March 28, 2018

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FLR/22/2018

On February 26, 2018, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

" Might I also get the total number of eggs and fish (ie smolt/fingerlings that our hatcheries are not producing) imported annually for the last 5 years? And their market value

FLR does not track Market Value of eggs and fish imported.

<table>
<thead>
<tr>
<th>Year</th>
<th>Eggs/Fish (all species)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>5,044,139</td>
</tr>
<tr>
<td>2014</td>
<td>9,385,276</td>
</tr>
<tr>
<td>2015</td>
<td>12,335,496</td>
</tr>
<tr>
<td>2016</td>
<td>15,826,195</td>
</tr>
<tr>
<td>2017</td>
<td>15,390,630</td>
</tr>
</tbody>
</table>

Can I also get a list of aquaculture fin fish processing facilities licensed in 2017 and or 2018 without the effluent treatment that is required by processors within 25 kms of an aquaculture site?

The salmonid processing plants within the 20 km zone from salmonid marine sites have wastewater treatment. There are none without.

Can a get a breakdown of the standard 2018 fees listed on the open net pen permits by species: cod vs salmon vs trout. eg most say $2900/yr per 20 ha (does this exclude water use approval applications and fees, etc)? It's small potatoes but when confronting the Minister in the House we need to know so he can't try and weasel out of the question.

<table>
<thead>
<tr>
<th>Aquaculture Fees – Finfish</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Fee - Finfish (salmon)</td>
<td>$145/ha</td>
</tr>
<tr>
<td>Application Fee - Finfish Other*</td>
<td>$1,000</td>
</tr>
<tr>
<td>Lease Application Fee - Finfish</td>
<td>$150</td>
</tr>
<tr>
<td>Lease Document Preparation Fee</td>
<td>$300</td>
</tr>
<tr>
<td>Water Use Licence (MAE)</td>
<td>$400</td>
</tr>
<tr>
<td>Annual Licence Fee - Commercial Finfish</td>
<td>$145/ha</td>
</tr>
<tr>
<td>Annual Licence Fee - Commercial Finfish Other*</td>
<td>$1,000</td>
</tr>
<tr>
<td>Annual Lease Rental Fee – Aquaculture</td>
<td>$8/ha</td>
</tr>
<tr>
<td>Annual Water Use Licence Fee (Marine)</td>
<td>$1,000</td>
</tr>
<tr>
<td>Annual Water Use Licence Fee (Freshwater)</td>
<td>$10,000</td>
</tr>
</tbody>
</table>

Also the standard and typical as well as the maximum fish densities allowed per site in hectares eg current standard is: 25,000 per hectare and per site and 500,000 million per site. Current maximum is 25,000 per hectare and 1 million per site.

18kg/m³ is the max stocking density as outlined in FLR license application

Can I get a copy of all current up to date Departmental Policies governing aquaculture and the current Bay Management Areas Agreement?

The Aquaculture Policy and Procedure Manual and the BMA agreement are attached. As per FLR’s commitments in the Way Forward the Policy and Procedure manual for Aquaculture is under review.

Please be advised a decision has been made by the Deputy Minister of FLR to provide partial access to the requested information. Responses are provided above in bold and relevant material is attached. Redactions have been made under section 40 – Personal Privacy and Section 39 Disclosure harmful to business interests of a third party.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that this letter will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement’s website within one business day following the applicable period of time. Please note that requests for
personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-3730 or by email at hollyphilpott@gov.nl.ca

Sincerely,

Holly Philpott
ATIPP Coordinator

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.
(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
Notice to Readers

The policies and procedures contained in this document will be subject to change as required. The official version of these policies and procedures is on file at the Department of Fisheries and Aquaculture.

It is incumbent on the user to verify that they have the most recent version of this manual before making decisions based on its contents.

To obtain current versions of policies and procedures for aquaculture in Newfoundland and Labrador, contact:

Manager of Aquaculture Licencing and Inspection
Aquaculture Branch
Department of Fisheries and Aquaculture
P.O.Box 679
58 Hardy Ave
Grand Falls-Windsor, NL
A2A 2K2
(709) 292-4100
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1.0 INTRODUCTION

1.1 Purpose

The signing of the Canada/Newfoundland Memorandum of Understanding (MOU) on Aquaculture Development in February 1988 designated responsibility for the licencing and regulation of aquaculture facilities and activities within the province to the Government of Newfoundland and Labrador.

This policy and procedures manual is designed to provide staff of the Department of Fisheries and Aquaculture, other agencies involved in aquaculture licencing, regulation and development with the following information:

- policy principles and objectives guiding the licencing process;
- authority governing the licencing and regulatory process;
- organization, roles and responsibilities of those involved in aquaculture licencing; and
- aquaculture licencing policies and procedures.

1.2 Guiding Principles and Policy Framework

The following principles are the framework for aquaculture development in Newfoundland and Labrador. They also provide guidance for government's development of aquaculture policy. Where appropriate and necessary, they have been harmonized with those of the federal government as presented in the document Federal Aquaculture Development Strategy.

Guiding Principles:

- The private sector will take the lead role in developing the Province's aquaculture industry. This will not preclude governments from playing a partnership role in the development of the industry.

- Aquaculture development must be based on industry competitiveness.

- Development of a viable supply and services sector is an essential element of a successful aquaculture industry.

- Research and development is essential to the success and competitiveness of the industry.

- The Government of Canada and the Government of Newfoundland and Labrador are committed to the development of the Newfoundland and Labrador aquaculture industry, and consider it to be a priority for regional economic development. As such, it will be given specific policy and development considerations in order to create a climate in which the industry can flourish.

- Aquaculture is a legitimate user of land and water; therefore, the industry should have
equitable access to the aquatic resource base. In promoting the development of the aquaculture sector, government will take into consideration other users of the marine and freshwater resource in assessing aquaculture development proposals.

Government has a role to play in the development of the industry. It should focus its mandate on applied research and development, scientific research, environmental protection, public health and safety and extension services.

Aquaculture development must be consistent with government responsibilities related to public health and safety, marine navigation, and the environment.

Fisheries management policy development must consider the needs of the aquaculture industry.

Stakeholders recognize the role and importance of human resource development in a successful aquaculture industry.

Aquaculture development objectives, policies and legislation of the Government of Canada and the Government of Newfoundland and Labrador should be harmonized wherever possible.

1.3 Objectives

The objectives of aquaculture legislation in general, and licencing procedures in particular, are:

• to promote the development of aquaculture within the Province, and

• to ensure that development takes into consideration the need for proper resource management, impact on existing aquaculture facilities, traditional fisheries and other marine resource user groups, environmental and social impacts, public health & safety concerns, and existing federal and provincial regulatory requirements.

In addition, five objectives have been identified to guide the development, promotion and control of the Province’s aquaculture industry:

1. to develop an industry which is competitive with aquaculture producers in other provinces and countries;

2. to develop an industry which is private sector driven and does not rely on government financial support for its survival;

3. to develop an industry which offers solid investment opportunities and has the following characteristics:
   • multiple species with high quality products and diversified markets,
- secondary processing capability for value-added products and
- a strong support services component.

4. to develop an environmentally responsible and sustainable industry and

5. to develop an industry which recognizes the rights of other resource users such as recreational interests, other commercial interests (e.g., fishing, tourism) and historical/cultural interests.
2.0 AUTHORITy

2.1 Aquaculture Act and Regulations


The *Aquaculture Act* serves two main functions:

1. It states government's intention to foster a climate suitable for investment in the aquaculture industry by providing the appropriate degree of protection to aquaculturists, including the property rights of aquaculturists over live product on the site; and

2. It establishes a system of licencing and regulation which ensures development of the industry in an orderly manner and provides the legislative tools necessary to protect the resource and the aquaculturist from exploitation.

The Department of Fisheries and Aquaculture has, as part of its overall mandate, the legislated responsibility for the licencing of aquaculture facilities as per the *Aquaculture Act* and *Regulations* and the terms and conditions of the *MOU*. The Department is also responsible for the provision of permits for the transfer and transport of live aquatic plants or animals for aquaculture purposes. A copy of the *Aquaculture Act* is contained in Appendix 1.

2.2 Canada/Newfoundland Aquaculture Memorandum of Understanding

The 1988 *Canada/Newfoundland Memorandum of Understanding (MOU) on Aquaculture Development*, affirms the position of the Department of Fisheries and Aquaculture as the lead agency for aquaculture in this province. The *MOU* defines the specific areas of legislative responsibility of each level of government. It also provides a basis for cooperative joint participation in such areas as research and development, fish health, transfer and transport of live aquatic plants or animals, statistics, and education and training. In addition to the identification of responsibilities in the *MOU*, the Canadian Coast Guard (CCG), having jurisdiction over coastal navigation, is responsible for matters relating to navigation through and around aquaculture sites. CCG approval for aquaculture site layouts is mandatory and is addressed during the aquaculture application process. Table 1 summarizes the responsibilities of each level of government as specified in the *MOU*. A copy of the *MOU* is found in Appendix 2.
Table 1: Federal and Provincial Responsibilities Under the Canada/Newfoundland Memorandum of Understanding on Aquaculture Development

<table>
<thead>
<tr>
<th>GOVERNMENT OF NEWFOUNDLAND AND LABRADOR</th>
<th>GOVERNMENT OF CANADA</th>
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</thead>
<tbody>
<tr>
<td>Aquaculture licencing: the application process, reviews, fees and license categories.</td>
<td>Conservation and protection of wild stocks.</td>
</tr>
<tr>
<td>Organization and operation of an aquaculture registry.</td>
<td>Fish health protection.</td>
</tr>
<tr>
<td>Aquaculture site and facility inspections.</td>
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<tr>
<td>Identification and enforcement of regulations.</td>
<td>Canadian Shellfish Sanitation Program.</td>
</tr>
<tr>
<td>Creation of industry/government advisory committees.</td>
<td>Creation of industry/government advisory committees.</td>
</tr>
<tr>
<td>Applied aquaculture research and development.</td>
<td>Applied research and development.</td>
</tr>
<tr>
<td>Authorization/Approval for the rights to use water and environmental specifications for installation of a facility.</td>
<td>Navigational Waters Protection Act</td>
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<tr>
<td>Authorization for land tenure.</td>
<td>Impact of aquaculture on the fisheries of wild stocks</td>
</tr>
<tr>
<td>Education and training.</td>
<td></td>
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</tbody>
</table>
3.0 ORGANIZATIONS, ROLES AND RESPONSIBILITIES

This chapter will provide an overview of the roles and responsibilities of each of the agencies/organizations that are involved in the aquaculture licencing process.

3.1 Government of Newfoundland and Labrador

In Newfoundland and Labrador, the overall control and management of aquaculture have been given to the Department of Fisheries and Aquaculture. To implement this management requirement, the Department has set up an Aquaculture Branch. The Department has also created an Aquaculture Licencing Committee to make recommendations on Aquaculture Licencing matters.

3.1.1 Department of Fisheries and Aquaculture

Aquaculture Licencing Committee

The Aquaculture Licencing Committee (ALC) is responsible for evaluating applications for Aquaculture licences relative to current legislation and policy, assessing referral agency input, and for making recommendations to the minister on their approval or rejection. The following table identifies the Committee members and their responsibilities. Resource personnel may also be called upon as needed to make submissions to the licencing committee.

<table>
<thead>
<tr>
<th>AQUACULTURE LICENCING COMMITTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chair</td>
</tr>
<tr>
<td>Assistant Deputy Minister</td>
</tr>
<tr>
<td>Aquaculture Branch</td>
</tr>
<tr>
<td>Member/Alternate Chair</td>
</tr>
<tr>
<td>Manager of Aquaculture Licencing</td>
</tr>
<tr>
<td>Member</td>
</tr>
<tr>
<td>Director of Aquaculture Development</td>
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<tr>
<td>Member</td>
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<tr>
<td>Director of Policy and Programs</td>
</tr>
<tr>
<td>Member</td>
</tr>
<tr>
<td>Director of Planning Services</td>
</tr>
<tr>
<td>Non-Voting Member</td>
</tr>
<tr>
<td>Aquaculture Registrar</td>
</tr>
<tr>
<td>Alternates appointed as required</td>
</tr>
</tbody>
</table>
Fisheries & Aquaculture Licencing Review Committee

The mandate of the Department of Fisheries and Aquaculture Licencing Review Committee is to consider/review, where necessary, decisions arising from departmental Licencing Committees (both Aquaculture and Processing). The Committee makes a non-binding recommendation to the Minister. (For further details see Procedure PR.3 and Appendix 5.)

The Committee is an independent body appointed by Order-in-Council. It is comprised of a Chairperson, two members and a non-voting secretary. The Committee meets on an as required basis.

Aquaculture Branch

The Aquaculture Branch consists of three Divisions: Licencing and Inspection, Policy and Programs, and Aquaculture Development. Each of these divisions, in addition to their other responsibilities, has a specific role in the aquaculture licencing process:

**Licencing and Inspection:** The Licencing and Inspection Division receives applications, distributes them in the referral process, and summarizes the results of the referral process for the Licencing Committee. It also responsible for the operation of the Dept’s aquaculture licencing database.

**Aquaculture Development:** The Aquaculture Development Division, in particular the Aquaculture Development Officers, provide the initial review and technical assessment of the application and supporting documents submitted by the proponent. If the information provided is complete, in accordance with accepted standards and there is no immediately apparent reason to reject it, they will recommend that the application referral process be initiated.

**Policy and Programs:** The Policy and Programs Division evaluates the financial aspects of the application and provides an assessment of the financial and economic feasibility of the proposal.

Fisheries Branch

Certain Divisions within the Fisheries Branch also play an important role in the aquaculture licencing and inspection process.

**Planning Services:** Planning Services reviews applications at the ALC level to ensure compliance and maintain continuity with other Departmental policies and activities. The Planning Services Division also assists in review and development of aquaculture licencing policy.

**Regional Services:** Regional Services reviews aquaculture applications for operations falling within their geographic boundaries. The focus of their review is normally on potential user conflicts involving industry stakeholders and other marine resource users; and the
verification of general information on the applicant and the site. Staff of Regional Services, in consultation with the Licencing and Inspection Division, are also responsible for the majority of aquaculture site inspections and related compliance activities.

3.1.2 Department of Environment

Water Resources Division

A copy of the completed Aquaculture Licence Application and Business or Research Plan for each proposed aquaculture facility is referred to the Water Resources Management Division. In consultation with the Environmental Assessment Division, this Division will determine the need for the environmental assessment process or other related requirement(s) under the Environmental Protection Act SNL 2002 cE-14.2 as deems necessary. Accordingly, officials of this Division will inform the Department of Fisheries and Aquaculture if the environmental assessment process must be initiated and the proponent will be advised of any necessary action if the facility is required to be registered. Where a registration is required under the Environmental Protection Act, an aquaculture licence will not be issued unless the environmental assessment process is completed and the project is released from that process.

Marine Sites:

In accordance with Sections 14 and 48 of the Water Resources Act SNL 2002 cW-4.01, this Division evaluates aquaculture applications for their technical acceptability and issues a Marine Aquaculture Water Use Licence/Permit to install and operate a marine aquaculture facility at the proposed site. This Licence/Permit includes a set of terms and conditions to deal with the proper installation of a marine aquaculture facility without adverse effects on water. It also grants non-exclusive rights to the Licensee/Holdert to use water for aquaculture purposes. In addition, it contains other necessary requirements under the Water Resources Act.

Freshwater Sites:

In the case of freshwater aquaculture, this Division evaluates applications by performing computer modelling to determine the maximum allowable carrying capacity of a body of water for a proposed fish stock. This is necessary to demonstrate that the proposed fish stock will not result in adverse effects on a body of water and its sustainability for a variety of species.

Once this Division is satisfied that the body of water is sustainable for the proposed fish stock, a Water Use Licence under Section 14 of the Act and a Permit under Section 48 of the Act are issued. The Licence grants rights to the licensee to use water for aquaculture purposes without interference from others. The Permit requires proper installation of a freshwater aquaculture facility and other associated systems without adverse impacts on water. In addition, the Licence and Permit prescribe a procedure for water quality monitoring and water use reporting for a sustainable aquaculture operation and contain other necessary requirements under the Water Resources Act.

Aquaculture Licencing Policies & Procedures

Page 9
General:

Letters of request for a Marine Aquaculture Water Use Licence/Permit for marine sites or a Water Use Licence and a Permit for freshwater sites are incorporated in the aquaculture application form. Additional information will be requested by the Water Resources Management Division through the Aquaculture Registrar whenever it is required.

In addition, any onshore construction or facilities that may be required have to be permitted separately and the Water Resources Management Division will inform the Aquaculture Registrar of such requirements under the Water Resources Act.

3.1.3 Department of Government Services and Lands

Crown Lands Administration Division

The applicant is required to submit a separate application to Crown Lands for tenure of the land or the water lot unless the applicant already has legal title to the property concerned.

If the proposal is approved by the Aquaculture Licencing Committee, the applicant will be issued either a land Lease or Licence to Occupy (LTO) by Crown Lands, depending on the type of aquaculture licence approved and pending submission of any necessary documents (e.g. a site survey). A separate application is required for each site.

3.1.4 Department of Tourism, Culture and Recreation

Provincial Archaeology Office

This office reviews applications relative to the Historic Resources Act. In the event of an archaeological discovery during the course of an aquaculture development, activity in the area of the find must cease immediately. Archaeological discoveries must be reported to the Resource Archaeologist, at 729-2462, as soon as possible with the following information:

- Nature of the activity resulting in the discovery;
- Nature of the material discovered;
- Precise location of the discovery; and
- Current location of the material discovered.

A copy of the notification should also be provided to the Aquaculture Registrar.

3.1.5 Department of Municipal and Provincial Affairs

Urban & Rural Planning Division

This Division reviews development plans to determine if sites are within municipal boundaries or if a proposal will require a development permit from a municipal council or Government Service
Centre.

Municipal Engineering Services Division

This Division approves municipal water and sewer systems, and attempts to minimize conflict with new and existing aquaculture facilities when planning sewage systems, particularly outfall locations.

3.2 Government of Canada

3.2.1 Fisheries and Oceans Canada

The Department of Fisheries and Oceans (DFO) actively promotes the establishment and orderly development of environmentally sustainable aquaculture, DFO ensures that such development proceeds in a manner compatible with the preservation of fish and fish habitat in accordance with the Fisheries Act, and in harmony with aboriginal, commercial and recreational fisheries. In doing so, applications are reviewed and assessed for their potential impact on fish and fish habitat. They are also assessed as to their conflict with traditional wild stock fisheries, and their impact on public health related to the cultivation and harvest of fish and shellfish products. Where appropriate, DFO will issue permits and licences to import live fish or shellfish into the province or export same, to collect fish or shellfish stock from wild sources, to transport live fish or shellfish, and for the processing and sale of fish or shellfish products for human consumption. Licences are required to cover all movements of fish and shellfish, both wild and cultured, into or within the Province. In addition, DFO is involved in aquaculture research.

Canadian Coast Guard

Canadian Coast Guard, through application of the Navigable Waters Protection Act (NWPA), works to ensure the safety of, and protect the public right of, navigation and rights of access. Applicants will be required to submit, via the Aquaculture Registrar, a specific application to the Canadian Coast Guard for approval under the Navigable Waters Protection Act (NWPA) for water based sites. Virtually all marine sites will be subject to a Formal Review Process. This process subjects grower's plans to a public review and solicits comments on navigation safety issues.

Formal approvals may be issued by DFO in accordance with provisions of the NWPA or Authorizations for Works or Undertakings Affecting Fish Habitat may be issued as per the Fisheries Act, or both. Issuance of a Formal Approval or an Authorization triggers a review under the Canadian Environmental Assessment Act (CEAA).

3.2.2 Environment Canada

Environmental Protection

As part of the Canadian Shellfish Sanitation Program (CSSP), this agency is responsible for the classification of shellfish growing areas on the basis of sanitary and bacteriological surveys under the authority of the Fisheries Act and Regulations and as per the Canada/U.S. Bilateral Agreement
on Shellfish.

Canadian Wildlife Service

This agency monitors the effect, or likely effect, of any aquaculture development which could negatively impact migratory birds through habitat loss, disturbance and/or food availability as well as the effect on aquaculture facilities due to predation by migratory birds.

3.2.3 Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) enforces food safety and nutritional quality standards established by Health Canada and, for animal health and plant protection, to set standards and carry out enforcement and inspection. Relative to aquaculture, the CFIA regularly inspects processing facilities and collects samples of shellfish for analysis.

3.3 Other Government Departments/Agencies

At the discretion of the Department of Fisheries and Aquaculture, other departments or agencies (e.g. municipalities within 5 km of the proposed site, Parks Canada, etc) may be added to the referral list. These agencies will be contacted in order to avoid conflict or adverse impact on other developments in any specific area.

3.4 Non-Government Participants

3.4.1 Newfoundland Aquaculture Industry Association

Aquaculture applications are referred to the Association for review. The objective is to keep the industry informed of new undertakings and to minimize conflicts with existing aquaculture facilities.

3.4.2 General Public/Special Interest Groups

Input from the general public and/or special interest groups is solicited through newspaper advertisements for both the DFA aquaculture licencing process and separately as part of the federal NWPA approval process. Written comments are considered by the Licencing Committee and any specific concerns not addressed through the referral process are considered by the licencing committee and referred to the appropriate agency where necessary. Comments in relation to NWPA advertising are reviewed independently by DFO.
4.0 AQUACULTURE LICENCING PROCESS OVERVIEW

4.1 Licencing

Aquaculture licence applications may be obtained from the Manager of Aquaculture Licencing’s office in Grand Falls-Windsor. Prior to submission of an application, the proponent should meet with the appropriate Aquaculture Development Officer to discuss their proposal. This will allow for clarification of the requirements of the licencing process where necessary and ensure the proposed application does not conflict with current policy and/or legislation.

Step 1: Application Submission

The proponent submits an Aquaculture application, a Crown Land application( if necessary) and any required supporting documentation( business plans, site layout drawings etc) to the Aquaculture Registrar. This package is forwarded to an Aquaculture Development Officer for preliminary assessment. The preliminary review ensures submissions are accurate and complete and should identify any immediate reasons to reject an application( e.g. site located in an anchorage). Incomplete applications are returned to the applicant indicating what additional information is required. Complete applications are returned to the Aquaculture Registrar for registration in the referral/review process.

Step 2: Inter/Intra-departmental Review

Copies of the application package are sent to the referral departments and agencies for review relevant to any applicable legislation, programs or policies and to assess potential conflicts with other resource users. At the discretion of the Department, other groups, organizations or agencies, deemed to have an interest or potential to be impacted by the proposal, may be forwarded a copy of this information. At this stage, the Aquaculture Registrar initiates the process to advertise the proposed development to allow for public input (this should not be confused with the separate advertising requirements of the NWPA approval process as administered by Canadian Coast Guard).

Responses from referral agencies are returned to the Aquaculture Registrar. Where no response is received within 30 working days, and no permit is required from that agency, the Department may assume the agency has no objections and proceed with the application on that assumption. The Department will, however, make reasonable efforts to obtain a response before proceeding. Agencies that issue their own permits and/or approvals for aquaculture must respond to the Department before the application proceeds any further.

Step 3: Licencing Committee Recommendation

Upon receipt of responses and other pertinent information from referral agencies, the Aquaculture Registrar compiles the responses from the referrals and prepares a summary for the Aquaculture Licencing Committee. The Licencing Committee reviews the application and referral responses, and makes a recommendation to the Minister of Fisheries and Aquaculture of: 1) approval, 2) approval in principle or 3) rejection. The Licencing Committee may recommend approval in principle subject to such conditions that the Committee considers reasonable and necessary. The most common
conditions imposed require the proponent to obtain the needed capital financing for the project, and/or to obtain a Crown Land lease for the site. Such conditions must be met prior to the issuance of the aquaculture licence.

**Step 4: Ministerial Decision**

The Minister of Fisheries and Aquaculture reviews the Licencing Committee’s recommendation and makes the final decision on the Licence Application.

**Approval**

Successful applicants are advised by the Minister, in writing, that their application has been approved. Letters are sent to the Canadian Coast Guard and the appropriate Crown Lands Regional Office, including copies of agency comments, requesting that the Crown Lands Lease or Licence to Occupy be issued for the proponent. Once the Applicant has complied with the conditions of an approval in principle, the licence will be issued without further reference to the Committee.

**Rejection**

In the case of a rejection, the applicant is advised in writing by the Deputy Minister with an explanation for the application not being approved. This notification also advises of the appeal procedure applicable unsuccessful applications. Relevant agencies are also notified of the decision.

**Step 5: Licence Issued**

The Aquaculture Licence is issued to the applicant when Canadian Coast Guard has issued formal NWPA approval documents and any conditions that may have been attached to the initial Ministerial application approval have been met. Applicants may not begin gear placement until they have received their Aquaculture Licence.

**4.2 Review/Appeal**

Where an application is not approved, the applicant may appeal the decision in accordance with the following process:

(a) After a licence application has been turned down, the applicant will be so advised by the Deputy Minister. The letter will also advise of the opportunity for an independent review of the decision. This review must be requested within 30 days of the notification that the application was not successful. Decisions of other Government agencies and Departments are not subject to review under this process. Applicants should contact the appropriate Government agency or Department about decisions of that agency/Department that adversely affect their aquaculture application.

(b) Once a review application has been received by the Minister, the Secretary to the Review Committee shall be provided a copy of same. The Secretary shall review the documentation and prepare an overview of the individual case for consideration by the Review Committee.
(c) The Secretary, in preparing the agenda for the meetings, will provide a copy of the relevant agenda items to the Committee members at least one day in advance of a meeting.

(d) The Review Committee will forward a non-binding recommendation to the Minister within five working days of being finalized. All minutes and correspondence with the Minister are to be kept confidential and any request for the release of these documents shall be authorized only by the Minister or his designate.

(e) The Minister will make a final decision on the review. The parties will be advised of the decision.

**Hearing Process**

The Review Committee will provide the opportunity for the Applicant, at his/her cost, to appear before the Committee. In instances where this is not practical, the Committee shall allow the Appellant or his/her representative to make submissions in writing or by conference telephone call. The Review Committee may call any individuals required to produce any information it deems appropriate and necessary to discharge its function.

**Recording of Decisions**

The Secretary to the Review Committee will maintain a concise record of all meetings of the Committee. This record shall include the specific reason(s) for rejection or approval of the review application.

**4.3 Inspections**

Each year, the Aquaculture Licencing and Inspection Division will prepare and submit an Annual Inspections Strategy document. This document will outline the plans for inspecting aquaculture sites during the coming year, and identify items and/or areas of special concern.

The Department will inspect proposed and existing aquaculture sites in the following situations:

- after an application has been received and before presentation of the application to the Licencing Committee;

- after initial placement of gear and marker buoys at site;

- as deemed necessary by the Department to ensure compliance with the Aquaculture Act;

- upon change of status from Developmental Licence to Commercial Licence;

- upon change of ownership; and

- in the event of fish health or environmental concerns.
Copies of all inspection reports will be sent to the applicant/licencee, the Department of Fisheries and Oceans, and other agencies as appropriate.

4.4 Stakeholder Consultation

As part of the consultation process, an advertisement must be placed, in four regionally and locally distributed newspapers, available in the area where the proposed site is located, notifying the general public that an application for an aquaculture facility has been submitted. This notice must further advise that information related to the project is available from the Aquaculture Registrar on request and that written responses regarding their concerns will be considered if received by the Department within twenty working days from the date the advertisement is placed.

An information package will be forwarded to interested parties by the Registrar. The information package will include parts of the application submission, of a non-confidential nature, which has been supplied by the applicant. Information on finances, processes, trade techniques and/or technologies developed by an individual's incentive or ingenuity will be kept confidential pursuant to the Aquaculture Act and Regulations and/or any other applicable legislation.

Written submissions identifying adverse impacts on individuals or groups are to be forwarded to the Aquaculture Registrar. The appropriate referral agency will be provided a copy of the submission for consideration and an effort will be made to resolve concerns identified. Where concerns not already addressed by the referral process have been identified to the Licencing Committee, the committee may decide to hold the application until the appropriate agency has addressed these concerns.

The DFA Regional Services Office will ensure that the Chair of the local Fishermen's Committee, if any, and other interested fishers are informed of the details of proposed developments.

4.5 Fees and Financial Control

The Aquaculture Licence Application fee of $100.00 per site (HST included) is payable at the time of application. Fees levied by Crown Lands ($100.00 + HST) and Water Resources Division ($100.00 + HST), are non-refundable and must also be submitted with the application package. Aquaculture licence renewal applications must be submitted with the $100.00 renewal fee by Dec. 31 each year prior to licencing.

All applicable fees and applications will be forwarded to the Aquaculture Registrar who will have appropriate receipts issued and copies forwarded to the applicable referral agencies with the applications. All cheques or money orders are to be made payable to the Newfoundland Exchequer Account.

There are a number of other provincial government and legal document preparation fees associated with the acquisition and maintaining of aquaculture facilities. (See AP.4 in this regard)
4.6 Registration and Control

The Manager of Aquaculture Licencing and Inspection will be responsible for the control of all correspondence, reviews, documentation, storage and retrieval activities associated with the licencing process through the Aquaculture Licencing Information System (ALIS). Hard copies of all documents are maintained in the departmental file registry and become the responsibility of file registry staff. Copies of accepted applications will be forwarded to the departments/agencies as described in Section 4.1 above.

The responses received will be summarized by the Registrar who will then forward all pertinent information to the Aquaculture Licencing Committee.

The progress of the application will be monitored throughout the entire licencing process by the Registrar, in order to ensure that time frames are met.

4.7 Regulatory Forms and Permits

For the successful control and management of aquaculture, the following forms/permits, detailed in Appendix 6, must be utilized:

- Aquaculture Licence Application forms
- Aquaculture Licence certificate
- Transfer/ Transport Permit Application
- Aquaculture Site Inspection Report form
- Site Directive Report
- Crown Lands Application Form

4.8 Inspection

Aquaculture inspection activities are to proceed in accordance with the requirements of legislation and the development principles and objectives set out in this manual. Relevant enforcement related policies and procedures are identified in Section 5. In addition to regular inspections conducted by provincial DFA staff, DFO staff may also conduct monitoring and surveillance activities of aquaculture sites, particularly with respect to harvesting of wild stocks, recapture of escaped fish, transfer of live fish or shellfish and harvest from closed areas.

Canadian Coast Guard, in coordination with the Department, will also inspect aquaculture sites. Sites that are not in compliance with NWPA requirements, may be subject to regulatory action under the NWPA.
4.9 Non-Renewal, Suspension and/or Cancellation of Licences

Non-Renewal

The Minister may refuse to renew an aquaculture licence where the licencee fails to comply with conditions of the existing licence, directives issued by the Department or other provisions of the legislation. Prosecution may be initiated where aquaculture is being conducted without a valid licence and for other breaches of applicable legislation.

Suspension

The Minister may suspend a licence where identified deficiencies have not been corrected within time frames indicated. Where a licence has been suspended, no product may be moved to or from the site until the identified issue has been corrected to the Dept’s satisfaction. Other agencies are not requested to cancel their existing approvals in this case.

Cancellation

Voluntary

The licencee of an Aquaculture site may request that the Department cancel the site licence if the licencee no longer intends to utilize the site. Upon receipt of such a cancellation request, all referral agencies will be notified of the request and advised to remove any leases, licences and approvals relating to the site. The licencee will be responsible for removing all gear and equipment from the site and restoring the site to natural conditions.

Departmental

The Minister may cancel an Aquaculture Licence if suspension of the licence does not result in correction of identified problems within a reasonable period of time based on the specific circumstances. When a decision to cancel a licence is made, the licencee will be notified of the Department’s decision in writing and also advised of appeal procedures. If no appeal is received in the appropriate period, referral agencies will be advised to remove any leases, licences and/or approvals relating to the site. Any aquaculture gear remaining on the site may be forfeited to the Crown and legal action initiated to recover costs associated with gear removal.
5.0 POLICIES AND PROCEDURES

5.1 Policies

AP.1 General Aquaculture Licence Policy
AP.2 Classification of Licences
AP.3 Applicant Capability Requirements
AP.4 Fee Structure
AP.5 Aquaculture Licencing Process
AP.6 Public Consultation
AP.7 Aquaculture Licencing Committee
AP.8 Aquaculture Licence Renewals
AP.9 Annual Statistics
AP.10 Site Utilization
AP.11 Reserve Around Bivalve Aquaculture Sites
AP.12 Shellfish Culture Licence
AP.13 Seed Collection in Closed or Unclassified Areas
AP.14 Aquaculture Inspectors
AP.15 Inspections
AP.16 Site Separation
AP.17 Transfer and Transport Permits
AP.18 Lobster Fisheries and Aquaculture Facilities
AP.19 Fishout Ponds
AP.20 Licencing in Congested Areas
AP.21 Moorings
AP.22 Finfish Vaccination
AP.23 Commercial Aquaculture Land Tenure
AP.24 Cod Grow Out Aquaculture Licences
AP.25 Research Licences
AP.26 Confidentiality of Documents
AP.27 Cancellation Aquaculture Licences
General Aquaculture Licence Policy

Scope

Aquaculture in Newfoundland and Labrador is regulated by the *Aquaculture Act* and the *Aquaculture Regulations*. Aquaculture is defined by the *Aquaculture Act* as “the cultivation of aquatic plants or animals and includes the placement of necessary aquaculture gear and equipment and includes sea ranching up to the point of release of aquatic plants or animals but does not include holding aquatic plants or animals in an aquarium for non-commercial purposes, holding aquatic plants or animals for experimental purposes in a laboratory operated by a scientific institution that is recognized by the Minister or activities exempted by regulation.”

Policy

Applications will be accepted from proponents who adequately demonstrate the necessary technical and financial capability to operate an aquaculture facility. These applications will be referred for comment to those departments and agencies who have jurisdiction over any matters pertaining to the site and to the general public. Referral agencies will be asked to identify any potential conflicts and make a recommendation to the Department of Fisheries and Aquaculture on whether or not the site should receive an aquaculture licence. The general public will be given opportunity to document their comments in relation to an application. Any identified concerns will be referred to the appropriate agency and/or the applicant for comment or action if necessary.

Industry Consultation

The Department, in consultation with the aquaculture industry as represented by the Board of Directors of the Newfoundland Aquaculture Industry Association, will annually review licencing policy matters. This review will be initiated by the Manager of Aquaculture Licensing and Inspection.

Rationale

The Department promotes the orderly development of an aquaculture industry in the province that allows for coexistence with traditional fisheries and other resource users. As each site is specific in its environmental conditions, proximity to other aquaculture facilities, streams and fishing areas, development of such sites will be carefully considered to ensure protection of the industry and other resource users. Further, to support and protect the business nature of an aquaculture site, licencees must hold legal tenure to occupy the site and the Department must be able to acquire the appropriate information from the aquaculture industry to monitor and encourage development.
AP. 2  

Classification of Licences

Scope

To identify and classify both commercial and non-commercial aquaculture sites.

Policy

There are three types of aquaculture licence available:

1. **Research** - For research into new species, technology, or for training purposes. Research licences may be renewed to a maximum time frame determined by the Dept (normally 5 years) and require a Licence to Occupy rather than a Lease. Approval from the minister or designate is required prior to any sale of product from a research site.

2. **Developmental** - For use by aquaculturists to assess the biological, environmental and or commercial capability of a site or species prior to entering commercial operation. Developmental licences may be renewed to a maximum time frame determined by the Dept (normally 5 years) to assess the site's potential and/or the commercial potential of the species cultivated. This class of licence requires a Licence to Occupy rather than a Lease.

   Where a developmental licence is issued for shellfish, a maximum of 500 metres of mainline is permitted on site. Harvesting of shellfish for human consumption is not permitted until the developmental licence has been converted to a commercial licence.

3. **Commercial** - For use by aquaculturists who harvest and market aquaculture products. All sites from which marketable aquaculture products are harvested for commercial purposes must have a licence of this type. Licences in this classification require a fully executed Crown Lands Lease.

Rationale

Classification of licences will allow orderly development and identification of the types of aquaculture sites in the province.

AP 2
Aquaculture Policy and Procedures Effective Date Previous Version
Department of Fisheries and Aquaculture
AP. 3 Applicant Capability Requirements

Scope

To ensure that an applicant has the technical ability to operate an aquaculture facility and to ensure that aquaculturists requesting commercial status on sites have the financial ability, from either private resources or by accessing sufficient public funds, to develop as proposed.

Definitions

New applicant - a person that does not currently have a licenced commercial aquaculture site for the species proposed. For the purposes of this policy, persons who have held a licence for less than two years and/or have not held a licence through the complete growout cycle of the species proposed will be considered new applicants.

Existing operator - a person that currently has one or more commercial sites licenced for the species proposed and has been in operation for more than two years or through a complete growout cycle of the species cultivated.

NWPA Review - the formal review conducted by Canadian Coast Guard to assess the effects of the proposed site on navigation as required by the Navigable Waters Protection Act (NWPA).

Technical ability - the skills necessary to operate and maintain an aquaculture facility including proper operation and maintenance of all aquaculture gear and navigational aids as well as appropriate animal husbandry techniques.

Policy

A. Technical Capability

1. All aquaculture industry participants will be encouraged to further their education and training in order to contribute to the success of their businesses.

2. Technical ability through education and training, or industrial experience, must be available to the operation. It will not, however, be a personal requirement for the owner or manager.

3. The education, training and industrial experience mentioned above must include a business management component.

4. New applicants and/or their employees, will be required to have successfully completed a directly relevant technical and/or managerial training course from an approved public or private educational institution as a condition of eligibility for a licence. Alternatively, the applicant must be able to demonstrate technical ability resulting from direct industrial experience where the applicant and/or his employees have worked in at least one grow-out cycle of the species identified on the application.
5. The Department will make an exception to the training requirement in the case of applications for developmental licences. In this case, the applicant or the applicant's employees will be required to obtain the appropriate education, training or technical ability during the developmental period (normally a species grow-out cycle) in order to be eligible for a commercial licence. Commercial licences will not be granted where technical ability has not been clearly established to the Department's satisfaction.

B. Financial Capability

1. All applicants must demonstrate the financial capability to develop the site before a commercial licence is granted. Applications shall include documentation detailing the financial resources available.

2. New applicants must provide:
   a) projected statements of cash flows (for minimum of three years or until a positive cash flow exists)
   b) schedules of planned capital expenditures (for timeframes as above)
   c) identification of funding sources
   d) production/development plans to incorporate new sites within the proponents company

3. Existing operators must submit the complete package required of new applicants. This requirement may be waived where expansions or addition of new sites will not materially affect financial operations and the species cultured does not change. In these situations, the proponent may submit, in lieu of a full business plan, the following documents:
   a) projected statements of cash flows for the first twelve months of the operation and
   b) financial statements for the last two (2) fiscal years.

4. Applications may be approved in principle subject to funding where loans and/or grants will part of the financing for the operation. The applicant shall have a maximum of one hundred and twenty (120) days to finalize funding for the development. A licence will not be issued until documentation has been submitted to the Registrar confirming that funding has been secured.

Rationale

To ensure aquaculturists have the necessary technical and financial resources available to properly develop sites. This provides for resource development in a manner that maximizes benefits while doing so with sound management of those resources. The secondary aim is to reduce the submission requirements on existing operators that intend to expand or make changes to their portfolio of sites.

AP 3
Approved by: January 1, 2004 AP 3 May 25, 1998
Aquaculture Policy and Procedures Effective Date Previous Version
Department of Fisheries and Aquaculture
MEMORANDUM

To: Brian Meaney, ADM Aquaculture
    Todd Budgell, Manager of Aquaculture Licensing
    Shawn Robinson, Director of Aquaculture Development

From: Alastair O'Reilly, DM

Date: August 1, 2007

TRIM No: HC-31945

Subject: Termination of Policy AQ 28, Intent to Apply

Further to my recent approval of revisions to aquaculture policies AP 5 Licensing Process and AP 4 Fee Structure, please be advised that Aquaculture Policy AP 28 Intent to Apply is hereby rescinded.

Sincerely,

Alastair O'Reilly
Deputy Minister
AP. 4  Fee Structure

Scope

There are a number of provincial government fees associated with acquiring the necessary licences, leases, permits and/or authorizations to operate an aquaculture facility. In addition, there are costs associated with notifying the public that an aquaculture operation is planned in an area.

Policy

Provincial Government Fees Applicable to Aquaculture Site Applications:

Department of Fisheries and Aquaculture

Aquaculture Licence Application fee $100

Department of Government Services and Lands:

Crown Lands application fee $115

Title Document Preparation fees for Crown Lands Licence to Occupy (for Research and Developmental sites.) $100

Title Document Preparation fees for Crown Lands Leases (for Commercial sites) $200*

Annual Crown Lands rental fees $ 4 per hectare

The fees noted above apply whenever a change in site size is requested.

*Other costs associated with the Leasing process such as surveys, etc are also the responsibility of the applicant.

Department of Environment:

1. Marine Aquaculture Water Use Licence/Permit application fee or $115

2. Water Use Authorization and Aquaculture Certificate of Approval application fee $115

The fees noted above apply whenever a change in site size is requested.

Other Costs Associated with the Licencing Process

The applicant will be required to complete a public notification process in relation to the Fisheries
and Oceans Canada NWPA approval:

The applicant will be responsible for the cost of advertising and public notification required as part of the formal review process under the Navigable Waters Protection Act, administered by the Canadian Coast Guard. Canadian Coast Guard will notify the applicant directly with details about this public notification process.

**Procedure**

All fees, in the form of a cheque or money order made payable to the Newfoundland Exchequer Account, are to accompany the appropriate application or renewal forms. Licencing and Inspection Division staff will deposit the payments as per applicable government accounting practices.

The total fee to be submitted for a **new aquaculture site application** is **$330.00** which covers the Aquaculture Licence Application fee, $100.00, the Crown Lands Application fee, $115.00, and the Marine Aquaculture Water Use Licence/Permit (or Water Use Authorization and Certificate of Approval for freshwater sites), $115.00

The total fee to be submitted for a **change in the licenced area of an existing aquaculture site** is **$230.00** which covers the Crown Lands Application fee, $115.00, and the Marine Aquaculture Water Use Licence/Permit (or the Water Use Authorization and Certificate of Approval for freshwater sites), $115.00

Aquaculture licence renewal fees must be submitted to the Registrar along with the statistics report and Licence Renewal Application forms are received in the fall.

Other fees will be invoiced separately by the agency concerned.

All fees noted are subject to change without notice.

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AP 4
Approved by: [Signature]
January 1, 2004

Aquaculture Policy and Procedures
Effective Date
Department of Fisheries and Aquaculture
Previous Version
Aquaculture Licencing Process

Scope

The one stop shopping concept and the Aquaculture Licencing Information System (ALIS) have been developed in an effort to make the aquaculture licencing process more efficient and more responsive to the needs of industry. The complexity of the process still means; however, that application review takes a considerable amount of time. The process applies to all new applicants, existing operators and where there are expansions to existing titles and/or changes of use.

Policy

1. Applicants must discuss the proposed aquaculture development with the appropriate Aquaculture Development Officer prior to submitting an application to the Department.

2. Applications that require formal approval under the federal Navigable Waters Protection Act generally have a six (6) month processing period, commencing on the date the complete application is received by the Department of Fisheries and Aquaculture and registered in ALIS. Referral agencies are asked to respond to a licence application referral within 30 business days. Complex applications may be delayed beyond the six month turnaround time.

3. Where incomplete applications are received and the proponent fails to provide the Aquaculture Registrar with the necessary information for processing purposes within 10 working days of a verified communication, the application will be returned to the applicant.

4. Where an application has received approval in principle, the proponent will have one hundred and twenty (120) days to comply with all requirements noted in the approval in principle notification. If required items are not in place at the end of this period, the application and approval may be rescinded.

5. The Department of Fisheries and Aquaculture will continue to work with industry and referral agencies to streamline the application process. The Department will also initiate an annual meeting of referral groups and industry to promote and prioritize projects necessary to make the aquaculture licencing process as efficient and user friendly as is reasonably possible.

Procedure

Step 1: Application Submission

An information package containing all appropriate information, application forms, etc, is forwarded to a prospective applicant after they discuss the proposal with the appropriate Aquaculture Development Officer (ADO). This discussion will relate to the proposal in general terms and will ensure that the applicant understands the requirements of the licencing process and has the skills and
resources to develop an aquaculture facility.

Consultation with the ADO also ensures that applicants conduct all necessary site work and data collection, especially on finfish sites, to complete the aquaculture application form. Applications will not be processed if the required site data is not included. In addition to the aquaculture application, applicants must complete a Crown Lands application, prepare a business, research or developmental plan and produce the necessary site drawings. This application package, together with the appropriate fees, is submitted to the Aquaculture Registrar. Where applicants are applying for multiple sites, a common document which ties together the development plans for all individual sites must be included in the application package. The Registrar forwards the package to the appropriate Aquaculture Development Officer for preliminary assessment to ensure all necessary information has been submitted and to identify any reasons why the application should not proceed to the referral process.

**Step 2: Application Registration**

Complete applications are returned to the Registrar who registers the application in ALIS. The Registrar acknowledges receipt of the application in writing to the applicant and forwards copies of the proposal with a covering referral sheet to the appropriate referral agencies. The Registrar also informs the applicant of the advertising requirements pertaining to the application.

**Step 3: Application Referral**

Copies of the proposal are sent to the referral departments and agencies listed below for review. At the discretion of this Department (DFA), other groups, organizations or agencies, deemed to have an interest or potential to be impacted by the proposal, may be forwarded a copy of the application for comment. Referral Depts/ agencies include, but are not limited to:

**Department of Fisheries and Aquaculture**
- Aquaculture Development Division
- Regional Services Division
- Policy and Programs Division

**Department of Environment**
- Water Resources Division
- Environmental Assessment Division

**Department of Municipal and Provincial Affairs**
- Urban & Rural Planning Division
- Municipal Engineering Division

**Department of Tourism, Culture and Recreation**
- Historic Resources Division

**Department of Government Services and Lands**
- Crown Lands Division
Fisheries and Oceans Canada
  • Science, Oceans and Environment
  • Canadian Coast Guard
  • Fisheries Management
  • Policy and Economics Branch

Environment Canada
  • Environmental Protection

Newfoundland Aquaculture Industry Association

Local area Fishers’ Committees and the general public (via advertisements and the DFA Regional Services Division referral).

There is a 30 business day time period for the referral agencies to review the applications and reply. Where no response is received, and no permit is required from that agency, the Department will assume the agency has no objections and may proceed with the application on that assumption. Where formal approval by Fisheries and Oceans Canada, the Department of Government Services and Lands and/or the Department of Environment is required, no review by the licencing committee will occur until a response has been received. In all cases, the Department will make reasonable efforts to obtain responses from all referral agencies.

Any objections received as part of the public notification process will be forwarded to the appropriate agencies. The applicant will be advised of any concerns noted during the referral process so that he/she may attempt to address those concerns to the satisfaction of all parties.

When all pertinent information has been received, the Registrar prepares a summary of the referral agency responses and prepares the application for review by the licencing committee.

**Step 4: Aquaculture Licencing Committee Review and Recommendation**

The application and referral agency comments are reviewed by the Aquaculture Licencing Committee. Where referral agencies have recommended non-approval and the concern noted cannot be resolved by the applicant, the applicant will be notified that the application was unsuccessful.

Where approval in principle is reached by the committee, the applicant is notified of the specific requirements and time frames for completion before the committee will make a recommendation to the Minister to issue a licence.

Where an application cannot be approved, the applicant is advised in writing. This notification will include an outline of the appeal process (applications rejected based on referral agency recommendations are not subject to this appeal process).

Where all referral agencies recommend approval and departmental requirements are met, a recommendation will be made to the Minister of Fisheries and Aquaculture who makes the final decision on the application.
Step 5: Ministerial Decision

The Minister of Fisheries and Aquaculture reviews the recommendation of the licencing committee and makes the final decision on whether or not an Aquaculture Licence will be issued.

Step 6: Licence Issuance

Where the Minister accepts the recommendation of the Aquaculture Licencing Committee and authorizes licencing, the Aquaculture Licence, with any pertinent licence conditions attached (as identified by DFA or a referral agency), is prepared by the Aquaculture Registrar and forwarded to the minister for signature.

The Aquaculture Licence and related documentation/approvals are sent to the applicant and copied to those referral agencies who have requested copies for their files.
Public Consultation

Scope

As part of the aquaculture licencing process, advertisements are placed in local and regional papers notifying the public that an application to operate an aquaculture facility has been made. This process provides the opportunity for other user groups to express any concerns about the aquaculture development. This notification is separate from the public notification process required by the federal navigable waters protection program.

Policy

1. New applications and expansions proposed by existing operations will be advertised, in accordance with the procedure noted below, to allow for public input. A 20 working day advertisement response time will be strictly adhered to. The only exceptions to this response time restriction will be where valid health or public safety issues have been identified that have not been addressed through the referral process.

2. Documented responses to public notifications will be presented to the applicant and/or the Department or agency having legislative jurisdiction in an attempt to resolve any potential conflicts.

3. Separate public notification through advertising is also required under the federal Navigable Waters Protection Act. Canadian Coast Guard will contact applicants concerning these requirements. Both DFA and DFO/CCG will make all efforts to ensure all public consultation is coordinated.

Procedure

A Notice of Application, in a format approved by the Dept, will be placed in four locally and regionally distributed newspaper (specific newspapers will be determined by the Dept) notifying the general public that an application for an aquaculture licence has been made. This notice further advises that information related to the project is available on request and that written responses regarding their concerns will be considered if made within twenty (20) working days of the advertisement.

Where no concerns are documented, the application will proceed to the Licencing Committee for review when referral agencies have responded.

Where written concerns are noted by the general public and/or other interest groups:

- General information related to the proposed development, based on information of a non-confidential nature supplied by the applicant, is provided to the concerned party by the Aquaculture Registrar.

- A copy of all letters received documenting specific concerns will be forwarded to the
applicant and any other agencies or groups, internal or external, having jurisdiction over the identified concern. Where valid concerns are identified, the applicant or relevant agency may be requested to investigate the matter to determine whether or not concerns can be addressed in a manner acceptable to all parties or if further consultation is required.

- After reasonable attempts are made to address documented concerns, all relevant documentation will be presented at the next meeting of the Aquaculture Licensing Committee. The committee will determine whether any further action is required based on the information available.

**Rationale**

Development of any natural resource has the potential to impact a variety of different users of that resource. Providing public notification of proposed developments helps ensure that all user groups have an opportunity to comment on aquaculture developments in a particular area. This allows for a proactive approach in attempting to address identified concerns while recognizing that aquaculture is a legitimate user of the resource.
Aquaculture Licencing Committee

Scope

The function of the Aquaculture Licencing Committee is to review and make recommendations on licence applications and review and make recommendations on Aquaculture Licencing Policy.

Policy

The Aquaculture Licencing Committee shall consist of:

Chair: Assistant Deputy Minister, Aquaculture Branch
Alternate Chair/Member: Manager of Aquaculture Licencing
Members: Director of Planning Services
Director of Aquaculture Policy and Programs
Director of Aquaculture Development
Secretary: Aquaculture Registrar (non-voting)

The Aquaculture Licencing Committee may request the attendance of provincial or federal government officials and industry representatives whose knowledge may be of benefit when reviewing applications.

Meetings

Aquaculture Licencing Committee meetings will be held as needed to address new applications. Recommendations will be made to the minister by consensus of the Committee or by majority vote if no consensus is apparent. A quorum of this Committee shall be the Chair, or Alternate Chair, plus two voting committee members or their named alternates.

Procedure

1. The Committee reviews the applications, along with any relevant documentation from referral agencies which may impact on the application, and may approve, approve in principle (with such conditions the Committee feels are reasonable and appropriate), reject, or hold the application for further investigation.

2. When an application is approved by the Committee a recommendation to issue an Aquaculture Licence is forwarded to the Minister, who will make the final decision on the application.

3. Where an application is approved in principle, the Committee will direct the Aquaculture Registrar to advise the applicant in writing of the specific conditions, time frames for completion and other actions necessary to receive an Aquaculture Licence. Once these conditions have been fulfilled, a recommendation to issue an Aquaculture Licence will be forwarded to the Minister.
4. Where an application has been rejected by the committee, normally as a result of recommendations from one or more referral agencies, the applicant will be advised in writing by the Deputy Minister. Reasons for the decision will be outlined, and the applicant advised of the procedure to be followed if he/she would like to appeal the decision to an independent review panel. Applications that are rejected based on recommendations from federal agencies are not subject to the appeal process.
Aquaculture Licence Renewals

Scope

To ensure acceptable site utilization and to maintain industry and resource development data through annual site licence renewal.

Policy

As indicated in Section 3(3) of the Aquaculture Regulations, aquaculture licences expire on the last day of the calendar year in which they are issued. To continue operating an aquaculture facility, licencees are required to complete the appropriate renewal application and submit a licence renewal fee. All licence renewals are subject to review by the Aquaculture Licencing Committee. The Committee may; however, delegate authority to the Aquaculture Registrar to process licence renewal applications where there are no identified problems.

Procedure

On October 1 annually, the Aquaculture Registrar will commence forwarding licence renewal applications and annual activity reporting forms to licencees. The licence renewal will

1. Licence Renewal Applications will be reviewed by the appropriate Aquaculture Development Officer and the Aquaculture Inspections Coordinator. If no concerns have been identified and the licencee is in compliance with the Act, regulations and departmental policy, the licence renewal may be processed without Licencing Committee review.

2. Licencees that have not submitted Licence Renewal Applications and appropriate fees by the expiry date of their current licence and who continue to operate the aquaculture facility will be advised that they are in violation of the Aquaculture Act. They will also be notified that further action will be initiated if compliance with the Aquaculture Act, Regulations and departmental policy does not occur within a specified time period.

3. Where Licence Renewal Applications and appropriate fees have been received but the site is not in compliance with the Act, regulations or the terms and conditions of the most recent licence, the licencee will be notified that renewal will not occur until compliance is achieved. The licencee will also be advised that further action may be initiated if compliance with the Aquaculture Act, Regulations and departmental policy does not occur within a specified time period.
Rationale

1. To expedite routine licence renewals and provide licencees adequate time to prepare and submit required documents prior to licence expiration.

2. To ensure that applicants meet all conditions for licencing prior to a licence being issued.
Annual Statistics

Scope

The Department of Fisheries and Aquaculture, under the Aquaculture Act and regulations and the Canada - Newfoundland Memorandum of Understanding on Aquaculture, is responsible for the collection of statistical information on aquaculture activities in this Province.

Policy

It is a condition of licence that statistical information be provided to the Department. Where the licencee fails to provide the required statistical information when requested, licences may not be renewed.

The Department will work with industry to establish a data collection system that will provide accurate statistical data on aquaculture activities in the province.

Procedure

Statistical data will be obtained through the use of annual aquaculture statistics reporting forms which are forwarded to each aquaculture licencee as part of the licence renewal package. Each licencee must accurately complete and return the required information to the Aquaculture Registrar within the time frame indicated.

Rationale

Production statistics are required to monitor industry growth and ensure orderly development and management of the industry as well as to ensure optimal resource utilization. Such information is also important to support the acquisition of financial assistance for the industry from both private and public sector funding sources.
Site Utilization

Scope

To ensure that potentially productive approved sites are utilized in the best interest of industry development.

Policy

Where site development or expansion does not occur within two (2) years of the date the licence is issued and/or development does not occur in accordance with the approved business/development plan on file at the Dept, the licencing committee may recommend to the minister that the licence not be renewed.

Existing aquaculture licencees must demonstrate that licenced sites are being adequately utilized before an application to expand a site, to add a new site, or to add a new species on an existing site, will be accepted.

Definitions

An inactive licence is one where the licencee has not cultivated the species licenced in accordance with the approved business/development plan, and/or has not achieved production targets outlined in the development plan.

Procedure

Where it has been determined by this Department that a particular site is inactive or is not being developed according to the approved development plan, the licencee will be written requesting appropriate reasons for the inactivity or inadequate development. The Aquaculture Licencing Committee will review the licence file and make a recommendation to the minister based on all available data.

Rationale

To ensure that potentially productive sites do not lay idle, and that development of all licenced sites proceeds as outlined in the approved development plan.

AP 10
Approved by: [Signature] January 1, 2004
Aquaculture Policy and Procedures Effective Date AP 10 Sept 24, 1997
Department of Fisheries and Aquaculture Previous Version
Reserve Around Bivalve Aquaculture Sites

Scope

To protect the aquaculture site from land based pollution and other land based activities which may impede the safe, sanitary and efficient operation of the site.

Policy

The Department will not recommend approval to referral agencies for any new on-shore development which is within 500 metres of a bivalve shellfish aquaculture site. The types of restricted developments on private and public property include: residences, recreational cabins, agricultural uses, saw mills, fish plants, etc. This requirement may be waived if it is determined that no negative impacts will occur.

Procedure

This Department is used as a referral agency by other provincial government departments which have jurisdiction over land based development which may impact present or future aquaculture development activities.

Rationale

To ensure other development activities do not have a negative impact on aquaculture development in this province.
Shellfish Culture Licence

Scope

To ensure the health and safety of shellfish sites and protect their financial viability.

Policy

Licences for the commercial operation of shellfish culture facilities may be made available following:

1) A minimum of a one year site evaluation under a developmental licence to determine that both the biological and environmental conditions are present for commercial operations (exceptions to this requirement may be made for sites where only seed collection will occur). Applications to upgrade a site from developmental to commercial status must include documentation that shows data collected and research results obtained. (The data record sheets contained in the note “Aquaculture Guide Supplement: Developing Your Mussel Farms - Additional Data Requirements”, with the information given there on data collection, outline reasonable requirements.)

2) The site has been inspected and received clearance under the terms and conditions of the Canadian Shellfish Sanitation Program.

3) Notwithstanding (1) above, if a site is in proximity to an existing commercial aquaculture facility of the same species and the Department of Fisheries and Aquaculture has sufficient information from the existing site indicating suitable environmental conditions, a commercial licence may be granted.

Rationale

Shellfish culture requires a significant initial capital investment. Development of sites should not occur where the site's biological and environmental capabilities have not been established. Clearance under the Canadian Shellfish Sanitation Program is required by federal law and protects public health and safety in relation to the consumption of bivalve shellfish. Issuance of a developmental shellfish licence identifies and targets sites for water testing as stipulated under the Canadian Shellfish Sanitation Program and helps ensure a site's viability prior to full scale commercial development.
Seed Collection in Closed or Unclassified Areas

Scope

To maintain compliance with health issues under the Canadian Shellfish Sanitation Program.

Policy

The Aquaculture Licencing Committee may recommend approval of licences for bivalve shellfish collection in areas closed or unclassified under the Canadian Shellfish Sanitation Program (CSSP) under the following conditions:

1) The area meets the standards for bivalve seed collection as outlined in the Canadian Shellfish Sanitation Program (CSSP). Environment Canada must be notified prior to the issuance of any licence within unclassified or closed areas and may require that a sanitary survey be carried out.

2) Bivalve seed is not to exceed 40 mm in shell height (scallops), or 40 mm in shell length (mussels), while on the collection site. When size exceeds 40 mm, collectors must be stripped, releasing all bivalves to the seabed.

Rationale

This will allow development in areas that are currently closed or underutilised while still protecting public health.
Scope

The Aquaculture Act allows the minister to designate inspectors for the purpose of enforcing the requirements of the Act and Regulations. Aquaculture facilities may be inspected as required to ensure compliance with applicable legislation. In particular, inspectors are mandated to conduct inspections relative to public safety, fish health and containment matters and any other legislated requirement or licence condition. Items noted that are not within DFA jurisdiction will be forwarded to the appropriate regulatory authority.

Policy and Procedure

1. Inspectors are to carry out the duties assigned to them as stipulated in the Aquaculture Act unless otherwise indicated. Violations of the Aquaculture Act will result in the inspector issuing a directive to the licencee specifying the violation and a time frame for compliance (specific time frames for compliance may already be established in policies dealing with specific issues, e.g. moorings). Other regulatory agencies having jurisdiction will also be notified when violations are identified.

3. Inspectors will be provided with and carry proper identification when carrying out their duties under the Aquaculture Act.

Aquaculture Inspectors are to report any identified breaches of federal or provincial Acts or Regulations to the appropriate agency. (e.g. DFA, Crown Lands, Dept. of Fisheries & Oceans, Coast Guard). Copies of all inspection reports will be sent to the licencee, Department of Fisheries and Oceans, and other agencies as appropriate.

Rationale

To provide a consistent approach to inspections for the group of people duly authorized to inspect aquaculture sites.
AP.15 Inspections

Scope

To ensure that all aquaculture facilities are operating in accordance with federal and provincial Acts and Regulations applicable to the aquaculture industry in this province.

Policy

Each year, the Aquaculture Licencing Division will develop an Inspections Strategy document for distribution to Regional Services staff. This document will outline the plans for inspecting aquaculture sites during the coming year, and identify items and/or areas of special concern.

All proposed/existing aquaculture sites may be inspected when:

1. A licence application has been received by the Dept;
2. An aquaculture facility is changing owners;
3. There is a change in status (i.e. changing from developmental to commercial) or size;
4. Fish health is a concern;
5. At least once yearly; and
6. At any reasonable time where deemed necessary by the Department.

Procedure

Prior to visiting any site, inspectors will attempt to contact licencees advising them that an inspection will be conducted, and inviting them to be in attendance. The inspection will identify any site deficiencies and/or hazards observed by the inspector and will be documented on the Aquaculture Site Inspection and Directive Report form. Where deficiencies are noted, directive will be issued detailing the deficiencies and giving a time frame for compliance. The aquaculturist, if available, will be asked to sign the inspection form, indicating receipt of the documentation. If the aquaculturist is not available and deficiencies and/or hazards have been noted, the inspection report and directive form will be hand delivered or forwarded to the aquaculturist by registered/certified mail as soon as possible after the inspection. If the Site Directive cannot be delivered immediately, the inspector will make all reasonable attempts to immediately contact the licencee by phone to advise of the existence of hazards. Copies of these documents will be provided as follows:

Original
Copy
Copy

- Aquaculturist.
- Inspector
- Departmental File

Copies of all inspection reports and site directives will also be sent to other regulatory agencies where appropriate.
Definitions

**Hazard** - Any condition that constitutes a health/safety issue or obstructs, impedes, or renders navigation in navigable waters more difficult or dangerous. Such a condition will be the subject of a Notice to Shipping issued by Canadian Coast Guard based on information supplied by the licensee.

*Correction time frame for hazards*: immediately. Where correction is not practical immediately the licensee shall submit to the Department for review an action plan specifying compliance time frames and steps to mitigate hazards in the short term. They must also notify Canadian Coast Guard immediately.

**Deficiency** - Any condition which is in contravention of the Aquaculture Licence, the Aquaculture Act, the Aquaculture Regulations, or other Federal/Provincial legislation, *e.g.* site not identified correctly, site not configured correctly, etc.

*Correction time frame for deficiencies*: within thirty (30) days from the date of inspection or as directed by the inspector.

Rationale

To ensure that all aquaculture facilities are being operated in accordance with all applicable legislation. This helps ensure that safety, environmental and navigational concerns are being addressed which promotes the development of an industry that is responsive to the needs of other resource users.
Site Separation

Scope

To maintain good aquaculture husbandry practices, protect property rights and allow navigational channels.

Policy

The normal minimum separation distance between aquaculture site boundaries is 400 metres for shellfish and 1000 metres for finfish except where specifically noted.

The minimum distance between salmonid facilities at overwintering sites (from November 1 to May 31 each year) is 100 metres, or such greater distance as the Canadian Coast Guard or the department may advise. As part of a Management Plan, site separation distances may be varied. Any site separation requirements included in a Management Plan approved by the Department will supersede the distances stated above for the area covered by that Plan.

The Minister of Fisheries and Aquaculture may vary these requirements if there are reasonable and sufficient grounds for this variance.

Rationale

A minimum distance between aquaculture sites is set to provide the licencsee with a buffer against the influences of additional development. Additionally, these distances permit safe navigation and protect the property rights of the Aquaculturist.

At salmonid overwintering sites from November 1 to May 31, a reduced minimum distance of 100 metres is permitted since the greatest limiting factor in salmonid finfish production is the number of suitable inlets and coves to overwinter salmonids. The 100 metre separation maximizes overwintering capabilities while still providing adequate protection for the animals at the site.
Transfer and Transport Permits

Scope

To permit the movement of aquatic plants and animals for aquaculture purposes into and within the province.

Policy

Approval is required from both DFO and DFA for all transfer and transport permits for aquaculture purposes. Movements of plants and animals to and from research institutions may be exempt from this process. Movement of aquaculture product for harvesting purposes does not require a permit unless the product is to be held at some interim site and maintained until harvesting occurs. Transfer and transport of aquatic plants and animals will only be permitted to sites with valid aquaculture licences and that are in compliance with relevant legislation. Transfer and Transport Permits will be subject to conditions identified on the permit.

All transfers of live aquatic plants or animals into or within the province require the prior written approval of the minister or designate. To ensure sufficient time for the necessary review and processing, the application and any required documentation should be received by the Licensing and Inspection Division a minimum of four weeks prior to the anticipated movement date of the aquatic plants or animals.

Procedure

In all cases, a transfer and transport application must be submitted to the Aquaculture Licensing and Inspection Division, by the recipient licensee, detailing the product to be moved. For importations into the province, a certified current health certificate from the supplier must accompany the application.

If the request is for the movement of bivalve shellfish, animals from the stock to be transferred, or within 500 metres of the stock, may require testing for the presence of toxins of algal origin a maximum of 72 hours prior to the initial transfer and biweekly following the date of the first test. The toxins to be tested for include PSP and ASP. The cost of such testing is normally the responsibility of either the supplier or recipient operators.

A transfer permit may be issued to allow the movement of bivalve shellfish seed from a closed or unclassified area under the following conditions:

1) The source area meets the standard for bivalve seed as outlined by the Canadian Shellfish Sanitation Program (CSSP). Environment Canada must be notified prior to the issuance of any transfer permit for bivalves from an unclassified or closed area and may require that a sanitary survey be carried out.

2) Bivalve seed is not to exceed 40 mm in shell height (scallops), 40 mm in shell length (mussels), while on the collection site.
3) Bivalves must be held on a site approved under the CSSP for a minimum of six months prior to harvest.

4) All harvesting on the receiving site must cease for a minimum of 72 hours from the time of transfer.

**Rationale**

Prudent and safe practice pursuant to the Act requires this measure. An adequate notification period is required in order to thoroughly assess all requests in terms of algal toxins, disease, parasites, genetics etc. and to obtain the required licences or import permits.
Scope

Aquaculture and traditional lobster fisheries may coexist in the same geographic areas.

Policy

Shellfish aquaculture licences issued by the Department of Fisheries and Aquaculture may have the following condition attached:

"The Licencee shall allow site access to licenced commercial lobster fishers who have traditionally fished this site, to prosecute a traditional lobster fishery;"

This condition will be added where there has been a traditional lobster fishery as determined by the Department of Fisheries and Aquaculture and the Department of Fisheries and Oceans and where the aquaculture gear proposed will not be affected.

Rationale

Most forms of shellfish culture can coexist with the traditional lobster fishery. This policy will help alleviate and address the concern of some fish harvesters that licencing areas for aquaculture will preclude access for lobster fishing.
Scope

To permit the licencing of fish out pond operations such that these facilities will not impact on indigenous species.

Policy

The Department of Fisheries and Aquaculture will consider aquaculture licence applications only for man-made ponds which have adequate provision for the prevention of escapement.

Rationale

To minimize the risk associated with the escapement of fish to the natural environment.
AP. 20  Licencing in Congested Areas

Scope

To maintain economic viability and orderly development of existing aquaculture sites in a particular geographic area that is subject to increased demand for additional sites.

Policy

Where the Department determines that a particular geographic area may not be able to sustain viable farm operations or maintain orderly development due to site overcrowding, such areas may be subject to a designation by the Minister that:

- no new licence applications will be accepted,
- no site expansion applications will be accepted for existing licences
- no licence applications will be accepted for new entrants to the area (except where an existing licenced site is obtained by a new entrant),
- an Aquaculture Management Plan be developed and implemented.

Where necessary, the Department may assess the carrying capacity and/or the needs of other water resource users in a specified geographic area. When, after consultation, study and discussion involving the industry, other resource users, and other relevant Departments and agencies of the federal and provincial government, an Aquaculture Management Plan is approved by the Department, the provisions of the Management Plan will be deemed part and parcel of this policy document in the area covered by the Management Plan. Adherence to the provisions of the Management Plan will be a condition of licence for all sites within the Plan area.

Procedure

Where particular geographic aquaculture development areas are experiencing site overcrowding which may be negatively impacting the economic viability of existing sites in the area and contributing to other user conflicts, Departmental staff will:

1. Consult with the Aquaculture Industry Association, and other concerned Departments and agencies, both federal and provincial, on the situation.

2. Establish geographic perimeters and determine a time frame, to a maximum of one year, to carry out an area assessment.

3. Give written notice to operators in the area on the details of the assessment being carried out and possible licencing restrictions. Give public notice in one provincially-distributed and one regional newspaper indicating that the particular area is under assessment.

4. Assess the particular area to determine:
   - utilization of licenced sites
   - production levels of existing farms relative to existing productivity standards
   - potential for further aquaculture activity
- levels of other resource user activity

4. At the end of the assessment period, advise industry and provide public notice of the results of the assessment study and any recommendations for future development in the area.

5. If the recommendation of the study is to introduce an Aquaculture Management Plan and the plan has been approved by the Department, its provisions will govern aquaculture development in the area covered by the plan.

Rationale

To determine the most appropriate utilization of available sites and reduce site overcrowding in a particular geographic area which can impact on the sustainable economic development of existing aquaculture enterprises and to reduce conflict with other water resource users. A one year period for assessment is deemed appropriate to determine the seasonal requirements and cycle of other area water resource users.

AP 20
Aquaculture Policy and Procedures Effective Date Previous Version
Department of Fisheries & Aquaculture
Moorings

Scope

To ensure site moorings are placed and marked adequately for the safety of other marine and land based resource users in the vicinity of aquaculture sites.

Policy

- All moorings are to be contained within the area approved by Canadian Coast Guard Navigable Waters Protection Act (NWPA) documents. All moorings are to be installed in accordance with the NWPA approval and subject to any other applicable legislation or policy.

- There are to be no shore fastened moorings unless specifically approved by Canadian Coast Guard.

Definition

Shore Fastened Moorings: Aquaculture facility mooring lines attached to the shore or anchored to the seabed at a depth of less than two (2) vertical metres below the low water mark.

Procedure

The Department of Fisheries and Aquaculture will enforce its moorings policy to ensure that all licenced sites are anchored in accordance with their NWPA approval and conditions of licence. Licenced sites will be monitored by DFA inspectors to ensure compliance. Aquaculture licences will not be renewed for facilities where unapproved shore fast moorings have been identified. Deviations from the approved plan must be reported to Coast Guard. Should mooring lines become detached, please refer to the re-attachment procedure (PR.4 of this manual).

Rationale

To minimize safety and navigational hazards in and about aquaculture sites. Shore fastened mooring systems have been shown to be a significant safety hazard for all users of the marine and land based resources in the vicinity of aquaculture sites.

AP 21
Approved by: [Signature] January 1, 2004 AP 22 April 11, 2000
Aquaculture Policy and Procedures Effective Date
Department Fisheries & Aquaculture Previous Version
Finfish Vaccination

Scope

A major concern for the development and sustainability of the aquaculture industry is the possibility for the introduction and spread of disease. This requires a comprehensive fish health program to address these issues.

Policy

All finfish must be vaccinated against known disease pathogens prior to transfer to cage culture sites.

Procedure

A. All finfish cage culture, fish-out pond and land-based grow-out facility licences shall contain the following condition as applicable:

"All fish transferred from hatcheries to this site must be vaccinated against known fish pathogens and in a manner approved by the Department of Fisheries and Aquaculture veterinarian."

B. All finfish hatchery licences shall contain the following conditions:

"No fish may be transferred from this facility to another aquaculture site unless it has been vaccinated against known disease pathogens and in a manner approved by the Department of Fisheries and Aquaculture veterinarian."

Rationale

To prevent the presence, transfer and spread of disease within the province all fish must be vaccinated. As diseases of concern may vary and technologies improve, vaccines used and technology employed must be approved by the Aquaculture Veterinary Specialist.
Commercial Aquaculture Land Tenure

Scope

To ensure that commercial aquaculture operations on leased Crown Land are located on sites as approved by this Department and are in compliance with the Lands Act and that no aquaculture licence is issued with respect to such a site until compliance is achieved.

Policy

Following approval in principle of a commercial aquaculture licence on Crown lands, a valid and fully executed Crown Lands lease must be obtained before a commercial aquaculture licence will be issued. Once issued, an inspection will occur to ensure that all of the licenced aquaculture site (and all the NWPA approved area) is located within the boundaries of land to which the licenced aquaculturist has legal title. Aquaculturists are responsible to ensure proper site location.

Procedure

1. Notification of approval in principle of commercial licence is forwarded to aquaculturist and Crown Lands by the Registrar.

2. Applicant must meet all requirements and obtain a fully executed Crown Lands lease before an aquaculture licence will be issued. When obtaining a survey for this purpose, the applicant is advised to provide the surveyor with a copy of the NWPA approval to ensure that all of the area covered in the NWPA approval will be included in the leased area.

3. A site inspection will occur to ensure that the actual aquaculture site is located within the boundaries of the leased site.

4. Where the licencee is not in compliance with the above siting requirement, the site must be relocated immediately to within the approved area. Should the aquaculturist cease to hold legal title to the property, the aquaculture licence will be cancelled.

Rationale

To ensure aquaculturists have legal title to occupy the property, to ensure that no aquaculture licence is prematurely issued, and to ensure that the site is located as approved. This policy will help ensure that the industry develops in an orderly manner, reducing the amount of conflict within the industry as well as with other resource users. It will also protect the property rights of the aquaculturist, reduce the liability attached to their operation, and ensure the identification of aquaculture site locations for the purposes of navigation.

AP 23
Aquaculture Policy and Procedures Effective Date Previous Version
Department of Fisheries & Aquaculture
Cod Grow Out Aquaculture Licences

Scope

To ensure that there is an orderly development of aquaculture-related cod grow-out within the province for licenced core fishers/aquaculturists.

Policy & Procedure

The following principles apply to aquaculture licences for cod grow-out.

1. Cod grow-out aquaculture licences will only be issued to core fishers licenced by the Department of Fisheries and Oceans (DFO). Licence Holders must:
   a. demonstrate access to cod for grow out purposes from areas where wild fisheries exist and meet eligibility requirements; and
   b. obtain any and all DFO licences necessary to harvest cod (e.g. Groundfish Licence, Experimental Cod Access for Growout Licence)

2. Notwithstanding item 1, licencees for cod grow out sites that have held licences continuously since 2000 or earlier will be renewed in accordance with the Department’s normal licence renewal procedures and requirements. To obtain starting stock, fishers partnering with other licenced enterprises in the same general geographic area are required to complete a “Partnering Agreement”, to be obtained from DFO.

Rationale

The concept for cod grow-out has been to increase the value of cod harvested by cod trap fishers by growing it out for 4-5 months and marketing the product when prices are higher. Establishment of any cod grow-out venture is subject to the availability of starting stock. Continued moratoria on harvest of wild stocks will significantly impact the establishment and operation of this type of aquaculture operation and hence the availability of any new licences.
Scope

To ensure that work done on research licences have reasonable validity as either research or training.

Policy

All applicants for research aquaculture licences are required to submit, along with an appropriate licence application form, either

a) a document outlining the research plan stating: the purpose of the research, the questions to be answered, the expected time frame of the research, the data to be collected, the scientific advisors to the project, the plans for publishing the results (with the understanding that publication may be subject to confidentiality restrictions), and the sources of funds to undertake the work, or

b) a statement of the training to be undertaken at the site including the purpose of the course, the staff (and their qualifications) who will present the course, the target clientele, the supporting organizations, and a financial summary showing sources and uses of funds required to operate the course.

Subject to the Freedom of Information Act, or other relevant legislation, these documents will be considered private and confidential and used only for the evaluation of the proposal. The information will not be released without the written consent of the proponent.

Rationale

To ensure that the research licences are provided only to reasonable proposals and that the work is done in accordance with the plans presented. This policy will require proponents to think through the research and/or training to be undertaken to ensure that the work proposed is feasible and will provide useful information and/or desirable training.
Scope

To set out the levels of confidentiality associated with documents submitted as part of the Aquaculture Licencing process.

Policy

1) All information directly requested and entered onto the application form, either by the proponent, or obtained from other sources to fill in missing data, will be considered public information and may be released without the permission of the applicant.

2) All business plans (showing operating costs and revenues) submitted as part of the requirements of a commercial licence, and research plans or plans for aquaculture training submitted as part of the requirements for a research licence, will be considered private and confidential and used only for the evaluation of the proposal. Distribution of the documents will be controlled. The information contained therein will not be released without the written consent of the proponent.

3) Data submitted on individual sites and companies in the annual returns for developmental, commercial and research licences will be considered private and confidential and the data provided will only be used to create summaries. This data will only be released in an aggregate form where individual sites or operators cannot be identified. Information on an individual sites or operation will only be released with the written consent of the operator, unless a court otherwise directs. A specific release must be sent from the owner/operator to the Department to authorize provision of these data to another party. Information provided may; however, be shared with the Department of Fisheries and Oceans for internal use only.

4) Data on fish and animal health, other than the summaries submitted as part of the annual returns, will be governed by the terms and conditions of the veterinarian/client relationship.

5) All matters relating to confidentiality are subject to the provisions of the Freedom of Information Act and/or the Access to Information and Protection of Privacy Act or other relevant legislation.

Rationale

To assure proponents and operators that data submitted will be handled in an appropriate manner to protect their privacy.

AP 26
Approved By: __________________________ January 1, 2004 N/A
Aquaculture Policy and Procedures Effective Date Previous Version
Department of Fisheries & Aquaculture
Cancellation of Aquaculture Licences

Scope

To provide a mechanism for the removal of licences that are no longer desired, or where the licencsee has not developed, operated and/or maintained the site in accordance with applicable legislation.

Policy

An aquaculture licence may be cancelled and all other leases, licences and approvals from other agencies relating to the site will be removed where:

a) the licencsee has indicated to the Department that they no longer wish to hold the aquaculture licence,

b) conditions resulting in a suspension of the licence under Section 4(9) of the Aquaculture Act have not been corrected in a reasonable time or for repeated breaches resulting in licence suspension under this section,

c) conditions resulting in a suspension of the licence under Section 6(6) of the Aquaculture Act have not been corrected in a reasonable time or for repeated breaches resulting in licence suspension under this section,

d) the licencsee stops owning or holding a lease or right of occupancy for the site

Procedure

a) Voluntary:

Upon receipt of the notice from the licencsee, the Aquaculture Licencing and Inspection Division will inform all referral agencies of the licence cancellation and request the cancellation of any leases, licences, permits and/or approvals for the site.

b) Departmental:

1) The Aquaculture Licencing Committee may recommend to the Minister that a licence be cancelled. A recommendation for cancellation will occur where circumstances established by the Aquaculture Act are met.

2) Where a decision to cancel a licence has been made, the licencsee will be notified by certified or registered mail that the licence has been cancelled. This correspondence will also advise the licencsee of their right to appeal the decision and procedures for the appeal process.

3) Cancellation appeal requests must be submitted in writing to the Licencing Review
Committee within 30 days of the notification of cancellation. Where no appeal has been received within 30 days, all referral agencies will be advised that the licence is no longer valid and that any related leases, licences, permits and/or approvals should be removed.

**Rationale**

To ensure that aquaculture sites comply with requirements of legislation and to provide a standard procedure for removal of licences where that becomes a necessity.
AP. 28  \hspace{1cm} \textbf{Intent To Apply}

Scope

To establish a mechanism whereby a person may submit an incomplete finfish cage culture aquaculture application so that necessary site assessment work may be conducted. This applies only to the submission of an aquaculture licence application. Where this policy conflicts with any provincial legislation, legislative requirements shall prevail.

Policy

Prospective finfish cage culture aquaculture licence applicants may indicate their intent to apply (ITA) for a site to allow them an opportunity to complete the site bottom sampling requirements of the aquaculture licence application. No other person may submit an aquaculture licence application for that site during this period. This policy does not constrain other legitimate, non-aquaculture applications for the use of the resource.

Definitions:

\begin{itemize}
\item \textbf{Affiliate} - Includes parent companies, subsidiary companies or any other company owned wholly or in part, by the applicant or its related companies.
\item \textbf{Bottom sample requirements} - All that information required in Section F(c) of the Finfish Cage Culture Application.
\item \textbf{Production unit} - A group of sites, when fully developed, that will allow for harvest of product on an annual basis and will allow for appropriate falling (e.g. three (3) sites for Atlantic salmon).
\item \textbf{Site} - For the purposes of this policy, a site will be all that contiguous water area within a 1 km radius of the centre point identified in the aquaculture licence application.
\end{itemize}

Procedure

1) ITAs must be made in writing to the Department of Fisheries and Aquaculture in the format required. The request must be accompanied by a completed aquaculture application for that site (with the exception of the re/dox table requirements, section F(c) of the application). Applications assessed and found not to be complete (with the exception of the bottom sample requirements) will be returned to the applicant along with the ITA, which will not be accepted.

2) An ITA will be valid for a maximum of sixty (60) calendar days effective the date signed by the appropriate Departmental official.

3) A maximum of six (6) sites may be held under an ITA by any one person, or affiliate, at any single point in time. These six sites will represent a maximum of two (2) production units.
4) ITAs will not be granted where a person, or affiliate, has sites licenced but not yet developed in accordance with an approved business/production plan.

5) ITAs will not be granted where the aquaculture application indicates development will begin greater than three years from the date the application is submitted (unless the Dept determines it is part of a production unit).

6) A second, or subsequent, ITA will not be granted to the same person, or affiliate, within a period of six (6) months after the expiry date of the previous ITA, for any particular site.

7) This policy may be waived or varied where it is deemed necessary by the department.

8) This policy does not apply where applications for other uses of the water resource, not aquaculture related, are made to the provincial government.

Rationale

Interest in developing sites has begun to increase significantly with a number of companies expressing interest in a variety of locations. This policy allows companies to identify an intention to apply for sites without having all application requirements completed. The needs of industry will be addressed while ensuring that the water resource is not tied up for indefinite periods without development.
AP. 29  

Site Sub-tenure

Scope

To establish a mechanism whereby a person may sublet an aquaculture facility to a third party for the purpose of conducting aquaculture without assigning all tenure rights to the third party.

Policy

An aquaculture licence may be issued to a person who obtains permission to occupy that aquaculture facility from an existing licencee in accordance with the requirements of Crown Lands policy. Fees will be in accordance with those required for issuance of any necessary documentation. They include, but are not limited to:

- $100  Aquaculture Licence fee
- $100  Crown Lands Notice of Assignment fee
- $115  Marine Aquaculture Water Use Licence/Permit fee

Procedure

1) An Application to Sublet, a Notice of Assignment form, a Development Plan and appropriate fees must be submitted to DFA and approved prior to any occupation of the site by the proposed sub-lessee.

2) DFA will refer the application to necessary referral agencies for comment and updating of appropriate documents prior to review by the Aquaculture Licencing Committee.

3) Once approved, the Notice of Assignment will be forwarded to Dept of Government Services and Lands for updating of tenure documents.

Rationale

The creation of a formal process to allow for sub-tenure facilitates easier initial investment in the industry by interested persons not currently operating in the province. Business partnerships can be established and the Department ensures orderly development of the industry.
5.2 Procedures

PR.1 Prosecutions Under the Aquaculture Act
PR.2 Application Evaluation by Aquaculture Development Officers
PR.3 Review Procedure
PR.4 Mooring Lines Reattachment
Prosecutions under the Aquaculture Act

When a company or individual appears to be in violation of the Aquaculture Act and/or the Aquaculture Regulations, the following procedures shall apply:

1. Where an inspection identifies deficiencies or violations of the Act or Regulations, the inspector shall issue a directive, on the appropriate form, identifying the deficiency and giving a specific time frame to have the deficiency corrected. Inspectors are to use sound judgement when identifying time frames for correcting deficiencies. Hazards (see definition in Policy AP 15) are to be corrected immediately.

2. A follow-up inspection shall be conducted after the time period identified on the directive has passed. Where deficiencies have not been corrected, evidence is to be collected. Where it is deemed necessary and following consultation with the Department of Justice, aquatic plants, aquatic animals and/or aquaculture gear involved with a breach under the act and regulations may be seized with a warrant obtained from a Judge or Justice of the Peace. Where a seizure occurs, the department’s Senior Executive and Minister are to be advised of any such action as soon as possible.

3. Supporting information relating to the alleged offence is forwarded to the Department of Justice for review and recommendation.

4. Should the Department of Justice advise that there appears to be sufficient evidence to proceed with prosecution, the Assistant Deputy Minister, Deputy Minister and the Minister are to be advised. Approval will be sought from the Executive to proceed with further action.

5. Where approval to proceed occurs, a copy of all relevant documentation is forwarded to the Crown Prosecutor’s Office to initiate the legal process. Departmental staff will work with the Crown Prosecutor to prepare the Crown’s case.

Approved by: [Signature] January 1, 2004
Aquaculture Policy and Procedures Effective Date PR 1 Sept 24, 1997
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Applications are given a primary assessment prior to entering the referral process. This assessment is conducted by the appropriate Aquaculture Development Officer.

1. Upon receipt of an application and supporting documentation from the Registrar, the area Aquaculture Development Officer (ADO) will review the proposal in terms of the items indicated on the Aquaculture Application Initial Assessment Form.

2. Where information is incomplete and corrections do not require submission of additional documentation, the ADO will contact the applicant directly to make the necessary changes. A note should be attached to the application indicating who was contacted to make any changes to information provided in the application.

3. Where substantial corrections are necessary, the ADO will advise the Registrar with details of what additional information is required. The Registrar will notify the applicant in writing giving time frames for submission of the information required.

4. The ADO will complete the assessment form and forward same to the Registrar together with a recommendation of whether or not the application should enter the referral process.
PR 3     Review Procedures

The Minister will forward all requests for review to the Secretary of the Licencing Review Committee who will in turn:

(1) Assign it a Review Application number.

(2) Immediately draft a reply (for the Minister's signature) to the applicant acknowledging receipt of the review request and advising that the request is forwarded to the Licencing Review Committee.

(3) Forward the application to the Licencing Review Committee Members together with:

(a) a copy of initial licence application or other appropriate documentation,
(b) a copy of Minister's letter acknowledging the applicant's request and notification of the request being forwarded to the Review Committee. (Item 2 above)

(4) The Licencing Review Committee Secretary and Chair will deal with the review application in accordance with the Committee's established terms of reference and procedures.

(5) Upon completion of each review, the Licencing Review Committee Chair will submit a confidential report directly to the Minister. The report will remain confidential and be filed in the Minister's/Deputy Minister's Office, under the care of the Secretary of the Review Committee.

(6) The Minister's final decision will be relayed to the applicant with copies to the Department's Licencing Administrator / Registrar, the Secretary of the Review Committee and to other interested persons as directed by the Minister.

Notes on Procedure:
1. Only a person or firm who has had an application rejected or cancelled may request a review (i.e. Interveners cannot request a review).

2. The review application must be registered with the Minister within 30 days of notification of the rejection or cancellation, unless the Minister waives the requirement.

PR 3
Approved by:  January 1, 2004  PR 3 Sept 24, 1997
Aquaculture Policy and Procedures Effective Date
Department of Fisheries & Aquaculture Previous Version
PR 4  Mooring Lines Reattachment

During winter months and adverse weather conditions, the Department of Fisheries and Aquaculture and the Canadian Coast Guard recognize that situations will arise whereby mooring lines attached to underwater anchors or rock bolts may chafe and break off.

Should this situation occur, licencees are required to provide notification and effect temporary repairs in accordance with the following steps:

1. A Notice to Shipping must be posted through CCG immediately. Phone (709) 772-2083 and provide the following information:
   - Name of Grower and phone number
   - Location: Latitude and Longitude
   - Type of Hazard
   - Duration of Hazard

   The Department of Fisheries and Aquaculture must be notified as soon as possible of the hazard(s).

2. The line may be temporarily attached as near the low water mark as possible and the attachment line must be flagged with fluorescent ribbon and marked with yellow cautionary buoys, or in another manner as directed, only until conditions permit completion of permanent repairs.

3. Notice must be provided to DFA, upon removal of the hazard and/or temporary measures.

Following receipt of notification that this situation has occurred, an inspector will visit the site to ensure that the hazard to public safety has been minimized. Weather conditions will be closely monitored to ensure permanent repairs are completed at the earliest opportunity.

PR 4
Approved by: [Signature]
January 1, 2004

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5.3 NOTICES TO ALL AQUACULTURISTS

N.1  Re: Shorefast Moorings (Dated July 31, 1997)
N.2  Re: Aquaculture Development & Enforcement Policy (Dated Dec. 29, 1997)
N.3  Re: Aquaculture Development & Enforcement (Dated Feb. 9, 1998)
N.4  Re: Moorings Systems - Final Notice (Dated June 3, 1998)
N.5  Re: Requests for “Licence to Transfer and Transport”
     Aquaculturists and Suppliers (Dated February 12, 1999)
5.4 AREA MANAGEMENT PLANS

Because of the detailed analysis presented in area management planning documents, the plans will not be included in this manual. The following list identifies the areas for which management plans have been established. Please note that at the time of sign off of this manual, all management plans are under review. All official policy statements arising from the Plans will be inserted following this listing.

Due to the type of data and detail included in the analyses, the full plans are confidential and will not be publicly distributed. Executive Summaries from the documents may be provided to interested parties.

AMP 1 Mussel Sites in Green Bay, Notre Dame Bay

AMP 2 Mussel Sites in Notre Dame Bay
“Assessment and Management Plan for the Notre Dame Bay (Leading Tickles - Farewell) Mussel Aquaculture Industry”; Gord Deveau, April 1999

AMP 3 Salmonids in Bay d’Espoir

3a Aquaculture in Roti Bay

3b Bay d’Espoir Code of Containment and Implementation Plan
i) “Use of all Female Diploid Steelhead Trout for Seacage Aquaculture in Bay d’Espoir” (exposition of the need for the Code and the text of the Code as agreed by all operators); May 18,1999

AMP 4 Mussel Sites on the Connaigre Peninsula
“Assessment and Management Plan for the Coast of Bays (McCallum - Rencontre East) Mussel Aquaculture Industry”; Gord Deveau, September 1999
Bay Management Areas Agreement for the South Coast of NL

BMAs

December 10, 2013
**Background:**

The use of Bay Management Areas (BMAs) is a sound, scientifically based and proven method of reducing disease and parasite impact. It also enables stable and orderly management of industry practices to ensure both environmental sustainability and cooperation between producing companies for the long term viability of the industry.

Industry and government have collectively agreed that a Bay Management Area approach for the south coast of Newfoundland and Labrador is required. This document outlines the principles of Bay Management and commits all parties to a cooperative approach in implementing Bay Management and committing to ongoing dialogue and action to improve and amend the approach as new information is acquired.

**BMA Principles:**

- The Bay Management Area Agreement for the South Coast of Newfoundland and Labrador will be made a condition of all Aquaculture Licenses, issued to companies, operating within the Bay Management Area, effective January 1, 2014.

- BMAs are developed and augmented by sound science and documented practices and observation.

- Each party has an obligation to support and provide input to the collection of scientifically validated data to inform the improvement of the BMAs.

- A Bay Management Area Implementation Committee (BMAIC) shall be formed, consisting of senior management and appropriate technical staff from each company and the Department of Fisheries and Aquaculture. The committee will meet at least annually to review and recommend changes to the Minister of Fisheries and Aquaculture regarding BMAs. Biosecurity protocols will be developed through technical subcommittees as designated by the BMAIC and implementation of the protocols will occur once companies have submitted individual stocking strategies.

- A company operating within a BMA will stock with the same year class of fish. The definition of year class is the year of sea water entry within a calendar year.
• All companies will stock single species and single year class. Sites will not have fall and spring stocked fish on the same marine site.

• Each BMA will be required to lay fallow for no less than four (4) months between stockings. A fallow period will be deemed to begin after the last fish have been harvested from the BMA. Individual site fallow will be no less than seven (7) months.

• Each company will be required to submit a biosecurity management plan to the NL DFA, which dictates the flow of materials between sites and BMAs.

• Each company must document their individual site and zone production strategies and submit for review by the NL DFA prior to implementation.

• New sites operated by different companies in the BMA must be greater than 5 km apart. New sites operated by the same company in the BMA must be greater than 1 km apart. Existing sites and sites in the application process prior to BMA enactment will maintain current site separation.
Proposed Stocking Plan
2013-2015

☐ 2013 Yearclass
☐ 2014 Yearclass
☐ 2015 Yearclass

COS: Cold Ocean Salmon
GAGL: Gray Aqua Group Ltd
NHSF: Northern Harvest Sea Farms
Stocking Schedule:

Please refer to the above map for further clarification.

2013:

- Grays Aqua Group Limited (GAGL) have stocked Facheux Bay
- Cold Ocean Salmon (COS) have stocked Gaultois Passage.
- Northern Harvest Sea Farms (NHSF) have stocked Fortune Bay East and Great Bay de L’Eau.

2014:

- GAGL will stock in Hare Bay, Devil Bay and Rencontre West.
- COS will stock in Fortune Bay West and Hermitage Bay.
- NHSF will stock in Fortune Bay West.

2015:

- GAGL will stock in Bay d’Espoir.
- COS will stock in Bay d’Espoir and Connaigre Bay.
- NHSF will stock in Fortune Bay Centre and Harbor Breton Bay with the option to stock in Bay d’Espoir.

Section 39(1)(a)(ii), Section 39(1)(c)(i), Section 39(1)(c)(iii)

2016:


IN WITNESS WHEREOF, the parties hereby execute, in counterpart, this agreement.

FOR THE DEPARTMENT OF FISHERIES AND AQUACULTURE

Signing Officer ___________________________

Title ___________________________
Date

FOR COLD OCEAN SALMON

Signing Officer
Title
Date

FOR NORTHERN HARVEST SEA FARMS

Signing Officer
Title
Date

FOR GRAY AQUA GROUP

Signing Officer
Title
Date