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Canada

Pêches et Océans
Canada



ANNUAL REPORT

April 1, 2005 to March 31, 2006



**ANNUAL REPORT TO PARLIAMENT on
the Administration and Enforcement
of the Fish Habitat Protection
and Pollution Prevention Provisions
of the *Fisheries Act***

Canada 

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Minister of
Fisheries and Oceans



Ministre des
Pêches et des Océans

Ottawa, Canada K1A 0E6

Ms. Audrey O'Brien
Clerk of the House of Commons
Room 228-N, Centre Block
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Ms. O'Brien:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, the Annual Report on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* for the Fiscal Year 2005-2006.

In conformity with the requirements of the Act, these copies are for tabling in the House of Commons and for referral to the Standing Committee on Fisheries and Oceans.

Sincerely,

Loyola Hearn, P.C., M.P.

Attachments

Minister of
Fisheries and Oceans



Ministre des
Pêches et des Océans

Ottawa, Canada K1A 0E6

Mr. Paul C. Bélisle
Clerk of the Senate
Room 185-S, Centre Block
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Bélisle:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, the Annual Report on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* for the Fiscal Year 2005-2006.

In conformity with the requirements of the Act, these copies are for tabling in the Senate.

Sincerely,

Loyola Hearn, P.C., M.P.

Attachments

Canada 

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Abstract

Fisheries and Oceans Canada. 2006. Annual Report to Parliament on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*. April 1, 2005 to March 31, 2006: iii + 42 p.

This is a report on the administration of Fisheries and Oceans Canada's National Habitat Management Program and Environment Canada's Pollution Prevention Program during the 2005-2006 fiscal year. It highlights the two departments' national and regional activities.

Résumé

Pêches et Océans Canada. 2006. Rapport annuel au Parlement sur l'administration et l'application de dispositions de la *Loi sur les pêches* relatives à la protection de l'habitat du poisson et à la prévention de la pollution du 1^{er} avril 2005 au 31 mars 2006 : iii + 46p.

Ce rapport porte sur l'administration du Programme national de gestion de l'habitat de Pêches et Océans Canada et du Programme de prévention de la pollution d'Environnement Canada au cours de l'exercice financier 2005-2006. Il présente les activités entreprises par les deux ministères à l'échelle national et régionale.

1.0 Introduction

The federal government fulfils its constitutional responsibilities for coastline and inland fisheries through the administration and enforcement of the *Fisheries Act*, that provide Fisheries and Oceans Canada (DFO) with powers and authorities to conserve and protect fish habitat, which is essential to sustaining freshwater and marine fish species and populations that Canadians value.

The *Fisheries Act* contains provisions that prohibit harmful changes to fish habitat (habitat protection provisions) as well as discharges of deleterious substances into fisheries water (pollution prevention provisions). DFO is responsible for the administration and enforcement of the habitat protection provisions of the *Fisheries Act*, while responsibility for the administration and enforcement of the pollution prevention provisions has been assigned to Environment Canada (EC).

Section 42.1 of the *Fisheries Act* requires the Minister of Fisheries and Oceans to table an annual report to Parliament on the administration and enforcement of the fish habitat protection and pollution prevention provisions.

“42.1 (1) the Minister shall, as soon as possible after the end of the fiscal year, prepare and cause to be laid before Parliament a report on the administration and enforcement of the provisions of this Act relating to fish and fish habitat protection and pollution prevention for that year.”

“42.1 (2) the annual report shall include a statistical summary of convictions under section 40 for that year.”

The *Annual Report to Parliament* (Annual Report) is only one of several reporting mechanisms used to assess and report on the contributions and successes of DFO's and EC's Programs in conserving and protecting fish habitat that sustain fish species and populations that Canadians value. Other reporting mechanisms such as the annual *Departmental Performance Report* and the *Report on Plans and Priorities*, which are also produced by the Department, provide information about the performance of these programs to Parliamentarians and Canadians. In order to streamline departmental reporting while maintaining its legislated responsibilities under section 42.1, this report will focus on its responsibilities under the *Fisheries Act*. DFO's responsibilities pursuant to the *Canadian Environmental Assessment Act (CEAA)* can be found in the Canadian Environmental Assessment Agency's 2005-2006 Annual Report.

This report provides a summary of key activities undertaken by DFO and EC in conserving and protecting fish habitat during this fiscal year.

Section 2.0 of the report presents:

- background on the legislation and policy for the conservation and protection of fish habitat;
- an overview of the *Policy for the Management of Fish Habitat*;
- an overview of the Habitat Management Program (HMP), and those sectors who support it; and
- a summary of the Environmental Process Modernization Plan (EPMP), designed to make the HMP more efficient in the delivery of its services, and effective in the conservation and protection of fish and fish habitat.

Section 3.0, 4.0 and 5.0 highlight the regulatory activities of DFO and EC Programs for this fiscal year, at National Headquarters and in the regions. These activities include:

- the review of development proposals (referrals) that may affect fish habitat;
- the monitoring of compliance with the habitat protection and pollution prevention provisions of the *Fisheries Act* and enforcement actions as a result of violations; and
- developing regulations, policies and guidelines related to the habitat protection and pollution prevention provisions of the *Fisheries Act*.

2.0 Administration of the Fish Habitat Protection Provisions of the *Fisheries Act*

2.1 Legislative Basis for the Conservation and Protection of Fish Habitat

The *Fisheries Act* contains two types of provisions that can be applied for the conservation and protection of fish habitat¹ essential to sustaining freshwater and marine fisheries resources that Canadians value because of the significant economic, social, cultural, and environmental benefits they provide.

Section 35 is the key habitat protection provision of the *Fisheries Act*. This section prohibits any work or undertaking that would cause the harmful alteration, disruption or destruction (HADD) of fish habitat, unless authorized by the Minister of DFO or through regulations under the *Fisheries Act*.

- (1) “No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.”
 - (2) “No person contravenes subsection (1) by causing the alteration, disruption or destruction of fish habitat by any means or under any conditions authorized by the Minister or under regulations made by the Governor in Council under this Act.”
- Section 35, *Fisheries Act*.

DFO administers and enforces section 35 and other related habitat protection provisions of the *Fisheries Act*, including sections 20, 21, 22, 26, 28, 30, and 32 (see [Annex](#)).

Section 36 is the key pollution prevention provision. It prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulation under the *Fisheries Act* or other federal legislation. Regulations to authorize deposits of certain deleterious substances have been established for key industry sectors pursuant to section 36 (e.g., pulp and paper, and metal mining). The responsibility for the administration and enforcement of the pollution prevention provisions of the *Fisheries Act* is assigned to EC.

¹ Fish habitat is defined under subsection 34(1) of the *Fisheries Act* as “spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes”.

The *Fisheries Act* also contains provisions that support the administration and enforcement of the habitat protection and pollution prevention provisions. These include:

- powers for the Minister to request plans and specification for works and undertakings that might affect fish or fish habitat (section 37);
- authority for the Minister to appoint inspectors and analysts (subsection 38(1));
- a description of inspectors' powers (including entry, search, and direction of preventive, corrective or cleanup measures) (subsection 38(3));
- a description of offences and punishment (section 40); and
- a determination of liability when a deleterious substance has been deposited (section 42).

2.2 Policy for the Management of Fish Habitat

The *Policy for the Management of Fish Habitat*² (the Habitat Policy), which was tabled in Parliament in 1986, and its supporting operational policies provide a comprehensive framework for the administration and enforcement of the habitat protection and pollution prevention provisions of the *Fisheries Act* consistent with the goal of sustainable development.

The Habitat Policy has an overall objective to “increase the natural productive capacity of habitat for the nation’s fisheries resources” – that is, to achieve a “net gain” in fish habitat. This is to be achieved through the Habitat Policy’s three goals of conservation, restoration, and development of fish habitat.

The Habitat Policy recognizes that habitat objectives must be linked and integrated with fish production objectives and with other sectors of the economy that make legitimate demands on water resources. As a result, the Habitat Policy identifies the need for integrated planning for habitat management as an approach to ensuring the conservation and protection of fish habitat that sustain fish production while providing for other uses.

The objective and goals of the Habitat Policy are to be achieved through eight implementation strategies. These include Protection and Compliance; Integrated Resource Planning; Scientific Research; Public Consultation; Public Information and Education; Cooperative Action; and Habitat Improvement and Habitat Monitoring.

A key element of the Habitat Policy is the guiding principle of “no net loss of the productive capacity of fish habitat”. This principle, which supports the conservation goal, is applied when proposed works and undertakings may result in a HADD of fish habitat. Prior to issuing an authorization under subsection 35(2) of the *Fisheries Act*, DFO applies the “no net

² The full text of the *Policy for the Management of Fish Habitat* can be found at : http://www.dfo-mpo.gc.ca/oceans-habitat/index_e.asp.

loss” guiding principle, so that unavoidable habitat losses as a result of development projects are balanced by newly created and/or restored fish habitat.

If unacceptable losses of fish habitat cannot be prevented by these measures, the Habitat Policy calls for an authorization not to be issued. Furthermore, where deleterious substances result in harm to fish or damage to fish habitat, compensation³ is not an option.

2.3 National Habitat Management Program

DFO's Habitat Management Program (HMP) is a key federal regulatory program with a mandate to conserve and protect fish habitat. Delivery of its responsibilities under the *Fisheries Act*, the *CEAA* and the *Species at Risk Act (SARA)* impacts on a wide range of individuals, businesses and communities all across Canada. The HMP is supported from Science Sector's Environmental Science Program and compliance and enforcement activities through Fisheries and Aquaculture Management Sector's Conservation & Protection Program.

National Headquarters' staff is responsible for the overall coordination of the delivery of the HMP, providing national policy direction, strategic advice and liaison with other Departmental sectors, federal departments and national industries and non-governmental organizations (NGOs). Day-to-day delivery of the program is carried out by staff located in 67 HMP offices located in six regions (see Map). These regions are:

- Newfoundland and Labrador;
- Maritimes (parts of New Brunswick and Nova Scotia);
- Gulf (parts of New Brunswick and Nova Scotia, as well as all of Prince Edward Island);
- Quebec;
- Central and Arctic (Alberta, Saskatchewan, Manitoba, Ontario, the Northwest Territories and Nunavut); and
- Pacific (British Columbia and the Yukon Territory).

2.3.1 Scientific Support

Timely, relevant science is a fundamental requirement for strengthening the foundation and credibility of the program in support of the objectives of DFO's Policy for the Management of Fish Habitat. Science Sector conducts research to address knowledge gaps related to habitat conservation, restoration and improvement. Research projects are conducted by Environmental Science staff in all Regions, addressing questions of importance to Habitat Managers. Among the areas of research pursued in fiscal year 2005-2006 are:

³ See Glossary in the *Policy for the Management of Fish Habitat* for the definition of compensation <http://www.dfo-mpo.gc.ca/oceans-habitat/index_e.asp>.

- developing empirical models for evaluating the productive capacity of fish habitat, linking fish biomass at specific habitats to total population production;
- assessing the impacts of hydroelectric dam operations (ramping rate) on downstream aquatic ecosystems;
- assessing techniques for the remediation of oil-contaminated sites;
- assessing the impacts of fishing gear on fish habitat;
- developing techniques to assess productive capacity and the value of specific habitats to fish, and to delineate 'critical habitat';
- assessing the effects of aquaculture on the environment;
- conducting joint research, with Habitat Management staff, into the efficacy of habitat compensation projects in meeting compensation objectives in a 'habitat productive capacity' framework;
- assessing the impacts of seismic exploration on fish and fish habitat,
- developing the knowledge necessary to make decisions regarding stream flows and water allocations, with regard to maintaining sufficient water for fish; and
- assessing the impacts of land use practices on aquatic habitat, with an aim to reducing the impacts of industries such as forestry, farming, and mining.

The results of these research projects are transferred to HMP staff in the form of peer reviewed advice, workshops, published reports, fact sheets, briefings, and personal consultations. Science provides advice to Habitat Managers at levels ranging from informal, one-on-one discussions, to regional advice sessions and large-scale National Advisory Process workshops that follow a formal process to produce peer-reviewed, published advisory documents. In fiscal year 2005-2006, advice was provided to Habitat Management in many areas, including:

- a national workshop on the habitat effects of shellfish aquaculture on the marine environment;
- production of a paper on the scientific support for the use of a risk management approach to the management of fish habitat, drawing on examples of risk management approaches to the management of other natural resources. This paper also provided advice on means of moving towards a more quantitative risk framework;
- expert advice and testimony on the impacts of alleged infractions of the *Fisheries Act*, assisting in prosecutions of offences and remediation of the impacts;
- advice on the scientific evidence for the linkages between activities and habitat impacts as described in the Pathways of Effects diagrams incorporated in the Risk Management Framework;
- science advice on the mitigation of hydroelectric impacts on American eels in the upper St. Lawrence / Lake Ontario;

- a review of the scientific validity of a proposed assessment methodology to examine the impacts of large-scale hydroelectric development;
- development of a SARA Web Mapping Tool to provide Habitat practitioners with information on the distribution of species at risk, which could be impacted by proposed developments;
- examination of current approaches for the creation of a defensible, science-based, national process for allowable harm assessment for aquatic species with habitat-related threats, as part of the SARA and Allowable Harm Assessment Workshop in February 2006;
- advice on the use of valued components (VCs) in the environmental impact statement (EIS, CEAA) of the Mackenzie Gas Pipeline;
- provision of scientific advice on a referral by referral basis in relation to determination of HADDs (harmful alteration, disruption, and destruction of habitat), monitoring and compensation requirements, etc; and
- review of environmental impacts statements, effects monitoring programs, compensation effectiveness, and supporting documents in relation to oil and gas developments, mining, hydroelectric developments, and other major industrial sectors.

2.3.2 Compliance and Enforcement Support

The fish habitat protection and pollution prevention provisions of the *Fisheries Act* provide the legislative basis for protecting fish and fish habitat: however, they must be administered and enforced in a fair, predictable and coherent manner. The compliance monitoring and enforcement support for the habitat protection provisions of the *Fisheries Act* are provided by Fisheries and Aquaculture Management Sector's Conservation and Protection Program. Compliance and enforcement support for the pollution prevention provisions of the *Fisheries Act* are provided by EC's Environmental Emergencies Program and Enforcement Program.

2.4 Environmental Process Modernization Plan

In the past, there was growing concern among various levels of government, industry sectors and conservation groups about the way in which the Department was implementing its habitat management responsibilities.

In order to address concerns regarding the administration of the HMP, DFO implemented the Environmental Process Modernization Plan (EPMP) in 2004 to make the HMP more: effective at protecting fish habitat; efficient in terms of program delivery; and integrated with the interests and responsibilities of others. Each element of the EPMP is focussed on re-positioning the Program to be orientated around key priorities, and improve the manner in which habitat related responsibilities are carried out.

There are currently six elements in the EPMP:

1. A program-wide, science-based Risk Management Framework for identifying projects posing the greatest risk to the environment.
2. Referral streamlining of low-risk projects so that resources can be reallocated to higher risk reviews and other priorities.
3. An improved management of major projects, including new policy guidance and new organizational structures, to increase the predictability, timeliness and harmonization of decision-making.
4. Formalized partnerships with industry sectors, provinces, territories, municipalities, conservation groups and others to enhance understanding, adopt common agendas and integrate DFO's responsibilities with the interests of key stakeholders where possible.
5. Internal measures, including mandatory training for all staff, the adoption of new internal governance structures and national operating procedures, to improve predictability and the coherence of decision-making.
6. Modernization of habitat compliance to clarify compliance rules and improve compliance and compliance effectiveness.

The program wide **Risk Management Framework (RMF)** is a science-based decision making framework that categorizes risks to fish and fish habitat associated with development proposals, communicates these risks to proponents, and identifies appropriate management options to reduce risks. The RMF further allows Program resources and efforts to be re-allocated from the review of routine, low risk, predictable reviews towards the review of those projects that pose the highest risk to fish habitat across the country.

As a result of the RMF, activities that pose low risks to fish habitat have been identified and environmentally friendly standard practices have been developed and applied. The **streamlining of regulatory reviews for low risk activities** is focused on eliminating the need for repetitive and routine reviews through the development and implementation of management tools such as the "Operational Statements", as well as guidelines which identify the mitigation measures needed to avoid harm to fish habitat for low risk activities in or near water. These tools provide proponents with the certainty they need to be in compliance with the *Fisheries Act* and the measures Canadians need to follow in order to protect our fish habitat. Improving the efficiency of the review processes for low risk activities while maintaining their effectiveness in protecting fish habitat through these initiatives allows for the reallocation of resources to the review of higher risk activities and other priority activities like monitoring and integrated resource planning.

In October 2005, thirteen (13) *Fisheries Act* Operational Statements (OPS) were released, with additional OPS to be released in 2006-2007. Steps were also taken to support a "one-window" Provincial/Territorial delivery system for OPS where possible. For example, several OPS were integrated into provincial/territorial permitting processes, including New Brunswick, PEI and Nova Scotia. In addition, development of guidelines was undertaken in co-operation with industry partners to allow for review of industry best management practices to ensure that appropriate habitat protection measures were included.

Improved coherent and predictable decision-making is the hallmark of the EPMP as it underscores many components of the Program. Several internal initiatives have been undertaken to make quantifiable progress in this area. This includes the development of policy manuals for practitioners in the field and improved internal governance and communications tools. As well, DFO finalized and implemented the Mandatory Training Program, including delivery of new training courses. Lastly, DFO established ongoing performance monitoring and measurement practices through development and implementation of new Results-based Management and Accountability Frameworks.

In recognition of the need to integrate our habitat regulatory responsibilities with the responsibilities and interests of others, the fourth EPMP component provides for **strengthened partnering arrangements** with provinces, industry, Aboriginal groups, non-government organizations, and municipalities to identify and collaborate on common issues and priorities. In 2005-2006, the program continued to implement partnership agreements with these sectors at the national and provincial/territorial levels. The agreements identify priority areas for collaboration and establish management and accountability mechanisms and annual work plans to work on those priorities. For example, national level agreements continue to be implemented with Canada's major national resource industry associations (NRIA) and the Canadian Electricity Association. Examples of provincial level agreements include ongoing implementation of agreements with the several provinces and the agreements under development with aggregates of Aboriginal groups that are supported by the Department's Aboriginal Inland Habitat Program. More information about Habitat Management Partnering can be found at: http://www.dfo-mpo.gc.ca/oceans-habitat/index_e.asp.

DFO has begun to develop a more modern and balanced approach to achieving compliance with the habitat protection provisions of the Fisheries Act which includes reallocation of program resources to better support monitoring of compliance with, and effectiveness of, its regulatory requirements. **Habitat Compliance Modernization** is aimed at strengthening our ability to better implement the full continuum of compliance activities - from compliance promotion, to enhanced compliance monitoring/auditing, to enforcement where necessary. As with the other elements of the EPMP, this new direction will provide for increased effectiveness in protecting the fish habitat of value to Canadians.

In recognition of the growth in major projects and the key role the HMP plays in regulating such projects at the federal level, DFO developed and implemented a **new management model for the environmental assessment of "major projects"** – projects that are complex, multi-jurisdictional and have nationally significant socio-economic implications. This new approach is aimed at strengthening accountabilities at senior levels within the Department, improving interdepartmental co-ordination and communication, improving opportunities to harmonize federal and provincial reviews and facilitating more timely and more effective application of the environmental assessment process.

To support and strengthen this approach, a new organizational model for the management of environmental assessments of major projects was established in National Headquarters and the Regions. This new model also included the development of new policies and protocols that further support the EPMP principles. For example, a policy on early triggering of CEAA

was developed and implemented in order to improve timeliness of environmental assessments and the likelihood of harmonization with other jurisdictions and/or levels of government.

The Department's efforts and results under the EPMP are being increasingly recognized within government and by external stakeholders as we make decisions in a more transparent, predictable and timely manner. By integrating our regulatory responsibilities with the interests of our key stakeholders and by focusing on those priority areas Canadians expect us to focus on; we are better serving our mandate of conserving and protecting fish habitat, and delivering our responsibilities in a manner consistent with the Government of Canada's regulatory strategy.

During 2006-07, HMP will continue to direct efforts at advancing the implementation of all the EPMP elements. A key priority is the continued development and implementation of the Habitat Compliance Modernization component of the EPMP

3.0 Review of Development Proposals (Referrals) under the Fish Habitat Protection Provisions of the *Fisheries Act*

The administration of the Fish Habitat Protection Provisions of the *Fisheries Act* is the responsibility of DFO's HMP. The HMP accomplishes this in part by reviewing development proposals (referrals). The referral process enables HMP staff to review submitted proposals to assess if a HADD of fish habitat is likely to result from the proposed works or undertakings. Following the review, HMP staff sends advice to the proponent indicating the requirements for the conservation and protection of fish habitat. This advice informs proponents on how to proceed with their works or undertaking to comply with the *Fisheries Act*, mainly with respect to avoiding the HADD of fish habitat (section 35). These requirements are commonly in the form of a "Letter of Advice", an "Operational Statement" for low risk activities, or an "Authorization" pursuant to subsection 35(2) of the Act.

It is important to note that the habitat protection provisions, including section 35 of the *Fisheries Act*, do not create a mandatory obligation for proponents of development proposals to seek a "Letter of Advice", an "Operational Statement", or an "Authorization" from DFO, as there is no such authority in the section. However, to ensure that they are not in violation of the *Fisheries Act*, proponents voluntarily submit information about their proposed works or undertakings to determine if they comply with the habitat protection provisions of the *Fisheries Act*.

Prior to issuing an Authorization, HMP staff must also verify whether the proponent's project under review adversely affects wildlife species listed under SARA, or their critical habitat, and ensure that an EA under CEAA is completed. For development projects requiring such decisions, DFO becomes a responsible authority under the CEAA and HMP staff must conduct EAs that consider broader environmental issues than those directly associated with fish habitat. For additional information regarding EAs conducted by HMP staff please see the Canadian Environmental Assessment Registry (CEAR) at the following address:
http://www.ceaa-acee.gc.ca/050/index_e.cfm.

The summary of habitat referrals in this section reflects the practice whereby the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred; while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.

3.1 Summary of Habitat Referrals by Work Category

Habitat Assessors and field staff have categorized referrals according to the work categories. The categories are described in Table 1, while the summary of habitat referrals by work category is presented in Table 2.

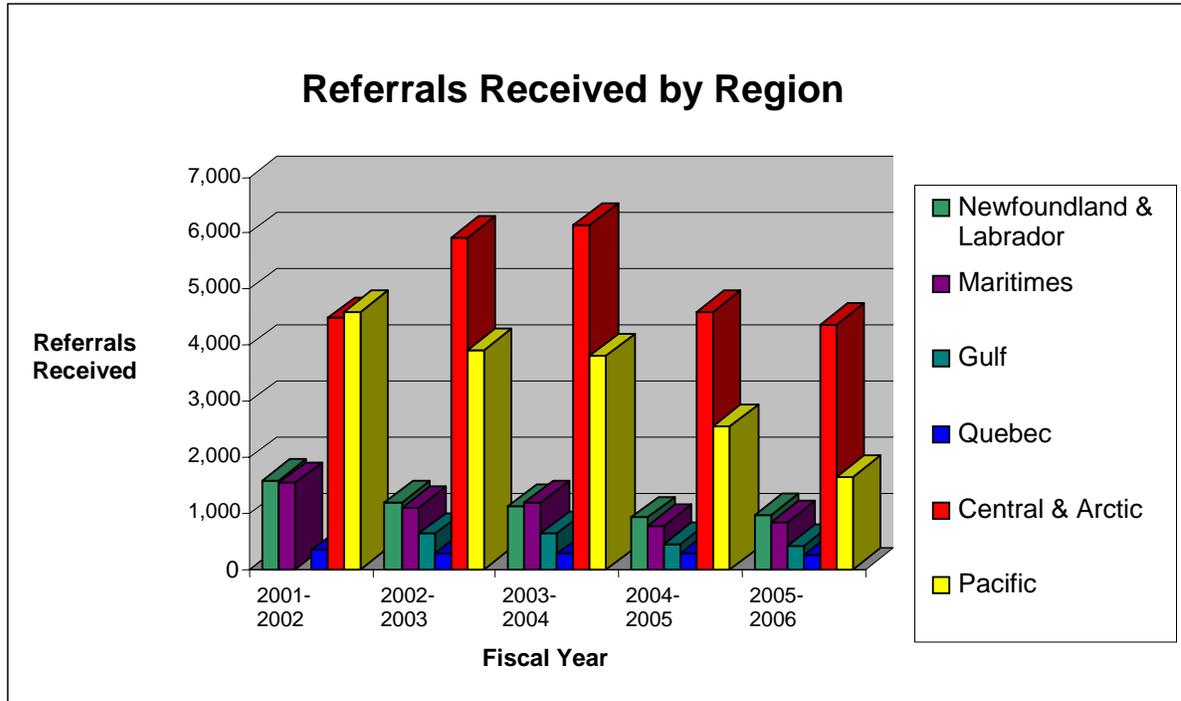
Table 1: Work Categories Fiscal Year 2005-2006	
Aquaculture	Includes all forms of aquaculture in marine, estuarine and freshwater, including: shellfish culture, marine plant culture, polyculture, finfish cage culture, freshwater ponds and hatcheries.
Contaminated Site Remediation	The cleanup of contaminated sites, including: excavation and removal of contaminated sediments and soils; treatment of contaminated groundwater, etc.
Control of Nuisance Species	Works to capture, control and poison nuisance species, such as weirs, pesticide application equipment used for the control of sea lampreys and other nuisance species.
Dredging	Dredging, including: clamshell, backhoe, suction, cutter suction, suction hopper, and any other type of dredging in freshwater, estuarine and marine conditions. Does not include dredging for the purposes of ocean mining of minerals or aggregate.
Fish Offal Disposal	Includes sites for disposal into the aquatic environment of fish offal from vessels, barges, etc. Does not include disposal of fish waste from a fish plant through an effluent pipe.
Habitat Improvement	Modifications to or structures placed into any aquatic habitat to improve the capacity of the habitat to produce fish.
In stream Works	Work and activities in a stream, brook, river, lake, estuary or any marine area, including: excavation, pool excavation, beaver dam removal, ditch cleaning, and aquatic vegetation removal.
Log Handling	Establishment and operation of aquatic and terrestrial areas used for storing and sorting logs. Includes log sorts at pulp mills and sawmills. Includes underwater log salvage.
Mineral, Aggregate and Oil & Gas Extraction	Includes all forms of mining and mineral exploration, including offshore and onshore oil and gas exploration and production, as well as ocean mining.
Seismic Exploration	Use of explosives or other methods to explore sub-surface geological structures underwater or on land.
Shoreline Works (Foreshore and Streambank Work)	Includes physical works along a shoreline, both in the riparian zone and in the zone between Low-Low Water (LLW), Low Water and High-High Water (HHW), High water in a stream, brook, river, lake, estuary or any marine area.
Structures in Water	Includes structures built in all habitat types (riverine, lacustrine, palustrine (wetlands), estuarine, marine) including: docks and boathouses for personal or commercial purposes, wharves, breakwaters, commercial marine terminals, personal and commercial moorings, boat launches, water intake physical structures including screens, effluent outfall pipes and outfalls, fishing weirs, artificial reefs, and gear placed in water.

Table 1: Work Categories Fiscal Year 2005-2006	
Water Management	Includes physical structures and activities involved in water management, such as: dams, dykes, diversions, reservoirs and reservoir operations, irrigation canals, stormwater management plans, water withdrawal from natural waterbodies and reservoirs, irrigation canals, hydroelectricity generation, etc.
Watercourse Crossings	Crossings of all kinds that traverse wetlands, streams, brooks, rivers, ponds, lakes, estuaries and any area in the marine environment. Includes small undertakings up to large pipeline and cable crossings across oceans.
Other	To be used for those proposed projects that do not fit any of the above Main Categories.

**Table 2:
Summary of Habitat Referrals by Work Category
Fiscal Year 2005-2006**

Work Categories																
Region	Aqua-	Cont. Site Remed.	Control Nuisance Species	Dredg.	Fish Offal Disp.	Hab. Improv.	Instr. Works	Log Hand.	Min., Agg. & O&G Extract.	Seis. Explor.	Shore. works	Struct. in Water	Water Mgmt	Water-course Crossing	Other *	Total
Newfoundland & Labrador	22	9	1	32	50	4	33	0	24	7	184	135	32	288	153	974
Maritimes	26	2	0	21	1	24	30	0	11	2	135	135	62	374	37	860
Gulf	35	0	1	74	0	30	21	0	0	0	51	49	31	127	18	437
Quebec	10	4	1	28	1	4	20	1	1	2	43	63	22	50	12	262
Central & Arctic	0	23	8	217	0	43	442	10	209	31	849	651	291	1,390	231	4,395
Pacific	49	12	7	56	0	24	170	49	159	0	341	153	196	283	197	1,696
TOTAL	142	50	18	428	52	129	716	60	404	42	1,602	1,187	634	2,512	648	8,624

* "Other" includes referrals identified with the Work categories of "to be determined," "Undetermined" and "Other"



3.1.1 Newfoundland and Labrador Region

The Newfoundland and Labrador Region received approximately 974 referrals describing a variety of proposed works or undertakings that could potentially affect fish or fish habitat. This represents a slight increase in referrals since last fiscal year, when 944 referrals were reviewed.

3.1.2 Maritimes Region

The Maritimes Region received approximately 860 referrals describing a variety of proposed works or undertakings that could potentially affect fish or fish habitat. This represents an increase in referrals since last fiscal year, when 793 referrals were reviewed.

3.1.3 Gulf Region

The Gulf Region received approximately 437 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a small decrease in referrals since last fiscal year, when 466 referrals were reviewed.

3.1.4 Quebec Region

The Quebec Region received approximately 262 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a decrease in referrals since last fiscal year, when 297 referrals were reviewed.

3.1.5 Central and Arctic Region

The Central and Arctic Region received approximately 4,395 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a decrease in referrals since last fiscal year, when 4,643 referrals were received. This decrease can be partly attributed to the implementation of the EPMP and the release of the Operational Statements. HMP continues to develop its performance measurement capacity to determine the reasons behind this trend.

Due to the large number of referrals received, below is a further breakdown by regional area:

3.1.5.1 Ontario-Great Lakes Area

The Ontario-Great Lakes Area (OGLA) and partners received approximately 3,581 habitat referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. The OGLA received 1,788 referrals, representing a 13% decrease since last fiscal year, when 2,040 were received. In addition, the Conservation Authorities reviewed 1,407 development projects and Parks Canada Agency reviewed 386 representing an 11% decrease since last fiscal year, when a total of 2,011 were reviewed. These referrals did not require DFO review.

3.1.5.2 Western Arctic Area

The Western Arctic Area received approximately 92 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 10% decrease of referrals since last fiscal year when 102 referrals were reviewed.

3.1.5.3 Eastern Arctic Area

The Eastern Arctic Area received approximately 115 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 28% decrease of referrals since last fiscal year when 159 referrals were reviewed. The decrease can be attributed to a shift of resources to focus on higher risk projects linked to streamlining referrals, mainly achieved through increased use of the Operational Statements.

3.1.5.4 Prairies Area

The Prairies Area received approximately 2,400 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a small increase of referrals since last fiscal year when 2,342 referrals were reviewed.

3.1.6 Pacific Region

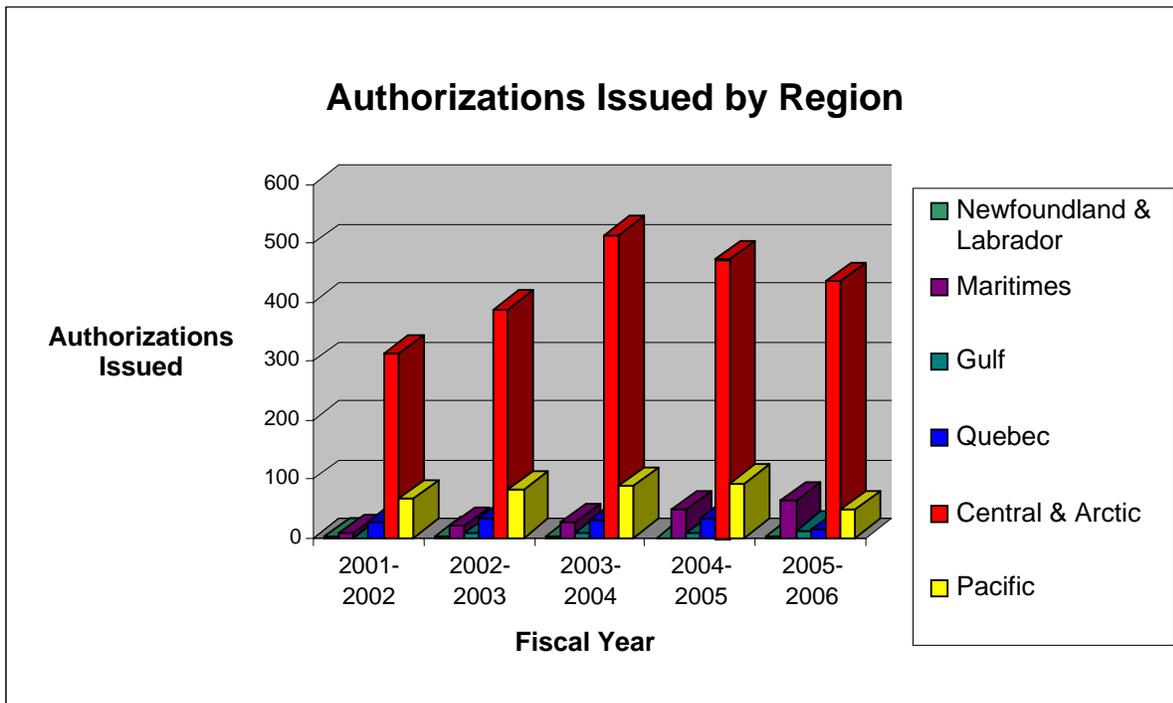
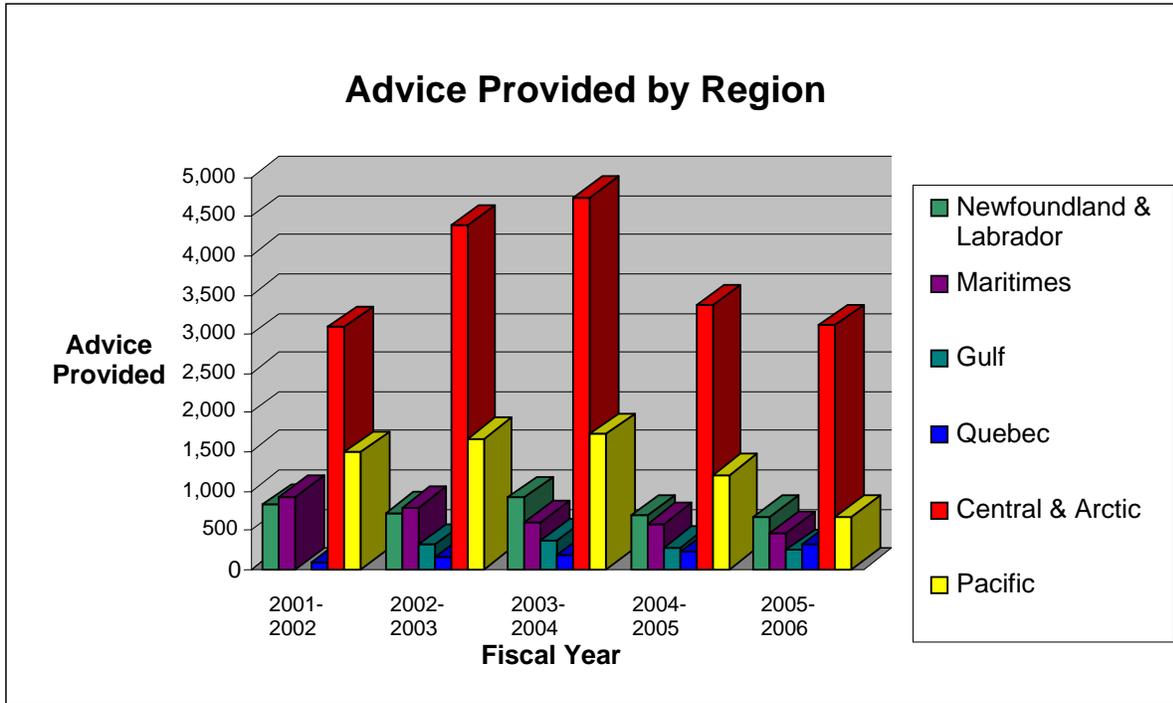
The Pacific Region received approximately 1,696 referrals describing a variety of proposed works or undertakings that could affect fish habitat. This represents a 36% decrease in referrals since fiscal year 2004-2005 when 2,620 referrals were reviewed.

The trend can be partly attributed to streamlining initiatives, underway for several years, which continued to address various development sectors via protocols or partnerships that filter referrals to best management practices, guidelines and/or other agencies. Examples of streamlining referral activities include federal/provincial referral committees, operational protocols with industry sectors, agreements with other levels of government, and various mapping tools.

3.2 Advice Provided and Authorizations Issued

REGION	Advice Provided to Proponent or Others**	Authorizations Issued	TOTAL
Newfoundland and Labrador	678	2	680
Maritimes	468	63	531
Gulf	247	12	259
Quebec	332	14	346
Central and Arctic	3,121	440	3,561
Pacific	685	49	734
TOTAL	5,531	580	6,111

** Advice provided to others includes: written advice to federal agencies, provincial/territorial/other agencies, letters of advice to proponents, letters of approval to proponents, mitigation measures provided to permitting agencies.



3.2.1 Newfoundland and Labrador Region

The Newfoundland and Labrador Region provided formal advice to proponents, provincial, and federal agencies on 678 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued two Authorizations for the HADD of fish habitat.

3.2.2 Maritimes Region

The Maritimes Region provided advice on 468 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 63 Authorizations for the HADD of fish habitat.

3.2.3 Gulf Region

The Gulf Region provided advice on 247 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 12 Authorizations for the HADD of fish habitat.

3.2.4 Quebec Region

The Quebec Region provided advice on 332 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 14 Authorizations for the HADD of fish habitat.

3.2.5 Central and Arctic Region

The Central and Arctic Region provided advice on 3,121 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 440 Authorizations for the HADD of fish habitat.

Due to the large number of instances where this region provided advice, below is a further breakdown by regional area:

3.2.5.1 Ontario–Great Lakes Area

The Ontario-Great Lakes Area (OGLA) provided advice on 1,275 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

OGLA issued 282 Authorizations for the HADD of fish habitat. Of the 282 Authorizations, 129 were issued under the Class Authorization Process for agricultural municipal drain maintenance works.

3.2.5.2 Western Arctic Area

The Western Arctic Area provided advice on 126 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued one Authorization for the HADD of fish habitat.

3.2.5.3 Eastern Arctic Area

The Eastern Arctic Area provided advice on 43 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued two Authorizations for the HADD of fish habitat.

3.2.5.4 Prairies Area

The Prairies Area provided advice on 1,677 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued 155 Authorizations for the HADD of fish habitat.

3.2.6 Pacific Region

The Pacific Region provided advice on 685 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 49 Authorizations for the HADD of fish habitat. The number of authorizations and letters of advice have decreased by approximately 50% in 2005-2006.

4.0 Compliance and Enforcement of the Fish Habitat Protection Provisions of the *Fisheries Act*

The DFO, Conservation and Protection Program (C&P) is responsible for monitoring compliance with legislation and regulations regarding the conservation of fisheries resources and fish habitat. The Minister of Fisheries and Oceans appoints Fishery Officers to enforce fisheries regulations and management plans as well as the habitat provisions of the *Fisheries Act*.

4.1 Legislative Basis and Application

In addition to protecting fish habitat, Fishery Officers conduct at-sea patrols in coastal and inshore areas, monitor catches, conduct forensic investigations and audits, conduct inland patrols and provide information to fishers regarding government policies and regulations. The enforcement and compliance monitoring activities of Fishery Officers are key to protecting Canada's fish and fish habitat.

Measures to *promote compliance* include the following: communication of information; public education; consultation with parties affected by the habitat protection provisions of the *Fisheries Act*; and technical assistance as required.

Enforcement is achieved through the exercise or application of powers granted under legislation. Enforcement of habitat protection provisions is carried out through: inspections to monitor or verify compliance; investigations of alleged violations; the issuance of warnings, Inspector's Directions, Ministerial Orders, etc. without resorting to court action; and court actions such as injunctions, prosecution, court orders upon conviction and suits for recovery of costs.

With regard to the tables in this Section, it should be noted that a charge can be laid in one fiscal year with a conviction in a subsequent fiscal year. In addition, prosecutions and convictions can often involve more than one charge.

The six Guiding Principles that govern the application of the *Fisheries Act* are identified in the *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* published in November 2001.

4.2 Summary of DFO Habitat Enforcement Activities

Table 4: Summary of DFO Habitat Enforcement Activities Fiscal Year 2005-2006		
REGION	Warnings Issued	Charges Laid
Newfoundland and Labrador	1	0
Maritimes	4	3
Gulf	5	3
Quebec	1	0
Central and Arctic	15	9
Pacific	24	1
TOTAL	50	16

4.3 Convictions Reported Under the Habitat Protection Provisions of the *Fisheries Act*

Table 5: Convictions Reported under the Habitat Protection Provisions of the <i>Fisheries Act</i> Fiscal Year 2005-2006					
REGIONS	35(1)	36(1)	36(3)	38(6)	TOTAL
Newfoundland and Labrador	0	0	0	0	0
Maritimes	8	0	0	0	8
Gulf	1	0	0	0	1
Quebec	1	0	0	0	1
Central and Arctic	7	2	0	0	9
Pacific	4	0	0	0	4
TOTAL	21	2	0	0	23

4.4 Summary of Convictions

Table 6: Summary of Convictions Fiscal Year 2005-2006								
Region	Province	Area	Waterbody	Section	Project Description	Conviction Date	Fine	Sentence details
Maritimes	Nova Scotia	EMS	Stewiacke River	35(1)	Excavation in river/bank alteration	7-Dec-05	\$500	\$250 to NS Salmon Association \$250 to Receiver General
Maritimes	Nova Scotia	SWNS	Atlantic Shoreline at Shag Harbour	35(1)	Wharf construction	21-Apr-05	\$5,000	\$5,000 to Receiver General. No court order to repair damage
Maritimes	New Brunswick	SWNB	Little Forks Brook	35(1)	Logging Operations	11-May-05	\$10,000	\$5,000 to receiver General. \$5000 to Nashwaak Watershed Committee
Maritimes	New Brunswick	SWNB	Deep Cove Brook, Grand Manan	35(1)	Aquaculture	5-Jul-05	\$1,500	\$1,500 to the Receiver General
Maritimes	New Brunswick	SWNB	Deep Cove Brook, Grand Manan	35(1)	Aquaculture	5-Jul-05	\$1,500	\$1,500 to the Receiver General
Maritimes	New Brunswick	SWNB	Deep Cove Brook, Grand Manan	35(1)	Aquaculture	5-Jul-05	\$1,500	\$1,500 to the Receiver General
Maritimes	New Brunswick	SWNB	Deep Cove Brook, Grand Manan	35(1)	Aquaculture	5-Jul-05	\$1,500	\$1,500 to the Receiver General
Maritimes	Nova Scotia	SWNS	Lake Brook, Bay of Fundy Watershed	35(1)	Culvert installation/ brook crossing	14-Sep-05	\$3,000	Accused ordered to rehabilitate damaged area and pay \$3,000 fine to Salmon River Association
Gulf	Nova Scotia	GNS	Crooked Lake	35(1)	Culvert installation	23-June-05	\$750	Courts also ordered restoration of the site.

**Table 6:
Summary of Convictions
Fiscal Year 2005-2006**

Region	Province	Area	Waterbody	Section	Project Description	Conviction Date	Fine	Sentence details
Quebec	Quebec	Gaspe, lower St. Lawrence	St. Lawrence River	35(1)	Excavation in the littoral zone (grounding of a boat/maritime worksite)	9-Jan-06	\$2,500	On default of payment, seizure of company assets.
Central and Arctic	Ontario	OGLA	West Humber River	35(1)	Stream diversion	15-March-06	\$100,000	\$100,000 fine with \$60,000 directed to the Receiver General and \$40,000 directed to Ontario Streams for improving fish habitat in the West Humber River. Voluntary restoration of site at a cost of \$92,000. Parties involved were required to construct a 40.5 m. bridge span at a cost of \$1,000,000 at the site
Central and Arctic	Ontario	OGLA	Beaver River (Hog Roc Creek)	35(1)	Construction of a causeway	15-Sept-05	\$5,000	Fine was directed to be used to support conservation in the Gravenhurst area
Central and Arctic	Saskatchewan	Prairie	Beaver River	35(1)	Road building, culvert installation, infilling (1)	4-Oct-05	\$2,000	Fine was directed to environmental damages fund
Central and Arctic	Saskatchewan	Prairie	Beaver River	35(1)	Road building, culvert installation, infilling (2)	4-Oct-05	\$2,000	Fine was directed to environmental damages fund
Central and Arctic	Alberta	Prairie	Waterton River	35(1)	Deposit of cement material in the river	11-Dec-05	\$12,000	In addition to the \$12,000 fine, the offenders were required to put in a proper water intake at an approximate cost of \$90,000. \$1,200 of the fine was directed to the Receiver General under section 79.2 \$10,800 went to Fisheries and Oceans Canada to be used for habitat purposes on or near the Waterton River.

**Table 6:
Summary of Convictions
Fiscal Year 2005-2006**

Region	Province	Area	Waterbody	Section	Project Description	Conviction Date	Fine	Sentence details
Central and Arctic	Manitoba	Prairie	Basket Creek	35(1)	Removal of beaver dams and fisheries enhancement riffle structures.	8-March-06	\$1,000	In addition to the fine, \$10,000 in restoration work was also ordered, to rebuild three riffle structures.
Central and Arctic	Alberta	Prairie	McLeod River	36(1)	Destruction of river bed and river bank	16-Dec-06	\$10,000	In addition to the fine, \$90,000 in turnips to be donated to food bank.
Central and Arctic	Manitoba	Prairie	Souris River	35(1)	Drained gravel pit into the river, which caused the blockage of a spawning riffle.	12-Dec-05	\$100	In addition to the fine, \$2,500 was paid to Province and \$6,250 to a fish enhancement group. Total monetary penalty for both charges (35(1) and 36(1) was \$15,000. In addition approximately \$35,000 of restoration work was completed.
Central and Arctic	Manitoba	Prairie	Souris River	36(1)	Drained gravel pit into the river, which caused the blockage of a spawning riffle.	12-Dec-05	\$100	In addition to the fine, \$6,250 was paid to a fish enhancement group. Total monetary penalty for both charges (35(1) and 36(1) was \$15,000.
Pacific	British Columbia	North Coast	Kemano River	35(1)	Unauthorized removal of logs	26-July-05	\$2,500	\$2,500 fine. \$17,500 to be paid for the protection and enhancement of fish and fish habitat
Pacific	British Columbia	North Coast	Wood Culvert Creek	35(1)	Logging	2-May-05	\$2,500	Fine of \$2,500 and \$27,500 directed to the Pacific Salmon Foundation.
Pacific	British Columbia	Lower Fraser	West Creek (wetland, unnamed tributary)	35(1)	Clearing, grubbing, leveling	15-June-05	Fine to be handed down in late 2006.	Accused was ordered to rehabilitate damaged area, at a considerable cost. Fine amount has yet to be established.
Pacific	British Columbia	Central Coast	Ramsey Arm	35(1)	Unauthorized construction	14-Nov-05	\$5,000	No penalty other than the fine.

5.0 Administration and Enforcement of the Pollution Prevention Provisions of the *Fisheries Act*

In 1978, the Prime Minister confirmed the assignment, to the Minister of the Environment, of the responsibility for the enforcement of the pollution prevention provisions of the *Fisheries Act* - namely section 34 and sections 36 to 42 of the *Fisheries Act*. These sections of the Act deal with the deposit of deleterious substances to waters frequented by fish. In addition, a 1985 Memorandum of Understanding between the DFO and EC outlines their respective responsibilities in the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*, and outlines several mechanisms to facilitate information sharing and cooperation.

EC develops sector-based strategies and undertakes activities to promote and secure compliance with the pollution prevention provisions of the *Fisheries Act*.

This section of the annual report provides an overview of two main programs that EC uses to fulfill its responsibilities in the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*. It also includes an update on the status of three bilateral agreements that involve the administration and enforcement of the pollution prevention provisions of the FA, and a brief review of some of the major issues, developments, and activities of fiscal year 2005-2006.

5.1 5.1 Environment Canada Programs

In order to fulfill its obligations with respect to the pollution prevention provisions of the *Fisheries Act*, EC has implemented two major national programs: the Environmental Enforcement Program under the Enforcement Branch, and the Environmental Emergencies Program under the Environmental Stewardship Branch. Both programs operate within EC's five administrative regions (Atlantic, Quebec, Ontario, Prairie & Northern, and Pacific & Yukon).

5.1.1 The Enforcement Branch

Environment Canada's Enforcement Program aims to create and sustain the most effective and efficient environmental and wildlife law enforcement function in fulfillment of statutory requirements under the Acts administered by the Department.

During fiscal year 2005-2006, the Program's Environmental Enforcement and Wildlife Enforcement Directorates completed its restructuring process which resulted in the creation of an Enforcement Branch headed by a Chief Enforcement Officer (CEO). The CEO has direct authority over all enforcement operations within EC's five regions through the National Executive Directors of Environmental and Wildlife Enforcement at headquarters and the Directors of Enforcement within the regions for both those subject areas. In order to coordinate a number of services, including training and assisting in the development of the policy direction

necessary for the efficient functioning of the Enforcement Branch, the CEO has established a third National Directorate, namely the Enforcement Services, during this fiscal year. The Branch's operations focus on verifying compliance, identifying instances of non-compliance and taking appropriate measures to enforce compliance. This is done through three principal activities:

- Inspections: Annual National Inspection Plans identifying priority areas for the coming year are developed in consultation with EC programs and enforcement partners. Inspection findings and intelligence estimates are often the starting point for investigations.
- Investigations: Investigations are triggered by inspection results, intelligence or public complaints/requests.
- Intelligence: On-going information collection and analysis of compliance activities and emerging non-compliance issues within regulated sectors to identify potential violators. Production of intelligence reports for internal consumption to support enforcement decision-making and information to national and international partners as appropriate.

5.1.2 The Environmental Enforcement Directorate

In order for the Environmental Enforcement Directorate to meet its mandate to secure compliance with subsection 36(3) of the *Fisheries Act* and with six regulations made under subsection 36(5) of that Act, EC fishery inspectors/fishery officers in the Department's five administrative regions conduct inspections and investigations into the deposit of deleterious substances into water frequented by fish. In the event of alleged violations, they may also apply a number of enforcement tools including issuing written warnings or directions and laying charges. In selecting appropriate enforcement measures, EC fishery inspectors/fishery officers consider the following criteria set down in policy:

- The nature of the violation (seriousness of harm, intent of the violator, compliance history, attempts to conceal information or obstruct);
- The effectiveness of the measure in achieving the desired result (general result sought is compliance within the shortest time with no further occurrence);
- Consistency in enforcement (consistency in responses to violations so similar situations are addressed in a similar fashion across regulated communities and across the country).

The *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* is used to guide EC fishery inspectors/fishery officers in the fair, predictable and consistent application of the law.

EC fishery inspectors/fishery officers also use an electronic database called the National Emergencies and Enforcement Management Information System and Intelligence System (NEMISIS) to record, track, and analyze enforcement activities.

5.1.3 The Environmental Emergencies Program

EC's Environmental Emergencies Program plays a fundamental role with regards to the deposit of deleterious substances in water frequented by fish. Subsection 38(5) of the *Fisheries Act* states that persons who own or are responsible for a deleterious substance, or persons who cause or contribute to a deposit of the deleterious substance in water frequented by fish, must "take all reasonable measures consistent with safety and with the conservation of fish and fish habitat" to

prevent the deposit or, where that deposit actually does occur, “to counteract, mitigate or remedy any adverse effects that result”.

If a spill or other deposit out of the normal course of events occurs, environmental emergencies personnel provide environmental and technical advice to polluters, response organizations and other levels of government. In addition, environmental emergencies personnel:

- receive notifications and reports of spills, leaks and deposits of deleterious substances in water frequented by fish;
- access the site of the deposits of deleterious substances in water frequented by fish, in order to observe or to carry out spill response activities;
- collect and analyze relevant information at the site of the deposit;
- issue inspector’s directions requiring polluters to take remedial or preventive measures, should they fail to take all reasonable measures to prevent the deleterious deposit as required under subsection 38(5) of the *Fisheries Act*, or to counteract, mitigate, or remedy any adverse effects that result from the deposit; and
- support enforcement actions, when required, by collecting and preserving evidence under exigent circumstances or in plain view.

In fiscal year 2005-2006, Environmental emergency officers, who are also designated as fishery inspectors, conducted 126 on-site inspections to verify that the polluter complied with subsection 38(5) of the *Fisheries Act*.

The scope of on-site inspections conducted by environmental emergency officers varies across regions depending on administrative agreements and working arrangements that exist with provincial and territorial governments. Efforts are made to minimize duplication of effort between the federal, provincial and territorial governments while also ensuring that the environment is adequately protected against deposits of deleterious substances in water frequented by fish.

In addition, environmental emergency officers partner with other government and private agencies to gather and analyze information, and develop a coordinated incident response to ensure appropriate remedial measures are taken.

The Environmental Emergencies Program also coordinates the activities of the Regional Environmental Emergencies Teams (REET) in EC’s five administrative regions. These are interdisciplinary, interdepartmental, multi-stakeholder teams that provide agencies involved in an environmental emergency response with consolidated, one-stop procedural advice and scientific information on environmental protection, environmental damage assessment, clean-up measures and disposals of wastes resulting from clean up.

In August 2005, one of Canada’s largest oil spills occurred near Wabamun Lake in Alberta. For this spill, Environment Canada Emergencies personnel provided assistance to Alberta Environment, who was identified as the lead response agency. The assistance was provided in the form of scientific and technical advice, monitoring of clean-up operations, support to the wildlife rehabilitation centre and specialized weather forecasts to support restoration and recovery activities. Expertise was also provided for the development of cleanup and bird hazing

(scaring) plans. This support was provided up to the lake freeze over (October/November) at which time activities were focused on development of monitoring of the clean-up activities for spring 2006.

A second significant deposit of deleterious substance, which also occurred in August 2005, involved the release of thousands of litres of sodium hydroxide into the Cheakamus River in British Columbia and resulted in a major fish kill. Once again, Environment Canada Emergencies personnel assisted in response efforts by providing scientific and technical advice to BC's Ministry of the Environment to determine the impacts on fish and wildlife and their habitat.

Enforcement activities and measures are described below in *Table 7*. This table refers to the number of occurrences, inspections and investigations carried out under the *Fisheries Act* during fiscal year 2005-2006. The following explanations should be noted with respect to *Table 7*:

- An **occurrence** is any event where there is a possible violation of the environmental and wildlife legislation administered, in whole or in part, by Environment Canada. An occurrence can generate an inspection or an investigation. Occurrences are tabulated based on Reported Date, for all categories except Spill/Release. An occurrence file may include one or more regulations, therefore is it possible that the data at the regulation level, may not add to the total at the legislation level.
- An **inspection** is an activity that involves verification of compliance with the environmental or wildlife legislation administered, in whole or in part, by Environment Canada. Only closed files using the end date are tabulated. The number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations.
- An **investigation** is the gathering and analyzing, from a variety of sources, of evidence and information relevant to a suspected violation where there are reasonable grounds to believe that an offence has been, is being or is about to be committed with regards to the environmental or wildlife legislation administered, in whole or in part, by Environment Canada. Investigations are tabulated by number of investigations files, based on Start Date of the investigation. An investigation file may include activities relating also to another legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add to the total at the legislation level.

Table 7
Enforcement Activities and Measures Carried Out under Fisheries Act during Fiscal Year 2005-2006

National	Occurrences	Inspections			Enforcement measures						Investigations	Enforcement measures							
		Total	On-site	Off-Site	Tickets	Written Directives	Written Warnings	Injunctions	Ministerial Orders	Tickets		Written Directives	Written Warnings	Injunctions	Ministerial Orders	Prosecutions	Charges	Counts	Convictions
FA -- Fisheries Act	501	4,459	1,001	3,458	-	29	113	-	-	43	-	-	17	-	-	3	10	55	6
General Prohibition	380	1,939	791	1,148	-	28	52	-	-	39	-	-	17	-	-	3	3	37	6
Alice Arm Tailings Deposit	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Chlor-Alkali Mercury Liquid Effluent and Guideline	-	10	-	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Meat and Poultry Products Plant Liquid Effluent and Guidelines	-	92	4	88	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-
Petroleum Refinery Liquid Effluent and Guidelines	6	118	11	107	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Port Alberni Pulp and Paper Effluent	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Potato Processing Plant Liquid Effluent and Guidelines	-	72	5	67	-	-	3	-	-	-	-	-	-	-	-	-	-	-	-
Pulp and Paper Effluent	77	1,740	104	1,636	-	-	38	-	-	5	-	-	-	-	-	-	-	-	-
Guidelines for Effluent Quality and Wastewater Treatment at Federal Establishments	-	3	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Metal Mining Effluent	38	485	83	402	-	1	16	-	-	5	-	-	-	-	1	7	18	-	

Additional statistics:

There were 37 Referrals to another federal/provincial or municipal government or department. The statistics are tabulated as follows: The measures such as Inspection Tickets, Written Warnings, Written Directions, Injunctions and Ministerial Orders are tabulated at the section level of a regulation. Example, if the outcome of an inspection is the issuance of a written warning which relates to 3 sections of a given regulation the number of written warnings is 3. The number of prosecutions is represented by the number of regulatees that were prosecuted by charged date regardless of the number of regulations involved. (including Tickets). The number of charges (excluding tickets) is tabulated at the section level of the regulation by charge date, by regulatee. The number of counts excluding tickets) is tabulated at the section level of the regulation, by offence date relating to the regulatee's charge. The number of convictions (excluding tickets) is represented by the number of counts where the regulatee was found guilty or pleaded guilty. It is tabulated at the section level of the regulation by charge date, by regulatee. NOTE: (-) Means no activity or measure for the report period

Investigation Breakdown: # of Investigation

Investigation Started and Ended in FY 2005-2006	12
Investigation Started in FY 2005-2006 and still on-going at end of FY 2005-2006 Investigation	31
Started before FY 2005-2006 and ended in FY 2005-2006	52
Investigation Started before FY 2005-2006 and still ongoing at end of FY 2005-2006	43

5.2 Fisheries Act Enforcement Highlights

5.2.1 Regulations

5.2.1.1 Pulp and Paper Effluent Regulations

A pulp and paper mill was convicted in Ontario under subsection 36(3) of the *Fisheries Act* for a spill of mill effluent into the Rainy River. The company was fined \$5,000 by the courts with an additional \$45,000 directed to the Rainy Lake Fisheries Trust.

5.2.1.2 Metal Mining Effluent Regulations

A metal mining operation was convicted in Northern Ontario of a violation under the *Metal Mining Effluent Regulations* and fined \$20,000 by the courts, with an additional \$20,000 directed to the White Sand First Nation for environmental programs.

5.2.2 General prohibition

5.2.2.1 Municipal Wastewater Sector

EC issued an inspector's direction against a municipality in the province of Prince Edward Island relating to a planned discharge of municipal wastewater effluent (MWWE) contrary to subsection 36(3) of the *Fisheries Act*. The discharge was planned in order to perform upgrades to the sewer system. The direction required the municipality to ensure that all reasonable measures were taken so that in the event of a release the effects on water frequented by fish were fully mitigated. The additional measures instituted by the municipality brought it into compliance with subsection 36(3) of the *Fisheries Act*.

A municipality in the province of Quebec was to carry out repair work on its wastewater treatment facilities that required discharging MWWE directly into the Chambly Basin for approximately one month. In a meeting with city officials, EC fishery inspectors/fishery officers requested mitigation measures since the project, as planned, would have contravened subsection 36(3) of the *Fisheries Act*. Following these discussions, the municipality set up a provisional treatment system for the duration of the repair work. These measures were undertaken by the municipality in a spirit of cooperation, without the need for any formal enforcement action.

A municipality in the province of Saskatchewan was charged with four counts under subsection 36(3) of the *Fisheries Act* for the release of MWWE on April 28, 2004. On November 2, 2004, the City was sentenced to a penalty of \$80,000 after pleading guilty. This included a payment of \$50,000 to the Environmental Damages Fund, \$20,000 to cover expert witness costs and a fine of \$10,000. In addition, the City was ordered to have its new wastewater treatment plant functional and in operation by November 30th, 2005, or pay a \$25,000 fine for every month that the plant is late. All conditions of the order were met and the file is now closed.

5.2.2.2 Other Files

An investigation was concluded regarding a Nova Scotia maintenance company for allegedly stripping an airplane of paint and allowing the toxic paint stripping waste to enter a storm sewer system, in alleged violation of subsection 36(3) of the *Fisheries Act*. Charges were laid against the maintenance company and two individuals associated with the company on December 14, 2004. The company pleaded guilty and was sentenced on September 1, 2005 to a penalty of \$20,000, of which \$5,000 was a fine and \$15,000 was paid to the Environmental Damages Fund. The charges against the individuals were dropped.

A prosecution in Ontario involving a spill of machine oil into a catch basin leading to Etobicoke Creek was concluded. There was a plea of guilty to one charge of failing to comply with subsection 38(4) of the *Fisheries Act*. The company was fined \$ 5,000 with an additional \$20,000 going to a university scholarship fund. In addition, the company was ordered to file an acceptable emergency response plan with EC.

On August 6, 2004, a chemical company and one of its representatives were charged with one count under subsection 36(3) of the *Fisheries Act* for the release of an industrial chemical. On March 23, 2005, the company was sentenced to an \$80,000 penalty after pleading guilty. The penalty included a fine of \$10,000 and a payment to the Environmental Damages Fund of \$70,000. The court order also included requirements to improve the “Material Safety Data” sheet for the chemical and to provide employee training. In addition, the company will upgrade its effluent system in order to bring it into compliance with an inspector’s direction previously issued to the company. The investigation was closed once all the conditions of the court order were met.

In January 2003, an investigation began into the leaching of metals in water frequented by fish in British Columbia. In May 2004, charges under subsection 36(3) of the *Fisheries Act* were laid against BC’s Ministry of Transportation relating to highway construction in the area. In September 2005, a guilty plea was entered to two counts under subsection 36(3) of the *Fisheries Act*. A fine of \$1,000 was issued as well as an order to pay an additional \$45,000 into the Environmental Damages Fund.

An investigation into a caustic solution spill at a refinery in Saskatchewan in April 2005 resulted in an inspector’s direction being issued. In order to comply with the inspector’s direction, the refinery built a large retention pond.

In October 2004, EC fishery inspectors/fishery officers responded to a complaint regarding a deposit of pig manure into a brook in Nova Scotia. An agricultural company over sprayed during application of pig manure to their fields resulting in the release of the manure. EC investigated the incident for potential violations of the *Fisheries Act* and subsequently concluded the file with a written warning against the company.

5.2.3 Agreements

The *Canada-Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* entered into force on September 1, 1994. The agreement, establishes the terms and conditions for the cooperative administration of subsection 36(3) and the related provisions of the *Fisheries Act*, as well as regulations under the *Fisheries Act* and the *Alberta Environmental Protection and Enhancement Act*. The Agreement streamlines and coordinates the regulatory activities of EC and Alberta Environment in relation to the protection of fisheries, and reduces duplication of regulatory requirements for regulatees. During the fiscal year 2005-2006, Alberta Environment reported 1148 incidents to EC, of which 470 were related to the *Fisheries Act*. This collaboration led to 365 inspections and 8 investigations.

EC is in the process of renegotiating the *Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* with Saskatchewan Environment in order to cover the new *Metal Mining Effluent Regulations* developed under the *Fisheries Act*. The agreement, which is still in force, sets out the principles for cooperation and identifies a preliminary list of activities where detailed collaborative arrangements could be developed. Existing collaborative arrangements are described in the five annexes to the agreement. Saskatchewan Environment reported 355 incidents to EC, of which 40 were related to the *Fisheries Act*. These calls led to 10 inspections and 3 investigations. In addition, Saskatchewan Environment reported two *Fisheries Act* related tips received on their TIP line. These tips resulted in two inspections by EC.

The *Canada-Quebec Pulp and Paper Agreement* expired on March 31, 2005. Procedures are still under way to renew the agreement for a two-year period ending in April 2007. During the transition period between the expiry of the former agreement and the signing of the new one, the Environment Ministry of Quebec has continued to work together with EC under the provisions of the previous agreement. Among other things, the agreement enables the Environment Ministry of Quebec to act as a “single window” with the pulp and paper industry for the gathering of information required pursuant to the *Pulp and Paper Effluent Regulations*, the *Fisheries Act*, and two other regulations under the *Canadian Environmental Protection Act, 1999*. The agreement puts a cooperative procedure in place between the Environment Ministry of Quebec and EC with respect to regulating the pulp and paper industry.

In March 2006, EC, DFO and the Canada-Nova Scotia Offshore Petroleum Board signed a joint work plan for activities relating to the offshore oil and gas sector. A Memorandum of Understanding, originally signed in 1999, commits the three agencies to develop annually a shared work plan with regards to environmental protection issues. In this work plan, a renewed commitment was made towards joint enforcement ventures, including inspections, audits and investigations.

5.2.4 Notable Regional Projects:

In fiscal year 2005-2006, the Environmental Emergencies program in Atlantic Region provided each of the Maritime Provincial Departments of the Environment with training on the use of the Fish Kill Protocols and associated equipment, as described in the "*Response Procedures for Natural and Pollution-Related Fish Kill Incidents in the Atlantic Region*".

In fiscal year 2005-2006, EC fishery inspectors/fishery officers in the Pacific and Yukon Region inspected 87 boat and shipyard repair facilities as part of a project to stop ubiquitous releases of antifouling paint wastewater into Pacific coastal waters. Phase I of the project is near completion and Phase II should be starting September 2006.

5.3 COMPLIANCE PROMOTION ACTIVITIES

5.3.1 Pulp and Paper

In fiscal year 2005-06, EC conducted a number of compliance promotion sessions across the country to inform mills and other stakeholders of the key features and requirements of the amended *Pulp and Paper Effluent Regulations*. In addition, EC participated in a *Smart Regulation* project on improving the effectiveness and efficiency of pulp and paper environmental effects monitoring. More information on this *Smart Regulation* project can be found at: http://www.regulation.gc.ca/docs/report1/rap_e.pdf.

5.3.2 Metal Mines

In fiscal year 2005-06, EC audited the Environmental Effects Monitoring (EEM) programs and reviewed interpretive report for twelve mines regulated under the *Metal Mining Effluent Regulations* and provided advice to a number of others on options for improving tailings management. In addition, an Invertebrate Reference Condition Approach Biomonitoring Network for six Northern Ontario mines was developed to meet regulated EEM requirements. Phase 1 was completed in 2005 and Phase 2 and 3 are ongoing.

During the year, EC reviewed designs and provided advice on compliance with the *Metal Mining Effluent Regulations* and subsection 36(3) of the *Fisheries Act* for eight new metal mines and four coal mines being reviewed under British Columbia's environmental assessment process. Advice on *Metal Mining Effluent Regulations* compliance was also given to four other operating mines, one developing mine and two reopened copper-gold mines in anticipation of discharges in 2006-07. EC also advised stakeholders with respect to compliance issues at six abandoned/closed mines.

5.3.3 Municipal Wastewater Effluent

EC continues compliance promotion efforts, meeting with provincial and municipal representatives, holding workshops and making presentations to stakeholders to ensure a comprehensive understanding of the requirements of the Pollution Prevention Notice for chlorine and the ammonia guideline.

5.3.4 Shellfish Water Quality Protection

In fiscal year 2005-2006, the total shellfish area classified for the East Coast (the Atlantic provinces and Quebec) was 10,962 km², the total area approved for harvest increased from 6,483 km² to 6,519 km², the total area conditionally approved increased from 350 km² to 359 km², and the total area closed for harvest increased from 4,044 km² to 4,084 km². On the Pacific coast, classified closed area decreased from 1,139 km² to 1,113 km², the conditionally approved area increased slightly from 100 km² to 101 km². In this region, the boundaries of approved areas are being re-digitized on an on going basis in collaboration with DFO to improve accuracy in area assessed on this coast. Approved area classified using this updated mapping system is subsequently significantly lower than reported previously but in no way represents a reduction in actual harvesting activities. Preliminary information indicates that approved area classified under this new system on the Pacific coast is 3,353 km².

In fiscal year 2005-06, EC in the Atlantic provinces, together with its partners, conducted growing area surveys in northeastern and southwestern New Brunswick; portions of the north and eastern coasts of Newfoundland; the Eastern Shore, Annapolis Basin, Bras d'Or Lakes and portions of the Northumberland Strait in Nova Scotia; and all growing areas of Prince Edward Island. In Quebec, EC conducted growing area surveys on portions of the North Shore, the Magdalen Islands, the Gaspé and the Lower St. Lawrence. On the Pacific coast, EC together with its partners and stakeholders conducted growing area surveys on the British Columbia mainland and Vancouver Island foreshores of Georgia Basin, the southern Gulf Islands, the western shore of Vancouver Island from Barkley Sound to Quatsino Sound, as well as Johnstone Strait, Queen Charlotte Strait, and the Queen Charlotte Islands.

EC provided guidance to a number of community projects funded through EcoAction and the New Brunswick Environmental Trust Fund to identify and remediate selected pollution sources that were suspected to adversely affect shellfish water quality in Eastern New Brunswick. Although the results of these projects are unlikely to have an immediate effect on shellfish classification, it is expected that they will help stem the potential degradation of water quality. The results will be evaluated through EC's routine re-evaluation surveys of the nearby growing areas.

In collaboration with local communities, EC in Quebec conducted a pilot project using Microbial Source Tracking (MST) technology to identify pollution sources in the St. Lawrence Gulf. Results from this project will help to improve this tool to identify potential pollution sources in the future. The CSSP partners in Quebec received the "Conseil des hauts fonctionnaires du Québec" award for its new internet portal (<http://www.mollusca.gc.ca/>) on shellfish classified areas launched in March 2005. This portal provides information on the status on classified areas in this province.

On the Pacific coast, EC's compliance promotion activities coupled with collaboration with BC's Provincial Environmental Health Officers, resulted in the removal of unapproved sewage discharges and the removal of some sanitary shellfish closures. Support funding from the Georgia Basin Action Plan (GBAP) facilitated partnership projects designed to

enhance shellfish harvesting activities in marginally contaminated areas and/or mitigate pollution sources to shellfish beds such as agricultural and boat discharges.

5.3.5 Deleterious Substances

In fiscal year 2005-2006, EC established the Fisheries Act Working Group (FAWG). This working group provides a forum for seeking national consistency and guidance on *Fisheries Act* compliance issues. The first task of this working group was to compile and prioritize a list of activities of interest for the administration of section 36(3) of the *Fisheries Act*. A National meeting was held in order to establish consistent approaches across the country to compliance, to clarify the roles of compliance promotion and enforcement, and to establish a list of compliance promotion activities.

In fiscal year 2005-2006, EC drafted two best management practices fact sheets on coastal erosion and protection of salt marshes geared to municipal planners in support of a proactive approach to protecting the estuarine and marine environment under the *National Programme of Action for the Protection of the Marine Environment from Land-based Activities* (NPA). NPA responds to an international call to protect the marine environment through coordinated actions at local, regional, national and global levels.

EC in the Atlantic provinces continued to deliver the *Operation Clean Feather* Program. The program delivers information to the shipping industry, through ship visits, on the negative effects of waste oil releases on marine waters and the environment, particularly marine seabirds.

5.3.6 Contaminated Sites

In fiscal year 2005-06, EC provided ongoing scientific and technical advice related to contaminated sites and potential *Fisheries Act* implications to custodial departments of contaminated sites as well as scored and ranked applications for funding through its secretariat and expert support role under the Federal Contaminated Sites Action Plan.

In addition, EC provided compliance promotion advice during the assessment and remediation stages of a number of federal contaminated sites such as; the former military base at Argentia, Twin Falls Power Plant in Labrador, the Newfoundland Dockyard in St. John's, Shea Heights Tank Farm in St. John's, Site 59 in Gander, 5 Wing in Goose Bay, Otter Creek in Goose Bay, the Former Long Lange Radar Site in Saglek and the Former Pinetree Radar Site at Stephenville.

5.3.7 Pollution Prevention

5.3.7.1 Fin Fish Farms:

EC led the development of a fact sheet on Federal and Provincial Legislation and Responsibilities in the Management of Marine Finfish Aquaculture Operations in New Brunswick. The fact sheet outlines some industry practices and activities of relevance to federal environmental legislation administered by EC, DFO, Pest Management Regulatory Agency, Canadian Food Inspection Agency, Transport Canada, New Brunswick Department of Agriculture, Fisheries and Aquaculture and the New Brunswick Department of the

Environment and Local Government. This fact sheet is available on the web at:
www.ns.ec.gc.ca/enforcement/finfish_factsheet_e.pdf.

EC collaborated with the University of Guelph Aquaculture Centre on two projects to look at physical and chemical characteristics of rainbow trout fecal waste. These projects will generate information that can be used for assessing potential environmental impacts and for development of wastewater treatment in land-based aquaculture.

The Ontario Sustainable Aquaculture Working Group is completing analyses of the data for a project to look at rainbow trout feed as a potential source of contaminants. The Working Group includes members from EC, the provincial government, fish farmers, Ontario aquaculture association representatives and scientists from the University of Guelph Aquaculture Centre. The major tasks of the working group are to test and develop verifiable approaches to maintain acceptable water quality and fish habitat in the vicinity of aquaculture operations and to make recommendations for an environmentally sustainable aquaculture industry.

5.3.7.2 Metal Finishers:

EC, in partnership with Atlantic Canada Opportunities Agency, Natural Resources Canada, the Canadian Association of Metal Finishers and several other federal and provincial agencies provided two seminars and also offered pollution prevention and compliance audits to twenty-four metal finishers in Atlantic Canada. Eleven companies took part in the program on pollution prevention, compliance promotion and metal sludge recovery and six were provided with detailed site evaluations, including legislative aspects. In addition, twelve subject-specific fact sheets were provided to industry.

5.3.7.3 Wineries and Breweries

EC, in partnership with the Atlantic Canada Opportunities Agency and the Nova Scotia Wineries Association, offered pollution prevention and compliance audits to the twenty-three wineries and twenty-eight breweries in the Atlantic provinces. Two pilot audits in 2005, focusing on water conservation, improving facility discharges and energy efficiency were conducted at one winery and one brewery. In follow-up seminars these two facilities were identified as industry “champions”, in demonstrating environmental and fiscal responsibility as the adoption of several recommendations showed payback periods ranging from as little as two and a half months to several years. Several facilities have since requested similar audits.

5.3.7.4 Clean Boating

On Canada’s west coast, EC coordinated with the ship repair and maintenance sector as part of a three-year compliance and enforcement project. This initiative is intended to encourage adoption of Best Management Practices (BMPs) to reduce pollution from hull maintenance activities. Brochures on BMPs were developed and distributed at information booths at various events such as the Vancouver Boat Show. EC is also coordinating with the DFO to implement BMPs at local Harbour Authorities' facilities. A web site with information on BMPs for boatyards can be found at: <http://www.pyr.ec.gc.ca/boatyards>

5.3.7.5 Agriculture:

EC continues to work closely with stakeholders across the prairies to promote a stewardship approach for the management of cattle around water frequented by fish. Compliance promotion sessions throughout the Prairie provinces outlined the requirements under the *Fisheries Act*, implications to agriculture and livestock industries and the technical support and funding programs that are available to a diverse group of stakeholders which included watershed authorities, rural extension staff and producers.

EC partnered with provincial governments to help lead the Environmental Farm Planning process under the Agricultural Policy Framework. Environmental Farm Planning is built around the concept of stewardship and is one of the primary approaches that EC is promoting with regards to livestock access to waterways. The Planning process provides an excellent venue for EC to promote the stewardship approach since many funding programs require that producers complete an Environmental Farm Plan in order to be eligible for sources of funding.

5.3.7.6 Non-Metal Mines:

In the Atlantic provinces, EC provided guidance, through the environmental assessment process, to a number of coal mines, gravel/aggregates pits and quarries, offshore drilling operations, pipelines, road construction operations and a gypsum wallboard plant with respect to requirements under subsection 36(3) of the *Fisheries Act*.

EC also provided feedback to Public Works and Government Services Canada regarding compliance with subsection 36(3) of the FA with regards to their proposed rehabilitation of the acid producing waste rock pile associated with the Victoria Junction Coal Preparation Plant near Sydney, Cape Breton, NS.

5.3.7.7 Environmental Assessment

In fiscal year 2005-2006, EC provided input to approximately 850 Environmental Assessment projects ranging from local initiatives to large resource developments. Many of these projects related to wastewater, waste management, highway and railway infrastructure, aquaculture, contaminated site remediation, coastal developments, oil and gas, power generation, mineral and resource extraction, marine terminals and shipping operations. EC contributed expertise related to prediction, mitigation and verification of impacts on aquatic environments.

5.3.7.8 Unregulated Food Sector Issues (i.e. Fish processing, vegetable processing, beverage production, etc.)

In order to better understand the potential impacts of effluents from the unregulated food sector, EC participated in a project to characterize the effluents, including general chemistry and toxicity, of a variety of seafood processing plants. The work culminated in a national workshop in February 2006 to share in the major findings and recommendations for the respective types of processing. This work was critical in moving the seafood processing sector forward on the implementation of pollution prevention and control techniques

5.3.7.9 Oil and Gas

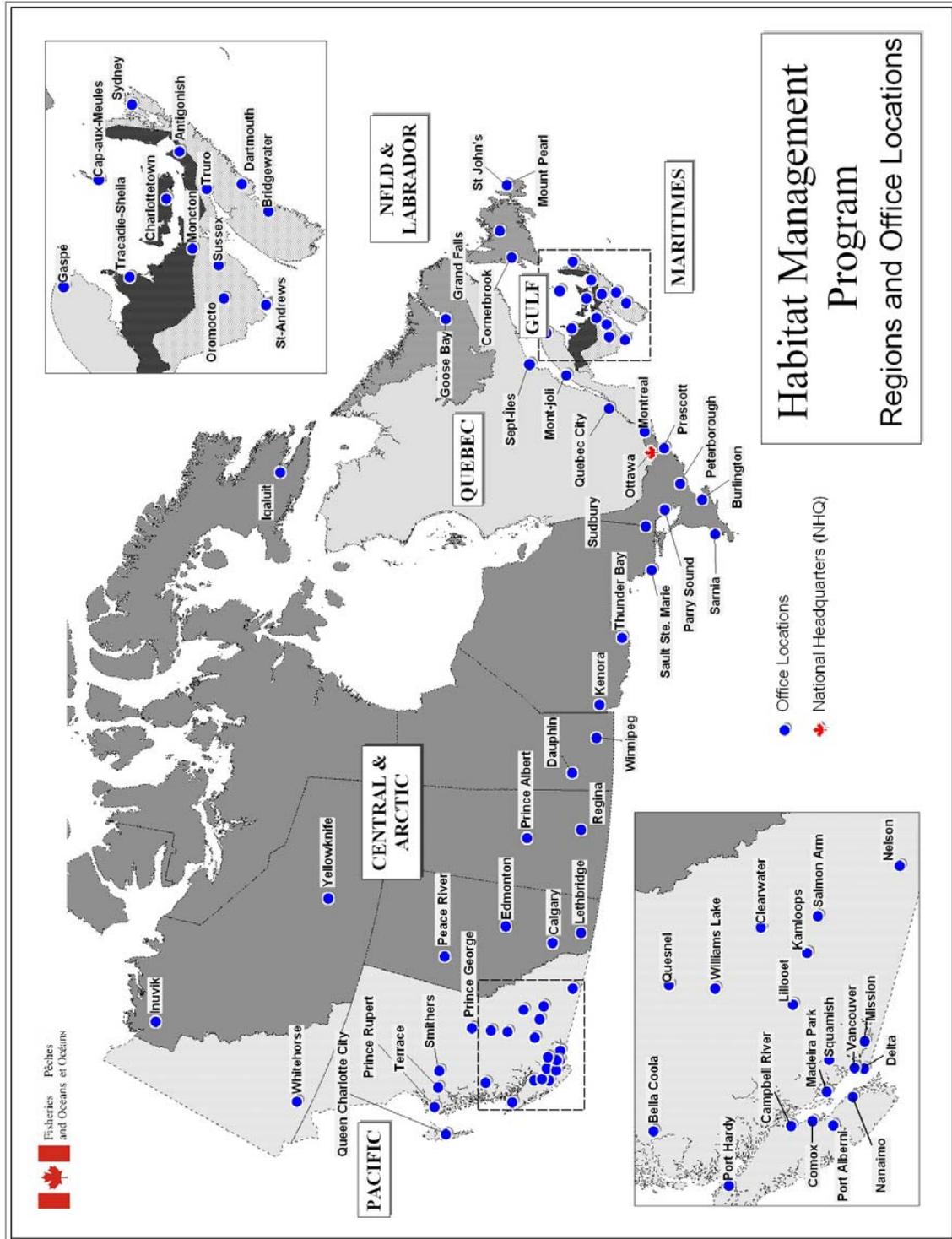
EC reviewed the EEM program data for three offshore sites and a study design for ‘produced water mapping’ for another offshore site in Newfoundland and Labrador and provided advice to the proponents. In addition, the Department reviewed compliance Monitoring reports as per the *Offshore Wastewater Treatment Guidelines*.

EC has been working in collaboration with DFO and the Canada-Nova Scotia Offshore Petroleum Board (CNSOPB), to develop an EEM Coordination Framework to strengthen cooperation and coordination between regulators and industry when designing, implementing and reviewing EEM programs with respect to oil and gas in the Nova Scotia offshore.

6.0 List of Abbreviations

C&P	Conservation and Protection Program
CCME	Canadian Council of Ministers of the Environment
<i>CEAA</i>	<i>Canadian Environmental Assessment Act</i>
CEAR	Canadian Environmental Assessment Registry
<i>CEPA 1999</i>	<i>Canadian Environmental Protection Act, 1999</i>
CNLOPB	Canada Newfoundland and Labrador Offshore Petroleum Board
DFO	Fisheries and Oceans Canada
EA	Environmental Assessment
EC	Environment Canada
EEM	Environmental Effects Monitoring
ENB	Eastern New-Brunswick
ENL	Eastern Newfoundland and Labrador
EPMP	Environmental Process Modernization Plan
GNS	Gulf - Nova-Scotia
HADD	harmful alteration, disruption or destruction
HMP	Habitat Management Program
NGO	Non-governmental organization
OGLA	Ontario-Great Lakes Area
OPS	Operational Statement
<i>SARA</i>	<i>Species at Risk Act</i>

Map: Habitat Management Program Regions and Office Locations



Annex:
Habitat Protection and Pollution Prevention Provisions, *Fisheries Act*

Section	Intent
20	The Minister may require fish-ways to be constructed.
21	The Minister may authorize payment, order construction or removal or require fish stops or diverters for fish-ways.
22	The Minister may require sufficient flow of water for the safety of fish and flooding of spawning grounds as well as free passage of fish during construction.
26	Prohibits obstruction of fish passage through channels, rivers and streams. Also, the Minister may authorize devices to prevent the escape of fish.
27	Prohibits the damage or obstruction of fish-ways, the impediment of fish to fish-ways and nearby fishing.
28	Prohibits the use of explosives to hunt or kill fish.
30	The Minister may require fish guards or screens to prevent the entrainment of fish at any water diversion or intake.
32	Prohibits the destruction of fish by any means other than fishing.
34	Definitions used throughout sections 35 to 42.
35	Prohibits works or undertakings that may result in harmful alteration, disruption or destruction of fish habitat, unless authorized by the Minister or under regulations.
36	Prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized under regulations.
37	The Minister may request plans and specifications for works or undertakings that might affect fish or fish habitat. The Minister may, by regulations or with Governor-in-Council approval, make orders to restrict or close works or undertakings that may harmfully alter fish habitat or lead to the deposit of deleterious substances.
38	Gives the Minister the authority to appoint inspectors and analysts and describes inspectors' powers, including entry, search and the power to direct preventive, corrective or cleanup measures. Provides for regulations that require reporting of abnormal deposits of a deleterious substance or substances that occur in contravention of the general prohibition, regulations or site-specific authorizations.
40	Sets out penalties in case of a contravention of: sections 35 or 36; failing to provide information or to undertake a project in compliance with section 37; or failing to make a report or to otherwise comply with section 38.
42	Those causing the deposit of deleterious substances in waters frequented by fish are liable for costs incurred by Her Majesty. Also, the Minister shall prepare an annual report on administration and enforcement of the fish habitat protection and pollution prevention provisions of the <i>Fisheries Act</i> as well as a statistical summary of convictions under section 42.1.
43	The Governor in Council may make regulations for carrying out the purposes and provisions of the <i>Fisheries Act</i> , including habitat protection and pollution prevention.