Applicant's Guide to *Fisheries Act* Authorizations for Projects Near Water

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Applicant’s Guide to Fisheries Act Authorizations for Projects Near Water

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2026 *Amendments to the Authorizations Concerning Fish and Fish Habitat Protection Regulations*

In 2025, the Government of Canada launched a Red Tape Review to be undertaken by federal departments with the main aim of lowering costs for Canadians and building a stronger economy. Fisheries and Oceans Canada (DFO) released its Red Tape Reduction Report in September 2025; in the report's first theme of streamlining regulatory processes for major projects, actions were identified related to simplifying approaches to low-risk and routine projects, and streamlining the approach to higher risk and major projects.

The *Authorizations Concerning Fish and Fish Habitat Protection Regulations*[1] (the Regulations) set out the regulatory requirements to apply for an authorization under the *Fisheries Act* for works, undertakings or activities that may result in harmful impacts to fish and fish habitat. Amendments to the Regulations were identified as a key component of DFO's commitment to reduce red tape and support greater efficiency in project reviews, while upholding Canada's environmental standards and its constitutional obligations to Indigenous Peoples. Key changes include:

- simplified information requirements for all applications for authorizations;
- scaled information requirements based on project risk;
- significantly accelerated authorization process and additional flexibility on offsetting, when a DFO Technical Standard is followed;
- tailored information requirements related to the operation of existing facilities built before July 1977, which are mainly in the hydroelectric sector;
- movement of the financial guarantee requirement to later in the application process, and expansion of the exceptions to the financial guarantee requirement to include municipalities and Indigenous governing bodies;
- adjustments to the Minister's powers to amend, suspend or cancel an authorization to enable adaptive management and more flexible management of the authorization process; and
- strengthened requirements for early engagement of Indigenous groups by project proponents, aligned with regulatory requirements under the *Impact Assessment Act.*

Targeted engagement on proposed changes occurred with Indigenous Peoples, key stakeholders and partners between November 2025 and May 2026. These targeted engagement activities built upon key themes of DFO's multi-wave engagement process on fish

[1] Amendments to the Regulations will not be visible on the Justice Canada webpage until the coming into force date of October 15th, 2026. For a list of the amendments to the Regulations, please see their publication in Canada Gazette Part 2, Volume 160, Number 13, July 1, 2026 Edition.

and fish habitat protection program proposals, conducted between December 2020 and March 2024.

The final regulatory amendments were published in the Canada Gazette on July 1, 2026 and came into force on October 15, 2026. The Regulations establish a means of transition for applications received by DFO prior to this date, but for which a decision on whether to issue the authorization has not yet been made:

- if an applicant has submitted an application for authorization to DFO and received a notification back from DFO that their application has been deemed **complete** before October 15, 2026, DFO will proceed in accordance with the old Regulations.
- if an applicant has submitted an application for authorization to DFO and **NOT** received a notification back from DFO that their application has been deemed **complete** before October 15, 2026, DFO will follow the remaining review process and timelines as laid out in the new Regulations from October 15 onward.

Disclaimer

The *Applicant's Guide to Fisheries Act Authorizations for Projects Near Water* is not a substitute for the *Fisheries Act*, the *Species at Risk Act* or their Regulations. In the event of an inconsistency between this guide and the Acts or their Regulations, the legislation will prevail.

Note: This document contains numerous links to online information and platforms that support DFO's Fish and Fish Habitat Protection Program. Many of these links are under development and not yet available for public use. Purple in this document denotes where a link will be provided on or shortly after the coming into force of the Regulations, on October 15, 2026.

Introduction

Fisheries and Oceans Canada (DFO), under the Fish and Fish Habitat Protection Program (FFHPP), supports the Minister of Fisheries and Oceans (the Minister) in carrying out their mandate under the *Fisheries Act* to conserve and protect fish and fish habitat.

DFO administers and ensures compliance for development projects taking place in and around water under the

- fish and fish habitat protection provisions of the *Fisheries Act*
- *the Aquatic Invasive Species (AIS) Regulations* of the *Fisheries Act*
- the relevant provisions of the *Species at Risk Act*

Purpose

This document is intended to provide proponents planning to carry out works, undertakings or activities near water with an understanding of the *Fisheries Act's* fish and fish habitat protection provisions, and guidance on how to comply with them. While compliance can be achieved through both regulatory and non-regulatory tools, this guidance focuses applications for an authorization under paragraphs 34.4(2)(b) and/or 35(2)(b) of the *Fisheries Act*, including:

- the required information and documents that applicants must submit in an application for authorization;
- how applicants can submit an application for authorization;
- DFO's process to review an application for authorization and make a decision
- offsetting and financial guarantees; and
- how authorization holders can request an amendment, suspension, or cancellation of a valid authorization.

Legislative and Regulatory Context

Fish and Fish Habitat Protection Provisions

DFO is responsible for the conservation and protection of fish and fish habitat across Canada. Under the *Fisheries Act*, no one may carry out works, undertakings and activities in or near water that result in the harmful alteration, disruption or destruction of fish habitat, or the death of fish by means other than fishing unless it has been authorized by DFO:

- Subsection 34.4(1) of the *Fisheries Act* prohibits the carrying on of a work, undertaking or activity, other than fishing, that results in the death of fish (to be referred to as death of fish in the remainder of the document)
- Subsection 35(1) of the *Fisheries Act* prohibits the carrying on of a work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat

However, under paragraphs 34.4(2)(b) and/or 35(2)(b) of the *Fisheries Act*, the Minister[2] may issue an authorization that excepts works, undertakings or activities from these prohibitions under conditions specified in the authorization.

Authorizations Concerning Fish and Fish Habitat Protection Regulations

The *Authorizations Concerning Fish and Fish Habitat Protection Regulations* are established under the *Fisheries Act* and set out the process and requirements that must be satisfied in order

[2] In this document, the terms "the Minister" and "DFO" are both used to indicate actions to be carried out under the Minister of Fisheries and Oceans' authorities under the *Fisheries Act* and the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*.

for the Minister to issue an authorization allowing a person to carrying one or more works, undertakings or activities that would otherwise contravene the subsection 34.4(1) and/or subsection 35(1) prohibitions. Specifically, the Regulations

- identify the information and documents that must be submitted when applying for an authorization in non-emergency and emergency situations
- set out the process and time limits that will be followed in the processing of applications for authorization in non-emergency and emergency situations
- identify the information and documents that must be submitted when requesting an amendment, suspension, or cancellation of an issued authorization
- set out the process and time limits that will be followed in the processing of requests for amendment, suspension, or cancellation of an issued authorization
- set out the reasons, process, and time limits that apply when the Minister, at their own initiative, amends, suspends or cancels an issued authorization.

Other federal Acts and Regulations

Projects requiring authorization for harmful alteration, disruption or destruction of fish habitat and/or death of fish may also be subject to prohibitions and requirements under other federal Acts and Regulations. This guide should be read in conjunction with other federal Acts and Regulations that may be relevant to the proposed work, undertaking or activity, including the

- *Species at Risk Act*
- *Aquatic Invasive Species Regulations*
- *Impact Assessment Act*
- *Building Canada Act*

Species at Risk Act

Under the *Species at Risk Act*, the Minister of Fisheries and Oceans is responsible for aquatic species listed on the Schedule 1 List of Wildlife Species at Risk as extirpated, endangered, or threatened, except for those located on federal lands managed by the Parks Canada Agency. Please apply to Parks Canada if your project could affect a listed wildlife species located in national parks, national historic sites, or national marine conservation areas.
You can check for aquatic species at risk in the vicinity of your project with the Aquatic species at risk map. If your project may result in the:

- killing, harm, harassment, capture or take, or the possession, collection, buying, selling or trade of an individual (or any part or derivative of such an individual) of an aquatic species at risk;
- damage or destruction of the residence of an aquatic species at risk; and/or
- destruction of any part of the critical habitat of an aquatic species at risk

then a permit under *Species at Risk Act* is required in addition to authorization under the *Fisheries Act*. Where applicable, DFO may issue *Fisheries Act* authorizations that have the same effect as a *Species at Risk Act* permit as long as the Minister is of the opinion that the requirements of subsections 73(2) to (6.1) are met. Applicants should indicate in their application whether their proposed project is likely to affect an extirpated, endangered, or threatened listed aquatic species at risk, their residences or critical habitat.

Aquatic Invasive Species Regulations

The *Aquatic Invasive Species Regulations* help protect waterbodies across Canada by preventing the spread and introduction of aquatic invasive species into Canadian waters and managing them once introduced. These regulations are paired with other federal, provincial and territorial legislation that can be used to protect Canada against the threat of aquatic invasive species. They prohibit actions around aquatic invasive species, including:

- importation
- possession
- transportation
- release
- introduction

The Regulations also provide exemptions to these prohibitions for those who have obtained a valid permit or license for introducing any aquatic species into an area where it's not indigenous. These prohibitions must be followed unless authorized under federal or provincial law.

Impact Assessment Act

The *Impact Assessment Act* applies to designated projects listed in the *Physical Activities Regulations* (Project List) and, in some circumstances, to projects that are designated by the Minister of Environment, Climate Change and Nature. The *Impact Assessment Act* establishes a process to assess the potential environmental, health, social and economic effects of major projects, including potential effects on areas of federal jurisdiction such as fish and fish habitat and aquatic species at risk.

If a project is subject to the *Impact Assessment Act*, an impact assessment (IA) may be required before other federal regulatory decisions, such as the issuance of a *Fisheries Act* authorization by DFO, can be made. DFO participates in impact assessments by providing expert advice on potential effects to fish and fish habitat, aquatic species at risk, and other matters within its mandate.

Following an IA, if the project is likely to result in the harmful alteration, disruption or destruction of fish habitat, the death of fish, or in the harming, harassing or killing of individuals

of an at-risk species or destruction of their critical habitat, a *Fisheries Act* authorization and/or a *Species at Risk Act* permit may be required.

For more information on the federal IA process, please visit the Impact Assessment Agency of Canada website.

Building Canada Act

The *Building Canada Act* establishes a framework to advance projects that are determined to be in the national interest by streamlining federal review and permitting processes while continuing to protect the environment and uphold the rights of Indigenous Peoples. For projects listed under Schedule 1 of the *Building Canada Act*, federal approvals under the Acts and regulations listed in Schedule 2 of the *Building Canada Act* are deemed to be granted subject to the issuance of a conditions document by the Minister of One Canadian Economy. The *Building Canada Act* listing shifts the review from 'whether' the project should proceed, to 'how' the project should proceed.

For projects subject to the *Building Canada Act*, consultation and the development of conditions are centralized and are to be led by the Major Projects Office (MPO), in coordination with a project review team composed of federal regulatory partners. DFO will support the MPO during the project review process, especially with developing technical conditions to mitigate project effects on fish and fish habitat.

For more information, please visit the Major Projects Office webpage on *Building Canada Act* projects.

Planning for Projects Near Water

Proponents planning projects that will take place in or near water are responsible for:

- understanding the risks to fish and fish habitat associated with the project;
- taking measures to avoid and mitigate risks to fish and fish habitat;
- applying for a *Fisheries Act* authorization and abiding by the conditions attached to the authorization when it is not possible to avoid and mitigate risks to fish and fish habitat; and
- ensuring compliance with all statutory instruments, including federal and provincial legislation.

The following guidance sections will help proponents determine how they can comply with the fish and fish habitat protection provisions under the *Fisheries Act*.

Do you need an authorization under the *Fisheries Act*?

DFO has a number of tools to help proponents planning a project near water better understand the risks to fish and fish habitat from their projects, and what avoidance and mitigation measures can be implemented to reduce those risks. All applicants are encouraged to review DFO's Projects Near Water webpage and conduct a project pre-screen to confirm whether a *Fisheries Act* authorization is required to carry on their work, undertaking or activity, or whether following one or more non-regulatory approaches, described below, may apply.

Waterbodies where DFO Review is not Required

Applicants should first determine if their proposed project will take place in or near a waterbody where DFO review is not required (for example, artificial waterbodies that aren't connected to a water body that contains fish), and therefore no application for a *Fisheries Act* authorization is required.

Measures and Procedures to Avoid and Mitigate Risks to Fish and Fish Habitat

DFO has developed measures and procedures to help proponent avoid and mitigate risks to fish and fish habitat. Using the standardized measures can make the project planning process more efficient by:

- reducing efforts on the routine elements of the project; and
- focusing efforts on the parts that are more complex and unique.

Proponents are responsible for determining what standardized and site-specific measures are needed to avoid or mitigate risks to fish and fish habitat.

Mitigation procedures provide clear guidance on how to design, implement, maintain, and monitor specific mitigation measures that are part of the proposed project. These procedures may also be used to support the development of mitigation measures for a project or to support a *Fisheries Act* authorization application. It is not necessary for proponents who can fully avoid or mitigate impacts to fish and fish habitat to apply for a *Fisheries Act* authorization.

Codes of Practice

Codes of Practice specify conditions and measures to manage risks to fish and fish habitat. They are designed for routine projects. If proponents can follow all the measures and meet all the conditions of the applicable Code(s) of Practice related to their project, an application for a *Fisheries Act* authorization is not necessary. Instead, proponents are requested to submit a notification to DFO of their intention to use the applicable Code(s) of Practice via the Project Submission Tool. Proponents should submit notifications to DFO a minimum of 10 working days prior to commencing the project.

Note: If a proponent's project involves multiple works, undertakings or activities, and some can be covered by a Code of Practice, while others require a *Fisheries Act* authorization, proponents should specify in their application for authorization which project works, undertakings or activities will be carried out following a Code of Practice.

Equivalent Industry Practices

Equivalent industry practices specify best practices to manage risks to fish and fish habitat from low risk, routine, industry-specific projects. These best practices have been reviewed by DFO, and the avoidance and mitigation measures have been deemed equivalent to DFO-recommended measures for these types of projects. If an Equivalent Industry Practice applies to a proposed project and the proponent can follow all applicable measures, an application for a *Fisheries Act* authorization is not necessary. Instead, proponents are requested to submit a notification to DFO of their intention to use the equivalent industry practice via an online form. Proponents are requested to submit notifications to DFO a minimum of 10 working days prior to commencing the project.

DFO Technical Standards

Section 1 of the Regulations establishes the concept of DFO Technical Standards, meaning "a document, as amended from time to time, of a technical or explanatory nature that is published by the Department of Fisheries and Oceans and that provides measures to avoid the death of fish or to mitigate the extent of their death and to avoid or mitigate the harmful alteration, disruption, or destruction of fish habitat". The purpose of these DFO Technical Standards is to establish DFO's preferred design techniques and mitigation measures for certain routine works, undertakings or activities, which an applicant can choose to follow rather than developing those measures on their own. Proponents who choose to use DFO Technical Standards benefit from a streamlined application process and faster review of their application; DFO will also factor in proponents' use of DFO Technical Standards when undertaking the risk assessment to determine offsetting requirements.

During the planning stages of a project, proponents should review DFO's Technical Standards to determine their applicability for some or all of the works, undertakings or activities associated with the project.

DFO Concierge Service for Major Projects

DFO's Concierge Service helps major project[3] proponents understand and navigate regulatory requirements early in the planning process. Experienced regional coordinators become a single

[3] For the purposes of the DFO Concierge Service, "major project" includes, but is not limited to:

point of contact to support proponents throughout the process until they are ready to submit applications for authorizations under the *Fisheries Act*.

This service is intended for proponents of major projects that may impact fish or fish habitat and therefore need authorization under the *Fisheries Act*, including when species at risk are involved. Concierge coordinators provide:

- early information on processes and requirements related to authorizations or permits under the *Fisheries Act* and the *Species at Risk Act*;
- clarification on the information needed to submit a complete application for *Fisheries Act* authorizations or *Species at Risk Act* permits;
- advice to improve efficiency and save time in the regulatory review process;
- support to identify and engage Indigenous groups early in the planning process; and
- guidance on offsetting options and habitat banking.

DFO considers several factors to determine whether a project is a major project. The concierge coordinator in your region can help assess whether your project is eligible for the service based on criteria, such as whether the:

- regulatory review of the project is being coordinated by a federal agency;
- project is subject to a federal impact assessment, including northern assessments, and provincial or territorial environmental assessments;
- project requires designation of a tailings impoundment area under the *Metal and Diamond Mining Effluent Regulations*; and
- project may result in significant impacts on fish and/or high-value fish habitat, including species at risk.

Applications for a *Fisheries Act* Authorization

If an applicant determines, after doing a project pre-screen of non-regulatory approaches, that their project is still likely to result in the death of fish or the harmful alteration, disruption, or destruction of fish habitat, then an application for authorization under paragraphs 34.4(2)(b) and/or 35(2)(b) of the *Fisheries Act* should be submitted to DFO.

- projects coordinated through the Major Projects Office or other federal permitting coordination process.
- projects subject to a federal Impact Assessment under the *Impact Assessment Act* or assessments of large-scale projects under impact assessment regimes that apply in the Territories,
- projects that may require an amendment to schedule 2 of the *Metal and Diamond Mining Effluent Regulations*; and/or
- projects involving a decision under the *Fisheries Act* or *Species at Risk Act* with the potential for significant impacts on highly valued fish or fish habitat.

There are three project types for which a proponent can apply for an authorization under the *Fisheries Act*: non-emergency situations, emergency situations, and existing facilities[4]. Most projects will follow the application requirements and process for non-emergency situations.

Submitting an Application for Authorization

All applications must be made in writing to DFO. To facilitate the submission of project applications, DFO has created an "Apply" section of the Project Submission Tool (PST), where applicants can fill out and submit the required information and documents. Applicants using the PST must sign in using a federal Sign-In Partner or GCKey. More information about signing into the PST can be found in the Frequently Asked Questions. Where, for accessibility reasons, the PST cannot be used, application forms are available on DFO's Projects Near Water webpage and can be submitted by email or mail to the applicable DFO regional office.

Applicants must include all required information and documents specified in the Regulations, as reflected in the appropriate application form. Application requirements for non-emergency projects, other than operations of existing facilities, are set out in the Regulations under Schedule 1 - Information and Documents to be Provided. Appendix 1 of this guide provides guidance for applicants on how to meet these requirements when preparing an application. Application requirements for emergency situations are set out in Schedule 2 Emergency Situations – Information and Documents to be Provided. Appendix 2 of this guide provides guidance for applicants on how to meet these requirements when preparing an application. Application requirements for existing facilities are set out in Schedule 3 – Existing Facilities – Information and Documents to be Provided. Appendix 3 of this guide provides guidance for applicants on how to meet these requirements when preparing an application.

Processing an Application

The Regulations establish steps for proponents to apply for a *Fisheries Act* authorization, and steps and time limits for DFO related to processing and making a decision on the issuance of an authorization. Figure 1 below demonstrates these steps and time limits for authorization applications in non-emergency situations and for existing facilities. The process for emergency situations is described later in the document.

[4] Existing facilities are defined in the Regulations as meaning a "a structure constructed prior to July 14, 1977, and located wholly or partially in fish habitat." More information on existing facilities can be found in Appendix 3.

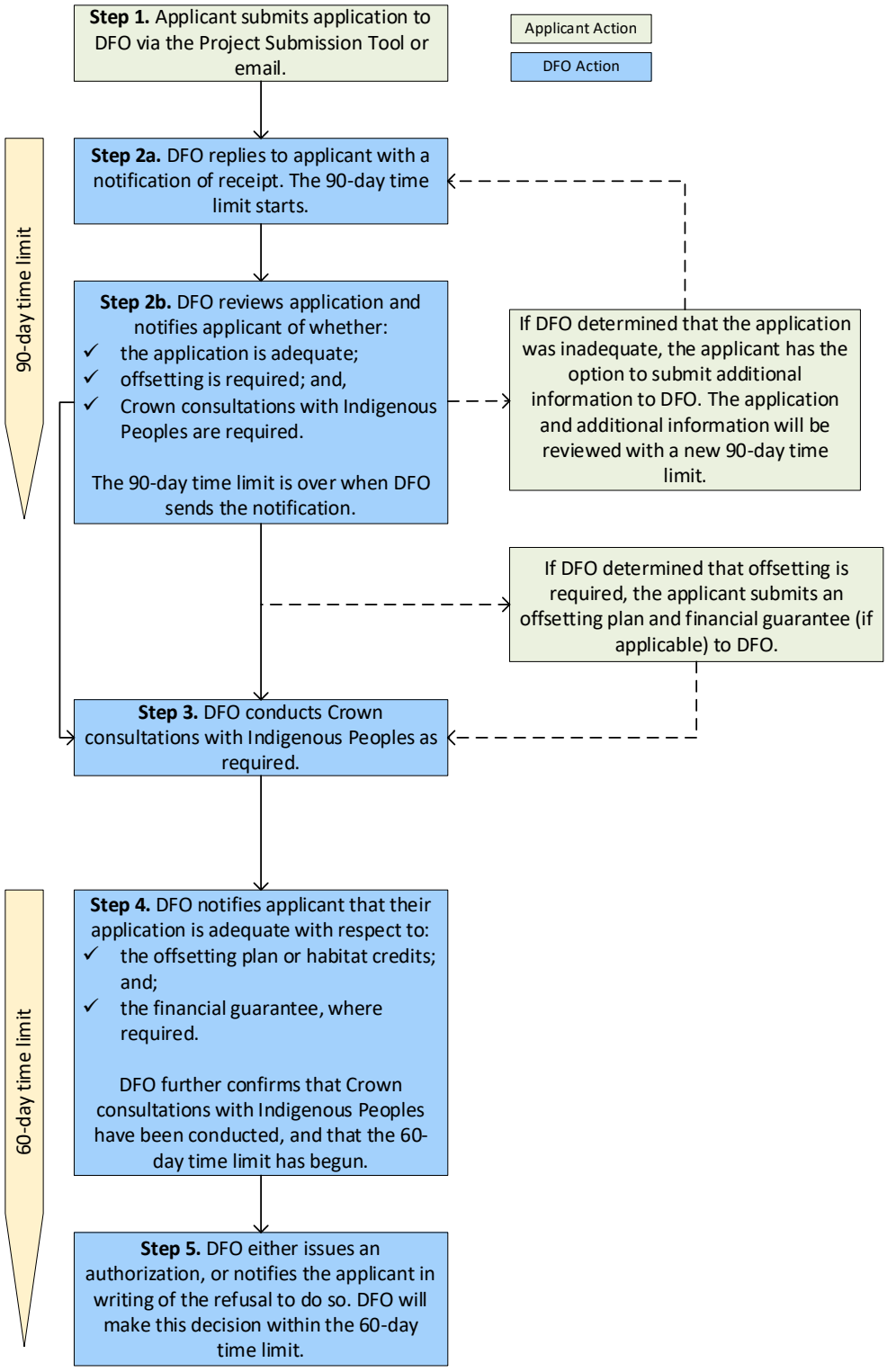


Figure 1. Process and time limits for applications for authorizations in non-emergency situations and for existing facilities.

Step 1 – Applicant submits application to DFO

For non-emergency situations, subsection 2.1(1) of the Regulations specifies that an application in respect of one or more works, undertakings or activities must be made to the Minister in writing and include:

(a) *the information and documents set out in Part 1 of Schedule 1, and*

(b) *the information and documents set out in Part 2 of Schedule 1.*

For existing facilities, subsection 2.1(2) of the Regulations specifies that an application in respect of one or more works, undertakings or activities in relation to the operation of an existing facility must be made to the Minister in writing and include:

(a) *the information and documents set out in Part 1 of Schedule 3; and*

(b) *the information and documents set out in Part 2 of Schedule 3.*

Note: Applicants who confirm in writing that they will follow one or more DFO Technical Standards when carrying out a project are not required to submit the information and documents contained in Part 2 of Schedule 1 or 3 (as applicable). Where an application is for a project that includes multiple works, undertakings or activities, Part 2 of Schedule 1 or 3 (as applicable) information requirements are only omitted for those works, undertakings or activities for which the applicant confirms they are following a DFO Technical Standard.

Note: In the event that an applicant determines that the proposed work, undertaking or activity will not be carried out but has already submitted an application, the applicant should inform DFO so that the application file may be closed.

Step 2 – DFO Review

Notification of receipt and start of 90-day review period (Step 2a)

Upon receiving an application for authorization via either the Project Submission Tool or submission of a completed application form via email or mail, DFO will send the applicant a confirmation of the date of receipt (subsection 4(2)). The date of receipt indicated in the notification serves as the trigger for the 90-day time limit for DFO to review the application.

90-day review period (Step 2b)

During the 90-day review period, DFO will be reviewing the application for three purposes: to determine if the application is adequate; to determine if offsetting is required; and to consider the consultations that are required.

1. *Adequacy* – the amendments to the Regulations introduce a test of adequacy, replacing the previous test of completeness in the 2019 version of the Regulations. An application will be

considered adequate if it provides sufficient information, whether quantitative or qualitative, for DFO to be able to proceed with decision-making. Applicants should consider the level of risk that their project carries when completing their application, recognizing that applications for lower-risk projects can have less detailed and more qualitative information than higher-risk ones. Less detailed information may be adequate for projects that:

- take place in low-quality habitats;
- are carried out during established timing windows;
- do not affect species at risk, their residences or critical habitats;
- Have small-scale and/or temporary effects;
- have little-to-no impact on sensitive species or habitats; or
- have little-to-no impact on species or habitats known, to the Crown, to have cultural significance to Indigenous Peoples.

2. *Offsetting* – authorization applicants are not required to submit offsetting plans for their projects with their applications. The requirement for offsetting for the death of fish or the harmful alteration, disruption or destruction of fish habitat will be determined through a DFO risk assessment (subsection 4(2.1)). DFO will factor in an applicant's use of DFO Technical Standards when undertaking the risk assessment.

3. *Consultations* – Crown consultations with Indigenous groups are required when the Crown proposes conduct (such as the issuance of a paragraph 34.4(2)(b) and/or 35(2)(b) *Fisheries Act* authorization) that has the potential to adversely impact Aboriginal or Treaty rights. DFO assessors will review the application to determine any potential impacts to Aboriginal or Treaty rights in order to determine the extent of consultations required.

> **Note:** In cases where DFO's risk assessment determines that offsetting is not required, DFO may still determine, through Crown consultations, that offsetting is necessary in order to fulfill the duty to accommodate. A determination that offsetting is not required does not preclude the identification of other measures that may be necessary to address potential adverse impacts on Aboriginal or Treaty rights through the Crown consultation and accommodation process.

Within the 90-day time limit, applicants will be notified by DFO of one of the following review results:

1. *Application is inadequate* – if DFO's review finds that the information and documents provided in the application are inadequate for the purposes of making a decision on whether or not a *Fisheries Act* authorization should be issued, the notification to the applicant must specify the information and documents that the applicant must provide in

order to have their application reviewed again (paragraph 4(3)(a)). This notification ends the 90-day time limit for review. An applicant must submit all the information and documents specified in the notification if they would like to continue with the authorization process. There is no prescribed time limit for the applicant to respond. When the applicant responds to DFO with all the information and documents that were specified in the notification, DFO will send a confirmation of receipt back to the applicant (subsection 4(4)), and the 90-day time limit will restart at day 1 on the date indicated in that confirmation (subsection 4(4.1)).

Note: In cases where DFO has notified the applicant that their application is inadequate and specified the information and documents that must be submitted, applicants must submit all specified information and documents in order for DFO to restart the 90-day time limit for review. If an applicant provides some of the specified information and documents, but not all, the 90-day time limit will not restart until the remaining information and documents have been received.

2. *Application is adequate and offsetting is not required* – if DFO's review finds that the information and documents provided in the application are adequate for the purposes of making a decision on whether a *Fisheries Act* authorization should be issued (paragraph 4(3)(b)), the notification will also include the results of DFO's risk assessment on offsetting (subparagraph 4(3)(c)(i)). If the risk assessment concludes that offsetting the death of fish or harmful alteration, disruption or destruction of fish habitat is not required, the notification will indicate that to the applicant, and also specify whether Crown consultations are required. The notification ends the 90-day time limit for review.

3. *Application is adequate and offsetting is required* – if DFO's review finds that the information and documents provided in the application are adequate for the purposes of making a decision on whether a *Fisheries Act* authorization should be issued (paragraph 4(3)(b)), the notification will also include the results of DFO's risk assessment on offsetting (subparagraph 4(3)(c)(i)). If the risk assessment concluded that offsetting the death of fish or harmful alteration, disruption or destruction of fish habitat is required, the notification will specify that the applicant must submit:
    - the information and documents set out in Part 3 of Schedule 1 or 3 (as applicable), which include either habitat credits or an offsetting plan; and,
    - an irrevocable letter of credit issued by a recognized Canadian financial institution, or another equivalent financial guarantee, including a performance bond, to cover the costs of implementing the offsetting plan.

Appendix 4 of this document provides more information related to financial guarantees. DFO's notification to the applicant will also specify whether Crown consultations are required. The notification ends the 90-day time limit for review.

Step 3 – Crown Consultations and Submission of Offsetting Requirements

Following DFO's notification to the applicant, DFO will proceed to conduct any Crown consultations necessary to fulfill its duty to consult. The Crown has a duty to consult and accommodate when its actions may negatively impact Aboriginal or treaty rights. The duty to consult is triggered when the following three elements are present (the three-part test):

1. There is contemplated Crown conduct or decision (such as the issuance of a paragraph 34.4(2)(b) and/or 35(2)(b) *Fisheries Act* authorization);
2. The Crown has knowledge of the existence of asserted or established Aboriginal or treaty rights; and
3. The contemplated Crown conduct or decision may cause potential adverse impacts on those rights.

Although the legal obligation to consult and accommodate rests with the Crown, DFO may be able to rely on actions taken by applicants, such as early engagement, information sharing, and records of engagement, to support the Crown's procedural aspects of its duty to consult; however, the determination on whether the duty is met remains with the Crown. Applicants must submit information on engagement with Indigenous groups as part of their application. Resources to support applicants in meeting early engagement-related information requirements can be found on the Projects Near Water webpage.

Note: Applicants who confirm that they will follow a DFO Technical Standard for one or more works, undertakings or activities, are not required to submit information on engagement for those works, undertakings or activities. The Crown's duty to consult may still apply to these projects, however, and Indigenous groups will be notified of the proposed project by DFO if there are any potential adverse impacts to rights.

For projects where DFO has notified the applicant that offsetting is required, DFO cannot complete consultations until the applicant has submitted the required information and documents in Part 3 of Schedule 1 or 3 (as applicable), as DFO must include the offsetting plan in its Crown consultations. It is therefore important for applicants to submit this information expeditiously to avoid delays in consultation activities. Please see Appendix 1 and Appendix 3 for guidance on the information and documents related to offsetting in non-emergency situations and for existing facilities, respectively.

Step 4 – DFO confirms application adequacy

Following Crown consultations and, where required, applicant submission of offsetting information and documents, DFO will proceed to notify the applicant that their application is adequate (subsection 4(4.2)) with respect to:

- the information and documents already submitted from Parts 1 and 2 of Schedule 1 or 3 (as applicable); and
- the offsetting information and documents that the applicant has, where required, submitted;

Additionally, the notification will confirm that necessary Crown consultations have been conducted. The date that DFO sends this notification triggers day 1 of the 60-day time limit for DFO to either issue the authorization or notify the applicant of the refusal to do so.

Note: If an applicant has submitted an offsetting plan but that plan is not considered adequate by DFO, assessors will follow up with the applicant to work together to resolve concerns. DFO will not send a notice that the application, including the offsetting plan, is adequate until these issues are resolved, meaning the 60-day time limit will not begin until the offsetting plan is considered adequate.

Step 5 – DFO makes a decision on the application

The last step in the application process is for the Minister to either issue an authorization to the applicant, or notify the applicant in writing of the refusal to do so (subsection 4(5)).

Time limit ceases to apply

Despite the steps and time limits outlined above, subsection 4(6) provides circumstances in which the 90-day or 60-day time limits may cease to apply:

(a) *"the applicant proposes amendments to their application;*

(b) *the applicant requests in writing that the processing of the application be suspended;*

(c) *circumstances require that relevant information or documents other than those referred to in subsection 2.1(1) or (2), and subparagraph (3)(c)(i), if applicable, be obtained or that amendments to the information or documents submitted by the applicant be made before the Minister makes their decision under subsection (5);*

(d) *the Minister considers that consultations are required before they make their decision under subsection (5); or*

(e) *an Act of Parliament, a regulation made under an Act of Parliament or a land claims agreement provides that a decision be made or that conditions be met before the Minister makes their decision under subsection (5)."*

The applicant proposes amendments to their application – if the applicant proposes amendments to their application during either the 90-day or 60-day time limit, the applicable

time limit will cease to apply, meaning it no longer has any effect. The applicant may then provide any information or documents necessary to support their proposed amendments. The processing of the application and applicable time limit will restarts at day 1 when the information or documents concerning the proposed amendments have been received by DFO.

The applicant requests in writing that the processing of the application be suspended – if the applicant requests, in writing, that the processing of the application be suspended, the applicable time limit will cease until the applicant requests, in writing, that the processing of the application be resumed and the time limit restarted at day 1.

Circumstances require that additional information be obtained – a proposed work, undertaking or activity or related aspects of a project may be under review by other federal, provincial or territorial agencies or environmental assessment bodies. These processes may influence details of the proposed work, undertaking or activity, the measures and standards to be utilized, or the offsetting plan (where required). If these processes affect an application such that additional or amended information is required to support DFO's review, the process and time limits cease.

This provision may also apply in relation to unique aspects of a proposed work, undertaking or activity that may require further information or documents beyond that included in Schedule 1 of the Regulations. DFO will notify the applicant when the process and time limits have ceased and identify the information or documents required to resume the process and to restart the time limits.

Consultation is required before the Minister makes their decision – the duty to consult with Indigenous groups is triggered when the Crown proposes conduct (such as the issuance of a paragraph 34.4(2)(b) and/or 35(2)(b) *Fisheries Act* authorization) that has the potential to adversely impact Aboriginal or Treaty rights. DFO will typically conduct the consultations identified in subparagraphs 4(3)(b)(ii) or (c)(ii) after the closing of the 90-day time limit, and prior to notifying the applicant that the 60-day time limit for the Minister's decision has begun (subsection 4(5)). However, should a circumstance arise in which Crown consultations must be undertaken but the application is in either the 90- or 60-day time periods, the Minister can cease the time limit's application so that DFO has the time necessary to carry out required consultations.

Note: DFO will inform applicants as to whether Crown consultations are required in the notification at the end of the 90-day time limit.

Act of Parliament, a regulation made under an Act of Parliament or a land claims agreement (herein referred to as other federal requirements) – prior to making a decision on whether or not to issue a *Fisheries Act* authorization under paragraphs 34.4(2)(b) and/or 35(2)(b), DFO may be required to meet the requirements of other federal legislation or regulations, or requirements set out in a land claims agreement or modern treaty. These may include (but are not limited to) the:

- *Impact Assessment Act*
- Section 75, 76 or 77 of the *Yukon Environmental and Socio-economic Assessment Act*
- Section 118 of the *Mackenzie Valley Resource Management Act*
- Article 12, Part 10, Paragraph 12.10.1 of the *Nunavut Land Claims Agreement*
- Chapter 18, Section 18.10.1 of the *Eeyou Marine Region Land Claim Agreement*

Note: If DFO is required to meet other federal requirements in the review of the project, DFO will inform an applicant of this as early as practicable in review process.

Notice of cessation

When a time limit ceases to apply as a result of the circumstances set out in paragraphs 4(6)(c), (d) or (e) of the Regulations, as described above, DFO will notify the applicant with the reasons for the cessation and any information or documents that must be submitted, as applicable.

Time limit starts over and notice

The Regulations specify the conditions under which the 90-day and/or 60-day time limits restart after ceasing due to any of the reasons described above.

*"**4(8)** The time limit referred to in subsection (3) or (5) starts over as soon as all of the following conditions have been met:*

- **(a)** *all information or documents in support of the proposed amendments have been received, in the case referred to in paragraph (6)(a);*
- **(b)** *the Minister receives a request in writing that the processing of the application be resumed, in the case referred to in paragraph 6(b);*
- **(c)** *the information or documents referred to in paragraph (6)(c) have been obtained or amended;*
- **(d)** *the consultations referred to in paragraph (6) (d) have been conducted*
- **(e)** *the decision has been made or the conditions have been met, in the case referred to in paragraph (6)(e)."*

When all of the above mentioned conditions have been met, the time limit can be restarted. DFO must notify the applicant in writing of the day on which the time limit restarts at day 1 (subsection 4(9)).

Applications for a *Fisheries Act* authorization in Emergency Situations

The Regulations establish that authorizations can be issued in certain situations that are considered to be emergencies. In these situations, the applicant requires DFO to immediately consider their application so that the proposed work, undertaking or activity can be carried on without delay. Section 3 of the Regulations provides that:

*"***3** *Only the information set out in Schedule 2 must be provided to the Minister in support of an application in respect of one or more works, undertakings or activities that need to be carried on without delay in response to the following situations:*

- **(a)** *a matter of national security;*
- **(b)** *a national emergency for which special temporary measures are taken under the Emergencies Act; or*
- **(c)** *an emergency that poses a risk to public health or safety, the environment or property."*

Applicants must indicate in their application which emergency situation their proposed work, undertaking or activity falls under and why it must be carried on without delay.

Unlike applications received under non-emergency situations, applications for authorizations due to emergency situations are processed without time limits. DFO will process these applications on a priority basis, consistent with any other federal legislation that may apply. Figure 2 below outlines the process for emergency applications.

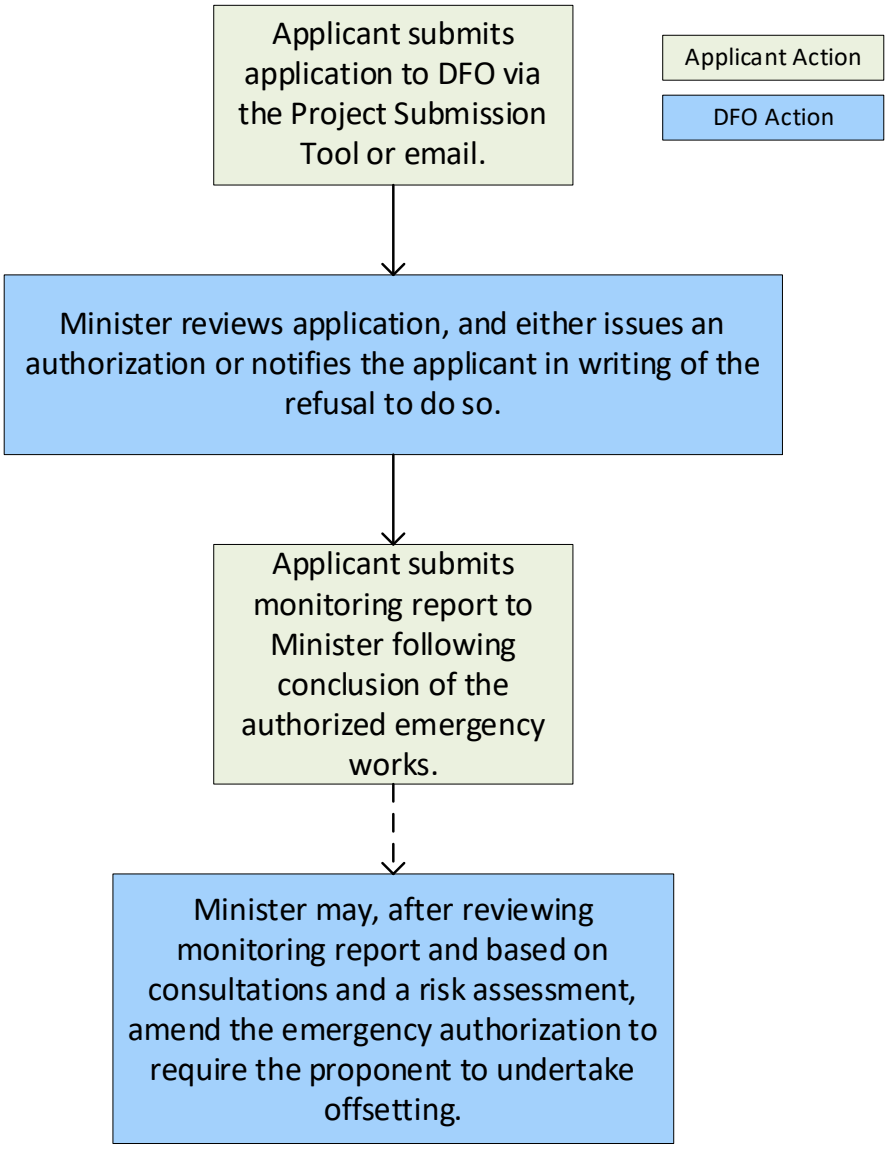


Figure 2. Process for applications for authorizations in emergency situations**.**

Schedule 2 of the Regulations sets out the information requirements to be submitted by applicants applying for authorization to carry on a work, undertaking or activity in response to an emergency situation. Please see Appendix 2 for guidance on the information and documents to support an application for an emergency situation.

As with applications for non-emergency situations and existing facilities, applications for a *Fisheries Act* authorization to carry on a work, undertaking or activity in response to emergency situations must be made in writing and submitted to DFO via either the Project Submission Tool or sending a completed application form to via email or mail to the applicable DFO regional office.

Note: In the case where the unauthorized death of fish, harmful alteration, disruption or destruction of fish habitat, or deposit of a deleterious substance in water frequented by fish has occurred or is imminent and no *Fisheries Act* authorization was issued, subsections 38(4) to 38(7) of the *Fisheries Act* requires the person responsible for the occurrence to immediately notify DFO, take corrective measures and provide a written report on the occurrence or the damage of the occurrence.

Monitoring reports are expected to be submitted to DFO following the conclusion of the authorized emergency works in accordance with the relevant terms and conditions of the *Fisheries Act* authorization. DFO will then conduct a risk assessment of the impacts of emergency works on fish and fish habitat to determine if offsetting is required and conduct any necessary consultations with Indigenous groups. Subsection 9.1 allows the Minister to amend, in whole or in part, any authorization if new information demonstrates that further action is necessary to avoid, mitigate or offset the death of fish or the harmful alteration, disruption or destruction of fish habitat.

Public Information about Authorizations

Public transparency regarding the issuance of authorizations for projects that may result in harmful effects to fish and fish habitat is an important aspect of DFO's regulatory framework under the *Fisheries Act*. Applicants should be aware that, should they receive an authorization, certain information from their applications and authorizations will be made publicly available online via the *Fisheries Act* Registry. This registry, searchable through the Common Project Search platform, contains key information about projects that DFO has authorized. The website is refreshed automatically to provide real-time access to new information as it becomes available. Through this platform, Canadians are able to access information on projects across three federal departments – Transport Canada the, Impact Assessment Agency of Canada, and DFO.

Amendments, Suspensions and Cancellations of Authorizations

The Regulations establish the information requirements, processes and time limits for amendments, suspensions, and cancellations of issued authorizations. Amendments, suspensions and cancellations can be requested by the authorization holder, as per the Regulations, or carried out by the Minister at their own initiative (subsections 34.4(5) and 35(5) of the *Fisheries Act*). The following sections outline the processes and time limits for

authorization holders to request amendment, suspension, or cancellation, as well as describing the circumstances in which the Minister has the authority to carry out these actions at their own initiative. Specific guidance on the information requirements for amendment, suspension, and cancellation requests can be found in Appendix 5.

The process and time limits for amending, suspending or cancelling a *Fisheries Act* authorization are similar to those for applications for authorization, and have been updated as part of the recent amendments to the Regulations. The Regulations amendments also introduced additional Ministerial authorities for amending, suspending or cancelling a *Fisheries Act* authorization. For authorization holders seeking to amend, suspend or cancel *Fisheries Act* authorizations issued for emergency situations, please contact the applicable DFO Regional office to discuss options.

Submitting a Request for Amendment, Suspension, or Cancellation at the Request of the Authorization Holder

The holder of an existing *Fisheries Act* authorization can request that DFO amend or suspend the authorization in whole or in part, or cancel the authorization in whole.

Amendments – Amendments are used when the authorization holder wishes to adjust or update one or more parts of the authorization. Depending on the scope and scale of the request, a DFO assessor may communicate that:

- the request will follow the process indicated in section 8 of the Regulations;
- the request can be processed in a streamlined manner for administrative amendments; or,
- an application for a new authorization is required.

Administrative amendments

DFO acknowledges authorization holders often request amendments that are minor or administrative in nature that will not result in changes to the authorized effects on fish or fish habitat. For these types of requests, DFO has a streamlined amendment process, whereby review and decision can be undertaken more quickly. Examples of amendment requests that would generally be deemed as minor or administrative include the following:

- date changes for authorized works, undertakings and activities that don't change the authorized effects on fish and fish habitat;
- date changes for submitting a monitoring report;
- name changes for the authorization holder or personnel undertaking the work (i.e., if a company name changes);
- changes in legal representation; or
- a change from one type of financial guarantee to another.

These amendment requests still utilize the same form as all other amendment requests, but DFO will indicate via notification if the request will be treated as minor or administrative. The regulatory time limits for processing the application still apply, but it is expected that authorization holders will receive a decision on their request quickly within the time limits.

Suspensions – suspensions are used to pause all or part of an authorization so that the applicable works, undertakings or activities in the authorization cannot be carried out while the suspension remains in place. The suspension is removed following a request from the authorization holder that their authorization be reinstated (subsection 9(5) of the Regulations). This can be done whether the suspension was made at the request of the authorization holder or initiated by the Minister.

Cancellations – cancellations are used when the authorization holder no longer wishes to hold a valid authorization because they will no longer be carrying out the authorized works, undertakings or activities in a manner that may result in harmful impacts to fish or fish habitat. Cancellations can only be applied to the authorization as a whole and cannot be reinstated.

Processing a Request

As with new applications for authorization, the Regulations establish steps and time limits for authorization holders to request an amendment, suspension or cancellation of an existing *Fisheries Act* authorization. Figure 3 below demonstrates these steps and time limits for requests, which closely follow those for new applications.

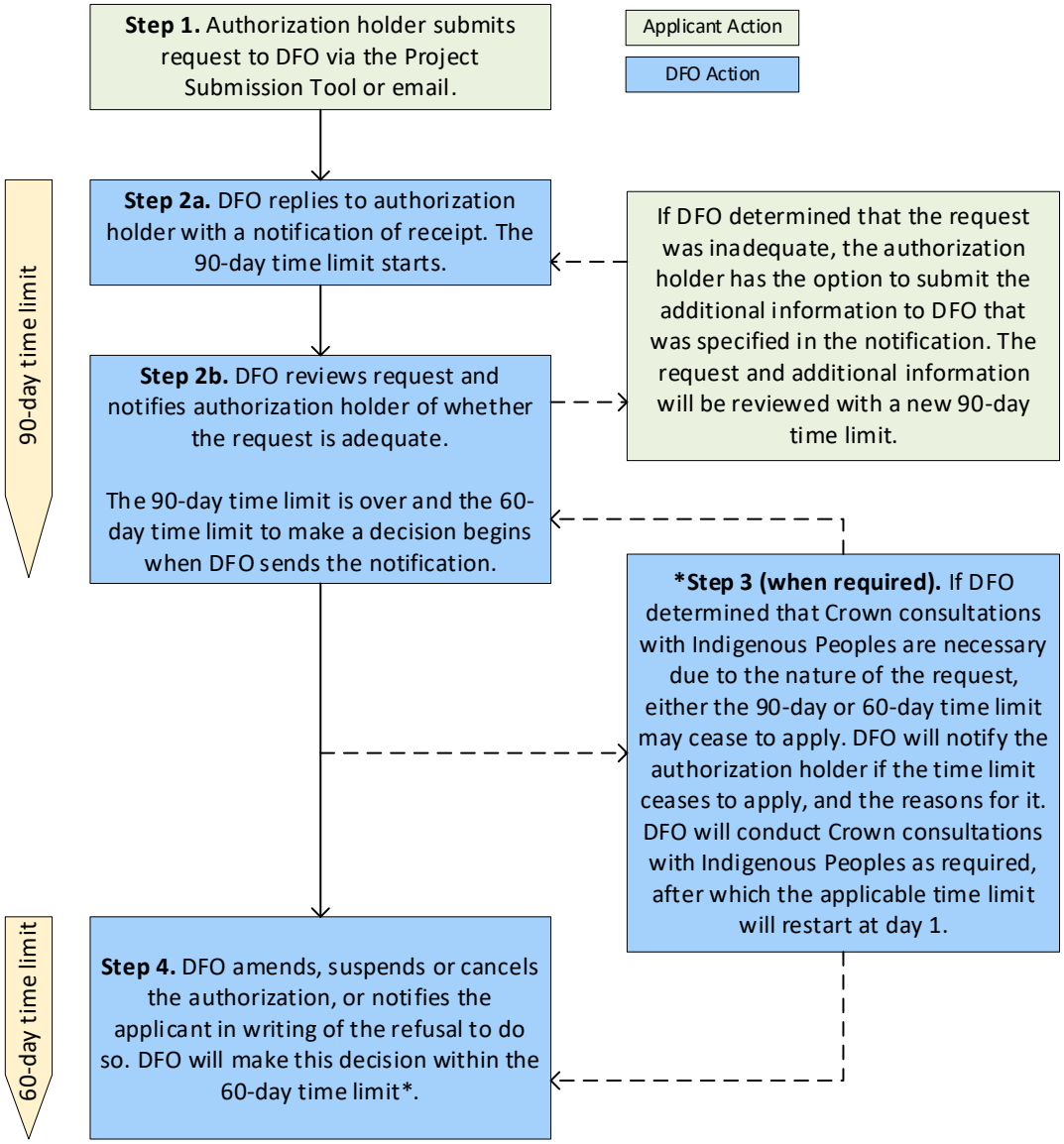


Figure 3. Process and time limits for requests for amendment, suspension or cancellation of a *Fisheries Act* authorization by the authorization holder.

Step 1 – Authorization Holder submits request to DFO

Sections 5-7 of the Regulations specify the information and documents that an authorization holder must include in a request and submit in writing to DFO. Please see Appendix 5 for specific guidance on the information and documents required. Generally speaking, the request must include the applicable file number(s) of the authorization, relevant dates, the reasons for requesting the amendment, suspension or cancellation, and a description of the likely effects on fish and fish habitat.

Authorization holders seeking to amend, suspend or cancel their existing authorizations can do so by filling out the appropriate request form located on the Projects Near Water webpage and submitting it by email or mail to the appropriate DFO regional office, with the file number included.

Note: The Project Submission Tool is not yet available for requests to amend, suspend or cancel.

Step 2 – DFO review

Notification of receipt and start of 90-day review period (Step 2a)

Upon receiving a request for amendment, suspension or cancellation, DFO will send a confirmation of receipt to the authorization holder indicating the date of receipt (subsection 8(1)). This notification serves as the trigger for a 90-day time limit for DFO to review the request.

90-day review period (Step 2b)

During the 90-day review period, DFO will be reviewing the request to determine its adequacy with respect to the information and documents provided (subsection 8(2)). Within the 90-day time limit, the authorization holder will be notified by DFO of one of the following review results:

1. *Request is inadequate* – if DFO's review finds that the information and documents provided in the request are inadequate for the purposes of making a decision on the amendment, suspension or cancellation, the notification to the authorization holder must specify the information and documents that the authorization holder must provide in order to have their request revised again (paragraph 8(2)(a)). An authorization holder must submit all the information and documents specified in the notification if they would like to continue with their request. There is no prescribed time limit for the authorization holder to respond. When the authorization holder responds to DFO with all the information and documents that were specified in the notification, DFO will send a confirmation of receipt back to the authorization holder (subsection 8(3)), and the 90-day time limit will begin on the date indicated in that confirmation (subsection 8(3.1)).

2. *Request is adequate* – if DFO's review finds that the information and documents provided are adequate for the purposes of making a decision on the request (paragraph 8(2)(b)), the notification will serve to close the 90-day review time limit and initiate the 60-day time limit for DFO to amend, suspend or cancel the authorization as requested, or notify the authorization holder in writing of the refusal to do so (subsection 8(4)).

Step 3 – Crown consultations

Decisions to amend, suspend or cancel an authorization are Crown conduct that has the potential to adversely impact Aboriginal or Treaty rights. As with applications for authorization, DFO assessors will review the request to determine any potential impacts to Aboriginal or Treaty rights in order to establish what consultations are necessary. The 60-day time limit may cease to apply if the Minister considers that consultations are required before they make their decision on the request under subsection 8(4).

Step 4 – DFO makes a decision on the request

The last step in the process to amend, suspend or cancel an authorization at the authorization holder's request is for the Minister to either amend, suspend or cancel the authorization, or notify the authorization holder in writing of the refusal to do so (subsection 8(4)). Where the request is for an amendment, DFO will send the authorization holder the amended authorization. Any part of the authorization that was unaffected by the amendment or suspension would remain valid and continue to have effect until the expiry of the authorization. Where the request is for a suspension, DFO will send the authorization holder notice of the effective date and the duration of the suspension, if known. Where the request is for a cancellation of the authorization, DFO will send the authorization holder notice of the effective date of cancellation.

Time limit ceases to apply

Despite the steps and time limits outlined above, the Regulations contain provisions under which either the 90- or 60-day time limits may cease to apply.

*"**8(5)** The time limit referred to in subsection (2) or (4) ceases to apply if*

- **(a)** *the authorization holder proposes amendments to the request to amend, suspend or cancel;*
- **(b)** *the authorization holder requests in writing that the processing of the request be suspended;*
- **(c)** *circumstances require that relevant information or documents other than those referred to in sections 5 to 7, as applicable, be obtained or that amendments to the information or documents submitted by the authorization holder be made before the Minister makes their decision under subsection (4);*
- **(d)** *the Minister considers that consultations are required before they make their decision under subsection (4); or*
- **(e)** *an Act of Parliament, a regulation made under an Act of Parliament or a land claims agreement provides that a decision be made or that conditions be met before the Minister makes their decision under subsection (4)."*

These provisions are the same for amendments, suspensions and cancellations as they are for new applications. For a more detailed description of these provisions please see the section on when time limits cease to apply for non-emergency applications, above in this guide.

Notice of cessation

When a time limit ceases to apply as a result of the circumstances set out in paragraphs 8(5)(c), (d) or (e) of the Regulations, DFO will notify the applicant with the reasons for the cessation, and, if applicable, the information or documents that must be submitted (subsection 8(6)).

Time limit starts over and notice

*"***8(7)** *The time limit referred to in subsection (2) or (4) starts over as soon as all of the following conditions have been met:*

- **(a)** *all information or documents in support of the proposed amendments have been received, in the case referred to in paragraph (5)(a);*
- **(b)** *the Minister receives a request in writing that the processing of the request be resumed, in the case referred to in paragraph 5(b);*
- **(c)** *the information or documents referred to in paragraph (5)(c) have been obtained or amended;*
- **(d)** *the consultation referred to in paragraph (5)(d) have been conducted;*
- **(e)** *the decision has been made or the conditions have been met, in the case referred to in paragraph (5)(e).*

When all the above-mentioned conditions have been met, the time limit can be restarted. The Minister must notify the applicant in writing of the day on which the time limit starts over (subsection 8(8)). The relevant time limit restarts at day 1.

At the Minister's own initiative

The Minister of Fisheries and Oceans is also able to initiate an amendment or suspension (in whole or in part), or cancellation of any *Fisheries Act* authorization. Subsections 9(1) and 9.1 of the Regulations lay out the circumstances under which the Minister may initiate any of these processes.

Subsection 9(1)

- **(a)** *the Minister has reasonable grounds to believe that the conditions established by the Minister in the authorization have not been or will not be met;*
- **(b)** *the Minister has reasonable grounds to believe that the authorization was obtained by fraudulent or improper means or by the misrepresentation of a material fact;*
- **(c)** *the Minister becomes aware of new information that demonstrates that*

(i) *the death of fish or the harmful alteration, disruption or destruction of fish habitat is or will be different than anticipated by the Minister at the time of issuance of the authorization, or*

(ii) *the avoidance, mitigation or offsetting measures set out in the conditions, if applicable, are not achieving the outcomes anticipated by the Minister at the time of issuance of the authorization;*

(d) *the authorization holder has not paid a fine imposed on them under the Act.*

Subsection 9.1

The Minister, on their own initiative, may amend, in whole or in part, any authorization if they become aware of new information that demonstrates that further action is necessary to avoid, mitigate or offset the death of fish or the harmful alteration, disruption or destruction of fish habitat.

Regulatory Changes to Amendments, Suspensions or Cancellations at the Minister's own Initiative

The recent amendments to the Regulations included changes to the Minister's authority to amend, suspend or cancel authorizations at the Minister's own initiative. Specifically, the amendments expand the Minister's authority (paragraph 9(1)(c)) to amend, suspend or cancel an authorization if new information demonstrates that the death of fish or harmful alteration, disruption or destruction of fish habitat is "*different*" than expected, rather than "significantly greater" than expected. This change enables the Minister to amend, suspend or cancel an authorization for reasons beyond more fish being killed than expected, or the extent of the harmful alteration, disruption or destruction of fish habitat being greater in magnitude than expected. It can also include, for example, different outcomes to how fish are being killed, the timing of death of fish or habitat impacts, or if the project caused a different impact on fish habitat than expected.

The amendments also provide the Minister with the authority to amend, suspend or cancel an authorization if they become aware of new information demonstrating that the avoidance, mitigation or offsetting measures set out in the conditions of the authorization are not achieving the outcomes anticipated at the time of issuance of the authorization. The new authority facilitates the elimination of the requirement for applicants to pre-identify contingency measures.

The Regulations also introduce a new subsection, 9.1, which provide the Minister with authority to amend, in whole or in part, any authorization if they become aware of new information that demonstrates that further action is necessary to avoid, mitigate or offset the death of fish or the harmful alteration, disruption or destruction of fish habitat. These changes introduce greater flexibility in how offsetting is planned for and carried out, and allow DFO to be more responsive in making adjustments based on results on the ground.

If DFO has any concerns regarding the authorized works, undertakings or activities, authorization conditions or the implementation of those conditions, our assessors will generally engage in open communications with authorization holders before considering an amendment, suspension or cancellation initiated by the Minister. DFO's goal is to work with authorization holders to make any adjustments or changes that would resolve concerns. If the Minister does intend to amend, suspend or cancel an authorization, DFO must notify the authorization holder in writing of this intention and give the authorization holder an opportunity to provide written representations (subsection 9(2)). The only circumstance in which the Minister may suspend an authorization without giving the authorization holder an opportunity to provide written representations is when the suspension is required to prevent imminent death of fish or imminent harmful alteration, disruption or destruction of fish habitat (subsection 9(3)).

Notice of amendment, suspension or cancellation

Once a decision has been reached, DFO will provide the authorization holder with written notice of the Minister's decision to amend, suspend or cancel an authorization. The notice has to include the effective date and the duration in the case of a suspension, if known. Any part of the initial authorization that was unaffected by the amendment or suspension would remain valid and continue to take effect until the expiry of the authorization.

Reinstatement of a suspended authorization

The Minister may reinstate a suspended authorization at the end of the suspension period indicated in the notice or at any time during this period if the matter that gave rise to the suspension has been resolved or corrected (subsection 9(5)). A written request from the authorization holder for reinstatement may be necessary if the notice of suspension did not include a reinstatement date or if the holder wishes to reinstate it before the date indicated on the notice of suspension. The holder of a suspended authorization who wishes to have it reinstated must use the appropriate request form and submit to the applicable DFO Regional Office. The authorization holder may also, at the request of the Minister, be required to submit a request for the amendment of their authorization.

Appendices

Appendix 1 – Guidance for Information and Document Requirements in Schedule 1 (non-emergency situations)

Prescribed information requirements

Parts 1 and 2 of Schedule 1 of the Regulations set out the information and documents[5] that must be submitted to DFO when applying for an authorization under paragraphs 34.2(2)(b) and/or 35(2)(b) of the *Fisheries Act* (non-emergency situations). When completing an application, prospective applicants should consider the level of risk or uncertainty their project is likely to pose to fish and fish habitat. For low-risk, routine projects, applicants are able to provide less detailed information than for higher-risk projects.

Note: Applicants who confirm in their application that they will follow a DFO Technical Standard when carrying on a work, undertaking or activity, do not need to include in their application any information and documents set out in Part 2 of Schedule 1 for that work, undertaking or activity. Applicants should review the DFO Technical Standards when preparing their application to determine if one or more chapters of the standards may apply to their project.

Part 1 of Schedule 1

Contact information

*"**1** The name, address, email address and telephone number of the applicant and, if applicable, their representative"*

The applicant must provide their full legal name and primary mailing address, and a valid email address. The applicant must also sign the application.

If relevant, the applicant must also provide a representative and the role of this representative in relation to the application.

When the applicant is an organization or company, the full legal registered name of the organization or company and their representative must be identified. This representative must have the authority to engage and bind the company, and must sign the application. Note that a single authorization cannot be issued to multiple individuals, organizations, or companies.

[5] Provisions of the Regulations or the *Fisheries Act* are featured throughout this guide. The information that follows is intended to further explain the requirements of the Regulations to help potential applicants meet them.

Description of proposed work, undertaking or activity

*"***2** *A description of the proposed work, undertaking or activity and, if applicable, a description of the project that the proposed work, undertaking or activity is a part of, including*

- **(a)** *the purpose of the proposed work, undertaking or activity and, if applicable, project;*
- **(b)** *the associated infrastructure;*
- **(c)** *any associated permanent or temporary structure; and*
- **(d)** *the construction methods, building materials, explosives, machinery and other equipment that will be used."*

This description should provide information about the applicant's proposed work, undertaking or activity in or around water that is likely to result in death of fish or harmful alteration, disruption or destruction of fish habitat. The "purpose" of the proposed work, undertaking or activity must also be identified to explain its reason or goal and to add context as to why it is required. When a proposed work, undertaking or activity is part of a larger project, the applicant must also include a description of the overall project, including its overall "purpose."

The applicant must also provide information for each proposed work, undertaking or activity, including information about the construction methods, associated infrastructure, any associated permanent or temporary structures, building materials, machinery and equipment. For example, the construction of permanent structures may require the construction of temporary structures such as dikes, in conjunction with activities such as water withdrawal, land clearing, excavation, grading, infilling, blasting, dredging, installing structures, draining or removing debris from water. At the same time, the equipment and materials to be used might include, but are not limited to, hand tools, backhoes, gravel, blocks or armour stone; applicants must include a list of this equipment and the materials for which the applicant would be required to provide the average diameter. Information on the proposed works, undertakings, or activities must be organized by phases (e.g., construction, operation, maintenance and closure).

To complete this requirement, the proponent must also provide a short, plain language description of the project that can be used for communication purposes, such as to support consultations with Indigenous groups or, if the application is successful and authorization is issued, as part of the posting of the project on the *Fisheries Act* Registry.

***"*3** *If physical works are proposed, the area, in square metres, of those works and, for works in or near water, the project engineering specifications, scale drawings and dimensional drawings."*

For proposed physical works in or near water, the applicant must provide the estimated footprint of those works, in square metres. The footprint for each physical work in or near water should be noted separately for each habitat type that will be affected. Additionally, project engineering specifications, scale drawings and dimensional drawings must be provided for works in or near water. Engineering specifications should be stamped and approved by an

accredited engineer where appropriate, and can be uploaded via the PST in PNG, JPEG, PDF or ZIP format. Each file must be smaller than 200 MB. Technical drawings and specifications may be referenced in the resulting authorization.

Note: Specifications and drawings are not required for aspects of the project that are not in or near water and that will not result in away effects on fish and fish habitat.

Phases and schedule

*"**4** A description of the phases, schedule and expected duration of the proposed work, undertaking or activity and, if applicable, a description, schedule and expected duration of the project that the proposed work, undertaking or activity is a part of."*

An applicant must describe the schedule for carrying on the proposed work, undertaking or activity, and if applicable, of the overall project. At a minimum, the schedule should identify, in sequence, the proposed start and end dates for carrying out each proposed work, undertaking or activity and, when applicable, the respective phases that the applicant is seeking authorization for (e.g. construction, operation, maintenance and closure). The schedule should also specify the in-water work periods, and the expected duration of all temporary in water works or structures.

In some cases, the applicant may also need to identify other information such as the expected life span of permanent and temporary structures, availability of specialized machinery, and sequence of actions specific to the proposed work, undertaking or activity.

Note: An authorization may specify certain time period(s) for the carrying on of the proposed work, undertaking or activity.

Location

*"***5** *A description of the location of the proposed work, undertaking or activity and, if applicable, of the location of the project that the proposed work, undertaking or activity is a part of, including*

(a) *geographic coordinates;*

(b) *a small-scale plan identifying the general location and boundaries;*

(c) *a large-scale site plan indicating the size of the planned facilities, the infrastructure and any related components and their spatial relationship to any existing structures, landmarks, water sources, water bodies or other geographic features; and*

(d) *the name of any watersheds, water sources and water bodies that are likely to be affected and the geographic coordinates of the water sources and water bodies."*

This information is required to describe and illustrate the location of an applicant's proposed work, undertaking or activity, and to provide geographical and spatial context about the project. The information also provides an understanding of how existing and proposed works, undertakings or activities will be situated relative to existing structures or landmarks, and to water sources and water bodies that may be affected.

The applicant must provide a description of the location of each proposed work, undertaking or activity to be authorized and, if applicable, of the overall project, including:

- Geographic co-ordinates of the proposed work, undertaking or activity (i.e., Latitude and Longitude or Universal Transverse Mercator (UTM) Grid co-ordinates with zone);
- A small-scale site plan showing the overall location of the project, project boundaries, access routes (e.g. via road, water, air) to the site and, if applicable, the nearest communities;
- A large-scale site plan or diagrams indicating the high water mark and the location, size, and nature of proposed infrastructure (e.g. floating or fixed), and any landmarks. In a marine setting, the applicant should depict the approximate location of the site on a nautical chart or show the relation of the site to sea marks or other navigational aids. These plans, maps or diagrams should be at an appropriate scale to help demonstrate the relative size of the proposed works, undertakings or activities, the proximity to the watercourse or water body, and the distance from existing structures;
- Names (gazetted, where applicable) of the watershed(s), water source(s) and/or waterbody(ies) likely to be affected and their geographic coordinates.

The applicant should directly link the information for each proposed work, undertaking or activity with the information for the water source(s) and/or water body(ies) likely to be affected.

*"**6** The name of the community nearest to the location and the name of the county, district or region and the province or territory where the proposed work, undertaking or activity will be carried on."*

The applicant must reference the community nearest to the location of the proposed work, undertaking or activity as means to provide a general reference point. When possible, the applicant should use geographical names recognized by the Geographical Names Board of Canada.

Description of fish and fish habitat

*"**7** A description of the fish and fish habitat found at the location of the proposed work, undertaking or activity and within the area likely to be affected by the proposed work, undertaking or activity, including*

- **(a)** *the type of water source or water body;*
- **(b)** *the characteristics of the fish habitat and how those characteristics directly or indirectly support fish in carrying out their life processes;*
- **(c)** *date-stamped photographs that clearly indicate the habitat characteristics that are likely to be affected by the proposed work, undertaking or activity;*
- **(d)** *the fish species that are present, if available, an estimate of the abundance of those species; and*
- **(e)** *a description of how the information provided under paragraphs (a) to (d) was obtained, including the sources, methods and sampling techniques used."*

The applicant must describe the fish[6] and fish habitat[7] present at the site of each proposed work, undertaking or activity, as well as other areas that may be affected.

In describing the fish and fish habitat, it is important for applicants to include relevant available information about the fish species present (including any species at risk), fish life-cycle stages (e.g., egg, larva, fry, juvenile, adult, etc.), fish habitat (e.g., biological, chemical and physical features), and the various functional relationships within the fish habitat. When possible, these descriptions should be supported with observed biological, physical, and chemical data collected and analyzed by a qualified environmental professional (QEP). Information about whether the fish habitat is in a healthy, functioning state or has been

[6] Fish, under *Fisheries Act*, subsection 2(1) includes (a) parts of fish, (b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and (c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals.

[7] Fish habitat, under the *Fisheries Act*, subsection 2(1) means water frequented by fish and any other areas on which fish depend directly or indirectly to carry out their life processes, including spawning grounds and nursery, rearing, food supply and migration areas;

degraded is also useful to include.

Note: The spatial scope for assessing fish and fish habitat should encompass all areas potentially affected by the proposed work, undertaking or activity, not just the direct physical footprint of the work, undertaking or activity.

Below is a non-exhaustive and non-prescriptive list of some examples that an applicant may use to meet the information requirements in paragraphs 7(a) to (c) of the Regulations.

- Type of water source or watercourse:
    - Groundwater, river, lake, marine, estuary, etc.
- The characteristics of the fish habitat and how those characteristics directly or indirectly support fish in carrying out their life processes:
    - Substrate characterization – types of substrate (e.g. bedrock, boulder, cobble, gravel, etc.), predominant substrate type (e.g. 80% cobble, 20% gravel, etc.), description of substrate embeddedness and maps of the substrate;
    - Aquatic and riparian vegetation characterization – prevalent types of vegetation (e.g. rooted, submerged, emergent, etc.), relative abundance of vegetation (e.g. 10% cattails, 80% grass, 10% sedge), predominant vegetation (e.g. by species or types of trees, shrubs or grasses), vegetation densities (e.g. type of vegetation/area), and an estimate of % cover;
    - Flow characterization – if the flow is controlled or natural and permanent or intermittent (e.g., slow/deep, fast/shallow, no flow), including current and tide (e.g. marine environment, etc.). Characterization of the baseline surface water (flow) and groundwater environments may be required when a proposed work, undertaking, or activity could result in changes in the quantity and/or timing of flow that, in turn, have the potential to result in effects to fish and fish habitat;
    - Physical water body – average depth of water for water bodies, bathymetry of water bodies, bathymetric maps where available, channel geometry (e.g., width from the high water mark, depth, slope, etc.). More in-depth assessments (e.g., longitudinal profile, channel cross-sections, etc.) may be required when a proposed work, undertaking, or activity could result in changes to channel morphology.
    - Bank and shore characterization – slope of shore bank, condition (e.g., stable, eroding), other relevant characteristics (e.g., if it is undercut);
    - The flood plain as well as its potential to provide for spring spawning for fish. Characteristics of the flood plain and its interaction with the physical channel may be required for a proposed work, undertaking, or activity that may affect this interaction; and
    - Other information about water quality and the biological community that would assist in understanding the fish habitat (i.e. spawning grounds and nursery, rearing, food supply and migration areas).

- Fish species characterization:
    - Fish species known or suspected to be in the area, including any aquatic species listed under the *Species at Risk Act* or the *Aquatic Invasive Species Regulations*; and
    - The conditions and requirements for migration and local movements of the fish species present;
- If available, an estimate of fish abundance – number of fish present, year class for each species, etc.

To satisfy subsection 7(d), date-stamped photographs from a relevant time period (i.e. recent in time and representative of the habitat during the likely season of work) must be included that clearly identify the habitat characteristics that are likely to be affected. Aerial photographs or satellite imagery of the water source(s) and water body(ies), if available, may also be included.

There are many different methods and protocols available for an applicant to use in order to characterize fish and fish habitat. The following information should, therefore, be included in the application for an authorization in support of subsection 7(e):

- All sources of information used, with any necessary citations;
- All sampling techniques used, and the associated timing, location and effort of the sampling;
- All modelling techniques used; and,
- All other approaches used to describe the fish and fish habitat.

Applicants are also encouraged to use methods recognized by DFO or other relevant jurisdictions, and/or other scientifically defensible methodologies and techniques, whenever possible. A description of the sampling design or approach can provide a clear rationale for the locations and methods as they relate to the potential effects and when necessary, appropriate control or reference locations. Applicants can also support their descriptions of the fish habitat with the use of detailed drawings, such as plans or maps, sonar imaging and photographs of the fish habitat features, whenever possible. An overview map of sampling and assessment locations is also useful, particularly for larger-scale projects.

Depending on the scope, scale and complexity of your project, applicants may seek the advice and services from a Qualified Environmental Professional (QEP) to complete a fish and fish habitat assessment. QEPs are people who are experienced in identifying and analyzing risks to fish and fish habitat generated from various works, undertakings or activities conducted in or near water, and implementing management measures to avoid and mitigate those risks. They possess a post-secondary degree or diploma in biological, geophysical or environmental sciences and are referred to as:

- aquatic scientists
- aquatic biologists
- environmental consultants

- fisheries biologist
- fisheries technicians
- fluvial geomorphologists
- natural resource consultants

Part 2 of Schedule 1

Effects on fish and fish habitat

*"**8(1)** A description of the likely effects of the proposed work, undertaking or activity on fish and fish habitat. The description must include*

> **(a)** *the fish species that are likely to be affected and the life stages of the individuals of those species;*
>
> **(b)** *the type and extent of fish habitat that is likely to be affected;*
>
> **(c)** *the probability, severity, geographic extent and duration of the likely effects on fish and fish habitat; and*
>
> **(d)** *a description of how the information provided under paragraphs (a) to (c) was derived, including the methodologies used."*

The objective of this information is to identify anticipated effects on fish and fish habitat that are likely to be caused by the proposed work, undertaking or activity, including whether they are a direct or indirect result of the proposed work, undertaking or activity.

Prior to the application of any mitigation or avoidance techniques, the applicant must consider how each proposed work, undertaking or activity would affect fish and fish habitat. The description must include information about which fish species and fish habitat identified in subsection 7 are likely to be affected by the work, undertaking or activity. Some examples of likely effects may include direct injury or mortality to fish, avoidance behaviour, reduced reproductive success, habitat loss or degradation, changes to the existing flow regime, changes to habitat function, reduction in prey availability, or changes to fish passage or habitat connectivity.

Applicants should consult DFO's Pathways of Effects (PoE) diagrams for assistance when completing this section. The PoE diagrams explore common risks to fish and fish habitat from works, undertakings or activities, and provide specific casual mechanisms for how works, undertakings, or activities in or near water can affect fish and fish habitat. The PoEs provide a useful framework to develop an effects assessment beginning with identifying effects and pressures, identifying how those pressures apply to the specific fish and fish habitat at the project site, applying appropriate avoidance and mitigation measures to break or mitigate those pressures, and finally identifying the remaining pressures that cannot be fully avoided or mitigated.

The assessment must also include the following:

- Identification of which fish species, described in subsection 7(c), are potentially affected by the proposed work, undertaking or activity (e.g. walleye, rock bass, Arctic char, Atlantic salmon, grey seal, American lobster, etc.);

- Of the affected fish, identification of the life stages potentially affected (e.g. juvenile, yearling, adult, etc.);
- Identification of the type of fish habitat potentially affected (e.g. spawning habitat – gravel and cobble, feeding and pupping/rearing areas, side channel slough, small tributaries, ice floes, etc.), and an estimate of the size of the affected area (e.g. number of square metres or hectares);
- Description of the potential effect(s) (e.g. mortality of fish from entrapment or stranding, delayed migration of spawning adults, reduction in prey availability, reduced feeding availability, loss of access to the affected habitat, effects of obstructions or encroachment into water bodies, etc.);
- Probability or likelihood of the potential effect occurring (e.g. probability of fish strike from turbines for specific fish sizes, probability of disturbance of nursing marine mammals, probability of sediment plume within a distance from source, etc.);
- Description of the severity of the potential effect (i.e., the intensity of the effect including estimated number of fish potentially affected or qualitative effects, e.g. low, medium, high);
- Spatial extent of the potential effect (e.g. localized to the immediate vicinity of the work; throughout a channel reach or lake region; an entire watershed, etc.); and
- Duration of the potential effect (e.g. duration of delay to fish migration in hours, days, months or years).

Note: the geographic extent of fish and fish habitat should encompass all areas potentially affected by the proposed work, undertaking or activity, not just its direct physical footprint.

The information to be provided by the applicant must also describe the methods and techniques used to conduct the assessment. All methods and techniques used should be scientifically defensible.

*"***8(2)** *A description of*

(a) *how the effects referred to in subsection (1) are likely to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat; and*

(b) *the extent of the death of fish or the harmful alteration, disruption or destruction of fish habitat."*

The purpose of this information is to differentiate and identify the likely death of fish or the harmful alteration, disruption or destruction of fish habitat based upon the effects identified in response to Schedule 1, subsection 8(1) of the Regulations. This description is important as it specifically identifies which potential effects will require the application of measures and standards to avoid the death of fish or to mitigate the extent of their death, and, to avoid or mitigate the harmful alteration, disruption or destruction of fish habitat.

Note: the information required for Schedule 1, subsection 8(2) of the Regulations is about

the death of fish or the harmful alteration, disruption or destruction of fish habitat likely to result from the carrying on the proposed work, undertaking or activity prior to the consideration of the implementation of measures and standards to avoid or mitigate those effects.

The information should be presented by the applicant in a format which identifies the following:

- The proposed work, undertaking or activity that is likely to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat;
- The specific effects identified for schedule 1, subsection 8(1) (as noted above) that are likely to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat;
- Quantitative (metrics) or qualitative description of the death of fish or the harmful alteration, disruption or destruction of fish habitat (e.g. number or percentage of dead fish, number of square metres of permanently altered fish habitat, number of square metres of degraded spawning habitat for a specific species, etc.); and
- An explanation of the likelihood of the proposed work, undertaking or activity to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat (e.g., there is probability, in percentage, that an area of habitat destruction will occur during the dam construction from infilling of spawning habitat for the footprint of the dam structure).

Measures and standards

*"***9** *A description of the measures and standards that will be implemented, including an analysis of the expected effectiveness of those measures and standards, to*

(a) *avoid the death of fish or to mitigate the extent of their death; and*

(b) *avoid or mitigate the harmful alteration, disruption or destruction of fish habitat."*

DFO's hierarchy of measures emphasizes that efforts must be made by an applicant to prevent (avoid) effects first. When avoidance is not possible, then efforts must be made to minimize (mitigate) effects. Where residual effects are still likely to occur even after all avoidance and mitigation measures have been employed, those residual effects constitute the harmful alteration, disruption or destruction of fish habitat and/or the death of fish that require an authorization.

The applicant must indicate the measures and standards that are proposed to avoid the death of fish or to mitigate the extent of their death or to avoid or mitigate the harmful alteration, disruption or destruction of fish habitat. This information is important, as these measures and standards may be referenced as conditions of the authorization.

Note: Measures and standards to avoid or mitigate the death of fish or harmful alteration, disruption or destruction of fish habitat are not the same as offsetting measures. However, implementation of avoidance and mitigation measures can reduce the risks to fish and fish

habitat from the project, and therefore may reduce the need for offsetting, or the amount of offsetting required. Monitoring or research associated with the project (covered in section 10, Schedule 1) is not considered to be a mitigation measure.

Applicants should consult DFO's measures and procedures to avoid and mitigate risks to fish and fish habitat and mitigation procedures to identify any that may be applicable to the proposed project.

The information about measures and standards should include the following:

- A statement to demonstrate how avoidance measures were first considered prior to the proposed mitigation measures;
- A description of the proposed measures and standards to be applied and how they will avoid or mitigate the death of fish or harmful alteration, disruption or destruction of fish habitat;
- An analysis of the expected effectiveness of the proposed measures and standards, including the expected outcomes (i.e., qualitative characterization and/or quantitative metrics);
- An identification of when the expected outcomes will be achieved relative to the overall phases and schedule of the project; and,
- An identification of all methods used to assess the effectiveness of the identified measures and standards.

Examples of commonly accepted avoidance measures include the use of alternative designs and/or locations to avoid negative effects altogether. Some examples of common mitigation measures include installing erosion and sediment control measures, taking measures to prevent damage to the bed or banks, adhering to fisheries timing windows, or using appropriately sized screens on water intakes to prevent fish mortality.

*"**10** A description of the monitoring measures that will be implemented to assess the effectiveness of the measures and standards referred to in section 9."*

The objective of effectiveness monitoring is to document whether the proposed measures and standards (identified in section 9, Schedule 1) employed by an applicant are effective.

Information about the monitoring measures to be put in place by the applicant should describe the following:

- Objectives of the measures and standards (e.g. reduction of death of fish or harmful alteration, disruption or destruction of fish habitat);
- The monitoring design to be used (e.g. before–after design, spatial, multi-year sampling etc.):
    - monitoring indicators (e.g., physical habitat, vegetation, invertebrates, fish abundance, fish community composition, etc.);
    - methods or techniques;

- locations;
- the timing/frequency and duration of the monitoring; and
- and what comparators, if any are necessary.

*"**11** A description of the death of fish referred to in subsection 8(2) after the measures and standards referred to in paragraph 9(a) are implemented."*

and

*"**12** A description of the harmful alteration, disruption or destruction of fish habitat referred to in subsection 8(2) after the measures and standards referred to in paragraph 9(b) are implemented."*

The information presented by an applicant must describe to the extent possible, the expected death of fish or the harmful alteration, disruption or destruction of fish habitat remaining after implementation of standards and measures in relation to each proposed work, undertaking or activity, as well as each phase of their implementation. Descriptors include the number of fish killed, area and quality of habitat destroyed, harmfully altered or disrupted, duration of the mortality event, duration of the disruption, and the degree of the disruption or alteration (e.g. degraded quality: high/medium/low).

It is important that an applicant describes the expected residual death of fish or harmful alteration, disruption or destruction of fish habitat as this information will be considered by the Minister when conducting the risk assessment to determine if offsetting of those effects is required. The Minister will also use this information as part of their decision about whether to issue an authorization.

Engagement

*"**13** A list of the Indigenous groups that may be affected by the carrying on of the work, undertaking or activity, a summary of the engagement undertaken with the Indigenous peoples of Canada, including a summary of key issues raised and the results of the engagement, and a brief description of any plan for future engagement."*

The applicant must include a list of the Indigenous groups that may be affected by the work, undertaking or activity. Applicants can use the Aboriginal and Treaty Rights Information Tool (ATRIS) to identify and understand which Indigenous groups have potential or established Aboriginal and Treaty rights or interests in the area. ATRIS can be used to support preliminary engagement planning and research, including for direct communication and collaboration with Indigenous groups. Proponents of major projects may also seek support from the Concierge Service in validating the list of groups that may be affected by the project.

The applicant must provide a summary of engagement they have already undertaken with Indigenous Peoples prior to submitting the application that was related to the work, undertaking, or activity for which an authorization is being sought. The description should include a list of the Indigenous groups that have been engaged about the project and how the communications took place. The description should also provide an overview of the

engagement activities, a summary of key issues raised and responses provided, and brief information about future engagement, if any, that the applicant is planning. The description should also include any avoidance, mitigation, offsetting, or compensation measures that were discussed, as well as whether Indigenous knowledge was shared. If concerns could not be addressed through avoidance, mitigation, offsetting, or compensation, the reasoning should be explained.

These early engagement requirements mirror those of the *Information and Management of Time Limit Regulations* under the *Impact Assessment Act*. For applicants whose projects are designated under the *Impact Assessment Act* and therefore subject to the *Information and Management of Time Limit Regulations*, engagement activities undertaken in response to those requirements can also be used to fulfil the section 13, Schedule 1 requirements as long as the engagement included consideration of project effects on fish and fish habitat.

Part 3 of Schedule 1

Applicants are required to submit the information and documents set out in Part 3 of Schedule 1 if the Minister, further to a risk assessment, sends a notification to the applicant that offsetting the death of fish, or the harmful alteration, disruption or destruction of fish habitat is required (subparagraph 4(3)(c)(i)).

Habitat credit

*"**14** The number of habitat credits that the applicant plans to use to offset the death of fish referred to in section 11 and the harmful alteration, disruption or destruction of fish habitat referred to in section 12, as well as the number of any certificate referred to in paragraph 42.02(1)(b) of the Act."*

Habitat credits[8] from existing fish habitat banks[9] can be used to offset the death of fish or the harmful alteration, disruption or destruction of fish habitat within the specified service area[10]. Habitat credits can be accumulated in fish habitat banks through the implementation of conservation projects[11] including habitat creation, enhancement or restoration. The positive benefits for fish and fish habitat that have accumulated in the habitat bank are counted as habitat credits.

[8] The *Fisheries Act* section 42.01 defines a habitat credit as "…a unit of measure that is agreed to between any proponent and the Minister under section 42.02 that quantifies the benefits of a conservation project."
[9] The *Fisheries Act* section 42.01 defines a fish habitat bank as "…an area of fish habitat that has been created, restored or enhanced by the carrying on of one or more conservation projects within a service area and in respect of which area the Minister has certified any habitat credit under 42.01(1)(b)."
[10] The *Fisheries Act* section 42.01 defines a service area as "…the geographical area that encompasses a fish habitat bank and one or more conservation projects and within which area a proponent carries on a work undertaking or activity."
[11] The *Fisheries Act* section 42.01 defines a conservation project as "…a work, undertaking or activity that is carried on by a proponent for the purpose of creating, restoring or enhancing fish habitat within a service area in order to acquire habitat credits."

The applicant may withdraw certified credits from an existing fish habitat bank in their possession to offset the death of fish or the harmful alteration, disruption or destruction of fish habitat resulting from the proposed work, undertaking or activity within the same service area. The terms and conditions of a habitat bank are predetermined in a bilateral arrangement between the proponent and DFO.

For more information on habitat banking, please consult DFO's Guidelines for establishing and managing fish habitat banks.

Offsetting plan

*"**15** A description of a plan to offset the death of fish referred to in section 11 and the harmful alteration, disruption or destruction of fish habitat referred to in section 12 that were not offset by the habitat credits referred to in section 14, including*

- **(a)** *the geographic coordinates of the location where offsetting measures will be implemented;*
- **(b)** *a small-scale site plan identifying the general location and boundaries of the location where the offsetting measures will be implemented;*
- **(c)** *a description of the offsetting measures and how those measures will meet their objectives;*
- **(d)** *a description of the monitoring measures that will be implemented to assess the effectiveness of the measures referred to in paragraph (c);*
- **(e)** *a description of any harmful effects on fish and fish habitat that could result from the implementation of the plan;*
- **(f)** *a description of the measures and standards that will be implemented to avoid or mitigate the harmful effects and how those measures will meet their objectives;*
- **(g)** *the timeline for the implementation of the plan;*
- **(h)** *an estimate of the cost of implementing each element of the plan; and*
- **(i)** *if the implementation of the plan requires access to lands, water sources or water bodies that are not owned by the applicant, a description of the steps that are proposed to be taken to obtain the authorization required for the applicant, the Department of Fisheries and Oceans and anyone authorized to act on the Department's behalf to access the lands, water sources or water bodies in question. This information is not required if the applicant is His Majesty in right of Canada, or of a province or the government of a territory."*

DFO's approach to offsetting is set out in its Policy for applying measures to offset harmful effects on fish and fish habitat under the *Fisheries Act*. See also the Guidelines to develop a plan to apply measures to offset harmful impacts to fish and fish habitat.

An applicant's offsetting plan must include the geographic coordinates and a small scale site plan identifying the general location and boundaries of where the proposed offsetting measures will be implemented.

The plan must also include a description of the proposed offsetting measures and how those measures will meet their objectives, as well as an analysis of how they will balance the effects on fish and fish habitat. The analysis of the potential effectiveness of the measures should describe the methodology used and be based on scientifically defensible methods and techniques. For larger-scale projects, it is recommended that an analysis of the potential measures is undertaken in the context of the guiding principles in DFO's offsetting policy, engagement with Indigenous groups, and other factors the applicant considers reasonable to inform a rationale for the chosen measures; a table is a suitable option to communicate this analysis but the applicant may use any method that suits them.

In certain circumstances, the implementation of proposed offsetting measures may result in harmful effects to fish and fish habitat and may require additional measures and standards to avoid or reduce those effects. When harmful effects are anticipated, the applicant's offsetting plan must include a description of proposed measures and standards to be used in order to avoid or mitigate those effects, and an analysis demonstrating how the proposed measures and standards will do so. An example of such a measure is the use of timing windows when working near water.

The overall objective of effectiveness monitoring is to determine whether the proposed offsetting measures have been effective in offsetting the death of fish or the harmful alteration, disruption or destruction of fish habitat. For each offsetting measure, the description of the monitoring measures to be undertaken by the applicant as part of the offsetting plan should include a description of the monitoring design, the objectives that inform the monitoring design, the indicators and associated metrics, locations of sampling, and the timing, frequency and duration of monitoring. Monitoring should cover a timeframe that is sufficient to demonstrate that the offsetting measures are functioning as intended.

The applicant's cost estimate will be used to determine the monetary value of the letter of credit or another equivalent form of financial guarantee (see section 4.3 of this guide). The estimate should include the cost for implementing all elements of the offsetting plan, including elements related to monitoring and maintenance of offsetting features. The estimate should also consider any additional expenses that could be incurred by DFO to complete the offsetting plan (e.g. costs for additional project management, costs for inflation, etc.).

In addition, the offsetting plan must include a brief explanation of the steps that will be undertaken by the applicant to secure access to the lands, water sources and water bodies required for implementing the offsetting measure(s). This is not required when the applicant is His Majesty in right of Canada, His Majesty in right of a province or the government of a territory.

Appendix 2 – Guidance for Information and Document Requirements in Schedule 2 (emergency situations)

Section 3 and Schedule 2 of the Regulations set out the information and documents[12] that must be submitted to DFO when applying for an authorization under paragraphs 34.2(2)(b) and/or 35(2)(b) of the *Fisheries Act* in response to an emergency. This information is the basic information required to process applications under emergency situations. When completing an application, prospective applicants should consider the level of risk or uncertainty their project is likely to pose to fish and fish habitat.

Contact information

*"***1** *The name, address, email address and telephone number of the applicant and, if applicable, their representative."*

The applicant must provide their full legal name, primary address and mailing address, and a valid email address. The applicant must also sign the application. If relevant, the applicant must also provide a representative and the role of this representative in relation to the application.

When the applicant is an organization or company, the full legal registered name of the organization or company and their representative must be identified. This representative must have authority to engage and bind the company, and must sign the application. Note that a single authorization cannot be issued to multiple individuals, organizations or companies.

Description of project and the nature of the emergency

*"***2** *A description of the proposed work, undertaking or activity, a description of the applicable situation referred to in paragraphs 3(a) (b) or (c) of these Regulations and the reasons why the work, undertaking or activity needs to be carried on without delay."*

This description should provide as much information as possible about the proposed works, undertakings or activities in order to support DFO in assessing the application as quickly as possible. Information, when known, regarding the purpose of the proposed project, associated infrastructure and/or structures (permanent or temporary), construction methods, and use of building materials, explosives, machinery and other equipment would greatly support the review process of applications in emergency situations. See the "Description of proposed work, undertaking or activity" in Appendix 1 for more information on what else could be included depending on what information is available at the time of application.

Most importantly, a description of the nature of the emergency situation is required for applications in emergency situations. This explanation could include a signed report from engineers or other

[12] Provisions of the Regulations or the *Fisheries Act* are featured throughout this guide. The information that follows is intended to further explain the requirements of the Regulations to help potential applicants meet them.

subject matter experts, confirming that the proposed project must be carried out without delay. National security matters (paragraph 3(a)) and national emergencies (paragraph 3(b)) are declared by the federal government in relation to public security, public health, and public safety, and are typically declared under an Act, Regulation or an Order. Other types of emergencies (paragraph 3(c)) may include situations when there is potential for immediate damage to property, the environment, or to public health and safety that requires the carrying on of the proposed work, undertaking or activity without delay.

Examples of emergency situations could include:

- Imminent and significant risk of flooding, erosion and/or landslide;
- Unexpected damage to transportation infrastructure;
- Imminent and unforeseeable threats posed by aquatic invasive species.

Typically, the following examples would **not** be treated as an emergency situation:

- Foreseeable or routine infrastructure maintenance;
- Works, undertakings or activities associated with the development of new housing or commercial projects;
- Applications seeking expedited review primarily due to upcoming funding deadlines rather than an imminent physical risk.

Timeline

*"**3** The timeline for carrying on the proposed work, undertaking or activity"*

The applicant must provide the dates and duration for carrying on the proposed work, undertaking or activity. The timeline information in an application must also describe all temporal aspects about the proposed work, undertaking or activity.

Location

*"**4** A description of the location of the proposed work, undertaking or activity, including its geographic coordinates and the name of any water sources and water bodies that are likely to be affected."*

This information is required to describe and illustrate the location of an applicant's proposed work, undertaking or activity, and to provide geographical and spatial context about the project. The information also provides an understanding of how existing and proposed works, undertakings or activities will be situated relative to existing structures or landmarks, and to water sources and water bodies that may be affected.

The applicant must provide the location of the proposed work, undertaking or activity, including:

- Geographic co-ordinates (i.e., Latitude and Longitude or Universal Transverse Mercator (UTM) co-ordinates with zone information);
- The names of any water sources and water bodies likely to be affected;
- Description of the location in relation to recognizable landmarks (i.e., high water mark, etc.); and/or
- Site plans or maps clearly identifying the location and spatial extent of the proposed works, undertakings or activities.

Although not required in Schedule 2, the name of the county, district or region, province or territory, and/or name of the nearest community to where the proposed work, undertaking or activity will be carried out supports DFO in reviewing the application as quickly as possible without delay. When possible, the applicant should use geographical names recognized by the Geographical Names Board of Canada.

Death of fish and harmful alteration, disruption and destruction

*"***5** *A description of the death of fish and the harmful alteration, disruption or destruction of fish habitat that are likely to result from the proposed work, undertaking or activity."*

The applicant must identify and explain the anticipated death of fish or harmful alteration, disruption or destruction of fish habitat that is likely to be caused by the carrying on of the proposed work, undertaking or activity. If possible, applicants must also describe the fish species potentially affected, how they may be affected, and the type of fish habitat that may be affected.

Applicants should consult DFO's Pathways of Effects (PoE) diagrams for assistance when completing this section. The PoE diagrams explore common risks to fish and fish habitat from works, undertakings or activities, and provides specific causal mechanisms for how projects in or near water can affect fish and fish habitat. Further details for writing this description can be found in Appendix 1.

Appendix 3 – Guidance for Information and Document Requirements in Schedule 3 (existing facilities)

Recent amendments to the Regulations added a definition of "existing facilities", and introduced Schedule 3, which sets out customized information requirements for applications for existing facilities, where authorizations are needed for ongoing operations that may result in harmful effects on fish and fish habitat. Under section 1 of the Regulations, an existing facility is defined as "a structure located wholly or partially in fish habitat that was built prior to July 14, 1977", when fish and fish protection provisions were first introduced into the *Fisheries Act*. An example of an existing facility is a hydroelectric dam with a generating facility. The information requirements in Schedule 3 are similar to Schedule 1 requirements, with minor wording changes introduced to better reflect their application to existing facilities. For example, applications for existing facilities do not need to include information relating to phases and schedules of the work in recognition that operations are already in an ongoing state.

Table 1 below provides a detailed comparison of the information and document requirements in Schedule 1 (non-emergency situations) and Schedule 3 (existing facilities). Applicants can generally refer to the guidance provided for non-emergency situations in Appendix 1, other than where the requirements differ, as highlighted below.

Note: Applicants who confirm in their application that they will follow a DFO Technical Standard when carrying on a work, undertaking or activity, do not need to include in their application any information and documents set out in Part 2 of Schedule 3 for that work, undertaking or activity. Applicants should review the DFO Technical Standards when preparing their application to determine if one or more chapters of the standards may apply to their project.

Table 1. Comparison of the information and document requirements in Schedule 1 (non-emergency situations) and Schedule 3 (existing facilities).

Schedule 1 **Information and Documents to be Provided**		**Schedule 3** **Information and Documents to be Provided – Existing Facilities**		**Comparison**
Part 1		**Part 1**		
Contact Information	**1** The name, address, email address and telephone number of the applicant and, if applicable, their representative.	**Contact Information**	**1** The name, address, email address and telephone number of the applicant and, if applicable, their representative.	No difference
Description of Proposed Work, Undertaking or Activity	**2** A description of the proposed work, undertaking or activity and, if applicable, a description of the project that the proposed work, undertaking or activity is a part of, including **(a)** the purpose of the proposed work, undertaking or activity and, if applicable, project; **(b)** the associated infrastructure; **(c)** any associated permanent or temporary structure; and **(d)** the construction methods, building materials, explosives, machinery and other equipment that will be used.	**Description of Existing Facility and Works, Undertakings or Activities**	**2 (1)** A description of the existing facility and its operation, including its **(a)** associated infrastructure and design; **(b)** operating conditions; and **(c)** routine maintenance requirements and schedule. **2 (2)** A description of each work, undertaking or activity in relation to the operation of the existing facility, including the purpose of the work, undertaking or activity.	Differences to reflect that information sought in Schedule 3 pertains to the ongoing operations of an existing facility rather than being centered around a new proposed project. Information such as construction methods and temporary structures is not required.
	3 If physical works are proposed, the area, in square metres, of those works and, for works in or near water, the project engineering specifications, scale drawings and dimensional drawings.		**3** The engineering specifications, scale drawings and dimensional drawings of the existing facility and the operating plans and details of any fishways.	Minor differences to reflect that an existing facility is already built, so information requirements are focused on understanding the facility and its

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
				operating plans, including the details of any fishways (e.g. fish ladders).
Phases, Schedule and Duration	**4** A description of the phases, schedule and expected duration of the proposed work, undertaking or activity and, if applicable, a description, schedule and expected duration of the project that the proposed work, undertaking or activity is a part of.	**N/A**	N/A	Not included in Schedule 3 to reflect that this information is irrelevant considering the existing facility is in ongoing operation
Location	**5** A description of the location of the proposed work, undertaking or activity and, if applicable, of the location of the project that the proposed work, undertaking or activity is a part of, including **(a)** geographic coordinates; **(b)** a small-scale site plan identifying the general location and boundaries; **(c)** a large-scale site plan indicating the size of the planned facilities, the infrastructure and any related components and their spatial relationship to any existing structures, landmarks, water sources, water bodies or other geographic features; and **(d)** the name of any watersheds, water sources and water bodies that are likely to be affected and the geographic coordinates of the water sources and water bodies.	**Location**	**4** A description of the location of the existing facility, including **(a)** its geographic coordinates; **(b)** a small-scale site plan identifying its general location and boundaries; **(c)** a large-scale site plan indicating the size of the existing facility and any related components and their spatial relationship to any other structures, landmarks, water sources, water bodies, or other geographic features; and **(d)** the name of any watersheds, water sources and water bodies that are affected and the geographic coordinates of the water sources and water bodies.	Minor changes to reflect that existing facility is already built in a known location.

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
	6 The name of the community nearest to the location and the name of the county, district or region and the province or territory where the proposed work, undertaking or activity will be carried on.		**5** The name of the community nearest to the location and the name of the county, district or region and the province or territory in which the existing facility is located.	Minor differences to replace proposed "work, undertaking or activity" language with "existing facility" language.
Fish and Fish Habitat	**7** A description of the fish and fish habitat found at the location of the proposed work, undertaking or activity and within the area likely to be affected by the proposed work, undertaking or activity, including **(a)** the type of water source or water body; **(b)** the characteristics of the fish habitat and how those characteristics directly or indirectly support fish in carrying out their life processes; **(c)** date-stamped photographs that clearly indicate the habitat characteristics that are likely to be affected by the proposed work, undertaking or activity; **(d)** the fish species that are present, and if available, an estimate of the abundance of those species; and **(e)** a description of how the information provided under paragraphs (a) to (d) was obtained, including the sources, methods and sampling techniques used.	**Fish and Fish Habitat**	**6** A description of the fish and fish habitat found at the location of the existing facility, including **(a)** the type of water source or water body; **(b)** the characteristics of the fish habitat and how those characteristics directly or indirectly support fish in carrying out their life processes; **(c)** date-stamped photographs that clearly indicate the habitat characteristics that are affected by the operations of the existing facility. **(d)** the fish species that are present and, if available, an estimate of the abundance of those species; and **(e)** a description of how the information provided under paragraphs (a) to (d) was obtained, including the sources, methods and sampling techniques used.	Minor differences to replace proposed "work, undertaking or activity" language with "existing facility" language.
Part 2		**Part 2**		
Effects on Fish and Fish Habitat	**8 (1)** A description of the likely effects of the proposed work, undertaking or activity	**Effects on Fish and Fish Habitat**	**7 (1)** A description of the effects of the operations of the existing facility on fish and fish habitat. The description must include	Minor differences to replace proposed "work, undertaking

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
	on fish and fish habitat. The description must include **(a)** the fish species that are likely to be affected and the life stages of the individuals of those species; **(b)** the type and extent of fish habitat that is likely to be affected; **(c)** the probability, severity, geographic extent and duration of the likely effects on fish and fish habitat; and **(d)** a description of how the information provided under paragraphs (a) to (c) was derived, including the methodologies used. **(2)** A description of **(a)** how the effects referred to in subsection (1) are likely to result in the death of fish or the harmful alteration, disruption or destruction of fish habitat; and **(b)** the extent of the death of fish or the harmful alteration, disruption or destruction of fish habitat.		**(a)** the fish species that are affected and the life stages of the individuals of those species; **(b)** the type and extent of fish habitat that is affected; **(c)** the probability, severity, geographic extent and duration of the effects on fish and fish habitat; and **(d)** a description of how the information provided under paragraphs (a) to (c) was derived, including the methodologies used. **(2)** A description of **(a)** how the effects referred to in subsection (1) result in the death of fish or the harmful alteration, disruption or destruction of fish habitat; and **(b)** the extent of the death of fish or the harmful alteration, disruption or destruction of fish habitat.	or activity" language with "existing facility" language, and reflect that effects to fish and fish habitat from the existing facility are already happening rather than being hypothetical.
Measures and Standards	**9** A description of the measures and standards that will be implemented, including an analysis of the expected effectiveness of those measures and standards, to **(a)** avoid the death of fish or to mitigate the extent of their death; and	**Measures and Standards**	**8** A description of the measures and standards, including an analysis of the expected effectiveness of those measures and standards, to **(a)** avoid the death of fish or to mitigate the extent of their death; and **(b)** avoid or mitigate the harmful alteration, disruption or destruction of fish habitat.	Minor differences to reflect that some measures and standards to avoid or mitigate impacts may be in place already for existing facilities.

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
	(b) avoid or mitigate the harmful alteration, disruption or destruction of fish habitat.			
	10 A description of the monitoring measures that will be implemented to assess the effectiveness of the measures and standards referred to in section 9.		**9** A description of the monitoring measures for assessing the effectiveness of the measures and standards referred to in section 8.	Minor differences to reflect that monitoring measures may be in place already for existing facilities.
	11 A description of the death of fish referred to in subsection 8(2) after the measures and standards referred to in paragraph 9(a) are implemented.		**10** A description of the death of fish referred to in subsection 7(2) after the measures and standards referred to in paragraph 8(a) are implemented.	No difference (other than updating the subsection number references)
	12 A description of the harmful alteration, disruption or destruction of fish habitat referred to in subsection 8(2) after the measures and standards referred to in paragraph 9(b) are implemented.		**11** A description of the harmful alteration, disruption or destruction of fish habitat referred to in subsection 7(2) after the measures and standards referred to in paragraph 8(b) are implemented.	No difference (other than updating the subsection number references)
Engagement	**13** A list of the Indigenous groups that may be affected by the carrying on of the work, undertaking or activity, a summary of any engagement undertaken with the Indigenous peoples of Canada, including a summary of key issues raised and the results of the engagement, and a brief description of any plan for future engagement.	**Engagement**	**12** A list of the Indigenous groups that may be affected by the carrying on of the work, undertaking or activity, a summary of any engagement undertaken with the Indigenous peoples of Canada, including a summary of key issues raised and the results of the engagement, and a brief description of any plan for future engagement.	No difference
Part 3		**Part 3**		

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
Habitat Credit	The number of habitat credits that the applicant plans to use to offset the death of fish referred to in section 11 and the harmful alteration, disruption or destruction of fish habitat referred to in section 12, as well as the number of any certificate referred to in paragraph 42.02(1)(b) of the Act.	**Habitat Credit**	**13** The number of habitat credits that the applicant plans to use to offset the death of fish referred to in section 10 and the harmful alteration, disruption or destruction of fish habitat referred to in section 11, as well as the number of any certificate referred to in paragraph 42.02(1)(b) of the Act.	No difference (other than updating the subsection number references)
Offsetting Plan	**15** A description of a plan to offset the death of fish referred to in section 11 and the harmful alteration, disruption or destruction of fish habitat referred to in section 12 that were not offset by the habitat credits referred to in section 14, including **(a)** the geographic coordinates of the location where offsetting measures will be implemented; **(b)** a small-scale site plan identifying the general location and boundaries of the location where the offsetting measures will be implemented; **(c)** a description of the offsetting measures and how those measures will meet their objectives; **(d)** a description of the monitoring measures that will be implemented to assess the effectiveness of the measures referred to in paragraph (c); **(e)** a description of any harmful effects on fish and fish habitat that could result from the implementation of the plan;	**Offsetting Plan**	**14** A description of a plan to offset the death of fish referred to in section 10 and the harmful alteration, disruption or destruction of fish habitat referred to in section 11 that were not offset by the habitat credits referred to in section 13, including **(a)** the geographic coordinates of the location where offsetting measures will be implemented; **(b)** a small-scale site plan identifying the general location and boundaries of the location where the offsetting measures will be implemented; **(c)** a description of the offsetting measures and how those measures will meet their objectives; **(d)** a description of the monitoring measures that will be implemented to assess the effectiveness of the measures referred to in paragraph (c); **(e)** a description of any harmful effects on fish and fish habitat that could result from the implementation of the plan; **(f)** a description of the measures and standards that will be implemented to avoid or mitigate	No difference (other than updating the subsection number references)

Schedule 1 Information and Documents to be Provided		Schedule 3 Information and Documents to be Provided – Existing Facilities		Comparison
	(f) a description of the measures and standards that will be implemented to avoid or mitigate the harmful effects and how those measures will meet their objectives; **(g)** the timeline for the implementation of the plan; **(h)** an estimate of the cost of implementing each element of the plan; and **(i)** if the implementation of the plan requires access to lands, water sources or water bodies that are not owned by the applicant, a description of the steps that are proposed to be taken to obtain the authorization required for the applicant, the Department of Fisheries and Oceans and anyone authorized to act on that Department's behalf to access the lands, water sources or water bodies in question. This information is not required if the applicant is His Majesty in right of Canada or of a province or the government of a territory.		the harmful effects and how those measures will meet their objectives; **(g)** the timeline for the implementation of the plan; **(h)** an estimate of the cost of implementing each element of the plan; and **(i)** if the implementation of the plan requires access to lands, water sources or water bodies that are not owned by the applicant, a description of the steps that are proposed to be taken to obtain the authorization required for the applicant, the Department of Fisheries and Oceans and anyone authorized to act on that Department's behalf to access the lands, water sources or water bodies in question. This information is not required if the applicant is His Majesty in right of Canada or of a province or the government of a territory.	

Appendix 4 – Guidance for Financial Guarantees

Applicants who are required to submit an offsetting plan must also provide a financial guarantee (subparagraph 4(3)(c)(i)(C)) that is intended to cover the costs of implementing the offsetting plan. This financial guarantee must be sufficient to cover the costs for implementing all elements of the offsetting plan, including monitoring measures and costs related to expenses DFO could incur to manage plan implementation.

DFO uses financial guarantees as an assurance mechanism in the event that the authorization holder does not implement the offsetting plan as required. This mechanism allows DFO to access funds to ensure the implementation of the offsetting plan or any of its elements that have not been implemented by the authorization holder within the time period specified in their authorization.

This guarantee can be an irrevocable letter of credit issued by a recognized Canadian financial institution, or another equivalent financial guarantee, including a performance bond. The former is to be addressed to the Receiver General for Canada as the beneficiary on behalf of Fisheries and Oceans Canada. When considering which type of financial guarantee to use, be aware that a detailed breakdown of all aspects of the offsetting plan is needed for a performance bond to be a viable option. Otherwise, DFO recommends using an irrevocable letter of credit

Note: The Regulations exempt applicants who are His Majesty in right of Canada or of a province, the government of a territory, a municipality or an Indigenous governing body from the requirement of providing a financial guarantee (subsection 4(3.1) of the Regulations).

Determining the amount of the financial guarantee

The applicant is responsible for supplying the estimated costs for implementing the offsetting plan, and DFO is responsible for ensuring the amount of the guarantee is sufficient. It is strongly recommended that an applicant discuss the amount of their financial guarantee with DFO before submitting.

An applicant should follow three basic steps to ensure that their estimate accurately reflects the costs that will be incurred to complete the offsetting plan.

Verify the offsetting plan costs: the estimate should include labor, project supervision, equipment, materials, report preparation and printing, property purchase or lease, monitoring, and maintenance.

Determine any additional costs to complete the offsetting plan: the estimate should incorporate costs that DFO would incur to manage offsetting plan implementation. These costs include project management, seasonal adjustment, availability of local expertise, inflation protection, etc.

Establish the total estimate: This is the sum total of the offsetting plan costs and any additional costs.

Examples of additional costs:

The following is a list of potentially relevant factors to consider when estimating additional costs, which would typically increase according to the size and complexity of the offsetting plan:

Increased project management: Additional project management costs may be incurred if a third party is required to complete the offsetting plan on schedule and within the allocated budget.

Seasonality: The costs of completing a plan may vary by the time of year. It may also be more expensive to complete an aspect of a plan at a different time of the year than was originally planned.

Available local expertise: Per diem travel and living expenses associated with non-local contractors may significantly increase overall costs (e.g. as much as 20–30%).

Inflation protection: Applicants should consider the impact of inflation on overall costs for longer-term plans. It is suggested that applicants use the consumer price index to calculate the annual inflation rate of the total project costs, and to add this amount to their letter of credit or another equivalent financial guarantee, including a performance bond.

Appendix 5 – Guidance for Information and Requirements to Amend, Suspend and Cancel a Valid Authorization

Request Forms

Application forms can be found on the Projects Near Water webpage:

- Amendments: Apply for amending an authorization
- Suspensions or cancellations: Apply for suspension or cancellation of an authorization
- Reinstatement: Apply for reinstatement of a suspended authorization

Information requirements to request an amendment, suspension or cancellation

Table 1 below lays out the information requirements for amendments, suspensions or cancellations at the authorization holder's request. The request must be submitted in writing to DFO, using the relevant form indicated above.

Table 1: Information requirements for an authorization holder to request an amendment, suspension or cancellation of a valid authorization.

Regulation Subsection	**(a)**	**(b)**	**(c)**	**(d)**
Section 5 - Amendment	The file numbers indicated on the original authorization;	A description of the amendment;	The updated information and documents set out in Schedule 1, 2 or 3 that are necessary to support the request; and	A description of the likely effects of the amendment on fish and fish habitat, if not otherwise submitted under paragraph (c).
Section 6 - Suspension	The file numbers indicated on the original authorization;	The period of suspension request, if any;	The reason for requesting the suspension; and	A description of the likely effects of the suspension on fish and fish habitat.
Section 7 - Cancellation	The file numbers indicated on the original authorization;	The requested cancellation date;	The reason for requesting the cancellation; and	A description of the likely effects of the cancellation on fish and fish habitat.

File number(s) associated with the original authorization

The file number(s) indicated on the original authorization is required when requesting an amendment, suspension or cancellation (paragraphs 5(a), 6(a) and 7(a) of the Regulations). The file number(s) ensures the previously submitted information is properly referenced when reviewing the request.

Description of the proposed amendment

A description of the proposed amendment is required to provide background about the proposed changes to the authorized work, undertaking or activity, including any changes to the scope, schedule, timing and phases, or measures and standards to be utilized (paragraph 5(b)).

Requested suspension period

The start date for the requested suspension period is required, while an end date is recommended if it is known (paragraph 6(b)). At any time during the suspension the authorization holder can request in writing to have the suspension period extended or to have the authorization reinstated (subsection 9(5)).

Requested cancellation date

The date an authorization is proposed to be cancelled is required (paragraph 7(b)). Upon cancellation the authorization cannot be reinstated.

Updated information for amendments

Similar to applying for an authorization, an amendment request must include information and documents to support the application process as set out in Schedules 1, 2 or 3 of the Regulations (paragraph 5(c)). If the information and documents supporting the original application for authorization are no longer accurate, the authorization holder must provide updated ones (see Appendices 1, 2 and 3 for guidance on information and requirements in Schedules 1, 2 and 3, respectively).

Reason for requesting suspension

The authorization holder is required to provide the reason for requesting a suspension of their authorization, in whole or in part (paragraph 6(c)). This information is required to provide background information about the circumstances arising that require the relevant works, undertakings or activities to be suspended.

Reason for requesting cancellation

The authorization holder is required to provide the reason for requesting a cancellation (paragraph 7(c)). This information is required to provide background information about the circumstances

arising that require authorization to be cancelled. Potential reasons for a cancellation could be the authorization holder is no longer proceeding with the project, or the project is going to be carried out in a way that is no longer likely result in effects to fish and fish habitat.

Description of the likely effects of the amendment on fish and fish habitat

The authorization holder must also provide a description of the likely effects, direct or indirect, the proposed amendment (paragraph 5(d)), suspension (paragraph 6(d)) or cancellation (paragraph 7(d)) will have on fish and fish habitat. Refer to the section “Effects on fish and fish habitat” in Appendix 1 for more guidance on the type of information required.