

Indigenous Program Review

PHASE TWO FINAL REPORT

**Aboriginal Fisheries Strategy Program
Aboriginal Fishery Guardian Program**



**NATIONAL INDIGENOUS
FISHERIES INSTITUTE**

Indigenous Program Review

**INSTITUT NATIONAL DES
PÊCHES AUTOCHTONES**

Examen des programmes autochtones

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Message from the Institute

The review of Fisheries and Oceans Canada's Indigenous programs was a collaborative activity led by the National Indigenous Fisheries Institute in partnership with the Department.

The purpose of the review was to develop a joint vision for the future of programs in order to maximize the benefits to Indigenous peoples, communities, groups, and businesses – and advance co-management of aquatic and oceans resources.

Indigenous Program Review took place over two phases

The first phase occurred between June 2017 and March 2018. It started with a desktop review of more than 150 evaluations, audits, reviews and reports completed over 25 years related to the one or more of the following programs:

- The Aboriginal Fisheries Strategy Program
- The Aboriginal Fishery Guardian Program
- The Aboriginal Aquatic Resource and Oceans Management Program
- The Atlantic Integrated Commercial Fisheries Initiative
- The Pacific Integrated Commercial Fisheries Initiative

Based on the desktop review, we prepared discussion papers on each program and invited Indigenous groups and communities – and any interested Canadian – to share their feedback. We also launched a series of engagement sessions to hear directly from people and groups about their experiences participating in these programs.

Phase one looked at the Aboriginal Aquatic Resource and Oceans Management Program and the Atlantic and Pacific Integrated Commercial Fisheries Initiatives. We engaged more than 200 participants across Canada in 10 workshops and four plenaries, and received formal submissions from eight groups.

Our final report on how to improve these three programs was released on May 22, 2018. It contained some practical steps for Fisheries and Oceans Canada to take in order to make the administration of its programs more efficient. We also made a number of recommendations which require a fundamental shift in the way the Department does business to improve its relationship with Indigenous people and groups across Canada.

Igniting a Culture Change

The Institute maintains that the practical recommendations put forth in our phase one report are achievable and fall within Fisheries and Oceans Canada's stated priorities. The timing also remains optimal for cultural change to continue at the Department by approaching the renewal of its programs through the lens of truth and reconciliation – and the long-term goal of a balanced relationship with the Government of Canada and Indigenous Nations.

These core principles were emphasized throughout phase two as we turned our attention to the Aboriginal Fisheries Strategy and the Aboriginal Fishery Guardian programs. Between April 2018 and January 2019, we held 32 workshops and four plenaries with almost 350 participants. We also received submissions from 10 communities and groups.

The Aboriginal Fisheries Strategy and the Aboriginal Fishery Guardian programs are formative Indigenous programs for Fisheries and Oceans Canada. They reflect the initial attempt by the Department to respect the Supreme Court-recognized Constitutional section 35.1 priority rights of Indigenous Nations to fish for food, social and ceremonial purposes before other fishery users within departmental management procedures and operations.

These programs have not fundamentally changed since they were established in 1992. The Aboriginal Fisheries Strategy was not even a program at the outset and the Aboriginal Fishery Guardian program is, in reality, only one component of the Aboriginal Fisheries Strategy – without separate funding or clear objectives.

Igniting a culture change is critically important to redirect these two programs to achieve success. Respecting the rights of Indigenous people must also be reflected in the programs, and in departmental practises and policies, for the Nation-to-Nation relationship to be fully realized. This requires reconciling resource management to realize the co-management capacity promised by the Aboriginal Fisheries Strategy and to recognize the jurisdiction and authority of Indigenous peoples over their territorial resources through the Aboriginal Fishery Guardian Program.

We are confident that Fisheries and Oceans Canada will respond to this mission and a new way of working together. There are areas across Canada in which Nation-to-Nation co-management of fisheries, oceans, habitat, and aquatic resources takes place today – and this must be expanded. There are also Indigenous governments and communities which have laws in place (or under development) to protect their fisheries and oceans resources – and these must be respected.

National Indigenous Fisheries Institute Board of Directors¹

John G. Paul | Jordan Point | Kenneth Paul | Lina Condo
Jeffrey Maurice | The Honourable Ethel Blondin-Andrew

Indigenous Program Review has been a rewarding experience

The Institute has met so many people from Indigenous communities and groups across Canada. We appreciate all of the time and effort that program participants and community leaders have exerted to inform this review and to guide our conclusions. We also value the collaborative relationship that has further developed with Fisheries and Oceans Canada through this review.

We have listened to your views on how these programs need to change for the better and identified ways that the Department can use your advice to improve all of its programs and accelerate success.

We look forward to your ongoing support and participation in our work as the implementation of Indigenous Program Review continues and the Department completes its shift from program review to program renewal.



¹The Board acknowledges the input and guidance of its former Director, Chief Robert Chamberlin, throughout Indigenous Program Review and in the initial drafting of this report.

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Executive Summary and Department-wide Recommendations

A national program review is an opportunity for participants to reflect on their successes and to share their ideas and suggestions for improvement. It is also a chance to raise any concerns that they may have with one or more programs that are under review.

On October 4, 2017, the National Indigenous Fisheries Institute began seeking the input of First Nations, Inuit and Métis people, communities and groups on the suite of Indigenous programs administered by Fisheries and Oceans Canada. Input could be shared by answering one or more of the questions posed in online discussion papers. This includes via *Facebook* and *Twitter*.

At the same time, the Institute began engaging program participants in the Atlantic and Pacific Integrated Commercial Fisheries Initiatives and the Aboriginal Aquatic Resource and Oceans Management Program. After each session, we prepared a *What We Heard* report and made it publicly accessible. This phase of engagement ended in February 2018.

Following careful assessment of the feedback received, the Institute produced its phase one final report. It contains a number of recommendations for the Department to implement in order to improve the three programs. The phase one final report was released on May 22, 2018.

Phase two of the review began on April 27, 2018 with the start of workshops for participants in the Aboriginal Fisheries Strategy and Aboriginal Fishery Guardian programs. These continued until November 2018 and four plenaries were held in January 2019 to confirm our initial findings.

To write this phase two report, the Institute reflected on the recommendations made after phase one and the input it received during phase two so we could build on the practical advice initially given to the Department regarding program improvements. We also continued to look for new ideas that would reflect the Government of Canada's commitment to a renewed relationship with Indigenous peoples based on the recognition of rights, respect, co-operation, and partnership.

For the Aboriginal Fisheries Strategy and Aboriginal Fishery Guardian programs, this meant considering the Constitutionally protected rights and interests of Indigenous peoples alongside technical and operational issues because these programs were created to help the Department manage fisheries while also adhering to these rights.

As noted in phase one, there are a number of department-wide changes that Fisheries and Oceans Canada can make to improve all of its programs and practises. We have augmented our original recommendations as follows:

1. Demonstrate the Renewed Relationship

The commitment and support of Indigenous community leaders and senior executives at the Department are fundamental to change the relationship between Government and Indigenous peoples.

Line officers and middle managers need to be trained and made accountable for supporting a renewed relationship with Indigenous people, groups, and communities. This includes recognizing priority rights and implementing meaningful co-management. Some program participants have faced incredible resistance by officials to change the way they interact and work with Indigenous people.

2. Shift to a Shared Capacity Model

The Department stands to benefit by ending the duplication of services that are best delivered by Indigenous people in their communities; especially, when it comes to ‘in the field’ activities.

We learned in phase two that the Department has some service contracts with Indigenous communities for technical field activities and/or monitoring and enforcement activities. This is an excellent starting point on which to build as the Department takes steps to adopt an Indigenous procurement policy and to allocate A-base funding for knowledge and science.

3. Ensure Timely Funding, Annual Planning Cycles, and Consistent Reporting

The Department and program participants need to adjust planning and funding cycles so work plans and project proposals are approved, and funding begins, in the first fiscal year quarter.

We heard in phase two that some communities received their Aboriginal Fisheries Strategy Program agreement funding early in the fiscal, which demonstrates the commitment of the Department to implement our recommendations. We still encourage the Department to establish service standards for contribution agreement funding timelines, which may be more easily achieved with fewer reviewers on agreements. At the same time, we recognize the right of communities to hold off on signing their agreements for funding to achieve internal objectives.

4. Use a Contribution Agreement Model and Standardize Terms and Conditions

The Department should adopt a standardized contribution agreement across its sectors to reduce the time communities and groups spend on applications and reporting. This agreement should draw on the Indigenous program model and use consistent terms and conditions to make funding programs predictable for recipients.

The Department’s Indigenous Affairs and Reconciliation Directorate has almost 30 years of experience managing contribution agreements and working with Indigenous communities. It is recommended that other sectors not only use the Indigenous program model when it comes to other contribution funding agreements; they should also seek the advice of this Directorate about how to most effectively roll-out funding programs to Nations across Canada. The Department should also find other ways to facilitate the application process for communities to apply for other federal program funding – either by building proposal-writing capacity within communities or by connecting other funding opportunities to current agreements.

5. Align Performance Metrics to Indigenous Definitions of Success

Program participants have very clear goals and objectives for these programs. Adjusting the objectives and performance metrics of programs to reflect Indigenous-desired outcomes would demonstrate collaboration, co-design, and mutual respect.

This report outlines how the objectives and performance metrics of the Aboriginal Fisheries Strategy and Aboriginal Fishery Guardian programs should be adjusted to reflect the outcomes desired by Nations.

6. Invest in Relationship-building through Internal Staff Strategies

The Department should invest in internal human resource strategies, succession planning, and training to retain knowledgeable staff who will advance its relationship with Indigenous peoples. Officials should also bring contribution opportunities being offered by other sectors to the attention of the communities they serve.

Internal training of officials involved in Indigenous programs and initiatives must include co-developed Indigenous Fisheries 101 course modules. A general module should also be taken by all officials. As we recommend elsewhere in this report, program officials should bring other funding opportunities to the attention of the communities they serve as a standard practise.

7. Secure Long-term Source of Training Funds

Indigenous programs at Fisheries and Oceans Canada have a proven track record of creating employment. Funding for training and skills development along career progression paths should be secured through a long-term partnership with Employment and Social Development Canada. This is based on the best practices of governments and businesses.

The Aboriginal Fisheries Strategy and the Aboriginal Fishery Guardian programs have not been sufficiently funded for many years. In most cases, program funding has remained the same since they began in 1992 and, in some cases, funding has even decreased. This has prevented Nations from being able to create and sustain technical capacity and long-term, meaningful employment. By partnering with Employment and Social Development Canada, the Department could help communities retain their technical fisheries staff, prepare for and address their staff succession needs, and realize career progression aspirations.



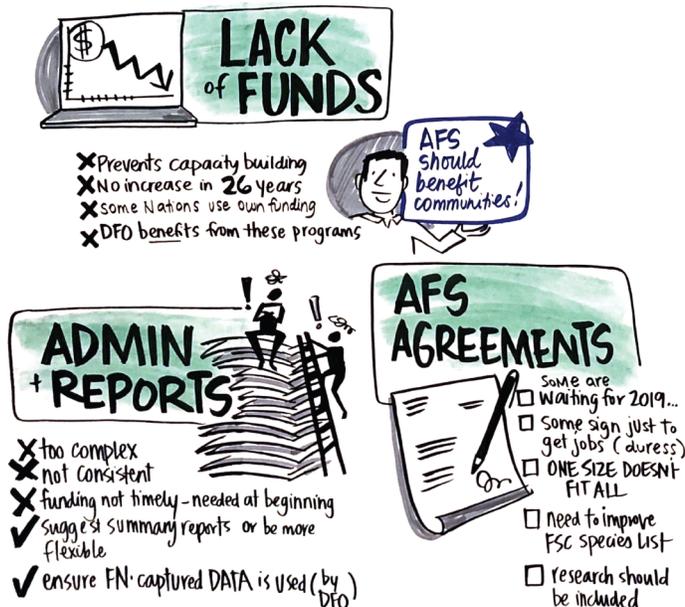
Co-development, co-design and co-delivery

The 'co, co, co' is a special working arrangement.

It's about collaboration at the technical and operational levels, without policy or political agendas, to improve on-the-ground activities and build long-term Indigenous capacity.

This requires frank, open and pragmatic dialogue, which drives the development and implementation of practical and innovative solutions. In the 'co, co, co', Indigenous experts and government officials can work with respect – even when they have differing views on the issues or the potential solutions – to find ways for programs and practises to function more effectively, efficiently, and fairly so as to maximize benefits for Indigenous peoples.

Indigenous Program Review is intended to improve and enhance Fisheries and Oceans Canada programs in order to maximize the benefits of these programs to First Nations, Inuit and Métis peoples and communities across Canada. We therefore expect that the Department will respond to all phase one and phase two program review recommendations and outline implementation progress in the annual report that we requested in phase one.



Overview of Indigenous Program Review

Phase Two Recommendations



1. Take practical steps to build and sustain capacity:

a. Realign programs to achieve Indigenous-set objectives

- Continue to offer program flexibility
- Separate the programs and find new ways to fund the Aboriginal Fishery Guardian Program
- Regularly measure employment quality and retention
- Enable Nations to pursue third-party technical contracts
- Increase use of multi-year agreements
- Demonstrate priority access in departmental communications

b. Maximize departmental and other federal government collaborations

- Bring funding opportunities to the attention of Nations
- Share career progression infographics to align investments
- Support fish enhancement initiatives in Nations
- Establish consistency and standards for the Aboriginal Fisheries Strategy economic components

c. Support capacity-building, retention, and succession planning

- Establish long-term source of funding for training, including through federal partnerships
- Adopt a nationally consistent recruitment, curriculum, and training program
- Hold joint departmental–Indigenous training
- Document all training courses and map training needs
- Regularly communicate legislative changes
- Ensure competitive wages are offered to fishery guardians
- Connect Nations to marine services and habitat restoration economic opportunities
- Enable capacity-building and cross-designation best practice sharing
- Pursue funding national tools for fishery guardians
- Support access to tools and training to increase Nation participation in environmental monitoring and decision-making

Take
Practical
Steps

2. Ignite a culture change that reflects reconciliation:

a. Invest in relationship-building

- Introduce annual Indigenous recognition award programs
- Designate personnel as habitat inspectors, if desired
- Establish a nationally consistent schedule to engage on allocations
- Use science, data, and knowledge generated by Nations in decision-making and resource management
- Establish a joint Indigenous–departmental management committee to oversee development of the command and control structure and the recruitment, curriculum, and training program
- Stop privilege user fishing in areas where section 35.1 needs are not being met
- Co-develop Indigenous Fisheries 101 training
- Establish a national code of conduct for departmental fishery officers

b. Recognize section 35.1 rights and the value of enforcement collaboration

- Be accountable for changing practises, programs, and policies to demonstrate priority rights, including internal policies directing Resource Management and Conservation and Protection
- Put together a federal–provincial–territorial–Indigenous team to ensure priority rights are respected in all jurisdictions and to resolve cross-designation issues
- Ensure fish enhancement benefits Nations
- Recognize fishery guardians are better placed to enforce in their territories
- Establish a nationally consistent practise regarding food distribution and storage costs
- Develop and implement options to offset enforcement liability insurance costs

3. Reconcile resource management by recognizing co-management and jurisdictional authority:

a. Continue to build Indigenous co-management capacity

- Hold resource management and science advisory meetings with Nations prior to and following privilege user engagement (Tier 3)
- Recognize and encourage inter-tribal arrangements
- Appreciate that Nation workplans will focus on species and/or areas of cultural and historical import
- Adopt nationally consistent (re)designation processes
- Enable training and designation of Indigenous fishery officers
- Work with co-delivery partners to establish an Indigenous command and control structure and options for an Indigenous fishery officer cadre

b. Tackle the difficult issues

- Measure the achievement of Nations to meet section 35.1 needs
- Make Resource Management and Conservation and Protection accountable for co-managing fish and fish habitat with Nations – and ensure Deputy Minister oversight
- Use Nation-led conservation decisions to manage privilege user fishing
- Strengthen management of federally regulated recreational fisheries
- Deal with access and licensing issues to increase Indigenous participation in the fishery and enable preferences for dual fishing
- Update the Policy for the Management of Aboriginal Fishing



Policy for the Management of Aboriginal Fishing (August 6, 1993)

To understand the Aboriginal Fisheries Strategy and its Fishery Guardian component, and some of the recommendations put forth in this report, one must start with the Department's Policy for the Management of Aboriginal Fishing.²

Developed in 1993, this policy established the initial parameters of how programs and activities related to priority right food, social and ceremonial fishing would be supported by the Department. The policy was a positive start to the co-management relationship envisioned between Fisheries and Oceans Canada and Indigenous communities; however, it was not always followed and has not been used to its potential. With some updating, the policy could once again be a practical tool to guide how the Department's administers these programs.

The policy envisions that Nations would have direct responsibility for managing their fishing activity in co-operation with the Department. This includes having a fishery manager or other personnel to designate individuals to fish and provide them with information about what they could fish and how – and having a fishery monitor and/or guardian to monitor and report to Fisheries and Oceans Canada on the catch, and to participate in enforcement.

In fact, the policy dictates that monitoring and enforcement activities shall be carried out by an Aboriginal fishery guardian who is employed by the Nation, trained through programs offered by the Department, and designated as a fishery guardian under the *Fisheries Act*.

With regards to resource management, the policy states that the Department will consult with Indigenous people before taking decisions or actions that may affect fishing for food, social or ceremonial purposes. It also encourages consultations between the Department and Nations that have established fishing by-laws in order to improve overall management of the resource.

These are key elements of co-management: consulting Nations before any decisions or actions may be taken regarding their priority right to fish for section 35.1 reasons before privileged users (e.g., commercial or recreational harvester) and consulting Nations that have fishing by-laws to find out how these by-laws may improve resource management.

The policy anticipates the need for co-ordinated resource management for migratory species with Nations that share a watershed. This includes building an understanding of the enforcement measures and punishments for violations of any agreements, co-ordinating monitoring and enforcement plans along the watershed, and establishing fisheries management plans. To do this, the policy recommends having a fisheries planning committee, a monitoring and enforcement committee, and technical committees to resolve issues.

These committees reflect necessary resource management elements: fisheries decision-making and plans, creation and enforcement of rules for the fishery, and technical input and resolution.

The policy identifies a range of co-management activity options for Nations to have in Aboriginal Fisheries Strategy agreements, including technical and economic components:

- fishery guardian programs
- participation in habitat management
- habitat restoration
- fishery enhancement
- stock assessments and other research carried out by communities with the Department
- developing and testing new ways for fisheries to deliver economic benefits to communities
- issuing licences to participate in one or more commercial fisheries

²Unfortunately, this policy has not been posted on the Department's website and was not made available to the Institute during its desktop review of programs. It should be posted, along with all other Indigenous-related policies.

The policy is also specific about the enforcement authority of fishery guardians; namely, that this authority is set out in their designation, consistent with the terms of their agreement and appropriate to their level of training, and that they are not authorized to carry weapons or use force in the course of their duties. In addition, the policy states that enforcement activities of fishery guardians should include on-the-job training with the Department's fishery officers as conducted through joint patrols – and enforcement protocols should be developed to ensure the activities of these guardians and fishery officers are fully integrated. Agreements must also specify that fishery guardians are prohibited from fishing while on duty. Moreover, the policy outlines the responsibilities of departmental fishery officers to consult the Indigenous fishing authority before taking any enforcement action (if a delay does not compromise enforcement) and to inform and consult this authority after taking any enforcement action in all cases.

These sections envision a collegial relationship being built and retained between departmental fishery officers and Indigenous fishery guardians and fishery managers. It also outlines the fishery guardian training and enforcement collaboration obligations of the Department.

The policy includes a section which identifies the terms and conditions of Aboriginal Fisheries Strategy harvest agreements and communal licences to ensure conservation of fish stocks. This includes catch allocation, form of identification to be carried by designated harvesters, a maximum limit on how many individuals may be designated to fish, the type and amount of gear that may be used, and a monitoring provision to ensure the catch does not exceed allocation.

The remaining sections of this policy outline the responsibilities of departmental officials:

- **Regional directors general** are responsible for ensuring that all personnel involved in the management of Aboriginal fishing are properly informed, given a copy of the policy (and other guidelines), and are performing their duties consistently with the policy.
- **Area managers and directors** are responsible for meeting all of the consultation requirements set out in agreements and licences, and for ensuring that the activities of fishery guardians are coordinated with the Department's enforcement staff to provide for effective enforcement and training, including on-the-job training through joint patrols.
- **Area-designated fishing coordinators** are responsible for ensuring that harvest agreements are in place two weeks before fishing is likely to begin for the species in question, and that the Nation and department staff are informed about the terms of the agreement or licence before fishing begins. These coordinators are also responsible for maintaining written records of all consultations with Nations, reporting on the implementation of this policy to their regional Aboriginal fisheries coordinator, and coordinating the implementation of the policy within their area.

The Institute compared the Policy for the Management of Aboriginal Fishing with the input it received from program participants to be able to point out inconsistencies and sections which require adherence by officials. We also recommended that the Department update this policy to reflect court decisions made since 1993 and the Government's commitment to a renewed relationship with Indigenous peoples.



Aboriginal Fisheries Strategy Program

“This program needs to reflect the legitimacy of First Nations rights and knowledge – and build a clear understanding of why First Nations are in the water first.”³

The Aboriginal Fisheries Strategy was set up in 1992 to help Fisheries and Oceans Canada manage the fishery in a manner consistent with the Supreme Court of Canada decision in *R. v. Sparrow* (1990).

This decision and subsequent Supreme Court rulings reinforce the fact that First Nations have an Aboriginal right, as defined in the Constitution under section 35.1, to fish for food, social and ceremonial purposes and that this right takes priority, after conservation, over other users.

The Aboriginal Fisheries Strategy was also meant to help Indigenous communities build capacity so they could meaningfully participate in fisheries management. This includes building technical capacity to undertake scientific stock assessments and habitat management activities in the field, to monitor catch and fishing activities, and to enforce the rules set for fishing.

Aboriginal Fisheries Strategy agreements include a rights component, which identifies the total allowable catch by the community, and a technical component, which lists the technical activities that will be funded through the program. The work of one or more Aboriginal fishery guardians is included in the technical component. Some agreements also have an economic component, such as an Economic Opportunity licence or funding through the Allocation Transfer Program.

Approximately 125 Aboriginal Fisheries Strategy agreements are signed each year with Indigenous Nations and groups, such as Tribal Councils. There are 85 agreements in British Columbia, which involve 162 First Nations, and about 35 agreements with Nations in Atlantic Canada and Quebec. The remaining are in the Yukon and Northwest Territories.

Many Indigenous communities run mature fisheries and/or natural resources programs today. While these programs may have developed with multiple funding sources, including own source revenues, the Aboriginal Fisheries Strategy Program played a role in helping the Nations build capacity to:

- organize their own fisheries programs, departments, and human resource practices
- designate fish harvesters and/or distribute licences and tags
- educate members on fisheries regulations and restrictions
- monitor their fishery and record catch data
- observe, monitor, research and study fish, fish habitat, and waterways

During the Institute’s desktop review, six key issues were identified for communities and groups to consider when proposing ways to improve this program. These issues were organized into three main topics to discuss during engagement sessions: program design, technical activities (including training to do these activities), and interconnections with other programs and initiatives.

What we learned through program review is that the Aboriginal Fisheries Strategy Program lacks intent and is not meeting the objectives of Indigenous communities to:

- protect fish and fish habitat
- meet community needs for food, social, and ceremonial purposes
- enable co-management and meaningful contribution to resource management processes
- be sufficiently funded to build and retain capacity

There is also widespread consensus that the priority rights of Indigenous peoples are not reflected in the program. This is demonstrated by the fact that the food, social and ceremonial needs of many Indigenous Nations are not being met today, while commercial and recreational fisheries are still taking place.

³ Participant in the Aboriginal Fisheries Strategy Program workshop in Williams Lake on September 18, 2018.

Protecting fish and fish habitat

Indigenous Nations and Governments share common views when it comes to the importance of protecting, conserving, restoring, and responsibly using fish, fish habitat and aquatic resources. Everything is connected. This includes the interconnection that First Nations, Inuit and Métis communities have with fish species that historically thrived in their traditional territories.

The Policy for the Management of Aboriginal Fishing identifies a range of technical activities for Nations to undertake through their Aboriginal Fisheries Strategy agreement to protect fish and fish habitat. The top three technical activities identified by communities are data collection, stock assessments, and fishery monitoring. For some, scientific research and field technician activities are more important, while in others, fishery guardian monitoring and enforcement are the priority. A number of Nations administer both technical and guardian programs.

During program review, we heard that the Aboriginal Fisheries Strategy Program was often considered to be a baseline technical program to leverage other funding sources. This is similar to the way Aboriginal aquatic resource and oceans management groups function – and both groups and communities appear to target the same funding sources; namely, those related to scientific research on fish and fish habitat, habitat restoration, species at risk, fish enhancement, water quality, cumulative effects, environmental assessments, and Indigenous knowledge collection.

Becoming more involved in habitat protection and restoration through the Aboriginal Fisheries Strategy Program is the top technical priority for Nations after stock assessments. There is also a lot of support for more research and study on the cumulative effects of other industries on habitat and waterways, and for species restoration (both species at risk and species in decline).

Meeting food, socio-economic and cultural needs

As stressed above, we heard that the food, social and ceremonial needs of many Indigenous communities are not being met today. Some Nations buy their section 35.1 fish, while others prioritize getting this fish only to Elders or children. It does not make any sense, nor does it seem consistent with the Constitution, that Indigenous communities do not have access to fish that are in their traditional diets, while there are still commercial and recreational fisheries taking place.

Some Nations have taken steps to help neighbouring and other communities gain access to fish for food, social and ceremonial needs through inter-tribal agreements or by taking a portion of their communal–commercial allocation. We heard that the Department does not always support these agreements and in some (but not all) cases, catches made through inter-tribal agreements may be removed from the total allowable catch of the providing Nation.

We also heard that Nations, Tribal Councils and other groups have tried to renegotiate their section 35.1 allocations in the past, including to gain access to commercially caught species for food purposes, but the Department has been unable (or unwilling) to discuss such arrangements. While food, social and ceremonial allocation discussions recently began in British Columbia, it is unknown whether other regions of the Department will follow this action.

“Societal needs include economic.”⁴

The Allocation Transfer Program was not under examination during this review; however, its value and purpose were discussed at many workshops because it was part of the Aboriginal Fisheries Strategy Program until very recently. Some Nations in British Columbia also have Economic Opportunity licences that are connected to their Aboriginal Fisheries Strategy agreements and which evolved from pilot sales and excess salmon to spawning requirements initiatives.

The Policy for the Management of Aboriginal Fishing is supposed to reflect the current state of the law on Indigenous fishing rights. However, the policy not been updated since it was created despite many court cases relating to Indigenous rights on the sale of ‘food’ fish. Selling priority right fish has also led to an erosion of priority access as a result of departmental practises.

This review focussed on the technical aspects of programs; not policy issues. Indigenous participants in the Aboriginal Fisheries Strategy Program are very clear, however, that the ‘social’ in food, social and ceremonial rights – which the program is built around – includes economics. Nations also want the Department and all governments to recognize their right to sell section 35.1 fish and for an Indigenous definition of ‘moderate livelihood’ to be part of that recognition. Moreover, they want consistency and standards to be applied to the economic components of the program. This means:

- **enabling other economic opportunity licences and/or pilot sales** and ensuring fish do not lose priority access if a Nation decides to sell it to benefit the community in other ways

⁴Participant in the Aboriginal Fisheries Strategy Program plenary in Vancouver on January 17, 2019.

- **removing the obligation to pay fees**⁵ for Allocation Transfer Program licences
- **retaining accessibility to the Allocation Transfer Program** by Nations that are not involved in regional integrated commercial fisheries initiatives
- **consistent rules** regarding the use of Aboriginal Fisheries Strategy Program funding to support the coordination of communal–commercial fisheries enabled through regional initiatives

“Fish form the basis of our ceremonial practices.”⁶

Most communities use Aboriginal Fisheries Strategy Program funding for some educational or cultural activities, such as fish camps, fish tanks in the classroom, and community country food lunches. These activities enable Elders to pass on their knowledge to multiple generations and help communities maintain and celebrate their cultural ties to fish and other aquatic resources.

However, we heard that the ceremonial needs of Nations for fish and other aquatic resources are not well understood by the Department or reflected in its programs and practises. This means supporting *First Fish* ceremonies, funerals, marriages, and pow-wows through programs.

Fulfilling the promise of co-management

We were reminded by program participants that the original Aboriginal Fisheries Strategy was intended to prepare Indigenous Nations to be co-managers of the resource and to serve as a bridge to Treaty. A resource co-management program includes:

- **management enablers** to designate fish harvesters, ensure harvester safety, distribute fish, and be involved in integrated fisheries planning processes
- **data and knowledge support** for activities that conserve, protect and restore fish, habitat and other aquatic resources, including educational activities to transfer knowledge
- **jurisdiction and authority** to educate members on fishing rules, to monitor and record harvests, to ensure compliance with the rules, and to prevent poaching and illegal sales

With sufficient funding, the Aboriginal Fisheries Strategy Program could help meet the expectations of Nations to build co-management capacity and expertise. As noted in phase one, Indigenous people want co-management of the resource to reflect a holistic approach

by focussing on all species and species interactions, managing habitats and waterways that sustain fish and aquatic resources, and considering the cumulative impacts of all users. Co-management also means respecting inter-tribal agreements and applying Nation-led conservation decisions to commercial and/or recreational fishing activities taking place in or alongside territorial waterways.

Reconciling resource management

Co-management is based on trust and a Nation-to-Nation relationship. To fulfill the promise of co-management, resource management processes must feature a Nation-to-Nation approach to decision-making when a fishery is being planned and after privileged users are consulted.

This desired approach was shared with the Department’s Resource Management Sector during phase one of program review and it remains our recommended approach to demonstrate the priority rights of Indigenous peoples and the Government’s commitment to reconciliation. We understand that this would apply to fisheries in territorial waterways which may overlap or could involve multiple Nations. This should not be problematic for a Department with years of experience working with other countries to manage high seas and migratory fish stocks.

Fulfilling the promise of co-management also requires resource management plans to reflect the scientific research and knowledge that is collected by Nations and groups through departmental programs and other activities. This was a key recommendation in our phase one report – and it is linked to ongoing investment in Indigenous knowledge systems and the establishment of data-sharing agreements and parameters with resource management, science, and other sectors.

Increasing funding to build and retain capacity

“Every year, [our agreement] is signed under duress because it provides jobs.”⁷

The Aboriginal Fisheries Strategy Program was created to help Indigenous communities build capacity to meaningfully participate in their fisheries. However, funding has not increased with the rate of inflation – and some communities receive even less funding today because the Department needed to accommodate new entrants in the program over time.

⁵A percentage of Allocation Transfer Program licence profits must fund Aboriginal Fisheries Strategy Program activities.

⁶Participant in the Aboriginal Fishery Guardian Program workshop in Vancouver on August 22, 2018.

Without adequate program funding or access to other funding sources, Nations have not been able to retain their technical capacity and/or level of activity unless they had other sources of funding. To be specific, lack of program funding has limited the ability of communities to retain staff because they cannot afford to offer full-time, year-round, meaningful employment – or to pay the same salaries offered by governments or other organizations. We also heard that a number of Nations only sign their Aboriginal Fisheries Strategy agreement because it creates some employment for community members – even if that employment is only for a few weeks.

We concluded that this sets the Aboriginal Fisheries Strategy Program up for failure. If a Nation cannot retain their staff, they have an ongoing need to spend program funds to train new staff rather than directing these funds to capacity-building activities, such as managerial and technical field work. If funding is not directed to

these areas, knowledge is not built and species are not protected. It is also difficult for Nations to meaningfully participate in decision-making without sufficient funds to collect data and to be involved in other research and protection activities.

The success of the Aboriginal Fisheries Strategy Program needs to be measured by achieving Indigenous-set goals and objectives. This includes building and retaining resource management capacity within Nations by enabling fishery managers and technicians (or guardians) to secure meaningful employment by following career path options for other resource, land, and environmental issues.

Our recommendations are designed to help the Department redirect the Aboriginal Fisheries Strategy Program to meet these expectations.

Resource Management – Career Progression Paths



Respecting Priority Access

The priority rights of Indigenous peoples must be reflected in the Aboriginal Fisheries Strategy Program and all other departmental programs, practises or policies because this is a right protected in the Constitution. Some examples of how priority rights are not reflected today include:

- **restricting Indigenous fishing to a commercially defined management area** even though the Policy for the Management of Aboriginal Fishing says Indigenous fishing should occur within areas used historically by the Nation
- **opening recreational fisheries on a set annual date** regardless of the state of fish stocks and before fishing for food, social and ceremonial needs have been met
- **creating the notion that there is ‘recreational fisheries’ habitat** as opposed to simply fish habitat (with the now-ended Recreational Fisheries Conservation Partnerships Program)
- **restricting small craft harbour sites to commercial landing areas**, rather than supporting safe landings of fish in Indigenous communities
- **not ensuring regular consultations on section 35.1 allocations** or including off-reserve populations in allocation decisions
- **not reflecting the difference between priority and privileged users** of the resource in integrated fisheries management planning processes
- **not requiring catch data of all recreational and sportfishing harvests** or applying this data in integrated resource management plans

Vision of Indigenous Resource Co-managers

Indigenous Definitions of Success

Benefitting Resources and Communities

Priority access	Food, culture and socio-economic security	Healthy fish stocks	Co-management	Strong fishing culture	Meaningful employment
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Goals

Nations have priority access to resources so they can meet food, socio-economic, and ceremonial needs and provide meaningful employment to members

Nations are managers of resources in their traditional territories, part of decision-making at appropriate levels, and Indigenous knowledge and science are reflected in decisions



Co-management

Co-management is a term specifically reserved for the resource: co-management of fish, fish stocks and/or fish habitat, oceans, species at risk, and other aquatic resources



Indigenous Program Review Panel Recommendations

Take practical steps to help communities build and sustain technical capacity

1. Realign this program to achieve Indigenous-set objectives

- Continue to offer a flexible menu of options for Nations to choose their preferred technical roles and activities and to build the capacity to take advantage of the full menu
- Set the baseline capacity level for Nations to achieve as a measurement of success and regularly measure employment quality and retention to ensure program progress
- Enable Nations that are ready to (or already) pursue third-party technical contracts, including by adopting a department-wide Indigenous procurement policy
- Increase use of multi-year agreements and ensure reporting requirements are reasonable to meet minimum requirements
- Adjust the Department's website so that Aboriginal fisheries appears first in the drop-down menu, as opposed to third (after commercial and recreational), and make other efforts to demonstrate the priority access of Indigenous peoples in communications

2. Maximize departmental and other federal government collaborations

- Bring other funding programs to the attention of communities; especially, those which align to their priorities for habitat restoration and species recovery, and find ways to facilitate applications either by building capacity or by linking to current agreements
- Share the resource management career path infographic with potential partners, such as those involved in water management or environmental monitoring, to align investments
- Support fish enhancement initiatives and facilities in Indigenous communities to help them meet section 35.1 needs, when desired by the Nation, including by registering facilities to the salmon enhancement program
- Establish consistency and standards regarding the economic components of the program and clearly communicate the future of the Allocation Transfer Program, including online

3. Support capacity-building, retention and succession planning

- Partner with Employment and Social Development Canada to establish a long-term source of funding for training
- Hold joint departmental-Indigenous technical 'field' training opportunities
- Document all 'field' technician training courses and institutions, and map training needs more broadly, in order to nationally standardize curricula for activities, such as stock assessments, data collection, fish enhancement, and habitat restoration, among others
- Support greater access by Nations to programs, tools, protocols and training that support their participation in environmental monitoring and decision-making, such as the Community Aquatic Mentoring Program and the Canadian Aquatic Biomonitoring Network
- Offer administrative and other management training courses to Indigenous fishery managers and regularly exchange information, such as changes to legislation
- Enable communities to share capacity-building best practices and identify areas of potential collaboration
- Connect communities to economic opportunities related to marine services and species habitat restoration; especially, Nations in areas without economic fisheries opportunities

Ignite a culture change that reflects truth and reconciliation

1. Invest in relationship-building

- Honour the contributions of Indigenous persons, communities, and groups to the conservation, restoration and enhancement of Canada's fish and fish habitat through an annual National Indigenous Fisheries Award program
- Establish a nationally consistent schedule for the Department to engage on food, social and ceremonial allocations so they reflect changing community and fish stock dynamics
- Co-develop Indigenous Fisheries 101 training and ensure departmental officials take it
- Use the science, data, and knowledge generated by communities in decision-making and management planning processes for fisheries, aquaculture, habitat, and oceans
- Designate managers and technicians as habitat inspectors, if desired by Nations
- Stop commercial and recreational fishing in areas where Nations are not meeting food, social and ceremonial needs, including by adjusting laws and regulations to recognize and protect section 35.1 priority rights

2. Recognize the right and the importance of meeting food, social and ceremonial needs

- Be accountable for changing departmental practises, programs, and policies (in that order) to demonstrate the priority rights of Nations to fish before commercial and recreational users, including internal policies directing the responsibilities of Resource Management officials
- Put together a federal–provincial–territorial–Indigenous team at the Deputy Minister and Ministerial levels through the Canadian Council of Fisheries and Aquaculture Ministers to ensure Indigenous priority rights are respected in provincial and territorial jurisdictions
- Ensure Indigenous communities are the beneficiaries of fish enhancement activities
- Establish a nationally consistent practise regarding the use of program funding for food distribution and storage costs

Reconcile resource management by recognizing the co-management relationship

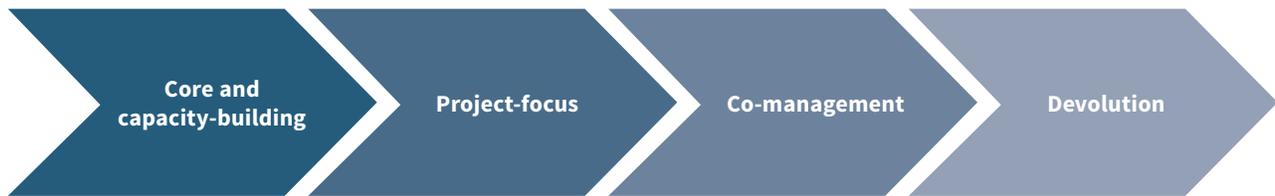
1. Continue to build Indigenous co-management capacity within this program

- Hold the Department's resource management and science advisory meetings with Nations (Tier 2) prior to and following engagement of privileged users (Tier 3)
- Recognize and encourage inter-tribal arrangements established to help Nations access fish for their section 35.1 needs
- Recognize Nations as co-management partners in other ways, such as at transboundary and international meetings and negotiations
- Appreciate that the technical workplans of Nations will focus on the species and/or areas of cultural and historical import to their communities

2. Tackle the difficult issues

- Measure the achievement of communities to have fish for food, social and ceremonial purposes to ensure program progress and success over time
- Make the Integrated Resource Management Sector accountable for co-managing fish and fish habitat with Indigenous Nations
- Apply Nation-led conservation decisions in territorial waterways to commercial and/or recreational fishing activities which occur in or alongside these waterways
- Strengthen the management of all federally regulated recreational fisheries to ensure reliable catch estimates, improved stock assessments and fully informed decision-making
- Deal with access and licensing issues to increase Indigenous participation in the fishery and enable Nation preferences for dual fishing (single allocation) and preferred means
- Update the Policy for the Management of Aboriginal Fishing to reflect current case law and trends in Canada, as well as the Government's commitment to reconciliation and a renewed relationship with Indigenous peoples

Program Trajectory



The Aboriginal Fisheries Strategy Program should continue to be a bridge to treaty as well as a capacity-building program by supporting core activities (e.g., administration and proposal development) and capacity-building priorities (e.g., training and career progression). The costs of training should be offset through the recommended long-term training collaboration.

The program should also fund project-focused and co-management activities (e.g., scientific research on certain fish stocks or habitats to inform fisheries management plans and other decisions). Project costs should be offset by maximizing other departmental funding programs, such as habitat, species recovery, coastal restoration, and species at risk, along with other environmental, water-related, and cumulative effects activities led by Environment and Climate Change Canada or provincial/territorial agencies.

Mature fisheries departments, including those which cover multiple resources (e.g., wildlife and other natural resources) should also have access to funding for co-management activities.



Best Practice

Pacheedaht First Nation reconnected their people to the fishery and reintroduced country food into the diets of community members using the Aboriginal Fisheries Strategy Program and other programs. As a result of their activities, the Nation significantly reduced community diabetes rates. They also re-established the cultural connection of members to the ocean and to fish and other aquatic resources that had sustained the Nation since time immemorial.



Aboriginal Fishery Guardian Program

“DFO is not clear about what they want the program to do for them or for us.”⁸

The Aboriginal Fishery Guardian Program is a component of the Aboriginal Fisheries Strategy Program, which helps Nations develop the technical capacity to manage their fisheries by hiring one or more fishery guardians to perform some or all of the following duties:

- monitor the catch and fishing activities
- enforce the rules for fishing as set out in the communal licence and the *Fisheries Act*
- collect data related to fisheries, habitat and/or aquatic resources
- undertake activities in the field, such as stock assessments and habitat management
- carry out community engagement and education activities

Designated fishery guardians have certain enforcement powers under the *Fisheries Act*. These powers are limited to restrict search, arrest and any use of force, which means guardians largely ‘observe, record and report’ *Fisheries Act* violations.

Fishery guardians are supposed to be trained by Fisheries and Oceans Canada to learn how their duties relate to fisheries and habitat legislation, how to collect, gather and give evidence related to a violation, and how to use defense tactics to avoid difficult and conflict situations. It is less clear how guardians may be trained to monitor the catch or to do technical ‘field’ activities.

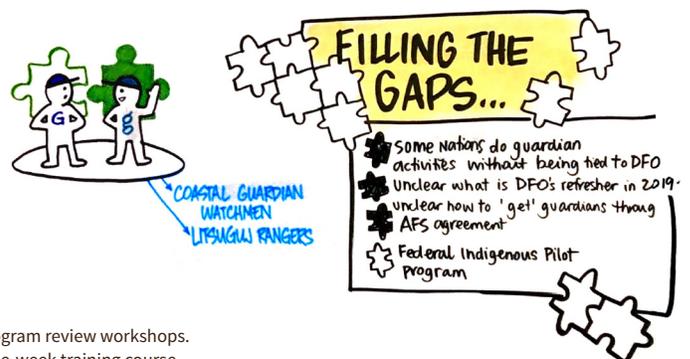
Fishery guardians are employed by, and report through, their Nation or Indigenous group, but their work plans are agreed upon annually by the Nation and Fisheries and Oceans Canada. In some places, guardians work closely with departmental fishery officers to conduct joint patrols or to share equipment or training. They may also work with conservation or police officers.

There are more than 140⁹ fishery guardians in approximately 35 communities across Atlantic Canada and Quebec at present and at least 60 are designated through the *Fisheries Act*. The vast majority are in New Brunswick and Newfoundland and Labrador (61 and 35, respectively), while 22 are in Nova Scotia and Prince Edward Island (14 and 8, respectively) and at least six are in Quebec. There were only 18 fishery guardians in British Columbia at the time of writing,¹⁰ but when the program began, there were 178. To fill this noticeable gap, Nations began their own guardian-type programs, such as the Coastal Guardian Watchmen program and the Fraser River Peacekeepers. These were not reviewed during Indigenous program review.

As noted in our discussion paper, the Aboriginal Fishery Guardian Program has never had clear objectives. For more than 20 years, participants have called for the program to support:

- full-time, meaningful employment with training standards and defined career paths
- coordination between, or a separation of, enforcement and technical roles
- the same enforcement authority as fishery officers in Nations that want this level of authority
- flexibility to enable cross-delegation of authorities to protect wildlife and other resources
- standards for supervisions, control and support

These topics were organized into three main discussion points during engagement sessions: program design and delivery, roles (including training standards and career progression), and interconnections with other programs and activities.



⁸Participant in the Aboriginal Fishery Guardian workshop in Halifax on November 7, 2018.

⁹This calculation is based on numbers contained in community profiles and as identified at program review workshops.

¹⁰In March 2019, 23 fishery guardian trainees in BC received a certificate after completing a three-week training course.

What we learned through program review is that the Aboriginal Fishery Guardian program continues to lack intent and is not meeting the objectives of Indigenous communities to:

- manage and protect fish and other resources in their territories
- ensure an enforcement presence in territorial waterways with recognized authority
- receive respect and recognition for the fishery guardian role and position
- be sufficiently funded to create and retain meaningful employment with career path options

The program also lacks national consistency and full backing of the Department's Conservation and Protection Directorate, despite the efforts and example of two regions to support robust fishery guardian programs.

Designing a functioning program

"This program requires more structure, clearly defined roles and responsibilities, and proper linkages between the community, fishery guardians, and other Indigenous programs and groups."¹¹

According to the Policy for the Management of Aboriginal Fishing, the role of a fishery guardian is to monitor and report on the community's harvest of fish for food, social and ceremonial purposes and to enforce the rules of the fishery according to the authority of their designation. Many fishery guardians have also assumed field technician duties: doing stock assessments, collecting data, protecting and restoring habitat, protecting species at risk, testing for water quality, monitoring cumulative effects, and doing environmental assessment-related work. This has enabled Nations to employ guardians for longer periods of time and to maximize the time and cost of having guardians observe fishing activity while undertaking other work.

The multi-tasked approach is consistent with the original role of the Department's fishery officers, which started out as general technicians. It is also not in conflict with the Aboriginal Fisheries Strategy Program. However, we recommend that the future Aboriginal Fishery Guardian Program be focussed on funding and supporting only the enforcement activities of designated fishery guardians and that all other technical activities, including monitoring and reporting on the catch, be funded through the Aboriginal Fisheries Strategy Program.

The lack of specificity regarding the Aboriginal Fishery Guardian Program; especially, program funding, is the major contributor to program inconsistency from one region to the next. By separating the two programs, Nations and the Department will be able to distinguish between the enforcement duties of a designated fishery guardian and the technical and scientific work of fishery monitors, stewards, technicians, guardians and other 'field' personnel – and the funding for each role. This does not in any way prevent designated fishery guardians from completing some or all of the technical work required by a Nation – or to manage and enforce other territorial resources. In fact, we highly encourage multi-tasking and cross-delegation of authority, as described below.

Administering a stand-alone fishery guardian program will enable better management and control over a cadre of designated fishery guardians – and a potential Indigenous fishery officer cadre. It will also ensure that funding intended for Indigenous fishery guardian enforcement activities is not absorbed into internal or unrelated departmental activities.

Reconciling resource management

"We can't do enforcement of fisheries rules, but we're told to act like we have the authority."¹²

Recognizing the jurisdiction and authority of fishery guardians is an important part of the culture change that needs to happen at the Department to reconcile resource management at the Nation-to-Nation level. This can start by taking the practical

¹¹Participant in the Aboriginal Fishery Guardian workshop in Halifax on November 7, 2018.

¹²Participant in the Aboriginal Fisheries Strategy Program workshop with Central Coast Nations on September 28, 2018.

step of recognizing the role and importance of fishery guardians in successful enforcement activities and incidents across the Department and to the public, including in media activities and Indigenous Fisheries 101 course modules. It can also be achieved by adhering to the department's designation and training obligations as outlined in the Policy for the Management of Aboriginal Fishing – and updating the policy to reflect the jurisdiction and authority of Nations over their territories and their fisheries and oceans laws.

We heard on numerous occasions that fishery guardians are well respected in their Nations and community members expect them to know the rules and have answers to their questions. Policy and program officials can use their consultations and engagements with Nations to provide regular updates to guardians on legislative and policy changes. The Department can also build on regional best practices to establish a national standard for the conduct of fishery officers and protocols for joint patrols, joint training, and joint boarding of Indigenous vessels.

A national command and control structure for Indigenous fishery guardians should be established and maintained separately from the Department to provide clarity that the guardians work for Nations. The oversight body of this structure could enter into a co-management agreement with the Department to share enforcement data, collaborate in protocols for joint patrols and joint training, as well as restorative justice initiatives. It could also enter into inter-tribal or watershed agreements to manage shared fishery guardians, if desired by Nations.

Ensuring a presence on the water

During the review, we learned that fishery guardians are filling the enforcement gap that emerged with the cost of equipping fishery officers and the Department's shift to a response-based conservation and protection business model. In the absence of officers, many fishery guardians patrol the waterways in their territories and they are capable and willing to charge their own people and any violator of the *Fisheries Act* or their fishing laws. But they are often frustrated by the lack of fishery officer follow-up to their restricted 'observe, record, and report' authority.

As we recommended in phase one, the Department needs to recognize where Nations are better suited to perform technical services, including enforcement services, in remote coastal areas because they live along these waterways. This does not mean

that the Department should offload enforcement duties without offering training and equipment or funding programs that support adequate wages and benefits. But it does mean reflecting on how the fishery guardians in Indigenous communities along all of Canada's coastlines could reduce the Department's difficulties paying for, and retaining, adequate fishery officers in remote areas.

At the same time, the Chiefs and Councils of Nations must recognize that to properly exercise jurisdiction and authority, a fishery guardian (or officer) must be paid a salary comparable to what is offered by federal and provincial governments – or guardians may choose other employment to better support their families. Designating fishery guardians to have the jurisdictional authority to enforce Indigenous laws and, possibly, other federal or provincial/territorial legislations will also need the support of Chiefs and Councils, and Hereditary Chiefs.¹³

Increasing funding to create and retain capacity

Shifting to a shared capacity model for Indigenous enforcement services to protect fish, habitat and aquatic resources in territorial waterways must be backed with sufficient program funding and/or funding through partnerships or procurement methods. Contracts for non-Indigenous fishery guardians are already done in one region and these could be run in all the others.

Trying to administer the Aboriginal Fishery Guardian Program without separate funding has not been successful. Some Nations are unable to offer competitive wages and benefits to their fishery guardians or have had to reduce the number of guardians that they can employ or their work hours. Others use own source revenues to train, equip and pay their guardians – and some guardians even use their own trucks, boats and equipment to do their jobs.

We concluded that lack of funding sets the Aboriginal Fishery Guardian Program up for failure. If a Nation cannot pay proper wages or offer suitable working hours and conditions to fishery guardians, they will not retain these guardians. Nations will also have an ongoing need to spend program funds to train new guardians, rather than directing these funds to enforcement capacity building. If funding is not directed to enforcement, experience and knowledge is not built and species are not protected. Nations also have trouble updating equipment and gear, meeting changing labour code requirements, and keeping certifications up to date.

¹³Institute Board of Directors are committed to work inside national and regional political organizations to gain the support of Chiefs and Councils for this recommendation.

The success of the Aboriginal Fishery Guardian Program needs to be measured by achieving Indigenous-set goals and objectives. This includes building and retaining enforcement capacity within Nations by enabling fishery guardians to secure meaningful employment by following career path options to enforce and protect other resources and lands in their territories.

Our recommendations are designed to help the Department redirect the program to meet these expectations. This includes our recommendation to enable cross-designation and career options.

Enabling meaningful careers through cross-designations and career progressions

Linking fishery guardians to other resource management activities has already helped many Nations offer more full-time, year-round employment opportunities. Fishery guardians already typically undertake multiple resource management activities in their communities and are expected to know the answers to questions from community members on wildlife, not just fish.

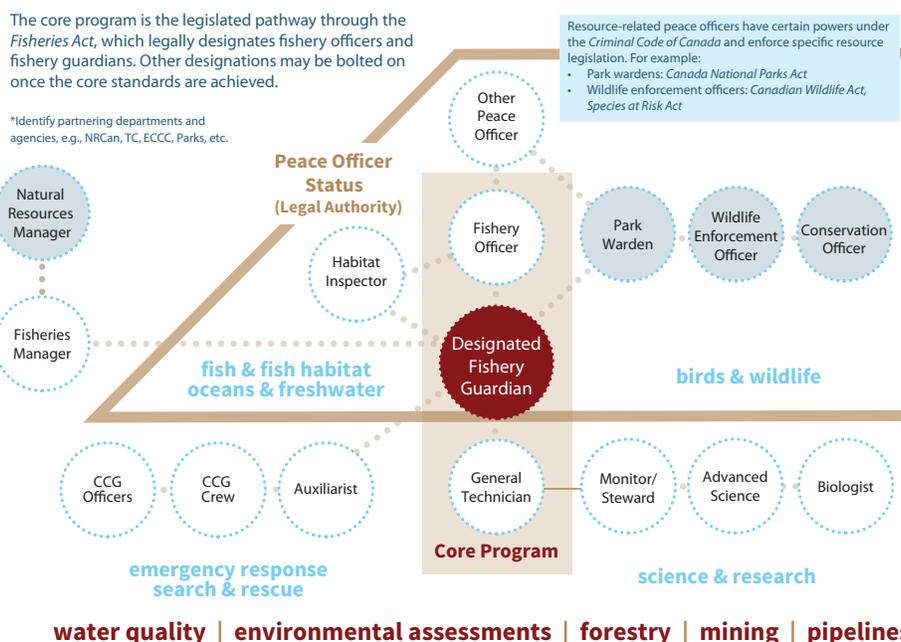
There is also wide-spread Indigenous support for multiple levels of governments to enable fishery guardians to gain the authority to manage and protect other resources in their territories, such as wildlife, habitat, migratory birds, interior waterways and lands – and

to be able to respond to emergency situations and environmental issues. Nations especially want younger members to see the opportunity for a meaningful career if they choose to become a fishery guardian or another resource management officer.

The key to expanding the role of a fishery guardian into other enforcement-based resource management positions is to design a core training curriculum to cover basic courses and those aligned to specific career path choices – including at different points of designation, such as a fishery guardian, fishery officer, habitat inspector, and other careers with peace officer status.

Fishery guardian career path options could achieve another purpose; namely, to outline the multiple ways that a fishery guardian may gain peace officer status for jurisdiction and authority (including through provinces and territories) should a demonstrated commitment by Conservation and Protection to support this program not be realized. This option would still require the support of Chiefs and Councils, and Hereditary Chiefs, but it could be achieved.

Fishery Guardian Program – Career Progression Paths



Valuing Indigenous enforcement

The value of Indigenous enforcement activities has yet to be realized by Conservation and Protection at the national level, despite the efforts and example of two regions¹⁴ to support robust fishery guardian programs. We found that this has been an issue since the program began.

During our review, a number of fishery guardians and fishery officers from both coasts shared their experiences participating in the program at the outset and they consistently said the following:

- In 1992, the program was promoted as an **opportunity to develop Aboriginal fishery officers** with the full authority to enforce the *Fisheries Act*, including with side arms, using the same phased training curricula given to departmental fishery officers
- Between 1992 and 1995, **most fishery guardians were not offered the final phase of training required** to be designated as a fishery officer
- **Only a few who received the final level of training actually secured employment** as a fishery officer and some were stationed more than an hours' drive away from their Nation
- **Some completed “final phase” equivalent training three times** because training offered by other training facilities was not recognized by the Department
- Some who chose to remain fishery guardians found there was **insufficient funding in the Aboriginal Fisheries**

Strategy Program to support a fishery guardian program in their Nation

We also often heard that the program just “seemed to just go away.” Moreover, we learned that fishery officers in the Pacific openly refused to support the program because it “took jobs away from the public service.”

We could find no evidence that Indigenous fishery officers were an objective of the Policy for the Management of Aboriginal Fishing or the Aboriginal Fishery Guardian Program. Rather, the policy envisions enforcement protocols to ensure designated fishery guardian activities are fully integrated with departmental fishery officers – and the program does not fund fishery officers.

We concluded that support for the Aboriginal Fishery Guardian Program has been largely disingenuous. This is still demonstrated today by the lack of training offered to fishery guardians on a regular basis and running short refresher courses without covering the designation training required for a guardian to have jurisdictional authority.

Trust is essential and it reflects a Nation-to-Nation relationship. It is time for Conservation and Protection to fully embrace the value of the Aboriginal Fishery Guardian Program and any Indigenous enforcement-based resource management officers or fishery officer that may be developed by communities. These persons should be viewed as co-management partners of the Department in the long-term protection and conservation of fish, habitat and aquatic resources.

Vision of Indigenous Resource Co-managers

Indigenous Definitions of Success

Benefitting Resources and Communities

Jurisdiction and authority

Respect and recognition

Presence on the water

Healthy fish stocks

Meaningful employment

Goals

The jurisdiction and authority of designated Indigenous fishery guardians to manage, conserve and protect the resources in their traditional territories are recognized

The Aboriginal Fishery Guardian program is adequately funded and widely available

¹⁴Newfoundland and Labrador Region and Gulf Region.

Indigenous Program Review Panel Recommendations

Take practical steps to help communities build and sustain enforcement capacity

1. Realign this program to achieve Indigenous-set objectives

- Separate the Aboriginal Fishery Guardian Program from the Aboriginal Fisheries Strategy Program, without preventing designated fishery guardians from doing technical activities
- Pursue new ways to fund the program and to increase the number of designated fishery guardians in more communities
- Set the baseline capacity level for Nations to achieve as a measurement of success and regularly measure employment quality and retention to ensure program progress
- Enable Nations that are ready to (or already) perform third-party enforcement contracts, including by adopting a department-wide Indigenous procurement policy and running enforcement procurement opportunities in all regions
- Use regular engagements to update guardians on legislation, policy and program changes covering practical information such as what the changes mean for their work

2. Maximize departmental and other federal government collaborations

- Bring other funding and enforcement opportunities to the attention of Nations, such as Indigenous auxiliary pilot projects or habitat inspector designation – and find ways to facilitate applications either by building capacity or by linking to current agreements
- Share the fishery guardian career path infographic with potential partners, such as those involved in the Oceans Protection Plan or aquaculture monitoring, to align investments

3. Support capacity-building, retention and succession planning

- Partner with Employment and Social Development Canada to establish a long-term source of funding for training
- Hold joint departmental-Indigenous enforcement training opportunities
- Document all enforcement-related training courses and institutions, map training needs more broadly, and build on the initially established curricula to nationally standardize training for both Indigenous and non-Indigenous designated fishery guardians
- Ensure the renewed Fishery Guardian Program offers competitive wages to guardians¹⁵
- Ensure a nationally consistent recruitment, curriculum, and training program is adopted by both the Department and Nations
- Use regular departmental consultations and engagements to update guardians on legislative and policy changes
- Train guardians to use international monitoring, control and surveillance practises
- Enable fishery guardians to share cross-designation best practices and identify areas of potential collaboration, including with fishery officers and other enforcement personnel, as well as with Coastal Guardian Watchmen and Ranger programs
- Pursue funding the development of a suite of tools and applied technologies to advance the work of designated fishery guardians



¹⁵Institute Board of Directors are committed to work inside national and regional political organizations to gain the support of Chiefs and Councils for this recommendation, but wages must reflect those in community human resource policies.

Ignite a culture change that reflects truth and reconciliation

1. Invest in relationship-building

- Recognize the role of fishery guardians in successful enforcement activities and incidents in media products and through an annual Indigenous Fishery Guardian award
- Ensure fishery officers take the co-developed Indigenous Fisheries 101 training, including Indigenous point-of-view, two-eyed seeing course modules
- Establish a joint Indigenous–departmental management committee to oversee command and control structures and the recruitment, curriculum, and training program
- Establish a national standard / code of conduct for departmental fishery officers as identified in the current policy and based on the best practice examples of officers in the Newfoundland and Labrador and Gulf regions
- Designate fishery guardians as habitat inspectors, if desired by Nations, and identify potential designation authorities in other departmental legislation or regulations

2. Recognize the value of enforcement collaboration to better protect and conserve resources

- Be accountable for changing departmental practises, programs and policies (in that order) to demonstrate the priority rights of Nations to fish before commercial and recreational users, including internal policies directing the responsibilities of Conservation and Protection officials and fishery officers
- Put together a federal–provincial–territorial–Indigenous team at the Deputy Minister and Ministerial levels through the Canadian Council of Fisheries and Aquaculture Ministers to resolve all jurisdictional issues preventing or impeding cross-designations
- Recognize that Indigenous fishery guardians and officers are better placed to perform enforcement services in their territories
- Develop and implement options to offset liability insurance costs to all Nations, such as through memoranda of understanding

Reconcile resource management by recognizing Indigenous jurisdiction and authority

1. Continue to build Indigenous co-management capacity within this program

- Adopt nationally consistent designation and redesignation processes and schedules
- Enable the training and designation of Indigenous fishery officers, if this is the desired career pathway of fishery guardians
- Work with co-delivery partners to establish an Indigenous command and control structure for fishery guardians and to identify options to form an Indigenous fishery guardian or officer cadre across watersheds and/or regions

2. Tackle the difficult issues

- Make Conservation and Protection accountable for co-managing fish and fish habitat with Indigenous Nations – and ensure oversight at the Deputy Minister level
- Strengthen the enforcement of all federally regulated recreational fisheries to ensure compliance with the rules of their licences and more oversight of sportfishery activities
- Update the Policy for the Management of Aboriginal Fishing to reflect Indigenous fisheries laws, the jurisdiction and authority of Nations over their territories, and a national standard for training and joint patrols

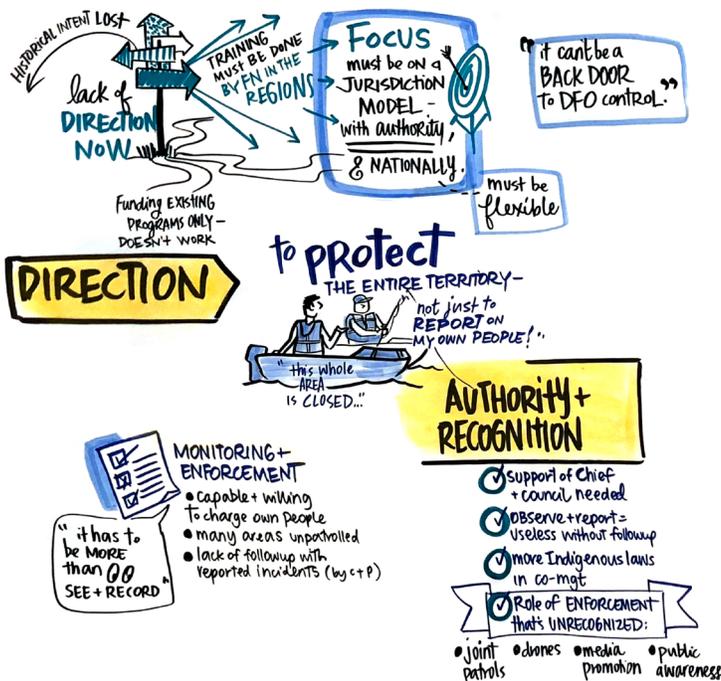
PROGRAM TRAJECTORY



The Aboriginal Fishery Guardian Program should be an enforcement capacity-building program by supporting recruitment activities (e.g., qualification development and recruitment processes) and capacity-building priorities (e.g., training, designation, and career progression). The costs of training should be offset through the recommended long-term training collaboration.

The program should also fund authority-related enforcement and co-management activities (e.g., joint investigations, advanced training, cross-designation opportunities). Other costs should be offset by maximizing other departmental enforcement programs, such as for habitat inspection and environmental assessments, along with other resource enforcement programs led by other federal departments and agencies, and provincial and territorial levels of government.

Mature enforcement programs, including those which cover multiple resources (e.g., wildlife and other natural resources) should also have access to funding for advanced co-management activities, such as fishery officer training and/or watershed cadre development.



Lesson Learned

Fisheries and Oceans Canada missed some opportunities to have strong fishery guardian and officer leaders. A number of guardians who could navigate government systems ended up becoming senior-level enforcement officials in police departments, including one who is part of an international task force for catching online predators.

Resources

Workshop Materials and *What We Heard* Reports

<http://indigenousfisheries.ca/en/engagement-materials/>

Discussion Papers

<http://indigenousfisheries.ca/en/discussion-materials/>

Participants in Engagement Sessions

Aboriginal Fisheries Strategy Program

- Abegweit First Nation
- Ahousaht First Nation
- Akaitcho Dene First Nations
- A-Tlegay Fisheries Society
- Boothroyd Indian Band
- Boston Bar First Nation
- Carcross/Tagish First Nation
- Carrier Sekani Tribal Council
- Champagne and Aishihik First Nations
- Confederacy of Mainland Mi'kmaq
- Council of Haida Nation
- Cowichan Tribes
- Deh Gáh Got'îê First Nation
- Dehcho First Nations
- Deninu K'ue First Nation
- Ditidaht First Nation
- Da'naxda'xw Awaetlatla and Mamalilikulla Qwe'Qwa'Sot'Em' First Nations (DMT Fisheries Society)
- Eel River Bar First Nation
- Ehattesaht First Nation
- Ekuanitshit First Nation
- Elsipogtog First Nation
- Esgenoôpetitj First Nation
- Eskasoni First Nation
- Esk'etemc First Nation
- First Nation of Na-Cho Nyäk Dun
- Fraser Valley Aboriginal Fisheries Society
- Fort Providence Resource Management Board
- Gitanyow Fisheries Authority
- Gitga'at First Nation
- Gitxaala Nation
- Gitxsan Watershed Authority
- Glooscap First Nation
- Gwa'sala-Nakwaxda'xw Nations
- Haisla Nation
- Heiltsuk First Nation
- Hesquiaht First Nation
- Homalco First Nation
- Hupacasath First Nation
- Innu Nation

Aboriginal Fishery Guardian Program

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- Fort Providence Resource Management Board
- Gitxsan Watershed Authority
- Glooscap First Nation
- Haisla Nation
- Heiltsuk First Nation
- Hesquiaht First Nation
- Homalco First Nation
- Hupacasath First Nation
- Innu Nation
- Innu Essipit First Nation
- Kativik Regional Government
- Katlodeeche First Nation
- Ka:'yu:'k't'h'/Che:k:tles7et'h' First Nation
- Kingsclear First Nation
- Kitsumkalum Nation
- Klahoose First Nation
- Kluane First Nation
- K'ómoks First Nation
- Kootenay First Nation

- Innu Essipit First Nation
- Kativik Regional Government
- Katlodeeche First Nation
- Katzie First Nation
- Kispiox Band Council
- Kingsclear First Nation
- Kitselas First Nation
- Kitsumkalum Nation
- Klahoose First Nation
- Kluane First Nation
- Kwakiutl First Nation
- Kwakiutl District Council, Tlatlasikwala Nation
- Kwanlin Dun First Nation
- Lake Babine Nation
- Lax Kw'alaams Band
- Lennox Island First Nation
- Leq'à:mel First Nation
- LGL on behalf of Beecher Bay, Malahat, Songhees and
- Nanoose First Nations
- Lhtako Dené Nation
- Lillooet Tribal Council
- Lil'wat Nation
- Listuguj Mi'gmaq Government
- Lower Fraser Fisheries Alliance
- Lytton First Nation
- Maliseet Nation Conservation Council
- Maliseet of Viger First Nation
- Maritime Aboriginal People
- Máthexwi First Nation
- Membertou First Nation
- Metlakatla First Nation
- Miawpukek First Nation
- MicMacs of Gesgapegiag
- Mi'gmaq Maliseet Aboriginal Fisheries Management Association
- Mowachaht / Muchalaht First Nation
- Nak'azdli Whut'en
- 'Namgis First Nation
- Natashquan Innu Band
- Native Council of Nova Scotia
- Nation MicMac Gespeg
- Nazko First Nation
- Nicola Tribal Association
- Nicomen Indian Band
- Nlaka'pamux Nation Tribal Council
- Northwest Territories Métis Nation
- NunatuKavut Community Council
- Nuxalk Nation
- Okanagan Nation Alliance
- Oromocto First Nation
- Pakua Shipu Innu community
- Paqunkek First Nation
- Pessamit First Nation
- Pictou Landing First Nation
- Potlotek First Nation
- Qalipu First Nation
- Quatsino First Nation
- Saik'uz First Nation
- Sipekne'katik First Nation
- Snuneymuxw First Nation
- Spuzzum First Nation
- St. Mary's First Nation
- Stz'uminus First Nation
- Sumas First Nation
- Ta'an Kwäch'än Council
- Taku River Tlingit First Nation
- Tahltan Fisheries
- Te'mexw Treaty Association
- Teslin Tlingit Council
- Tobique First Nation
- Tr'ondëk Hwëch'in First Nation

- Pakua Shipu Innu community
- Pessamit First Nation
- Pictou Landing First Nation
- Potlotek First Nation
- Qalipu First Nation
- Qualicum First Nation
- Quatsino First Nation
- Saik'uz First Nation
- Seabird Island Band
- Sechelt Nation
- Secwepemc Fisheries Commission
- Sipekne'katik First Nation
- Skwah First Nation
- Snuneymuxw First Nation
- Spuzzum First Nation
- St. Mary's First Nation
- Stellat'en First Nation
- Sts'ailes First Nation
- Stz'uminus First Nation
- Ta'an Kwäch'än Council
- Takla Lake First Nation
- Taku River Tlingit First Nation
- Tahltan Fisheries
- Te'mexw Treaty Association
- Teslin Tlingit Council
- Tla-o-qui-aht First Nation
- Tl'azt'en Nation
- Tobique First Nation
- Tr'ondëk Hwëch'in First Nation
- Tseshaht First Nation
- Tšilhqot'in National Government
- Ts'il Kaz Koh First Nation
- T'Sou-ke First Nation
- Uashat mak Mani – Utenam First Nation
- Unama'ki Institute of Natural Resources
- Unamen Shipu Innu First Nation
- Uu-a-thluk
- Wagmatook First Nation
- Waycobah First Nation
- West Point First Nation
- Wet'suwet'en Nation
- Yale First Nation
- Yellowknives Dene First Nation
- Tsawwassen First Nation
- Tseshaht First Nation
- Ts'il Kaz Koh First Nation
- Uashat mak Mani – Utenam First Nation
- Unama'ki Institute of Natural Resources
- Unamen Shipu Innu First Nation
- Wagmatook First Nation
- Waycobah First Nation
- West Point First Nation
- Wet'suwet'en Nation
- Woodstock First Nation
- Yale First Nation
- Yellowknives Dene First Nation



Outreach Statistics

April 27, 2018 to January 29, 2019

Discussion Materials:

- Guide to Indigenous Program Review
- History of DFO's Indigenous Programs
- Desktop Review Bibliography
- Aboriginal Fisheries Strategy Program
- Aboriginal Fishery Guardian Program
- Aboriginal Aquatic Resource and Oceans Management Program
- Atlantic Integrated Commercial Fisheries Initiative
- Pacific Integrated Commercial Fisheries Initiative
- Northern Integrated Commercial Fisheries Initiative
- Access to Capital

Thorough Review:

- 166 evaluations, audits, reviews and other reports over past 25 years

Full Transparency:

- Engagement schedule, agendas and backgrounders web-posted

Sharing Input:

- 34 *What We Heard* reports
- 72 #YourMessage Facebook/Twitter posts
- 13 *Ignite a Culture Change* translations

Workshops and Interactive Sessions:

Aboriginal Fisheries Strategy Program

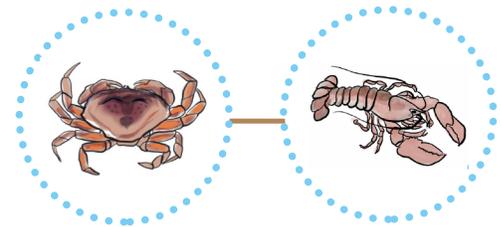
- Twenty-one workshops, two plenaries and two interviews
- 125 agreements (85 in BC with 162 First Nations)
- Participants: 237 (124 communities, 18 groups)

Aboriginal Fishery Guardian Program

- Eleven workshops, two plenaries and one interview
- More than 140 guardians in 35 communities
- Participants: 197 (86 communities, 42 designated guardians)

Northern Integrated Commercial Fisheries Initiative

- Nine workshops/interactive sessions
- Ten presentations/interactive sessions in phase one
- Participants (both phases): 136 (48 communities, six groups)



Two campaigns:

**Your
message to
government**

Indigenous communities across Canada have things to say about the importance of fish, fish habitat and other aquatic resources to their lives and livelihoods – and their culture and traditions

Began June 18, 2018

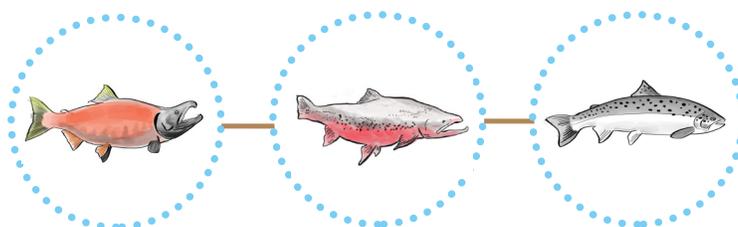
Be part of the change...



How do you express this message in your language?

Improving Indigenous fisheries and oceans programs requires a culture change at Fisheries and Oceans Canada

Began May 22, 2018



Discussion Paper Submissions:

Aboriginal Fisheries Strategy Program

- Four First Nations/Tribal Councils

Aboriginal Fishery Guardian Program

- Three First Nations/Tribal Councils and three organizations



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