

2017 Seafood Licensing and Compliance Annual Report



Ministry of
Agriculture

January 26, 2018

Statistics for Licensing, Inspections, Compliance and Enforcement activities as recorded by the SSQU, Ministry of Agriculture from January 1, 2017 through December 31, 2017.

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Executive Summary

This annual report¹, produced by the Ministry's Seafood Safety and Quality Unit (SSQU), contains information on licensing, inspections and other compliance and enforcement (C&E) activities related to the seafood handling and processing sector, for the period from January 1, 2017 to December 31, 2017.

The Ministry of Agriculture is responsible for administering and enforcing BC's [Fish and Seafood Act](#)² (FSA) and the [Fish and Seafood Licensing Regulation](#) (FSLR). The primary objective of this regulatory framework is to ensure safe fish, seafood and aquatic plants for the public's consumption.

This report is the first of its kind for the SSQU and fortuitously coincides with the first year anniversary of the new FSA coming into force, meaning that year-over-year comparisons from the inception of the FSA are possible. This report is in alignment with government's commitment to transparency and accountability to the public, as well as with the principles and guidelines pertaining to public sector planning and reporting. This report will also help to inform program management decisions (and enhance overall effectiveness and efficiency of compliance activities) by identifying the need to re-direct resources, re-examine regulatory requirements or amend policies and procedures.

Overall, 415 licences were issued under the FSA, and \$108,150 in licensing revenue collected. From a C&E perspective, 323 inspections were conducted, as well as

<u>Key Statistics 2017</u>
415 licences issued
\$108,150 licensing revenue collected
323 inspections conducted
13 investigations completed
223 non-compliances managed

13 investigations. As a result of these inspections and investigations, 223 non-compliances were identified and ultimately managed so as to ensure compliance. The top three recurring compliance issues (representing more than 40% of the total non-compliances) were largely administrative in nature, and as a result of new requirements under the FSA. In terms of

¹ Electronic copy of this report is available from the ministry's website at: <http://www2.gov.bc.ca/gov/content/industry/agriculture-seafood/fisheries-and-aquaculture/seafood-industry-licensing>. If there are discrepancies between the printed copy of the annual report and the copy posted on the website, the version on the website is considered to be correct.

² Underlined words either hyperlink to source documents or to the glossary at the end of this document.

managing the non-compliances, the vast majority (96%) were addressed through written advisories which are issued at the time of inspection. The remaining non-compliances were addressed through written warnings (2%), violation tickets (1%), and an order (1%)³.

Recognizing that the legislative framework is new to industry, throughout the year, the SSQU conducted 21 targeted outreach activities (which reached more than 1,100 regulated parties) in order to help promote food safety and encourage voluntary compliance with the new framework. Such activities will continue throughout 2018 since outreach is considered an important and necessary supplement to traditional enforcement methods.

Information Management Systems

This report contains statistics gathered from the SSQU's three information management systems:

Fish Trade Licensing System (FTLS) – is a web-interfaced database that provides licensing and revenue control capabilities for the three types of licences issued under the authority of the FSA. Key functionalities of this database include:

- production of physical licences;
- recording and tracking of licensing revenue; and
- production of timely and accurate licensing reports.

Seafood Licensing Database (SLDB) – initially developed and launched in June 2017, this database supplements FTLS by providing detailed, operational licensing information (e.g., plant profile information) and risk assessment scores. The database provides SSQU with more robust reporting capabilities (than FTLS currently provides) in order to:

- identify number and types of licences by geographical region (e.g., by city, by Regional Health Authority);
- identify operators by specific plant profile information (e.g., RTE producers); and
- identify and prioritize operators for supplemental [inspections](#) based on statistical analysis of risk assessment scores.

³ Percentages rounded to the nearest whole number.

In addition, this database enables licence holder information to be made publicly available as both a list and an interactive [GIS map](#) on the Ministry of Agriculture webpage.

Compliance Management Database (CMDB) – also initially developed and launched in June 2017, this database serves as the work unit’s primary record of inspection activities and other related C&E actions.

Key functionalities of this database include the:

- recording and tracking of all C&E activities (i.e., inspections, [investigations](#) and [outreach](#) activities) conducted by [Ministry officials](#); and
- production of timely and accurate C&E-related reports.

SSQU Alignment with Ministry Service Plan

Under the *Budget Transparency and Accountability Act*, each Ministry is required to create and publish an annual Service Plan. The [Ministry of Agriculture Service Plan](#) communicates the Ministry’s responsibilities and strategic priorities for the year. The SSQU’s work activities are guided by the legal and regulatory environment as well as the goals and objectives outlined in the Ministry’s Service Plan.

Regulatory framework:	<i>Fish and Seafood Act</i> Fish and Seafood Licensing Regulation Enforcement Regulation
Service Plan Goal 3:	Community and social well-being are enhanced by responsible agrifood and seafood sector practices.
Service Plan Objective 3.2:	Protect animal, plant and human health.

These strategic objectives are expressed at the operational level as follows:

SSQU Work Unit Goal:	To promote seafood safety and regulatory compliance with the <i>Fish and Seafood Act</i> within the seafood handling and processing industry sector.
SSQU’s Primary Strategy:	Deliver an effective and efficient licensing and inspection program to encourage regulatory compliance.

Key Performance Indicators for SSQU:

Key Activities	Performance Measure	Target	Actual
Maintain recurring inspection programs for Seafood Processors and Fish Receivers to encourage voluntary compliance	<i>% of operators that are inspected at least once annually</i>	100%	114%
	<i>Compliance rate for Seafood Processors at time of inspection</i>	n/a	50%
	<i>Compliance rate for Seafood Processors as of Dec. 31, 2017</i>	n/a	99%
	<i>Compliance rate for Fish Receivers at time of inspection</i>	n/a	86%
	<i>Compliance rate for Fish Receivers as of Dec. 31, 2017</i>	n/a	100%
Investigate <u>all</u> public complaints, referrals from own or partner agencies regarding potential non-compliance within industry	<i># of public complaints/referrals received from own or partner agencies</i>	n/a	14
	<i>% of complaints/referrals that are investigated</i>	100%	100%
Utilization of C&E tools in order to secure compliance	<i>Total # of non-compliances</i>	n/a	223
	<i>% of non-compliances resolved through written advisories</i>	n/a	96%
	<i>% of non-compliances resolved through written warnings</i>	n/a	2%
	<i>% of non-compliances resolved through violation tickets</i>	n/a	1%
	<i>% of non-compliances resolved through orders (includes recall orders)</i>	n/a	0%
	<i>% of non-compliances resolved through administrative actions (suspension or cancellation of licence, etc.)</i>	n/a	0%
	<i>% of non-compliances resolved through reports to Crown counsel</i>	n/a	0%
Conduct educational outreach to industry participants to promote food safety and encourage voluntary compliance	<i># of targeted outreach activities</i>	12	21
	<i># of clients reached</i>	n/a	1,121

Data source: Ministry of Agriculture - Compliance Management Database

Licensing Activities

To help ensure that fish and seafood is safe for human consumption, individuals and businesses conducting certain activities in the seafood industry (e.g. receiving fish, processing fish) must be licensed and meet various regulatory requirements. The following is a summary of the various licence types and their general requirements:

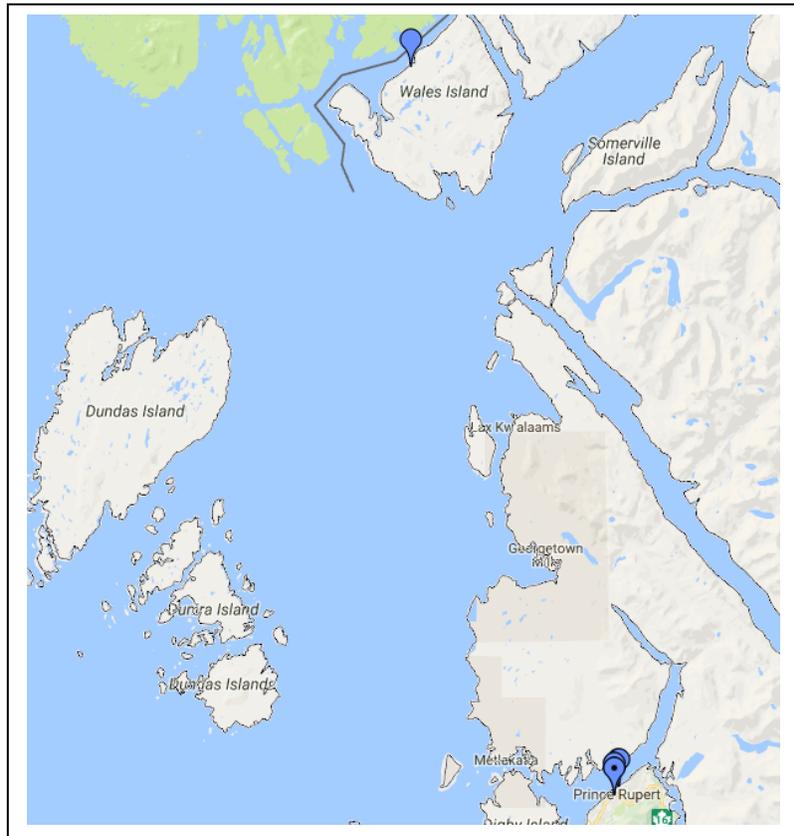
Seafood Processors

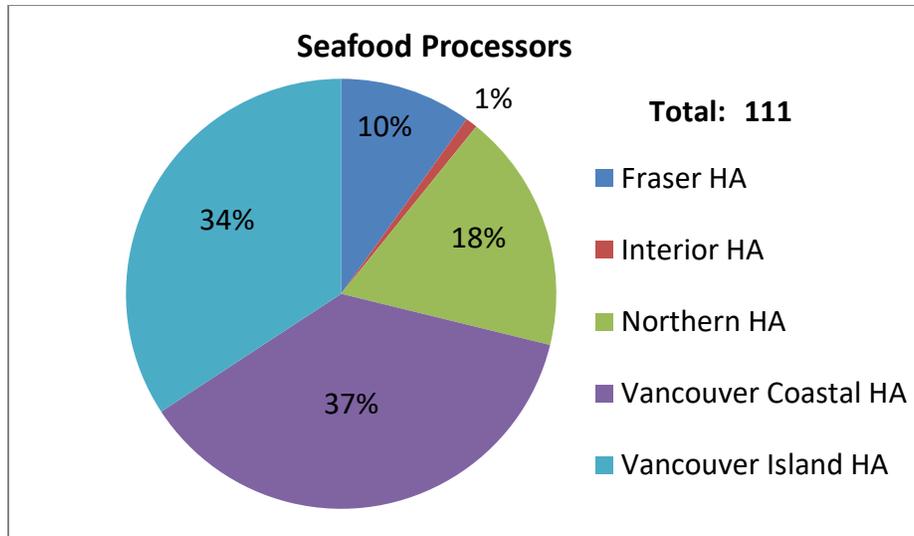
This licence is required by any person who operates a:

- seafood processing facility; or
- seafood cold-storage facility.

It is important to note that these operators are widely distributed throughout the province and occasionally in difficult-to-reach locations (e.g., Wales Island on the BC-Alaska border). The

SSQU uses the provincial Regional Health Authority boundaries for the purposes of delineating and categorizing the different regions of the province.





Seafood Processors must meet the following regulatory requirements:

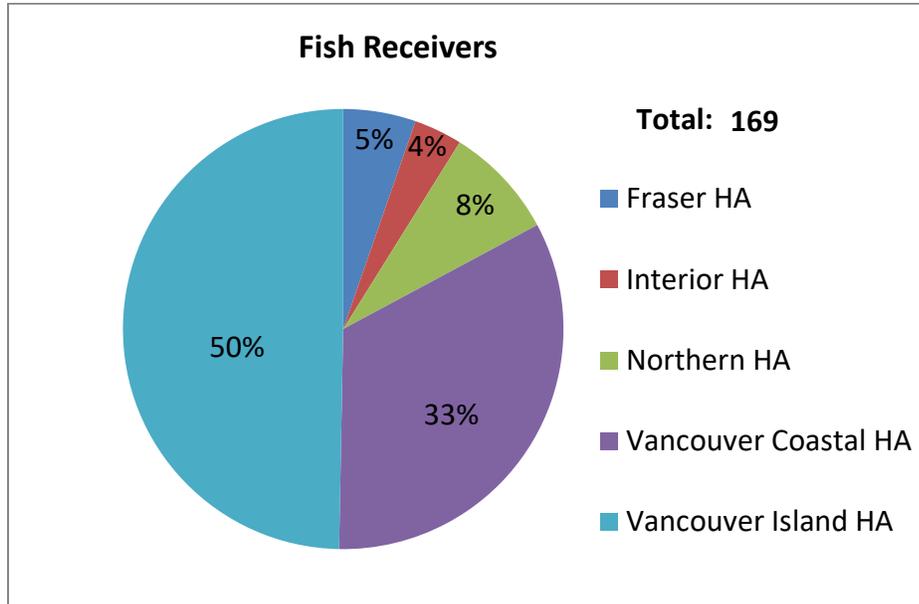
- construction and equipment requirements;
- food safety and sanitation requirements;
- processing requirements;
- requirement to ensure safe food;
- requirement to report unsafe food; and
- record-keeping and reporting requirements.

Fish Receivers

This licence is required by any person who operates a:

- shore-based facility for the purposes of receiving fish directly from a commercially licensed fisher or a licensed packing vessel;
- vehicle for the purposes of receiving fish directly from a commercially licensed fisher or a licensed packing vessel; or
- vessel for the purposes of receiving fish directly from a commercially licensed fisher or a licensed packing vessel that does not hold a federal commercial fishing or packing licence.

It is important to note that these operators, like Seafood Processors, are also widely distributed through all five Regional Health Authorities, and in sometimes equally difficult to reach locations (e.g., on the Stikine River accessible only by floatplane).



Fish Receivers must meet the following regulatory requirements:

- construction and equipment requirements;
- food safety and sanitation requirements;
- requirement to ensure safe food;
- requirement to report unsafe food; and
- record-keeping and reporting requirements.

Fisher Vendors

This licence is required by any commercial fisher who sells their catch to:

- the general public for their own consumption, directly from the harvest vessel; or
- restaurants or retail stores that are regulated under the [Food Premises Regulation](#).

It is important to note that these operators are also widely distributed and highly mobile given their very nature.

Fisher Vendors have to meet the following regulatory requirements:

- construction and equipment requirements;
- food safety and sanitation requirements;
- requirement to ensure safe food;
- requirement to report unsafe food; and
- record-keeping and reporting requirements.

Licensing Statistics

For the 2017 licensing year, SSQU issued the following number of licences and collected the related revenue through licensing fees:

	# of licences	% of total licences	Revenue	% of total revenue
Fish Receivers	169	41%	\$ 43,190	40%
Seafood Processors	111	27%	\$ 60,910	56%
Fisher Vendors	135	33%	\$ 4,050	4%
Total	415	100%	\$108,150	100%

Compliance and Enforcement Activities

C&E activities include routine inspections to ensure regulatory compliance and one-off investigations as a result of an inspection, public complaint, referral from within the ministry (e.g., Statistical and Reporting section), or a referral from a partner agency (e.g., Canadian Food Inspection Agency (CFIA), Fisheries and Oceans Canada (DFO), or a Regional Health Authority (RHA)).

Inspections

Inspections, typically in the form of on-site visits, are conducted regularly to determine whether seafood handling and processing activities are being conducted in

What is an inspection?

An inspection is a systematic process to confirm compliance with [statutory obligations](#). Inspections are generally done on a routine basis and may be either scheduled or unscheduled. Inspections determine whether the legal obligations of operators to the government and the public are being met.

[compliance](#) with the FSA. Non-compliances, found at the time of inspection, are ordinarily corrected before a licence is issued. Generally speaking, operators are inspected as follows:

Seafood Processors – given the wide array of processing practices and product lines, and the higher probability of food safety risks occurring due to these types of operations, these operators are inspected at least once annually, and sometimes more often depending on the licence holder’s compliance history, environmental factors, and the ministry’s ongoing risk assessments.

Fish Receivers – despite the fact that there is no processing conducted at these types of operations, they are considered a moderate risk given that operators are coming into contact with raw seafood. As a result, these licence holders are also inspected at least once annually, and sometimes more often depending on their compliance history and environmental factors.

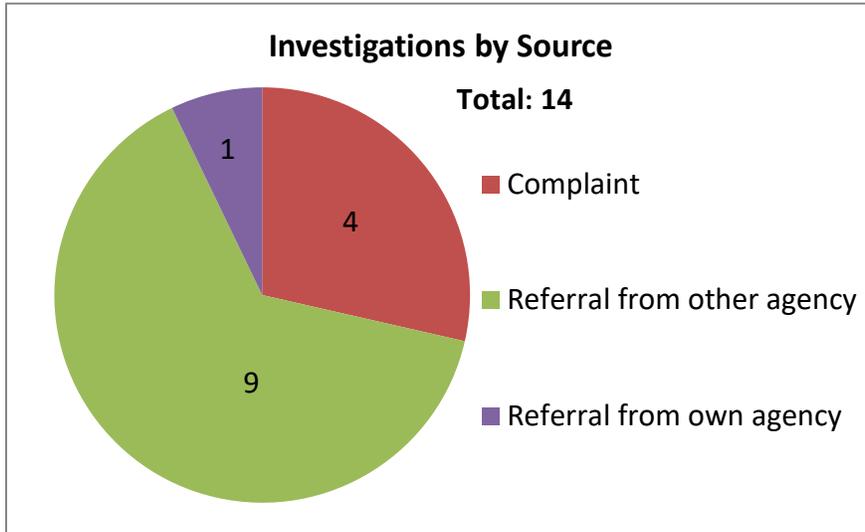
Fisher Vendors – these operators are considered lower risk since the licence is only in relation to the sale of their own catch from the harvest vessel. Additionally, per the Memorandum of Understanding on the Coordination of Fish Inspection Programs in BC (MOU), the CFIA has responsibility to inspect new-to-fleet fishing vessels to verify compliance with the Fish Inspection Regulations of Canada. For these reasons, these operators are subject to ad hoc inspections during unannounced surveillance activities at public and government docks.

Inspection outcomes: Each inspection results in either a facility voluntarily complying with the regulations on their own accord or any identified [non-compliances](#) (at the time of the inspection) being resolved before any enforcement action is required. Those operators that remain non-compliant are referred for further investigation, which may result in additional C&E action.

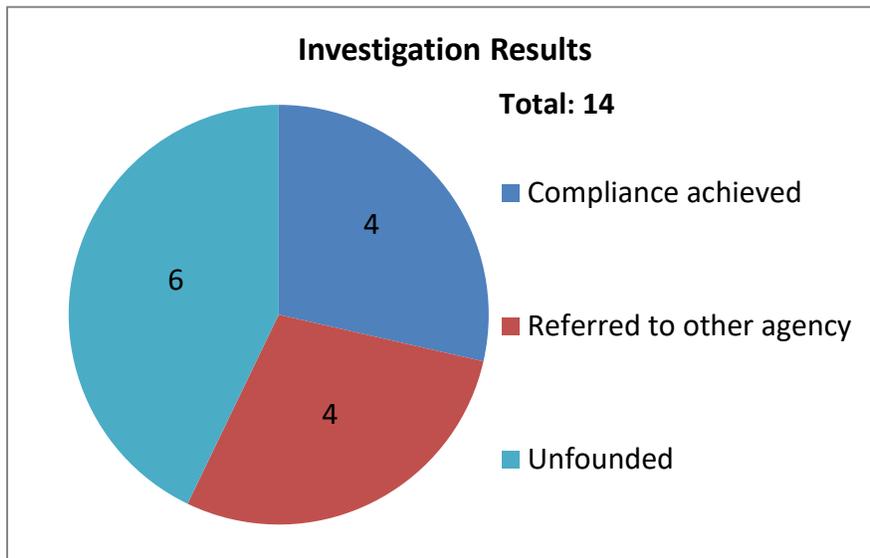
Investigations

Investigations are conducted by enforcement officials to systematically gather information and evidence, relevant to a suspected incident of non-compliance, for the purpose of possible enforcement action. Investigations are only commenced if an inspector has reasonable

grounds to believe that an offence has occurred. Generally, investigations typically arise as a result of: routine inspections, public complaints, referrals from within the ministry, or referrals from partner agencies.



For the purposes of monitoring investigations, SSQU officials record the final file disposition of each investigation as: compliance achieved, referred to other agency (for their review), successfully prosecuted, unsuccessfully prosecuted, or unfounded.



Compliance and Enforcement Tools

When non-compliance has been determined, a variety of [compliance and enforcement tools](#) (C&E tools) are used by [delegated decision-makers](#) or inspectors to encourage operators to bring their activities into compliance with the applicable legislation. In addition to following the Ministry of Agriculture’s graduated enforcement model, the inspector also considers the significance and impact (e.g., caused, or potential to have caused, a risk to public safety) of the non-compliance in ultimately determining which C&E tool to use.

Inspection Summary Advisory

An [inspection summary advisory](#) is issued to an operator upon completion of an inspection as a written record of findings. If applicable, it includes any required corrective actions and respective timelines. An inspection summary advisory differs from a [written warning](#) in that it does not include any commentary with respect to possible consequences if the corrective actions are not implemented.

Written Warning

A written warning is issued when a delegated decision-maker or inspector finds that non-compliance has occurred and determines that the regulated party responsible should be given a warning by way of a written letter. Unlike an inspection summary advisory, the written warning does include commentary with respect to possible consequences of further enforcement actions if the non-compliance is not addressed. A written warning can be issued for any non-compliance for which a violation ticket could be issued instead. However, there is no monetary fine associated with a written warning.

What are some examples of C&E tools?

C&E tools include a variety of actions including:

- inspection summary advisory
- written warning
- [violation ticket](#)
- order
- administrative action (e.g., [licence suspension](#) or [cancellation](#))
- report to Crown counsel for possible court proceedings

Violation Ticket

A violation ticket may be issued by an inspector for non-compliance of specified sections of the FSA. A violation ticket is a form of [prosecution](#) under the province's *Offence Act* and unlike a written warning, a violation ticket carries a specified monetary fine.

Administrative Monetary Penalty

The FSA enables the future development of an [administrative monetary penalty](#) (AMP) program; at this time, there are no supporting regulations. Once an AMP program is established, AMPs may be applied by a [statutory decision-maker](#) if they have determined that a regulated party has contravened legislation or failed to comply with an order issued under the FSA. AMPs provide an additional C&E tool that is efficient, cost-effective and flexible, and can be imposed without court involvement. AMPs differ from fines, which may be imposed by the courts if the regulated party is convicted of an offence.

Order

An order is a C&E tool available under the FSA used to remedy a non-compliance, repair damage caused by a non-compliance, prevent further damage, or any combination of these objectives. A regulated party may be issued an order when an inspector or delegated decision-maker has determined that the regulated party has failed to meet a statutory requirement.

Recall Order

Another C&E tool that is available under the FSA is the issuance of a recall order. A recall order can only be issued by the Minister (or delegate) if previously seized product is found, through analysis, to be unsafe food. A recall order compels the regulated party to recall any product that they have distributed, and take any other action that the Minister believes is necessary to protect the public from unsafe food that has, or may have, been distributed.

Administrative Action

An [administrative action](#), under the FSA, allows a licensing officer, under certain circumstances (e.g., operator not in compliance with the Act) to take one of the three following actions in respect of an operator's licence: temporarily *suspend* an operator's licence, *cancel* an operator's licence, or *vary* an operator's licence (e.g., adding a licence condition).

Report to Crown Counsel

A report to Crown counsel (RCC) is a formal written submission on the part of an inspector to provincial Crown counsel recommending that a charge (or charges) be laid against a party subsequent to the completion of an investigation. Crown counsel ultimately determines whether or not to lay charges based on their evaluation of whether there is a substantial likelihood of conviction and whether it is in the public interest to proceed. If Crown counsel proceeds with laying charges, the accused party is compelled to attend court to address the charges.

C & E Statistics – 2017

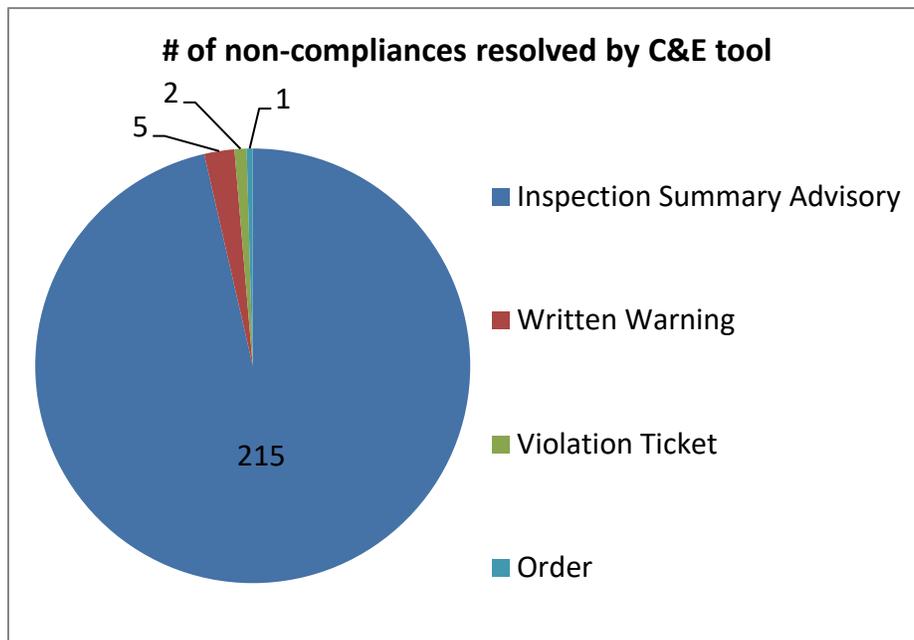
Statistics of C&E activities related to operators:

	Fish Receivers	Seafood Processors	Fisher Vendors	Total	% of Total
Number of inspections	178	140	5	323	96%
Number of investigations	1	11	1	13	4%
Total C&E activities	179	151	6	336	100%

Statistics of non-compliances by C&E activities:

C&E Activity	# of activities	# of non-compliances identified
Inspections	323	218
Investigations	13	5
Total	336	223

Utilization of C&E tools to resolve non-compliances:



Non-compliances

In 2017, there were 223 non-compliances identified through either inspections or investigations. For perspective, these 223 non-compliances represent a non-compliance rate of just 1.0% given that as many as 21,682⁴ regulatory requirements were reviewed at the time of either inspection or investigation. The nature of the non-compliances ranged across approximately 20 different themes of compliance issues, and the table below provides further details regarding the type and frequency of the compliance issues. The top three recurring compliance issues, representing 40.3% of the total number of non-compliances, were largely administrative (i.e., developing written food safety and sanitation plans, maintaining records associated with these plans) in nature, and not necessarily surprising given that these plans (and associated record keeping) were new requirements under the FSA.

Frequency and nature of non-compliances:

Nature of compliance Issue	# of non-compliances	% of total
Sanitation plan	39	17.5
Food safety plan	26	11.7
Record-keeping & reporting	25	11.2
General construction	15	6.7
Sport-caught fish labelling or tracking	14	6.3
Food contact surface	14	6.3
General facility maintenance	12	5.4
Fish offal storage	10	4.5
Cold storage equipment	9	4.0
Pest management	9	4.0
Washroom requirements	8	3.6
Chemical storage	7	3.1
Storage of unnecessary items	6	2.7
General facility sanitation	5	2.2
Employee hygiene	5	2.2
Failure to be licensed	4	1.8
Inadequate protection of food	4	1.8
Packaging/ingredient storage	4	1.8
Temperature control	4	1.8
Bivalve shellfish processing requirements	3	1.3
Total	223	99.9% ⁵

⁴ Approximate # of regulatory requirements by licence type: 13,590 Seafood Processors, 7,876 Fish Receivers, and 216 Fisher Vendors.

⁵ Does not add up to 100% due to rounding to one decimal place.

Glossary

Administrative Action

Administrative action refers to various licence sanctions including the: suspension of a licence, cancellation of a licence or [variance](#) of a licence. An administrative action is a deliberate response, on the part of licensing officials, to an operator who: has contravened the FSA, is carrying out an activity in a manner that may cause the distribution of unsafe food, or is distributing food directly to the public and is subject to a licensing action (or a prosecution) under the *Food Safety Act* or the *Public Health Act*.

Administrative Monetary Penalty

Once supporting regulations are in place under the FSA, an AMP may be applied by a ministry official if a regulated party has contravened the legislation or failed to comply with an order under the FSA. An AMP provides an additional C&E tool that is efficient, cost-effective and flexible, and can be imposed without court involvement. AMPs differ from fines, which may be imposed by the courts if a regulated party is convicted of an offence.

Compliance and Enforcement Tool

A C&E tool is a deliberate response, on the part of a Ministry official, to an instance of non-compliance provided that all elements of non-compliance can be proven. Generally speaking, the response is commensurate and proportionate to the nature of the non-compliance, and consistent with the Ministry's approach to a graduated enforcement model.

Compliance

Compliance is defined as "conforming to a specification, standard or law that has been clearly defined." To be in compliance means that the activity meets all statutory requirements of relevant standards, regulations and Acts.

Delegated Decision-maker

A delegated decision-maker is the most common type of statutory decision-maker in the ministry. This person has been delegated powers, duties or both under the FSA to make a statutory decision, by someone who has been given those powers, duties or both by the legislature (usually the Minister).

Inspection

An inspection is a systematic process to confirm compliance with statutory obligations. Inspections are typically done on a routine basis and may be either scheduled or unscheduled. An inspection may, or may not, lead to an investigation.

Inspection Summary Advisory

A written record of findings associated with an inspection. It includes any required corrective actions and respective timelines. It differs from a written warning in that it does not include any commentary with respect to further potential compliance and enforcement actions.

Investigation

An investigation is the process of systematically collecting information and evidence to determine if a non-compliance with applicable legislation has occurred, for the purposes of possible compliance and enforcement action.

Licence Cancellation

One of the three available licensing “administrative actions” that can be exercised by a licensing officer in certain situations (i.e., [s. 10\(2\)](#) of FSA). Before cancelling an operator’s licence, a licensing officer must give written notice to the operator, as well as a reasonable opportunity to respond to the proposed licence cancellation. Licence cancellations are subject to administrative appeals (i.e., reconsideration and review of licensing decisions).

Licence Suspension

One of the three available licensing “administrative actions” that can be exercised by a licensing officer in certain situations (i.e., [s. 10\(2\)](#) of FSA). Before suspending an operator’s licence, a licensing officer must give written notice to the operator, as well as a reasonable opportunity to respond to the proposed licence suspension. Licence suspensions are subject to administrative appeals (i.e., reconsideration and review of licensing decisions).

Licence Variance

One of the three available licensing “administrative actions” that can be exercised by a licensing officer in certain situations (see [s. 10\(2\)](#) of FSA). Before varying an operator’s licence, a licensing officer must give written notice to the operator, as well as a reasonable opportunity to respond to the proposed licence variance. Licence variances are subject to administrative appeals (i.e., reconsideration and review of licensing decisions).

Ministry Official

An employee, or Minister, of the Ministry of Agriculture who is designated by name or title, to be an official (e.g., licensing officer, inspector) for the purpose of administering or enforcing the FSA or its companion regulations.

Non-compliance

An instance of non-compliance occurs when a regulated party has not complied with the law (i.e., they have contravened a legal requirement). Alleged instances of non-compliance are investigated, and confirmed non-compliances may result in a variety of C&E actions.

Operator

An operator is an individual, partnership or incorporated company that holds one or more of the three types of licences (Fish Receiver, Seafood Processor, and Fisher Vendor) issued under the authority of the FSA.

Outreach

An outreach is an activity of proactively providing educational information (in a variety of mediums) to licence holders, other regulated parties and partner agencies so as to promote food safety and voluntary compliance with the FSA. Outreach is considered an important and necessary supplement to traditional enforcement methods.

Prosecution

A prosecution is undertaken as a provincial judicial process when a regulated party has allegedly contravened the law and may be prosecuted in the courts. Prosecutions can only be carried out for sections of legislation designated as offences; in the context of the FSA, offences are identified in [section 54](#).

Statutory Obligation

A statutory obligation is a duty, task or responsibility that must be completed or carried out as specified through legislation or regulation.

Statutory Decision-Maker

A statutory decision-maker is a person who makes a decision authorized by legislation. This person may be named by position or title in the FSA or regulation, may be delegated by someone else who was named by position or title in the FSA or regulation, or may be designated by someone who was named by position or title in the FSA or regulation.

Violation Ticket

A violation ticket is one of the C&E tools available to inspectors, which may be issued to a regulated party for non-compliance with specified sections of provincial legislation, and carries a specific monetary fine. A violation ticket is a form of prosecution under the province's *Offence Act*.

Written Warning

A written warning is one of the C&E tools available to inspectors, which may be issued to a regulated party for non-compliance with specified sections of provincial legislation but does not include a monetary fine. It can be issued for any non-compliance for which a violation ticket could be issued.