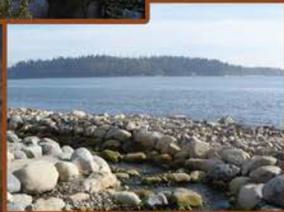
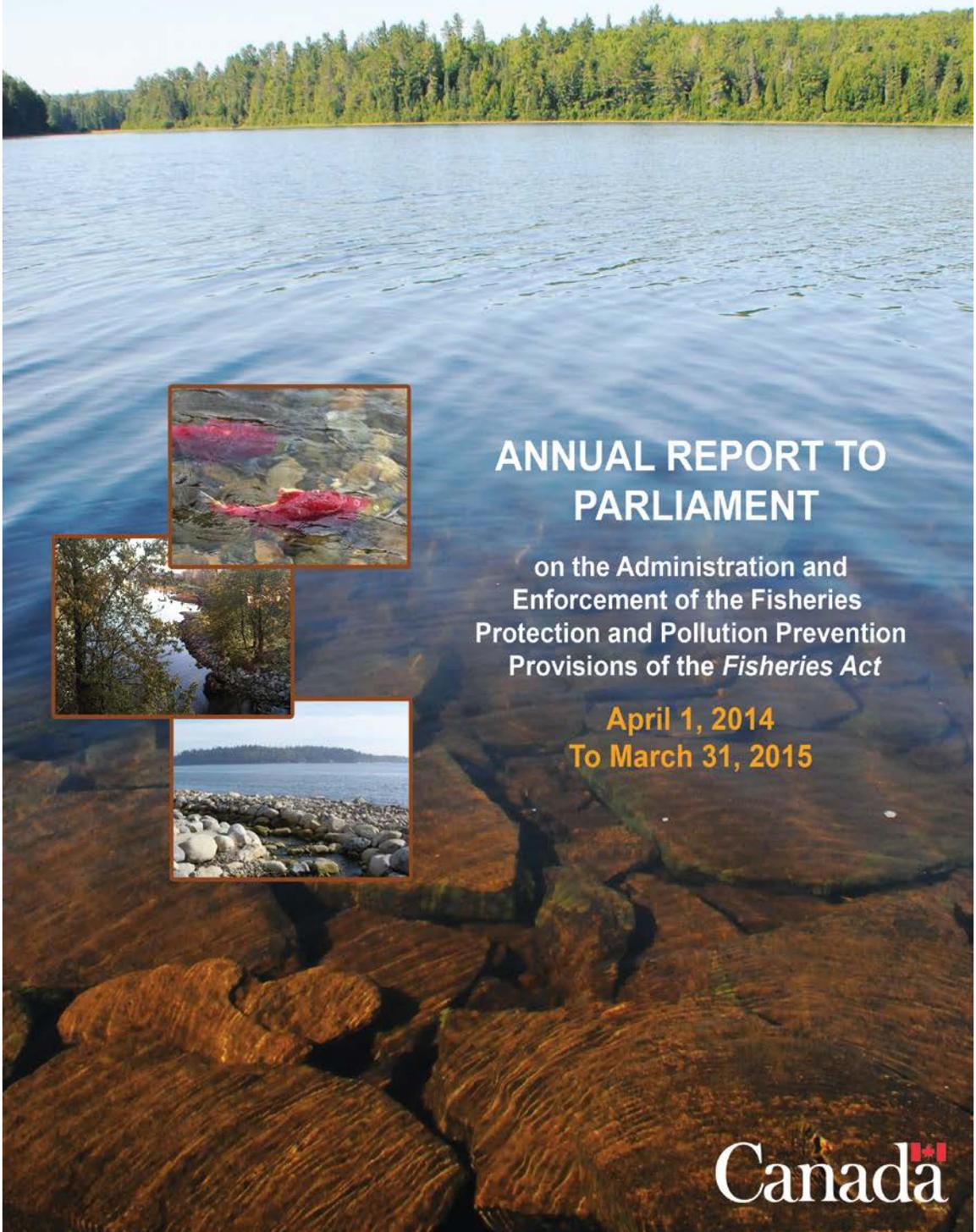




Government
of Canada

Gouvernement
du Canada



ANNUAL REPORT TO PARLIAMENT

on the Administration and
Enforcement of the Fisheries
Protection and Pollution Prevention
Provisions of the *Fisheries Act*

April 1, 2014
To March 31, 2015

Canada 

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1.0 Overview

1.1 Introduction

Canada's fisheries are a shared resource that provides great social, economic and environmental benefits but they are also finite and vulnerable. The sustainability and productivity of fisheries today are threatened by multiple and interacting stressors and must be protected and managed to maintain these benefits for present and future generations.

Many partners and stakeholders, including federal departments, provincial and territorial governments, Aboriginal peoples, commercial, recreational fishing and angling groups, conservation organizations and industry groups, share a common interest in the conservation and protection of fisheries.

Fisheries and Oceans Canada (DFO) and Environment and Climate Change Canada (ECCC) staff are committed to working together and engaging these groups in ensuring compliance with the fisheries protection and pollution prevention provisions of the *Fisheries Act*.

This report summarizes the activities of the Minister of Fisheries, Oceans and the Canadian Coast Guard and the Minister of Environment and Climate Change Canada in the administration and enforcement of the fisheries protection and pollution prevention provisions of the *Fisheries Act*. It addresses changes that were made to support amendments to the Act, and highlights ongoing activities and scientific research, as well as collaborative efforts with other federal, provincial and territorial partners during the 2014-2015 fiscal year.

1.2 Fisheries Act

The *Fisheries Act* provides the Minister of Fisheries, Oceans and the Canadian Coast Guard and the Minister of Environment and Climate Change Canada with powers and authorities to conserve and protect fish and fish habitat.

The *Fisheries Act* contains two key provisions on conservation and protection of fish and fish habitat essential to sustaining freshwater and marine fish species: 1) 'fisheries protection provisions' and 2) 'pollution prevention provisions'.

Fisheries and Oceans Canada administers sections 20, 21, 35 and parts of 37, 38, 40 and 43 of the *Fisheries Act* that are collectively considered the 'fisheries protection provisions' and with section 35 being the main habitat protection provision to prohibit

against carrying out projects causing serious harm to fish and the powers related to fish passage and flow.

Environment and Climate Change Canada is primarily responsible for administration of the 'pollution prevention provisions' of the *Fisheries Act* including section 36 which prohibits the deposit of deleterious substances to water frequented by fish, unless the deposit is authorized by regulation under the Act or other federal legislation. The administration of the pollution prevention provisions includes the use of the following sections 4.1(1), (3) and (4), 4.2(4), 4.3, 4.4, 5(1) and (2), paragraph 37(1)(b), subsection 37(1.1) and (2), paragraphs 37(3)(a) and (b), subsections 37(4) and (5), subsections 38(1) and (2), paragraphs 40(3)(a.1) and (d), subsection 42.1(1), subsections 71(2) to (4), subsection 71.1(1), section 73, subsection 75(3), section 76, paragraphs 79.2(d) and (h), subsection 79.4(2) and (3), 79.7(4)(b), subsections 89(1) to (3) and section 91 of the Act. To solidify this role, on March 12, 2014 an *Order Designating the Minister of the Environment as the Minister Responsible for the Administration and Enforcement of Subsections 36(3) to (6) of the Fisheries Act* (referred to as the Designation Order), established the Minister of Environment and Climate Change Canada legally responsible for the administration and enforcement of subsections 36(3) to (6) of the *Fisheries Act*. This includes for all purposes and subject matters with the exception of aquaculture, and aquatic invasive species or aquatic species that constitute a pest to fisheries, which remain the responsibility of DFO.

This is the first Annual Report in which both Ministers have the obligation to report on behalf of their respective provisions under the *Fisheries Act*.

1.3 Administration of the *Fisheries Act*

The 2014-2015 fiscal year is the first full year of implementing the amendments of the *Fisheries Act (2013)* including ongoing responsibilities of both Ministers for the pollution prevention provisions as assigned to them under the Designation Order.

Following amendments to the *Fisheries Act*, DFO also transformed its approach to the regulatory review process. Standardized guidance materials and regulated timelines were implemented.

For Environment and Climate Change Canada, provisions under section 36 of the *Fisheries Act* remained unchanged and the "Designation Order" did not affect operational requirements but served to codify the role that the Minister of Environment and Climate Change had previously under a Memorandum of Understanding (MOU), through a legal mechanism by which the Minister is now accountable to Parliament.

1.4 Fisheries and Oceans Canada Activities

Fisheries and Oceans Canada is the federal lead for managing Canada's fisheries, its oceans and freshwater resources, and safeguarding its waters.

Activities support economic growth in the marine and fisheries sectors, innovation through research in areas such as aquaculture and biotechnology, and promoting healthy and sustainable aquatic ecosystems through conservation and sound science.

Fisheries Protection Program (FPP)

The Fisheries Protection Program (FPP) seeks to maintain the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries and is the Departmental lead for the administration of the 'fisheries protection provisions' of the *Fisheries Act*.

To support compliance under the Act, the FPP develops policies, guidelines, standards and partnerships including the *Fisheries Protection Policy Statement* and the *Fisheries Productivity Investment Policy*. As part of compliance promotion, the Projects Near Water website¹ provides access to best practices for avoiding harm to fish and fish habitat and assists regulated parties to understand their legal responsibilities. (See Section 2.0 Fisheries and Oceans Canada subsection 2.1.5 - Notifications and Use of Regulatory Tools for more details).

The FPP is responsible for the review of proposed works, undertakings and activities that may affect fish and fish habitat, and ensure compliance with the *Fisheries Act* and the *Species at Risk Act*. The Program issues authorizations and permits, when appropriate, with conditions for offsetting, monitoring, and reporting. The FPP may engage partners and stakeholders on regulatory decisions under the *Fisheries Act* or the *Species at Risk Act*. If those regulatory decisions have the potential to adversely affect Aboriginal or Treaty rights, the FPP consults with potentially affected Indigenous peoples, and as appropriate accommodates, i.e., applies measures to minimize or mitigate adverse impacts on Aboriginal or Treaty Rights.

The FPP also administers certain provisions of the *Species at Risk Act*, and is responsible for specific legislative duties in relation to federal environmental assessment regimes such as the *Canadian Environmental Assessment Act, 2012*, and regimes in the territories and under land claims agreements.

¹Projects Near Water website: <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>

- Detailed FPP activities are further elaborated in Section 2.1 Fisheries Protection Program (FPP)

Aquatic Invasive Species

Aquatic invasive species issues are addressed through federal/provincial/territorial collaboration and enabled by the new *Aquatic Invasive Species Regulations* made under the *Fisheries Act*. These regulations establish which species are to be controlled and provide a suite of regulatory tools, such as direction powers aimed at preventing new introductions and managing the spread of aquatic invasive species in Canada. These regulations also provide the authority to authorize the deposit of deleterious substances for the purpose of controlling or eradicating aquatic invasive species.

- Other activities related to Aquatic Invasive Species are further elaborated in Section 2.1.6 Administration of the Pollution Protection Provisions of the *Fisheries Act* by Fisheries and Oceans Canada

Recreational Fisheries Conservation Partnerships Program (RFCPP)

In addition to its regulatory regime to help protect fisheries, DFO also supports a non-regulatory partnership approach to protecting and conserving Canada's fisheries. Specifically, the Recreational Fisheries Conservation Partnerships Program (RFCPP) supports multi-partner projects at the local level aimed at restoring recreational fisheries habitat in order to enhance the productivity of Canada's recreational fisheries. Through contribution funding (2013-2019 \$53M), the RFCPP enables proponents to manage and execute projects that restore compromised and/or threatened recreational fisheries habitat.

- Information on a RFCPP success story is further elaborated in Section 2.4 Recreational Fisheries Conservation Partnerships Program (RFCPP)

Federal Contaminated Sites Action Plan

With the goal of protecting fish and fish habitat to ensure sustainable aquatic ecosystems, the FPP provides scientific expertise to federal custodial departments to foster effective and cost-efficient contaminated site management.

Aquaculture Management

The *Fisheries Act* sets out authorities in sections 35 and 36, regarding fisheries protection and pollution prevention. The environmental management objective for

aquaculture is to ensure that fish and fish habitat are protected using mitigation, monitoring and compliance approaches that are efficient, effective and appropriate with respect to the potential risk to the environment. These approaches are consistent with fisheries management approaches.

- Other activities related to Aquaculture Management are further elaborated in Section 2.1.6 Administration of the Pollution Protection Provisions of the *Fisheries Act* by Fisheries and Oceans Canada

Conservation and Protection Directorate (C&P)

Enforcement of the fisheries protection provisions is carried out by the Conservation and Protection Directorate (C&P). Fishery Officers across Canada conduct regular patrols on the land, on the sea and in the air to monitor compliance with legislation and regulations regarding the conservation of fisheries resources and fisheries habitat. Enforcement decisions are taken in situations of non-compliance.

- Detailed C&P activities are further elaborated in Section 2.2 Conservation and Protection Directorate (C&P)

1.5 Environment and Climate Change Canada Activities

Environment and Climate Change Canada administers the pollution prevention provisions through several activities including compliance promotion, regulations, water quality monitoring, enforcement, environmental emergencies program and agreements with provinces and territories. These activities may be summarized as follows:

Compliance Promotion

Compliance promotion relates to the planned activities that increase the awareness and understanding of regulatees with respect to the *Fisheries Act* and related regulations. The approach to compliance promotion is collaborative and coordinated across the department's programs, regions and with enforcement and is achieved using various tools and approaches such as website postings, letters, emails, brochures, site visits, responses to inquiries and information sessions.

- Detailed compliance activities are further elaborated in Section 3.2 Compliance

Regulations

Environment and Climate Change Canada administers a number of regulations under section 36(5) of the *Fisheries Act*, including the *Pulp and Paper Effluent Regulations* (PPER), *Metal Mining Effluent Regulations* (MMER), and the *Wastewater Systems Effluent Regulations* (WSER). ECCC also performed compliance promotion and enforced existing regulations, including the Environmental Effects Monitoring (EEM) requirements for the pulp and paper sector and for metal mines. In addition, Environment and Climate Change Canada administers The *Deposit Out of the Normal Course of Events Notification Regulations*, which apply to verbal notification requirements for unauthorized release of deleterious substances for the purpose of subsection 38(5) of the *Fisheries Act*.

- Detailed regulatory activities are further elaborated in Section 3.3 Regulations

Water Quality Monitoring

Under the Canadian Shellfish Sanitation Program (CSSP), Environment and Climate Change Canada makes growing area classification recommendations to Fisheries and Oceans Canada for the harvesting of species such as clams, oysters, mussels and scallops. Based on the recommendations from Environment and Climate Change Canada and the Canadian Food Inspection Agency, Fisheries and Oceans Canada will, through its authority under the *Management of Contaminated Fisheries Regulations*, implement closures and openings of shellfish harvesting areas.

- Information on water quality monitoring is further elaborated in Section 3.4 Water Quality Monitoring

Enforcement

Environment and Climate Change Canada enforcement activities under the *Fisheries Act* include inspections, investigations, and enforcement measures including prosecutions. Enforcement measures that may be taken to address alleged violations of the *Fisheries Act* include warnings, directions, Ministerial orders, injunctions, and prosecutions.

- Detailed enforcement activities are further elaborated in Section 3.5 Enforcement Activities and Measures

Environmental Emergencies

Environment and Climate Change Canada's Environmental Emergencies Program (EEP) protects Canadians and their environment from the effects of environmental

emergencies through the provision of science-based expert advice and the development and the administration of regulations under both the *Fisheries Act* and *Canadian Environmental Protection Act, 1999* (CEPA 1999). In the event of a significant pollution incident, the program oversees that reasonable response actions are undertaken by the responsible party to counteract, mitigate or remedy any adverse effects of an unauthorized deposit of deleterious substances, as per subsection 38(6) of the *Fisheries Act*.

- Information on the EEP is further elaborated in Section 3.6 Environmental Emergencies Program

Agreements with Provinces and Territories

The *Fisheries Act* allows the Ministers of ECCC and DFO to enter into agreements to facilitate cooperation, enhance communication and streamline administration in order to further the purposes of the Act. An equivalency agreement may also be established to reduce regulatory duplication in cases where a provision under the law of the province is equivalent in effect to a provision of regulations made under the *Fisheries Act*. Under an administrative agreement, both federal and provincial regulatory requirements remain in force but provincial officials administer the federal regulations in that province on behalf of Environment and Climate Change Canada. Under equivalency, the Governor in Council orders that the federal regulations do not apply for regulatees that are subject to a provincial or territorial regulatory regime that is equivalent in effect to the federal regulations.

- Detailed activities are further elaborated in Section 3.7 Agreements with Provinces and Territories

2.0 Fisheries and Oceans Canada

- **Administration of the fisheries protection provisions and the pollution protection provisions as they relate to aquaculture, aquatic invasive species and aquatic species that constitute a pest to fisheries, of the *Fisheries Act***

The following section provides a detailed summary of legislative reporting requirements under the *Fisheries Act*. This includes various Program roles and responsibilities as well as the activities undertaken in 2014-2015 including policy development to support the administration of the fisheries protection provisions and the pollution protection provisions as they relate to aquaculture, aquatic invasive species and aquatic species that constitute a pest to fisheries.

The fisheries protection provisions are considered sections 20, 21, 35 and parts of sections 6, 6.1, 37, 38, 40 and 43 of the *Fisheries Act* and include:

- Powers for the Minister of Fisheries, Oceans and the Canadian Coast Guard to ensure the free passage of fish and to prevent harm to fish (e.g., request that obstructions be removed, fish guards be installed, fishways be constructed, minimal flows of water be maintained) (sections 20 and 21);
- Section 35 of the *Fisheries Act*, which prohibits the carrying on of any work, undertaking or Activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, unless authorized by the Minister of Fisheries and Oceans, through regulations, or other mechanisms provided for under section 35 of the *Fisheries Act*.

In support of implementing section 35, section 6 of the *Fisheries Act* requires the Minister of Fisheries, Oceans and the Canadian Coast Guard to take into account four factors for consistent and transparent decision-making:

- (a) the contribution of relevant fish to fisheries;
- (b) fisheries management objectives;
- (c) avoidance, mitigation and offsetting measures; and
- (d) public interest.

The purpose of section 6 and its provisions “is to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.”

- Powers for the Minister to request plans and specifications for any work, undertaking or activity that may cause serious harm to fish or is proposed in an ecologically significant area (as defined in regulations) (section 37);
- Authority for the Minister to appoint inspectors and analysts (subsection 38(1));

- Inspectors' powers, including entry, search and direction of preventive, corrective or cleanup measures (subsections 38(3), 38(7.1) and 38(8));
- Proponents' Duty to Notify an inspector, fishery officer or a prescribed authority of any works, undertakings or activities that result in serious harm to fish
- (subsection 38(4)), as well as their Duty to Take Corrective Measures and Reporting (subsections 38(6) and 38(7)); and
- Offences and punishment (section 40).

Additionally, in support of the application of the fisheries protection provisions, regulations and an applicant's guide were developed that identify the information and documentation that an applicant must submit with its application for an authorization under paragraph 35(2)(b) of the *Fisheries Act*. An applicant's guide was developed to provide guidance to proponents in addressing those regulations. The regulations also set out the process and time limits that must be adhered to by the Minister of Fisheries, Oceans and the Canadian Coast Guard in the processing of applications.

2.1 Fisheries Protection Program (FPP)

Roles and Responsibilities

The majority of the administration of the fisheries protection provisions of the *Fisheries Act* is the responsibility of the Fisheries Protection Program (FPP) including the establishment of guidelines and regulations. They are also responsible for the administration of certain provisions of the *Species at Risk Act*, and have specific legislative responsibilities in relation to federal environmental assessment regimes including, among others, the *Canadian Environmental Assessment Act, 2012*, and regimes in the territories and under land claims agreements.

The FPP works collaboratively with others to manage impacts to commercial, recreational and Aboriginal fisheries resulting from habitat degradation or loss, alterations to fish passage and flow, and aquatic invasive species.

The FPP has sixteen service delivery points across the country with centralized regional headquarters in six DFO regions. Regulatory review assessors in the regions are divided into specialized industry sector-based units including: Triage; Mining, Oil and Gas; Linear Development; Marine and Coastal; and Hydro and Flows. Each regional headquarters office also has a Client Liaison, Partnerships, Standards and Guidelines team that is the focal point for developing partnership arrangements and clear requirements for complying with the *Act*.

Staff located in National Headquarters are responsible for the overall coordination of the delivery of the program, providing national policy direction, strategic advice and liaison with other DFO sectors, federal departments and national industry and non-governmental organizations (NGOs).

Key Highlights

The FPP further engaged with numerous stakeholders for the continuous improvement of the program.

Several science advisory documents have been prepared through the Canadian Science Advisory Secretariat (CSAS), a peer reviewed advisory process, to support operational policies. This includes the report entitled *Science Advice for Managing Risk and Uncertainty in Operational Decisions of the Fisheries Protection Program*.

Fisheries Protection Program activities are aligned with DFO's strategic outcome of *sustainable aquatic ecosystems*. This outcome contributes to the conservation, protection, and sustainability of Canada's aquatic ecosystems through the management of risks that affect species, oceans, and fish habitats. Specifically, and as stated in the Departmental Performance Report (2014-2015)², FPP activities contribute to managing threats to the sustainability and ongoing productivity of commercial, recreational, and Aboriginal fisheries in the context of government-wide initiatives for responsible resource development and streamlined regulations.

The FPP maintains the Projects Near Water website³ to provide access to best practices for avoiding harm to fish and fish habitat and assists regulated parties to understand their legal responsibilities for avoiding harm to fish and fish habitat (entitled "Measures to Avoid Causing Harm to Fish and Fish Habitat"). When a proponent is unable to meet the self-assessment criteria and avoid serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery, they must complete a Request for Review Form and submit it to DFO for review.

- The number of referrals are referenced in Section 2.1.3: Review of Development Proposals (Referrals)

An "authorization" pursuant to paragraph 35(2)(b) of the *Fisheries Act* would be issued if serious harm to fish could not be avoided or an authorization would be required but

²The report is available at: <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>

³Projects Near Water website: <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>.

would not necessarily be issued per the Minister's discretion and determined on a case-by-case basis.

- The number of review referrals recorded in the Program Activity Tracking System for Habitat (PATH) captured in Section 2.1.3 Review of Development Proposals (Referrals)

Fisheries and Oceans Canada continues to provide site-specific review of projects where available best practices cannot avoid or mitigate all impacts to fish and fish habitat. For low risk projects, proponents are responsible for obtaining advice from qualified environmental professionals and applying measures to avoid and mitigate harm.

2.1.1 Collaborative Arrangements

Fisheries and Oceans Canada has leveraged partnering opportunities with other government departments (OGD's) in support of the consistent and efficient administration and enforcement of the Fisheries Protection Program under the *Fisheries Act*. With respect to the fisheries protection provisions, DFO has entered into agreement with both the National Energy Board and the Canadian Nuclear Safety Commission.

National Energy Board and Canadian Nuclear Safety Commission

As part of ongoing efforts to avoid duplication in the review of projects that constitute a potential harm to fish and fish habitat, DFO continues to work with both the National Energy Board (NEB) and the Canadian Nuclear Safety Commission (CNSC) to provide ongoing support and communication in the implementation of current agreements

The NEB regulates energy infrastructure projects (e.g., interprovincial pipelines) under the *National Energy Board Act*.

The CNSC regulates nuclear facilities under the *Nuclear Safety and Control Act*.

Under the MOUs, fisheries experts within the NEB and CNSC review applications for projects submitted to them under their respective legislation to ensure appropriate measures are being applied to avoid and mitigate impacts to fish and fish habitat, including listed aquatic species and their critical habitat under the *Species at Risk Act* (SARA). The Fisheries Protection Program becomes involved in the reviews of these projects when impacts cannot be avoided.

In all these cases, the Minister of Fisheries, Oceans and the Canadian Coast Guard remains responsible for fisheries protection including decisions on the issuance of *Fisheries Act* authorizations and conditions of authorization.

In 2014-15, DFO continued to work closely with the NEB and CNSC, including providing ongoing support and communication to implement the MOU. As per the MOU, the NEB and CNSC reviewed projects submitted to them for impacts on fish and fish habitat.

Table 1 provides information on the numbers of projects reviewed by the NEB under the MOUs between December 16, 2013 to the end of the fiscal year 2013-14 and during the fiscal year 2014-15 and the outcome of those reviews.

Table 1: Projects⁴ Reviewed by the NEB

Determination	Dec. 16, 2013 to March 31, 2014	April 1, 2014 to March 31, 2015
Deemed unlikely to result in serious harm to fish as company proposed to use DFO's "Measures to Avoid Harm"	48	98
Deemed unlikely to result in serious harm to fish after additional review/input from NEB	3	6
Referred to DFO for review/authorization	2	0
Total	53	104

Between December 16, 2013 and March 31, 2015, the CNSC notified DFO of one nuclear facility, which is likely to require a *Fisheries Act* authorization.

Table 2 provides a summary of the works, undertakings or Activities that were monitored by NEB.

⁴ Those projects reviewed by the NEB typically relate to the installation or maintenance of pipeline watercourse crossings.

Table 2: Projects⁴ Monitored by the NEB

Determination	Dec. 16, 2013 to March 31, 2014	April 1, 2014 to March 31, 2015
Deemed to be compliant with NEB Act and <i>Fisheries Act</i> requirements for fish and fish habitat protection.	19	134
Non-compliance with NEB Act requirements for fish and fish habitat protection addressed by NEB	0	9
Non-compliance with <i>Fisheries Act</i> - notification/discussion with DFO	0	1
Total	19	144

The CNSC undertakes compliance and environmental monitoring for all licensees under the *Nuclear Safety and Control Act*, where applicable, in order to ensure the health of people and the environment. This monitoring includes consideration of impacts to fish and fish habitat, to ensure compliance with the *Fisheries Act* and *Species at Risk Act*.

2.1.2 Related Legislative Requirements, Policies and Guidance

Canadian Environmental Assessment Act

Under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) DFO must, if requested, provide specialist or expert information and knowledge to a responsible authority, a review panel or a province for which its EA process has been deemed a substitute for the EA process under CEAA 2012. Upon request, the FPP is required to provide its specialist advice on fish and/or fish habitat, or on aquatic species at risk. These environmental assessments focus largely on metal mining, oil and gas facilities and pipelines, and hydroelectric and nuclear energy projects.

In addition, section 35(2)(b) of the *Fisheries Act* authorization for works, undertakings or activities associated with a project subject to an environmental assessment under CEAA 2012 cannot be issued unless it is determined that the carrying out of the project is not likely to cause significant adverse environmental effects or that the carrying out of the project is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified.

The Minister of Fisheries, Oceans and the Canadian Coast Guard has decision-making responsibilities in relation to the assessment of projects under the *Mackenzie Valley Resource Management Act*, *Yukon Environmental and Socio-economic Assessment Act*, and other environmental assessment regimes established under land claims

agreements when DFO has jurisdictional responsibilities in relation to these projects. The administration of a paragraph 35(2)(b) *Fisheries Act* authorization is the exercise of jurisdictional responsibilities in relation to a project. Similar to FPP's federal authority role when requested under CEAA 2012, FPP also provides specialist or expert advice in relation to the areas of fish, fish habitat and aquatic species at risk to the independent boards or panels established to conduct the environmental assessments under these regimes.

DFO also provides advice and support to Environment and Climate Change Canada and custodian departments concerning the impacts on fish habitats from federal contaminated sites through the Federal Contaminated Sites Action Plan (FCSAP) program.

Fisheries Protection Policy Statement & Fisheries Productivity Investment Policy

These new policies were put into place to replace the *Policy for the Management of Fish Habitat* (1986) as they became outdated with amendments to the Act.

The policies describe DFO's efforts to:

- Focus the Act's regulatory regime on managing threats to the sustainability and ongoing productivity of Canada's commercial, recreational and Aboriginal fisheries;
- Provide enhanced compliance and protection tools;
- Provide clarity, certainty and consistency of regulatory requirements through the use of standards and regulations; and
- Enable enhanced partnerships to ensure agencies and organizations that are best placed to provide fisheries protection services to Canadians are enabled to do so such as other agencies of government and local groups.

The *Fisheries Protection Policy Statement's* goal is to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries. The Policy supports DFO's objectives of providing consistent guidance through regulations, standards and directives, and for making regulatory decisions in a timely manner. In turn, proponents will have the necessary information and direction to avoid, mitigate and offset harmful impacts to fish and fish habitat to ultimately, comply with the fisheries protection provisions of the *Fisheries Act*.

The *Fisheries Productivity Investment Policy* provides guidance on undertaking effective measures to offset serious harm to fish that are part of or that support a commercial, recreational or Aboriginal fishery, consistent with the fisheries protection provisions of the *Fisheries Act*. This policy was developed by DFO to assist proponents of proposed works, undertakings or activities that could result in serious harm to fish to develop their

offsetting plans prior to seeking authorization under section 35(2)(b) of the *Fisheries Act*. It, subsection (i), provides an overview of applying offsetting measures for fisheries protection, including objectives, guiding principles and types of measures; and subsection (ii) describes step-by-step procedures for developing a plan to apply offsetting measures under the fisheries protection provisions of the *Fisheries Act*, including selecting the appropriate measures, determining the extent of measures needed, and ensuring monitoring and reporting.

2.1.3 Review of Development Proposals (Referrals)

The Fisheries Protection Program (FPP) activities contribute to the sustainability and ongoing productivity of Canada's commercial, recreational and Aboriginal fisheries by minimizing threats from works, undertakings and Activities taking place in and near Canadian waters.

The FPP maintains the Projects Near Water website⁵ where project proponents are able to access DFO's recommended best practices (entitled Measures to Avoid Causing Harm to Fish and Fish Habitat) for avoiding harm to fish and fish habitat. The website also includes project-specific self-assessment criteria to assist proponents in determining the need for a DFO review.

Self-assessment criterion consists of lists of project activities and water body types for which DFO review is not required, provided DFO best practices are followed. The Measures to Avoid Causing Harm to Fish and Fish Habitat replace all operational statements previously produced by DFO. When a proponent is unable to meet the self-assessment criterion and avoid serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery, they must complete a Request for Review Form and submit it to DFO for review.

As part of the review process, staff must verify whether the project under review has the potential to adversely affect aquatic species listed under *Species at Risk Act* (SARA), or their critical habitat so that appropriate measures can be taken. An "authorization" pursuant to paragraph 35(2)(b) of the *Fisheries Act* would be issued if serious harm to fish could not be avoided.

⁵Projects Near Water website: <http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>.

The resulting total numbers for fiscal year 2014-2015 were as follows:

- Review of 3,454 development proposals (referrals; Table 3);
- Provision of advice to proponents or others on 1,283 occasions (Table 4); and
- Issuing of 301 authorizations under paragraphs 35(2)(b) of the *Fisheries Act* (Table 4 and Table 6).

Review of Development Proposals (Referrals)

This section presents data recorded in the Program Activity Tracking System for Habitat (PATH) on review of referrals.

The Program Activity Tracking for Habitat (PATH) system is a national computer system designed, developed, supported and managed by the Fisheries Protection Program for staff to have one national system to collect, share and report information on the various activities of the Fisheries Protection Program. In addition to being a daily operational tool, the PATH system is used for reporting at the individual, office, area, region and national levels.

Fisheries and Oceans Canada Regions

Reference: the map below shows DFO's regions to illustrate the area of each geographic region and to provide context in the Tables and Figures data highlighted in this Annual Report.

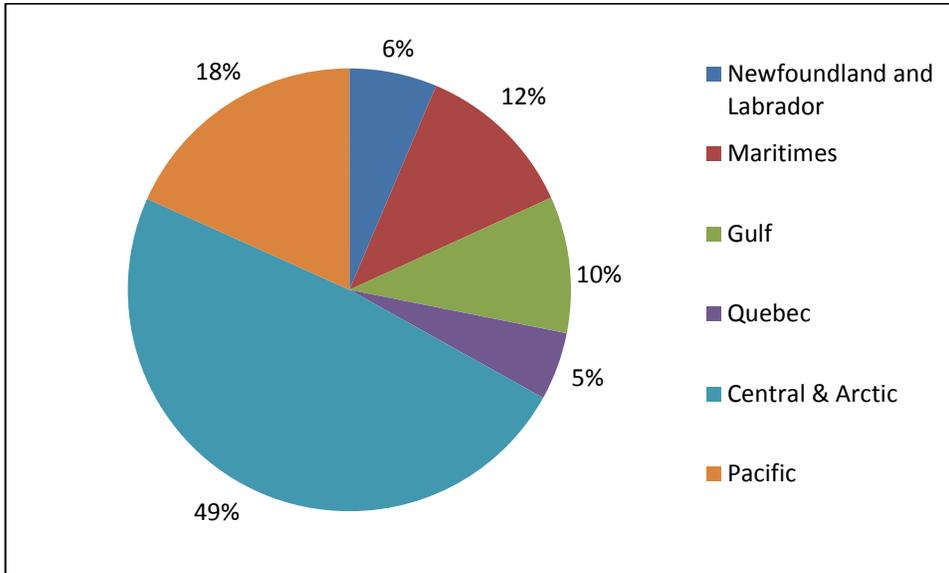


Table 3 presents summary data on the number of referrals in 2014-2015 by work category for each DFO region, while Figure 1 illustrates the regional distribution of total referrals for 2014-2015.

Table 3 Summary of Referrals by Primary Impact Fiscal Year 2014-2015⁶										
Region	Primary Impact									
	Changes in Flows/Water Levels	Deposition of Non-Deleterious Substances	Dredging/Excavating	Fish Mortality	Fish Passage	Infilling/Footprint	Watercourse Alteration	No Potential Impact	Other⁷	Total
Newfoundland and Labrador	2	4	16	5	41	69	3	75	6	221
Maritimes	22	3	28	4	157	114	22	44	13	407
Gulf	11	2	44	1	88	107	42	35	14	344
Quebec	3	7	38	8	14	87	6	8	0	171
Central & Arctic	31	3	525	13	64	620	79	337	8	1680
Pacific	28	11	76	8	38	296	114	49	11	631
Total	97	30	727	39	402	1293	266	548	52	3454

⁶ Note: For reporting purposes, the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred; while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.

⁷ "Other" includes referrals identified with the primary impact of "To be determined".

Figure 1: Percent of Referrals by Region, 2014-2015⁶

2.1.4 Advice Provided and Authorizations Issued

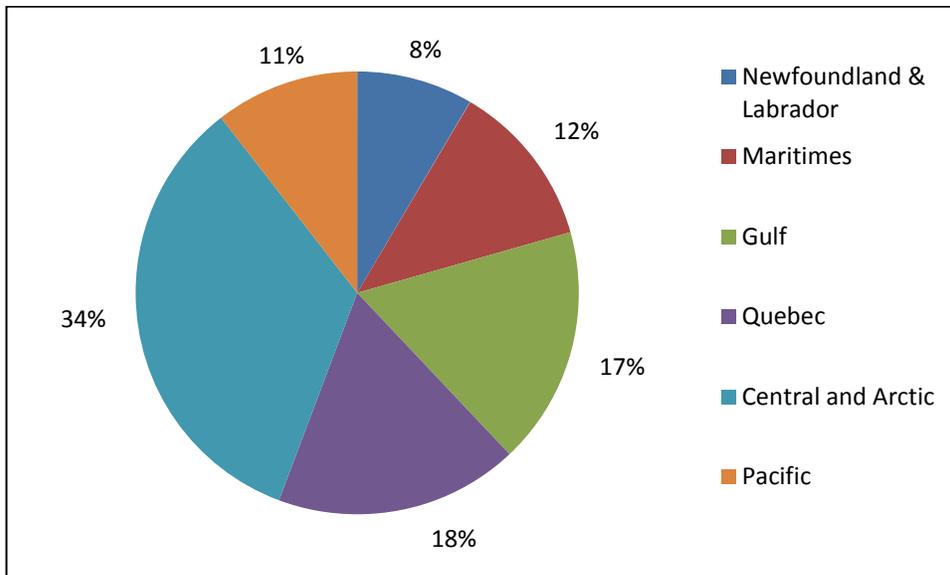
The Department achieved a 99% and 100% compliance rate for processing applications for authorizations under the *Fisheries Act* with respect to 60 and 90 day time limits respectively, for which the Minister must abide.

Data recorded in PATH on advice provided and authorizations issued by DFO regions are presented below in Table 4.

Figure 2 and Figure 3 illustrate the regional distribution of total advice provided and authorizations issued, respectively, for 2014-2015.

Table 4 Advice Provided and Authorizations Issued Fiscal Year 2014-2015			
REGION	Advice Provided to Proponent or Others⁸	Authorizations Issued	TOTAL
Newfoundland and Labrador	109	0	109
Maritimes	155	2	157
Gulf	223	2	225
Quebec	228	12	240
Central and Arctic	433	45	478
Pacific	135	13	148
TOTAL	1283	74	1357

Figure 2: Percent of Advice Provided by Region, 2014-2015⁹



⁸ Advice provided to others includes: written advice to federal agencies, provincial/territorial/other agencies, letters of advice to proponents and mitigation measures provided to permitting agencies.

⁹The advice provided includes providing operational statements (following receipt of referral).

Figure 3: Percent of Authorizations Issued by Region, 2014-2015¹⁰

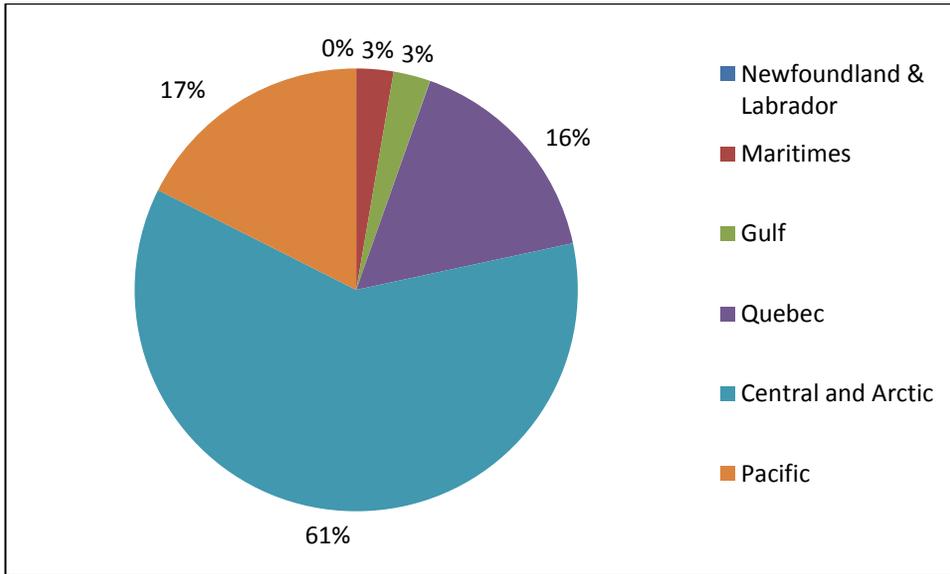
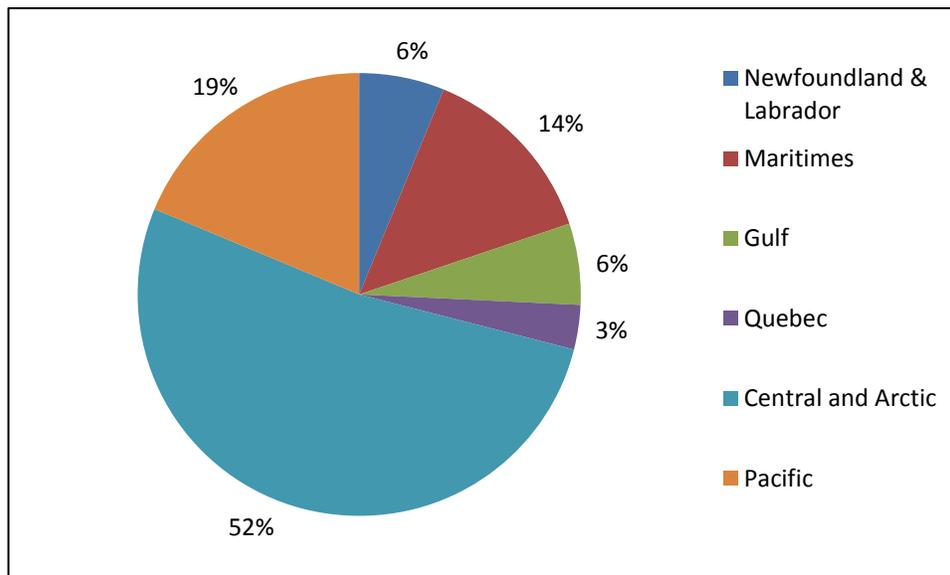


Table 5 presents summary data on the number of program responses provided in 2014-2015 by region.

Table 5 Program Response Provided Fiscal Year 2014-2015	
REGION	Responses Provided¹¹
Newfoundland and Labrador	113
Maritimes	247
Gulf	108
Quebec	59
Central and Arctic	950
Pacific	340
TOTAL	1817

¹⁰Notifications of use of class authorizations are not included in this figure.

¹¹ Program responses provided through triage and other processes include: Best management practices, no concerns/no potential effect to fish or fish habitat, partnership/other process in place, web self-assessment can be used, regulatory review not required, no specialist advice to provide.

Figure 4: Percent of Program Response Provided by Region, 2014-2015

2.1.5 Notifications and Use of Regulatory Tools

As per Section 2.1.3 of this report, referrals are requests submitted to DFO either directly by a proponent or indirectly by a consultant, province or territory, or other agency with respect to a proposed work, undertaking or activity that may affect fish, fish habitat or fisheries. Because of the scope and number of projects possibly affecting fish, fish habitat or fisheries, various “tools” are in place to improve efficiency and effectiveness of regulatory reviews for low-risk Activities.

For example, “*class*” *authorizations* provide a standardized process for agricultural municipal drains maintenance activities in southern Ontario. The issuance of authorizations under this “class” for pre-defined drain maintenance activities eliminates the requirement for a site-specific review process.

The Projects Near Water website contains a proponent self-assessment process, which identifies activity and water body types for which a DFO review is not required, provided the Measures to Avoid Causing Harm to Fish and Fish Habitat can be followed. The Measures to Avoid Causing Harm to Fish and Fish Habitat incorporate previous guidance provided in operational statements and outline general measures for preventing serious harm to fish. The self-assessment tool enables proponents to plan their projects to avoid harm, and to determine the need for a DFO review in advance of submitting their project, allowing the Department to focus the review process on the highest risk projects for which site-specific review and advice is most beneficial.

In certain jurisdictions, DFO has arrangements with provincial governments where they provide project reviews and advice for certain types of projects. Examples of such regional regulatory arrangements are the Maritimes and Gulf regions' *Guidelined Works* processes, where the provincial review process for specified low-risk activities incorporates DFO regulatory requirements.

Table 6 exhibits quantitative information for the class authorizations. The class authorizations are tracked and reported because they authorize serious harm to fish. They are in addition to the project-specific authorizations reported in Table 4. Not all of the other "streamlining" tools mentioned above have notification processes and tracking is not a mandatory requirement for those that do.

Table 6 provides summaries of notifications of the use of class authorizations in fiscal year 2014-2015.

Table 6 Notifications of use of Class Authorizations Fiscal Year 2014-2015	
REGION	Class Authorizations Notifications
Newfoundland and Labrador	0
Maritimes	0
Gulf	0
Quebec	0
Central and Arctic	186
Pacific	41
TOTAL	227

2.1.6 Administration of the Pollution Prevention Provisions of the *Fisheries Act* by Fisheries and Oceans Canada

Key Highlights

In the fiscal year 2014-15, progress was made on two new regulations, which reflect the revised responsibilities of DFO under section 36 of the *Fisheries Act*. These regulations - the *Aquatic Invasive Species Regulations* (AISR) and the *Aquaculture Activities Regulations* (AAR) came into force respectively on May 29th and June 29th 2015.

Aquatic Invasive Species

To further the objectives of the *Canadian Action Plan to Address the Threat of Aquatic Invasive Species*, new regulations will help prevent the introduction and spread of aquatic invasive species. The proposed regulations were published in the *Canada Gazette*, Part I for a 30-day comment period in December 2014 in order to gain stakeholder feedback. Ultimately, the AIS regulations came into force May 29th 2015 and are available at <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2015-121/>. The Department will work with federal, provincial and territorial partners to administer and enforce these regulations via the National Aquatic Invasive Species Committee, a federal-provincial-territorial committee established under the Canadian Council of Fisheries and Aquaculture Ministers. The administration of these regulations will be supported by ongoing scientific activities, such as research on pathways of invasion, methodologies to detect new invasions, risk assessments and control measures and by policies and guidelines.

Aquaculture Management

The *Aquaculture Activities Regulations* (AAR)—administered by the Aquaculture Management Directorate—were developed, pursuant to the Ministerial regulation-making authorities sections 35(3) and 36(5.2) of the *Fisheries Act*, to clarify conditions under which aquaculture operators may install, operate, maintain or remove an aquaculture facility, or undertake measures to treat their fish for disease and parasites, as well as deposit organic matter.

Respecting section 36, the AAR prescribes three classes of deleterious substances that may be deposited in waters frequented by fish: biochemical oxygen demanding (BOD) matter, pesticides, and drugs. The Regulations allow aquaculture operators to do so only within specific restrictions to avoid, minimize, and mitigate any potential detriments to fish and fish habitat.

The administration of these Regulations is supported by a robust set of policies, standards, and guidelines. Further, Fisheries and Oceans Canada, Environment and Climate Change Canada, and Health Canada are committed to undertake a three-year Science Review to support the Regulations' implementation. The Department will continue to work with provincial and territorial partners to maintain alignment with each other's aquaculture regulatory regimes via the Canadian Council of Fisheries and Aquaculture Ministers.

The Regulations were pre-published in the *Canada Gazette*, Part I for a 60-day comment period in August 2014, and came into force on June 29th, 2015 (full regulatory text available at: <http://laws-lois.justice.gc.ca/eng/regulations/SOR->

[2015-177/](#)). There is no reporting available for this Annual Report to Parliament, since the AAR came into force after the 2014-15 reporting period.

2.2 Conservation and Protection Program (C&P)

Fisheries and Oceans Canada's C&P Program is responsible for monitoring compliance with legislation and regulations regarding the conservation of fisheries resources and fisheries habitat. The Minister of Fisheries, Oceans and the Canadian Coast Guard appoints fishery officers to enforce fisheries regulations and management plans as well as the fisheries protection provisions of the *Fisheries Act*.

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

Enforcement of the fisheries protection provisions is carried out pursuant to the *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* (2001).

During fiscal year 2014-2015, DFO:

- Dedicated a total of 11,826 hours on conservation and protection activities related to fish habitat/fisheries (Fig.5);
- Issued 5 warnings under the fish habitat/fisheries protection provisions of the *Fisheries Act* (Table 7);
- Issued 3 Corrective Measures (Table 7);
- Proceeded with 1 alternative measures to prosecution (Table 7);
- Successfully completed 6 convictions under the fisheries protection and pollution prevention provisions of the *Fisheries Act* (Table 8).

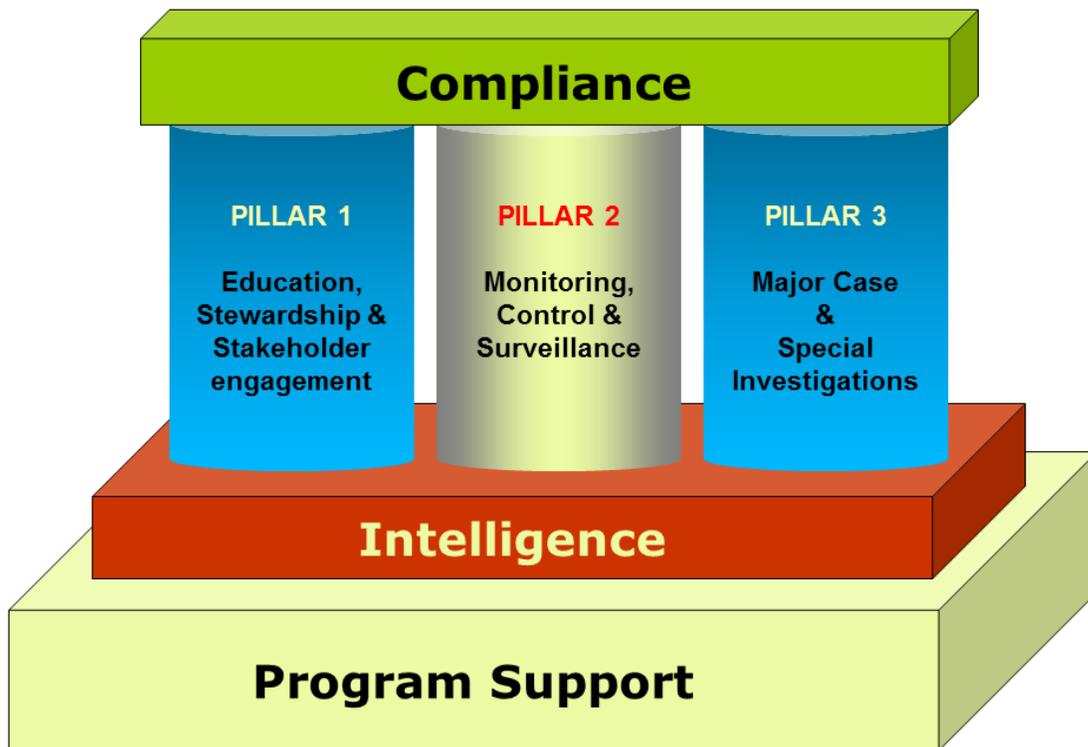
Compliance and Enforcement

The C&P Program has adopted a three-pillar approach to the delivery of its enforcement program to address existing challenges and to integrate intradepartmental compliance issues in a comprehensive compliance program. This approach, as described under the DFO National Compliance Framework, guides the application of compliance tools organized into three pillars of compliance management.

- Pillar I: *Education and Shared Stewardship* include informal and formal

education programs and co-management/ partnership agreements.

- Pillar II: *Monitoring, Control and Surveillance* include activities such as land, sea and air patrols; inspections and compliance monitoring of third-party service providers; and enforcement response to non-compliance.
- Pillar III: *Major Cases/Special Investigations* include formal intelligence gathering and analysis, forensic audits and prosecutions.

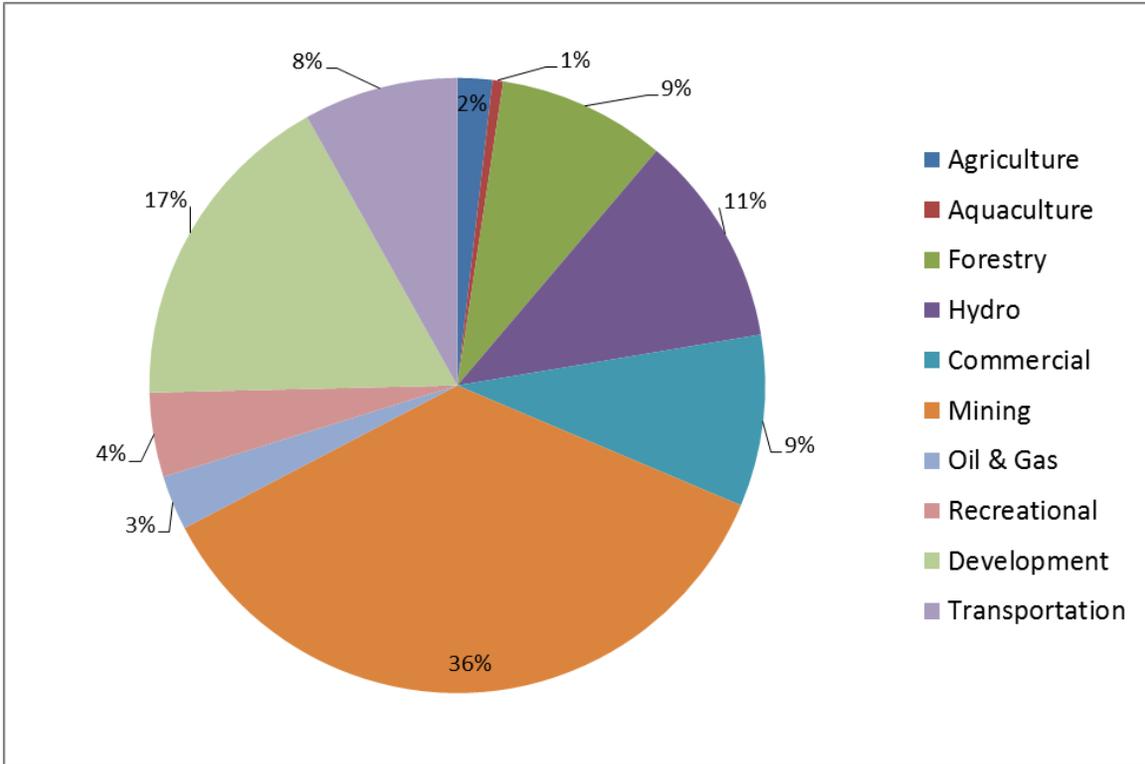


For fiscal year 2014-2015, fishery officers dedicated a total of 11,826 hours to fisheries protection compliance and enforcement Activities. The effort and time spent on fish habitat/fisheries protection compliance, identified as a single work element, represents 2.57% of the total amount of time fishery officers dedicated to all work elements combined.

Figure 5 illustrates the pattern in the allocation of compliance effort by fish habitat/fisheries protection Activities in fiscal year 2014-2015.

Figure 5: Allocation of Compliance Effort, 2014-2015

The figure demonstrates the level of work that C&P undertook with proponents over the course of the fiscal year.



Data for Figure 5:

Main Activities	Hours	Percentage
AGRICULTURE	216	2
AQUACULTURE	66	1
FORESTRY	1041.5	9
HYDRO	1318.75	11
INDUSTRIAL /COMMERCIAL	1067.25	9
MINING	4253	36
OIL / GAS	339.25	3
RECREATIONAL	524.5	4
RURAL/URBAN DEV.	2040	17
TRANSPORTATION	960	8
Total	11826.25	100

Table 7 and Table 8 summarize C&P's fish habitat/fisheries enforcement activities by region in fiscal year 2014-2015.

Table 7: Summary of DFO Fisheries Enforcement Activities Fiscal Year 2014-2015				
Region	Warnings Issued	Inspector's Directions	Charges Laid	Alternatives to Prosecution*
Newfoundland and Labrador	0	0	0	0
Maritimes	1	1	0	1
Gulf	0	1	0	0
Quebec	0	0	0	0
Central and Arctic	0	0	0	0
Pacific	4	1	0	0
TOTAL	5	3	0	1

**Alternatives to prosecution include out-of-court settlements aimed at restoring unauthorized harmful alteration, disruption or destruction (HADD) of fish habitat/serious harm to fish in a timely manner.*

Table 8: Convictions Reported under the Fisheries Protection and Pollution Prevention Provisions of the Fisheries Act Fiscal Year 2014-2015		
Region	Section 35(1)	Section 36(3)
Newfoundland and Labrador	0	0
Maritimes	1	0
Gulf	0	0
Quebec	0	0
Central and Arctic	0	0
Pacific	5	0
TOTAL	6	0

2.3 Support of Ecosystems and Oceans Science Sector

The Ecosystems and Oceans Science Sector (EOSS) conducts research and provides scientific advice to assist FPP and Aquaculture Management (AM) practitioners. In collaboration with the FPP and AM, environmental scientists identify knowledge gaps related to habitat management, conservation, restoration and improvement, fate and effects of deleterious substances and devise research projects to address those gaps. Some of the research products and scientific advice provided in fiscal 2014-2015 included:

- Providing scientific advice to support the development of a Fisheries Protection Policy for Canada, including advice on how to quantify impacts using a common scale;
- Reviewing monitoring reports related to underwater noise and impacts on whales in Québec;
- Reviews of predicted effects on fish, fish habitat, and fisheries of proposed Hydroelectric project in northern Saskatchewan;
- Review of marine shipping potential impacts including underwater noise and ship strikes in relation to pipeline development in British Columbia;
- Review of the net environmental benefit analysis for an exploratory drilling project in Nova Scotia;
- Provision of information to support assessments of cumulative impacts of marine development on marine mammals and turtles;
- Review of the Canadian Association of Petroleum Producers report on dispersant use for responding to oil spills from oil and gas facilities on the Newfoundland Grand Banks;
- Providing scientific advice on the appropriate monitoring of drugs and pesticides if wild fish kills occur following pest treatment at salmon farms;
- Conducting fate and effects research of aquaculture pest treatment products on wild fish.

Research results are transferred to FPP and AM staff in the form of peer-reviewed scientific advice, scientific workshops, published reports, fact sheets, briefings, and personal consultations. Information provided can range from informal, one-on-one discussions, to regional peer-reviewed advice sessions and large-scale National Advisory Process workshops that follow a formal process to produce peer-reviewed, published advisory documents. DFO's Canadian Science Advisory Secretariat (CSAS) within the Ecosystems and Oceans Science Sector oversees the provision of formal scientific advice, and maintains a website (<http://www.dfo-mpo.gc.ca/csas-sccs/index-eng.htm>) where published reports are made available to the Canadian public.

2.4 Recreational Fisheries Conservation Partnerships Program

In support the common long-term goal of enhancing the sustainability and ongoing productivity of Canada's recreational fisheries, the FPP funds to recreational fisheries and conservation groups to restore fish habitat.

While the regulatory regime administered by FPP helps mitigate current and future activity that is detrimental to the health of the recreational fishery, regulations are not able to address damage that has already happened in years past. Over the years, recreational fisheries have consistently faced multiple and interacting threats, including pollution, invasive species and habitat loss and degradation. Of these, the issue of habitat loss is the most commonly identified threat to freshwater fish, the target of most of Canada's recreational fishing activities. Common forms of fisheries habitat loss include habitat degradation and erosion, barriers to fish migration and water flow alterations.

There is, however, potential to address these historical impacts through restorative action and partnerships. With government, recreational fishing/angling groups, Indigenous groups and others in the fisheries conservation field working together toward common goals, tangible progress can be made. At the local and community level, these groups provide important knowledge and capacity that can be used to help improve recreational fisheries across Canada.

To meet that potential, the RFCPP was established as a non-regulatory FPP initiative to support multi-partner projects at the local level aimed at restoring recreational fisheries habitat in order to enhance the productivity of Canada's recreational fisheries. Specifically, the RFCPP, through contribution funding, enables proponents to manage and execute projects that restore compromised and/or threatened recreational fisheries habitat.

In 2014-15, the RFCPP expended over \$8.1 million for 240 projects taking place across Canada. Based on 97% of data analyzed, the results achieved by the RFCPP in 2014-15 include:

- over 770 partners directly supported the 240 projects;
- over \$12.7 million was leverage by the RFCPP (i.e., for every \$1 expended by the RFCPP, \$1.56 was provided by other sources);
- over 4,690 volunteers donated their time or support toward the projects;
- over 1,130 individuals received income from the RFCPP; and
over 5.1 million square metres and 3,200 kilometres of recreational fisheries habitat were restored.

As the RFCPP was established in June 2013, 2014-15 was the first full year of program implementation. The 2014-15 results outlined above therefore demonstrated significant increases over results from 2013-14, in which the

program expended \$3.0 million. Examples of these increases are show in Chart 1 below:

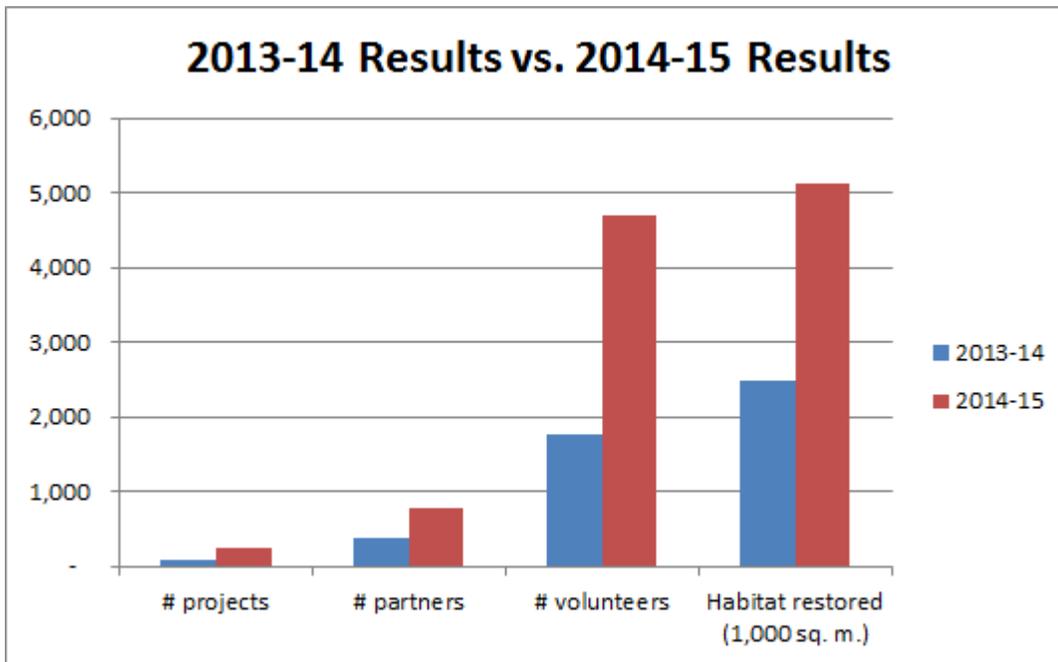


Chart 1: Comparison of RFCPP results between 2013-14 and 2014-15

Success Story

In the summer of 2013, the Réserve Faunique Rouge-Matawin (Société des établissements de plein air du Québec) started work to develop habitat for brook trout in eight of its watercourses. The project, supported by the RFCPP, was completed over two years. The work performed from 2013 to 2015 considerably increased the quality of spawning habitat available to brook trout and restored fish passage to bodies of water that were previously inaccessible.

Stream before the watercourse cleanup



Stream after cleanup and restoration of spawning grounds and fish passage



Lac Higginson outlet before habitat development



Lac Higginson outlet after fish channel construction



Photos: François Lamothe

- For more RFCPP success stories, visit <http://www.dfo-mpo.gc.ca/pnw-ppe/rfcpp-ppcpr/success-succes-eng.html>.

3.0 Environment and Climate Change Canada

- **Administration of the pollution prevention provisions of the *Fisheries Act***

The following section provides a detailed summary of the various roles and responsibilities involved as well as the activities and policies required in administering the pollution protection provisions of the *Fisheries Act*.

Environment and Climate Change Canada (ECCC, former Environment Canada) administers the pollution prevention provisions of the *Fisheries Act*. These responsibilities were formalized by a Governor in Council Order (also referred to as Designation Order) published in *Canada Gazette*, Part II on March 12, 2014. The Minister of Environment and Climate Change is now legally responsible for the administration and enforcement of subsections 36(3) to (6) of that Act for all purposes and subject matters with the exception of aquaculture, and aquatic invasive species or aquatic species that constitute a pest to fisheries, which remain the responsibility of the Minister of Fisheries and Oceans.

In addition, the Designation Order identifies those provisions of the *Fisheries Act* where a reference to the Minister is a reference to the Minister of the Environment and Climate Change for the purpose of administering and enforcing subsections 36(3) to (6) of the Act in relation to the Minister of the Environment and Climate Change's subject matters. For example, the Designation Order identifies paragraph 37(1)(b) as one of these provisions.

A key provision of the pollution prevention requirements of the *Fisheries Act* is subsection 36(3), which prohibits the deposit of deleterious substances in water frequented by fish¹² unless the deposit is authorized by regulations under the Act or other federal legislation. Deleterious substances include any substance that, if added to water, would degrade, alter, or form part of a process of degradation or alteration of the quality of water so that it is rendered deleterious to fish or fish habitat or for human consumption of any fish from that water.

Environment and Climate Change Canada administers the pollution prevention provisions through several activities including compliance promotion, regulations, environmental effects monitoring (EEM), water quality monitoring, enforcement, emergencies management and administrative agreements. The Department's 2014-2015 activities may be summarized as follows:

- Published, in *Canada Gazette*, Part II, new Governor in Council regulations under subsection 36(5.1), which set out conditions under

¹² "or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water"

- which the Minister may authorize the deposit of deleterious substances by Ministerial regulations;¹³
- Published, in *Canada Gazette*, Part II, new Ministerial regulations under subsection 36(5.2), which conditionally authorize the deposit of deleterious substances in the Experimental Lakes Area;
 - Administered, performed compliance promotion and enforced existing regulations under subsection 36(5) for the pulp and paper sector and for metal mines, including the EEM elements of those regulations;
 - Administered, performed compliance promotion and enforced the *Wastewater Systems Effluent Regulations* under subsection 36(5) for the wastewater sector (including federal, provincial, municipal and First Nations wastewater systems);
 - Published, in *Canada Gazette*, Part I, a final administrative agreement with New Brunswick for the *Wastewater Systems Effluent Regulations* further to subsection 4.1(4);
 - Published, in *Canada Gazette*, Part I, for public consultation, a proposed administrative agreement with Saskatchewan for the *Wastewater Systems Effluent Regulations* further to subsection 4.1(4);
 - Published, in *Canada Gazette*, Part II, a final equivalency agreement declaring that the *Wastewater Systems Effluent Regulations* do not apply in Yukon;
 - Contributed to environmental emergency management activities by managing Environment and Climate Change Canada's pollution incident notification system and undertaking response actions to significant pollution incidents related to the deposit of deleterious substances not authorized under the Act, as per subsections 38(5) and 38(7);
 - Conducted water quality monitoring under the Canadian Shellfish Sanitation Program;
 - Implemented administrative and notification agreements with provinces that support effective administration of the pollution prevention provisions and associated regulations;
 - Administered, performed compliance promotion and enforced the subsection 36(3) general prohibition on deposit of deleterious substances in water frequented by fish and subsections 38(5), 38(6) and 38(7) which require notification, preventive and remediation measures and reporting in the event of an unauthorized deposit.

Fisheries and Oceans Canada administers the pollution prevention provisions for subject matters related to aquaculture facilities, and any resulting effects of those activities on the waters frequented by fish; and, the control or eradication of any aquatic invasive species or aquatic species that constitute a pest to the fisheries.

¹³ This was undertaken jointly with DFO.

The Department's 2014-2015 activities may be summarized as follows:

- Published, in *Canada Gazette*, Part II, new regulations under subsection 36(5.2), the Aquaculture Activities Regulations, which authorize the deposit of deleterious substances related to aquaculture facilities.
 - Refer to section 2.1.6 Administration of the Pollution Prevention Provisions of the *Fisheries Act* by Fisheries and Oceans Canada

3.1 General Reviews and Improvements

In 2012, as part of the *Jobs, Growth and Long-Term Prosperity Act*, a number of amendments were made to the *Fisheries Act*. However, the scope of the subsection 36(3) prohibition, for which Environment and Climate Change Canada is primarily responsible, did not change and the prohibition continues to apply to all waters frequented by fish. The key 2012 amendments that relate to improvements for section 36 are as follows:

- **Equivalency Agreements:** New provisions under sections 4.1 and 4.2, provide authority for entering into equivalency agreements with provinces where provisions under the laws of a province are deemed equivalent in effect to provisions of a regulation under the *Fisheries Act*. Equivalency agreements can reduce duplication of effort and oversight by multiple levels of government insofar as the federal regulation stands down in the province engaged by such an agreement.
- **Enable Use of Ministerial Regulations:** A new provision, subsection 36(5.1), enables the Minister, under certain conditions established by the Governor in Council, to authorize, by regulations under subsection 36(5.2), certain deposits of deleterious substances.
- **Designation of Authorities:** A new provision, section 43.2(1), provides authority for the Governor in Council, on the recommendation of the Minister, to designate by order, another Minister as responsible for the administration and enforcement of subsections 36(3) to (6) of the *Fisheries Act* for the purposes and in relation to the subject-matters set out in the order.
- **Conditions for Regulating:** An amendment to subsection 36(4)(b) removed the requirement that regulations authorizing deposits must set out conditions with respect to the quantity or concentration of the deleterious substance to be deposited.

In 2014-2015, Environment and Climate Change Canada and Fisheries and Oceans Canada made progress toward implementing the 2012 changes to the *Fisheries Act*. The departments worked collaboratively to publish the *Regulations Establishing Conditions for Making Regulations Under Subsection 36(5.2) of the Fisheries Act* in *Canada Gazette*, Part II in April 2014. The regulations set out the

authority for the Minister of the Environment and Climate Change and Minister of Fisheries and Oceans to authorize deposits under certain conditions.

Environment and Climate Change Canada also published the *Experimental Lakes Area Research Activities Regulations* in *Canada Gazette*, Part II in April 2014, which set out the conditions to authorize deposits in the Experimental Lakes Area for the sole purpose of research activities.

In addition, in 2014-2015, Environment and Climate Change Canada, Fisheries and Oceans Canada and Health Canada worked collaboratively towards renewing the Memorandum of Understanding (MOU) concerning the administration and enforcement of the pollution prevention provisions, between the departments. The purpose of this MOU will be to foster effective cooperation and communication among the three departments in carrying out operational responsibilities, all in support of the nationally consistent and efficient administration and enforcement of the pollution prevention provisions of the *Fisheries Act*.

The changes outlined above will support the ongoing implementation of recommendations stemming from the May 2009 Commissioner of the Environment and Sustainable Development (CESD) review of the federal government's activities under the *Fisheries Act* to protect fish habitat, including improving Environment and Climate Change Canada's administration and enforcement of the pollution prevention provisions. In particular, these recommendations included the need to set out clearer objectives, results, expectations and accountabilities to improve Environment and Climate Change Canada's risk-based approach to assess and address the risks of non-compliance with the *Fisheries Act* pollution prevention provisions, to review older regulations and guidelines, to improve enforcement quality assurance and for Fisheries and Oceans Canada and Environment and Climate Change Canada to work together to more clearly establish expectations with respect to administration of the pollution prevention provisions.

In 2014-2015, Environment and Climate Change Canada and Fisheries and Oceans Canada made progress toward the commitments it made in response to these 2009 CESD recommendations and further progress has been facilitated by the changes to the Act in 2012. Environment and Climate Change Canada is developing methods to improve its strategic prioritization of pollution prevention issues and is continuing to review a number of older regulations and guidelines. In addition, the collaborative effort towards renewing the Memorandum of Understanding (MOU) concerning the administration and enforcement of the pollution prevention provisions also represents progress towards responding to the 2009 CESD recommendations.

3.2 Compliance

Promotion for General Prohibition of Releases of Deleterious Substances to Waters Frequented by Fish

Compliance promotion relates to the planned activities that increase the awareness and understanding of regulatees with respect to the *Fisheries Act* and related regulations. Through these activities, information is provided on what is required to comply, the benefits of complying with the law as well as the consequences of non-compliance.

The approach to compliance promotion is collaborative and coordinated across the department's programs, regions and with enforcement. It is achieved using various tools and approaches such as website postings, letters, emails, brochures, site visits, responses to inquiries and information sessions.

Environment and Climate Change Canada continues to focus compliance promotion efforts on geographically dispersed, hard to reach, small and medium-sized enterprises (SMEs), Aboriginal communities, and the Federal House. The Department defines SMEs as businesses with less than 500 employees and/or businesses with a lower capacity to obtain and/or understand regulatory compliance requirements. SMEs often have fewer resources and a greater need for assistance regarding how to comply with the Department's regulations. The Federal House consists of all federal government departments and agencies in Canada.

In 2014-2015, Environment and Climate Change Canada undertook compliance promotion activities relating to the pollution prevention provisions, identified in subsection 36(3) of the *Fisheries Act*, across the country for a number of sectors. This included conducting 46 compliance promotion activities reaching 13 different facilities. These activities included group meetings, phone calls, emails and letters. In particular, the Department made presentations about the *Fisheries Act* and the *Canadian Environmental Protection Act, 1999* to five Department of National Defence Canadian Forces Bases in Alberta. Environment and Climate Change Canada undertakes compliance promotion for the pollution prevention provisions primarily through the environmental assessment process (by making organizations aware of their regulatory requirements when they submit their projects for an environmental assessment), as a result of enforcement activities, and in response to specific inquiries.

- Environment and Climate Change Canada undertook reviews of environmental assessment proposals for over 200 projects, including transitional screenings, comprehensive studies and panel reviews. Reviews were used to identify issues related to *Fisheries Act* pollution prevention provisions and related regulations, and encouraged regulatees, through proactive planning of their projects, to ensure that they would

- meet all regulatory requirements. These reviews focused largely on metal mining, oil and gas facilities and pipelines, and hydro-electric and nuclear energy projects.
- Environment and Climate Change Canada also provided scientific and technical advice related to federal contaminated sites and potential *Fisheries Act* pollution prevention provisions implications through various avenues including the Federal Contaminated Sites Action Plan (FCSAP).

3.3 Regulations

3.3.1 Pulp and Paper

Environment and Climate Change Canada's analysis of the self-reported effluent data generated during 2013¹⁴ by Canadian pulp and paper mills concluded that these facilities continued to have high rates of compliance with the effluent quality limits prescribed in the *Pulp and Paper Effluent Regulations* (PPER). In 2013, 81 pulp and paper mills across the country were subject to the regulations and were depositing effluent directly into water frequented by fish. Compliance rates calculated from self-reported data were over 99% for total suspended solids and biochemical oxygen demand, 96.2% for the requirement that effluent not be acutely lethal to rainbow trout and approximately 98% for the EEM requirements (FY 2014-2015).

Environment and Climate Change Canada continued to provide guidance and advice to the pulp and paper sector on the EEM requirements under the PPER. To promote compliance with regulations under the *Fisheries Act*, Environment and Climate Change Canada continued to provide information to the pulp and paper sector respecting the requirements of the PPER. Compliance promotion activities included sending emails and letters to regulatees and continued support for the electronic reporting of data through the Regulatory Information Submission System (RISS) for pulp and paper mills. The information system is a web-based reporting tool used by industry to report mandatory data as required under the PPER.

¹⁴ Reporting data for the Pulp and Paper Effluent Regulations (PPER) are submitted through one of four electronic- and/or paper-based systems across Canada, depending upon which province a given mill is located. The most recent year for which data have been pooled, tabulated and analyzed at an aggregate level is 2013.

3.3.2 Metal Mines

Environment and Climate Change Canada's analysis of the effluent data generated during 2013¹⁵ by Canadian metal mines showed that these companies continued to report having high rates of compliance with the effluent quality limits prescribed in the *Metal Mining Effluent Regulations* (MMER). The regulations applied to 121 mining facilities across the country in 2013, and the compliance rate with the limit for lead was 100%, over 99% for arsenic, copper, cyanide, nickel, zinc, radium 226 and pH, and 97.9 % for total suspended solids. The regulations also require that effluent not be acutely lethal to rainbow trout, and in 2013, the compliance rate for this requirement was 96.8%. The compliance rate for EEM requirements during FY 2014-2015 was approximately 89%.

From December 2012 to April 2015, Environment and Climate Change Canada conducted multi-stakeholder consultations on the 10-year review of the MMER. The review proposed to strengthen and improve requirements for metal mines, and also examined the possible inclusion of additional mining sectors.

Environment and Climate Change Canada continues to provide information to the metal mining sector on the EEM program required under the MMER.

The Department delivered compliance promotion Activities by speaking with several mining companies across Canada in person or by telephone/conference call to explain the MMER's requirements. Mining companies' main queries related to preparation of the assessment of alternatives when developing proposals to use natural water bodies for the purposes of disposing of mine waste. The assessment of alternatives is a pre-requisite for moving forward with proposed amendments to Schedule 2 of the MMER, which lists tailings impoundment areas. Fisheries and Oceans Canada continues to assist Environment and Climate Change Canada by providing expertise, as needed, on fish and fish habitat and in evaluating and administering compensation plans submitted under section 27.1 of the *Metal Mining Effluent Regulations*.

3.3.3. Notification

In the event of an unauthorized deposit such as an oil or chemical spill, federal and provincial/territorial authorities need to be notified in order to coordinate an adequate oversight of the response. The *Deposit Out of the Normal Course of Events Notification Regulations* apply to verbal notification requirements for unauthorized releases of deleterious substance for the purpose of subsection 38(5) of the *Fisheries Act*. In order to reduce notification burden, and duplication of effort, these regulations provide the regulated community and the public with

¹⁵ The most recent year for which data have been pooled, tabulated and analyzed at an aggregate level is 2012.

the name and telephone number of the 24-hour authorities operating for the respective province or territory to which notifications are to be made. This means that for incidents that trigger the notification regulations, the polluter need only call one, well-known provincial or territorial number. The 24-hour operating centre that received the call then transfers the information to Environment and Climate Change Canada to enable timely and effective oversight, the possible provision of scientific support if necessary, and to allow for compliance verification and appropriate enforcement response.

Compliance promotion activities included the provision of information to the regulated community through Environment and Climate Change Canada's Environmental Emergencies Program website, and the coordination of messaging through other compliance promotion activities related to other regulations under the *Fisheries Act*.

3.3.4 Wastewater

The *Wastewater Systems Effluent Regulations* (WSER) came into force in 2012. The WSER include minimum mandatory effluent quality standards for secondary wastewater treatment, which are phased in over time. The wastewater systems with effluent posing the highest risk to the environment, such as those with no treatment, have until the end of 2020 to comply. Those with medium- and low-risk effluent would have until 2030 and 2040, respectively, to meet standards. Another factor that is used to determine when communities need to meet the standard is if both the wastewater system and overflows from combined sewers need to be addressed. The WSER addresses long standing issues such as the discharge of untreated wastewater.

The WSER apply to 2,560 wastewater systems across Canada, of which most are owned/operated by municipalities. The WSER apply to the largest 2560 wastewater facilities, which equates to 99% of total wastewater discharges per year. Wastewater facilities not covered by the WSER are very small and represent less than 0.1% of total wastewater discharges per year. Of the 2,560 wastewater systems, 220 are located in First Nations communities and 30 are owned/operated by federal departments. As per the regulations, owners and operators of wastewater systems subject to WSER had to achieve the effluent quality standards by January 1, 2015, unless they obtained a Transitional Authorization to meet the standards by 2020, 2030 or 2040. The WSER also includes provisions that came into force on January 1, 2013, such as requirements for submitting identification and effluent monitoring reports. By May 15, 2013, regulatees were required to submit Identification Reports to Environment and Climate Change Canada, which includes basic information about the owner and the regulated wastewater system. For the first year of reporting, in 2014/2015, the compliance rate was 60% for these Identification Reports.

In 2014-2015, ECCC continued to focus compliance promotion activities on informing wastewater systems owners' and operators' awareness and understanding of the regulatory requirements. Compliance promotion activities included webinars, email/fax and, phone campaigns, answering questions via phone and email, presenting at conferences, workshops and meetings, and, working with provincial/territorial partners as well as wastewater and municipal associations. Environment and Climate Change Canada also provided support to regulatees to assist them with registering and completing regulatory reports using Environment and Climate Change Canada's Single Window Information Manager and the Effluent Regulatory Reporting Information System. In 2015/16, inspection and enforcement activities are planned to ensure compliance.

Environment and Climate Change Canada continued to strengthen working relationships with Aboriginal communities and their partners, forging relationships with their training affiliates, technical services groups, and consultants and engaging in consultations in order to inform this regulated community. Compliance with reporting requirements also increased with departmental face-to-face interactions with Aboriginal groups. In 2014-2015, there continued to be discussions with provinces and territories on the development of agreements to reduce regulatory duplication for the wastewater sector. More information on the status of agreements for the WSER can be found in section 3.7 of this Report.

3.4 Water Quality Monitoring

Canadian Shellfish Sanitation Program

Under the Canadian Shellfish Sanitation Program (CSSP), Environment and Climate Change Canada surveys bivalve molluscan shellfish growing areas for the purposes of classifying areas for the harvesting of species such as clams, oysters, mussels and scallops. Environment and Climate Change Canada makes growing area classification recommendations to Fisheries and Oceans Canada (as does, separately, the Canadian Food Inspection Agency pursuant to its responsibilities under the CSSP Memorandum of Understanding). Based on the recommendations from Environment and Climate Change Canada and the Canadian Food Inspection Agency, Fisheries and Oceans Canada will, through its authority under the *Management of Contaminated Fisheries Regulations*, implement closures and openings of shellfish harvesting areas. In 2014-2015, over 31,000 marine water quality samples were collected from nearly 7,500 marine sites along the coastlines of the Atlantic, Pacific and Quebec (St. Lawrence Estuary) regions of Canada to support shellfish harvest area classification.

In addition to temporary closures as a result of unpredicted spills, Environment and Climate Change Canada continues to redefine established classifications of harvesting areas in the immediate vicinity to wastewater treatment plants.

Environment and Climate Change Canada has adopted a world-leading, three-dimensional hydrodynamic modeling technology to support its wastewater treatment plant assessment work. In 2014-2015, a total of nine comprehensive wastewater treatment plants assessments were completed resulting in revised harvesting limits for some locations.

In 2014 there were 2,591 reported spills, including unplanned discharges from wastewater treatment plants and their associated collection systems, were also assessed for potential impacts to shellfish areas. Environment and Climate Change Canada and its CSSP partners continued work in 2014 to build the awareness of wastewater treatment plant operators about the importance of timely reporting pursuant to section 38(5) of the *Fisheries Act*, which contributes to protecting the public from the consumption of contaminated shellfish.

3.5 Enforcement Activities and Measures

3.5.1 Summary of Enforcement Activities

Enforcement activities undertaken during 2014-2015 are reported below in summary tables.¹⁶ Enforcement activities under the *Fisheries Act* include inspections, investigations, and enforcement measures including prosecutions.

Table 9 presents inspections conducted during 2014-15, investigations begun during the fiscal year as a result of inspections or information obtained, and any enforcement measures taken.

An **inspection** is defined as the process of gathering information to verify compliance with legislation. An on-site inspection involves attending a site to conduct any activity/operations/analysis required to verify the regulatee's compliance with an Act or regulation. In contrast, an off-site inspection is normally undertaken at the officer's place of work or in another location that is not at the regulatee's site. It often involves documentation verification and may include contacting the regulatee by phone.

An **investigation** involves gathering, from a variety of sources, evidence and information relevant to a suspected violation. An enforcement officer will conduct an investigation when he or she has reasonable grounds to believe that an

¹⁶ This year the information presented and the format in which it is presented has been changed in order to more accurately reflect the work undertaken in the fiscal year. In previous annual reports, the summary of enforcement activities appeared in one table that summarized the number of inspections, investigations, prosecutions and enforcement measures carried out under the *Fisheries Act* pollution prevention provisions by Environment and Climate Change Canada. For 2014-2015, the tables have been separated between Enforcement Activities and Measures, Investigations and Prosecutions for better presentation of the data.

offence has been committed under the Act and it has been determined that prosecution may be the appropriate enforcement action.

Enforcement Measures that may be taken to address alleged violations of the *Fisheries Act* are warnings, directions, Ministerial orders, injunctions, and prosecutions. Fishery officers and inspectors may issue a direction where immediate action is necessary to counteract, remedy or mitigate adverse effects of an unauthorized deposit of a deleterious substance or to prevent such a deposit. The direction may require the person to take all reasonable measures to counteract, mitigate or remedy any adverse effects that result or may result from the incident; or to prevent a serious and imminent deposit of a deleterious substance.

Table 9 – Enforcement Activities and Measures taken during FY 2014-2015

National	INSPECTIONS ¹⁷			INVESTIGATIONS ¹⁸	Enforcement Measures ¹⁹ from Inspections and Investigations			
	TOTAL	ON-SITE	OFF-SITE		Written Warnings		Directions	
					No. of letters	No. of infractions	No. of Directions	No. of infractions
FA – Fisheries Act (Grand Total)	2999	956	2043	82	136	240	56	71
General Prohibition	1551	766	785	61	71	123	24	36
Meat and Poultry Products Plant Liquid Effluent Regulations	32	6	26	-	2	3	-	-
Metal Mining Effluent Regulations	571	114	457	15	36	83	29	32

¹⁷ The total number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations, using the end date of the inspection for the reference period. Only files closed between April 1st 2014 and March 31, 2015 are tabulated here.

¹⁸ Investigations are tabulated by the number of investigation files, based on the start date of the investigation. Only investigations that started between April 1st 2014 and March 31, 2015 are tabulated here. An investigation file may include activities relating to multiple pieces of legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add to the total at the legislation level.

¹⁹ Enforcement measures are now tabulated by the number of files closed during the year that show at least one infraction for which the measure was taken. This is different from previous years where measures were counted by individual infractions. A column showing total infractions included in the written warnings and directions has been added in replacement.

National	INSPECTIONS ²⁰			INVESTIGATIONS ²¹	Enforcement Measures ²² from Inspections and Investigations			
	TOTAL	ON-SITE	OFF-SITE		Written Warnings		Directions	
					No. of letters	No. of infractions	No. of Directions	No. of infractions
Petroleum Refinery Liquid Effluent Regulations	20	2	18	-	-	-	-	-
Potato Processing Plant Liquid Effluent Regulations	27	7	20	-	-	-	-	-
Pulp and Paper Effluent Regulations	785	58	727	6	27	31	3	3
Wastewater Systems Effluent Regulations	13	3	10	-	-	-	-	-

Table 10 illustrates the number of investigations conducted during the reporting period in a different manner than in previous annual reports. As investigations often extend over more than one fiscal year, this new table is a more comprehensive way of displaying numbers of investigations. This better reflects the fact that at the beginning of the year, there are a number of investigations carried over from previous years (A), there are a number of investigations begun throughout the reporting year (B), and from all these, a certain number are closed and concluded in the reporting year (C).

²⁰ The total number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations, using the end date of the inspection for the reference period. Only files closed between April 1st 2014 and March 31, 2015 are tabulated here.

²¹ Investigations are tabulated by the number of investigation files, based on the start date of the investigation. Only investigations that started between April 1st 2014 and March 31, 2015 are tabulated here. An investigation file may include activities relating to multiple pieces of legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add to the total at the legislation level.

²² Enforcement measures are now tabulated by the number of files closed during the year that show at least one infraction for which the measure was taken. This is different from previous years where measures were counted by individual infractions. A column showing total infractions included in the written warnings and directions has been added in replacement.

Table 10 – Investigations Breakdown for FY 2014-15

	No. of Investigations
(A) Started before FY 2014-2015 and on-going at the beginning of the year	98
(B) Started in FY 2014-2015	71
(C) Ended in FY 2014-2015	42

Finally, **Table 11** presents prosecutions. **Prosecutions** for reporting purposes are all instances in which charges were laid against a person (individual or company). The decision to prosecute is made with due consideration of the factors set out in the *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act*. While reviewing the data, it should be noted that prosecutions often continue through multiple fiscal years so there may be more convicted counts during a particular year than actual charges laid.

Table 11 – Prosecutions and Results

	Prosecutions ²³			
	Charges laid in 2014-2015		Concluded in FY 2014-2015	
National	Prosecuted Subjects	Charges ²⁴	Convicted Subjects	Counts ²⁵
FA – Fisheries Act (Grand Totale)	21	120	17	64
General Prohibition	14	92	15	56
Meat and Poultry Products Plant Liquid Effluent Regulations	-	-	-	-
Metal Mining Effluent Regulations	7	28	2	8
Petroleum Refinery Liquid Effluent Regulations	-	-	-	-

²³ Prosecutions are tabulated by the number of persons (individuals or organisations) prosecuted, where the date the charges were laid falls within the reporting period.

²⁴ The number of prosecuted subjects is tabulated by the number of defendants to the court action. Charges are tabulated based on the actual number of charges laid within the reporting period, at the section/subsection/paragraph level of the regulation. For example, a regulatee violating sections 36(1) and 36(3) of the *Fisheries Act* may be charged with one count under section 36(1) and two counts under section 36(3). This is considered three charges: one for each section.

²⁵ Convicted subjects are the number of persons (individuals or organisations) convicted during the reporting period. Counts are the number of sections of legislation or regulations, for which there was a charge or conviction during the reporting period. For example, in a case where a regulatee is found guilty of one count under section 36(1) and two counts under section 36(3), this is considered one conviction against the subject and three counts.

	Prosecutions ²³			
	Charges laid in 2014-2015		Concluded in FY 2014-2015	
National	Prosecuted Subjects	Charges ²⁴	Convicted Subjects	Counts ²⁵
Potato Processing Plant Liquid Effluent Regulations	-	-	-	-
Pulp and Paper Effluent Regulations	-	-	-	-
Wastewater Systems Effluent Regulations	-	-	-	-

3.5.2 Enforcement Highlights

Prince Edward Island

On November 20, 2014, Warren Ellis, of Mount Royal, Prince Edward Island, was sentenced to pay a total of \$72,355 in Summerside Provincial Court after pleading guilty to two charges of contravening the *Fisheries Act*. The investigation revealed that Ellis had failed to take reasonable measures to prevent chlorothalonil, an agricultural pesticide, from being released into water frequented by fish, resulting in the death of thousands of fish in Trout River and Barclay Brook. The penalty was distributed as follows: \$30,000 to the Environmental Damages Fund (EDF), \$27,500 to the Atlantic Salmon Federation, \$7,500 to the Scales Pond/Dunk River Restoration Project, \$5,000 as a federal fine and \$2,355 as a provincial fine.

Québec

On December 19, 2014, following a three year investigation, Bloom Lake General Partner Limited was ordered to pay a fine of \$7.5 million, the largest penalty ever imposed for environmental infractions in Canada. The company pleaded guilty to 45 charges under the *Fisheries Act* related to several incidents at the Bloom Lake mine site in Fermont, QC, including the release of 14,500 litres of ferric sulfate, failure to comply with a direction, failure to inform Environment and Climate Change Canada of releases, failure to take samples and conduct analyses as required under the regulations, and the release of more than 200,000 cubic meters of deleterious effluent following a breach of the Triangle Tailings Pond dam. Of the \$7.5 million penalty, \$6.83 million was directed to the EDF, representing the largest ever financial contribution to the fund; and the remainder was ordered as a fine.

Alberta

On July 10, 2014, Plains Midstream Canada ULC (PMC) was ordered to pay \$850,000 after pleading guilty to one count under the *Fisheries Act* and one count under provincial environmental legislation. The charges were for failing to notify authorities of a deposit of a deleterious substance into the Red Deer River. The release had originated from an underground pipeline owned by PMC. Of the total \$850,000 penalty, \$400,000 relates to the *Fisheries Act* offence and of this amount, \$380,000 was directed to the EDF. This money will be directed toward projects in the Red Deer River Watershed. The remaining \$450,000 relates to the provincial offence.

On November 19, 2014, Norellco Contractors Ltd. was ordered to pay \$185,000 after pleading guilty to an offence under the *Fisheries Act*. The charge was related to two releases of chlorinated water resulting from a broken high pressure water main. Both releases occurred within days and within a few meters of each other. The company failed to follow guidelines set out in the Alberta Occupational Health and Safety Code by using a backhoe within one meter of a water main. In total, more than 34,000 litres of chlorinated water was discharged into local storm drains leading to the Sturgeon River. The total penalty included a \$5,000 fine and the remaining \$180,000 was credited to the EDF.

British Columbia

On April 7, 2014, the Greater Vancouver Sewerage and Drainage District (GVSD) pleaded guilty to one charge under the *Fisheries Act*, related to a release of untreated sewage into Burrard Inlet. The GVSD was sentenced to pay \$110,000 in penalties. The release occurred after one of the pumps at the Chilco Sewage Pump Station became partially plugged with debris. It is estimated that during that incident, 650,000 litres of untreated sewage was discharged through a combined sewer outfall near Brockton Point in Stanley Park. Of the total, \$105,000 was paid into the EDF and \$5,000 was a fine.

3.6 Environmental Emergencies Program

Environment and Climate Change Canada's Environmental Emergencies Program (EEP) protects Canadians and their environment from the effects of environmental emergencies through the provision of science-based expert advice and the development and the administration of regulations under both the *Fisheries Act* and *Canadian Environmental Protection Act, 1999* (CEPA 1999). The EEP implements the departmental pollution incident notification system. In the event of a significant pollution incident, the program oversees that reasonable response actions are undertaken by the responsible party to counteract, mitigate or remedy any adverse effects of an unauthorized deposit of deleterious substances, as per subsection 38(6) of the *Fisheries Act*. In the event of a

significant pollution incident, the EEP can provide science-based expert advice, 24 hours a day, seven days a week, in collaboration with other federal, provincial, and territorial governments, municipalities and stakeholders, to inform actions that reduce the consequence of environmental emergencies.

In addition, Environment and Climate Change Canada's Environmental Emergencies Officers, being designated as Inspectors under the *Fisheries Act*:

- may receive notifications of deposits of deleterious substances into the environment;
- access and inspect the site of the deposits or any documents in order to observe or to carry out spill response activities;
- collect relevant information and samples for the purpose of establishing the fate and effects of the pollutant, and determine environmental damage;
- issue directions requiring the responsible parties to take preventive or remedial measures if the inspector is satisfied on reasonable grounds that there is an occurrence, under section 38(5) of the *Fisheries Act*, and that immediate action is necessary;
- take all reasonable measures or cause them to be taken if the inspector is satisfied on reasonable grounds that there is an occurrence and that immediate action is necessary; and
- support enforcement activities.

3.7 Agreements with Provinces and Territories

3.7.1 Agreements

The *Fisheries Act* allows the Ministers of Environment and Climate Change and Fisheries, Oceans and the Canadian Coast Guard to enter into agreements to facilitate cooperation, enhance communication and streamline administration in order to further the purposes of the Act. An equivalency agreement may also be established to reduce regulatory duplication in cases where a provision under the law of the province is equivalent in effect, to a provision of regulations made under the *Fisheries Act*.

New Agreements

In 2014-2015, discussions occurred with all provinces and Yukon towards establishing bilateral agreements to reduce regulatory duplication for the wastewater sector. An administrative agreement with New Brunswick for the WSER came into effect in July 2014. Under an administrative agreement, both federal and provincial regulatory requirements remain in force but provincial officials administer the WSER in that province on behalf of Environment and Climate Change Canada. Each jurisdiction remains responsible for inspection and enforcement. An equivalency agreement with Yukon for the WSER came into effect in November 2014. Under equivalency, the Governor in Council orders

that the WSER do not apply for wastewater systems that are subject to a provincial or territorial regulatory regime that is equivalent in effect to the WSER.

In addition, the Government of Canada has existing agreements in place with provinces as follows:

Alberta

The *Canada-Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* entered into force on September 1, 1994. The Agreement establishes the terms and conditions for the cooperative administration of subsection 36(3) and the related provisions of the *Fisheries Act*, as well as regulations under the *Fisheries Act* and the *Alberta Environmental Protection and Enhancement Act*. The Agreement streamlines and coordinates the regulatory activities of Environment and Climate Change Canada and Alberta Environment and Sustainable Resource Development (AESRD) in relation to the protection of fisheries, and reduces duplication of regulatory requirements for regulatees.

Following referrals received by AESRD, Environment and Climate Change Canada conducted 108 (on-site and off-site) inspections and 5 investigations during 2014-2015. Environment and Climate Change Canada conducted an additional 10 planned²⁶ on-site inspections including 1 under the *Pulp and Paper Effluent Regulations* in accordance with the Agreement.

Québec

The province of Quebec and the Government of Canada have been collaborating since 1994. The parties currently cooperate through a Memorandum of Understanding for data collection, effective until March 2018, whereby Quebec continues to provide a single data entry portal for regulatees for the following federal regulations:

- *Pulp and Paper Mill Effluent Chlorinated Dioxins and Furans Regulations* made pursuant to the *Canadian Environmental Protection Act, 1999*
- *Pulp and Paper Mill Defoamer and Wood Chip Regulations* made pursuant to the *Canadian Environmental Protection Act, 1999*; and
- *Pulp and Paper Effluent Regulations* made pursuant to the *Fisheries Act*.

Under the Memorandum of Understanding, pulp and paper mills continue to report their data for these regulations using the electronic reporting system administered by the province of Quebec. Both levels of government retain full responsibility for carrying out inspections and investigations and for taking

²⁶ Planned inspections are done on a proActive basis based on the annual planning process.

appropriate enforcement measures in order to ensure compliance with their respective legislation.

Saskatchewan

The *Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* sets out the principles for cooperation and identifies a preliminary list of activities where detailed collaborative arrangements could be developed. Existing collaborative arrangements are described in the five annexes to the agreement.

In 2014-2015, the Saskatchewan Ministry of Environment continued to forward spill reports to Environment and Climate Change Canada. From the incidents forwarded, enforcement officers conducted 29 on-site and 24 off-site inspections.

3.7.2 Environmental Occurrences Notification Agreements

Federal, provincial and territorial laws require, in most cases, notification of the same environmental emergency or environmental occurrence, such as an oil or chemical spill. To reduce duplication of effort, Environment and Climate Change Canada and Fisheries and Oceans Canada entered into Environmental Occurrences Notification Agreements (Notification Agreements) with the governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, the Northwest Territories and Yukon.

These Notification Agreements facilitate administration of the reporting requirements referred to in the *Release and Environmental Emergency Notification Regulations* under the *Canadian Environmental Protection Act, 1999*, and the *Deposit Out of the Normal Course of Events Notification Regulations* under the *Fisheries Act*.

The purpose of the Notification Agreements is to establish a streamlined notification system for persons required to notify federal or provincial/territorial governments of an environmental emergency or environmental occurrence (e.g., spill, release, etc.). Under these Notification Agreements, 24-hour authorities operating for the provinces, territories receive notifications of environmental emergencies or environmental occurrences, on behalf of Environment and Climate Change Canada. Once received, this information is then transferred to Environment and Climate Change Canada. In 2014-2015, ECCC continued to work with its provincial and territorial counterparts to implement the Notification Agreements. This work included the establishment of management committees and the development of standard operating procedures for the collection and processing of notifications of environmental occurrences. Further, Environment and Climate Change Canada initiated discussions with the governments of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, the Northwest Territories

and Yukon to review the notification agreements with a view to renewing them for another five years.

To view the Notification Agreements consult <http://www.ec.gc.ca/lcpe-cepa/default.asp?lang=En&n=5200AB4B-1>.

List of Acronyms and Abbreviations

Agency	Canadian Environmental Assessment Agency
AAR	Aquaculture Activities Regulations
AESRD	Alberta Environment and Sustainable Resource Development
AIS	Aquatic Invasive Species
AISR	<i>Aquatic Invasive Species Regulations</i>
AM	Aquaculture Management
BOD	Biochemical, Oxygen Demanding matter
C&P	Conservation and Protection Program
CEPA	<i>Canadian Environmental Protection Act</i>
CEAA	<i>Canadian Environmental Assessment Act</i>
CESD	Commissioner for Environment and Sustainable Development
CNSC	Canadian Nuclear Safety Commission
CSAS	Canadian Science Advisory Secretariat
CSSP	Canadian Shellfish Sanitation Program
DFO	Fisheries and Oceans Canada
ECCC	Environment and Climate Change Canada
EEM	Environmental Effects Monitoring
EEP	Environmental Emergencies Program
EOSS	Ecosystems and Oceans Science Sector
FCSAP	Federal Contaminated Sites Action Plan
FPP	Fisheries Protection Program
MMER	<i>Metal Mining Effluent Regulations</i>
MOU	Memorandum of Understanding
NEB	National Energy Board
NGO	Non-Governmental Organization
PATH	Program Activity Tracking System for Habitat
PPER	<i>Pulp and Paper Effluent Regulations</i>
RFCPP	Recreational Fisheries Conservation Partnerships Program
SARA	<i>Species at Risk Act</i>
SMEs	Small and Medium-sized Enterprises
WSER	<i>Wastewater System Effluent Regulations</i>