



Fisheries Protection Program: An overview

Cowichan Stewardship Roundtable
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Overview

1. Fisheries Act changes and timing
2. Policy
3. Offsetting
4. Regulation
5. FPP org and delivery
6. FPP website
7. RFCPP



Amendments to the *Fisheries Act*

- Amendments to the *Fisheries Act* passed through Parliament and received Royal Assent on June 29 and December 14, 2012
- **All amendments will be in effect as of November 25, 2013**
- Fisheries and Oceans Canada (DFO) is transforming its approach to fisheries protection in order to:
 - Focus the Act's regulatory regime on managing threats to the sustainability and ongoing productivity of Canada's commercial, recreational and Aboriginal fisheries;
 - Provide enhanced compliance and protection tools for these fisheries
 - Provide clarity, certainty and consistency of regulatory requirements through the use of tools such as standards and regulations; and
 - Enable enhanced partnerships with agencies and organizations that are best placed to provide fisheries protection services to Canadians.



The New Prohibition

- Previous regime included two prohibitions: section 32 (killing of fish) and section 35 (harm to fish habitat).
- A **new** prohibition merges these two sections (sections 32 and 35) into a **single prohibition** (section 35 (1))
 - “No person shall carry on any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.”
 - “serious harm to fish” is defined in the Act as “the death of fish or any permanent alteration to, or destruction of, fish habitat.”
- The prohibition is only applied to commercial, recreational or Aboriginal fisheries – it is designed to **protect those fisheries and the fish and fish habitat that support those fisheries.**



Amendments to the Fisheries Act

- The **‘Purpose’** section 6.1 outlines the overarching purpose for decision-making under the Fisheries Protection sections:
 - to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.
- A new section 6 guides decision-making related to the Fisheries Protection Provisions:

Four factors must be considered by the Minister before making decisions:

 - a) the contribution of the relevant fish to the ongoing productivity of commercial, recreational or Aboriginal fisheries;
 - b) fisheries management objectives;
 - c) measures and standards to avoid, mitigate or offset serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery; and
 - d) the public interest.



Policy Overview

- Policy context and content
- CRA Fish / Fish that support
- Serious Harm





Overview of Fisheries Protection Policy Statement

Policy Statement

Purpose: The purpose of the Policy Statement is two-fold:

- 1) to set out how the Department and its regulatory partners will apply the fisheries protection provisions of the *Fisheries Act* and guide the development of regulations, standards and directives; and
- 2) to provide guidance to proponents of projects on the application of the fisheries protection provisions of the *Fisheries Act*.

Goal: The goal of the Department in applying this Fisheries Protection Policy is to provide for **the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries**



Policy Statement - Scope of application; CRA Fisheries

- Fisheries Protection Policy Section 8.1:

Fish that are part of commercial, recreational or Aboriginal fisheries are interpreted to be those fish that **fall within the scope of applicable federal or provincial fisheries regulations** as well as those that can be fished by Aboriginal organizations or their members for food, social or ceremonial purposes or for purposes set out in a land claims agreement.

- Most water bodies in Canada contain fish, or fish habitat, that are part of, or support, a commercial, recreational or Aboriginal fishery, and thus are subject to the prohibition against causing *serious harm to fish*
- Some water bodies may not contain fish or provide fish habitat that are part of or support commercial, recreational or Aboriginal fisheries. Such water bodies may not require authorization



Policy Statement - Serious Harm to Fish

- The Subsection 35(1) prohibition will be applied to those projects that have the potential to cause serious harm to fish.
- The Department interprets serious harm to fish as:
 - the **death of fish**;
 - a **permanent alteration** of fish habitat of a spatial scale, duration and intensity **that limits or diminishes the ability of fish to use such habitats** as spawning grounds, or as nursery, rearing, or food supply areas, or as a migration corridor, or any other area **in order to carry out one or more of their life processes**;
 - the **destruction of fish habitat** of a spatial scale, duration, and intensity that fish can no longer rely upon such habitats for use as spawning grounds, or as nursery, rearing, or food supply areas, or as a migration corridor, or any other area in order to carry out one or more of their life processes.
- Projects requiring authorization are those likely to result in a localized effect to fish populations or fish habitat in the vicinity of the project.



Offsetting

- A guide to offsetting has recently been posted on the DFO website
- Habitat compensation was previously found in policy, while offsetting is now codified in the Fisheries Act (section 6(c)).
- An offset measure is an action that counterbalances impacts caused from development projects to fisheries. Typical offset measures involve improving fish habitat with a goal of maintaining or improving fisheries productivity.



Guiding Principles of Offsetting

Principle 1:

Support fisheries management objectives or local restoration priorities

Principle 2:

Benefits from offsetting measures should balance project impacts

Principle 3:

Offsetting measures should provide additional benefits to the fishery

Principle 4:

Offsetting measures should generate self-sustaining benefits over the long term

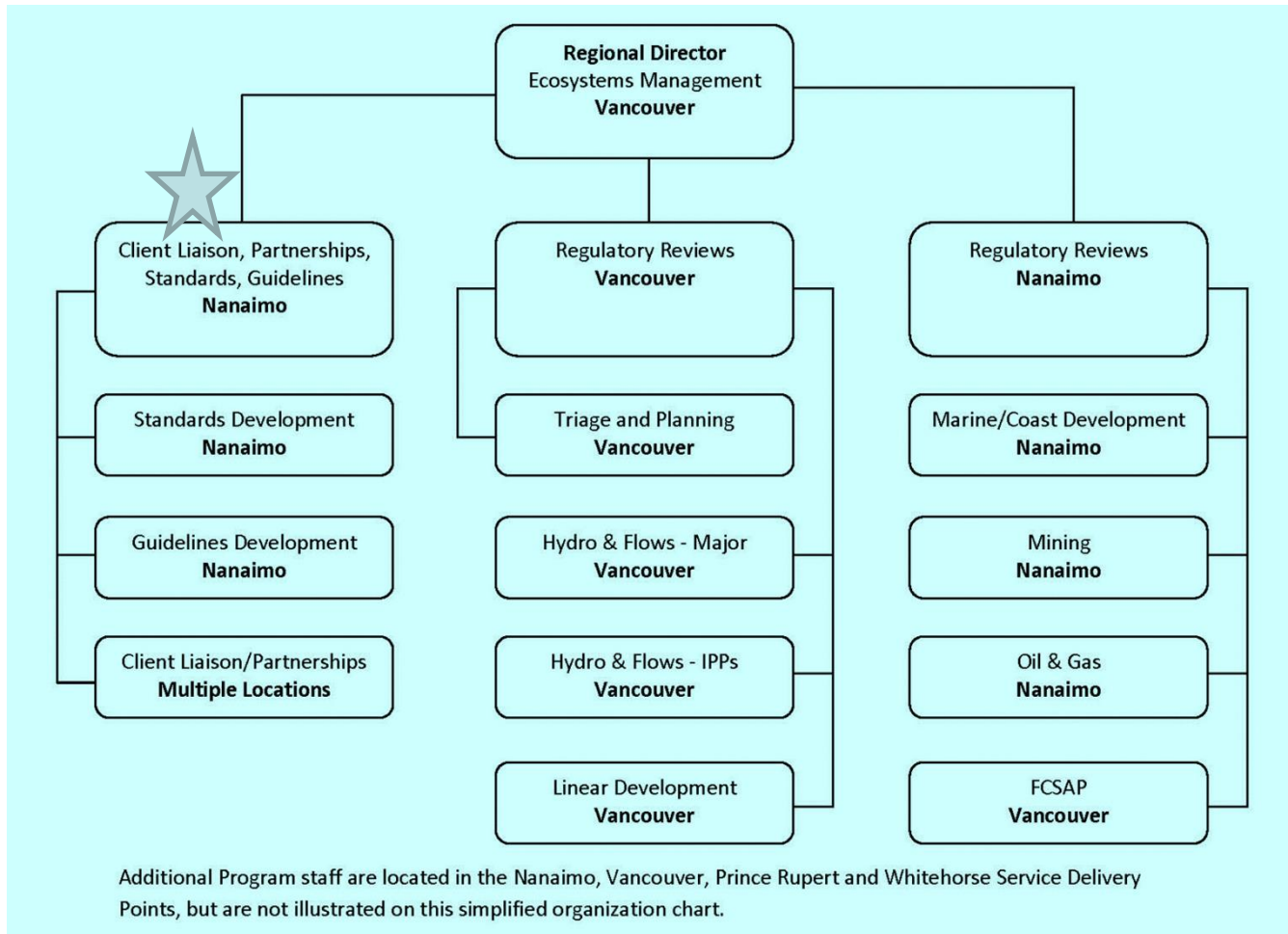


Authorization process – new Regulation

- The first Regulation under the amended FA for Information Requirements and Timelines for FA Authorizations is in force as of Nov 25.
- Authorizations are required for projects that are likely to result in serious harm to fish
- A formal process for applying for authorizations follows information requirements and defined time limits set under *Fisheries Act* regulations
 - *An information guide for proponents is available on the DFO website*
- Authorizations will include conditions to avoid, mitigate and offset the serious harm to fish
- Failure to abide by these conditions will be a contravention of the *Fisheries Act*.
- Also measures for transitional Authorizations



New FPP Organization





DFO Role in EA

CEAA 2012 Changes

- DFO is not responsible for conduct of federal EAs
- CEA Agency, NEB, and CNSC are responsible authorities under CEAA 2012
- DFO is no longer a decision-maker but provides expert advice on fish, fish habitat and aquatic Species at Risk to the responsible authority
- DFO provides expert advice to BC EAO for substituted or equivalent EAs managed by BC (same as for standard federal EA)

Fisheries and Oceans Canada

 Search

- On the water
- Fisheries
- Science and Research
- Ecosystems
- Species
- Aquaculture
- Regions

Home > Projects Near Water

Projects Near Water

- Does my project need a review?
- Measures to Avoid Harm
- Request a review or an authorization
- Fisheries Protection Program
 - Program Changes
 - Guidance Documents
 - Partnership Funding
 - Contaminated Sites
- Contact Us
- Report a Violation

Projects Near Water

The [Fisheries Act](#) requires that projects avoid causing [serious harm to fish](#) unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of or that support a commercial, recreational or Aboriginal fishery. Following the [measures to avoid harm](#) will help you comply with the Act.

Self-Assessment: Does DFO need to review my project?

DFO has arrangements with some provincial governments who provide project reviews and advice for certain types of projects under the fisheries protection provisions of the *Fisheries Act*. If your project takes place in New Brunswick, Nova Scotia or Prince Edward Island, consult our guidance on [provincial regulatory partnerships](#) before contacting DFO.

For all other projects, follow the guidance below.

► **[Types of waterbodies where DFO review is not required](#)**

► **[Project activities and criteria where DFO review is not required](#)**

If your project **IS NOT** in one of the above waterbody types, and its activities **ARE NOT** listed above, nor does it meet the associated criteria (if applicable), you may submit a [request for review](#) to DFO before proceeding further.

If you are **UNSURE** about whether your project requires DFO review, you can seek support from a [qualified environmental professional](#).

Projects near water must also comply with the [pollution prevention provisions](#) of the *Fisheries Act* and the [Species at Risk Act](#).

In all cases, it is your responsibility to ensure you follow any additional [requirements from other federal, provincial and municipal jurisdictions](#).

If, after you have reviewed the information above (and have sought professional advice if needed), you still have questions about whether your project requires DFO review, you can contact your [regional Fisheries Protection Office](#).

This information was last updated on November 25, 2013. It is strongly recommended that you visit this website often to receive the most recent DFO advice.

Date modified: 2013-11-25





Recreational Fisheries Conservation Partnerships Program (RFCPP)

- On June 18 2013, Fisheries and Oceans Canada announced the Recreational Fisheries Conservation Partnerships Program.
- The objective of the Program is to restore, rebuild and rehabilitate recreational fisheries across Canada.
- The RFCPP promotes multi-partner initiatives and supports projects led by recreational fishing and angling groups, as well as conservation organizations, aimed at improving Canada's recreational fisheries.
- The funding envelope of \$10 million targets an allocation of \$4 million in 2013-14 and \$6 million in 2014-15.



Recreational Fisheries Conservation Partnerships Program (RFCPP)

- The RFCPP is an application-based program, where a call for proposals is released on an annual basis inviting applicants to submit their proposals. Projects are selected based on priority criteria, including number of partners and leveraged funding, and preference is given to projects in the \$20,000 to \$100,000 range.
- Canadian government (i.e., federal, provincial, territorial and municipal) support cannot exceed 50% of total project expenditures.
- Initial project intake and screening, using a standardized set of questions, occurs in the regions with a subsequent oversight and review process undertaken by a national review committee responsible for providing the Minister with a list of eligible and rated (i.e., three tiers) projects for his approval.



Recreational Fisheries Conservation Partnerships Program (RFCPP)

- Evaluation of the first round of funding requests has resulted in the approval of 104 projects across the country, totaling up to \$6.5 million. Negotiation of contribution agreements to administer funding for these projects is ongoing.
- Pacific Region received 28 approved projects, totaling up to \$1.83 million.
- The second call for proposals, for projects taking place in 2014-15, was from November 4, 2013 to December 18, 2013.
- In the Pacific Region, 36 applications were received totalling 1.75 Million dollars.
- Nationally, 138 project applications were received for 6.36 Million dollars.



End

