

# Navigating the Legislative Requirements for Fisheries-Tourism Initiatives in Newfoundland and Labrador

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## Table of Contents

Executive Summary .....	2
Introduction .....	9
Background .....	11
Objectives.....	14
Approach .....	14
Experiential Marine Fisheries-Tourism .....	18
Fisheries-Tourism in Newfoundland and Labrador.....	21
Potential Fisheries-Tourism Initiatives and Relevant Legislation, Regulations and Programs .....	23
1. Meeting Tourist Demand for Local Seafood.....	24
Fisheries Management and Seafood Access for Local Restaurants .....	24
Seafood Auctions and Seafood Markets .....	25
Licenses and Regulations Related to the Sale of Seafood.....	26
Fish Markets.....	28
Seafood Auctions .....	31
Seafood Suppers.....	32
2. Going Deeper into Experiential Fisheries-Tourism.....	34
Going Fishing with a Fish Harvester and Following Their Fish to the Plate...	34
Going Fishing on a Tourism Operator’s Boat.....	39
Discussion and Conclusion .....	42
References .....	51

### **Appendix A – Cited Statutes and Regulations**

## **Executive Summary**

In some parts of Newfoundland and Labrador, particularly in rural areas, the current tourism industry indirectly depends on the existence of a vibrant, local fishing industry. Opportunities to consume locally produced seafood, to observe and interact with industry people, boats, fish plants and other infrastructure, and to experience fisheries-related tangible and intangible cultural heritage are part of what attracts people to the province. These aspects of our coastal fishing communities are also important to local people providing employment, income, access to seafood and many other benefits. In some cases, families that depend on the fishery for employment also appear to have members who work in the tourism sector (although we are not aware of any quantitative research documenting the extent to which this happens). Furthermore, as labour shortages develop in the fishery, tourism sector families might provide workers and sources of investment for the fishery sector in the future. In short, it is likely that the future of many rural areas depends on the effective co-existence of both industries and on strong synergies between them. Despite these realities, there is little evidence that the development of policies and programs in the two sectors has been informed by the goal of promoting such synergies.

A key area of neglect in the policy arena that could help to address this gap is identifying ways to benefit from the growing opportunities for experiential fisheries-tourism initiatives and for the related development of local and regional markets for seafood products linked to the tourism sector (and to the larger issue of local seafood security). This is an area where Newfoundland and Labrador has failed to keep up with many European countries and some Canadian provinces like Nova Scotia where there is an interesting and growing mix of experiential fisheries-related tourism products and services in the harvesting, processing and other sectors (see, for example, the Savour the Sea website for the Yarmouth and Acadian Shores: <http://www.savourthelocalsea.com/producers-and-processors>) and support for new initiatives like the Off the Hook Community Supported Fishery designed to promote local consumption of seafood <http://www.offthehookcsf.ca/>.

Over the past few years, researchers and community partners in Memorial University's Community-University Research for Recovery Alliance (CURRA [www.curra.ca](http://www.curra.ca)) have been carrying out a series of research and consultation initiatives related to promoting fisheries-tourism synergies in key areas of Newfoundland's west coast. This Report is part of this series. It was funded through a Contribution Agreement between the NL Department of Tourism Culture and Recreation and Memorial University (the CURRA). Its primary objective is to identify and discuss the specific legislation, policies, and programs that would apply to a range of potential fishery-tourism collaborative activities as a guide for industry people, government and others interested in: 1) developing programming to promote and support fishery-tourism collaborations; and, 2) understanding and potentially reducing the legislative and regulatory barriers to experiential fisheries-tourism initiatives within NL.

The Report argues that the current regulatory framework and organization of the NL commercial fishery and to some degree the tourism sector as well are poorly designed for supporting the development of experiential tourism initiatives where passive observation (driving past or standing on a fishing wharf) is replaced by "active participation, involvement, even immersion" (Smith, 2006) in sample commercial fisheries activities from the scientific and stewardship activities (such as returning live wolf fish and sentinel fisheries) harvesters engage in, through fishing to preparation and even consumption of the catch. In fact, the opportunity to participate in and observe these kinds of activities has probably declined in recent years because of increased concerns about liability, increased regulation of fishing activities, professionalization processes, the freeze on fish buyer's and in-province processing licenses and enhanced concerns about and regulation of food quality. Access to wharves for tourists and local people may also be declining and indeed should be reduced for safety reasons during busy periods (Jackson et al. forthcoming).

To meet our larger objective, we review some of the findings from recent research on tourism and marine fisheries focusing on the reasons for promoting linkages between the sectors and some of the lessons learned from elsewhere about some of the problems that can result if marine fisheries-tourism is not handled carefully. We then briefly discuss two existing initiatives with limited experiential components, the Fogo Island cod pot initiative and the lobster 'traceability' project, funded by the Atlantic Canada Opportunities Agency through the Canadian Council of Professional Fish Harvesters (<http://thisfish.info/>). We note that although there are no regulatory barriers that we are aware of to either project, the cod pot initiative ran into difficulties this past summer and the lobster traceability project does not seem, as yet, to have been embraced by the Newfoundland and Labrador restaurant sector. We also describe a Newfoundland fisheries science tourism initiative, Coastal Connections, Ltd. (<http://www.coastalconnections.ca/>) which marginally involves commercial fish harvesters and provides some information on traditional commercial fisheries <http://www.mi.mun.ca/programs/career-profile-pdfs/fisheries-science-and-marine-ecotourism-a-natural-fit.pdf>

The main body of the Report uses four potential fisheries-tourism initiatives that do not presently exist in Newfoundland and Labrador to the same extent as in other places to explore the policies, regulations and programs that would need to be taken into account by those interested in pursuing such initiatives. We "follow the fish" through each of these potential initiatives from the ocean (fishery) to consumption identifying, at each stage, the specific policies and regulations that would apply to these activities, the responsible authority and ways in which these policies and regulations appear to constrain development of these fisheries-tourism initiatives. The relevant regulations, policies and programs were identified in consultation with government departments and other agencies. Some representatives of these departments and agencies provided quite detailed feedback on the sample initiatives, which has been incorporated into the Report.

We have appended to the Report excerpts from the relevant legislation discussed in the report.

The tourism industry is a potential contributor to community sustainability in key parts of coastal Newfoundland and Labrador, as is the commercial fishery. These sectors rely on each other, although we are unaware of any research that has quantified the nature and extent of their mutual dependence as has been proposed for the Maine lobster fishery, just as there is very limited research on the relationship between local fisheries and local food security (Daniel et al. 2008; Lowitt, 2011). The contribution of both sectors to the future of these communities could be substantially enhanced if there were stronger synergies between tourism and commercial fisheries. However, the fishing industry in NL is largely focused on mass production for export markets and, since the collapse of the groundfish stocks in the 1990s, the main policy focus has been on down-sizing and related elimination of excess fishing and processing capacity, and on conservation. During the same period, government and industry have made major investments in the tourism sector but these have happened largely in isolation from decision-making related to commercial fisheries in NL. Our analysis here and other CURRA research on fisheries and tourism suggests that the largely separate development of the two sectors means that current fisheries management and licensing policies (federal and provincial) are poorly suited for promoting fisheries-tourism synergies including providing easy and dependable access to fisheries-linked experiential tourism opportunities such as opportunities to go fishing with harvesters. Another constraint is limited access to appropriate, high quality, traceable, locally sourced supplies of seafood on the part of provincial restaurants and local consumers (Lowitt, 2011), although there have been some interesting local efforts to deal with this constraint.

Recognizing that current policies, regulations and programs have been implemented for valid purposes having to do with safety (personal and food), conservation, limiting access and professionalization, we suggest that it is time to

examine some of the experiential fisheries-tourism opportunities for and barriers to innovation, collaboration, income and employment generation created by current policies and regulations, including for small scale fish harvesters and tourism operators in coastal communities. Drawing on opportunities created by existing policies such as DFA's Coastal and Ocean Management Strategy, existing nascent fisheries-tourism initiatives and the opportunities for background research and pilot project development within the current legislation, government should work with industry and representatives of coastal communities to identify ways to reduce barriers and to support the development of a strong experiential fisheries-tourism sector that can contribute to the sustainability of small scale commercial fisheries in rural NL while not compromising food safety, health and safety and conservation.

The CURRA is currently working with the Harris Centre at Memorial University and the Rural Secretariat to organize a Synergy Session where results from this and other CURRA research (some supported by the Rural Secretariat) can be presented to a multi-stakeholder group of representatives from all of the organizations involved with this project and others as appropriate to develop a strategy for moving forward on an experiential fisheries-tourism strategy for NL. Elements of that strategy could include the following initiatives:

1. a project to quantify and make more visible the current indirect contribution of the commercial fisheries to tourism in the province;
2. a project to map the geographical distribution of current fish buyer's licenses, licenses for in-province sales and processor operated seafood retail operations to assess the extent to which current requirements around fish sales might create challenges for businesses interested in marketing locally caught seafood
3. identify ways to support projects to develop awareness of existing fisheries-tourism initiatives such as the lobster traceability project among tourism

operators and to help fine-tune, to the extent necessary, to enhance their uptake and effectiveness within NL;

4. a recommendation to monitor license changes over time and to explore requiring, as a condition of license, that licensed processors and fish buyers actively work with harvesters and tourism operators to promote access to appropriate, locally sourced and traceable seafood and secondary seafood products;
5. an initiative to survey processors and tourism operators in the province to find out the extent to which processors currently target local and tourism-based markets for seafood sales and how they do this and to find out from restaurant owners in the province the amount and types of seafood they use in their businesses, how and from where they source their seafood, the problems and constraints they have identified and the changes they think are needed to expand access to and markets for locally sourced seafood, the importance of traceability and ways to achieve it, and the missed opportunities they identify for experiential fisheries-tourism initiatives in their region;
6. an initiative to survey harvesters about the extent to which the seafood they land is locally consumed, their experience with tourists and interactions with tourism operators, their interest in experiential fisheries-tourism initiatives, the opportunities they see and any potential barriers they have identified;
7. support the development of a variety of experiential fisheries-tourism pilot projects in different coastal management areas of NL involving representatives from commercial fisheries and tourism and other groups (such as, for example, marine scientists and heritage experts) to test out different approaches, appropriate regulatory frameworks and required infrastructure, and for use as models for organizations and groups interested in investing in these kinds of activities in the future. Some examples of such pilot projects could include: a) developing a strategy for managing a portion of local fisheries such as the Northern Gulf halibut



fishery so as to achieve a sustained flow of landings of fresh seafood for use in the local market; b) encouraging the development of an umbrella marketing cooperative involving some combination of harvesters, processors and tourism operators tasked with designing fisheries-tourism experiential products, assessing the insurance and regulatory requirements of such initiatives, developing a plan for meeting these requirements and systematically recruiting tourists interested in accessing these products; c) experimenting with creating a new type of processing license designed to meet the needs of local seafood markets and to promote the development of experiential fisheries-tourism initiatives involving small scale harvesters where gaps in processing and buying capacity exist or where there is a monopoly on local purchasing and a focus on producing a narrow range of products for export.

Not all commercial fishing enterprises, processors and tourism enterprises will be interested in participating in experiential fisheries-tourism but, as with agri-tourism and small scale farming, development in this area has the potential to help support local small scale fisheries in particular, and to bring into the industry in the future, young people trained in both sectors and interested in bridging them. It also has the potential to support the development of new seafood products (experiential and otherwise) that could move onto provincial, national and international markets. Failure to act could have serious long term consequences. As small scale harvesters retire out of the industry, take up work outside of the province, outside the fishing season or sell their licenses, and as more processing plants close the opportunities to help sustain small scale fisheries and to promote synergies throughout the province will decline.

## Introduction

In some parts of Newfoundland and Labrador, particularly in rural areas, the current tourism industry depends indirectly on the existence of a vibrant, local fishing industry. The fishery is a tourist attraction for many people and, for many visitors (and local people) eating local seafood is a priority. In addition, people and families employed in the fishery often provide at least some of the labour force required in tourism and, as labour shortages develop in both sectors, the families and people in the tourism industry could provide crew members for the fishery in the future. In short, it is likely that the future of many rural areas depends on the effective co-existence of both industries and on strong synergies between them.

Successful rebuilding of the fisheries and fishing communities on Newfoundland's west coast (and elsewhere) is very important to the future development of the tourism industry and greater synergies now and in the future could benefit both sectors. Despite these realities, there is little evidence that the development of policies and programs in the two sectors has been informed by the goal of promoting such synergies. A key area of neglect in the policy arena appears to have been the opportunities for fisheries experiential tourism initiatives and for the related development of local and regional markets for seafood products linked to the tourism sector (and to the larger issue of local food security). This is an area where Newfoundland and Labrador has failed to keep up with Nova Scotia where there is an interesting and growing mix of experiential fisheries-related tourism products and services in the harvesting, processing and other sectors (see, for example, the Savour the Sea website for the Yarmouth and Acadian Shores: <http://www.savourthelocalsea.com/producers-and-processors>) and support for new initiatives like the Off the Hook Community Supported Fishery designed to promote local consumption of seafood <http://www.offthehookcsf.ca/>.

The primary objective of this Report is to identify and discuss the specific legislation, policies, and programs that would apply to a range of potential fishery-

tourism collaborative initiatives as a guide for industry people, government and others interested in promoting fishery-tourism collaborations and to be used as the basis for discussions regarding ways to potentially reduce the legislative and regulatory barriers to such collaborations and enhance the incentives and programs available to support such initiatives. Production of this Report was funded through a Contribution Agreement between Memorial University and the Newfoundland and Labrador Department of Tourism, Culture, and Recreation (TCR). Background research for the report was supervised by Professor Barbara Neis, Principal Investigator of the Community-University Research for Recovery Alliance (CURRA), and carried out by Ian Murphy. Mr. Murphy and Dr. Neis co-wrote the report.

The Report is one piece of a multi-pronged set of activities supported by the Community-University Research for Recovery Alliance's (CURRA) researchers, staff, community partners, by regional multi-stakeholder steering committees and various government departments since 2009. The CURRA is a five-year program funded primarily by the Social Sciences and Humanities Research Council of Canada with supplementary funding from Memorial University and several other organizations ([www.curra.ca](http://www.curra.ca)). The CURRA is based at Memorial University and the Bonne Bay Marine Station. In addition to multiple social and natural scientists and fine arts researchers, the CURRA also involves a broad range of community partners who have helped to design the research program and public outreach activities funded through the CURRA. The primary goals of the CURRA include working with local groups to support research that might help promote the rebuilding of fisheries and fishing communities on Newfoundland's west coast. The CURRA activities of which this Report is one part have focused on identifying opportunities for and barriers to enhanced synergies between the fisheries and tourism sectors on Newfoundland's west coast.

## *Background*

CURRA researchers and community partners began looking at the relationship between the fisheries and tourism sectors during a workshop hosted by the CURRA in the Bonne Bay region entitled *Bonne Bay: A Treasure and a Resource*, in October 2009. This forum was preceded by a series of community meetings and these events were designed to promote awareness of the rich marine and fishery heritage in the region as well as to promote discussion of ways to protect the marine and fisheries-based local resources (natural, cultural, organizational, and human) and to enhance their future contribution to the region. Possible ways to enhance fisheries-tourism synergies in the region was a central theme of discussions at the forum (go to <http://www.curra.ca/reports.htm> for the full report (*Bonne Bay: A Treasure and a Resource*).

The CURRA group then organized a *Fisheries-Tourism Forum* in June 2010 in Bonne Bay. One of the presenters to this forum was Juanita Keel–Ryan from the Department of Tourism Culture and Recreation. She told the forum:

Our visitors appreciate the understated beauty of both natural and cultural environments and they try to keep a foot in both worlds when they explore destinations in Newfoundland and Labrador. From a fishery-tourism perspective there is work to be done to help them balance these worlds. For instance, right now no fish plant in the province will conduct tours for visitors in part because of concerns about insurance and health and safety. Visitors have indicated that they would like to see how fish is caught and processed, but current legislation is not amenable to this happening. There is demand from tourists to accompany fishers on their boats and to be allowed to catch fish and have it for their dinners. So, the opportunity and demand exist for stronger links between tourism and fisheries but work needs to be done by the Department of Tourism, Culture and Recreation and fish harvesters to lobby for a change in the regulation. (go to <http://www.curra.ca/reports.htm> for a copy of the full Fishery-Tourism Forum Report)

The type of demand Ms. Keel-Ryan is talking about is part of the larger growing market for experiential tourism. A review of the literature explains experiential tourism this way:

Experiential tourism encompasses a variety of tourism and traveler categories, including the following: cultural tourism, ecotourism, educational travel, experimental tourism, heritage tourism, nature tourism... - where activities are environmentally sensitive, displaying respect for the culture of the host area and looking to experience and learn rather than merely stand back and gaze. Experiential tourism involves active participation, involvement, even immersion (Smith 2006).

[http://torc.linkbc.ca/torc/downs1/Experiential\\_Tourism.pdf](http://torc.linkbc.ca/torc/downs1/Experiential_Tourism.pdf)

Fisheries have the potential to fuel a full range of experiential tourism initiatives because they encompass cultural aspects, the potential for ecotourism, educational potential, heritage aspects and elements from nature tourism. These fisheries-tourism links are all substantially underdeveloped in NL.

The third fishery-tourism project supported by the CURRA involved a partnership with the Rural Secretariat to co-fund and supervise a MITACs intern, Ph.D. student Kristen Lowitt, to spend time with fishery and tourism enterprises in the Bonne Bay area to try to better understand the extent to which there were already collaborations and dependencies between the sector and to explore some options for promoting these in the future. Kristen also did some background research on examples from elsewhere of enterprises and activities designed to promote synergies, and carried out a seafood consumption survey of people living in the Bonne Bay region. In her final report on her research, Kristen argued,

The fisheries and tourism sectors depend on each other. For tourists, seafood is an important local culinary attraction. There is a high demand for local seafood among tourists visiting the region as well as among local residents. Many restaurants in the Bonne Bay area specialize in seafood products and try to source fresh and local seafood as much as possible. Experiencing the local fishing culture and heritage is also an important part of what attracts tourists to the Bonne Bay area. Family members of owners of fishing enterprises and seafood processing families sometimes work in the tourism sector and their patronage helps support local restaurants. Local sales of seafood from fish plants in the region to tourists, tourism operations and to local people contribute to the viability of this operation and thus to the sustainability of the local fishery and of local employment.

Despite the interdependence of the fisheries and tourism sectors in the Bonne Bay region and including their role in employment creation, incomes and local food security, there are no existing programs or initiatives in the region designed to promote synergies between the sectors.

A fourth, related CURRA initiative that has a strong fisheries and tourism focus is taking place in the Port aux Basques region. It began with background research and a forum with harvesters that resulted in a report entitled *Opportunities for Sustainable Livelihoods in the Southwest Coast Lobster Fishery*. Based on the discussions in this forum and afterwards with local representatives of fisheries, tourism and other sectors, we organized an expanded, multi-sector local steering committee that is the lead organization (with the Marine and Mountain Zone Corporation) in a proposal to organize a *Seafood Fair* in the Port aux Basques region in July 2012. This Seafood Fair will be used to begin to promote awareness of the regional fishery and the seafood that it generates and will help, if successful, to more effectively target seafood markets in the region among both local people and the hundreds of thousands of tourists and people from other parts of Newfoundland who pass through the region annually coming into Newfoundland and leaving via the Marine Atlantic ferry.

A fifth initiative, currently under development by the Red Ochre Board with support from CURRA community coordinator Anita Best, is a proposal for a pilot project on experiential fisheries-tourism for the west coast.

At each of the CURRA fishery-tourism linked forums, in Kristen Lowitt's research, and in Juanita Keel-Ryan's presentation, practical questions have been raised about the feasibility of creating enterprises and initiatives that bridge between fisheries and tourism. Among the most commonly identified barriers to such initiatives have been concerns about legislative and regulatory requirements related to each industry. Because these initiatives would, in many cases, invoke legislation related to both industries and that fall under the authority of several

government departments, there also appears to be a general lack of understanding about how all of the various regulations would apply. This Report is designed to begin to address these issues.

### *Objectives*

The Report briefly discusses potential, under-developed experiential tourism activities associated with marine fisheries elsewhere and some lessons learned from those initiatives of potential relevance to NL. It also talks briefly about interest in local seafood consumption and three recent initiatives, cod-potted cod, 'traceable' lobster and a science and fisheries boat tour that have been tried in the province in recent years. The main part of the report explores some of the key applicable legislation, policies, and programs that people and organizations interested in creating enterprises and initiatives that bridge the two sectors might need to take into account. It also examines the ways the existing regulatory regime creates opportunities for or potentially constrains the development of experiential fisheries-tourism. Because of limited time and resources and in an effort to focus the discussion and make the findings more accessible, the Report and our research have been organized around understanding the legislative and regulatory requirements associated with a select sample of potential fishery-tourism initiatives.

### *Approach*

The approach we took to meet our objectives was to develop an outline of the proposed report and a summary description of the bodies of legislation we proposed to examine and to circulate that outline to appropriate representatives of the relevant provincial and federal government departments and some industry stakeholder groups.

Representatives from the following agencies and groups were invited to participate in this process:

- NL Department of Fisheries and Aquaculture
- NL Department of Tourism, Culture and Recreation
- Service NL (Former NL Department of Government Services)
- Canada Department of Fisheries and Oceans
- Canada Department of Transport
- Fish, Food and Allied Workers (FFAW) Union
- Restaurant Association NL
- Professional Fish Harvesters Certification Board.

They were asked to provide suggestions regarding legislation and policies we had missed and clarification from the perspective of their particular organization on how a particular body of legislation or set of regulations or program might relate to the particular scenarios discussed in the report. They were also asked to provide comments on a draft of the final report. Most agreed and their feedback and comments have been used to refine and inform the discussion below and the Report as a whole.

In our outline, we identified four potential fishery-tourism initiatives (potentially sponsored by different actors - harvesters, processors, and tourism operators) and indicated that our plan was to “follow the fish” through these activities from the ocean (fishery) to the market, identifying at each stage, the specific regulations, policies, or programs that would apply to these activities and the responsible authority and then to reflect on the extent to which current policies and programs might act as a barrier or a support for these kinds of fisheries-tourism initiatives.

After consultation, the following sample initiatives were selected for analysis:

- a. the establishment of a local fish market or a fish auction to supply fresh, high-quality local product to local restaurants and other tourism related businesses and/or directly to tourists;



- b. an initiative to serve tourists and potentially local people locally produced seafood on a regular basis in a church supper or via meals prepared by another type of local group (fishermen's wives association)
- c. an experiential fisheries-tourism initiative in which tourists go out on a fish harvester's boat, possibly catch, help catch the seafood or watch the harvester catch the seafood, prepare it with the harvester and consume it with him or her (using the model of agritourism) or go with the harvester to a local processor and watch it be processed and then consume the fish in a local restaurant or elsewhere;
- d. a similar form of experiential tourism, but involving a situation where a tourism operator's boat is used instead of a harvester's boat and the harvester is employed as a guide.

Below is a list of statutes and regulations that were reviewed for this Report (adapted based on comments on the outline) because of their relevance to these sample initiatives. Relevant excerpts from these statutes and regulations can be found in Appendix A.

<b>Statute</b>	<b>Regulations</b>	<b>Responsible Department</b>
<b>Provincial Legislation</b>		
<i>Aquaculture Act</i>	<i>Aquaculture Regulations</i>	Fisheries and Aquaculture
<i>Fish Inspection Act</i>	<i>Fish Inspection Administrative Regulations Fish Inspection Operations Regulations In-Province Retail Fish Establishment Regulations</i>	Fisheries and Aquaculture
<i>Fish Processing Licensing Board Act</i>	N/A	Fisheries and Aquaculture
<i>Fisheries Act</i>	N/A	Fisheries and Aquaculture
<i>Food and Drug Act</i>	<i>Food Premises Regulations</i>	Health and Community Services; Service NL
<i>Professional Fish Harvesters Act</i>	N/A	Fisheries and Aquaculture
<i>Tourist Establishments Act</i>	<i>Tourist Establishment Regulations</i>	Tourism, Culture and Recreation
<b>Federal Legislation</b>		
<i>Canada Shipping Act</i>	<i>Small Fishing Vessel Regulations Small Vessel Regulations Vessel Certificate Regulations</i>	Transport

<i>Fisheries Act</i>	<i>Atlantic Fisheries Regulations Fishery (General) Regulations Newfoundland and Labrador Fisheries Regulations</i>	Fisheries and Oceans
<i>Fish Inspection Act</i>	<i>Fish Inspection Regulations</i>	Canadian Food Inspection Agency
<i>Marine Insurance Act</i>	N/A	Transport
<i>Marine Liability Act</i>	<i>Marine Liability Regulations</i>	Transport
<i>Marine Transportation Security Act</i>	<i>Marine Transportation Security Regulations</i>	Transport

Note: N/A refers to those *Acts* that do not have associated regulations.

Note: this is not a fully comprehensive list but rather core relevant statutes. Other legislation and regulations that could, potentially be relevant but that are not explored here include: the *Navigable Waters Protection Act*, the *Fishing and Recreational Harbours Act*, the *Canadian Tourism Commission Act*, the *Canada National Parks Act*, the *Canadian Environmental Protection Act*, and the *Canadian Environmental Assessment Act*. Provincially, the *Environmental Assessment Act* and the *Environmental Protection Act* may be relevant as well.

Of these statutes and regulations, stakeholder representatives identified several pieces as being of particular relevance for potential fisheries-tourism initiatives of the types we have identified. Provincially, these include the *Fish Inspection Act* which includes regulations that control the sale of fish, and the *Food and Drug Act*, which contains food safety standards and inspection procedures. The provincial *Tourism Establishment Act* contains relevant regulations regarding licensing of tourism operations. The federal *Fisheries Act* and its associated regulations are also important for species-specific control and management. Federally, the *Canada Shipping Act, 2001* contains applicable regulations for marine transport, including safety standards for passenger-carrying vessels.

Provincial and federal government programs may also have implications for these scenarios. These may include the *Fisheries Technology and New Opportunities Program*, initiated through the provincial Department of Fisheries and Aquaculture (DFA), the *Market Readiness Subsidy Program*, promoted by the provincial

Department of Tourism, Culture and Recreation, and other programs. The provincial government's *Coastal and Ocean Management Strategy* (DFA 2011a) advocates for a coordinated approach to the policies and programs that are applicable to coastal and marine resource use. Finding ways to coordinate between the fisheries and tourism industries could be one way to further this approach.

## **Experiential Marine Fisheries-Tourism**

Drawing on a definition of experiential tourism contained in a report from Canada's Minister's Roundtable on Parks Canada (2005), Smith indicates that, among other things,

experiential tourism encourages visitors to participate and promotes activities that draw people into cultures, communities and the outdoors... Experiential tourism is the opposite of mass tourism that traditionally focused on package tours and vacations with low levels of personal involvement. Experiential tourism shows rather than describes. It encourages visitors to actively participate in the experience and promotes activities that draw people outdoors, and into cultures and communities. In this sense it is very personal and individual. Nature tourism, resource-based tourism, adventure tourism, eco-tourism, transformational travel, heritage tourism and other niche areas fit under the umbrella of experiential tourism. Essentially, experiential tourists seek memorable experiences (Smith, 2006, pg. 4).

Experiential marine fisheries-tourism can take lots of different forms but has to involve some level of engagement with local environments, culture, often industry and people. The level of engagement and the focus of that engagement can vary quite a lot. It might involve opportunities to meet with local people and to get supplementary information about the food or other product they are consuming or, at the opposite extreme, opportunities to live with local people and to participate, to some degree, in their daily work and play activities. It can take the form of eco-tourism, have heritage elements, involve, as with agri-tourism, various kinds of interactions with local producers such as opportunities to see how products are produced and having an opportunity to see how they are prepared, to participate

in that preparation; an opportunity to stay with a farming or a fishing family, etc. and to interact with them in their daily lives.

Fisheries-tourism, like agri-tourism, has the potential to create new sources of income for the fishing industry and to better support other parts of the tourism industry by enhancing the experiential tourism opportunities offered in the region and creating new products from which both groups could benefit. Agri-tourism, in the form of on-farm recreation and education, lodgings and accommodations, community supported agriculture, on-farm retail stores, on-farm food processing and roadside stands, has become a particularly important source of income for low to middle income small family farms in Maine in recent years (Allen et al. 2007).

Despite the absence of an explicit policy to develop experiential marine fisheries-tourism in Newfoundland and Labrador, it can be argued that the tourism industry already benefits from the existence of the fishing industry. In a recent article outlining a methodology for valuing the contribution of Maine's 'lobster culture' (lobster cuisine, lobster fishing, lobster fishing villages) to Maine coastal tourism, Daniel et al. (2008, p. 133) hypothesized that this culture "is an important part of the coastal Maine tourist experience and that Maine's coastal tourism industry relies on the presence of an active lobster fishery for its economic success." They and others have argued that consumers will pay more for goods and services if they are delivered with "memorable experiences."

Experiential marine fisheries-tourism is substantially more developed in other parts of the world and takes many different forms. In Europe, for instance, fish markets often run by local fishery organizations or cooperatives provide a source of fresh seafood for local people and for tourists and an opportunity to interact with salespeople who are closely tied to the larger industry. Other European fisheries-tourism initiatives that have been developed within the fishing industry in Europe (including by fisheries cooperatives in Italy) include tourist fishing

excursions, restaurants established by fisher's wives that sell fish harvested by family members, organized visits to shellfish farms and beaches where women harvest shellfish, and the establishment by fishing families of tourist accommodations sometimes with linked opportunities for experiential tourism (Frangoudes2011;

<http://www.federcoopescaturismo.it/localitaING/benvenuti.htm>).

Other countries engaged in diversifying fisheries into tourism include Taiwan (Chen 2010), Mexico (Young 1999), and Korea (Cheong 2003). In Scotland, where many communities with a long history of fisheries engagement no longer have active fisheries within them, fishing 'heritage' in the form of "touristic representations of the fisher past" have become an important source of income and employment, particularly for women displaced from the fishing industry (Nadel-Klein, 2000).

In Europe, as in Canada, the capacity to create some types of fisheries-tourism enterprises and initiatives has, as argued by Frangoudes, been influenced by wider policy frameworks that can inhibit or prevent the development, for example, of tourist fishing excursions as part of commercial fishing enterprises.

In many parts of the world, 'recreational fisheries,' a widespread form of fisheries-tourism, have developed separately from commercial fisheries and often in conflict with commercial fisheries. This approach has frequently contributed to conservation problems (because recreational fisheries can affect stocks), persistent antagonism between the two sectors and for these and other reasons has the potential to weaken the longer term resilience of both sectors. Commercial fisheries may be particularly vulnerable in the current context because of the possibility that they will be branded as extractive and environmentally harmful in the process.

Research from elsewhere suggests that expanding things like ecotourism is more effective and less likely to generate conflict if local organizations and groups are

used to mobilize local groups and if local access rights to marine resources are secure and given preference over outside groups (Young 1999). The province of Newfoundland and Labrador currently has recreational fisheries for only a few species (salmon, scallops, mackerel, cod) and the history of some of these fisheries, such as salmon, certainly did not contribute to the viability of commercial fisheries. Given the current focus in fisheries policy in the province on improving the incomes of commercial harvesters and others in the industry, some of the risks and serious constraints associated with developing fisheries-tourism separately from the existing commercial fishery (including the loss of opportunities to promote public awareness of these fisheries, of conservation initiatives undertaken to date and to enhance the incomes and skill base of small scale enterprises), it makes sense to look for ways to promote experiential fisheries-tourism by engaging professional harvesters, processors and plant workers actively in the development of any new programming. Doing this will, however, require some opportunities to experiment with new kinds of initiatives and collaborations and, in all likelihood, supportive programming and adjustments in policies and regulations. The sample initiatives explored below start from the assumption that a central goal behind developing stronger experiential fisheries-tourism opportunities in NL is to promote the sustainability of coastal communities including commercial fisheries.

## **Fisheries-Tourism in Newfoundland and Labrador**

Restaurants in NL cater to both local consumers and to tourists. Seafood is a popular menu item in many restaurants and much of that seafood but certainly not all of it originates within NL. However, as currently organized, the commercial fishery doesn't fully meet the needs and opportunities in the restaurant sector. In commenting on an earlier draft of this report, Nancy Brace, Executive Director of the Restaurant Association of Newfoundland and Labrador,

Restaurants would be prepared to pay more for the higher quality product and the fishermen would make more for their catch if the rules changed. The restaurant industry can be instrumental in growing the

tourist season and stretching it into shoulder seasons, simply by providing the highest quality food, prepared well, if they are able to boast this food is local and have access to it from the fishermen all year long. The restaurant industry can also go a long way in helping rebuild the provincial fishery at a time when this is much needed. This practice is done in other provinces and those provinces have built a lasting reputation for the fresh local fish, sources from an individual fisherperson. Traceable food is now a huge consumer interest and we cannot address it in this province. Quality local product made available to the restaurant industry would be a win-win for the restaurant industry, the tourism industry and the fishing industry (Personal Communication, January 30, 2012).

As indicated in Ms Brace's comments, quality locally produced food, in and of itself, has an experiential element to it that can enhance the tourism experience and open up the opportunity for price premiums within the industry. This was demonstrated recently by the willingness of Bacalou Restaurant in St. John's to pay a price premium to some Fogo Island fishermen for cod potted cod where the type of fishing and origins of the fish were used to brand the fish and to create a market niche for the restaurant. Unfortunately, this supply of cod dried up this year because the local processor was no longer willing to offer the price premium and do the processing.

This past year, the FFAW implemented a pilot lobster 'traceability' project to produce and market traceable lobster from two parts of Newfoundland (Burgeo and Harbour Breton in Lobster Fishing Area 11). This initiative was funded by the Atlantic Canada Opportunities Agency through the Canadian Council of Professional Fish Harvesters and more information about it can be found at <http://thisfish.info/>. This pilot project experimented with adding a virtual experiential dimension to lobster consumption, as has been done successfully in with this and other species in other provinces. Participating harvesters placed a special tag on some of their lobsters containing a code that could be used by the customer eating the seafood to access information about when and where it was harvested and about the harvester involved (<http://thisfish.info/>). The lobster traceability project required collaboration by harvesters and processors and did

not require any regulatory change. It is, according to Mandy Ryan of the FFAW, an important step in fisheries-tourism in NL but she is not aware of much uptake of the traceable lobster by the NL restaurant industry perhaps because there has not been sufficient advertising to date (Personal Communication, February 7 2012).

A third existing initiative that seeks to provide some links between the fishing industry and tourism is Coastal Connections, Ltd. (<http://www.coastalconnections.ca/>). This is essentially a boat tour in Smith Sound using a vessel that carries out scientific research during the offseason and targets tourists and schools the rest of the year. These tours incorporate information about fishing gear, an opportunity to use some of it and a chance to tour a fishing station and to talk to a practicing inshore fisherman and see an abandoned fishing community (Negrijn 2007). In this case, a private enterprise rooted in fisheries science and tourism has added on a limited commercial fisheries experiential piece. The owner of the enterprise is not a commercial harvester.

## **Potential Fisheries-Tourism Initiatives and Relevant Legislation, Regulations and Programs**

This section uses four potential fisheries-tourism initiatives different from those discussed above to explore the requirements, opportunities and constraints for these initiatives associated with existing legislation, regulations and programs. The initiatives fall into two general categories which have been discussed in previous CURRA reports: meeting tourist demand for local seafood using alternative mechanisms such as fish markets and auctions and community dinners and fisheries-tourism initiatives that would involve tourists having the opportunity to go fishing with a commercial harvester and to eat some of the fish that they land.



## ***1. Meeting Tourist Demand for Local Seafood***

A basic premise behind this sample initiative is that there may be untapped or underdeveloped markets for local seafood in tourism enterprises and among tourists themselves. These markets are understood to result from demand among both residents and visitors for seafood that is produced locally which is often perceived to be fresher, higher quality and more environmentally sustainable than seafood from elsewhere. As noted above, the vast majority of locally produced seafood in NL that is consumed by tourists is consumed in local restaurants or perhaps purchased in a retail outlet and consumed in a cabin or some other venue. As noted above in the quote from Nancy Brace and in a report by Kristen Lowitt (2011, 22) on fisheries-tourism in the Bonne Bay region, restaurant owners are seeking a more consistent and appropriate supply particularly of fresh, local seafood that is ideally traceable back to a local or regional harvester, than is currently available from local processors and stores. As we learn below, rules around fisheries management, constraints on allowable and existing sources of supply and the willingness or interest among licensed processors to meet the needs of the tourism sector and to try to enhance local consumption and support traceability are all potentially important challenges in this sector.

### *Fisheries Management and Seafood Access for Local Restaurants*

In Newfoundland, the lobster fishery is generally over before the tourism industry is at its peak but lobsters can be held in pounds and made available to the local market later in the season (although this is a challenge for other kinds of more experiential tourism organized around the lobster fishery – see below). More challenging are fisheries like the Atlantic halibut fishery on the NL west coast which provides a high value fish that could, particularly if available fresh, provide a superior product for the tourism market. However, because of the way the fishery is managed using a competitive quota and very short season (in 2011, the fishery is reported to have lasted 24 hours) there appears to be a poor fit between the

management of this fishery and the opportunities in the tourism industry. From the point of view of the tourism industry, and for restaurant owners, it would be better to have a steady flow of fresh halibut and other species from local waters during the season. This would reduce the processing costs (less of the catch would have to be frozen) and potentially increase the proportion consumed locally and the value of that product.

Assuming changes could be made to enhance the regular flow of a diverse range of fresh seafood into coastal areas for market in the tourism industry and to local consumers, another challenge is the limited range of options in the province where tourists (and local consumers), tourism operators and community groups can currently purchase seafood and market it. The next section explores the policies and regulations that currently shape access to local seafood by these groups through the lens of proposals to establish three different kinds of fisheries-tourism initiatives that are currently rare or nonexistent in the province: seafood auctions, seafood markets (as, for example, part of farmers markets) and community suppers.

### *Seafood Auctions and Seafood Markets*

In many parts of the world, local seafood is auctioned off to local processors and other buyers in a seafood auction or available to them and to the public in seafood markets. In this section, we look at the policies and regulations that would need to be taken into account if trying to establish these kinds of initiatives in NL. We consider the establishment of a local fish market open to the public and local businesses and the establishment of a local fish auction open to restaurant owners (but not the general public). In both cases, a key issue is the current system for and policies around licensing related to the sale of seafood in NL.

## *Licenses and Regulations Related to the Sale of Seafood*

The provincial regulations related to the sale of seafood would play a key role in limiting the options available for achieving these sample initiatives. Under the *Fish Inspection Act*, the provincial government is authorized to make regulations requiring the licensing of persons or establishments engaged in the buying, handling, storing, grading, processing, transporting or marketing of fish or marine plants (Section 4(1)). The Fish Inspection Administrative Regulations, under the *Fish Inspection Act*, regulate the licensing requirements for purchasing seafood from a fish harvester. According to Section 3.2 of these Regulations, a person may not purchase fish from a harvester for processing or marketing without a fish buyer's license or a fish processing license issued by the Minister of Fisheries and Aquaculture. Under the provincial Fish Inspection Administrative Regulations (Section 3(1)), any establishment used for, or in connection with, the handling, processing, storing, grading, transporting or marketing of fish must be licensed by the Minister, as discussed above, in addition to having a Certificate of Registration from the Canadian Food Inspection Agency (CFIA). The CFIA's requirements are contained within the federal Fish Inspection Regulations, under the federal *Fish Inspection Act*.

The regulations discussed above provide the legal framework for the sale of seafood in the province and prohibit certain types of sale. Seafood can be purchased from a licensed processor (Section 4(c)) for personal consumption and a person licensed to operate a food premises (such as a restaurant owner) can purchase fish from a processor or live lobsters from a fish buyer but it is illegal for fish harvesters to sell their fish to tourists and to restaurant owners and others who lack one or the other of these licenses. Under these regulations, it would be possible for a fish processor to open a local fish market to retail to the public (and indeed one such operation exists in the Bonne Bay area although it has no connection to the developing local farmers market) but not for other groups like harvesters or tourism operators to do this. According to the DFA, the Department

is currently reviewing the regulations that prevent direct sales by fish harvesters, however the review has not been finalized and at present, any sale of seafood in a fisheries-tourism collaboration would have to involve a licensed buyer/processor (Personal Communication, Alistair O'Reilly, January 12, 2012).

Aside from the exceptions contained in Section 4 of the Fish Inspection Administrative Regulations, any sale of seafood would have to be conducted with the authority of a license issued by the provincial DFA. Five classes of fish processing licenses are described in Section 7 of the Fish Inspection Administrative Regulations. The vast majority of the 121 active licensed processing establishments in the province in 2010 were operating with "primary processing" licenses (DFA 2010). A primary processing license allows the license holder to purchase authorized species and to process seafood for export markets. These license holders are subject to minimum processing and production requirements. They have the potential to market inside the province but this would generally not be the focus of their operation. They also often specialize in the mass production of a relatively limited variety of species such as shrimp or crab with other species being shipped out to other operations. Tourism operators and visiting tourists and local people are likely to be interested in a broader range of species and products.

Depending on the type of processing operation that is available in the area, the minimum processing requirements could also pose problems. Under Section 4(2)(o) and (p) of the *Fish Inspection Act*, the Lieutenant-Governor in Council may make regulations prescribing minimum production and minimum processing requirements. Minimum production refers to the amount of production required to maintain a species category authorization, while minimum processing means "the minimum amount of transformation of a species from its live and/or landed state before the product may be shipped from Newfoundland and Labrador (DFA 2010, 1-6)". These requirements are designed to protect rural employment in the

processing sector and to ensure that raw materials export provides socio-economic benefits to the province.

The specific minimum processing requirements for all authorized species are listed in the Schedule to the Fish Inspection Operations Regulations section of the *Fish Inspection Act*. These requirements apply only to seafood that is marketed for export outside of the province. However, seafood purchased within the province is also usually sourced from primary processing operators. With a small number of active fish buyer's licenses and in-province retail processing licenses currently in use, fish harvesters normally sell their catch to primary processors. These operations are permitted to sell whole fish in-province, as the minimum processing requirements only apply for exported fish but this will require them to give some priority to local needs such as those of tourism operators including meeting with them to discuss their needs and potentially doing more sorting and adding a new line to their production system. The potential extra costs and complexity might not interest all primary processors.

### *Fish Markets*

There is also an in-province retail fish establishment license. This would be the most relevant license for those interested in establishing a fish market for retail to local tourism operators, tourists, etc. This license allows for direct purchase from a harvester and for in-province sale without minimum processing or production requirements. These processors are referred to as "in-province retail processors" and under Section 7(1)(c) of the Fish Inspection Administrative Regulations they may be issued a license to market fish for in-province sale only. This type of licensed buyer could legally sell seafood in the whole/unprocessed state in a local fish market.

The DFA (2010, 4-23) reports that the intention of this license class was to improve the quality of seafood being prepared for local consumption. In 2010, of

the 121 fish processing facilities operating in the province, there were 10 in-province retail facilities (DFA 2010). These establishments must adhere to the operational requirements of the In-Province Retail Fish Establishment Regulations, another set of regulations under the provincial *Fish Inspection Act*. These regulations comprise operational standards regarding issues such as safety and cleanliness for in-province retail fish establishments. As with fish buyer's licenses, it is currently DFA policy that no new in-province fish retail fish processing licenses will be issued (DFA 2010, 4-23). This freeze stems from concerns about overexploiting certain species, as this type of license is not limited to a particular species category.

Another license that might be useful for a fish market type of initiative is the secondary processing license, under which a license holder may add ingredients to seafood beyond the primary processing stage. This would be useful if they wanted to produce, for sale in their fish market, value-added products. The DFA encourages primary processing facilities to also pursue secondary processing, and primary processing license holders are allowed to produce secondary processed products for those species categories they are licensed to process (DFA 2010).

Fish buyer's licence holders are authorized to purchase certain species directly from harvesters. The role of this type of license in the past was to increase competition for raw materials, as both licensed buyers and licensed processors would compete for seafood from harvesters. The majority of these licenses authorize the direct purchase of lobster or eel, which would not have minimum processing requirements because these species are sold live. There are also some grandfathered licenses authorizing the direct purchase of groundfish, halibut, scallop, and other species (DFA 2010; DFA 2011b). Access to one of the licenses allowing direct purchase of a broad range of species might allow a non-processor to open a fish market in a tourist area. However, according to the provincial Fish Processing Licensing Manual (DFA 2010), the current policy is that

no new fish buyer licenses will be issued and, according to the DFA, in 2011 there were only 27 active fish buyer's licenses in the province. The Manual justified the freeze by suggesting that the role of fish buyer's licenses has diminished as processors provide many of the same services.

While at present there is a freeze on new processing and fish buyer's licences in the province, according to Section 5(2) of the Fish Inspection Administrative Regulations, a fish buyer's license or a processing license may be issued by the Minister upon the terms and conditions that the minister considers advisable or necessary so the Minister can provide new licenses in certain conditions and potentially on an experimental basis. It would be interesting to map the location of the different kinds of licenses against species landed in those areas, products produced by the plants, and the location of tourism enterprises and tourism hotspots on the Island and in Labrador. It would also be useful to know how many of these plants have seafood markets that are open to the public and to other local buyers. It would also be good to poll tourism operators about where they access their seafood, the problems they see with this arrangement (if any) and their solutions to this. Tourism operators and others may sometimes buy directly from harvesters. Unfortunately, the current legislation does not allow this practice, even though it might be the only effective alternative to re-importing local seafood that has been sent out for processing back into a region, especially in areas where there is no local fish plant. If it were allowed, such activity could bring other possibilities for value-added products and experiential fisheries opportunities (see below).

After the sale of seafood from a harvester to a licensed buyer or processor, businesses such as shops and restaurants may purchase fish from these parties for retail to larger markets. To operate a fish market, such establishments would require a Food Establishment License, under the authority of the Food Premises Regulations of the *Food and Drug Act* for the preparation of seafood products and over-the-counter sales.

## Seafood Auctions

Seafood auctions involving multiple buyers could increase competition for raw materials. However, auctions are not usually permitted in the NL fishing industry, and where they have been implemented have involved licensed processors and buyers only, not tourism operators or those retailing seafood. For example, a cod auction pilot project was implemented by the provincial government as a part of the Canada/Newfoundland Fishery Renewal Strategy. The project was operated between June and September 2008 from auction ports at Fortune and Burin (DFA 2009). As reported by *The Telegram* (February 23, 2009), the project was terminated due to lack of interest from harvesters and processors. Citing internal briefing notes obtained from DFA, the Telegram reported that harvesters and processors in the pilot project area did not find the option of a fish auction to be in their best interests within the current regulatory and pricing framework. According to *The Telegram*, the DFA briefing notes listed several possible explanations for why the pilot project failed, including:

- Limited acceptance by harvesters;
- Processors appeared to be withholding crab bonus payments until the season was over;
- Processors were not interested, and hence did not participate;
- Processors were concerned the auction could expand to other species;
- Some processors did not want the auction to work due to concerns over raw material supply;
- Minimum prices meant harvesters didn't need to use the auction;
- Harvesters were concerned with the availability of financing, if ties with processors were broken;
- High minimum negotiated prices gave buyers and harvesters little incentive to avail of the auction process.

The Telegram, February 23, 2009.

<http://www.thewesternstar.com/Business/Natural-resources/2009-02-23/article-1463165/Cod-auction-pilot-project-terminated/1>

Questions about the viability of fish auctions for the province remain; as the Fishing Industry Renewal Strategy suggests, there may be potential benefits from such an arrangement, including increased competition, improved quality and



enhanced value (DFA 2009). There are also additional potential benefits, particularly in regions with high levels of tourism and diverse demands for seafood that do not mesh well with a mass production, export-oriented approach to the industry and where there are specialized needs including potentially, a preference on the part of the restaurant owners to process their own seafood. The structure and scale of fish auctions could vary greatly according to who is permitted to buy and sell. There are also potential collaborations between the tourism and processing industries which could help address these challenges.

One of the constraints on the ability of a local processor, fish market or auction (if something like the latter could be established) to optimally support and build demand for the consumption of locally and regionally produced seafood is, as noted above, the intermittent availability of seafood in the region and the fact that the timing of local fisheries often does not coincide with the tourism season. Changing this requires local capacity for storing live, fresh product and/or changes in the management of key fisheries to allow at least a portion of the catch to be landed locally over several months. Because many species of fish migrate and catch compositions vary, there will always be some variability in supply and this is dealt with in most restaurants by having a 'catch of the day' menu item or by indicating certain elements on the menu are only available in season. However, many species are available and suitable for harvest in local areas for much of the tourist season but only available briefly or intermittently because of the way fisheries are managed (as with those, such as halibut in the Northern Gulf, which are managed on the basis of competitive quotas).

### *Seafood Suppers*

A third option for promoting synergies between local fisheries and tourism would be through seafood suppers organized by church and other community groups. While these activities are relatively uncommon in Newfoundland and Labrador, they have been an important part of the tourism industry in other Atlantic

provinces like Prince Edward Island and can be an important mechanism for community development.

<http://www.gov.pe.ca/infopei/index.php3?number=66380>

(see also <http://www.lobstersuppers.com/>)

These kinds of activities give tourists a chance to meet local people and put funds directly into the community. They open up the possibility of adding further value through opportunities for local harvesters to talk to people about their work and the addition of cultural activities to the event as well as presentations on how to prepare seafood, recipes and a venue to market local seafood and other products. It is interesting to reflect on why there are not more lobster, crab, shrimp, cod and other types of seafood church suppers in the province.

Events of this kind would invoke the challenge of getting a license to purchase local seafood – particularly important if there is no local processor or fish market. Those interested in developing this kind of initiative would also need to deal with the Provincial *Food Premises Regulations*, under the *Food and Drug Act*, which is the responsibility of two provincial departments: Health and Community Services and Service NL. Under the *Food and Drug Act* (1990), a food premise refers to “a place where food is prepared, manufactured, handled, cut, processed, packaged, displayed, stored, offered for sale, sold or served (Section 2(g.1))”. These regulations state that any food premises must be licensed and are subject to inspection for compliance with health and safety regulations.

In NL food is regularly served at events such as outdoor fairs and community suppers. The Food Premises Regulations include an exemption for these types of events, which are termed “temporary facilities”. Under Section 2(u) of these regulations, “temporary facilities” means food premises established in conjunction with fairs, circuses, concerts, civic events or another event not lasting longer than 7 consecutive days. Under Section 3(d), these temporary facilities just need to meet the standard health guidelines of the department. Therefore, food served

regularly as a part of a tourism venture probably need to hold a food premises license, while a series of one-off community suppers would likely need a temporary food establishment permit. The permit application and the standard health guidelines for temporary food establishments are available from the Service NL website

([http://www.gs.gov.nl.ca/licenses/env\\_health/food/temp/index.html](http://www.gs.gov.nl.ca/licenses/env_health/food/temp/index.html)).

These standards include basic health and sanitation requirements for the operation of temporary food establishments such as fairs or other events.

## ***2. Going Deeper into Experiential Fisheries-Tourism***

In this section, we explore sample initiatives that seek to tap more deeply into tourists' interest in fishing and fishing culture as well as seafood consumption as vital, unique aspects of the province. Experience based tourism has become a major focus of the provincial tourism development strategy (TCR 2009), and one recent survey of NL visitors suggests that opportunities to meet local people and experience culture are among the province's top tourist attractions (TCR 2006). Two sample initiatives and the policies, regulations and programs relevant to them are discussed below.

### *Going Fishing with a Fish Harvester and Following their Fish to the Plate*

This scenario would encompass initiatives where tourists get to meet with local harvesters, potentially catch seafood on their boat or watch them catch seafood and then have an opportunity to observe the preparation of the resulting seafood and to consume it in a harvester-operated venue before or after processing in the local plant, or in a local restaurant.

Proper licensing is required to harvest fish and shellfish. The Atlantic Fishery Regulations, under the federal *Fisheries Act*, apply to the control and management of seafood species, including species of interest for this research

such as cod, halibut, capelin, crab, and lobster (a complete list of species is listed in Schedule 1 of these regulations). Under Section 13 of the Atlantic Fishery Regulations, there is a requirement for registration and to hold the appropriate licenses to fish for these species. Since tourists would not hold these licenses, even if they are fishing with a professional fish harvester, they would not be able to harvest most species most of the time (exceptions might be cod during the cod recreational fishery and mackerel during the mackerel recreational fishery). So the only legal scenario here would involve a tourist having the opportunity to go out in the boat and watch the commercial fishery taking place.

Fishing seasons, as determined by the federal Department of Fisheries and Oceans, would also play a role in any potential experiential fisheries-tourism ventures. Tourism season does not always or even often coincide with the regulated fishing season for several species that may be of interest such as lobster, snow crab, shrimp and often cod. The Newfoundland and Labrador lobster season typically runs from spring into early summer, ending before the peak tourist season. Thus, an experiential fisheries-tourism collaboration focused on catching and consuming lobster would require designing programs to support this initiative in order to get around fishing season regulations. An example of such an initiative is a DFO pilot project to develop experiential tourism based on the lobster harvest in the Gaspé region of Quebec. To implement this project, harvesters were permitted to catch lobster out of season for tourism purposes. Conservation and quota requirements were met, as harvesters kept a number of lobsters caught during the fishing season in a pound, and released the same number of lobsters that were caught later for tourism (Lowitt 2011).

Experiential tourism initiatives that involve taking tourists out in boats would also have to meet the requirements laid out in the *Canada Shipping Act 2001* including its associated Regulations and their referenced Standards. The *Act* requires all Canadian vessels to be registered. Two sets of regulations under this *Act* that are relevant to this experiential fisheries-tourism initiative are the Small Fishing Vessel

Regulations and the Small Vessel Regulations. These encompass the standards for small fishing vessels and small passenger-carrying vessels, respectively. A central regulatory issue for this type of initiative is the different requirements for vessels registered as fishing vessels and those registered as passenger vessels.

Under Section 2 of the *Canada Shipping Act, 2001*, a “guest” is someone carried on a vessel exclusively for pleasure, with no remuneration to the owner or operator (Section 2). A “passenger” is generally someone who pays for a trip on a vessel, including travel for such purposes as sightseeing, water taxis, ferries and harbour cruises (Transport Canada 2011a). Thus, if the harvester wanted to charge the tourist their vessel would need to meet the requirements for passenger vessels.

A “passenger vessel” is defined as any vessel that carries at least one passenger and there are different requirements for “passenger vessels” from those for fishing vessels. If a fishing vessel owner were to take passengers, then their vessel would have to be registered and inspected as a passenger vessel. According to Tony Smith, a Senior Marine Inspector with Transport Canada, both types of vessels would require safety equipment for the safety of the people onboard, proper training of vessel masters and crews and both would require stability assessments for their type of cargo and operations. However, because passengers are typically untrained personnel who do not have the experience of a fishing crew, there are additional construction standards and safety equipment requirements for passenger vessels that wouldn’t typically be required on a fishing vessel. These include things like higher guardrail heights, stair designs (less inclination, with rails, and safer tread depths and widths), additional life raft and life vest capacity as well as passenger muster areas and crowd control training. Many of today’s fishing vessels, large and small, are designed to maximize the utilization of their space for both required equipment and catch. This limits the availability the space available for passengers and the associated additional requirements noted above (Tony Smith, Personal Communication, January 30,

2012). There would be substantial costs associated with ensuring a fishing vessel met these additional requirements.

There are also different inspection standards according to the size of the vessel and the number of passengers being carried. The Vessel Certificate Regulations, also under the *Canada Shipping Act 2001*, state that any vessel under 15 tonnes carrying more than 12 passengers must be inspected and certified as a passenger vessel (Sections 9 and 10). There are separate inspection procedures for small vessels (between 0 and 15 tonnes) carrying from 1 to 12 passengers. There is no separate set of standards for passenger vessels carrying only 2 or 3 passengers. These vessels may be registered under the Small Vessel Compliance Program, under which the vessel is still subject to the safety standards of a passenger vessel, but vessel compliance with regulations and standards may be verified through an inspection by the owner/operator and reported to Transport Canada using the appropriate forms (Transport Canada website 2011b). However, all vessels carrying passengers must be registered as passenger vessels, regardless of vessel tonnage, since the Vessel Certificate Regulations state that all vessels must be registered for their intended service. There are also operational, personnel and safety requirements in the Marine Personnel Regulations and the Fire and Boat Drill Regulations, which are both enabled by the *Canada Shipping Act, 2001*.

Marine liability insurance is required by regulations under the federal *Marine Liability Act*. Part 4 of the *Act* deals with the carriage of passengers by water, and under Section 39 the Governor in Council may make regulations regarding compulsory insurance to cover liability for passengers. Relevant to this report, there is an exception in Section 37 of the *Act* for adventure tourism, which is not regulated by the same requirements for mandatory insurance. Due to this exemption, adventure tourism operators are able to forgo marine liability insurance with passenger-signed waivers. It would seem, however, that this exemption may not apply for the experiential fishing trips we are discussing here.

This is because of the definition of “adventure tourism” referred to in the *Act*. For an activity to be exempted under this definition it must meet certain conditions, including that it normally requires safety equipment and procedures beyond those normally used in the carriage of passengers; and that participants are exposed to greater risks than passengers are normally exposed to in the carriage of passengers (Section 37(b) and (c)). The requirements for marine liability insurance would thus depend on whether the experiential fisheries-tourism venture in question could be exempted as an adventure tourism activity.

All tourism operators in NL are required to complete and submit a tourism operator profile to the Department of Tourism, Culture and Recreation, and this would be required for any experiential fisheries-tourism business. Depending on whether the tourism experience being offered includes overnight accommodation on the boat, a vessel used for this purpose may also need to be licensed provincially as a “tourism establishment”. Under the provincial *Tourist Establishments Act I* (1990), administered by the Department of Tourism, Culture, and Recreation, a tourist establishment includes “a boat on which food and overnight accommodation is provided for hunters, sport fishers or travel parties (Section 2(o))”. Cabins or tent camps that are set up to cater to sport fishers or also defined as “tourism establishments”, and they would require a licence to be operated as such.

Depending on the nature of the fisheries-tourism experience being offered, there may be other licenses required. In terms of food safety, any venture that involved preparing and serving seafood would have to meet the requirements of the Food Premises Regulations, under the *Food and Drug Act* and this would include food preparation in a restaurant or in a fisherman’s store or in a beach boil-up (see above).

If the venture did not involve the consumption of harvested seafood, but rather focused on another aspect such as removal of fish or shellfish from the ocean for

the purposes of education or public display - such as in a restaurant or aquarium. Part VII of the federal Fishery (General) Regulations, also enabled by the *Fisheries Act*, would be relevant. This deals with licensing in cases of fishing for experimental, scientific, educational or public display purposes. Under Section 51, fishing for these purposes without a license is not permitted. The regulations state that the minister may provide a license to fish for these purposes, provided that they are in keeping with the proper management and control of fisheries. Should the license be granted, there is a \$100 fee to fish for public display purposes, and no license fee to fish for experimental, scientific, or educational purposes.

### *Going Fishing on a Tourism Operator's Boat*

This would involve a similar form of experiential tourism but with the seafood harvested in a tourism operator's passenger boat with the participation of a co-owner fish harvester to act as a guide, supervise the fishing and as a way to give tourists fishing with the enterprise a right to fish for multiple species. There are two questions about the legality of a fish harvester being involved in such a way. One relates to whether a fish harvester can fish their commercial quota on a non-fishing vessel, and the other relates to whether tourists on the boat could fish for that quota or would be limited to watching the harvester fish. According to Mark Dolomont of the Professional Fish Harvesters Certification Board (Personal Communication, January 22, 2012), only DFO registered Commercial Fishing Vessels (CFVs) are entitled to set and haul fishing gear and land commercial quotas (and only certified harvesters are licensed to land commercial quotas). While there are ways that quotas can be caught on a vessel not owned by the species licence holder (i.e. Buddy-Up, medical designations, etc.), Mark "knows of no case where a non-CFV was used to catch commercial quota". However, Mark also noted that under the Atlantic Fisheries Policy Review (AFPR), DFO considered the idea of allowing more flexibility in allocating commercial quotas to accommodate tourism, but this has not yet been implemented.



In the AFPR, Phase II, it was argued that:

resource users, in collaboration with Fisheries and Oceans Canada and other government agencies, should support innovative and diversified fisheries to be able to withstand natural fluctuations in resource availability and improve international competitiveness.

Specific actions may include:

- promoting and supporting the development of multi-licensed/multi-species enterprises as well as diversity in harvesting methods and strategies;
- examining the possibility for commercial harvesting enterprises to use their allocation for purposes other than commercial harvesting, such as aquaculture, **marine tourism** and operating recreational fisheries; and
- streamlining rules and regulations or adjusting harvesting and management practices to meet market demands for a reliable and dependable supply of fresh and processed fish products.

(“A Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast” (2004) on the Atlantic Fishery Policy Review

[http://www.dfo-mpo.gc.ca/afpr-rppa/Doc\\_Doc/policy\\_framework/Policy\\_Framework\\_e.pdf](http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/policy_framework/Policy_Framework_e.pdf) p. 21.)

So, even if a tourism operator was working with a licensed commercial harvester, they would not, together, be able to access listed fish and shellfish species for which there are no recreational licenses except on a licensed fishing vessel. In the case of recreational fishing, this could happen only within the seasons those fisheries were open. The recreational groundfish fishery is open to both residents and non-residents, and participation does not require a permit. However, the appropriate retention regulations and management measures would have to be followed (DFO 2011).

If a fish harvester was part of a fisheries-tourism enterprise, they would need to pay attention to the fish harvesters' earnings and the eligibility requirements for professional certification. The *Professional Fish Harvester's Act* allowed for the establishment of the Professional Fish Harvester's Certification Board (PFHCB). The board is responsible for establishing criteria for fish harvester certification, with the approval of the Minister (Section 12(1)). It would be important for a fish harvester to adhere to these criteria while engaging in any sort of fisheries-tourism

collaboration. For example, a person employed full-time in an industry outside of fish harvesting is ineligible for certification as a professional fish harvester (PFHCB Website: <http://pfhcb.com/> ). Also, to maintain professional certification, fish harvesters have been required in the past to earn a minimum of 75% of their income must from fishing during the fishing season. However, fishing seasons are often relatively short and generally not the best time for harvesters to engage in activities outside of commercial fishing. In addition, there is a grace period (Mark Dolomount, Personal Communication, January 9, 2012). As such, this regulation is unlikely to stand as a barrier to any fish harvester who would like to participate in this way in a tourism-based business.

There may also be considerations regarding fish harvesters' eligibility criteria for Employment Insurance (EI). EI benefits for fishers are regulated by a different set of criteria than those for other kinds of workers including those in the tourism sector. For example, for harvesters, eligibility is determined by earnings from fishing (fish landings) rather than work hours (Service Canada 2011). Harvesters who qualify for EI would not be able to work full time in a tourism enterprise and still receive fishing EI benefits. Part-time employment is permitted under EI regulations, and the regulations normally allow a fish harvester receiving EI to earn up to \$50 per week or 25% of their weekly benefit, whichever is higher. Any weekly income above that would be deducted from EI benefits (Service Canada 2011). EI regulations and policies are complex, and it would be important for fish harvesters to understand how particular fisheries-tourism collaborations might affect their eligibility.

Once the seafood was landed, it would have to be sold to a licensed fish buyer or processor before it could be retailed back to the harvester or to a restaurant owner for meal preparation for the same or any other tourist (see the discussion about these licenses and direct sales above). The situation might be different for seafood harvested in a recreational fishery but are very limited marine seafood recreational opportunities in the province.

A collaborative enterprise that included a processor as a co-owner would help to address this latter challenge assuming there is a local processor interested in this kind of collaboration.

## **Discussion and Conclusion**

As it stands, the complex federal and provincial regulatory regime related to fisheries in particular in Newfoundland and Labrador has the potential to seriously constrain the development of fisheries-tourism initiatives. These constraints would be particularly great in regions without a local multi-species processing plant or fish buyer with a retail outlet and without a willingness among processors and harvesters to engage in value-addition kinds of activities such as those related to experiential tourism. Generally speaking, the orientation of the commercial fishing industry and its participants is towards mass production and export markets. It would take support, collaboration and a willingness to experiment with the creation of new types of products, processing and retailing licenses and requirements to move the industry towards more fruitful collaborations with tourism operators.

That said, as noted above, the cod-potted cod, traceable lobster and marine science and fisheries boat tour in Trinity Bay are examples of existing fisheries-tourism initiatives that have developed within the existing regulatory framework, although they are relatively new and could benefit from more support and efforts to expand these kinds of initiatives to new species and locations. Similarly, a tourism operator in Bonne Bay has found a way to increase his chances of getting the fish he needs for his restaurant by going into the local fish plant and processing his own fish (Lowitt 2011). Others might want to do this.

Fish processors can establish retail stores that cater to local restaurants, tourists and local people. They could take this opportunity one step further by designing a section of their plant to allow visitors to observe the food they are planning to

purchase being processed, although to our knowledge no fish plant has done this in NL. Fish processors could also, within the existing regulations, establish a processing operation (or part of it) in the form of an *economuseum* as part of a larger business designed to market a range of specialized products as well as provide educational tours, etc. (see <http://www.artisansatwork.ca/the-dark-tickle-co/> for an example of this kind of initiative in marketing NL berry products).

Where processing facilities exist, they need to be encouraged and supported in efforts to join local initiatives to develop experiential fisheries-tourism such as through the development of an *economuseum* type of facility similar to the one that now exists for NL berry products at Dark Tickle. If they are unwilling to engage in this kind of production and a market can be shown to exist, it would make sense to create perhaps a special kind of fisheries-tourism or experiential tourism processing license to support this kind of diversification. Such initiatives could work very well if regulations and programs support the redesign of some plants or, if new licenses come available, support the setting up of specialized small scale operations where tourists can tour parts of the plant (taking into account food safety concerns).

Local fish markets and potentially auctions are a possibility, as would be community suppers, but the industry is not currently managed with support for these kinds of activities in mind and the freeze on fish purchasing licenses (of various kinds) may mean that local seafood will have to be landed, trucked away and then brought back for these activities.

A larger issue for experiential tourism is the issue of how tourists could be systematically recruited to participate in these activities and managing the demand around commercial harvesters' commitments to commercial fishing. One way this might work, if enough harvesters, processors and tourism operators are interested in an area, would be to establish a marketing cooperative that would take responsibility for recruitment and planning and pay harvesters and others for

their involvement. While helpful, this would not address some of the other challenges for such initiatives created by the current regulatory regime. A special-case exemption from certain regulations, or perhaps the establishment of a government supported pilot project could be used to experiment with some different options to see what would work.

As noted above, a quick review of relevant research suggests that it is often the case, as in Norway, that the development of fisheries-related tourism provides little direct benefit to local commercial fisheries and it can, in some cases, contribute to issues with conservation and other challenges (see, for example, Moksness *et al.* 2011). Careful planning and enhanced dialogue between people in both sectors and the relevant government departments is essential not only to the development of a vibrant fisheries-tourism sector but also to avoiding some of the conflicts and other problems that have happened elsewhere.

The sample fisheries-tourism initiatives discussed in this report, and others not explored here are based on a model where fisheries-tourism development is designed to enhance the sustainability of the province's small scale fisheries. This approach, while challenging in the short term and no doubt dependent on clear leadership and appropriate support and guidance has the potential to maximize benefits to fishing communities by enhancing the added value local commercial fisheries already provide to the tourism experience (Daniel *et al.* 2008) and helping to ensure some of the resulting wealth helps to support local fisheries as well as tourism enterprises by making them more economically and potentially ecologically sustainable. For example, adding an experiential eco-tourism aspect to existing sentinel fisheries could enhance the revenue generated from these fisheries and the capacity to sustain and even expand them into new areas. This would apply to cod fisheries but might also be relevant for other fisheries as well. For instance, the Bonne Bay crab population is small and vulnerable. It has already been subject to overfishing and will need to be carefully managed and fished lightly. The region has a major tourism industry and a marine station that is

visited by more than 10,000 people every there. There would, potentially, be a lot of interest among tourists in having an opportunity to learn about the biology of snow crab and about local conservation not simply in the BBMS but in some cases, out on the water (Bob Hooper, Personal Communication, February 2012). Careful stewardship and branding of snow crab from Bonne Bay could be used to create a unique fisheries-tourism experience and potentially, a branded product for sale in local restaurants and other niche markets. This has the potential to allow harvesters to earn substantially more for every snow crab they land from this population but would be difficult to achieve within the current regulatory regime. It could also potentially contribute to improved management of snow crab populations elsewhere in Newfoundland by enhancing our knowledge about life history and stock dynamics and potentially providing a site to experiment with new ways to reduce the mortality of discards.

Clearly, moving forward on fisheries-tourism in NL will require careful planning and the engagement of some federal and multiple provincial government departments as well as industry stakeholders to address existing barriers in ways that are beneficial to the parties involved, as well as bringing benefits to fishing communities. The provincial Department of Fisheries and Aquaculture is currently funding project proposals to support diversification and market development in NL through the *Fisheries and Technology New Technologies* program. This program provides an opportunity for those interested in developing or expanding certain kinds of fisheries-tourism initiatives, such as the lobster traceability project, to potentially collaborate with tourism operators to achieve this goal.

DFA also recently released the *Coastal and Ocean Management Strategy*. It is significant that in the Strategy and in at least one of the issues scans (SNC Lavalin 2007) there is mention of both fisheries and tourism. However, as is often the case in these kinds of NL documents, fisheries and tourism are talked about separately. For instance, the Strategy talks about marine tourism but this appears to refer to things like whale watching that are separate from commercial fisheries.

Despite these short-comings the commitment to collaboration and the larger objectives of the Strategy make it a good point of departure for moving forward on experiential fisheries-tourism involving the commercial fishery in NL.

The Strategy is designed to support a coordinated approach to the management of ocean and coastal areas and resources within the province. It argues that:

[t]he social, cultural and economic sustainability of Newfoundland and Labrador is directly linked to coastal and ocean resource use. Societal needs and cultural identity are currently challenged by changes to traditional industries, population dynamics, and demographics. Governments must adapt to these changes in order to provide and maintain services and programs for the people of the province (DFA 2011a).

The Strategy outlines two strategic objectives to support social, cultural, and economic sustainability:

1. Social and cultural values associated with coastal and ocean areas are appreciated, conserved, and maintained for future generations; and,
2. Sustainable economic opportunities pertaining to coastal and ocean areas and resource use are supported (DFA 2011a).

Planned, appropriate and supported experiential fisheries-tourism initiatives involving DFA, TCR, DFO, the Rural Secretariat, the Department of Innovation, Business and Rural Development and key stakeholder groups have the potential to play an important role in achieving these two objectives. Fishing heritage and cultural values could be preserved, supported and celebrated through certain forms of experiential fisheries-tourism. In terms of direct seafood marketing, allowing restaurants, tourists and others more regular and appropriate access to seafood and to fisheries enterprises could contribute to the development of more sustainable economic opportunities in coastal areas.

Building on the Strategy and this work, one way to move forward discussions about ways to promote experiential fisheries-tourism in NL would be through convening a meeting of the key actors in the different sectors and within government with researchers and others to discuss the opportunities and barriers to this kind of tourism. The CURRA has discussed with the Harris Centre at Memorial and with the Rural Secretariat the idea of organizing a Synergy Session to start these discussions. Our plan is to hold this Synergy Session towards the end of March or in early April 2012.

Recognizing that current policies, regulations and programs have been implemented for valid purposes having to do with safety (personal and food), conservation, limiting access and professionalization, we suggest that it is time to examine some of the experiential fisheries-tourism opportunities for and barriers to innovation, collaboration, income and employment generation created by current policies and regulations, including for small scale fish harvesters and tourism operators in coastal communities. Drawing on opportunities created by existing policies such as DFA's Coastal and Ocean Management Strategy, existing nascent fisheries-tourism initiatives and the opportunities for background research and pilot project development within the current legislation, government should work with industry and representatives of coastal communities to identify ways to reduce barriers and to support the development of a strong experiential fisheries-tourism sector that can contribute to the sustainability of small scale commercial fisheries in rural NL while not compromising food safety, health and safety and conservation. Moving forward will require a clear, well-supported strategy. Elements of that strategy could include the following initiatives:

1. a project to quantify and make more visible the current indirect contribution of the commercial fisheries to tourism in the province;
2. a project to map the geographical distribution of current fish buyer's licenses, licenses for in-province sales and processor operated seafood retail operations to assess the extent to which current requirement around



fish sales might create challenges for businesses interested in marketing locally caught seafood

3. identify ways to support projects to develop awareness of existing fisheries-tourism initiatives such as the lobster traceability project among tourism operators and to help fine-tune, to the extent necessary, to enhance their uptake and effectiveness within NL;
4. a recommendation to monitor license changes over time and to explore requiring, as a condition of license, that licensed processors and fish buyers actively work with harvesters and tourism operators to promote access to appropriate, locally sourced and traceable seafood and secondary seafood products;
5. an initiative to survey processors and tourism operators in the province to find out the extent to which processors currently target local and tourism-based markets for seafood sales and how they do this and to find out from restaurant owners in the province the amount and types of seafood they use in their businesses, how and from where they source their seafood, the problems and constraints they have identified and the changes they think are needed to expand access to and markets for locally sourced seafood, the importance of traceability and ways to achieve it, and the missed opportunities they identify for experiential fisheries-tourism initiatives in their region;
6. an initiative to survey harvesters about the extent to which the seafood they land is locally consumed, their experience with tourists and interactions with tourism operators, their interest in experiential fisheries-tourism initiatives, the opportunities they see and any potential barriers they have identified;
7. support the development of a variety of experiential fisheries-tourism pilot projects in different coastal management areas of NL involving representatives from commercial fisheries and tourism and other groups (such as, for example, marine scientists and heritage experts) to test out different approaches, appropriate regulatory frameworks and required

infrastructure, and for use as models for organizations and groups interested in investing in these kinds of activities in the future. Some examples of such pilot projects could include: a) developing a strategy for managing a portion of local fisheries such as the Northern Gulf halibut fishery so as to achieve a sustained flow of landings of fresh seafood for use in the local market; b) encouraging the development of an umbrella marketing cooperative involving some combination of harvesters, processors and tourism operators tasked with designing fisheries-tourism experiential products, assessing the insurance and regulatory requirements of such initiatives, developing a plan for meeting these requirements and systematically recruiting tourists interested in accessing these products; c) experimenting with creating a new type of processing license designed to meet the needs of local seafood markets and to promote the development of experiential fisheries-tourism initiatives involving small scale harvesters where gaps in processing and buying capacity exist or where there is a monopoly on local purchasing and a focus on producing a narrow range of products for export.

The legislation, regulations and programs discussed in this report have been implemented by the federal and provincial governments for reasons such as environmental protection, conservation, food safety, as well to maximize the socio-economic benefits generated by the primarily industrial and export-oriented seafood industry in the province, while protecting the fishing rights and livelihoods of professional fish harvesters. While these are important goals that need to be protected, the current regime is not well-designed for supporting experiential fisheries-tourism initiatives, which could contribute substantially to achieving the same goals if well and carefully designed. Such initiatives have the potential to be particularly important in regions with substantial tourism industries and where, if action is not taken, further down-sizing in the industry and failure to recruit a new generation could lead to the demise of local fisheries. A strong tourism industry that is reliant on and provided with excellent locally-sourced seafood and that can

offer visitors (and local people) a rich array of experiential fisheries-tourism opportunities supported through strong collaborations between harvesters and processors in the commercial fishery and tourism operators has the potential to enhance employment opportunities and incomes in fishing communities in both sectors. It could also create new opportunities for young people interested in remaining in their communities and in preserving their local culture allowing them to get training suitable for bridging the two sectors; promote awareness of the NL fishery among visitors to the province (and within the province) including stewardship initiatives; and contribute to the development of both new tourism products and new value-added fisheries products. Such products could eventually enter provincial, national and international markets and help enhance NL's reputation for excellent seafood, stewardship and sustainable fisheries management including the resources available for these programs.

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## Provincial Legislation

### Fish Inspection Act

#### Regulations

4.(1)The Lieutenant-Governor in Council may make regulations

(a) requiring and providing for the licensing of persons engaged in the buying, handling, storing, grading, processing, transporting or marketing of fish or marine plants;

(b) providing for the licensing of establishments used in or in connection with the buying, handling, processing, storing, grading, transportation or marketing of fish or marine plants;

(2) The minister may make regulations

(o) prescribing minimum production requirements;

(p) prescribing minimum processing requirements;

### Fish Inspection Administrative Regulations

#### Licence required

3.(1) Except as otherwise provided in section 4, a person shall not engage in, or engage in a specific aspect of, handling, storing, grading, marketing, transporting or operating a vehicle for transporting fish except under the authorization of a fish buyer's licence or a fish processing licence issued by the minister.

(2) Except as otherwise provided in section 4, a person shall not buy or attempt to buy fish for processing or marketing from a fish harvester or a person licensed under the Aquaculture Act except under the authorization of a fish buyer's licence or a fish processing licence issued by the minister.

- Except as otherwise provided in section 4 a person shall not engage in, or engage in a specific aspect of, processing except under authorization of a fish processing licence issued by the minister.

#### Licence not required

4. A fish buyer's licence or a fish processing licence issued by the minister is not required by

(a) a fish harvester or a person licensed under the Aquaculture Act selling fish directly to a fish buyer or fish processor within the province who is licensed under the Act and the regulations

(b) a person marketing fish for a purpose other than human consumption

(c) a person purchasing fish for personal consumption directly from

(i) a fish processor who is licensed under the Act and the regulations,

(ii) a person licensed under section 5 of the Food Premises Regulations, or

(iii) a person referred to in paragraph (d);

(d) a person purchasing fish for resale without further processing from a fish processor who is licensed under the Act and the regulations; or

(e) a person licensed under section 5 of the Food Premises Regulations

(i) purchasing fish for resale from a fish processor who is licensed under the Act and the regulations, or

(ii) purchasing live lobsters directly from a fish buyer licensed under the Act and the regulations.

#### Licences generally

5. (1) An application for a fish buyer's licence or a fish processing licence shall be made to the minister in the approved form and containing the information that the minister shall require.

(2) A fish buyer's licence or a fish processing licence may be issued by the minister upon the terms and conditions that the minister considers necessary and advisable, including terms and conditions not related to quality, and the minister may prescribe and attach different conditions to fish buyer's licences or fish processing licences in respect of different areas of the province.

(3) The minister may attach supplemental conditions to, or vary or amend, the terms and conditions of a fish buyer's licence or a fish processing licence issued under subsection (2) as the minister sees fit while the fish buyer's licence or fish processing licence is in effect.

(4) A fish buyer's licence shall be issued only to a specific person and may contain authorizations with respect to one or more species of fish.

(5) A fish processing licence shall be issued only to a specific person and may contain authorizations with respect to one or more specified establishments or to one or more species of fish.



(6) A fish buyer's licence or a fish processing licence issued by the minister shall, unless cancelled by the minister under section 12 or 14, expire on March 31 of the calendar year immediately following the calendar year in which the licence was issued or such other period as the minister may stipulate.

(7) A fish processing licence may not be transferred or assigned without the approval of the minister.

(8) A fish buyer's licence may not be assigned without the approval of the minister.

#### Classes of fish processing licences

7. (1) A fish processing licence issued by the minister may be of one of the following classes:

- (a) a primary processing licence under which the holder of the licence shall comply with the minimum processing requirements set out in the Schedule to the Fish Inspection Operations Regulations or such other minimum processing requirements as are approved in advance in writing by the minister;
- (b) a secondary processing licence under which the holder of the licence shall process fish as part of its preparation for market beyond the primary processing stage by
  - (i) adding one or more ingredients, other than water or salt, resulting in a substantive increase in the bulk of the fish or a substantive transformation of the taste and texture of the fish as a food product, or
  - (ii) applying a treatment or process to the fish, other than salting, curing or drying, that results in a significant taste, flavour or texture enhancement of the fish as a food product;
- (c) an in-province retail fish establishment processing licence under which the holder of the licence is authorized to market the fish that it processes only for in-province trade;
- (d) a handling and grading licence; and
- (e) a research and development licence.

(2) The minister may prescribe new classes of fish processing licences from time to time.

## Fish Inspection Operations Regulations

### Establishment requirements

3. (1) Except as otherwise provided in subsections (2) and (3), an establishment shall not be used for, or in connection with, the handling, processing, storing, grading, transporting or marketing of fish unless

(a) the operator of the establishment has been issued a fish processing licence by the minister under the Fish Inspection Administrative Regulations ; and

(b) the establishment has been issued a Certificate of Registration by the Canadian Food Inspection Agency

(2) The requirements of subsection (1) do not apply to the following establishments:

(a) an establishment used exclusively by a fish harvester for washing, gutting, salting, sorting, handling, drying or icing his or her catch;

(b) an establishment used exclusively by a person licensed under the Aquaculture Act for the cultivation of bivalve molluscs for washing, handling or icing his or her harvest; and

(c) an establishment used by a person for the processing of fish for a purpose other than human consumption.

(3) The requirement of paragraph (1)(b) does not apply to an in-province retail fish establishment.

(4) The operator of a fish processing establishment shall ensure that a copy of the current fish processing licence issued to the operator is prominently displayed in the establishment.

### Agency agreement requirements

4. (1) A person who holds a fish buyer's licence or a fish processing licence issued under the Act and the Fish Inspection Administrative Regulations may only purchase a species of fish where the fish buyer's licence or fish processing licence, as the case may be, contains a specific authorization in relation to that species.

(2) Notwithstanding subsection (1), a licensed fish buyer or fish processor may purchase a species of fish that is not authorized under that person's licence where the purchase is made under an agency agreement with, and as an agent of, the holder of a fish processing licence that contains a specific authorization in relation to the species.

(3) An agency agreement referred to in subsection (2) shall be in writing in the approved form.

(4) A purchase referred to in subsection (2) shall be made by the agent in the name of the principal and receipted to the principal.

(5) The principal shall place a copy of the agency agreement on deposit with the department and each of the agent and the principal shall retain a copy of the agency agreement for inspection on the request of an inspector.

#### Duties of fish processor

15. (1) The holder of a fish processing licence shall comply with

(a) the minimum processing requirements applicable to an authorized species as set out in the Schedule or other alternative minimum processing requirements approved in writing in advance by the minister except where the minister has issued an exemption in writing; and

(b) reporting requirements, including production records, established by the minister in the form and manner and at the frequency prescribed by the minister.

(2) For purposes of paragraph (1)(a), "authorized species" means a species that is authorized to be processed by the conditions, including any supplemental conditions, of the fish processing licence.

(3) A production record referred to in paragraph (1)(b) shall be retained by the holder of a fish processing licence for a period of not less than 5 years.

#### Schedule

#### MINIMUM PROCESSING REQUIREMENTS

### Food and Drug Act

#### Definitions

#### 2. In this Act

(g.1) "food premises" means a place where food is prepared, manufactured, handled, cut, processed, packaged, displayed, stored, offered for sale, sold or served and includes hotels, restaurants, catering vehicles, mobile preparation premises, temporary facilities, retail food stores, tents, booths, ships, cold stores, bakeries, breweries, bottling establishments, drinking establishments, dairies, creameries, pasteurizing plants, meat packing premises, locker plants and premises;

## Food Premises Regulations

### Definitions

2. In these regulations

(u) "temporary facilities" means food premises established in conjunction with fairs, circuses, concerts, civic events or another event not lasting longer than 7 consecutive days;

### Application

3. These regulations apply to all food premises except

(d) temporary facilities or not for profit organizations provided they meet standard health guidelines of the department;

### Licence

5. (1) A person shall not operate a food premises without a licence.

### Fish

35. Where retail food premises have consumer owned meat or fish not procured from a plant or facility licensed under the Meat Inspection Act or the Fish Inspection Act , the utensils, equipment and food contact surfaces used in connection with it shall be washed and sanitized in accordance with these regulations prior to their re-use on meat or fish that has been procured from that plant or facility.

## Tourism Establishments Act

### Definitions

2. In these regulations

(c) "fishing camp" means a cabin or tent camp of one or more units used for the purpose of catering to sport fishers;

(b) "Canada Select Program" means a system of classification, together with the rating of tourist establishments of the type specified in these regulations, through an inspections program independently administered by and under the direction of the Newfoundland and Labrador Accommodations Rating Council based on the extent and quality of facilities, services and guest amenities provided at those tourist establishments;

(o) "tourist establishment" includes a cabin, cottage, hotel, motel, motor hotel, inn, tourist home, tourist information centre, hospitality home, tour company and trailer establishment, and a camp, cabin, tent camp or other premises erected or used for the

purpose of catering to hunters and sport fishers, and a boat on which food and overnight accommodation is provided for hunters, sport fishers or travel parties;

#### Condition of licence

3. A tourist establishment shall not be licensed unless the establishment has attained and continues to hold the minimum one star rating according to the criteria of the Canada Select Program.

#### Licence required

4. A person, other than the holder of a licence issued and valid under these regulations, shall not operate a tourist establishment in the province.

### Professional Fish Harvester's Act

#### Certification criteria

12. (1) The board shall, with the approval of the minister, establish criteria respecting the certification of professional fish harvesters including different criteria respecting different classifications.

(1.1) The board may, in the criteria it may establish under subsection (1) respecting the certification of professional fish harvesters, include criteria relating to the degree of dependency of a person on fish harvesting for his or her livelihood.

(2) The board may, with the approval of the minister, establish different classifications of professional fish harvesters.

(3) The board may, with the approval of the minister, establish criteria respecting the certification as professional fish harvesters of persons who were engaged in fish harvesting before this Act came into force but who do not meet the other criteria necessary to be certified as a professional fish harvester.

### Federal Legislation

#### Fisheries Act

#### Atlantic Fishery Regulations

#### Requirement for Registration and Licences

13. (1) Subject to section 15 and subsection 51.1(2), no person shall use a vessel, and no owner of a vessel shall permit another person to use the vessel, in fishing for any species of fish referred to in these Regulations unless

- (a) a vessel registration card has been issued in respect of the vessel;
  - (b) the use of the vessel to fish for that species of fish is authorized by a licence;
- and
- (c) subject to subsection (2), the person who is using the vessel is named in the licence referred to in paragraph (b).
- (2) Where a licence is issued authorizing the use of a vessel to fish for a species of fish and an operator is not named in the licence, any registered fisherman may operate that vessel to fish for that species.

## Canada Shipping Act, 2001

### Definitions

2. The definitions in this section apply in this Act.

“passenger” means a person carried on a vessel by the owner or operator, other than

- (a) a person carried on a Safety Convention vessel who is
  - (i) the master, a member of the crew or a person employed or engaged in any capacity on board the vessel on the business of that vessel, or
  - (ii) under one year of age;
- (b) a person carried on a vessel that is not a Safety Convention vessel who is
  - (i) the master, a member of the crew or a person employed or engaged in any capacity on board the vessel on the business of that vessel, or
  - (ii) a guest on board the vessel, if the vessel is used exclusively for pleasure and the guest is carried on it without remuneration or any object of profit;
- (c) a person carried on a vessel in pursuance of the obligation on the master to carry shipwrecked, distressed or other persons or by reason of any circumstances that neither the master nor the owner could have prevented; or
- (d) a person of a prescribed class.

## Vessel Certificate Regulations

### Application

9. (1) Sections 10 and 11 apply in respect of the following Canadian vessels if they are not Safety Convention vessels:

- (a) vessels of 15 gross tonnage or less that carry more than 12 passengers;

## Certificates

10. (1) No vessel shall engage on a voyage unless it holds a certificate issued under subsection (2).

(2) On application by the authorized representative of a vessel, the Minister shall issue an inspection certificate to the vessel if the requirements under the Act that apply in respect of the vessel when engaged in its intended service are met.

## Marine Liability Act

### Application

37. (1) Articles 1 to 22 of the Convention have the force of law in Canada.

### Extended application

(2) Articles 1 to 22 of the Convention also apply in respect of

(a) the carriage by water, under a contract of carriage, of passengers or of passengers and their luggage from one place in Canada to the same or another place in Canada, either directly or by way of a place outside Canada; and

(b) the carriage by water, otherwise than under a contract of carriage, of persons or of persons and their luggage, excluding

- (i) the master of a ship, a member of a ship's crew or any other person employed or engaged in any capacity on board a ship on the business of the ship,
- (ii) a person carried on board a ship other than a ship operated for a commercial or public purpose,
- (iii) a person carried on board a ship in pursuance of the obligation on the master to carry shipwrecked, distressed or other persons or by reason of

any circumstances that neither the master nor the owner could have prevented, and

- (iv) a stowaway, a trespasser or any other person who boards a ship without the consent or knowledge of the master or the owner.

#### Exception — adventure tourism activities

37.1 (1) This Part does not apply to an adventure tourism activity that meets the following conditions:

- (a) it exposes participants to an aquatic environment;
- (b) it normally requires safety equipment and procedures beyond those normally used in the carriage of passengers;
- (c) participants are exposed to greater risks than passengers are normally exposed to in the carriage of passengers;
- (d) its risks have been presented to the participants and they have accepted in writing to be exposed to them; and
- (e) any condition prescribed under paragraph 39(c).

#### Regulations and Orders

39. The Governor in Council may make regulations

- (a) respecting insurance or other financial security to be maintained in respect of classes of carriage, ships or persons to cover liability under this Part up to the maximum amount set out in it;
- (b) respecting the form and manner in which proof of insurance or other financial security is provided;



- (c) prescribing any condition for the purpose of subsection 37.1(1);
- (d) prescribing classes of persons for the purpose of subsection 37.1(2); and
- (e) generally for carrying out the purposes and provisions of this Part.