

At this month's Lunch and Learn Series, ESANS was pleased to host Fisheries and Oceans Canada's (DFO) Mark McLean and Donald Humphrey to speak about the Fisheries Protection Program (FPP). The FPP was implemented in November 2013, replacing the previous Habitat Management Program. As such, this was an ideal time for DFO to hear back from industry on the changes to its program and to continue to educate the industry on the features of the new program. The major change in the program was a shift from a 'no net loss' mentality to one of threat management, sustainability, and productivity of the commercial, recreational, and aboriginal (CRA) fisheries. Under the previous program, when a company proposed a project that resulted in a loss to fish habitat, the company was merely required to offset that damage by creating or improving fish habitat elsewhere. Although the goal of the Fisheries Protection Program has not changed, the means of achieving that goal has shifted, as Mr. McLean illustrated for the group.

The new Fisheries Protection Program requires that companies or individuals gain authorization from DFO when projects are likely to result in a serious harm to fish population or habitat. More specifically, the program specifies serious harm as the death of fish and/or the alteration or destruction of fish habitat. In order to determine whether the project will likely result in serious harm, project proponents must provide DFO with information on the proposed project site, including a description and location of the project and a description of the potential environmental effects. This information can include sources such as electrofishing results, site bathymetry determinations, and environmental or marine consultant site reports.

Fisheries and Oceans Canada has also significantly restructured the previous Habitat Management Program, with a reduction to 16 Regional Offices to review project submissions and monitor DFO-approved projects. Projects that are deemed to be low risk will take roughly two weeks to process, with the use of general mitigation techniques to reduce the risk to fish habitat. Higher risk sites will require site specific mitigation techniques that are developed by the proponent and through consultation with DFO. The new FPP places more emphasis on the proponents screening themselves on a scale of low-to-high risk, and then developing mitigation, avoidance, or offsetting plans accordingly. For high-risk projects requiring offsetting plans, DFO recommends that the proponent discuss the offsetting plans with DFO early in the project planning phase. DFO also requires that monitoring programs be put in place to prove the efficacy of the offsetting plan(s) during their completion. For large projects, offsetting plans can be substituted with eligible research projects for up to 10% of the value of the requisite offset.

The Fisheries Protection Plan authorization process is governed by the following four factors:

- 1. Contribution of fish (that are being harmed) to productivity of a CRA fishery*
- 2. Fisheries management objectives*
- 3. Measure and standards to avoid, mitigate, and offset serious harm to fish that comprise or support a CRA fishery*
- 4. Public interest*

Fisheries and Oceans Canada have put in place a maximum time limit of 60 days for the determination of a project application as complete or incomplete. Once an application is deemed complete by DFO, there is a further 90 day maximum time limit, by which time DFO will make a decision to authorize or reject the application. DFO recommends that proponents begin a dialogue with them early in project development to expedite the authorization procedure. Proponents should also note that these time limits can be extended if there are any changes to their application, additional relevant information becomes available, aboriginal consultation is required, or if other federal requirements are applicable.

ESANS would once again like to thank Mark McLean and Donald Humphrey for taking the time to present and discuss the Fisheries Protection Program with us. We would also like to thank CBCL for hosting the Lunch n' Learn series in the conference room of their Hollis St. office. If you have any questions regarding the Fisheries Protection Program you can reach Mark at mcleanmg@mar.dfo-mpo.gc.ca or Donald at Donald.Humphrey@dfo-mp0.gc.ca.