

Ring of Fire Annex 1

Regional Assessment in the Ring of Fire Area

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Federal Authority Advice Record

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Department/Agency Fisheries and Oceans Canada (DFO)

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PART 1

1. MANDATE AND AREA(S) OF EXPERTISE

The Fish and Fish Habitat Protection Program of Fisheries and Oceans helps conserve and protect fisheries and aquatic ecosystems for future generations by:

- conserving existing fish and fish habitat resources,
- protecting these resources against future impacts and,
- restoring fish habitat.

We administer and ensure compliance for development projects taking place in and around fish habitat under the;

- *Fisheries Act*
 - Prohibition against works, undertakings or activities, that result in Harmful alteration, disruption or destruction of fish habitat
 - Prohibition against works, undertakings or activities, other than fishing, that result death of fish.
 - Maintenance of flows to protect fish and fish habitat
 - Management and control of obstructions to fish passage
 - Metal and Diamond Mining Effluent Regulations – DFO supports Environment and Climate Change Canada in delivery of the regulations.
 - Aquatic Invasive Species Regulation – prohibition against importation, possession, transportation and release of aquatic invasive species
- relevant provisions of the *Species at Risk Act* including prohibitions against killing, harming harassing, capturing or taking an individual of a species that is listed as extirpated, endangered or threatened.

DFO also supports Canada's commitment to reconciliation with Indigenous peoples.

2. REGULATORY AUTHORITIES

- *Fisheries Act*

- Section 35(1): prohibition against the carrying on of any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.
- Section 34.4(1): prohibition against the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish.
- Section 34.3: - ministerial powers to ensure flows of water to maintain the free passage of fish and the protection of fish passage, fish or fish habitat with respect to existing obstructions
- Section 34.1: – regulations pursuant to the deposit of deleterious substances in waters frequented by fish. E.g. Metal and Diamond Mining Effluent Regulations, Aquatic Invasive Species Regulations.
- Section 43(3): - Aquatic Invasive Species Regulations
- *Species at Risk Act*
 - Section 32(1): prohibition against killing, harming, harassing, capturing or taking an individual of a species that is listed as extirpated, endangered or threatened.
 - Section 32(2): prohibition against possessing, collecting, buying, selling or trading an individual of a species that is listed as extirpated, endangered or threatened, or any of its parts or derivatives.
 - Section 33: Prohibition against the destruction of the residence of a species listed as endangered or threatened.
 - Section 58(1): Prohibition against the destruction of critical habitat.
 - Section 79: requirement for an environmental assessment of potential effects of a development project on Species at Risk.

3. EXPERT INFORMATION OR KNOWLEDGE

DFO will be able to evaluate the potential implications to our mandate as the Regional Assessment proceeds and decisions are made about the geographic and temporal scope. We are currently assessing the appropriate level of scientific support for the Regional Assessment and will adjust as the Assessment progresses. DFO will need to assess existing information (including that from potential developers and the Province of Ontario) to determining science needs relating to the Regional Assessment.

- Baseline Status
- Quantifying fish and habitat to evaluate impacts
- Defining Ecologically Sensitive Areas
- Evaluating cumulative effects
- Monitoring and evaluating the effectiveness of mitigation measures
- Adaptive management
- Integrating available aquatic data
- Integrating Traditional Knowledge

We also see several opportunities to work collaboratively with partners including the federal government, Ministry of Natural Resources and Forestry, Indigenous people, Industry, and Lakehead and Laurentian Universities.

4. POLICIES, PROGRAMS OR INITIATIVES

4.1 Links to relevant DFO Policies are provided below

Fish and Fish Habitat Protection Policy Statement - <https://www.dfo-mpo.gc.ca/pnw-ppe/policy-politique-eng.html>

Codes of Practice -- [New Interim Standard and Codes of Practice | Talk Fish Habitat - Canada.ca](#)

<https://www.dfo-mpo.gc.ca/pnw-ppe/practice-pratique-eng.html>

Policy for Applying Measures to Offset Adverse Effects on fish and Fish Habitat Under the Fisheries Act:
<https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/policies-politiques-eng.html>

Pathways of Effects: <https://www.dfo-mpo.gc.ca/pnw-ppe/pathways-sequences/index-eng.html>

Aquatic Species at Risk Map: <https://www.dfo-mpo.gc.ca/species-especies/sara-lep/map-carte/index-eng.html>.

DFO has funding available to support the participation of Indigenous people in activities that support the conservation and protection of fish and fish habitat. Contributions are available to support participation in engagement, capacity building and other collaborative activities. <https://www.dfo-mpo.gc.ca/ecosystems/ihpp-ppha/index-eng.html>

4.2 Aquatic Ecosystems Programs:

- Fish and Fish Habitat Protection Program: Regulatory Reviews and Integrated Planning
- Species at Risk Program
- Aquatic Invasive Species Program
- Indigenous Relations Unit
- Partnerships Unit

The first three above program are supported by DFO Science.

4.3 Additional Aquatic Ecosystems Initiatives

As Fisheries and Oceans Canada's (DFO's) Fish and Fish Habitat Protection Program (FFHPP) continues to develop guidance to support the modernized Fisheries Act, national partner and stakeholder input is being sought.

The national engagement team is seeking:

- Feedback on the context and clarity of the draft Policy for Applying Measures to Offset Harmful Impacts to Fish and Fish Habitat and Guidelines for Establishing and Managing Fish Habitat Banks.
- Input on guiding principles, considerations and recommendations for the application of multi-species approaches to conservation of the Framework for Aquatic Species at Risk Conservation.
- Feedback on the Interim In-water Site Isolation Standard
- Feedback on the following interim Codes of Practice: Bridge Repair and Maintenance; Municipal and Agricultural Drain Maintenance; Repair and Maintenance of In-water Structures; and Repair, Maintenance and Construction of Docks, Moorings, and Boathouses.

Background information and engagement material can be viewed at the following link:

Talk Fish Habitat <https://www.dfo-mpo.gc.ca/pnw-ppe/policy-politique-eng.html>

PART 2 – To contribute to the design of the regional assessment process and development of the terms of reference, please provide information or advice in relation to the items below.

1. potential outcomes of the regional assessment;

Potential outcomes of the regional assessment could be used to:

- inform planning and management decisions in consideration of potential cumulative effects
- inform newer elements of the modernized Fish and Fish Habitat Program, including State of Fish and Fish Habitat reporting, integrated planning, potential identification of Ecologically Significant Areas, and monitoring the effectiveness of mitigation and offsetting measures.
- Support the development of any future effectiveness monitoring or community-based monitoring.
- assess the potential impacts on the rights and interests of Indigenous peoples early in a comprehensive manner. DFO O&P has negotiated agreements under the Indigenous Habitat Participation Program that could potentially be supported and enhanced through the Regional Assessment.

2. relevant geographic and temporal boundaries;

Boundaries may extend beyond the future mine development activities to include the likely geographic extent of potential effects on fish and fish habitat resulting from these activities.

3. factors to be considered in the regional assessment and the scope of those factors;

To support the collaborative development of the terms of reference for the Regional Assessment and the selection of the geographic and temporal scope we have included some factors to consider below.

1. Distribution of fish species.

- a. Species of fish present in the area, and what the distribution is for the various species.
- b. Habitat types for the species present - i.e. spawning grounds, nursery, rearing, food supply, and migration areas. The data required for may be available through a variety of sources (Canadian Wildlife Service, Ministry of Natural Resources and Forestry, Traditional Knowledge).

2. Distribution of aquatic Species at Risk.

- a. Identify aquatic species at risk and where they are located. This information will assist DFO in developing Recovery Strategies for species at risk if none exist.
- b. Once animal presence and residences are known, development can be planned accordingly in advance.

3. Areas of sensitive fish habitat.

- a. Some types of habitat are limiting to the production of fish and need to be protected to ensure that the species / stock survives.
- b. Once these areas are known, sensitive areas can be set aside for protection and development can be planned appropriately.

4. Areas for enhancement of fish habitat that could be used as offsetting for the harmful alteration, disruption or destruction of fish habitat (HADD).

- a. In pristine areas, it is difficult to find offsetting projects to offset any HADDs that might be authorized.
- b. Through the regional assessment process, areas of unproductive habitat or habitat that is similar and in abundance may be identified, and targeted as areas for potential enhancement. This could then be used to offset HADDs resulting from development.

5. Surface and ground water (quality and quantity) to establish benchmarks for protection of fish habitat.

- a. Mine operation can require water withdrawals and dewatering from groundwater suppression which can impact surface water resulting in fish mortality or HADD.

b. Through a planning process, flow recommendations can be made in advance of any development, to provide for flows to protect fish and fish habitat.

6. Areas of important Indigenous fisheries

a. Indigenous people in the region may identify areas of fish habitat important to them for food and social/ceremonial purposes.

b. These areas may require additional consideration for protection in discussion with potentially affected Indigenous communities.

4. means of communication and engagement that would best facilitate participation of your department or agency in the regional assessment; and

DFO participation would best be facilitated primarily through email and virtual meetings (e.g. MS Teams).

5. input or advice on any other aspect of the regional assessment.

DFO through the federal working group, will continue to support the process and provide expert input as requested.