of data, samples, monitoring results, inspection reports, and fish escape reports to the lead enforcement agency based on a predetermined schedule; and,

7. Compliance and Enforcement – Roles and Responsibilities - continued:

- support for enforcement actions including development of procedures and provision of information, technical support and expert witness support for investigation to ensure the ability of MWLAP to achieve successful prosecution.

“Enforcement” is defined as carrying out the following activities:

- verifying and substantiating an alleged offence;
- recommending and implementing necessary enforcement responses.

Specifically:

- a) MAFF Compliance staff will serve as the lead in developing site specific management plans and conducting all finfish and shellfish inspections, monitoring (subject to section 6) and audits on behalf of MWLAP, LWBC, and MSRM.
- a) MWLAP Enforcement staff will serve as the investigative lead on all enforcement activities associated with formal prosecutions, court orders and administrative penalties for finfish and shellfish aquaculture on behalf of MAFF, LWBC and MSRM.

MAFF and MWLAP Compliance and Enforcement Managers will work with LWBC, MSRM and federal DFO officials to harmonize compliance and enforcement activities and develop a protocol on sharing information, participating in inspections and enforcement as required, and addressing common issues of interest.

8. Transition from Inspection to Investigation:

MAFF Compliance staff will contact MWLAP Enforcement staff to initiate an investigation when instance(s) of non-compliance by an operator requires further review or action by the lead agency for enforcement. Specific responses will be outlined in a matrix to be developed by respective Compliance and Enforcement Managers.

It is anticipated this transition will involve consultation, a request for shared inspections and/or a request to consider enforcement sanctions such as formal prosecutions. MAFF will provide a support role to MWLAP enforcement staff as required when a request for an investigation has been made.

8. Transition from Inspection to Investigation - continued:

For the purpose of this Service Agreement, MWLAP Enforcement staff and MAFF Inspection staff will regularly communicate on status of inspections and files and activities undertaken by either agency. MAFF Inspection staff may issue violation tickets as defined within the matrix. The matrix will indicate under which circumstances agencies must consult prior to proceeding with enforcement action.

Escapes:

- MAFF Compliance staff will attempt to visit sites within 72 hours of discovery of an escape incident. Where possible, particularly with escape incidents that are viewed as “significant”, MWLAP Enforcement staff will attend jointly with MAFF Compliance staff.
- The role of MAFF Compliance staff will be to ensure appropriate measures have been implemented to preclude further escapes and provide technical support for the investigation where required.
- The role of MWLAP Enforcement staff will be to assess the state of compliance leading up to and including the actual event, and to conduct a legal investigation to determine the appropriate enforcement response.

Appendix I provides the detailed compliance continuum and breakdown of agency activities and responsibilities.

9. Communication and Protocols:

In order to ensure an environment of trust and respect, effective communication between agencies is necessary.

It is agreed:

- that compliance and enforcement activities and responsibilities are clearly defined and communicated with all staff;
- where an aquaculture activity has resulted in a significant impact of mutual concern, a jointly agreed upon briefing note will be forwarded to the Executive of all agencies. Inter-agency compliance and enforcement staff will work together to develop the briefing notes;

9. Communication and Protocols - continued:

- that information regarding an investigation being pursued by MWLAP staff is considered highly confidential and distribution must be limited to only those operational staff involved in the file. It is agreed that if charges are approved by Crown on an investigation, that Executive and Communications staff will be advised once charges have been sworn in and the company has been advised;
- that communication of data, samples, monitoring results and inspection reports between the agencies will be transparent, timely and direct, to allow either agency to make independent judgements about the state of compliance at any time;
- that all compliance and enforcement activities are complementary and mutually supportive in nature;
- that clear policies and procedures are created that will outline how agencies will communicate with one another; and,
- that the agencies will be mutually involved in the development of compliance strategies and workplans and agree that MAFF/LWBC/MSRM compliance staff (as appropriate) will be consulted on decision points regarding appropriate or possible enforcement responses by MWLAP staff.

10. Resolving Differences:

Where conflict arises relative to different opinions within the scope of relevant authorities or appropriate sanctions, it is agreed that differences are to be resolved as quickly and efficiently as possible by staff involved in discussions, and at a maximum, within 30 days of the issue being identified.

If satisfactory resolution can not be achieved, matters will be raised to the Regional Enforcement Manager for MWLAP, the Manager of Aquaculture Licensing and Compliance in MAFF, the Regional Manager of MSRM, and the Regional Director of LWBC.

If the issue in question can not be resolved within 14 days at this level, it will be brought forward to respective Assistant Deputy Ministers for discussion and resolution within 14 days.

11. Proposed Implementation Timelines:

- January, 2002 - Approval in principle to coordinated compliance and enforcement regime by Deputy Ministers.
- February, 2002 - Development of Service Agreement between agencies of interest.
- Feb./March, 2002 - Approval and sign-off of Service Agreement between agencies of interest. Approval by CORE review table.
- March, 2002 - Development of "Compliance Strategy Matrix".
- April to July, 2002 - Training for both staff – will be conducted by on-site training inspections and participating in one or more joint enforcement investigations
 - Arrange appropriate powers and delegated authorities for staff.
- April, 2003 - Transition phase complete

12. Training Requirements:

Agencies agree that joint training for appropriate staff will be undertaken to deliver on this Service Agreement.

13. Delegation of Authorities:

To effectively administer the numerous statutes that apply to finfish and shellfish aquaculture, delegation or appointment of authority is necessary. MAFF Inspectors will require specific powers to collect inspection data and specific delegated authorities to inspect operations pursuant to both LWBC's and MWLAP's statutory framework.

In most cases, legislation appears to provide the appropriate Minister power to delegate authorities.

Appropriate agencies will work with the Aquaculture Licensing and Compliance Manager to move forward and expedite necessary approvals for MAFF Inspection staff to secure delegated authorities.

14. Resource Requirements:

For the inception of this Service Agreement, it is assumed that resource requirements between agencies will remain the same. Discussions on ability of the agencies to meet identified objectives will occur at the end of the first year of this agreement.

15. Transparency of Data:

This Service Agreement recognizes the requirement to provide the public with clear, transparent and accountable data on the state of compliance for finfish and shellfish aquaculture industries.

It is agreed that information collected and subsequent enforcement results will be collected and submitted in a joint agency report for distribution to industry and the public via an acceptable medium. The responsibility for completion of this Annual Report will reside with the appropriate Managers/Directors in the agencies. It is expected that the first joint report will be completed and published on or before April, 2003.

16. Service Agreement Requirements:

Immediate Requirements:

- a) Agreement and sign-off on all requirements set out in Implementation Timelines, above.
- b) Draft policies and procedures on how and when agencies will communicate.
- c) Develop overall compliance strategy and workplan for inspection cycle commencing 2002, incorporating necessary training requirements in the workplan.
- d) Confer necessary delegated authorities on MAFF Inspection staff.

Quarterly Requirement:

- a) Meeting or conference call with respective Managers/Directors to discuss issues and resolve concerns.
- b) A regular quarterly review meeting between appropriate Assistant Deputy Ministers and Deputy Ministers will be necessary to ensure the goals set out in this Service Agreement are being achieved.

17. Service Agreement Requirements - continued:

Annual Requirements:

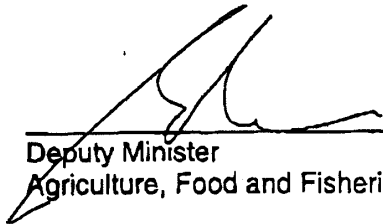
- a) All elements contained within the Service Agreement will be reviewed annually by respective Managers/Directors responsible for compliance and enforcement. Recommended changes to scope of agreement will be forwarded to appropriate Executive staff for discussion, agreement and implementation. Any agreed upon changes will be submitted via amended Service Agreement with appropriate signatory sign off.
- b) Review of respective resources, compliance strategy and workplan elements will be conducted to determine if resources are appropriately allocated. Any reallocation requests will be forwarded to respective Executive staff for review, discussion and approval.
- c) Respective agency Managers/Directors responsible for compliance and enforcement will measure the effectiveness of both the compliance and enforcement programs to ensure identified objectives are being met, including licensing and legislative. Adjustments in workplan activities will be modified as appropriate.

18. Termination of Service Agreement:

It is agreed that the Deputy Minister of Water, Land and Air Protection or the Deputy Minister of Agriculture, Food and Fisheries, the Chief Executive Officer for Land and Water British Columbia Inc. and the Deputy Minister of Ministry of Sustainable Resource Mangement may terminate this Service Agreement by providing 90 days notice in writing.

19. Signatories:

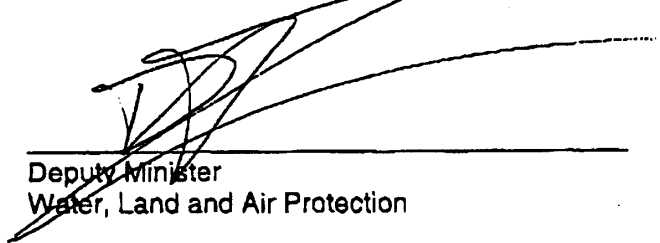
For Ministry of Agriculture, Food and Fisheries



Deputy Minister
Agriculture, Food and Fisheries

March 28/02
Date

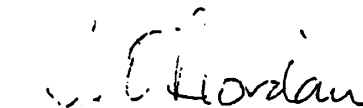
For Ministry of Water, Land and Air Protection



Deputy Minister
Water, Land and Air Protection

March 28/02
Date


For Ministry of Sustainable Resource Management



Deputy Minister
Sustainable Resource Management

March 28/2002
Date

For Land and Water British Columbia Inc.



Chief Executive Officer
Land and Water British Columbia Inc.

March 28/2002
Date

Appendix I

Service Agreement Breakdown of Compliance Continuum Activities by Agency

Ministry of Agriculture, Food and Fisheries

Awareness, Education, Promotion and Training Activities:

- advising public of the requirements of the law;
- consultations with parties affected by the law;
- communications strategies and public reporting of the compliance program;
- training programs for staff, clients and other interested parties.

Partnerships and Practices:

- developing cooperative partnerships and agreements contributing to government objectives, including building on and coordinating activities with federal authorities;
- building on reliance on professionally qualified persons;
- promoting industry best management practices (Codes of Practice/Conduct);
- promoting self-monitoring/auditing and reporting on practices;
- promoting International Certification.

Monitoring, Inspections, Audits:

- receiving information/data (with exception of environmental monitoring data) provided by finfish or shellfish sector and forwarding to appropriate regulatory agency;
- conducting all inspections and follow-up inspections (with exception of environmental monitoring program) and audits in the field on behalf of LWBC, MSRM and MWLAP;
- conduct follow up with operators on results of inspections and required remedial actions – identified non-compliance issues under MWLAP's regulatory authority will be referred for discussion and/or appropriate follow-up to MWLAP;
- acting as initial contact for public and industry complaints with respect to issues provided under finfish and shellfish licence terms and conditions, the provincial *Fisheries Act*, *Aquaculture Regulation*, and in the case of shellfish aquaculture, the *Land Act*; and,
- dependent on necessary mitigative measures for farms in excess of chemical trigger, MAFF Inspection staff may conduct monitoring and inspections.

Administrative Remedies:

- aquaculture licence suspension or cancellation proceedings.

Appendix I - continued

Service Agreement Breakdown of Compliance Continuum Activities by Agency

Ministry of Water, Land and Air Protection

Mitigative Measures:

- evaluation of remediation plans (where required) when farms exceed the chemical trigger prescribed in the *Aquaculture Waste Control Regulation*;
- implementation of mitigative measures (where required) for farms that have exceeded the chemical trigger and/or standards.

Enforcement:

- verifying and substantiating an alleged offence;
- implementing necessary enforcement responses on behalf of all finfish and shellfish aquaculture activities in the province, including finfish escapes. Enforcement activities are defined as warnings, tickets, administrative penalties, orders and formal prosecutions for governing statutes and regulations.
- Referring investigative files to the appropriate agency where it is determined that the application of administrative sanctions (penalties, license/tenure suspension/cancellation) are appropriate.

LWBC and MSRM

Both agencies will provide MAFF Inspection staff and MWLAP Enforcement staff with necessary information in completing activities. Examples may include digital aerial photographs and licence and tenure documents.

- Amendment of tenure boundaries and license conditions to resolve minor non-compliance.
- Suspension/cancellation of water licenses or land tenures and imposition and recovery of tenure fees for trespass.
- Support for enforcement actions including development of procedures and provision of information, technical support and expert witness support for investigation to ensure the ability of MWLAP to achieve successful prosecution.

Appendix II

Mutual Areas of Concern – Compliance and Enforcement¹ MWLAP and MAFF

Issue:
Operation conducted within approved tenure boundaries
Farm sites well marked and posted
Access to water so as not to impede riparian rights
Diligent Use
Environmental Monitoring
Method and location of blood water and disposal
Method and location of net cleaning, waste treatment and disposal
Use of freshwater from a stream/lake
Feed Handling, type and volume
Method of mort disposal and location
Wildlife/predator destruction, disposal method and location
Firearm and ammunition storage and possession
Sewage treatment and disposal
Method and location of refuse storage and disposal
Spill containment for hazardous materials including footbaths
Environmental management
Chemical and fuel storage
Premises appropriately licensed for aquaculture
Culturing approved species with management plan(s)
Compliance with licence conditions and special provisos
Annual or quarterly reporting requirement compliance
Harvested product appropriately tagged (shellfish)
Product sold to registered Fish Processors
Appropriate use of tenure (mitigate laundering of illegally harvested product)
Record keeping requirements such as stock inventory, mortality records
Escape prevention and response programs
Boat operations
Net cage deployment, including net weighting and system anchoring
Predator avoidance plans including feed storage and predator control
Net maintenance, marking and record keeping
Daily inspections and logs
Administration of drugs
Compliance with management plans, including site configurations, biomass and approved species

¹ Mutual areas of concern also include both finfish and shellfish issues reviewed by MAFF and MWLAP on behalf of other agencies such as LWBC (i.e., operation conducted within approved tenure boundaries).