



Projects around water?

What you should know about *Fisheries Act & Species at Risk Act*

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Outline

Fisheries and Oceans Canada's (DFO's) Role in Ontario

- *Fisheries Act (FA)*
- *Species at Risk Act (SARA)*
- One coordinated DFO approach for projects requiring FA and SARA reviews
- DFO resources for project planning when working around water
 - Aquatic (fish/mussel) species at risk distribution and critical habitat screening maps
 - Project self-assessment
 - DFO's regulatory and permitting role
 - DFO Species at Risk guidance for municipal Official Plans

Municipal considerations for projects proposed in-or near-water?

- Municipalities are often first contact for development projects
- PPS 2014 and Natural Heritage Reference Manual consider provincial and federal interests (*including protection of species at risk and their habitats*)
- Early regard for all regulatory requirements can prevent delays & unexpected costs



Fish defined by the *FISHERIES ACT*

“fish” includes

- a) parts of fish,
- b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and
- c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals;



FISH HABITAT defined by the *FISHERIES ACT*

FA defines *Fish Habitat* as:

“spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes”





Fisheries Protection Policy Statement

Overarching purpose for decision-making under the Fisheries Protection sections is to maintain sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.

DFO Fisheries protection provisions focus on managing threats to habitat, degradation, loss, and flow alterations to prevent serious harm to fish



Serious Harm to Fish

The *Fisheries Act* definition of serious harm to fish is:

- the death of fish, or a permanent alteration to, or destruction of fish habitat

DFO's policy interpretation of serious harm to fish is:

- the **death of fish**;
- a **permanent alteration to 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.



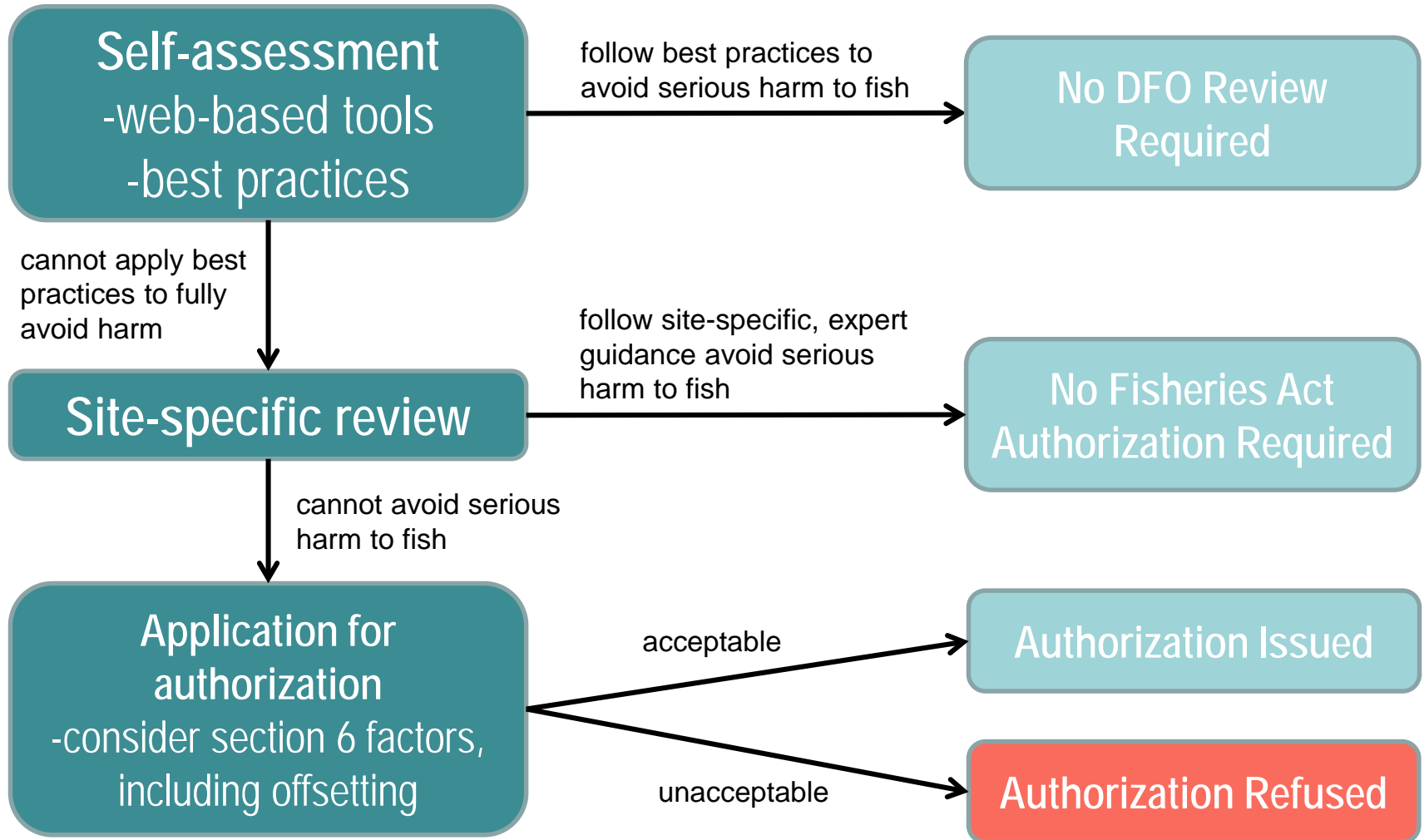
Commercial, Recreational and Aboriginal Fisheries

Definitions:

- *“Aboriginal”, in relation to a fishery, means that fish is harvested by an Aboriginal organization or any of its members for the purpose of using the fish as food, for social or ceremonial purposes or for purposes set out in a land claims agreement entered into with the Aboriginal organization;*
- *“commercial”, in relation to a fishery, means that fish is harvested under the authority of a licence for the purpose of sale, trade or barter;*
- *“recreational”, in relation to a fishery, means that fish is harvested under the authority of a licence for personal use of the fish or for sport;*



Project Review Process



Fisheries and Oceans Canada



Canada

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Projects Near Water
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Changes to the <i>Fisheries Act</i>
Regulatory Partnerships
Recreational Fisheries Conservation Partnerships Program
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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](#). To protect fish and fish habitat, efforts should be made to [avoid, mitigate and/or offset harm](#). Following the [measures to avoid harm](#) will help you comply with the *Act*.

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

If your new or existing project is in relation to aquaculture (marine or freshwater fish, including hatcheries, or shellfish) contact the [DFO Regional Aquaculture Management Office](#) responsible for the province or territory in which your project is located to determine how to comply with either the *Pacific Aquaculture Regulations* if your project is located in British Columbia, or the *Aquaculture Activities Regulations* if your project is located elsewhere in Canada.

If your project is regulated by the National Energy Board or the Canadian Nuclear Safety Commission, or takes place in New Brunswick, Nova Scotia or Prince Edward Island, consult our guidance on [regulatory partnerships](#) before contacting [DFO](#).

Use the criteria below to determine if your project requires a review by DFO. If your project cannot avoid serious harm to fish and is not included in either of the criteria below, please submit a [request for review](#).

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

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

Seek advice from a [qualified environmental professional](#) if you are unsure about whether your project requires a review by DFO.

[Contact a Fisheries Protection Office](#) near you if you have reviewed the information, sought professional advice and still have questions.



“One Window” Approach

All Development Projects Requiring Review under FA or SARA are Submitted to FPP’s e-mail Address (Email: FisheriesProtection@dfo-mpo.gc.ca)

- Development project requests sent to SARP are redirected to FPP
- Only non-development projects with potential to impact SAR (e.g. research) are sent directly to SARP

FPP Triage

- Conducts initial screening, determines when a SARA review needed based on internal mapping tool and advice from SARP
 - Project forwarded to FPP Regulatory Review Unit for FA and SARA review with potential SAR concerns noted
- Manages all enquires related to SARA and the Mapping (via email or the FPP Phone Line: 1-855-852-8320)

FPP Regulatory Review Process

- FPP leads and completes all FA and SARA reviews with SARP input
- SARP supports (attends meetings, site visits, preparation of correspondence, etc.)
- FPP sends all correspondence to proponents including FA authorizations, SARA permits or SARA-compliant authorizations





Fisheries Act - Authorization Process

- 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
 - *Guidance available on DFO's 'Projects near water' website*
- Authorizations will include conditions to avoid, mitigate and offset the serious harm to fish
- Failure to abide by these conditions will contravene the *Fisheries Act*



Offsetting Measures for Fisheries Protection

Offsetting measures:

- counterbalance unavoidable serious harm to fish with the goal of maintaining or improving the productivity of the commercial, recreational and Aboriginal fishery.
- can take a variety of forms ranging from localized improvements to fish habitat to more complex measures to address factors limiting fish production.
- are an enforceable condition of authorization.



Questions?