



Fisheries and Oceans
Canada

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DFO's Aquaculture Legislative, Regulatory and Development Strategy Update

Shellfish Aquaculture Management
Advisory Committee

Aquaculture Management Directorate

January 25, 2017

Canada 



Presentation Outline

- Update on developments shaping DFO's direction for legislative reform:
 - The Ministerial Mandate Letter from the PM;
 - The Senate Committee (SCOFQ) report on aquaculture;
 - The CCFAM Aquaculture Development Strategy 2016-2019.
- Update on other regulatory/program reform activities:
 - The Atlantic Shellfish Package;
 - Amendments to the Fishery (General) Regulations re: Fish Health;
 - Modernization of the CSSP;
 - The Aboriginal Aquaculture in Canada Initiative (AACI).
- Introduce the planned schedule for engagement and consultation to occur related to these activities.



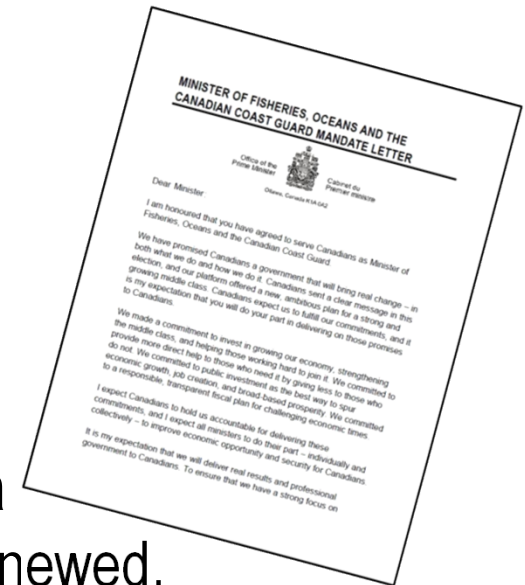
The Ministerial Mandate Letter

From the PM's Mandate Letter
to the Minister of Fisheries:

"No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership" and;

One of the priorities identified in the mandate letter was "..to support responsible and sustainable aquaculture industries on Canada's coasts."

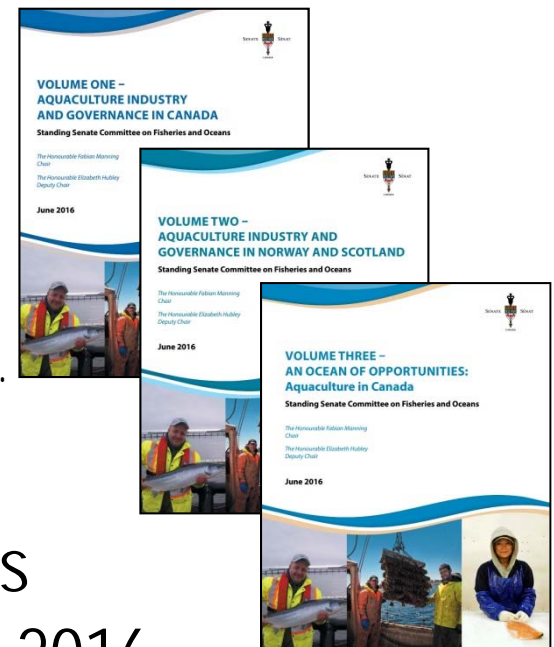
The Department is delivering on these important instructions by initiating meaningful consultation with Indigenous Peoples related to the sustainable development of aquaculture.





The Senate SCOF0 Report on Aquaculture

- In December 2013, the Standing Senate Committee on Fisheries and Oceans (SCOF0) began a study of the aquaculture industry with the mandate to “examine and report on the regulation of aquaculture, current challenges and future prospects.”
- The final report first released July 2015:
 - Vol 1: The industry and its governance in Canada;
 - Vol 2: The industry and its governance in Norway and Scotland;
 - Vol 3: Opportunities for aquaculture in Canada (recommendations).
- Accepted by the Senate June 21, 2016.
- The Government Response to the Committee’s recommendations was tabled on November 1, 2016.





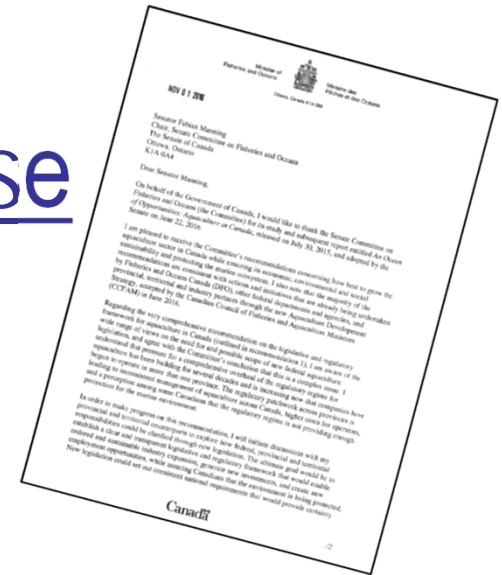
Senate SCOF0 Report - Recommendations

- The Report makes 10 comprehensive and far-reaching recommendations, aimed at doubling Canadian aquaculture production within the next decade through sustainable growth. The recommendations can be grouped into three categories:
 - Development of a comprehensive Aquaculture Act that "asserts the full extent of federal jurisdiction in aquaculture" and contains a number of other important characterizations (Recommendation 1);
 - Improvements to aquaculture management (Recommendations 2, 3, 4, 7 and 10); and
 - Recommendations for continued science research and innovation (Recommendations 5, 6, 8 and 9).



The Federal Government Response

- The most significant recommendation for DFO and for provinces and territories is the recommendation for an Aquaculture Act.
- In its response to this recommendation, the Federal Government committed to exploring options for legislative reform, including development of an Aquaculture Act.
- All recommendations related to daily aquaculture management or science research and innovation are currently being addressed through existing DFO programs and through the new CCFAM Aquaculture Development Strategy (ADS).





Desired outcomes for legislative reform

Desired outcomes for new legislation governing aquaculture include:

- The establishment a clear and transparent legislative framework for aquaculture with foundational objectives focused on establishing a shared national vision, direction, and leadership for the sustainable management of the sector.
- New legislation that satisfies Canadians by enshrining **the highest standards for environmental protection** (using national standards to establish a consistent regulatory approach).
- More transparent national public reporting which could lead to improved public confidence in aquaculture management.
- Legislation that sets out a framework for how the federal government will work with provinces, territories, Indigenous peoples, and other stakeholders to better co-manage aquaculture in our three oceans.



Engagement on options for legislative reform

- Engagement on legislative reform will begin in early 2017 and includes:
 - discussions with provincial and territorial partners (in February);
 - engagement with Indigenous Peoples (starting in January in already existing fora with specific consultations beginning in March);
 - consultations with industry, fisheries organizations, conservation groups and other stakeholders (starting in March);
- Development of policy considerations is to be discussed with all and will be based on at least three legislative options:
 - a whole-of-government Aquaculture Act;
 - a new section in the *Fisheries Act*;
 - an Aquaculture Act that cross-references relevant provisions in the *Fisheries Act*; or
 - a stand-alone Aquaculture Act;
 - other options that may be proposed.



CCFAM Aquaculture Development Strategy



- The Canadian Council of Fisheries and Aquaculture Ministers (CCFAM) recognizes:
 - the importance of seafood from aquaculture as a contributor to global food security and as a safe, nutritious, and healthy food source;
 - that that demand for food will increase as the world's population is predicted to grow to 9 billion by 2050, and that seafood production must increase substantially to meet the needs of this expanded population;
 - that while some increase in global seafood production may come from wild capture fisheries, major increases are expected from aquaculture;
 - the value and economic contribution of the aquaculture industry, particularly to Canadian rural and coastal communities and Indigenous nations; and
 - Canada's potential for increased aquaculture production that also ensures sustainable aquatic ecosystems for the future.

Canadian Council of Fisheries and Aquaculture Ministers (CCFAM)

Deputy Ministers' Meeting

Strategic Management
Committee on Aquaculture
Progress & Forward Agenda



Canadian Council of Fisheries
and Aquaculture Ministers

CCFAM

Aquaculture Development Strategy

Launched in June 2016, the CCFAM Aquaculture Development Strategy (ADS) is the result of extensive collaborative work of the CCFAM's Strategic Management Committee on Aquaculture (SMC).

This new, focused three-year Strategy (2016-2019) is an ambitious commitment to work together to deliver the following outcomes:

I. An improved federal/provincial /territorial regulatory framework

II. An improved coordination of aquaculture fish health management

III. Improved support for regional economic growth through aquaculture



SMC Work since the launch of the Aquaculture Development Strategy

- SMC developed a detailed implementation plan for the Strategy and initiated actions across the full range of activities.
- SMC discussed an approach to amend the federal *Fishery (General) Regulations* to clarify roles and responsibilities of DFO and CFIA, and also the need to clarify roles and responsibilities of provinces and territories.
- SMC has agreed to establish a national working group on aquaculture legislation and regulations aimed at identifying coordination priorities.



SMC Work since the launch of the Aquaculture Development Strategy

- Compendium of existing federal, provincial, territorial legislation, regulations, policies, and standards is being finalized to serve as a basis for identifying gaps or duplications.
- SMC agreed on leads and work activities to be undertaken under the economic growth pillar of the Strategy:
 - a) identify critical infrastructure needs and programming;
 - b) define mechanisms to improve synergies and communications among aquaculture innovation programs; and
 - c) review the constraints to aquaculture financing and stock insurance.





CCFAM ADS – Summary



- The Strategy has established the high level government direction as to the priority areas where actions should be focused to most efficiently and effectively support continued growth in aquaculture production that is environmentally, socially and economically sustainable.
- Efforts on regional economic growth will include work between FPT partners and with interested Indigenous Nations to help identify potential aquaculture opportunities.
- As the Strategy's action items are implemented, governments will consult with Indigenous nations, industry, and other stakeholders, where appropriate and according to jurisdictions' mandates and responsibilities.
- To ensure meaningful participation by Indigenous Peoples there will be ongoing consultations through existing forums and negotiating tables.
- Efforts will also be made to improve the engagement and consultation processes for Indigenous Peoples to contribute (e.g., the re-establishment of the AFN National Aquaculture Working Group (NAWG)).



- The prior section of the presentation describes the developments currently shaping DFO's direction on legislative and regulatory development for aquaculture.
- Are there questions before moving on to the current work in progress on regulatory development?



The Atlantic Fishery Package - Background

- The Department currently utilizes three key regulations to manage the shellfish sector in the Atlantic Provinces and Québec:
 - The *Maritime Provinces Fishery Regulations (MPFR)*;
 - The *Atlantic Provinces Fisheries Regulations (AFR)*; and
 - The *Management of Contaminated Fishery Regulations (MCFR)*.
- These regulations were originally developed to regulate wild capture fisheries and were later adapted to regulate aquaculture as it developed:
 - The MPFR is applicable only to cultured oysters – no other aquaculture species.
 - Atlantic salmon from aquaculture facilities are excluded from the AFR, while other aquaculture species are not (e.g., mussels, oysters, clams, scallop).
 - The MCFR is the primary regulatory tool for managing harvests from contaminated fisheries and ensuring food safety under the Canadian Shellfish Sanitation Program (CSSP). It was originally designed to regulate the commercial harvest of wild shellfish but is now also applied to regulate shellfish harvested from aquaculture leases.
 - The MCFR has fishery-specific clauses that do not reflect aquaculture regulatory needs.



Needs Identified for Regulatory Development

Maritime Provinces Fishery Regulations (MPFR) / Atlantic Fishery Regulations (AFR)

- Key issue with respect to oyster aquaculture and, to a lesser extent, other cultured shellfish species, is that the MPFR and AFR do not account for aquaculture operational needs such as:
 - off-lease maintenance activities;
 - harvesting undersized oysters from aquaculture facilities for food purposes (e.g., supplying the Asian cocktail oyster market);
 - development of new species (e.g., scallops) for aquaculture purposes.

Management of Contaminated Fisheries Regulations (MCFR)

- Key issues for the aquaculture industry are :
 - absence of provisions to authorize removal of shellfish in closed areas for the purposes of off-lease maintenance activities (cleaning equipment, sorting stock, culling, grading) and collection of seed, spat and broodstock for aquaculture purposes;
 - administrative burden related to naming requirements on MCFR licences;
 - the collection of \$20 fee for each additional person listed on a MCFR licence; and,
 - the collection of \$100 licence fee for the purpose of scientific investigation.



Regulatory Proposal for Shellfish Aquaculture

- DFO is aiming to address the needs identified by making improvements to the regulatory framework governing shellfish aquaculture in the Atlantic Provinces and Québec to:
 - Ensure environmental protection while enabling the sustainable growth of the shellfish aquaculture sector.
 - Provide a common regulatory framework for shellfish aquaculture with a strong and clear regulatory basis for enforcement, and ensure that issues are address more effectively and appropriately than at present.
 - Address shellfish aquaculture sector regulatory needs to enable marketing and harvesting of cultured shellfish (including cocktail oyster) and routine operational shellfish aquaculture activities (e.g., spat/seed collection, off-lease maintenance etc.).
 - Minimize unnecessary administrative burden and red tape for the shellfish aquaculture industry.
 - Enable development of new species for aquaculture purposes (e.g., scallop).



Regulatory Reform: Fish Health Management in Canada

Background:

- Federally, DFO used to solely manage aquatic animal health through the *Fish Health Protection Regulations* (soon to be repealed) and the *Fishery (General) Regulations* (FGR).
- As of January 2016, the Canadian Food Inspection Agency (CFIA) has fully implemented the National Aquatic Animal Health program (NAAHP) – and is now the federal lead on aquatic animal health.
- The implementation of the NAAHP has resulted in program overlap between DFO and the CFIA.
- Options are being developed to address this overlap.



Regulatory Reform: Fish Health Management in Canada

Purpose of Proposed Amendments:

- Align DFO's management of disease risks regarding fish movements with those carried out under the NAAHP while continuing to uphold the mandate of the Minister of Fisheries and Oceans to conserve and protect fish.

Regulatory Proposal:

- Resolve overlap with the NAAHP by amending FGR section 56, so that the Minister, when issuing licences, would no longer need to consider disease risks already being managed by the CFIA through the NAAHP.

Expected Outcomes:

- Clarification of roles and responsibilities between DFO and the CFIA regarding fish health.



Regulatory Reform: Fish Health Management in Canada

Expected Outcomes (cont.):

- More efficient and effective allocation of resources regarding the Minister's consideration of disease risks and subsequent issuance of licences to move fish, while maintaining DFO's responsibilities for protecting fish and the environment.
- Reduced program duplication, which would result in reduced costs for businesses (evidence of fish health status in relation to a particular disease would only be provided to either the CFIA or DFO, not both) and the Federal Government (only one federal agency or department would have to consider any one disease risk related to the intentional movement of fish).



- The prior section of the presentation describes the current work in progress on regulatory development for aquaculture.
- Are there questions before moving on to the describing other work having relevance to Indigenous Peoples?



CSSP Long Term Sustainability Workplan: Recap

- *Long-Term Sustainability Workplan* (LTSWP) developed to address current and future pressures
- The Workplan is comprised of four pillars:
 1. **Online interactive mapping tool** to communicate where bivalve shellfish can safely be harvested
 2. **Review of shellfish harvest areas** to align resources where they are most needed to protect public health and maintain market access
 3. **Alternate delivery options for commercial harvest** (fisheries and aquaculture)
 4. **Alternate delivery options for non-commercial harvest** (recreational and Aboriginal food, social & ceremonial (FSC) fisheries)



Pillar 1 - Online Mapping Application

- The CSSP mapping application provides a real-time online map of openings and closures of bivalve molluscan shellfish harvesting areas throughout Canada
- The application will be accessible on the DFO website and is on track to be released on March 1st 2017
- Users will also be able to subscribe to future notifications (i.e., closures, meeting notifications) specific to their geographic area
- Once mapping tool is online, Pillar 2 (engagement on shellfish harvest area review), can begin



Pillar 2 - Review of shellfish harvest areas

Objective: To consult local resource users in low-activity harvest areas to gather their feedback on possible declassification of these areas

Engagement will include online survey and regional meetings, co-led by all CSSP partners

If engagement shows little to no use/activity, CSSP delivery will cease for the area

If engagement shows substantial activity, CSSP delivery will be maintained, likely via alternate delivery mechanisms.

Activity	Timeframe	Lead
➤ Briefings to other federal organizations, such as Health Canada, Indigenous Affairs and Northern Development Canada and the Atlantic Canada Opportunities Agency	Nov 2016-March 2017	All
➤ Briefings to CSSP partner organization employees tasked with implementing the CSSP program, such as inspectors, fisheries officers, etc.	Oct 2016-March 2017	All
➤ Briefings to provincial and territorial officials as applicable	Oct 2016-March 2017	All
➤ Online & public consultation with low-priority area users	March 2017-Dec 2017	Regional CSSP



Pillar 2 – Impact by DFO region

As part of the CSSP Long Term Sustainability Plan, CSSP partner organizations (DFO, ECCC and CFIA) reviewed the available data for shellfish harvest activity in all areas

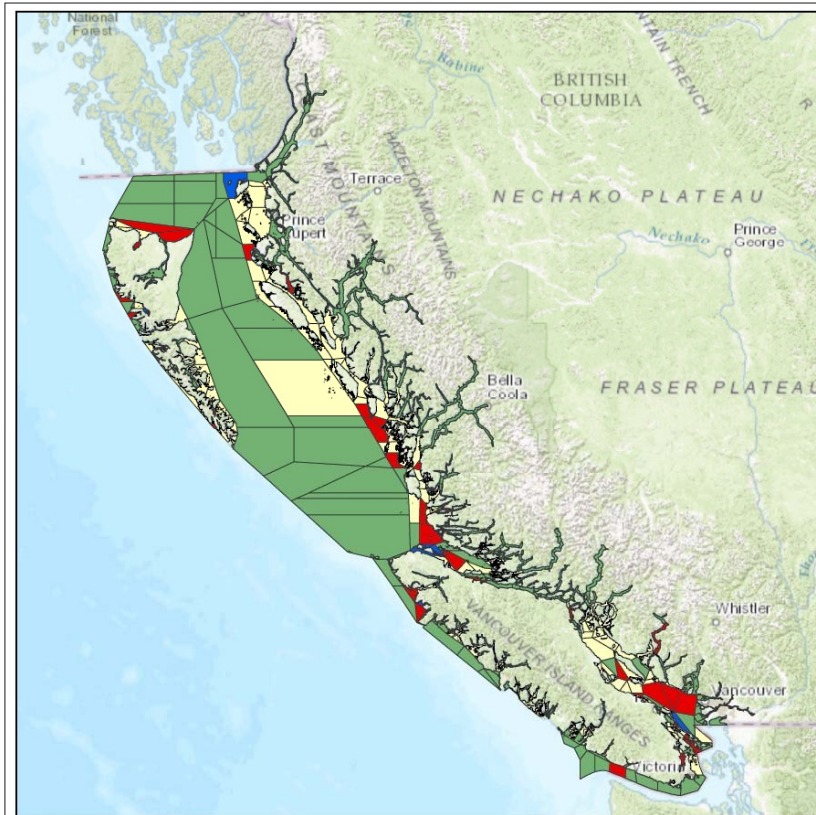
Based on this review, approximately half of the 1,400 classified areas were identified as low activity. These areas included:

- ~80 where there are no known harvesting activities;
- ~600 where the program is delivered but sound harvest data is lacking; and
- ~80 where the program is not fully delivered (water or biotoxin monitoring is missing) and some harvesting is thought to occur.

It is anticipated that many of the 599 areas will be maintained as classified and open following this exercise



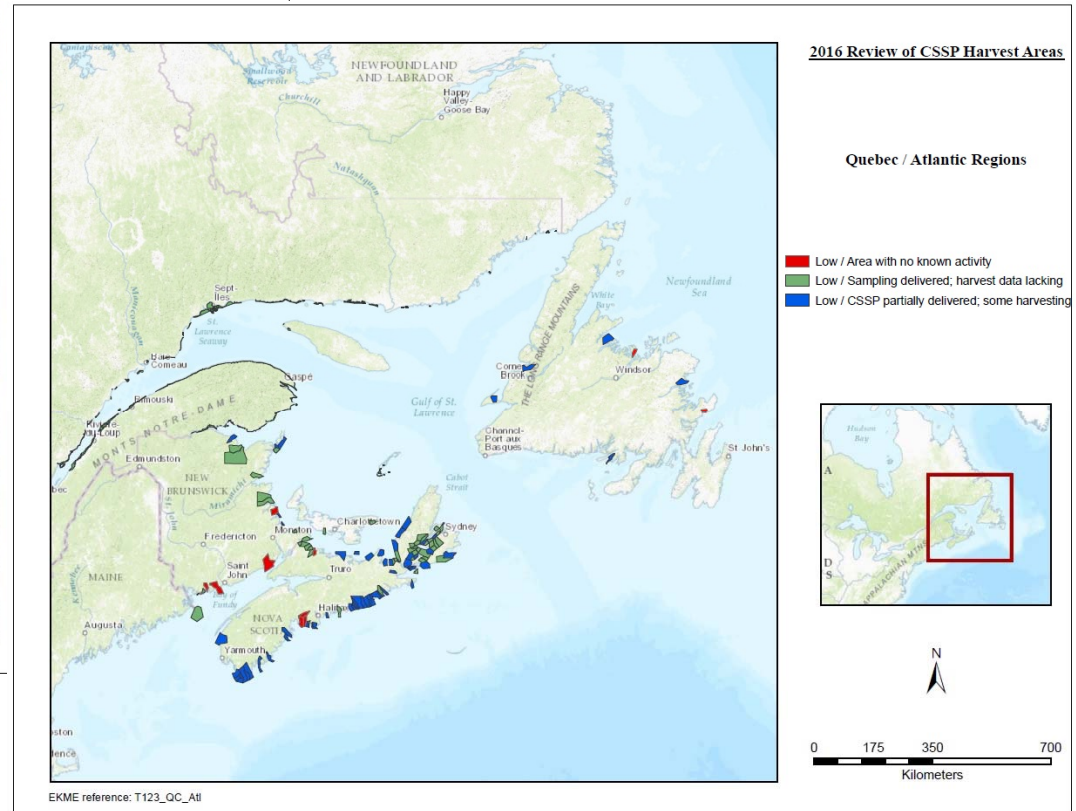
Pillar 2 – Consultation and Engagement



2016 Review of CSSP Harvest Areas

Pacific Region

Stakeholders: Commercial (fishers and aquaculturists), Indigenous communities and recreational harvesters



2016 Review of CSSP Harvest Areas

Quebec / Atlantic Regions

- Red: Low / Area with no known activity
- Green: Low / Sampling delivered; harvest data lacking
- Blue: Low / CSSP partially delivered; some harvesting



0 175 350 700
Kilometers

EKME reference: T123_OC_Atl

Communications Activities and Tools:
CSSP mapping tool, social media, DFO and
CSSP partner web-sites, public notices, on-line surveys,
CSSP committee meetings, Ministerial engagements etc.



Pillar 2 – Consultation and Engagement: Key Messages and Considerations

Maintaining the food safety of shellfish harvested in Canada: The primary objective of the CSSP is to ensure that shellfish harvested in Canada is safe for human consumption. The CSSP partners monitor water quality and biotoxins in areas where there is active shellfish harvesting. Regular reviews of these areas are done to guide the efficient delivery of the program. The planned consultation process is being undertaken to identify areas where delivery of the program can be discontinued to free up resources to deliver the program in areas where shellfish harvesting is being developed

Duty to consult and accommodate: Declassification of certain areas may impact Indigenous rights to harvest for food, social and ceremonial (FSC) purposes. We are committed to the Government's duty to consult and accommodate First Nations. Should program changes adversely affect Aboriginal or Treaty rights, we will accommodate.

Stakeholder feedback will guide decision making: There is a lack of data available related to harvesting being done by recreational fishers as well as by other users of the resource. It is important that we obtain more information about harvesting activities in the identified areas. Changes may be made to the delivery of the program, based on the feedback received during the public consultation



Pillar 2 – Criteria for ceasing program delivery

Should the fact-finding efforts confirm that some of these areas are under-utilized, they could be declassified to enable the partner organizations to reallocate its sampling, analysis and patrolling resources to new or existing harvesting areas.

The following criteria determine how site classification will be assessed:

- Areas with levels of activity that would justify the cost of delivery will be maintained as classified
- Areas where no information is brought forward, or with low levels of activity, will be declassified in 2017
- Through this initiative, and as harvest information is validated, some harvest areas may change priority



Pillar 3 - Alternate Delivery for Commercial Harvest

- Due to a direct economic interest, commercial fisheries and aquaculture have long expressed a desire to be actively involved in a more efficiently delivered CSSP
- Alternate service delivery refers to sampling and testing activities, which are responsibilities of Environment and Climate Change Canada – water and sanitation (bacteria); and the Canadian Food Inspection Agency for shellstock (biotoxins and viruses).
 - Options will be developed by ECCC and CFIA, in consultation with DFO and other relevant parties (i.e., FNs, sector, etc)
- Options for alternate delivery would be presented to industry in 2017 to solicit their views on this element of program modernization



Pillar 3 - Alternate Delivery for Commercial Harvest

Examples of alternate delivery could include:

- Increased outsourcing:
 - Industry provides (and pays for) water and biotoxin sampling services
 - Certified 3rd party samplers
- Introduction of cost recovery (new services fees)
 - In order to meet increased international standards, commercial sector pays for increased sampling and testing frequency
 - Industry pays for testing into new, unclassified areas



Pillar 4 - Alternate Delivery for Non-Commercial Harvest

- This pillar seeks to find alternate delivery options for non-commercial harvests (food, social and ceremonial (FSC) purposes and recreational use)
- Following the *Marshall* and *Sparrow* Supreme Court decisions, there is a Government of Canada fiduciary duty to provide FSC harvest rights to Aboriginal groups. This right extends to species covered under the CSSP
- A food safety issue would trump the Aboriginal rights to harvest, however, there is a delicate balance between food safety risks and FSC rights



Pillar 4 - Alternate Delivery for Non-Commercial Harvest

- CSSP partners are looking to capture a new way to deliver the program in non commercial areas (FSC and recreational)
- Water sampling frequency would revert to a triennial cycle for recreational and FSC (old USFDA style) that would continue to maintaining equivalent health protection
- With the support of CSSP partners, Community Harvest Plans (CHP) or other partnership arrangements could be developed with municipalities/First Nations to provide monitoring of harvest areas in order to ensure adequate food safety
- Options for alternate delivery would be presented to Aboriginal groups and recreational users in 2017 to solicit their views on this element of program modernization



SUMMARY

1. Mapping: on track for public launch in March 1, 2017
2. Review of Low-activity areas: consultations to begin in March 2017
3. CFIA and ECCC to develop alternate delivery mechanisms for commercial sector (2017)
4. CSSP partners to explore new cooperative arrangements for low-activity FN/recreational areas (2017)



Aboriginal Aquaculture in Canada Initiative

- The funding through the Strategic Partnerships Initiative (SPI) for the Aboriginal Aquaculture in Canada Initiative (AACI) was extended for an additional 2-years (ending March 31, 2018).
- The regional Aquaculture Business Development Teams supported through the AACI have been successful in helping Indigenous communities develop (and implement) aquaculture business development plans.
- The 'Business Development Team' approach has been recognized as a best-practice for supporting Indigenous economic development. Discussions are ongoing related to the potential to continue support for aquaculture BDT's post-AACI.



Tentative Engagement and Consultation Schedule

Aquaculture Agenda Item	Time-Frame
Official Consultations on Legislative Reform Options	March 2017
CCFAM Aquaculture Development Strategy (ADS) – Action Implementation	Ongoing
Atlantic Shellfish Package (AFR, MPFR, MCFR) – Proposed Changes	Spring 2017
Fisheries (General) Regulations (FGR) – Proposed Changes	Spring 2017
Canadian Shellfish Sanitation Program (CSSP) – Alternate Delivery Options	TBD

Meetings required to undertake engagement and consultations will be scheduled via existing forums and negotiating tables (or new established processes).





Links to Background Information

- The PM's Mandate Letter to the Minister of Fisheries:
 - <http://pm.gc.ca/eng/minister-fisheries-oceans-and-canadian-coast-guard-mandate-letter>
- The Senate Committee (SCOFO) Report on Aquaculture:
 - http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeReportDetail.aspx?parl=42&ses=1&Language=E&comm_id=1007&ReportID=33840
- The Government Response Letter:
 - http://www.parl.gc.ca/content/sen/committee/421/POFO/Reports/DFO_GovernmentResponseLetter_Aquaculture_E.pdf
- The CCFAM Aquaculture Development Strategy 2016-2019:
 - <http://www.dfo-mpo.gc.ca/aquaculture/collaboration/ccfam-eng.html>
- Proposed changes to Section 56 of the *Fishery (General) Regulations*:
 - <http://www.dfo-mpo.gc.ca/acts-lois/rules-reglements/rule-reglement24-eng.htm>