

Fisheries and Oceans Canada

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Environmental Assessment Process  
in relation to the federal  
*Fisheries Act*

# Summary

- DFO involvement in EA
- Information requirements
- Review process and tools

# When is DFO involved in EA?

## CEAA triggers:

- DFO is proponent
- DFO provides funding
- DFO provides lands
- DFO regulatory approval

# Regulatory triggers

*Fisheries Act* authorizations for:

- Harmful alteration, disruption or destruction (HADD) of fish habitat
- Destruction of fish by means other than fishing

Listing for a Tailings Impoundment Area (TIA) under the *Metal Mining Effluent Regulations*

- DFO recommendation to Minister of Environment

# Regulatory triggers (continued)

DFO requires adequate information to determine if it has a trigger and if so what type of EA is required.

- What are effects of project on fish and fish habitat?
- Is there a TIA required in fish-bearing waters?

# Information Requirements

## 5 Point Plan (Proponent Application Plan)

- Baseline fish and fish habitat
- Description of project
- Effects of project on fish and fish habitat
- Measures to avoid, reduce or mitigate harmful effects of project on fish
- Environmental supervision

# DFO may require detailed information to determine *Fisheries Act* triggers

Project descriptions often do not have sufficient information to determine *Fisheries Act* triggers.

## Implications:

- This may result in delays in DFO review.
- Further information needed to determine DFO involvement in an environmental assessment
- Information needed to determine the scope of project under DFO review

# Solutions?

Provide adequate and sufficient detail in Project Description

or

Allow for an extended pre-application phase

# DFO's 5-Point Plan

## 1. Baseline fish and fish habitat

- Where are the watercourses?
- Where are the fish?
- What species of fish?
- What types of habitat/ how is it used?
- Any SARA listed species?

## 2. Description of the project

Detailed description and layout of all components of the project.

- Spatial relationships
- New or existing infrastructure

# 3. Effects on fish and fish habitat

Assess effects:

- Pathways of Effects (PoE) analysis
- Identify activities that require mitigation

\* Key Mitigative Impact Considerations:

- Scale
- Magnitude
- Frequency
- Duration
- Resiliency

## 4. Measures to avoid, reduce or mitigate

- Demonstrate that all reasonable and technically feasible measures have been considered.
- Compatibility with hierarchy of preferences in DFO's Policy for the Management of Fish Habitat

## 5. Environmental Supervision

How will implementation of best management practices, guidelines and project-specific commitments to protect fish and fish habitat be ensured during all phases of the project?

# Review process and tools

## Process overview:

- Initial screening of project
- Aquatic effects assessment
- Risk assessment
- Risk management

# Risk management

## Low risk

No HADD – mitigation, BMP's and guidelines

## Moderate risk

HADD – streamlined authorization process

## High risk

HADD – site specific authorization

## Significant negative effects

HADD – project rejected

# Towards authorization of a HADD under the *Fisheries Act*

Determine:

- Fish species
- Type of habitat
- Extent (area) of habitat affected
- Adequate compensatory habitat
- Technical feasibility of compensatory habitat
- Consider existing/potential cumulative effects

# Requirement for Authorization of HADD Triggers CEAA

- Scoping the EA
  - Scope of Project
  - Scope of Assessment
- EA track
  - Screening
  - Comprehensive Study
- SARA notification

# Cooperation with provincial EA process

- DFO participation in Working Groups
- DFO requirements in TOR
- Use of provincial Environmental Assessment Report

# CEAA Conclusion

- Whether or not the project is likely to cause a significant adverse environmental effects
- Screening Report
- Comprehensive Study Report

# Permitting Stage of Review

- Developing a *Fisheries Act* authorization
- Consultation with First Nations and others
- Finalize Fish and Fish Habitat Mitigation and Compensation Plan
- Letter of Credit

# Construction

- Environmental Supervision reports to DFO
- Compensation habitats

# Follow-Up Activities

- CEAA Follow-Up if required
- Compliance monitoring