



November 24, 2016

Standing Committee on Fisheries and Oceans
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Re: Review of Changes to the *Fisheries Act* and the Great Lakes ecosystem

On behalf of the Federation of Ontario Cottagers' Associations (FOCA), we respectfully provide our recommendations re: the Review of Changes to the *Fisheries Act*. We welcome this opportunity to provide comments on the federal government's efforts to introduce modern safeguards to the *Fisheries Act*.

FOCA is an incorporated non-profit organization that represents over 500 waterfront property owners' groups, with over 50,000 member families. For over 50 years, FOCA has spoken on behalf of, and supported, Ontario's waterfront property owners.

Waterfront property owners represent one of the single largest rural constituencies of over 250,000 families located in hundreds of Ontario municipalities, who collectively own and steward 15,000 kilometres of Canada's shorelines, and over 50,000 hectares of economically and environmentally important lands.

Modern safeguards for Canada's fisheries are required to both address shortcomings in the current regulatory regime and to effectively address emerging threats from habitat loss, climate change, and invasive species.

Since 1977 – until the changes made in 2012 - the *Fisheries Act* contained provisions which protected fish habitat. We need to protect the habitat that supports all aquatic life in order to maintain the healthy aquatic ecosystems required for strong, sustainable fisheries.

To support and advance efforts to protect and restore fisheries and fish habitat, we respectfully offer the following recommendations for restoring and modernizing the Fisheries Act and look forward to their inclusion in the Standing Committee's report to Parliament in early 2017.

Recommendations

- Provide transparency and accountability through public monitoring and reporting, through a public registry that enables easy access to all information that is relevant to fisheries management, including authorizations and the associated reasons, monitoring and enforcement activities, and annual reports.
- The importance of Fish Habitat needs to be clearer in the Act. The changes to the Fisheries Act made in 2012 replaced the prohibition on “harmful alteration, disruption or destruction” (often referred to as “HADD”) of fish habitat and the prohibition on killing fish with a new prohibition on “serious harm to fish”, which is defined as “death of fish or any permanent alteration to, or destruction of, fish habitat.” This new provision is problematic in particular due to the uncertainty about what timeframe is necessary to be considered “permanent.”

We recommend reintroducing the concept of HADD back into the Act, and/or the definition of “Serious Harm” needs to be refined to include temporary alterations of fish habitat, in part to ensure that medium risk “works” are subject to the Section 35 prohibition. This, in conjunction with broadening the Section 35 prohibition to include all fish (see below) would restore lost protections and rely less on policy interpretation.

- We recommend removing the focus on CRA fisheries from the Act, and instead include all fish and aquatic organisms.
- We believe the concept of “Ongoing Productivity” is problematic as it is difficult to measure and or determine. DFO should consider:
 - Removing all references to the term from the Act; or
 - Replacing “ongoing productivity” with fish habitat as a factor to consider when making decisions in Section 6.
- In Section 4, we recommend that DFO should further explore agreements with individual provinces and territories for specific commitments. It is essential that roles and responsibilities for enforcing the Act are clearly defined. In Ontario this should most likely be accomplished through agreements with the Ontario Ministry of Natural Resources and Forestry. Adequate resources must be allocated to reasonably accomplish the objectives of the Act, along with the appropriate delegated powers to maintain fisheries objectives and environmental outcomes.
- In Section 6, we feel that the use of Fisheries Management Objectives is helpful and appropriate.

- In Section 35, we must restate that “Serious Harm” is problematic and difficult to enforce. The shift away from CRA fisheries to all fish and the interrelated aquatic life will help address some of the difficulties in applying this section of the Act.
- DFO should regulate mandatory requirements for the registration of proponent self-assessments to enable compliance and effectiveness monitoring, and provide clarity around the ability to enforce conditions of self-assessment.
- There should be a policy / regulatory approach for ecologically significant areas, which should be defined in the Act.
- There needs to be a new policy approach to consider cumulative impacts.

Thank you for the opportunity to provide our input to this important review.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Rees".

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