

Provincial legislation with implications for work in and around water in Ontario

The Public Lands Act

The beds of most lakes, rivers and streams are legally public land in Ontario. A work permit is usually needed before proceeding with any work project involving these areas. Even activities such as dredging and filling, that will occur in nearshore areas on private land, may require a work permit.

The Lakes and Rivers Improvement Act

Changing the water flow on your property can affect Ontario's fish and wildlife. A work permit is required for any activity that increases the flow, holds back or diverts water.

The Conservation Authorities Act

Individual watershed-based conservation authorities are empowered to administer

resource conservation programs in partnership with municipalities and the province of Ontario. Work permits may be required for activities related to filling, construction and alteration to waterways in flood plain areas.

Your first contact for approvals and permits in Ontario

Start by contacting one of the following agencies in your area:

- ❖ If your lot is in a watershed that has a Conservation Authority (CA) - contact your local CA office
- ❖ If there is no CA in your area - contact your local Ontario Ministry of Natural Resources (OMNR) office
- ❖ If your lot fronts onto the Rideau Canal, Trent-Severn Waterway or other federal lands - contact your local Parks Canada Agency (PCA) office.

Whatever agency you contact first, whether it is your local CA, OMNR or PCA office, they can help you determine which requirements apply to your specific project. The provincial regulatory authority(ies) in your area will guide you through the process of obtaining all necessary approvals required under provincial and federal legislation. They can also help you select the best methods to undertake your project in a way that is safe for the environment.

PRIMERS ARE AVAILABLE FOR COMMON WATERFRONT PROJECTS

For an electronic copy of the Drain, Dock or Shore Primer, visit the Fisheries and Oceans Canada Web site below and choose the "Infocentre" option followed by "Guidelines & Factsheets".



Working together to protect fish habitat

A goal of fisheries management programs is to achieve a net gain in fish habitat. You can help accomplish this goal by working with agency staff to ensure that fish populations in our lakes, rivers and streams are sustained for future generations.

Contact information

Canada

Cette publication est également disponible en français.

www.dfo-mpo.gc.ca/canwaters-eauxcan

Working together to protect and conserve Ontario's aquatic resources

Introduction

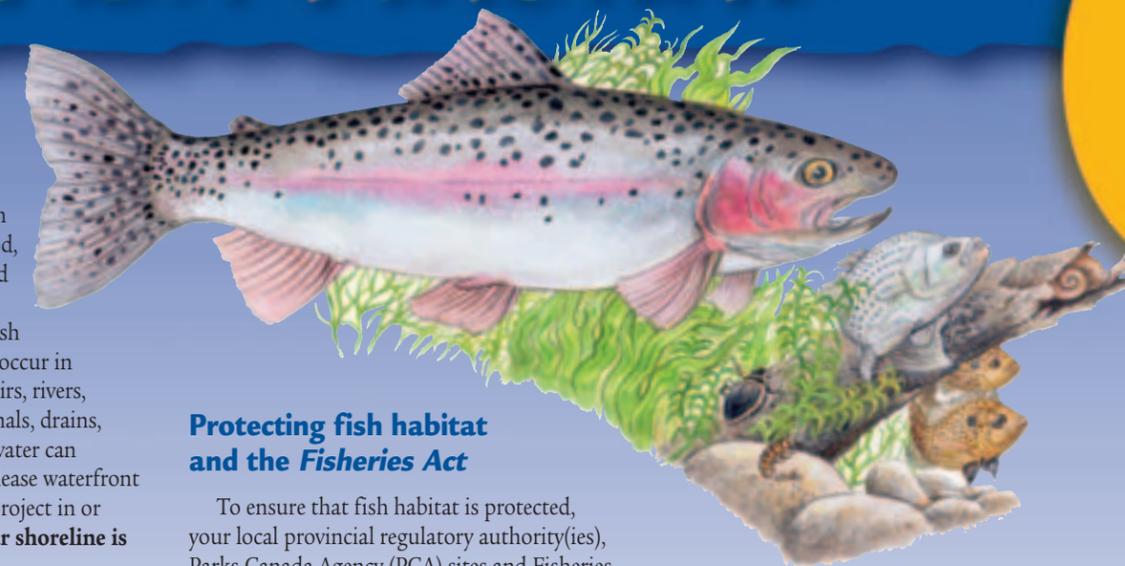
WHAT YOU SHOULD KNOW ABOUT Fish Habitat

Fish need healthy places to live, feed and reproduce. The places that supply fish with their requirements for food, shelter, water, reproduction and growth over their life cycle are called fish habitat. For most fish species, these activities usually occur in nearshore areas. Lakes, reservoirs, rivers, streams, marshes, wetlands, canals, drains, and even hay meadows under water can sustain fish life. If you own or lease waterfront property, or are working on a project in or near water, **the area along your shoreline is important for fish habitat.**

This introductory fact sheet in the *Working Around Water? Series* describes the different authorities to contact and the legislation that may apply in your province for works occurring in and around water.

The *Working Around Water? Series* of fact sheets provide information on fish habitat to assist you in the planning and approvals processes necessary for different types of work projects and more detailed general information that may affect fish habitat. The fact sheets also outline best practices for common waterfront projects, such as boat house and dock construction, building beaches, controlling aquatic plants, dredging, shoreline construction, erosion control and shoreline restoration.

Whatever your project, our fact sheets can help by explaining who to contact and how to undertake it in a way that is environmentally sound. You can help safeguard the fish in your lake or river and protect fish habitat along your waterfront by carefully planning work projects.



Protecting fish habitat and the Fisheries Act

To ensure that fish habitat is protected, your local provincial regulatory authority(ies), Parks Canada Agency (PCA) sites and Fisheries and Oceans Canada (DFO) all have legal requirements you should be aware of before you start your work project. These requirements may affect how you should proceed with any planned projects in and around water.

For most work projects, you must obtain work permits as required under provincial and federal legislation. Additionally, the federal *Fisheries Act* provides for the protection of fish habitat. Under the *Fisheries Act*, no one may carry out any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat (HADD), unless this HADD has been authorized by the Minister of Fisheries and Oceans Canada. *Fisheries Act* authorizations may also be required if your project involves blasting in or near water, killing fish by means other than fishing, or creating a barrier to fish migration. Only the Minister of Fisheries and Oceans Canada can authorize these activities. The Act also states that no one is permitted to deposit a deleterious (harmful) substance into water containing fish.

For more details on *Fisheries Act* authorizations, please see the brochures: *What the Law Requires*, and *Guidelines for Attaining No Net Loss*, prepared by DFO. These brochures provide information about the kinds of activities that could adversely affect fish and fish habitat, and explain your responsibilities under the *Fisheries Act*.

In some instances, additional approvals may be required. For example, some docks may need to be approved by the DFO - Canadian Coast Guard due to navigation concerns under the *Navigable Waters Protection Act*.

The process can take a while so you should apply for approvals early!

Obtaining approvals - information requirements

Whether applying for provincial or federal work permits or approvals, you will be asked for specific information about your proposed work project. The project can be assessed and approved more efficiently when accurate and detailed information is provided. Therefore, always be sure to include the following basic information with your application:

OCTOBER 2003

WORKING AROUND WATER? SERIES

This series of fact sheets has been developed by Fisheries and Oceans Canada (DFO), together with its partners in Ontario, the Conservation Authorities, the Ontario Ministry of Natural Resources and Parks Canada, as a tool to provide necessary information on environmentally sound practices for common waterfront projects. To view the complete list of *Working Around Water? Fact Sheets* and other Fisheries and Oceans Canada publications available, visit our Web site at www.dfo-mpo.gc.ca/canwaters-eauxcan and choose the "Infocentre" option followed by "Guidelines & Factsheets".

**ONTARIO-GREAT LAKES AREA (OGLA)
DISTRICT OFFICES**

Burlington District Office

304-3027 Harvester Road
P.O. Box 85060
Burlington, ON L7R 4K3
Tel: 905-639-1835
Fax: 905-639-3549
E-mail: referrals.burlington@dfo-mpo.gc.ca

Parry Sound District Office

28 Waubeek Street
Parry Sound, ON P2A 1B9
Tel: 705-746-2196
Fax: 705-746-4820
E-mail: referrals.parrysound@dfo-mpo.gc.ca

Peterborough District Office

501 Towerhill Road, Unit 102
Peterborough, ON K9H 7S3
Tel: 705-750-0269
Fax: 705-750-4016
E-mail: referrals.peterborough@dfo-mpo.gc.ca

Prescott District Office

401 King Street West
Prescott, ON K0E 1T0
Tel: 613-925-2865, ext. 120
Fax: 613-925-2245
E-mail: referrals.prescott@dfo-mpo.gc.ca

Sarnia District Office

703-201 Front Street North
Sarnia, ON N7T 8B1
Tel: 519-383-1821
Fax: 519-383-0699
E-mail: referrals.sarnia@dfo-mpo.gc.ca

Sault Ste. Marie District Office

1219 Queen Street East
Sault Ste. Marie, ON P6A 2E5
Tel: 705-941-2039
Fax: 705-941-2013
E-mail: referrals.saultstemarie@dfo-mpo.gc.ca

Sudbury District Office

1500 Paris Street, Unit 1
Sudbury, ON P3E 3B8
Tel: 705-522-2816
Fax: 705-522-6421
E-mail: referrals.sudbury@dfo-mpo.gc.ca

Thunder Bay & Kenora District

Thunder Bay Office

425-100 Main Street
Thunder Bay, ON P7B 6R9
Tel: 807-346-8118
Fax: 807-346-8545
E-mail: referrals.thunderbay@dfo-mpo.gc.ca

Kenora Office

Lakeside Beach, P.O. Box 649
Kenora, ON P9N 3X6
Tel: 807-468-6441
Fax: 807-468-6973
E-mail: referrals.kenora@dfo-mpo.gc.ca



**Fisheries and Oceans Canada
Ontario-Great Lakes Area**

**WORKING AROUND WATER? SERIES
information**

- ◆ Your name, address, telephone number, and if available, fax number and e-mail address
- ◆ Waterbody name and location including lot and concession numbers, county, township, municipality, and if known, latitude and longitude
- ◆ Proof of ownership of the property(ies) where the work will be done and the most recent legal survey(s)
- ◆ Detailed description of the work site including a signed and dated site map or sketch including dimensions indicating location of existing buildings, property lines and the average annual high-water mark
- ◆ Copy of your plans including a description of construction details, timing, building techniques and materials. Also, describe any alternative designs considered
- ◆ Photographs of the work site and the surrounding shoreline during ice-free conditions are optional, but are recommended so that your application can be processed more quickly.

For larger or more complex projects, additional information may be required to properly assess the project, such as:

- ◆ a description of existing fish habitat and fish communities (species names) at or near the site
- ◆ an evaluation of potential impact on fish and fish habitat and how you intend to reduce or compensate for any HADD.

It is a good idea to talk to your local municipality, as well as local contractors, engineers and building supply outlets, to be certain that all aspects of your project are planned properly.

A site visit by agency staff will often be necessary to assess your application.

Obtaining work permits

You may require a work permit from the provincial regulatory authority(ies). This (these) permit(s) must be obtained before you start any work. Depending on where the project will be undertaken, your application will be reviewed by the provincial regulatory authority(ies) in that area or you will be advised of the appropriate agency to contact. The provincial legislations that apply in Ontario are described on the last page.

Work permits may include conditions, such as the time of year when your work can be done. Read your permit carefully. If you cannot comply with all the conditions, you should not begin the work. Contact your provincial regulatory authority(ies) staff immediately for assistance.

In those situations where a work permit is not necessary, we suggest you carefully follow the best management practices provided in our fact sheets to ensure that fish habitat will be protected.

Federal legislation with implications for work in and around water

Federally, several pieces of legislation exist to safeguard fish habitat and protect public rights. These include:

The Fisheries Act

A number of sections of the *Fisheries Act* may apply when planning a work project in and around water. Among these, section 35 of the Act states that no one may carry out work that may cause a HADD unless authorized by the Minister of Fisheries and Oceans Canada. Also, no one may deposit a deleterious (harmful) substance in water frequented by fish (section 36). Violations to the Act can result in substantial fines and/or risk of imprisonment. If found guilty, then the violator may also be required to cover the costs of restoring the habitat at the site and/or be required to fulfill other court ordered remedies. An authorization is required before undertaking any work that may cause a HADD.

The Historic Canals Regulations and the National Parks Act

The protection of natural and cultural resources is an important objective of the Historic Canals, while protection of ecological integrity takes precedence in managing the natural and cultural resources of Canada's National Parks. The beds of the lakes, rivers, streams and other water bodies within these sites are owned and administered by Parks Canada on behalf of Canadians. Therefore, projects or works in or directly adjacent to waters on these federal lands are to be referred to Parks Canada for their review and approval.

The Navigable Waters Protection Act

If your project may create an impediment to boat navigation, it may have to be reviewed by DFO - Canadian Coast Guard.

What is Fish Habitat?

Fish habitat is any component of an aquatic system that provides any one of the following:

Cover: Cover provides areas for escape from predators, competitors and high flows. Numerous forms of cover exists including substrate, woody debris, undercut banks and even deep water.

Food: Fish require food in adequate amounts to survive and reproduce. The type and amount of food produced is dependent upon the substrate and riparian characteristics of the watercourse.

Reproduction: Fish require adequate substrate and water quality for successful reproduction.

Water quality: Most species have specific temperature ranges in which they can live. Changes to riparian vegetation and width to depth ratio can alter watercourse temperatures. The introduction of sediment, pesticides or any other deleterious substances degrades water quality.

Migration routes: Fish often travel great distances within a watercourse for both spawning and feeding. Any activity or structure that blocks migration can detrimentally affect fish populations.

