

A PROTOCOL DETAILING THE FISH HABITAT REFERRAL PROCESS IN ONTARIO



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 Fisheries and Oceans Canada / Pêches et Océans Canada

 Parks Canada / Parcs Canada



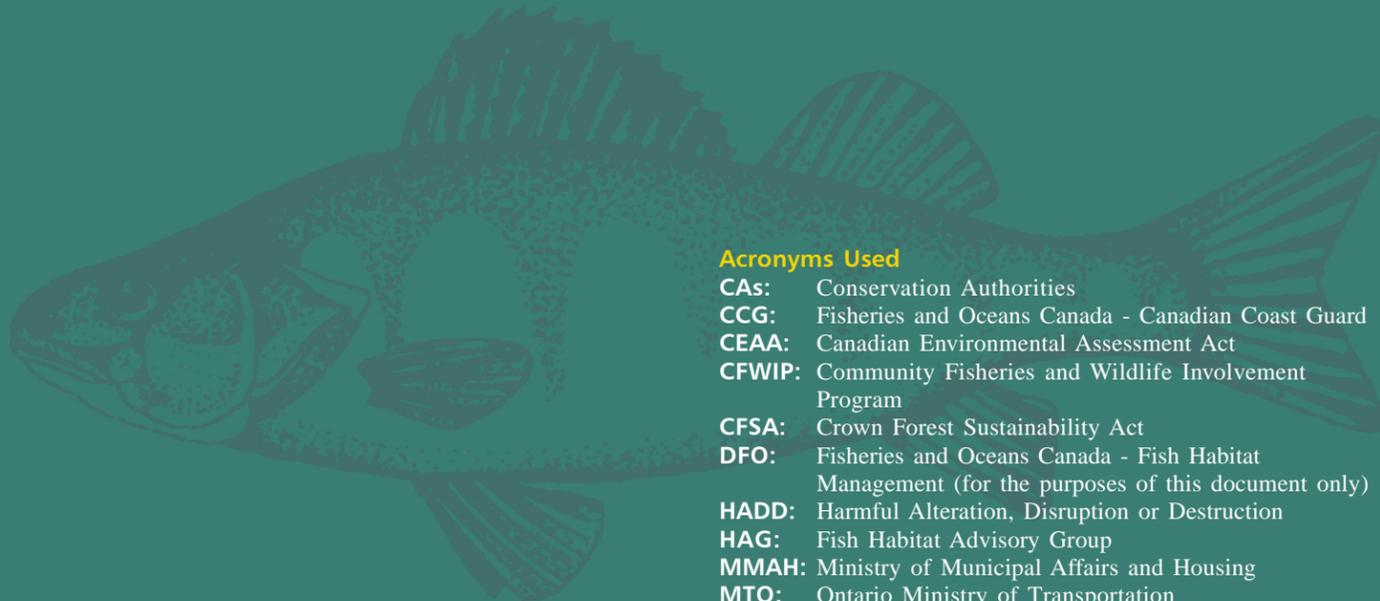
 Ontario
Ministry of Natural
Resources



Printed August 2000

Working together to protect and conserve Ontario's aquatic resources

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Acronyms Used

- CAs:** Conservation Authorities
- CCG:** Fisheries and Oceans Canada - Canadian Coast Guard
- CEAA:** Canadian Environmental Assessment Act
- CFWIP:** Community Fisheries and Wildlife Involvement Program
- CFSA:** Crown Forest Sustainability Act
- DFO:** Fisheries and Oceans Canada - Fish Habitat Management (for the purposes of this document only)
- HADD:** Harmful Alteration, Disruption or Destruction
- HAG:** Fish Habitat Advisory Group
- MMAH:** Ministry of Municipal Affairs and Housing
- MTO:** Ontario Ministry of Transportation
- NPWA:** Navigable Waters Protection Act
- OMNR:** Ontario Ministry of Natural Resources
- PLA:** Public Lands Act
- PPS:** Provincial Policy Statement

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- Side 1: Map Defining CA Watersheds, OMNR and Parks Canada Boundaries
- Side 2: Contact Lists for Fisheries and Oceans Canada, CAs, OMNR District Offices and Parks Canada

1.0 Roles and Responsibilities



Over the past few years, Fisheries and Oceans Canada (DFO) and the provincial government have examined various options for provincial delivery of federal responsibilities for habitat management including formal delegation of some of the fish habitat protection provisions of the *Fisheries Act*. After careful consideration, the federal government concluded that the direct delivery of the habitat management program across Canada would be best delivered by DFO in order to meet the government's responsibility for fish habitat protection.

DFO is, therefore, currently establishing additional offices in Ontario and the prairies in order to provide a better geographical distribution of staff for more efficient habitat assessment and protection.

To further improve client services in Ontario, DFO has signed agreements with 34 of the 36 Ontario Conservation Authorities (CAs) to undertake the review of project proposals under Section 35 of the *Fisheries Act*. A similar agreement also exists with Parks Canada for National Parks, National Marine Conservation Areas, National Historic Canals and National Historic Sites.

In the interest of good fisheries management and client service, the Ontario Ministry of Natural Resources (OMNR) will continue to support the fish habitat referral processes. OMNR supports the referral process by screening and referring work permit applications under the *Public Lands Act* and by providing fisheries information to CA's and DFO. OMNR will continue to review Section 35 proposals for MTO, CFWIP and CFSA applications and support the development of satisfactory solutions to aquatic habitat management issues.

In 1998, DFO, OMNR, Conservation Authorities and Parks Canada formed a Fish Habitat Advisory Group. This group makes recommendations to the participating agencies on the implementation of the habitat sections of the *Fisheries Act* and the Policy for the Management of Fish Habitat in Ontario.

Each of the respective agencies has responsibilities in relation to aquatic resource management. A coordinated approach to the fish habitat referral process under Section 35 of the *Fisheries Act* is essential for providing effective and purposeful service to clients and the public. The Fish Habitat Advisory Group will continue to seek opportunities to maintain and streamline the current operating agreements between the identified agencies and to contribute to the future requirements of fish and fish habitat management in Ontario.

In the context of this document as it is dealing with fish habitat, the DFO acronym will refer to Fisheries and Oceans Canada, Fish Habitat Management, unless otherwise specified.

For greater clarity, the following responsibilities are identified.

1.1 Fisheries and Oceans Canada

The federal government, through Fisheries and Oceans Canada, has constitutional responsibility for seacoast and inland fisheries. Specific

responsibilities in relation to the management and protection of fish habitat appear in Section 35 of the *Fisheries Act*. This section, as well as the accompanying 1986 Policy for the Management of Fish Habitat, provides the legislative and policy statements for fish habitat management. Only the Minister or his delegated authority may authorize the harmful alteration, disruption or destruction (HADD) of fish habitat. Achievements of the "no net loss" of the habitat principle and enforcement of the *Fisheries Act* provisions are often undertaken in conjunction with other responsible resource management agencies.

1.2 Ontario Ministry of Natural Resources

The Ontario Ministry of Natural Resources is the provincial agency responsible for the protection and management of Ontario's natural resources, including the management of fisheries. Specific responsibilities include administering and enforcing the Ontario Fishery Regulations, allocation and licensing of the fisheries resource, fisheries management (e.g. stocking), fisheries management planning, fish and fish habitat information management and fish habitat rehabilitation. OMNR also administers and enforces many provisions of the *Fisheries Act*, other than Section 35. The OMNR has primary responsibility for several pieces of provincial legislation, such as the *Public Lands Act* and the *Lakes & Rivers Improvement Act*, that play an important role in ecological sustainability.

1.3 Conservation Ontario

Ontario's Conservation Authorities are community based conservation organizations which provide comprehensive technical, planning, educational and recreational services. For more than 50 years Conservation Authorities have been empowered by the provincial *Conservation Authorities Act* to undertake programs to further conservation, restoration, development and management of natural resources on a watershed basis. Programs are approved and developed in conjunction with watershed municipalities.

1.4 Canadian Heritage, Parks Canada

Parks Canada manages National Parks, National Marine Conservation Areas, National Historic Sites, and National Historic Canals which are a country-wide system of representative areas of Canadian natural and cultural significance. Parks Canada has a legislated mandate to protect these representative areas for all time. This protection mandate is further strengthened through the Historic

Roles and Responsibilities



Canals Regulations and, in particular, the *National Parks Act* which states that protecting ecological integrity will take precedence in acquiring, managing and administering heritage places and programs.

1.5 Fish Habitat Advisory Group

The Fish Habitat Advisory Group ("HAG") membership is comprised of representatives from DFO, OMNR, the CAs and Parks Canada. The mandate of the HAG is to provide a forum for the various levels of government to communicate on fish habitat management issues and to make recommendations to the participating agencies on the implementation of the Section 35 of the federal *Fisheries Act* and the Policy for the Management of Fish Habitat in Ontario.

1.6 Canadian Coast Guard's Navigable Waters Protection Program

The Navigable Waters Protection Program (NWP) of Fisheries and Oceans Canada, Canadian Coast Guard, Central & Arctic Region

(CCG) is responsible for safeguarding the navigability of all waters including coastal and inland waterways throughout the Region and ensuring the safety of marine navigation and protection of the marine environment. This is accomplished through administering and enforcing the provisions of the federal *Navigable Waters Protection Act* (NWPA) and sections 108 and 109 of the *National Energy Board Act* (international/interprovincial pipeline navigable water crossings).

Under the provisions of the NWPA it is unlawful to construct or place a work in a navigable waterway without the approval of CCG. Construction of projects without the required authorization may be subject to removal at the owner's expense and other legal consequences.

For additional information regarding the NWP, contact:

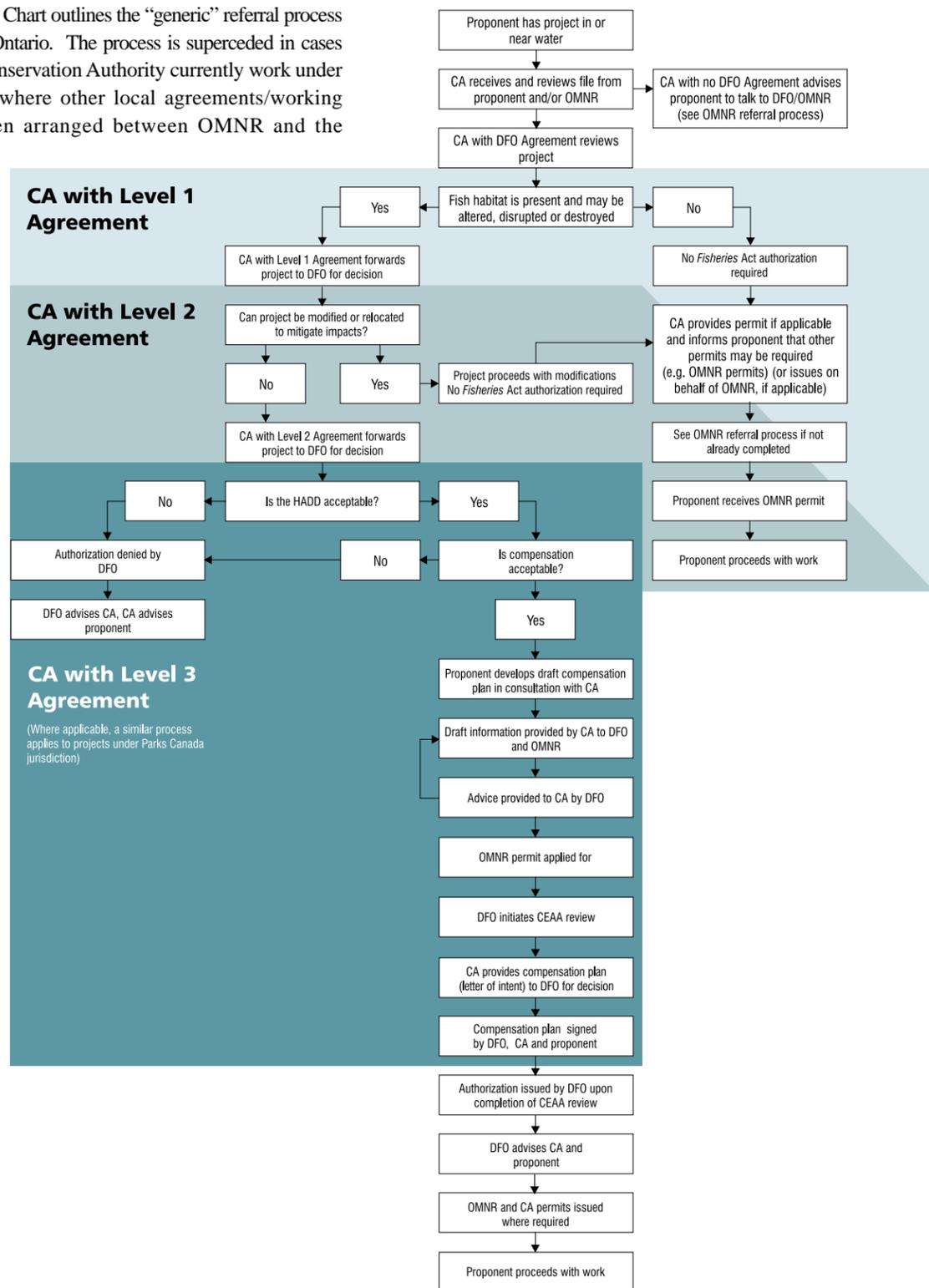
Fisheries and Oceans Canada
Canadian Coast Guard - Navigable Waters Protection Program
 201 North Front St.
 Sarnia, ON N7T 8B1



2.0 Referral Process Flow Charts

2.1 CA Referral Process

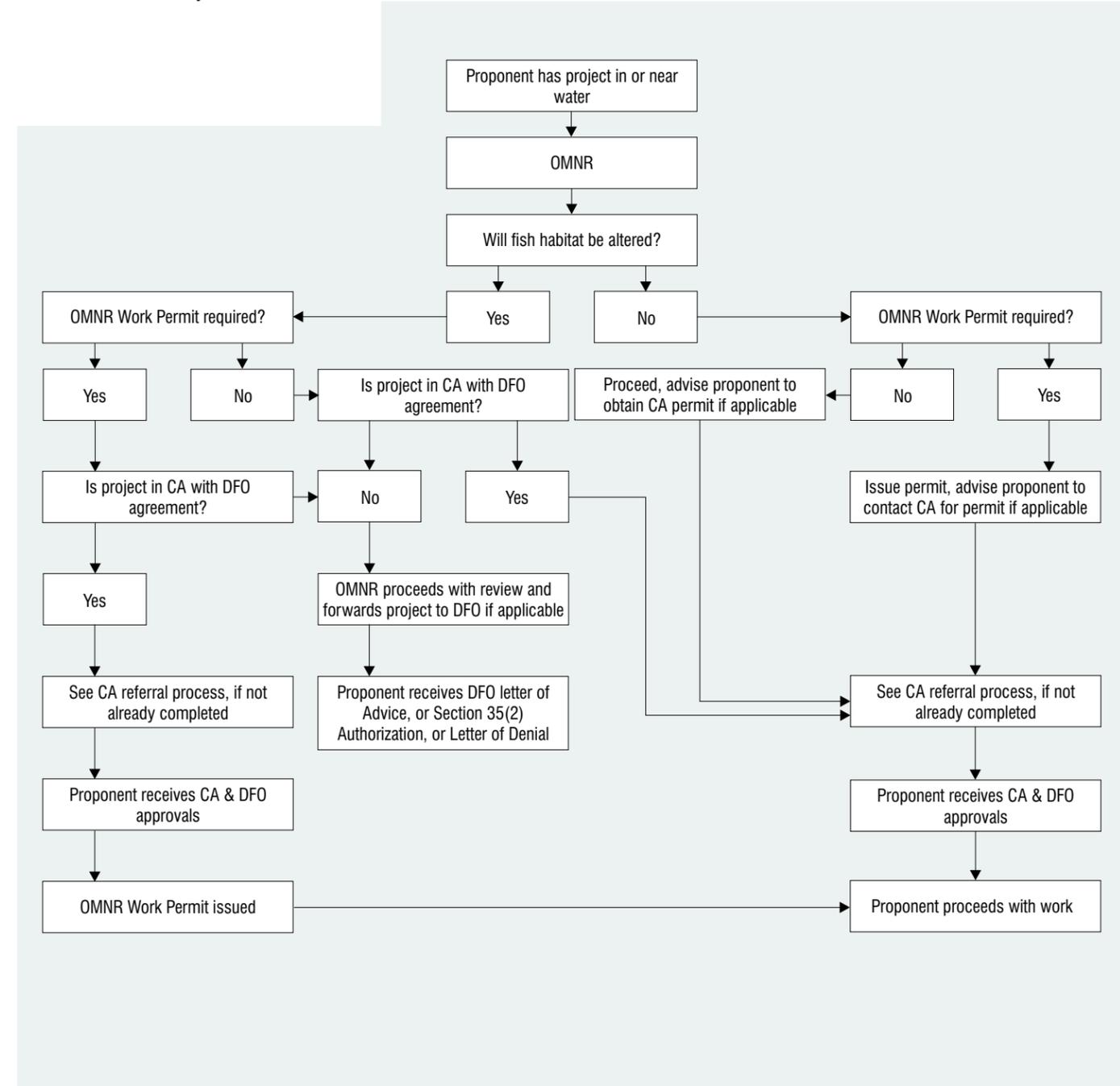
This Referral Process Flow Chart outlines the “generic” referral process for fish habitat review in Ontario. The process is superceded in cases where OMNR and the Conservation Authority currently work under existing agreements or where other local agreements/working arrangements have been arranged between OMNR and the Conservation Authority.



2.0 Referral Process Flow Charts

2.2 OMNR Referral Process

The OMNR Referral Process Flow Chart outlines the “generic” referral process for fish habitat review in Ontario. The process is superceded in cases where OMNR and the Conservation Authority currently work under existing agreements or where other local agreements/working arrangements have been arranged between OMNR and the Conservation Authority.



3.0 Fish Habitat Review Process

Throughout this section, there will be references made to Authorizations under Section 35(2) of the *Fisheries Act* from DFO. These DFO authorizations relate only to the fish habitat component of a project and do not constitute overall project approvals. Proponents are responsible for obtaining all permits and overall project approvals from other agencies including the OMNR, CAs and Parks Canada as well as the DFO authorization.

3.1 Level I Agreements with CAs

Initial requests for review of projects in or around water are referred to the local Conservation Authority by OMNR, DFO and others (see 2.1 *CA Referral Process* and Attachment 1, Side 2 *Contact Lists*).

- The CA receives and reviews the files from proponents.
- The CA discusses element of project with the DFO designated fish habitat biologist ONLY if unsure of consequences (see 4.4 *Role of the DFO Designated Fish Habitat Biologist with CAs*).

Review = not a HADD

- If the CA determines that the project is not a HADD, the CA approves the project and includes relevant information in the monthly report to DFO.
- The CA forwards a copy of any correspondence and/or summary of discussions with the project proponent to the OMNR District Office.
- The CA advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

Review = a HADD

- If the CA determines that the project is a HADD, the CA advises the proponent that the file has been forwarded to DFO for review.
- The CA forwards the file to DFO Burlington for review. Projects are to be addressed to:

Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The CA provides as part of the submission a summary of any discussions with the DFO designated fish habitat biologist (this

may expedite the review process).

- The file is assigned to a DFO fish habitat biologist for review of the project.
- The Referrals Coordinator will acknowledge receipt of the submitted file and will forward a letter with a reference file number to the CA if a delay in review is anticipated.
- In general, allow 6 to 8 weeks for DFO review (depending on complexity of project).
- The CA records the project as an ongoing file in the monthly report to DFO until it is approved or rejected.

DFO Review = a mitigatable HADD

- If the project is a HADD but can be mitigated, DFO approves the project conditional on the mitigative measures as detailed by DFO.
- DFO discusses the project with the CA and OMNR, where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- A copy of the letter of advice with conditions is forwarded by DFO to the CA, proponent and OMNR.
- DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

DFO Review = a non-mitigatable HADD (i.e. requires Fisheries Act authorization)

- If the project is a HADD that cannot be mitigated, DFO will notify the proponent and discuss options and processes for the proponent to prepare a compensation plan.
- If necessary, DFO will include the CA in the planning discussions for the compensation plan.
- The proponent will forward the completed compensation plan directly to DFO for review.
- DFO will complete CEAA requirements.
- DFO discusses the project with the CA and OMNR, where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- Based on the review of the file and discussions with OMNR and

Fish Habitat Review Process

the CA, DFO will forward to the proponent a copy of the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter.

- DFO will forward a copy of the authorization or rejection letter to OMNR and the CA. If approved, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

In cases where the CA is the proponent, this review process would not apply. The CA would be required to follow the review process as outlined in 3.5 Watersheds with No CAs.

3.2 Level II Agreements with CAs

Initial requests for review of projects in or around water are referred to the local Conservation Authority by OMNR, DFO and others (see 2.1 *CA Referral Process* and Attachment 1, Side 2 *Contact Lists*).

- The CA receives and reviews the files from proponents.
- The CA discusses element of project with the DFO designated fish habitat biologist ONLY if unsure of consequences (see 4.4 *Role of the DFO Designated Fish Habitat Biologist with CAs*).

Review = not a HADD

- If the CA determines that the project is not a HADD, the CA approves the project and includes relevant information in the monthly report to DFO.
- The CA forwards a copy of any correspondence and/or summary of discussions with the project proponent to the OMNR District Office.
- The CA advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*) and then proceed with project.

Review = a mitigatable HADD

- If the CA determines that the project is a HADD but can be mitigated, the CA approves the project conditional on the mitigative measures as detailed by the CA in the letter of advice.
- A copy of the letter of advice with conditions is forwarded by the CA to the OMNR District Office.
- DFO does not need to receive or review any correspondence or mitigative measures approved by the CA.

- All information is to be recorded in the monthly report to DFO (without copies of correspondence). DFO may, upon review of the report, request copies of correspondence or justification for any decision.
- The CA advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

Review=a non-mitigatable HADD (i.e. requires Fisheries Act authorization)

- If the CA determines that the project is a HADD that cannot be mitigated, the CA advises the proponent that the file has been forwarded to DFO for review.
- The CA forwards the file to DFO Burlington for review. Projects are to be addressed to:

Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The CA provides as part of the submission a summary of any discussions with the DFO designated fish habitat biologist (this may expedite the review process).
- The file is assigned to a DFO fish habitat biologist for review of the project.
- The Referrals Coordinator will acknowledge receipt of the submitted file and will forward a letter with a reference file number to the CA if a delay in review is anticipated.
- In general, allow 6 to 8 weeks for DFO review (depending on complexity of project).
- During the review period, the CA remains as the main contact for the project proponent on behalf of DFO.
- DFO will complete CEAA requirements.
- DFO discusses project with OMNR and the CA where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- Should DFO require additional information, they may contact the proponent directly for outstanding information to be provided to DFO. In some cases, the CA would be contacted to set up a meeting between the CA, DFO and the project proponent.

3.0 Fish Habitat Review Process

- The CA records the project as an ongoing file in the monthly report to DFO until it is approved or rejected.
- Based on the review of the file and discussions with OMNR and the CA, DFO will forward to the proponent, OMNR and the CA a copy of the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter.
- If approved, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.
- A copy of the letter of advice with conditions is forwarded by the CA to the OMNR District Office.
- DFO does not need to receive or review any correspondence or mitigative measures approved by the CA.
- All information is to be recorded in the monthly report to DFO (without copies of correspondence). DFO may, upon review of the report, request copies of correspondence or justification for any decision.
- The CA advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

In cases where the CA is the proponent, this review process would not apply. The CA would be required to follow the review process as outlined in 3.5 Watersheds with No CAs.

3.3 Level III Agreements with CAs

Initial requests for review of projects in or around water are referred to the local Conservation Authority by OMNR, DFO and others (see 2.1 *CA Referral Process* and *Attachment 1, Side 2 Contact Lists*).

- The CA receives and reviews the files from proponents.
- The CA discusses element of project with the DFO designated fish habitat biologist ONLY if unsure of consequences (see 4.4 *Role of the DFO Designated Fish Habitat Biologist with CAs*).

Review = not a HADD

- If the CA determines that the project is not a HADD, the CA approves the project and includes relevant information in the monthly report to DFO.
- The CA forwards a copy of any correspondence and/or summary of discussions with the project proponent to the OMNR District Office.
- The CA advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

Review = a mitigatable HADD

- If the project is a HADD but can be mitigated, the CA approves the project conditional on the mitigative measures as detailed by the CA in the letter of advice.

Review = a non-mitigatable HADD (i.e. requires *Fisheries Act* authorization)

- If the project is a HADD that cannot be mitigated, the CA advises the proponent that the file has been forwarded to DFO for review.
- The CA will facilitate the preparation of a compensation plan with the proponent for review by DFO.
- The file with recommended compensation plan is forwarded to DFO Burlington for review. Projects are to be addressed to:
Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The CA provides as part of the submission a summary of any discussions with the DFO designated fish habitat biologist (this may expedite the review process).
- The file is assigned to a DFO fish habitat biologist for review of the project.
- The Referrals Coordinator will acknowledge receipt of the submitted file and will forward a letter with a reference file number to the CA, if a delay in review is anticipated.
- In general, allow 6 to 8 weeks for DFO review (depending on complexity of project).
- During the review period, the CA remains as the main contact for the project proponent on behalf of DFO.
- DFO will complete CEAA requirements.

3.0 Fish Habitat Review Process

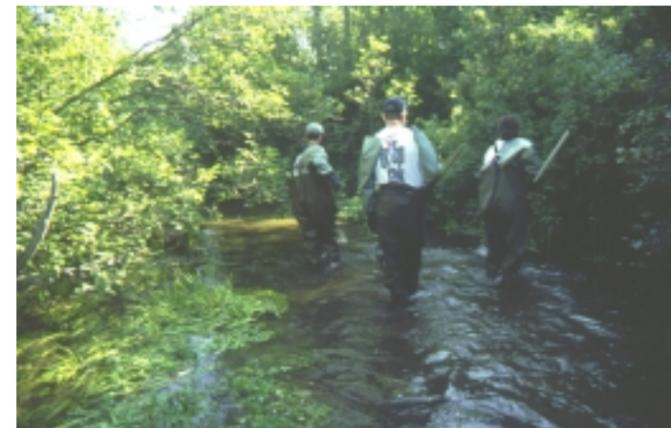
- DFO discusses project with OMNR and the CA where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- Should DFO require additional information, the CA would be contacted to set up a meeting between the CA, DFO and the project proponent.
- The CA records the project as an ongoing file in the monthly report to DFO until it is approved or rejected.
- Based on the review of the file and discussions with OMNR and the CA, DFO will forward to the proponent, OMNR and the CA a copy of the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter.
- If approved, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.
- The project proponent provides details of project to OMNR for permit requirements under the *Public Lands Act* or *Lakes & Rivers Improvement Act*.
- OMNR advises the proponent to obtain appropriate review/ approval by DFO as per the *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada* (see Appendix A).
- DFO receives the project proposal from the proponent or from OMNR. Projects are to be addressed to:
Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The Referrals Coordinator acknowledges receipt of project and provides reference number to the proponent if a delay in review is anticipated.
- The file is assigned to a DFO fish habitat biologist for review of the project.

In cases where the CA is the proponent, this review process would not apply. The CA would be required to follow the review process as outlined in 3.5 Watersheds with No CAs.

3.4 CA Watersheds with no DFO Agreements

Project proponent brings proposal to the CA for review under their own regulations (see 2.1 *CA Referral Process* and *Attachment 1, Side 2 Contact Lists*).

- The CA advises that there may be a requirement for authorization under other provincial and federal legislation.
- The CA advises the proponent to obtain appropriate review/ approval by OMNR and DFO, where applicable.



DFO Review = not a HADD

- If DFO determines that the project is not a HADD, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.
- DFO forwards a copy of any correspondence and/or summary of discussions with the project proponent to the OMNR District Office.

DFO Review = a mitigatable HADD

- If the project is a HADD but can be mitigated, DFO approves the project conditional on the mitigative measures as detailed in the letter of advice to the proponent.
- A copy of the letter of advice with conditions is forwarded by DFO to the OMNR District Office.
- DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

3.0 Fish Habitat Review Process

DFO Review = a non-mitigatable HADD (i.e. requires Fisheries Act authorization)

- If the project is a HADD that cannot be mitigated, DFO will request that the project proponent facilitate the preparation of a compensation plan for review by DFO.
- In general, allow 6 to 8 weeks for review (depending on complexity of project).
- DFO will complete CEAA requirements.
- DFO will discuss the project with OMNR where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- Based on the review of the compensation plan and discussions with OMNR, DFO will prepare the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter for the proponent.
- DFO will forward to the OMNR District Office a copy of the Authorization with conditions or the rejection letter.
- If approved, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

3.5 Watersheds with no CAs

The project proponent brings proposal to OMNR District Office for permit requirements under the *Public Lands Act* or *Lakes & Rivers Improvement Act* (see 2.2 *OMNR Referral Process* and *Attachment 1, Side 2 Contact Lists*).

- OMNR advises the proponent to obtain appropriate review/ approval by DFO, where applicable, as per the *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada* (see *Appendix A*).
- DFO receives the project proposal from the proponent or from OMNR. Projects are to be addressed to:

Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The Referrals Coordinator acknowledges receipt of project and provides reference number to the proponent if a delay in review is anticipated.

- The file is assigned to a DFO fish habitat biologist for review of the project.

DFO Review = not a HADD

- If DFO determines that the project is not a HADD, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.
- DFO forwards a copy of any correspondence and/or summary of discussions with the project proponent to the OMNR District Office.

DFO Review = a mitigatable HADD

- If the project is a HADD but can be mitigated, DFO approves the project conditional on the mitigative measures as detailed in the letter of advice to the proponent.
- A copy of the letter of advice with conditions is forwarded by DFO to the OMNR District Office.
- DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

DFO Review = a non-mitigatable HADD (i.e. requires Fisheries Act authorization)

- If the project is a HADD that cannot be mitigated, DFO will request that the project proponent facilitate the preparation of a compensation plan for review by DFO.
- In general, allow 6 to 8 weeks for DFO review (depending on complexity of project).
- DFO will complete CEAA requirements.
- DFO will discuss the project with OMNR, where applicable (i.e. compliance with existing fisheries management plan or watershed plan, OMNR work permits, etc.).
- Based on the review of the compensation plan and discussions with OMNR, DFO will prepare the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter for the proponent.
- DFO will forward to the OMNR District Office a copy of the authorization with conditions or the rejection letter.
- If approved, DFO advises the proponent to obtain all other relevant permits and approvals including those from OMNR if required

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(e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.

3.6 Parks Canada Jurisdictions

Projects on federal lands other than Parks Canada jurisdictions are referred directly to DFO for review. See 3.5 Watersheds with No CAs.

Initial requests for review of any in-water and shoreline work proposals on federal lands in any National Park, National Marine Conservation Area, National Historic Canal or National Historic Site are referred to Parks Canada by OMNR, DFO, CA and others, where applicable (see *Attachment 1, Side 2 Contact Lists*).

- Parks Canada receives and reviews the files from proponents.
- Parks Canada discusses elements of project with the DFO designated fish habitat biologist ONLY if unsure of consequences or if a HADD is anticipated.

Review = not a HADD

- If Parks Canada determines that the project is not a HADD, Parks Canada approves the project and includes relevant information in the monthly report to DFO.
- Parks Canada advises the proponent to obtain all other relevant permits and approvals where applicable, such as from the OMNR (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*), CAs, Townships or Municipalities or CCG. Once overall project approval has been received, the proponent can then proceed with project.

Review = a mitigatable HADD

- If the project is a HADD but can be mitigated, Parks Canada approves the project based on the mitigative measures or conditions detailed by Parks Canada.
- DFO does not need to receive or review any correspondence or mitigative measures or conditions approved by Parks Canada.
- Relevant information is to be recorded in the monthly report to DFO (without copies of correspondence). DFO may, upon review of the report, request copies of correspondence or justification for any decision.

Review = a non-mitigatable HADD (i.e. requires Fisheries Act authorization)

- If the project is a HADD that cannot be mitigated, Parks Canada

advises the proponent that the file has been forwarded to DFO for review.

- Parks Canada may facilitate the preparation of a compensation plan with the proponent for review by DFO.
- The file with recommended compensation plan is forwarded to DFO Burlington for review. Projects are to be addressed to:

Referrals Coordinator
Fish Habitat Management Program
Fisheries and Oceans Canada
867 Lakeshore Road
Burlington, ON L7R 4A6
- The Referrals Coordinator acknowledges receipt of project and provides reference number to Parks Canada if a delay in review is anticipated.
- The file is assigned to a DFO fish habitat biologist for review of the project.
- Parks Canada provides as part of the submission a summary of any discussions with the DFO designated fish habitat biologist (this may expedite the review process). The DFO fish habitat biologist reviewing the project will discuss site specific information with the DFO designated fish habitat biologist.
- In general, allow 6 to 8 weeks for review (depending on complexity of project).
- If DFO is the lead Responsible Authority, they will coordinate the completion of the CEAA requirements. If DFO is not the lead Responsible Authority, other federal departments have powers, duties or functions with respect to the project. The CEAA requirements will be completed as described in CEAA following the Federal Coordinating Regulations.
- During the review period, Parks Canada remains as the main contact for the project proponent on behalf of DFO.
- Should DFO require additional information, Parks Canada would be contacted to set up a meeting between Parks Canada, DFO and the project proponent.
- Parks Canada records the project as an ongoing file in the monthly report to DFO until it is approved or rejected.
- Based on the review of the file, DFO will forward to Parks Canada a copy of the Authorization under Section 35(2) of the *Fisheries Act* or the rejection letter.
- Parks Canada will forward the DFO authorization or rejection to the proponent.

3.0 Fish Habitat Review Process

- If approved, Parks Canada advises the proponent to obtain all other relevant permits and approvals including those from OMNR and CA if required (e.g. *Public Lands Act* or *Lakes & Rivers Improvement Act*). Once overall project approval has been received, the proponent can then proceed with project.
- The DFO authorizations relate only to the fish habitat component of a project and do not constitute overall project approvals. Proponents are responsible for obtaining all permits and overall project approvals from other agencies including OMNR, CAs and Parks Canada.

3.7 MTO Projects

Based on the existing OMNR/MTO fisheries Protocol, follow the review process as outlined in *Appendix A, OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada, Section 3.10 Provincial Highway Undertakings*.

3.8 Pipeline Projects

Based on existing arrangements with TransCanada Pipelines Limited, Enbridge Consumers Gas Ltd., pipeline crossings that are “dry” or trenchless, including small directional drills, and dam and pump or dam and flume crossings may be undertaken without submitting formal plans to DFO for review. DFO is satisfied that, in most cases, if appropriate techniques and mitigation measures are applied, “dry”/trenchless watercourse crossings are not likely to result in a harmful alteration, disruption or destruction of fish habitat (HADD).

DFO will continue to review all proposals where a HADD is likely to occur. This includes, but is not necessarily limited to areas where critical life stages of resident fish species are affected, “wet” open trench methods are employed, channel realignments are involved, ground water upwelling is present, or impacts to wetlands or other sensitive fish habitat features are expected. DFO will also continue to review proposals where the use of explosives is proposed in or around waters frequented by fish. DFO will share all pertinent information with OMNR and the local CA.

All pipeline companies without a DFO arrangement should submit their water crossing proposals to the local Conservation Authority if applicable, or to DFO for a *Fisheries Act* review. The Conservation Authority will review the proposal and based on their level of agreement with DFO, will determine whether it should be referred to DFO. All pipeline companies are required to submit their proposals to MNR for a work permit where required.

See *Appendix A, OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada, Section 3.7 Pipeline Activities Involving Pipeline Companies Regulated by the National Energy Board*.

3.9 Canadian Coast Guard Jurisdiction

Projects submitted to Fisheries and Oceans Canada - Canadian Coast Guard (CCG) under the provisions of the *Navigable Waters Protection Act* are reviewed by CCG to determine the impact of construction on the public right of navigation and marine safety. Applications are referred to the Habitat Management Branch, DFO for review under the federal *Fisheries Act*.

3.10 Community Fisheries and Wildlife Involvement Projects (CFWIP)

Since OMNR approves and funds CFWIP projects, OMNR is considered the proponent in these cases. The approval procedure is therefore essentially the same as for activities under the Environmental Assessment Act, “Internal projects” as described in *Appendix A, OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada, Section 3.6 For Activities under the Environmental Assessment Act* for full details. OMNR will continue to review all projects for fish habitat impacts and will only refer those projects to DFO which are considered HADDs.

3.11 Activities Under the Crown Forest Sustainability Act (CFSA)

The CFSA provides for the sustainability of Crown forests, and in accordance with that objective, manages Crown forests to meet the social, economic and environmental needs of present and future generations. The CFSA is binding on the Crown, and therefore, the OMNR must abide by it. Through its regulations, the CFSA requires adherence to a set of manuals, including the “Forest Management Planning Manual” and the “Forest Operations and Silviculture Manual”. OMNR will continue to review all works in or around water for impacts to fish habitat. A site inspection will be done when necessary to document the existing habitat and determine if there is a potential for a HADD by proposed activities. See *Appendix A, Section 3.4 For Activities under the Crown Forest Sustainability Act (CFSA)* for full details.

4.0 Additional Roles and Responsibilities

4.1 Additional Roles and Responsibilities

4.1.1 Role of the Conservation Authority with DFO Agreement

(See Attachment 1, Side 2 Contact Lists for Fisheries and Oceans Canada, CAs, OMNR District Offices and Parks Canada)

- Serves as the initial (one-window) proponent contact for all files that have a potential *Fisheries Act* Section 35(2) implication.
- Conducts initial screening to determine whether project is to be referred to DFO.
- Coordinates the *Fisheries Act* habitat review and approval of files as per the applicable agreement level.
- Informs DFO of the status of all *Fisheries Act* habitat files through monthly reports.
- Informs OMNR of *Fisheries Act* habitat comments through copies of relevant correspondence.
- Informs proponent of need to obtain OMNR permits.

4.1.2 Role of the DFO Fish Habitat Referrals Coordinator Burlington – (905) 336-4595

- Serves as the first level of contact for any inquiries, active files and violations.
- Receives and logs all projects in DFO Burlington or coordinates receipt of files in district offices.
- Provides information on the status of the review process of project to proponent or CA (where applicable).
- Responds to general public inquiries (where applicable).

4.1.3 Role of the DFO Partnership Coordinator Burlington – (905) 336-4695

- Liaison with Conservation Authorities on content of agreements.
- Coordinates assessment meetings and signature of agreements with Conservation Authorities.
- Coordinates tools, products and the development or revisions of protocols for the implementation of agreements.
- Coordinates training requirements.
- Serves as a member of the Fish Habitat Advisory Group.
- Prepares all public information materials (brochures, fact sheets, reports, etc.).
- Coordinates all DFO media requests.
- Coordinates tools and products for the implementation of the revised referral process.

4.1.4 Role of the DFO Designated Fish Habitat Biologist with CAs

(See Attachment 1, Side 2 Contact Lists for Fisheries and Oceans Canada, CAs, OMNR District Offices and Parks Canada)

- Provides general advice and guidance on the review of projects (but does not result in the approval of a project).
- Reviews monthly reports submitted by Conservation Authorities for accuracy, completeness and for consistency of decisions with regard to Section 35 of the *Fisheries Act*.
- Reviews logistical requirements for the preparation of monthly reports.
- Monitors activities and project approvals completed by Conservation Authorities by attending the CA office and in the field project sites.
- Regularly attends monthly meeting with CAs to discuss issues arising out of the partnership and assist with their resolution.

4.1.5 Role of the DFO Fisheries Officer

For a comprehensive description of the role of the DFO Fisheries Officer, refer to *Fish Habitat in Ontario: Compliance Protocol, Federal and Provincial Roles and Responsibilities*.

4.1.6 Role of the OMNR Conservation Officer

For a comprehensive description of the role of the OMNR Conservation Officer, refer to *Fish Habitat in Ontario: Compliance Protocol, Federal and Provincial Roles and Responsibilities*.

4.1.7 Role of the Fish Habitat Advisory Group Members

- Act as liaison between their organization and the Fish Habitat Advisory Group.
- Brings concerns regarding the implementation of Section 35 of the federal *Fisheries Act* to the table for resolution and report back to their organization on the outcomes.



5.0 Questions and Answers Pertaining to the Fish Habitat Referral Process in Ontario

Fish Habitat Referral Process

Federal / Provincial Roles and Responsibilities

Question 1: Who has jurisdiction for fish habitat management in Ontario?

Answer 1: Fisheries management is really a shared responsibility. The Constitution gives the federal government overall responsibility for the conservation and protection of Canada's fisheries in both inland and marine waters through administration of the federal *Fisheries Act*. On the other hand, as owners of most of the waterbed, the provinces share responsibility for allocation of fish in non-tidal waters. Under long-standing federal-provincial agreements, Ontario administers fisheries management in the province.

Between 1989 and 1997 under the Interim Referral Process, Ontario also reviewed projects for habitat impacts under Section 35 of the *Fisheries Act*. After careful consideration, the federal government concluded that the direct delivery of the habitat management program across Canada would be best delivered by DFO in order to meet the government's responsibility for fish habitat protection. DFO is, therefore, currently establishing additional offices in Ontario and the prairie provinces in order to provide a better geographical distribution of staff for more efficient habitat assessment and protection.

Question 2: How does DFO ensure habitat conservation and protection in Ontario?

Answer 2: Considering the extent of Ontario's fisheries resources and their many users, this is indeed a large challenge for all resource agencies. To address its responsibilities, DFO has committed increased resources to continue the review of applications under a fish habitat referral process and for enforcement. DFO is currently working to establish district offices in order to provide a geographical distribution of staff for more efficient habitat assessment and protection throughout Ontario. These offices will provide more direct client services by ensuring the optimal use of staff within a given geographical region. DFO continues to work cooperatively with OMNR, CAs, Parks Canada and other resource agencies.

Question 3: What is DFO's role in fish habitat management?

Answer 3: DFO is involved in the following activities:

1. Reviewing of plans, permits, and proposals to determine if the proposed works are likely to harmfully alter, disrupt or destroy fish habitat.
2. Working with proponents and consultants to design fish habitat mitigation measures to prevent harmful alterations to fish habitat and providing site specific advice.
3. Serving as the coordinating agency when a proposed work is deemed to harmfully alter, disrupt or destroy fish habitat.
4. Conducting site inspections or providing site specific advice on how to mitigate potential harmful alterations, disruption or destruction of fish habitat.
5. Assisting in the development of fish habitat compensation agreements.
6. Enforcing Section 35 of the *Fisheries Act*.

Question 4: What is OMNR's role in fish habitat management?

Answer 4: OMNR continues to be involved in all other fish habitat management activities, such as the Community Fisheries & Wildlife Involvement Program (CFWIP), habitat rehabilitation, habitat improvements, inventory, monitoring, assessment and research related habitat activities. Some of these activities, such as habitat rehabilitation, may require DFO advice or authorization per Section 35(2) of the *Fisheries Act*.

In addition, under an existing protocol between OMNR and the Ministry of Transportation, OMNR continues to review Section 35 requirements for projects requiring road construction or alteration on behalf of DFO. Further, for activities under the Crown Forest Sustainability Act (CFSA), OMNR continues to operate under Terms & Conditions of Class EA for Timber Management as outlined in the *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada* (see Appendix A, Section 3.4 For Activities Under the Crown Forest Sustainability Act).

Question 5: Is the OMNR/MTO Fisheries Protocol still valid?

Answer 5: The OMNR/MTO Fisheries Protocol endorsed by DFO in 1993 is still in effect unless cancelled by mutual agreement. The process therefore remains the same as outlined in the *OMNR Instructions for Fish Habitat Protection - Referring Projects to*

Conservation Authorities, Parks Canada and Fisheries and Oceans Canada (see Appendix A, Section 3.10 Provincial Highway Undertakings).

Question 6: Does OMNR still provide fish habitat information to DFO, consultants and municipalities?

Answer 6: Yes, OMNR will provide whatever fish habitat information is available and can provide an opinion on whether a project may potentially alter, disrupt or destroy fish habitat. But OMNR will not provide any judgment or evaluation on how a proposed development might harmfully alter, disrupt or destroy the fish habitat under consideration.

Question 7: What are OMNR's role and responsibilities in municipal planning?

Answer 7: Fish Habitat is one of the components of the natural heritage policy in the *Provincial Policy Statement* (PPS). Although the Ministry of Municipal Affairs and Housing (MMAH) is the lead ministry for the PPS, OMNR has a special interest in the natural heritage policy and will continue to provide technical advice to municipalities concerning the identification, evaluation and protection of natural heritage features and areas. This applies to fish habitat as well as to other components of natural heritage.

With respect to plan input, OMNR will continue to provide available information concerning fish habitat as well as advice on how municipalities can reflect the federal 1986 Policy for the Management of Fish Habitat in official plans and comprehensive zoning by-laws. However, OMNR will advise municipalities that only DFO can determine compliance with Section 35 of the *Fisheries Act*.

As for plan review, OMNR no longer participates in the review of individual planning applications except in unusual circumstances where requested through the provincial one window planning service. Where requested, OMNR will provide generic advice concerning fish habitat and its protection but will not determine whether a specific proposal is likely to result in a HADD. OMNR will offer to refer this matter on behalf of MMAH to DFO or the local CA office.

Question 8: How does this change modify the review and approval system for projects involving fish habitat requiring work permits under provincial legislation (i.e. *Public Lands Act, Lakes & Rivers Improvement Act*)?

Answer 8: OMNR no longer reviews proposals to determine if the project is likely to harmfully alter, disrupt or destroy fish habitat. OMNR continues to review applications for compliance with provincial legislation which includes fish and fish habitat implications.

Where a work permit is required, OMNR informs the applicant by letter that before a work permit is issued, the proposed project will have to be reviewed by DFO for advice on fish habitat protection, or authorization by DFO under Section 35(2) of the *Fisheries Act*.

OMNR makes this referral to DFO on behalf of the applicant and forwards all available fisheries and fish habitat information to DFO and copies the applicant. DFO responds directly to the applicant and copies OMNR. Once DFO has provided its advice or authorization, OMNR issues a work permit based on the letter of advice or authorization provided by DFO.

In watersheds where agreements have been signed with the local Conservation Authority, OMNR would follow the process with the Conservation Authority working as an agent of DFO.

Question 9: Now that DFO has signed agreements with the Conservation Authorities, is the OMNR staff package issued on September 18, 1997 still valid?

Answer 9: Yes, most if not all the information supplied in the *OMNR September 18, 1997 Staff Package: New Instructions for Fish Habitat Protection* is still relevant. The only change is that the Conservation Authorities are now acting as agents of DFO (see Appendix A, *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada*).

Question 10: There are currently many fish habitat guidelines that have been prepared over the years. Are these still relevant and can they be provided to proponents? Are new guidelines being prepared?

Answer 10: Most of the OMNR fact sheets have been rewritten and approved by DFO and OMNR to reflect changes in provincial and federal requirements. DFO has updated or is rewriting guidelines to assist clients, proponents and partners in an effective decision making process for fish habitat in Ontario. Wherever possible, the more current publication should be referenced.

Question 11: In federal waterways, such as the Rideau Canal and Trent-Severn Waterway, will OMNR have any input into the review or approval of activities in and around water which may involve fish habitat?

Answer 11: No, these are designated as Historic Canals. All proposals for work on any National Historic Canals are referred to Parks Canada for initial review. Any projects that require a *Fisheries Act* authorization will be referred to DFO for review and approval (see Appendix A, *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and Fisheries and Oceans Canada, Section 3.9 For Activities Under the Historic Canals Regulations for the Trent-Severn Waterway and the Rideau Canal*).

Partnerships

Question 12: What are the agreements between DFO and the Conservation Authorities?

Answer 12: In the past, some Conservation Authorities served on OMNR's behalf as the initial screening agency for water related projects involving fish habitat. DFO has met with Conservation Ontario, the association of CAs, to discuss similar working arrangements. DFO has since proceeded with signing agreements with interested Conservation Authorities allowing them to complete specific levels of review for projects in or around water.

Question 13: What are the three levels of review between DFO and the Conservation Authorities?

Answer 13: A set of criteria has been developed by DFO to assess the capacity of the interested Conservation Authorities. The criteria for the three levels of review agreements are based on staff expertise, availability or completion of watershed management plans and their past experience in the field of reviewing fish habitat related projects. The levels of review agreements are defined as follows:

- Level I** - Complete initial screening review of projects (determine if the project will have fisheries related impacts).
- Level II** - Complete initial screening review of projects as well as identify if the project will harmfully alter, disrupt or destroy fish habitat; if so, review and approve mitigative measures to the proponent to proceed with proposed works.
- Level III** - Complete review of projects including the preparation of compensation planning with the proponent for *Fisheries Act* authorization.

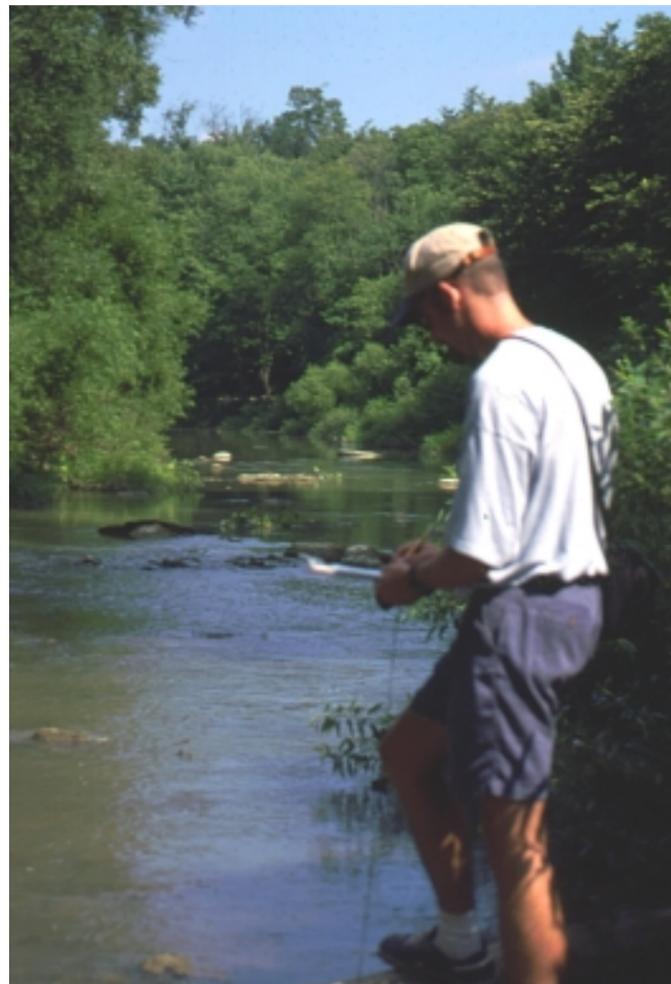
All projects requiring *Fisheries Act* authorization are referred to DFO for review and approval.

Question 14: How many agreements have been signed by DFO with the Conservation Authorities and at what level?

Answer 14: As of August 1, 2000, a total of 34 agreements have been signed with the Conservation Authorities. There are three agreements at Level III, 22 at Level II, and nine at Level I. It is DFO's goal to have agreements signed with all 36 Conservation Authorities.

Question 15: Are Conservation Authorities charging extra fees for the review of applications?

Answer 15: No. Legislation does not permit DFO or any other organization to charge fees for the review of projects under the *Fisheries Act*. Decisions in relation to Conservation Authorities or OMNR and their fees under provincial legislation are not within DFO's mandate.



Question 16: How will DFO monitor the decisions and work provided by the Conservation Authorities to ensure they are consistent with the intent of the *Fisheries Act*?

Answer 16: The agreement signed between DFO and each Conservation Authority allows for the provision of a monthly report by the Conservation Authority to DFO. Further, DFO has appointed a fish habitat biologist to serve as the initial contact for each Conservation Authority. The DFO designated fish habitat biologist will evaluate, monitor and advise the Conservation Authority during the implementation of the fish habitat agreement.

In addition, a Fish Habitat Advisory Group comprised of staff from DFO, OMNR, Conservation Authorities and Parks Canada has been formed to monitor the implementation of the agreements across Ontario.

Question 17: Are there any changes to the amount of information/advice that OMNR staff members are allowed to give to a proponent upon request?

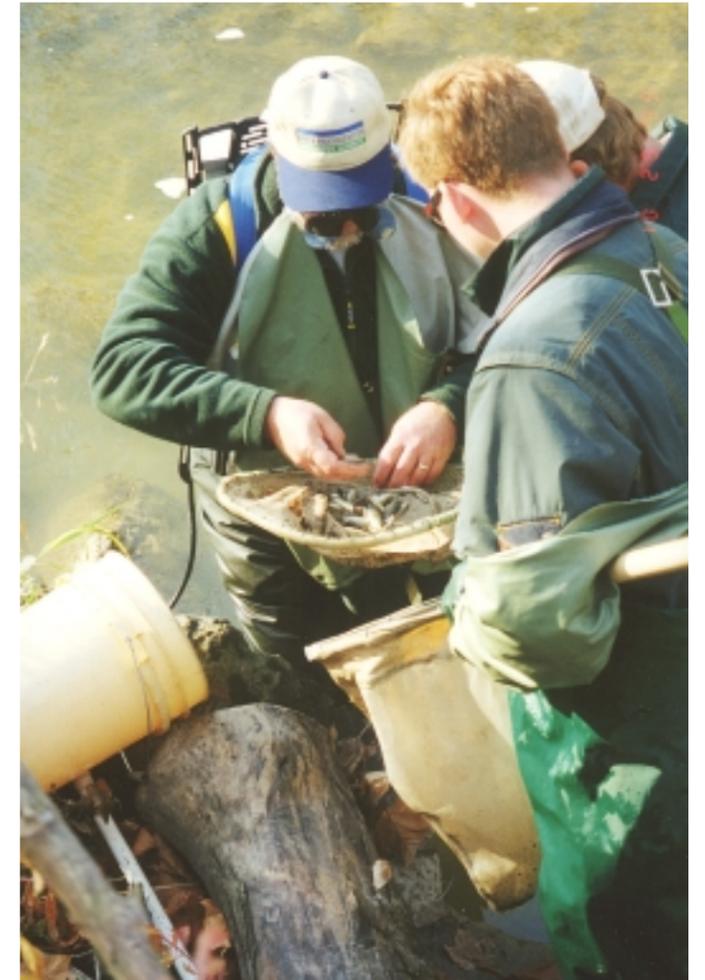
Answer 17: No, OMNR staff will continue to review plans and proposals under provincial legislation and issue work permits (see Appendix A, *OMNR Instructions for Fish Habitat Protection - Referring Projects to Conservation Authorities, Parks Canada and the Department of Fisheries and Oceans*). For proposed projects in or around water, where fish habitat is likely to be altered, proponents will be advised to seek advice or authorization from DFO or the local Conservation Authority as directed in this protocol and as instructed by senior OMNR staff.

Question 18: What is the agreement signed between DFO and Parks Canada?

Answer 18: Parks Canada is handling the initial review, mitigation requirements and some compensation planning of fish habitat related projects on federal lands in any National Parks, National Marine Conservation Areas, National Historic Canals or National Historic Sites. Any projects requiring *Fisheries Act* authorization are still being referred to DFO for review and approval.

Question 19: Is DFO considering partnership agreements with any other sectors?

Answer 19: DFO is considering other partnerships to assist in fulfilling its responsibilities for the protection and management of fish habitat in Ontario. Working with partners will help to ensure that together we can better protect fish habitat and aquatic resources.



As of September 18, 1997, OMNR no longer carries out federal fisheries duties for fish habitat protection when reviewing plans and proposals that are likely to harm, alter, disrupt or destroy fish habitat (see exceptions below). Additionally, OMNR no longer enforces the habitat protection provisions (Section 35) of the *Fisheries Act* on behalf of the federal government.

The following is a detailed description of OMNR activities as they relate to fish habitat protection and instructions for OMNR staff when referring projects to Conservation Authorities, Parks Canada or Fisheries and Oceans Canada (DFO) for review.

1 Activities Affected

The *Fisheries Act* states that no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat (Section 35(1)), unless the work has been authorized by the Minister of Fisheries and Oceans Canada (DFO) (Section 35(2)). Fish habitat is defined in the Act as “spawning grounds and nursery, rearing, food supply, and migration areas on which fish depend directly or indirectly in order to carry out their life processes”.

Except under certain conditions (see *Appendix A, Section 3.4 For Activities under the Crown Forest Sustainability Act (CFSA), Section 3.6 For Activities under the Environmental Assessment Act, Section 3.7 Pipeline Activities Involving Pipeline Companies Regulated by the National Energy Board, and Section 3.10 Provincial Highway Undertakings*) OMNR is not involved in the following activities **for the purposes of Section 35 of the *Fisheries Act***:

- reviewing plans, permits, and proposals to determine if the proposed projects are likely to harmfully alter, disrupt or destroy fish habitat;
- working with proponents and consultants to design fish habitat mitigation measures to prevent harmful alteration, disruption or destruction of fish habitat, and providing site-specific advice;
- serving as the coordinating agency when a proposed work is deemed to harmfully alter, disrupt or destroy fish habitat;
- conducting site inspections or providing site-specific advice on how to mitigate potential harmful alterations, disruption or destruction of fish habitat; and
- assisting in the development of fish habitat compensation agreements with DFO.

In addition, OMNR does not enforce Section 35 of the *Fisheries Act*. OMNR, however, does enforce many other Sections of the *Fisheries Act* (refer to *Fish Habitat in Ontario: Compliance Protocol, Federal & Provincial Roles & Responsibilities*).

OMNR reviews plans and proposals under provincial legislation

and issues work permits. However, for a proposed project that is in or around water, and where fish habitat is likely to be altered, applicants are advised by letter that although the provincial requirements have been met, before a work permit is issued, the proposed project will have to be referred to the local Conservation Authority or DFO for advice on protecting fish habitat (or Authorization as per Section 35(2) of the *Fisheries Act*). To provide good customer service, OMNR makes this referral as detailed in Section 3.0 on behalf of the applicant, and forwards all available fisheries and fish habitat information on the proposed project to the CA or DFO and copies the applicant. The CA or DFO will review the proposed project for its possible impacts on fish habitat and the measures proposed to minimize those impacts, and then: i) issue a letter of advice on ways to avoid or minimize damage, or ii) issue an Authorization to “harmfully alter, disrupt or destroy fish habitat” under Section 35(2) of the *Fisheries Act*, or iii) deny the granting of an Authorization. This process is described in the two DFO Habitat Brochures, “What the Law Requires” and “Guidelines for Attaining No Net Loss”. DFO or the CA will respond directly to the applicant and copy OMNR. Refer to the Fish Habitat Referral Process for procedures with regard to different CA Agreements (*Section 3.0 Fish Habitat Review Process*).

If the proposed project does not require provincial approval, but is in or around water where fish habitat is likely to be altered, OMNR will advise the proponent of their responsibility to obtain advice on protecting fish habitat or Authorization to harmfully alter fish habitat from DFO or the local CA. OMNR will offer to refer the application to the local CA or DFO for this advice or Authorization, as well as forward any available fish and fish habitat information. DFO or the CA will respond directly to the proponent and copy OMNR.

A list of staff contacts is shown below to further assist with questions on handling permit applications, review of proposed projects, client inquiries and enforcement procedures.

2 OMNR Staff Contacts

For Questions On	Staff Contact	Phone Number
TransCanada Pipelines		
OMNR/MTO Protocol	Ed Paleczny	(705) 755-1913
Provincial Policy Statement	John Allin	(705) 755-1968
Enforcement	Norm Brown	(705) 755-1753
<i>Public Lands Act</i>	Kathy Hawthorne	(705) 755-5967
<i>Lakes and Rivers Improvement Act</i>	Leo Christl	(705) 755-1214
<i>Crown Forest Sustainability Act</i>	Celia Graham	(705) 945-6678
<i>Environmental Assessment Act</i>	Derryk Renton	(705) 755-1820
<i>Aggregate Resources Act</i>	Stuart Thatcher	(705) 755-1286

3 The Fish Habitat Referral Process - OMNR Instructions

3.1 For Activities under the *Public Lands Act (PLA)*

Under the *Public Lands Act*, OMNR is responsible for the management and disposition of Crown land. Work permits are generally required to:

- construct a building on public land;
- construct most trails, and all water crossings or roads on public land;
- dredge shore lands (shore lands include both Crown land and adjacent private land covered or seasonally inundated by the waters of a lake, river or stream);
- fill shore lands;
- remove aquatic vegetation from specified shore lands;
- construct or place a structure occupying more than 15 sq. m. of shore lands.

Process

Provide guidance to the public concerning the work permit process

- **For an application received:** if the activity **does not require** a work permit (e.g. a floating dock), and it involves work in or around water where fish habitat is likely to be **altered**, OMNR informs proponent that although no work permit is required, it is the responsibility of the proponent to obtain advice on protecting fish habitat or Authorization from the local CA or DFO as per Section 35 of the *Fisheries Act*.
 - Provide proponent with the two DFO Habitat Brochures entitled: “Fish Habitat Conservation and Protection: WHAT THE LAW REQUIRES”, and “Fish Habitat Conservation and Protection: GUIDELINES FOR ATTAINING NO NET LOSS”.
 - Provide proponent with any fact sheets/brochures on protecting fish habitat (there are several factsheets now available on a variety of in-water works).
- To provide good customer service, OMNR will offer to:
 - Refer the application to the CA/DFO,
 - Forward all available fisheries and fish habitat information on the proposed project to CA/DFO,
 - Provide the proponent with the address, telephone and fax numbers for contacting the appropriate CA/DFO District Office
 - CA /DFO will respond directly to the applicant and copy OMNR.
- **If no application is received** (e.g. telephone inquiry, front counter inquiry), and the activity **does not require** a work permit and the work is in or around water, and where fish habitat is likely to be **altered**, OMNR will provide the two DFO Habitat Brochures, any fact sheets, and DFO’s address, telephone number and fax numbers

to the proponent. Also, provide the proponent with any available fisheries and fish habitat information. The proponent is to deal directly with the CA/DFO and OMNR may refer telephone inquiries to them for further information.

- For activities **that do require** a work permit, OMNR will send out an application and instruct applicant to return completed application to OMNR.
- If required, OMNR will conduct a site inspection to deal with land stewardship responsibilities concerning Crown land (e.g. determine if Crown land is affected), but not to determine if the work is likely to result in a HADD of fish habitat, or to provide advice on how to prevent harmful alterations.
- For applications which involve work in or around water, where fish habitat is likely to be altered, applicants are to be advised by a letter that although the provincial requirements have been met, before a permit is issued, the proposed project will have to be referred to the local CA or DFO for advice on protecting fish habitat or Authorization as per Section 35(2) of the *Fisheries Act*.
 - OMNR will provide the applicant with the two DFO Habitat Brochures listed above which explain the requirements for DFO’s Authorizations under Section 35 of the *Fisheries Act*.
 - OMNR will offer to make this referral to DFO by forwarding a copy of the application and all available fisheries and fish habitat information, and OMNR will copy the applicant on the referral.
 - As indicated in the two DFO Habitat Brochures, “What the Law Requires” and “Guidelines for Attaining No Net Loss”, DFO and/or the CA will review the application for possible impacts on fish habitat and the measures proposed to minimize those impacts, and then: i) issue a letter of advice on ways to avoid or minimize damage, or ii) issue an Authorization, or iii) deny the granting of an Authorization.
 - The CA/DFO will respond directly to the applicant and copy OMNR.
 - Once the CA/DFO has provided its letter of advice or Authorization, a work permit will be issued, with OMNR conditions. A copy of the letter of advice or Authorization provided by DFO will be sent with the work permit but will not form part of the work permit conditions.
 - OMNR reviews any habitat compensation requested by DFO to ensure compliance with provincial legislation, but is not a signatory to the compensation agreement.
 - If an additional work permit is required for the habitat compensation work, OMNR informs proponent.
 - If a final site inspection is required to ensure work is done according to the provincial conditions on the work permit, any violations of conditions set by DFO or the CA in its letter of advice will be noted and referred to DFO.

- For any work OMNR undertakes, or work undertaken by its partners, or its contractors (OMNR as the proponent) that is in or around water, OMNR will continue to develop planned mitigation measures to prevent a HADD of fish habitat, and then seek advice or Authorization from DFO as necessary.

3.2 For Activities under the *Lakes and Rivers Improvement Act (LRIA)*

The purpose of the LRIA is to provide for the use of waters of the lakes and rivers in Ontario and to regulate improvements in them, and to provide for the preservation and equitable exercise of public rights in and over such waters, including:

- protection of the interests of riparian landowners;
- use, management and perpetuation of fish and wildlife dependent on such water;
- preservation of the natural amenities of such waters; and
- ensure the suitability of the location and nature of improvements in such waters.

A location approval and an approval for the work or undertaking (work permit) are required to:

- construct or improve a dam;
- construct a water crossing draining more than 5 sq. km;
- channelize a river or stream except for the installation or maintenance of a drain subject to the *Drainage Act*;
- to enclose or cover a length of river or stream >20 m; and
- to install a cable or pipeline if it will result in damming, forwarding or diverting water (some exceptions).

The review and approval process is similar to that for the *Public Lands Act*. However, this Act is used to control improvements and activities in lakes and rivers involving private land.

Process

- Issue location approval when provincial requirements are met but, if the proposed project involves work in or around water where fish habitat is likely to be altered, inform applicant of the responsibility to obtain advice from the local CA or DFO on protecting fish habitat or Authorization as per Section 35(2) of the *Fisheries Act*.
 - Provide the applicant with the two DFO Habitat Brochures listed in Section 3.1 which explain the requirements for Authorizations under Section 35(2) of the *Fisheries Act*.
 - Provide the proponent with the address, telephone and fax numbers for contacting the CA/DFO.
 - Offer to make the referral to the CA/DFO on behalf of the applicant and copy the applicant.
 - If requested, forward all available fisheries and fish habitat information on the proposed project to the CA/DFO.

- The CA/DFO will respond directly to the applicant and copy OMNR.
- When the applicant applies for a work permit and the proposed project is in or around water where fish habitat is likely to be altered, inform the applicant that a work permit cannot be issued until the CA/DFO has provided advice on protecting fish habitat or has provided Authorization per Section 35(2) of the *Fisheries Act*.
- Follow same process as for the *Public Lands Act*.
- Under the LRIA, permits are not required for undertakings by municipalities or Conservation Authorities (CAs).

3.3 For Having Regard to the Provincial Policy Statement (Fish Habitat Section)

The Provincial Policy Statement (PPS) is issued under the authority of Section 3 of the *Planning Act*. It provides policy direction on matters of provincial interest related to land use planning and development. The PPS identifies fish habitat as one of the Natural Heritage features that is of provincial interest and should be protected from incompatible development. Policy 2.3.1 b) states that: “Development and site alteration may be permitted in: fish habitat; if it has been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified.” Also, Policy 2.3.2 states that: “Development and site alteration may be permitted on adjacent lands....if it has been demonstrated that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified.”

- Ministry of Municipal Affairs and Housing (MMAH) provides unified provincial positions on all municipal planning matters through the provincial one window planning service.
- The Natural Heritage Reference Manual for Policy 2.3 of the Provincial Policy Statement identifies OMNR’s role in the planning process associated with fish habitat protection.
- OMNR provides fish habitat inventory and habitat classification information to municipalities, MMAH, CAs, proponents, etc. to assist with implementing the PPS.
- OMNR has developed a protocol for assessing the suitability of stream habitats for various species.
- OMNR is developing data standards for fish habitat and fish population characteristics.
- When requested by MMAH, OMNR provides technical advice on all natural heritage areas and features to proponents, consultants, and municipalities through the provincial one window planning service. This also includes providing ‘generic’ advice on the protection of fish habitat to all municipal planning authorities.
- When requested to review a policy document or development application by MMAH, OMNR may:
 - Identify a situation where regard to the protection of fish habitat is required under PPS.

- Provide fish habitat information relevant to the document or application.
- Share relevant technical guidelines, standards or reference materials that should be considered by the proponent.
- Provide technical comments on specific studies provided by the proponent with the proviso that DFO, not OMNR, determines if work is likely to cause a HADD of fish habitat.
- Identify that approvals are still required under the *Fisheries Act* that is administered by DFO and, where appropriate, identify the appropriate CA or DFO office to contact.

Process

Provide available fish habitat information to municipalities as required.

- Continue to develop data standards for fish habitat and fish population characteristics.
- To have regard for the Provincial Policy, OMNR will continue to provide general and “generic” technical advice on all natural heritage areas and features, as requested through the provincial one window planning service.
- OMNR does not determine if work is likely to harmfully alter, disrupt or destroy fish habitat per Section 35 of the *Fisheries Act*, but will refer this matter to the local CA/DFO. OMNR will offer to make this referral on behalf of MMAH. DFO will respond directly to MMAH and copy OMNR.
- Continue to review Impact Assessments for areas of provincial interest other than fish habitat, as requested.
- OMNR does not become involved in compensation negotiations. However, OMNR must agree with proposed compensation developed by DFO where Crown land is adjacent or adjoining to ensure compliance with provincial legislation.

3.4 For Activities under the *Crown Forest Sustainability Act (CFSA)*

The CFSA provides for the sustainability of Crown forests and, in accordance with that objective, Crown forests are managed to meet the social, economic and environmental needs of present and future generations.

The CFSA is binding on the Crown and OMNR must abide by it.

The CFSA, through its regulations, requires adherence to a set of manuals, including the “Forest Management Planning Manual” and the “Forest Operations and Silviculture Manual.”

The “Forest Operations and Silviculture Manual” requires forest operations to be conducted in accordance with various listed standards and guidelines, including the “Timber Management Guidelines for the Protection of Fish Habitat,” the “Environmental Guidelines for Access Roads and Water Crossings,” and the “Code of Practice for Timber Management Operations in Riparian Areas.” These documents provide mandatory standards and/or best management practices that

protect water quality and fish habitat.

Forest companies monitor their operations through their forest compliance plan. OMNR compliance inspectors apply the ‘remedies and enforcement’ provisions of various statutes (in addition to the CFSA) which relate to forest operations, including the *Fisheries Act*. Activities that are not in accordance with the approved Forest Management Plans/ Annual Work Schedules and/or do not follow the practices set out in the “Forest Operations and Silviculture Manual” are infractions under the CFSA.

Stop Work Orders are used to prevent, stop, or reduce damage to the Crown forest and to ensure forest operations are being carried out as per the Forest Management Plan and the Annual Work Schedules. Compliance or Repair Orders may be issued in the event that a person causes or permits damage to soil, plant life, or habitat for animals in a Crown forest.

Process

- OMNR staff and the forest industry will continue to use and be guided by the “Forest Operations and Silviculture Manual,” the “Timber Management Guidelines for the Protection of Fish Habitat,” the “Environmental Guidelines for Access Roads and Water Crossings,” and the “Code of Practice for Timber Management Operations in Riparian Areas.” Adherence to these documents will be stated in the Forest Management Plan and Annual Work Schedule (AWS) to ensure no harmful alteration, disruption or destruction of fish habitat will occur. Where exceptions to the standards outlined in these documents may occur, or where a water crossing may affect navigation, the proposed work will be forwarded to DFO (Coast Guard and Habitat Management) for their review.
- OMNR determines if a HADD of fish habitat is likely to occur, and if so, if it can be mitigated. If the HADD can be mitigated, work will be carried out under the terms and conditions as outlined by OMNR.
- If the HADD cannot be mitigated, the project is referred to DFO for authorization.
- If compensation is required, OMNR will work with the forest company to design required habitat compensation, advise DFO on the required compensation and be signatory to the compensation agreement.

3.5 For Activities under the *Aggregate Resources Act*

OMNR provides resource information to proponents and interest groups.

OMNR reviews all new applications to ensure they are consistent with the intent of the Act and ensures that resources including fish habitat are protected. There is a short window of opportunity (45 days) to send objections to an application.

Process

- Provide available information on natural resources.
- Review all new applications to ensure consistency with the intent of the Act.
- Ensure that fisheries information in application and supporting documents or studies is accurate.
- Inform applicant that OMNR reviews for compliance with provincial statutes that involve fish and fish habitat, but OMNR does not determine if fish habitat is likely to be harmfully altered as this is the responsibility of DFO. Advise the applicant to contact the local CA/DFO to obtain advice on protecting fish habitat or authorization per Section 35(2) of the *Fisheries Act*.

3.6 For Activities under the Environmental Assessment Act Internal EA Projects

Process

- OMNR’s fisheries management activities are subject to the *Environmental Assessment Act* (EA Act), either by an Individual EA, Exemption/Declaration Order, or the Class EA for Small Scale Projects.
- For the Class EA for Small Scale OMNR Projects, OMNR, as the proponent, is responsible for application of the Class EA requirements (e.g. planning process, public consultation).
 - OMNR identifies effects on the environment, including fish habitat, and develops mitigation measures to reduce negative effects on fish habitat.
 - OMNR, as the proponent, identifies negative effects on fish habitat, develops planned mitigation measures to prevent a HADD of fish habitat, and then seeks advice or Authorization per Section 35(2) of the *Fisheries Act* from DFO.
 - OMNR works with DFO to develop habitat compensation.
- OMNR complies with Exemption Order OMNR-56/3 in disposing of existing Crown owned cottage lots.
 - The subdivision approval process (already completed) under the *Planning Act* required that environmental concerns (including fish habitat) were addressed.
- For all other OMNR activities covered under the EA Act by Exemption or Declaration Orders (e.g. OMNR-26/7), OMNR complies with the conditions of those Orders to ensure protection of fish habitat.

External EA Projects

For projects proposed by other public agencies or private sector proponents, OMNR:

- Comments on impacts on natural resources, such as ANSIs, wetlands, species at risk, and other resources, including fish habitat.
- Provides resource inventory information to proponents.

- Must comply with Exemption Order OMNR-26/7 for the disposition of rights to Crown resources.
- Determines if the proposed disposition may have significant adverse effects on the environment, including fish habitat, and identifies mitigation measures, including those for fish habitat.
- If significant effects may occur, OMNR provides notice to the public, government ministries and agencies.

Process

- If the proposed project is in or around water and is likely to alter fish habitat, OMNR will inform the agency/proponent that the proposed project will have to be referred to DFO for advice on protecting fish habitat or for Authorization per Section 35(2) of the *Fisheries Act*. OMNR will offer to make this referral on behalf of the agency.
- For proposed dispositions of rights to Crown resources (Exemption Order OMNR-26/7), OMNR determines if there may be significant adverse effects on the environment, including fish habitat. However, determining if the proposed activity is likely to harmfully alter fish habitat is done by DFO. OMNR will make this referral to DFO, on behalf of the agency. DFO will provide advice on protecting fish habitat.

3.7 Pipelines Activities Involving Pipeline Companies Regulated by the National Energy Board

There are a number of pipeline companies (i.e. TransCanada Pipelines Limited) that are regulated federally under the National Energy Board (NEB) because their pipelines cross provincial and national boundaries. All undertakings by these companies must adhere to the “Certificate of Conditions” which have been agreed to by the province and the NEB.

All NEB regulated pipeline companies are responsible for notifying OMNR of all proposed pipeline activities. OMNR work permits are not required for work on their Right-of-Way. OMNR work permits are required for works (i.e. access roads) outside of their Right-of-Way. OMNR will review all pipeline proposals to ensure that all terms and conditions of a “Certificate of Conditions” are adhered to. These terms and conditions are very specific for each activity and include several conditions where OMNR shall provide advice on protecting fish habitat. All NEB regulated pipeline companies will work directly with DFO if a *Fisheries Act* authorization is required.

Process

- Continue to require work permits for works outside of the Right-of-Way and in accordance with the “Certificate of Conditions.”
- Continue to adhere to the “Certificate of Conditions” as written and agreed to by the province and the NEB.
- Should the “Certificate of Conditions” not be adhered to or should OMNR have fish or fish habitat concerns, OMNR will notify DFO.

3.8 For Agricultural Drainage Activities

The installation and maintenance of most agricultural drains are subject to the *Drainage Act*, which is administered by the Ministry of Agriculture, Food and Rural Affairs. The Act delegates responsibility for drainage to municipalities.

Municipal drains are constructed under the “petition drain” procedures of the *Drainage Act*. The municipality passes a by-law that adopts a drainage engineer’s report containing plans, profiles and specifications. This report is the basis for having a municipal drain approved, constructed, and maintained.

Agreement drains are constructed under an agreement between any number of landowners, under the authority of Section 2 of the *Drainage Act*. The municipality may not be involved in these types of drains.

Private agricultural drains are constructed privately on agricultural land, they have no legal status and the municipality has no responsibility for them.

Work permits under the *Public Lands Act* are required for drainage works involving dredging and filling of shore lands.

A work permit is not required under the Lakes and Rivers Improvement Act for the installation or maintenance of a drain, subject to the *Drainage Act*, but may be required for private drains.

OMNR provides available fisheries and fish habitat information to municipalities to assist with determining the risk of negatively impacting fish habitat.

For several Counties, including Huron and Perth, DFO has provided a Class Authorization procedure through the local CAs that allows routine drain maintenance work to proceed where the risk to fish habitat is low, and without OMNR or DFO reviewing them. The procedure classifies drains according to their sensitivity. The municipality follows standard conditions specified in the Class Authorization and is required to notify OMNR of the location of the work and the “Class” being followed for compliance checks.

Process

- If a work permit **is not required** and the work is likely to alter fish habitat:
 - Inform proponent (municipality) of the responsibility to obtain advice from the CA/DFO on protecting fish habitat or authorization per Section 35(2) of the *Fisheries Act*.
 - Continue to provide available fisheries and fish habitat information to proponents (municipalities).
 - Inform proponents that the “Fisheries Guidelines for the Review of Agricultural Drain Maintenance Proposals” and the “Environmental Checklist” for protecting fish habitat are still in effect, but that the Interim Referral Process no longer applies, and that the contact for determining if fish habitat is likely to be harmfully altered is now the local CA or DFO.

- When requested, offer to forward any available fisheries and fish habitat information to the local CA or DFO and copy the proponent.
- DFO will respond directly to the proponent.
- If a work permit **is required** and the work is likely to alter fish habitat, advise the applicant that before a work permit can be issued, the proposed project will have to be referred to the local CA or DFO for advice on protecting fish habitat or Authorization per Section 35(2) of the *Fisheries Act*.
 - Offer to refer the proposed project to the CA/DFO as outlined above for the *Public Lands Act*.
 - Continue to provide available fisheries and fish habitat information to proponents (municipalities).
 - Inform applicants that the “Fisheries Guidelines for the Review of Agricultural Drain Maintenance Proposals” and the “Environmental Checklist” for protecting fish habitat are still in effect, and inform applicant that the CA or DFO is now the contact for determining if the work is likely to harmfully alter fish habitat.
- For those Counties participating, adhere to the Class Authorizations for Agricultural Drains
- OMNR no longer attends “on site” meetings solely for the purpose of protecting fish habitat.

3.9 For Activities under the Historic Canals Regulations Associated with the Trent-Severn Waterway and Rideau Canal

The bed of most of the lakes and rivers that make up the waterway is under federal jurisdiction of Parks Canada’s Historic Canals. Any in-water and shoreline works within these Historic Canals require a permit under the Historic Canal Regulations.

Applications are sent to the Historic Canals for approval. If a HADD can be mitigated, appropriate conditions are included in the approval letter sent to the proponent by the Historic Canal. If the work cannot be mitigated, the application is referred to DFO.

Process

- OMNR will provide fisheries and fish habitat information to the Historic Canals, proponents, consultants, etc. upon request.
- OMNR is not circulated on applications and does not review work proposals or conduct site inspections to determine impacts on fish habitat or compliance with the conditions in the approval letter from the Historic Canals.
- Any inquiries on protecting fish habitat will be referred to the appropriate Historic Canal.

3.10 Provincial Highway Undertakings

A Fisheries Protocol was established by MTO and OMNR in August 1993. This agreement provides direction on protecting fisheries resources on provincial highway undertakings.

Process

- MTO in consultation with OMNR, pursues avoidance and mitigation to prevent a HADD. OMNR in consultation with MTO, shall determine the potential for a HADD and thus whether DFO authorization and the possibility of compensation is required. OMNR in consultation with MTO or their agents will initiate a *Fisheries Act* authorization, which includes discussions on mitigation strategies and compensation with DFO.
- OMNR works directly with DFO on MTO projects which have the potential for harmful alteration, disruption or destruction of fish habitat.

3.11 Enforcement of Section 35 of the Fisheries Act

OMNR Conservation Officers have class appointments as Fisheries Officers under the federal *Fisheries Act*, authorizing them to enforce the *Fisheries Act*. They also enforce fish habitat related legislation under the provincial *Lakes and Rivers Improvement Act*, the *Public Lands Act*, and the *Crown Forest Sustainability Act*.



Process

- Conservation Officers do not enforce and lay charges under Section 35 of the *Fisheries Act*.
- Conservation Officers will proceed with any investigation or prosecution warranted under other legislation, and stop the offence as appropriate, but do not conduct an investigation solely for the purposes of the Section 35 of the *Fisheries Act*.
- Informants/proponents are advised immediately that this is a federal responsibility and that they should contact DFO for further direction.
 - OMNR enforces and lays charges under all other Sections of the *Fisheries Act*, including Section 36, and the Ontario Fishery Regulations.

Full details of the enforcement process as it relates to Sections 35 and 36 of the *Fisheries Act* are detailed in *Fish Habitat in Ontario: Compliance Protocol, Federal & Provincial Roles & Responsibilities*.

3.12 For Activities Involving Sunken Log Retrieval

Review and approval requirements for the retrieval of sunken logs have been developed by OMNR in cooperation with Ontario Ministries of Citizenship, Culture and Recreation (OMCzCR), Labour (OMOL) and Environment (OMOE) and with Fisheries and Oceans Canada - Fish Habitat Management Branch. The development of the procedure has also included participation from members within the sunken log retrieval industry, interested organizations and the public.

For detailed information on the review and approval requirements for sunken log retrieval, please refer to the Applications for Retrieval of Sunken Logs - Review and Approval Requirements from the Forest Management Branch (FOR 10 01 01) of OMNR and approved on April 13, 2000. Under this procedure, applicants must submit a project proposal to a local OMNR District Manager in accordance with the requirements of the procedure. The project proposal will be forwarded to DFO for review under Section 35 of the *Fisheries Act*. DFO will forward project proposals to other federal agencies as needed (e.g., Canadian Coast Guard). As part of the review process, OMNR district biologists should discuss their local information with DFO staff to ensure that final decisions concerning the approved timing of sunken log retrieval operations are based on the best available information.

3.13 Guidelines and Handbooks that Provide Direction on Protecting Fish Habitat

There are a number of older educational publications that base OMNR's role in protecting fish habitat on the Interim Referral Process (e.g. OMNR is the contact, OMNR reviews projects to determine HADD, and OMNR provides advice on mitigation measures).

Many of these guidelines and handbooks also provide technical information on protecting fish habitat (e.g. measures to avoid or minimize damage to fish habitat).

The following are examples of these guidelines and handbooks:

- Provincial Guidelines for Aquatic Plant Control;
- Guidelines for Shoreline Alterations;
- Fish Habitat Protection Guidelines for Developing Areas;
- Guidelines and Criteria for Approvals Under the *Lakes and Rivers Improvement Act*;
- Aquatic Habitat Mitigation and Compensation Reference Manual;
- Guidelines for "Natural" Channel Systems (draft);
- Fisheries Guidelines for the Review of Agricultural Drain Maintenance Proposals;
- Environmental Checklist for Drain Maintenance Projects.

Process

Guidelines and handbooks referring to OMNR's role in the management of fish habitat involving Section 35 of the *Fisheries Act* that were produced before September 1997 should not be distributed to the general public.