



Fisheries and Oceans  
Canada

Pêches et Océans  
Canada



# ANNUAL REPORT

April 1, 2006 to March 31, 2007



ANNUAL REPORT TO PARLIAMENT on  
the Administration and Enforcement  
of the Fish Habitat Protection  
and Pollution Prevention Provisions  
of the *Fisheries Act*

Canada 

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Minister of  
Fisheries and Oceans



Ministre des  
Pêches et des Océans

Ottawa, Canada K1A 0E6

Audrey O'Brien  
Clerk of the House of Commons  
Centre Block  
Room 228-N  
House of Commons  
Ottawa, Ontario K1A 0A6

Dear Ms. O'Brien:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, two copies of the Annual Report on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* for the fiscal year 2006-2007.

In conformity with the requirements of the Act, these copies are for tabling in the House of Commons and for referral to the Standing Committee on Fisheries and Oceans.

Sincerely,

Loyola Hearn, P.C., M.P.

Attachments



Minister of  
Fisheries and Oceans



Ministre des  
Pêches et des Océans

Ottawa, Canada K1A 0E6

Paul Bélisle  
Clerk of the Senate  
Centre Block  
Room 185-S  
Ottawa, Ontario K1A 0A4

Dear Mr. Bélisle:

In accordance with the provisions of section 42.1 of the *Fisheries Act*, I have the honour to present, in both official languages, two copies of the Annual Report on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* for the fiscal year 2006-2007.

In conformity with the requirements of the Act, these copies are for tabling in the Senate.

Sincerely,

Loyola Hearn, P.C., M.P.

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## Table of Contents

<b>Abstract</b> .....	iii
<b>1.0 Introduction</b> .....	1
<b>2.0 Administration of the Fish Habitat Protection Provisions of the <i>Fisheries Act</i></b> .....	3
2.1 Legislative Basis for the Conservation and Protection of Fish Habitat .....	3
2.2 Policy for the Management of Fish Habitat.....	4
2.3 National Habitat Management Program.....	5
2.3.1 <i>Scientific Support</i> .....	5
2.3.2 <i>Compliance and Enforcement Support</i> .....	7
2.4 Environmental Process Modernization Plan.....	7
<b>3.0 Review of Development Proposals (Referrals) under the Fish Habitat Protection Provisions of the <i>Fisheries Act</i></b> .....	10
3.1 Summary of Habitat Referrals by Work Category.....	11
3.1.1 <i>Newfoundland and Labrador Region</i> .....	13
3.1.2 <i>Maritimes Region</i> .....	13
3.1.3 <i>Gulf Region</i> .....	13
3.1.4 <i>Quebec Region</i> .....	14
3.1.5 <i>Central and Arctic Region</i> .....	14
3.1.6 <i>Pacific Region</i> .....	14
3.2 Advice Provided and Authorizations Issued.....	15
3.2.1 <i>Newfoundland and Labrador Region</i> .....	17
3.2.2 <i>Maritimes Region</i> .....	17
3.2.3 <i>Gulf Region</i> .....	17
3.2.4 <i>Quebec Region</i> .....	17
3.2.5 <i>Central and Arctic Region</i> .....	17
3.2.6 <i>Pacific Region</i> .....	18
3.3 Notifications of use of Regulatory Streamlining Processes .....	18
<b>4.0 Compliance and Enforcement of the Fish Habitat Protection Provisions of the <i>Fisheries Act</i></b> .....	20
4.1 Legislative Basis and Application of the Compliance and Enforcement .....	20
4.2 Summary of DFO Habitat Enforcement Activities.....	21
4.3 Convictions Reported Under the Habitat Protection Provisions of the <i>Fisheries Act</i> .....	21
4.4 Summary of Convictions .....	22
<b>5.0 Administration and Enforcement of the Pollution Prevention Provisions of the <i>Fisheries Act</i></b> .....	25
5.1 Environment Canada Programs .....	25

5.1.1	<i>The Enforcement Branch</i> .....	25
5.1.2	<i>The Environmental Enforcement Directorate</i> .....	26
5.1.3	<i>The Environmental Emergencies Program</i> .....	27
5.1.4	<i>Enforcement activities and measures</i> .....	28
5.2	<i>Fisheries Act Enforcement Highlights</i> .....	30
5.2.1	<i>Regulations</i> .....	30
5.2.2	<i>General prohibition</i> .....	30
5.2.3	<i>Agreements</i> .....	31
5.3	<b>COMPLIANCE PROMOTION ACTIVITIES</b> .....	32
5.3.1	<i>Pulp and Paper</i> .....	32
5.3.2	<i>Metal Mines</i> .....	33
5.3.3	<i>Wastewater</i> .....	34
5.3.4	<i>Shellfish Sanitation – Water Quality Monitoring</i> .....	34
5.3.5	<i>Deleterious Substances</i> .....	35
5.3.6	<i>Contaminated Sites</i> .....	35
5.3.7	<i>Pollution Prevention</i> .....	36
<b>6.0</b>	<b>List of Abbreviations</b> .....	<b>40</b>

### List of Tables

Table 1:	Work Categories .....	11
Table 2:	Summary of Habitat Referrals by Work Category .....	12
Table 3:	Advice Provided and Authorizations Issued .....	15
Table 4:	Notifications of use of Class Authorizations and Operational Statements .....	19
Table 5:	Summary of DFO Habitat Enforcement Activities .....	21
Table 6:	Convictions Reported under the Habitat Protection Provisions of the <i>Fisheries Act</i> .....	21
Table 7:	Summary of Convictions .....	22
Table 8:	Enforcement Activities and Measures Carried Out under <i>Fisheries Act</i> .....	29

### List of Figures

Figure 1:	Referrals Received by Region .....	13
Figure 2:	Advice Provided by Region .....	16
Figure 3:	Authorizations Issued by Region .....	16

### List of Maps

Map:	Habitat Management Program Regions and Office Locations .....	41
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### List of Annexes

Annex:	Habitat Protection and Pollution Prevention Provisions, <i>Fisheries Act</i> .....	42
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## **Abstract**

Fisheries and Oceans Canada. 2007. Annual Report to Parliament on the Administration and Enforcement of the Fish Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*. April 1, 2006 to March 31, 2007: iii + 42 p.

This is a report on the administration of Fisheries and Oceans Canada's National Habitat Management Program and Environment Canada's Pollution Prevention Program during the 2006-2007 fiscal year. It highlights the two departments' national and regional activities.

## **Résumé**

Pêches et Océans Canada. 2007. Rapport annuel au Parlement sur l'administration et l'application de dispositions de la *Loi sur les pêches* relatives à la protection de l'habitat du poisson et à la prévention de la pollution du 1<sup>er</sup> avril 2006 au 31 mars 2007 : iii + 44 p.

Ce rapport porte sur l'administration du Programme national de gestion de l'habitat de Pêches et Océans Canada et du Programme de prévention de la pollution d'Environnement Canada au cours de l'exercice financier 2006-2007. Il présente les activités entreprises par les deux ministères à l'échelle nationale et régionale.



## 1.0 Introduction

The federal government fulfills its constitutional responsibilities for sea coast and inland fisheries through the administration and enforcement of the *Fisheries Act*, that provides Fisheries and Oceans Canada (DFO) with powers and authorities to conserve and protect fish habitat, which is essential to sustaining freshwater and marine fish species and populations that Canadians value.

The *Fisheries Act* contains provisions that prohibit harmful changes to fish habitat (habitat protection provisions) as well as discharges of deleterious substances into fisheries water (pollution prevention provisions). DFO is responsible for the administration and enforcement of the habitat protection provisions of the *Fisheries Act*, while responsibility for the administration and enforcement of the pollution prevention provisions has been assigned to Environment Canada (EC).

Section 42.1 of the *Fisheries Act* requires the Minister of Fisheries and Oceans to table an annual report to Parliament on the administration and enforcement of the fish habitat protection and pollution prevention provisions.

*“42.1 (1) The Minister shall, as soon as possible after the end of the fiscal year, prepare and cause to be laid before Parliament a report on the administration and enforcement of the provisions of this Act relating to fish and fish habitat protection and pollution prevention for that year.”*

*“42.1 (2) The annual report shall include a statistical summary of convictions under section 40 for that year.”*

The *Annual Report to Parliament* (Annual Report) is only one of several reporting mechanisms used to assess and report on the contributions and successes of DFO's and EC's Programs in conserving and protecting fish habitat that sustain fish species and populations that Canadians value. Other reporting mechanisms such as the annual *Departmental Performance Report* and the *Report on Plans and Priorities*, which are also produced by the Department, provide information about the performance of these programs to Parliamentarians and Canadians.

This report provides a summary of key activities undertaken by DFO and EC in conserving and protecting fish habitat during fiscal year 2006-2007.

Section 2.0 of the report presents:

- background on the legislation and policy for the conservation and protection of fish habitat;
- an overview of the *Policy for the Management of Fish Habitat*;

- an overview of the Habitat Management Program (HMP), and those sectors that support it; and
- a summary of the Environmental Process Modernization Plan (EPMP), designed to make the HMP more efficient in the delivery of its services, and effective in the conservation and protection of fish and fish habitat.

Section 3.0, 4.0 and 5.0 highlight the regulatory activities of DFO and EC Programs for fiscal year 2006-2007, at National Headquarters and in the regions. These activities include:

- the review of development proposals (referrals) that may affect fish habitat;
- the monitoring of compliance with the habitat protection and pollution prevention provisions of the *Fisheries Act* and enforcement actions as a result of violations; and
- developing regulations, policies and guidelines related to the habitat protection and pollution prevention provisions of the *Fisheries Act*.

## 2.0 Administration of the Fish Habitat Protection Provisions of the *Fisheries Act*

### 2.1 Legislative Basis for the Conservation and Protection of Fish Habitat

The *Fisheries Act* contains two types of provisions that can be applied for the conservation and protection of fish habitat<sup>1</sup> essential to sustaining freshwater and marine fisheries resources that Canadians value because of the significant economic, social, cultural, and environmental benefits they provide.

Section 35 is the key habitat protection provision of the *Fisheries Act*. This section prohibits any work or undertaking that would cause the harmful alteration, disruption or destruction (HADD) of fish habitat, unless authorized by the Minister of DFO or through regulations under the *Fisheries Act*.

- (1) “No person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat.”
  - (2) “No person contravenes subsection (1) by causing the alteration, disruption or destruction of fish habitat by any means or under any conditions authorized by the Minister or under regulations made by the Governor in Council under this Act.”
- Section 35, *Fisheries Act*.

DFO administers and enforces section 35 and other related habitat protection provisions of the *Fisheries Act*, including sections 20, 21, 22, 26, 28, 30, and 32 (see Annex).

Section 36 is the key pollution prevention provision. It prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulation under the *Fisheries Act* or other federal legislation. Regulations to authorize deposits of certain deleterious substances have been established for key industry sectors pursuant to section 36 (e.g., pulp and paper, and metal mining). The responsibility for the administration and enforcement of the pollution prevention provisions of the *Fisheries Act* is assigned to EC.

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<sup>1</sup> Fish habitat is defined under subsection 34(1) of the *Fisheries Act* as “spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes”.

The *Fisheries Act* also contains provisions that support the administration and enforcement of the habitat protection and pollution prevention provisions. These include:

- powers for the Minister to request plans and specification for works and undertakings that might affect fish or fish habitat (section 37);
- authority for the Minister to appoint inspectors and analysts (subsection 38(1));
- a description of inspectors' powers (including entry, search, and direction of preventive, corrective or cleanup measures) (subsection 38(3));
- a description of offences and punishment (section 40); and
- a determination of liability when a deleterious substance has been deposited (section 42).

## 2.2 Policy for the Management of Fish Habitat

The *Policy for the Management of Fish Habitat*<sup>2</sup> (the Habitat Policy), which was tabled in Parliament in 1986, and its supporting operational policies provide a comprehensive framework for the administration and enforcement of the habitat protection and pollution prevention provisions of the *Fisheries Act* consistent with the goal of sustainable development.

The Habitat Policy has an overall objective to “increase the natural productive capacity of habitat for the nation’s fisheries resources” – that is, to achieve a “net gain” in fish habitat. This is to be achieved through the Habitat Policy’s three goals of conservation, restoration, and development of fish habitat.

The Habitat Policy recognizes that habitat objectives must be linked and integrated with fish production objectives and with other sectors of the economy that make legitimate demands on water resources. As a result, the Habitat Policy identifies the need for integrated planning for habitat management as an approach to ensuring the conservation and protection of fish habitat that sustain fish production while providing for other uses.

The objective and goals of the Habitat Policy are to be achieved through eight implementation strategies. These include Protection and Compliance; Integrated Resource Planning; Scientific Research; Public Consultation; Public Information and Education; Cooperative Action; and Habitat Improvement and Habitat Monitoring.

A key element of the Habitat Policy is the guiding principle of “no net loss of the productive capacity of fish habitat”. This principle, which supports the conservation goal, is applied when proposed works and undertakings may result in a HADD of fish habitat. Prior to issuing an authorization under subsection 35(2) of the *Fisheries Act*, DFO applies the “no net

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<sup>2</sup> The full text of the *Policy for the Management of Fish Habitat* can be found at :  
<[http://www.dfo-mpo.gc.ca/oceans-habitat/habitat/policies-politique/management-gestion\\_e.asp](http://www.dfo-mpo.gc.ca/oceans-habitat/habitat/policies-politique/management-gestion_e.asp)>.

loss” guiding principle, so that unavoidable habitat losses as a result of development projects are balanced by newly created and/or restored fish habitat.

If unacceptable losses of fish habitat cannot be prevented by these measures, the Habitat Policy calls for an authorization not to be issued. Furthermore, where deleterious substances result in harm to fish or damage to fish habitat, compensation<sup>3</sup> is not an option.

## 2.3 National Habitat Management Program

DFO's Habitat Management Program (HMP) is a key federal regulatory program with a mandate to conserve and protect fish habitat. Delivery of its responsibilities under the *Fisheries Act*, the *Canadian Environmental Assessment Act (CEAA)* and the *Species at Risk Act (SARA)* impacts on a wide range of individuals, businesses and communities all across Canada. The HMP is supported from Science Sector's Environmental Science Program and compliance and enforcement activities through Fisheries and Aquaculture Management Sector's Conservation & Protection (C&P) Program.

National Headquarters' staff is responsible for the overall coordination of the delivery of the HMP, providing national policy direction, strategic advice and liaison with other Departmental sectors, federal departments and national industries and non-governmental organizations (NGOs). Day-to-day delivery of the program is carried out by staff located in 67 HMP offices located in six regions (see Map). These regions are:

- Newfoundland and Labrador;
- Maritimes (parts of New Brunswick and Nova Scotia);
- Gulf (parts of New Brunswick and Nova Scotia, as well as all of Prince Edward Island);
- Quebec;
- Central and Arctic (Alberta, Saskatchewan, Manitoba, Ontario, the Northwest Territories and Nunavut); and
- Pacific (British Columbia and the Yukon Territory).

### 2.3.1 Scientific Support

Timely, relevant science is a fundamental requirement for strengthening the foundation and credibility of the program in support of the objectives of DFO's *Policy for the Management of Fish Habitat*. Science Sector conducts research to address knowledge gaps related to habitat conservation, restoration and improvement. Research projects are conducted by Environmental Science staff in all Regions, addressing questions of importance to Habitat Managers. Among the areas of research pursued in fiscal year 2006-2007 were:

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<sup>3</sup> See Glossary in the *Policy for the Management of Fish Habitat* for the definition of compensation <[http://www.dfo-mpo.gc.ca/oceans-habitat/habitat/policies-politique/operating-operation/fhm-policy/index\\_e.asp](http://www.dfo-mpo.gc.ca/oceans-habitat/habitat/policies-politique/operating-operation/fhm-policy/index_e.asp)>.

- developing empirical models for evaluating the productive capacity of fish habitat, linking fish biomass at specific habitats to total population production;
- assessing the impacts of hydroelectric dam operations (ramping rate) on downstream aquatic ecosystems;
- assessing techniques for the remediation of oil-contaminated sites;
- assessing the impacts of fishing gear on fish habitat;
- developing techniques to assess productive capacity and the value of specific habitats to fish, and to delineate ‘critical habitat’;
- assessing the effects of aquaculture on the environment;
- conducting joint research with Habitat Management staff, into the efficacy of habitat compensation projects in meeting compensation objectives in a ‘habitat productive capacity’ framework;
- developing the knowledge necessary to make decisions regarding stream flows and water allocations, with regard to maintaining sufficient water for fish; and
- assessing the impacts of land use practices on aquatic habitat, with an aim to reducing the impacts of industries such as forestry, farming, and mining.

The results of these research projects are transferred to HMP staff in the form of peer reviewed advice, workshops, published reports, fact sheets, briefings, and personal consultations. Science provides advice to Habitat Managers at levels ranging from informal, one-on-one discussions, to regional advice sessions and large-scale National Advisory Process workshops that follow a formal process to produce peer-reviewed, published advisory documents. In fiscal year 2006-2007, advice was provided to Habitat Management in many areas, including:

- a national workshop on the possible impacts of a proposed management plan for the oil-sands industry on the Athabasca River;
- advice on the scientific evidence for the linkages between activities and habitat impacts as described in the Pathways of Effects diagram related to alterations in water flow incorporated in the Risk Management Framework;
- a workshop on the design, implementation and effectiveness of compensation measures related to coastal and estuarine activities;
- science advice on the mitigation of hydroelectric impacts on American eels in the upper St. Lawrence / Lake Ontario;
- allowable harm assessments for species protected under *SARA*;
- expert advice and testimony on the impacts of alleged infractions of the *Fisheries Act*, assisting in prosecutions of offences and remediation of the impacts;
- advice on the use of valued components in the environmental impact statement (EIS, *CEAA*) of the Mackenzie Gas Pipeline;



- provision of scientific advice on a referral by referral basis in relation to determination of HADDs, monitoring and compensation requirements, etc; and
- review of environmental impacts statements, effects monitoring programs, compensation effectiveness, and supporting documents in relation to oil and gas developments, mining, hydroelectric developments, and other major industrial sectors.

### **2.3.2 Compliance and Enforcement Support**

The fish habitat protection and pollution prevention provisions of the *Fisheries Act* provide the legislative basis for protecting fish and fish habitat: however, they must be administered and enforced in a fair, predictable and coherent manner. The compliance monitoring and enforcement support for the habitat protection provisions of the *Fisheries Act* are provided by Fisheries and Aquaculture Management Sector's Conservation and Protection Program. Compliance and enforcement support for the pollution prevention provisions of the *Fisheries Act* are provided by EC's Environmental Emergencies Program and Enforcement Program.

## **2.4 Environmental Process Modernization Plan**

The goal of the Environmental Process Modernization Plan (EPMP) is to make the HMP more effective in conserving and protecting fish habitat, efficient in the delivery of its services, integrated with the interests and priorities of others. Since the EPMP was launched in 2004, DFO has successfully implemented a wide range of policy, programming and organizational changes. This section describes the six elements of the EPMP and summarizes related accomplishments for fiscal year 2006-2007.

The first element of the EPMP involves a science-based Risk Management Framework (RMF) for identifying projects with greatest impacts on fish habitat and making regulatory decisions in a more transparent and consistent manner. The RMF provides a foundation for developing management tools to streamline regulatory reviews, such as Operational Statements for low-risk activities. DFO implemented the RMF in fiscal year 2006-07. Progress includes the addition of new Pathways of Effects that are useful to describe linkages between specific development activities in terms of impacts on fish and fish habitat. Finally, DFO provided a new Practitioner's Guide to the Risk Management Framework to support a risk-based approach to regulatory decision-making.

The second element of the EPMP is focused on streamlining of regulatory reviews. In fiscal year 2006-2007, DFO continued to develop and implement "Operational Statements" (OS) to improve efficiency and effectiveness of regulatory reviews for low-risk activities. The OS specify mitigation measures needed to avoid harm to fish habitat. Based on the OS, proponents have greater certainty on what must be done to comply with the habitat protection provisions of the *Fisheries Act*. Since the start of the EPMP, DFO has developed a total of eighteen national OS, including five approved in fiscal year 2006-2007. Approximately 1,389 notification forms were submitted to DFO during fiscal year 2006-2007 to indicate that

OS had been used. Prior to the EPMP, most of these projects would have been received as referrals and required DFO resources for review. In addition, DFO continued discussions with provinces to establish “one-window” delivery of the OS wherever possible, and worked with its industry partners to incorporate OS into industry Best Management Practices. As a result of ongoing efforts to streamline referrals, DFO can begin to re-allocate its efforts to higher risk referrals and over time, to other priorities such as compliance and effectiveness monitoring.

The objective of the third element of the EPMP is to improve internal coherence and predictability of DFO regulatory decisions. For fiscal year 2006-2007, DFO progress is represented by continued development and implementation of the Mandatory Training Program for Habitat Management staff. Approximately 90% of Program staff successfully completed the mandatory *Habitat Management-101* course, and 20% completed the mandatory *Information Management-101* course. Performance with respect to the latter course can be attributed to the delay in course roll-out until near the end of fiscal year 2006-2007. Significantly, 90% of Habitat practitioners completed their individual training under the Mandatory Training Program. In addition, DFO distributed a Standard Operating Policy Manual for Habitat Practitioners. This document provided a framework designed to improve internal coherence with respect to DFO regulatory decisions.

The fourth component of the EPMP involves strengthening DFO’s partnerships with provinces, industry, Aboriginal groups, non-government organizations, and municipalities, to identify and collaborate on matters of mutual interest. Progress for fiscal year 2006-2007 would include the signing of a DFO partnership agreement on habitat management with a coalition of nine national/regional conservation NGOs. Importantly, DFO continued discussions with provinces to reach formal cooperative agreements on habitat management, as recommended by the Canadian Council of Fisheries and Aquaculture Ministers. With respect to Environmental NGOs, DFO established the National Fish Habitat Coordinating Committee in cooperation with the Canadian Environmental Network. DFO also worked with the Federation of Canadian Municipalities towards an agreement. Finally, DFO continued to implement national level agreements with the Canadian Electricity Association, and Canada’s major national resource industry associations, focused on low risk activities.

Under the fifth element of the EPMP, DFO strives to improve the management of Environmental Assessments (EAs) for “major projects” under the *CEAA*. Typically, major projects involve large-scale natural resource development projects that have nationally significant socio-economic implications. In fiscal year 2006-2007, DFO developed detailed protocols and other policy guidance to provide clarity and improve review processes pursuant to the *CEAA*.

The sixth element of the EPMP is a key priority for DFO that involves developing and implementing Habitat Compliance Modernization. In fiscal year 2006-2007, DFO increased its monitoring and auditing activities for a more strategic, balanced, risk-based, and integrated approach to compliance with the habitat protection provisions of the *Fisheries Act*. DFO developed internal policies (guides) intended to link DFO compliance decisions/actions more closely with the Risk Management Framework. DFO also implemented a national

Habitat Compliance Protocol to define the various roles and responsibilities of the C&P program and HMP in the delivery of an integrated habitat compliance program. The use of Fishery Officers (C&P) is focused on high-risk compliance issues; while the HMP added new staff positions to monitor compliance with, and effectiveness of, regulatory requirements.

Based on the principles and objectives of the EPMP, DFO will continue to improve the way it does business with respect to its regulatory responsibilities to protect fish habitat by moving from a reactive and fragmented process to one that is more proactive, cohesive and strategic.

### **3.0 Review of Development Proposals (Referrals) under the Fish Habitat Protection Provisions of the *Fisheries Act***

The administration of the Fish Habitat Protection Provisions of the *Fisheries Act* is the responsibility of DFO's HMP. The HMP accomplishes this in part by reviewing development proposals (referrals). The referral process enables HMP staff to review submitted proposals to assess if a HADD of fish habitat is likely to result from the proposed works or undertakings. Following the review, HMP staff sends advice to the proponent indicating the requirements for the conservation and protection of fish habitat. This advice informs proponents on how to proceed with their works or undertaking to comply with the *Fisheries Act*, mainly with respect to avoiding the HADD of fish habitat (section 35). These requirements are commonly in the form of a "Letter of Advice", an "Operational Statement" for low risk activities, or an "Authorization" pursuant to subsection 35(2) of the Act.

It is important to note that the habitat protection provisions, including section 35 of the *Fisheries Act*, do not create a mandatory obligation for proponents of development proposals to seek a "Letter of Advice", an "Operational Statement", or an "Authorization" from DFO, as there is no such authority in the section. However, to ensure that they are not in violation of the *Fisheries Act*, proponents voluntarily submit information about their proposed works or undertakings to determine if they comply with the habitat protection provisions of the *Fisheries Act*.

Prior to issuing an Authorization, HMP staff must also verify whether the proponent's project under review adversely affects wildlife species listed under *SARA*, or their critical habitat, and ensure that an EA under *CEAA* (or other EA regimes) is completed. For development projects requiring such decisions, DFO becomes a responsible authority under the *CEAA* and HMP staff must conduct EAs that consider broader environmental issues than those directly associated with fish habitat. For additional information regarding EAs conducted by HMP staff pursuant to *CEAA*, please see the Canadian Environmental Assessment Registry at the following address: [http://www.ceaa-acee.gc.ca/050/index\\_e.cfm](http://www.ceaa-acee.gc.ca/050/index_e.cfm).

The summary of habitat referrals in this section reflects the practice whereby the receipt of a referral by DFO is accounted for in the statistics of the same year that event actually occurred; while any DFO decisions linked to the referral could occur in a subsequent year and be accounted for separately in the statistics for that year.

### 3.1 Summary of Habitat Referrals by Work Category

Habitat Assessors and field staff have categorized referrals according to the work categories. The categories are described in Table 1, while the summary of habitat referrals by work category is presented in Table 2.

<b>Table 1: Work Categories Fiscal Year 2006-2007</b>	
<b>Aquaculture</b>	Includes all forms of aquaculture in marine, estuarine and freshwater, including: shellfish culture, marine plant culture, polyculture, finfish cage culture, freshwater ponds and hatcheries.
<b>Contaminated Site Remediation</b>	The cleanup of contaminated sites, including: excavation and removal of contaminated sediments and soils; treatment of contaminated groundwater, etc.
<b>Control of Nuisance Species</b>	Works to capture, control and poison nuisance species.
<b>Dredging</b>	Dredging, including: clamshell, backhoe, suction, cutter suction, suction hopper, and any other type of dredging in freshwater, estuarine and marine conditions. Does not include dredging for the purposes of ocean mining of minerals or aggregate.
<b>Fish Offal Disposal</b>	Includes sites for disposal into the aquatic environment of fish offal from vessels, barges, etc. Does not include disposal of fish waste from a fish plant through an effluent pipe.
<b>Habitat Improvement</b>	Modifications to or structures placed into any aquatic habitat to improve the capacity of the habitat to produce fish.
<b>Instream Works</b>	Work and activities in a stream, brook, river, lake, estuary or any marine area, including: excavation, pool excavation, beaver dam removal, ditch cleaning, and aquatic vegetation removal.
<b>Log Handling</b>	Establishment and operation of aquatic and terrestrial areas used for storing and sorting logs. Includes log sorts at pulpmills and sawmills. Includes underwater log salvage.
<b>Mineral, Aggregate and Oil &amp; Gas Extraction</b>	Includes all forms of mining and mineral exploration, including offshore and onshore oil and gas exploration and production, as well as ocean mining.
<b>Seismic Exploration</b>	Use of explosives or other methods to explore sub-surface geological structures underwater or on land.
<b>Shoreline Works (Foreshore and Streambank Work)</b>	Includes physical works along a shoreline, both in the riparian zone and in the zone between Low-Low Water (LLW) (Low Water) and High-High Water (HHW) (High water) in a stream, brook, river, lake, estuary or any marine area.
<b>Structures in Water</b>	Includes structures built in all habitat types (riverine, lacustrine, palustrine (wetlands), estuarine, marine) including: docks and boathouses for personal or commercial purposes, wharves, breakwaters, commercial marine terminals, personal and commercial moorings, boat launches, water intake physical structures including screens, effluent outfall pipes and outfalls, fishing weirs, artificial reefs, and gear placed in water.
<b>Water Management</b>	Includes physical structures and activities involved in water management, such as: dams, dykes, diversions, reservoirs and reservoir operations, irrigation canals, stormwater management plans, water withdrawal from natural waterbodies and reservoirs, irrigation canals, hydroelectricity generation, etc.
<b>Watercourse Crossings</b>	Crossings of all kinds that traverse wetlands, streams, brooks, rivers, ponds, lakes, estuaries and any area in the marine environment. Includes small undertakings up to large pipeline and cable crossings across oceans.
<b>Other</b>	To be used for those proposed projects that do not fit any of the above Main Categories.

<b>Table 2: Summary of Habitat Referrals by Work Category Fiscal Year 2006-2007</b>																
Region	Work Categories															Total
	Aqua.	Cont. Site Rem.	Cont. Nuis. Spec.	Dredg.	Fish Off. Disp.	Hab. Imp.	Instr. Works	Log Hand.	Min. Agg. & O&G Extract.	Seis. Expl.	Shor. Works	Struct. in Water	Water Mgmt	Water-course Xing	Other <sup>4</sup>	
<b>Newfoundland and Labrador</b>	19	7	1	34	36	3	23	3	112	6	114	133	44	261	200	<b>996</b>
<b>Maritimes</b>	12	3	0	40	0	12	26	1	7	3	81	142	46	290	31	<b>694</b>
<b>Gulf</b>	19	1	0	29	0	20	26	0	2	0	45	29	29	133	64	<b>397</b>
<b>Quebec</b>	6	7	3	30	1	10	3	0	1	1	33	62	13	54	3	<b>227</b>
<b>Central and Arctic</b>	2	13	4	187	0	13	303	1	251	27	680	482	241	1,000	241	<b>3,445</b>
<b>Pacific</b>	7	6	1	33	0	39	198	35	102	0	292	138	153	237	245	<b>1,486</b>
<b>Total</b>	<b>65</b>	<b>37</b>	<b>9</b>	<b>353</b>	<b>37</b>	<b>97</b>	<b>579</b>	<b>40</b>	<b>475</b>	<b>37</b>	<b>1,245</b>	<b>986</b>	<b>526</b>	<b>1,975</b>	<b>784</b>	<b>7,245</b>

<sup>4</sup> “Other” includes referrals identified with the Work categories of “to be determined,” “Undetermined” and “Other”

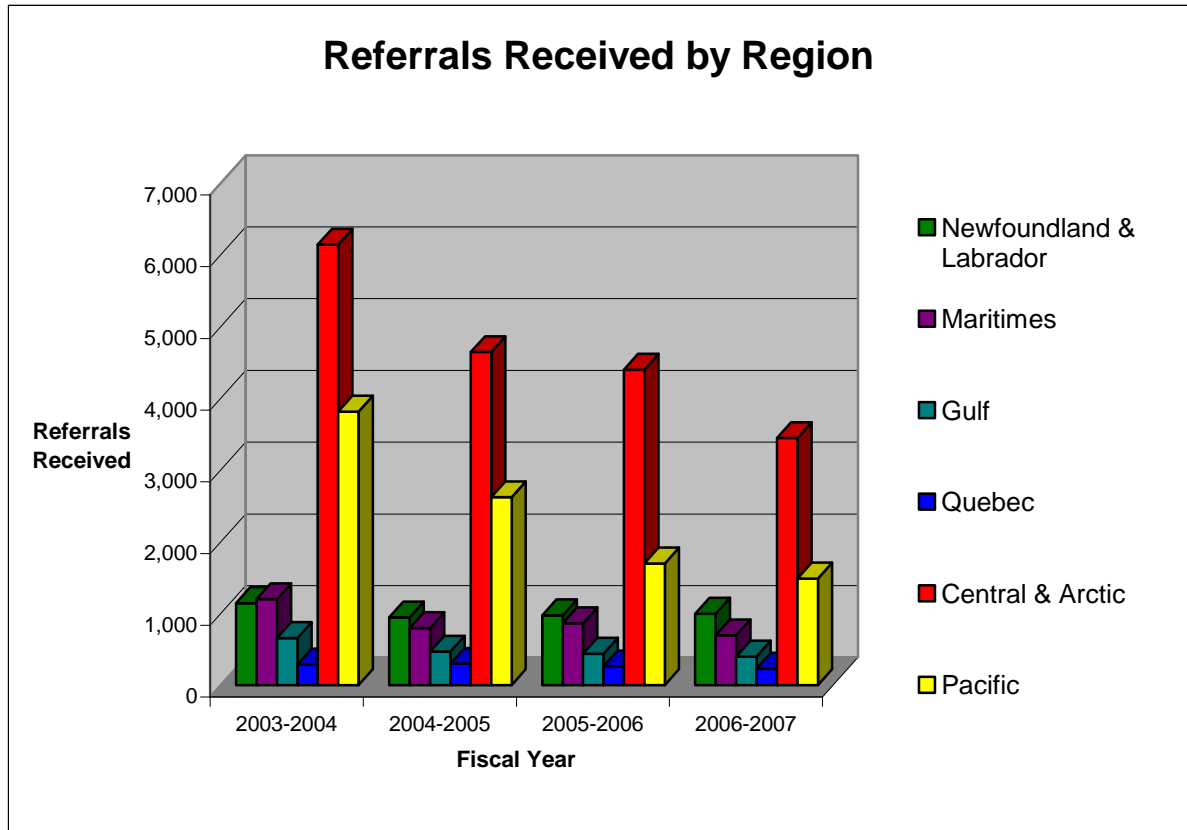


Figure 1: Referrals Received by Region

### 3.1.1 Newfoundland and Labrador Region

The Newfoundland and Labrador Region received approximately 996 referrals describing a variety of proposed works or undertakings that could potentially affect fish or fish habitat. This represents a slight decrease in referrals since fiscal year 2005-2006, when 974 referrals were reviewed.

### 3.1.2 Maritimes Region

The Maritimes Region received approximately 694 referrals describing a variety of proposed works or undertakings that could potentially affect fish or fish habitat. This represents a 19% decrease in referrals since fiscal year 2005-2006, when 860 referrals were reviewed.

### 3.1.3 Gulf Region

The Gulf Region received approximately 397 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 9% decrease in referrals since fiscal year 2005-2006, when 437 referrals were reviewed.

### **3.1.4 Quebec Region**

The Quebec Region received approximately 227 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 13% decrease in referrals since fiscal year 2005-2006, when 262 referrals were reviewed.

### **3.1.5 Central and Arctic Region**

The Central and Arctic Region received approximately 3,445 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 22% decrease in referrals since fiscal year 2005-2006, when 4,395 referrals were received. HMP continues to develop its performance measurement capacity to determine the reasons behind this trend.

Due to the large number of referrals received, below is a further breakdown by regional area:

#### **3.1.5.1 Ontario-Great Lakes Area**

The Ontario-Great Lakes Area (OGLA) received 1,358 referrals, representing a 24% decrease since fiscal year 2005-2006, when 1,788 were received. In addition, the Conservation Authorities reviewed 1,594 development projects and Parks Canada Agency reviewed 144. The Conservation Authority and Parks Canada referrals did not require DFO review.

#### **3.1.5.2 Western Arctic Area**

The Western Arctic Area received approximately 110 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 20% increase of referrals since fiscal year 2005-2006 when 92 referrals were reviewed.

#### **3.1.5.3 Eastern Arctic Area**

The Eastern Arctic Area received approximately 109 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 5% decrease of referrals since fiscal year 2005-2006 when 115 referrals were reviewed.

#### **3.1.5.4 Prairies Area**

The Prairies Area received approximately 1,868 referrals describing a variety of proposed works or undertakings that could potentially affect fish habitat. This represents a 22% decrease of referrals since fiscal year 2005-2006 when 2,400 referrals were reviewed.

### **3.1.6 Pacific Region**

The Pacific Region received approximately 1,486 referrals describing a variety of proposed works or undertakings that could affect fish habitat. This represents a 12% decrease in referrals since fiscal year 2005-2006 when 1,696 referrals were reviewed.



### 3.2 Advice Provided and Authorizations Issued

<b>Table 3: Advice Provided and Authorizations Issued Fiscal Year 2006-2007</b>				
<b>REGION</b>	<b>Advice Provided to Proponent or Others<sup>5</sup></b>	<b>Operational Statements Provided as Advice</b>	<b>Authorizations Issued</b>	<b>TOTAL</b>
<b>Newfoundland and Labrador</b>	865	19	1	<b>885</b>
<b>Maritimes</b>	383	9	47	<b>439</b>
<b>Gulf</b>	260	0	9	<b>269</b>
<b>Quebec</b>	348	7	24	<b>379</b>
<b>Central and Arctic</b>	2,286	242	304 <sup>6</sup>	<b>2,832</b>
<b>Pacific</b>	586	26	50	<b>662</b>
<b>TOTAL</b>	<b>4,728</b>	<b>303</b>	<b>435</b>	<b>5,466</b>

<sup>5</sup> Advice provided to others includes: written advice to federal agencies, provincial/territorial/other agencies, letters of advice to proponents, letters of approval to proponents, mitigation measures provided to permitting agencies.

<sup>6</sup> Note that starting fiscal year 2006-2007 notification of the use of Class Authorizations are reported separately from authorizations issued, see Table 4.

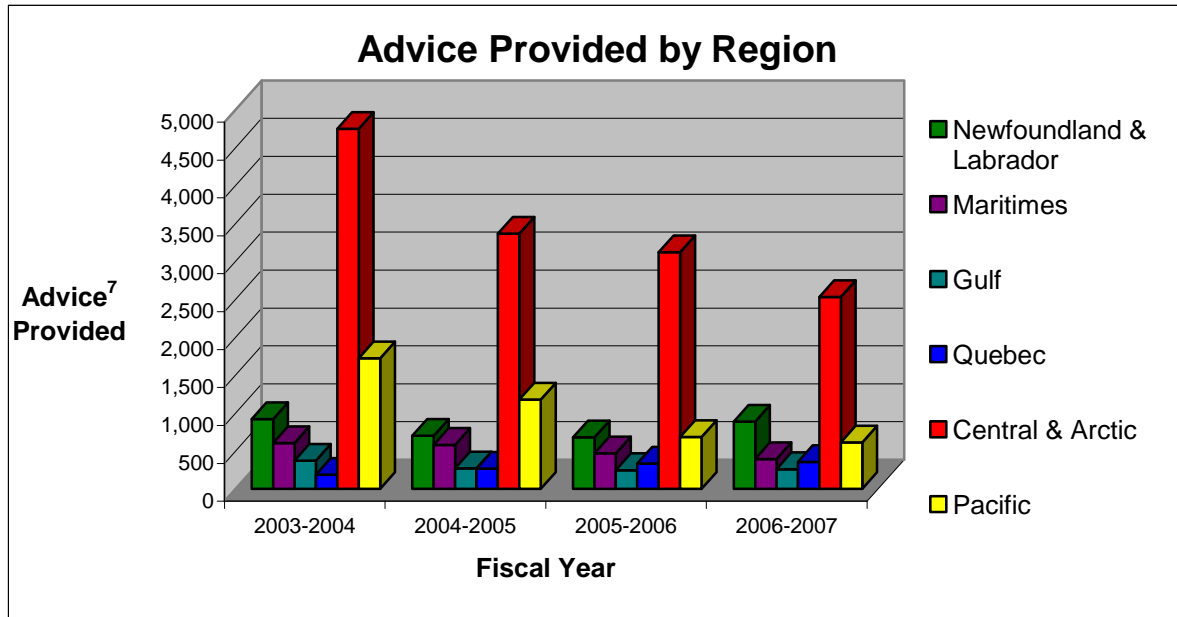


Figure 2: Advice Provided by Region

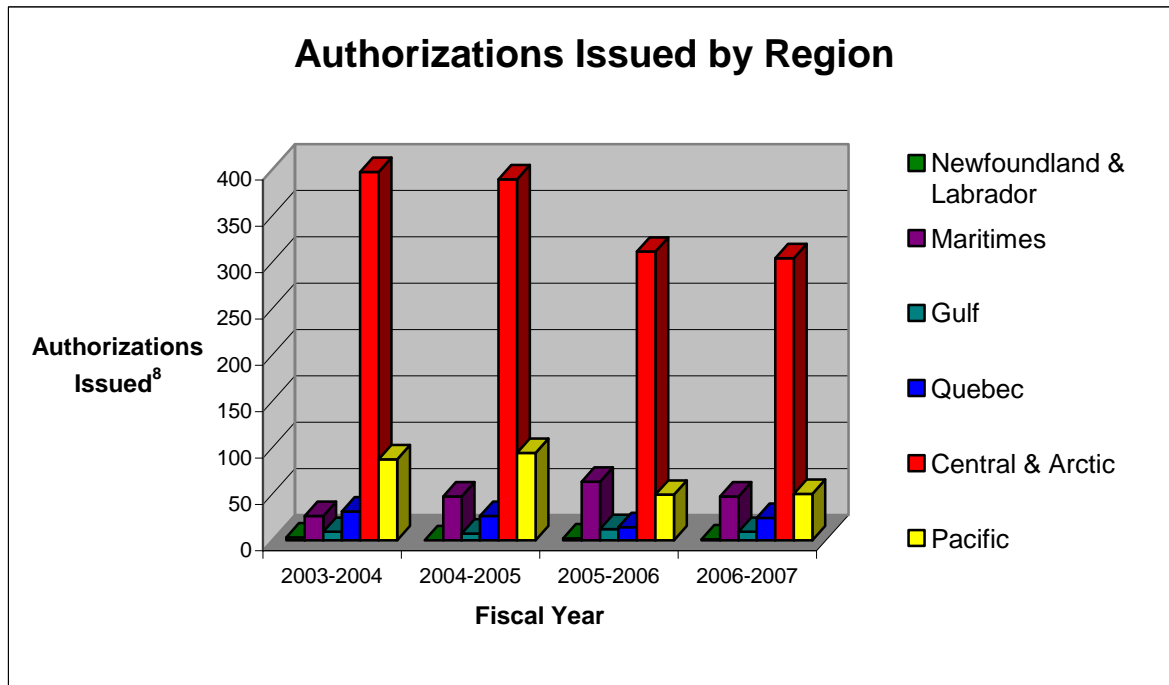


Figure 3: Authorizations Issued by Region

<sup>7</sup> As of 2005-2006, the advice provided includes Operational Statements provided as Advice (following receipt of referral).

<sup>8</sup> Notification of use of Class Authorizations are not included in this chart.

### **3.2.1 Newfoundland and Labrador Region**

The Newfoundland and Labrador Region provided formal advice to proponents, provincial, and federal agencies on approximately 884 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued one Authorization for the HADD of fish habitat.

### **3.2.2 Maritimes Region**

The Maritimes Region provided advice on approximately 392 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 47 Authorizations for the HADD of fish habitat.

### **3.2.3 Gulf Region**

The Gulf Region provided advice on approximately 260 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued nine Authorizations for the HADD of fish habitat.

### **3.2.4 Quebec Region**

The Quebec Region provided advice on approximately 355 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 24 Authorizations for the HADD of fish habitat.

### **3.2.5 Central and Arctic Region**

The Central and Arctic Region provided advice on approximately 2,528 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 304 Authorizations for the HADD of fish habitat.

Due to the large number of instances where this region provided advice, below is a further breakdown by regional area:

#### **3.2.5.1 Ontario–Great Lakes Area**

The Ontario-Great Lakes Area (OGLA) provided advice on approximately 1,025 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

OGLA issued 155 Authorizations for the HADD of fish habitat.

### **3.2.5.2 Western Arctic Area**

The Western Arctic Area provided advice on 127 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued nil Authorizations for the HADD of fish habitat.

### **3.2.5.3 Eastern Arctic Area**

The Eastern Arctic Area provided advice on approximately 40 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued one Authorizations for the HADD of fish habitat.

### **3.2.5.4 Prairies Area**

The Prairies Area provided advice on approximately 1,336 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Area issued 148 Authorizations for the HADD of fish habitat.

### **3.2.6 Pacific Region**

The Pacific Region provided advice on approximately 612 occasions regarding a variety of proposed works or undertakings that could affect fish habitat.

The Region issued 50 Authorizations for the HADD of fish habitat.

## **3.3 Notifications of use of Regulatory Streamlining Processes**

DFO reviewed the manner in which it has reported in the past with respect to Advice Provided and Authorizations Issued. As a result, starting in fiscal year 2006-2007 DFO will describe two distinct processes related to the use of regulatory streamlining tools that are tracked in the HMP's Program Activity Tracking for Habitat (PATH) system. The first process involves the use of the Class Authorization process for agricultural drain maintenance activities in Southern Ontario. This process was initiated in Ontario-Great Lakes Area in fiscal year 1999-2000. It provides the mechanism for proponents to notify DFO of the use of the "class" authorization for projects that meet the criteria, thereby eliminating the requirement for a proponent to submit a referral to DFO for review. The second involves notification of the use of Operational Statements, which provide up-front guidance to proponents for low-risk activities. Starting in fiscal year 2006-2007, DFO has added a new table to indicate the use of the Notification of Operational Statements and Class Authorizations.

In terms of data analysis, the upward trend in receipt of notifications is an indicator that certain regulatory streamlining tools were increasingly used by proponents. Further, an inverse relationship exists where an increase in the receipt of notification statements can be associated with a reduction in the number “referrals”.

<b>Table 4: Notifications of use of Class Authorizations and Operational Statements Fiscal Year 2006-2007</b>			
<b>REGION</b>	<b>Class Authorizations Notifications</b>	<b>Operational Statements Notifications</b>	<b>TOTAL</b>
<b>Newfoundland and Labrador</b>	0	48	<b>48</b>
<b>Maritimes</b>	0	1	<b>1</b>
<b>Gulf</b>	0	0	<b>0</b>
<b>Quebec</b>	0	5	<b>5</b>
<b>Central and Arctic</b>	124	1,262	<b>1,386</b>
<b>Pacific</b>	0	73	<b>73</b>
<b>TOTAL</b>	<b>124</b>	<b>1,389</b>	<b>1,513</b>

## **4.0 Compliance and Enforcement of the Fish Habitat Protection Provisions of the *Fisheries Act***

The DFO, Conservation and Protection Program (C&P) is responsible for monitoring compliance with legislation and regulations regarding the conservation of fisheries resources and fish habitat. The Minister of Fisheries and Oceans appoints Fishery Officers to enforce fisheries regulations and management plans as well as the habitat provisions of the *Fisheries Act*.

### **4.1 Legislative Basis and Application of the Compliance and Enforcement**

In addition to protecting fish habitat, Fishery Officers conduct at-sea patrols in coastal and inshore areas, monitor catches, conduct forensic investigations and audits, conduct inland patrols and provide information to fishers regarding government policies and regulations. The enforcement and compliance monitoring activities of Fishery Officers are key to protecting Canada's fish and fish habitat.

Measures to *promote compliance* include the following: communication of information; public education; consultation with parties affected by the habitat protection provisions of the *Fisheries Act*; and technical assistance as required.

*Enforcement* is achieved through the exercise or application of powers granted under legislation. Enforcement of habitat protection provisions is carried out through: inspections to monitor or verify compliance; investigations of alleged violations; the issuance of warnings, Inspector's Directions, Ministerial Orders, etc. without resorting to court action; and court actions such as injunctions, prosecution, court orders upon conviction and suits for recovery of costs.

The six Guiding Principles that govern the application of the *Fisheries Act* are identified in the *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act*<sup>9</sup> published in November 2001.

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<sup>9</sup> The full text of the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* can be found at: <http://www.ec.gc.ca/ele-ale/default.asp?lang=En&n=D6765D33-1>

## 4.2 Summary of DFO Habitat Enforcement Activities

Table 5: Summary of DFO Habitat Enforcement Activities Fiscal Year 2006-2007		
REGION	Warnings Issued	Charges Laid
Newfoundland & Labrador	3	0
Maritimes	5	0
Gulf	6	0
Quebec	4	0
Central & Arctic	12	6
Pacific	28	0
<b>TOTAL</b>	<b>58</b>	<b>6</b>

## 4.3 Convictions Reported Under the Habitat Protection Provisions of the *Fisheries Act*

Table 6: Convictions Reported under the Habitat Protection Provisions of the <i>Fisheries Act</i> Fiscal Year 2006-2007				
REGION	35(1)	36(3)	38(6)	TOTAL
Newfoundland & Labrador	2	0	0	2
Maritimes	1	0	0	1
Gulf	4	0	0	4
Quebec	0	0	0	0
Central & Arctic	0	0	0	0
Pacific	7	0	0	7
<b>TOTAL</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>14</b>

## 4.4 Summary of Convictions

Table 7: Summary of Convictions Fiscal Year 2006-2007								
REGION	Province	Area	Waterbody	Section	Project Description	Conviction Date	Fine	Sentence details
Pacific	British Columbia	NC	Thompson Creek (Coast District)	35(1)	Logged timber adjacent to a coho creek (Thompson Creek)	1-Nov-06	\$10,000	\$1,000 fine and \$9,000 pursuant to section 79.2 (f) of the <i>Fisheries Act</i> in trust to DFO for the preservation and restoration of the fish habitat in the Bulkley Valley.
Pacific	British Columbia	SC	Seaward end of Alberni Inlet	35(1)	Covered 65 m <sup>2</sup> of vegetation to build a driveway	21-July-06	\$1,500	Fine of \$100 and \$1,400 to the Alberni Valley Salmon Enhancement Society under subsection 79(2) of the <i>Fisheries Act</i> .
Pacific	British Columbia	NC	Nalbeelah Creek floodplain, and Kitimat River	35(1)	Extensive habitat alteration resulted from excavator retrieving a drift boat.	16-May-06	\$3,000	Offender A received a \$100 fine and ordered to pay \$2,900 for works for the conservation & preservation of fish habitat on the Kitimat River
Pacific	British Columbia	NC	Nalbeelah Creek floodplain, and Kitimat River	35(1)	Extensive habitat alteration resulted from excavator retrieving a drift boat.	16-May-06	\$3,000	Second accused received a \$100 fine and ordered to pay \$2,900 for works for the conservation & preservation of fish habitat on the Kitimat River



**Table 7:  
Summary of Convictions  
Fiscal Year 2006-2007**

REGION	Province	Area	Waterbody	Section	Project Description	Conviction Date	Fine	Sentence details
Pacific	British Columbia	NC	Nadu River, Queen Charlotte Islands	35(1)	Extensive alteration as a result of logging.	6-Apr-06	\$1,500	Offender A. \$100 fine and \$1,400 paid to DFO. In addition, remediation of the site will be carried out.
Pacific	British Columbia	NC	Nadu River, Queen Charlotte Islands	35(1)	Extensive alteration as a result of logging.	6-Apr-06	\$1,500	Offender B. \$100 fine and \$1,400 paid to DFO. In addition, remediation of the site will be carried out.
Nfld and Labrador	Newfoundland and Labrador	ENL	Hope Brook, Bay Roberts	35(1)	Operating an excavator within a stream	3-Apr-06	\$1,000	Offender A. Pleaded guilty and was fined \$1,000 each
Nfld and Labrador	Newfoundland and Labrador	ENL	Hope Brook, Bay Roberts	35(1)	Operating an excavator within a stream	3-Apr-06	\$1,000	Offender B. Pleaded guilty and was fined \$1,000 each
Maritimes	Nova Scotia	SWNS	Moser's Island	35(1)	Infill of fish habitat to build septic system	1-Sep-2006	\$750	Offender A. \$250 fine and \$500 donation to Bluenose Coastal Action Foundation
Maritimes	Nova Scotia	SWNS	Moser's Island	35(1)	Infill of fish habitat to build septic system	1-Sep-2006	\$750	Offender B. \$250 fine and \$500 donation to Bluenose Coastal Action Foundation
Gulf	New Brunswick	ENB	Cape Tormentine	35(1)	Extensive alteration as a result of construction.	7-Mar-2007	\$10,000	Offender A. \$10,000 fine or seizure of assets if fine not paid.

**Table 7:  
Summary of Convictions  
Fiscal Year 2006-2007**

<b>REGION</b>	<b>Province</b>	<b>Area</b>	<b>Waterbody</b>	<b>Section</b>	<b>Project Description</b>	<b>Conviction Date</b>	<b>Fine</b>	<b>Sentence details</b>
<b>Gulf</b>	New Brunswick	ENB	Cape Tormentine	35(1)	Extensive alteration as a result of construction.	7-Mar-2007	\$10,000	Offender B. \$10,000 fine, in default, 205 days in jail.
<b>Gulf</b>	New Brunswick	ENB	Cape Tormentine	35(1)	Extensive alteration as a result of construction.	7-Mar-2007	\$20,000	Offender C. \$10,000 fine and in addition, the court ordered that Offender C and Offender D must jointly pay out \$20,000 to the fish habitat branch, Gulf Region, to be utilized for the assessment, restoration and enhancement of fish habitat in the Cape Tormentine region.
<b>Gulf</b>	New Brunswick	ENB	Cape Tormentine	35(1)	Extensive alteration as a result of construction.	7-Mar-2007	\$20,000	Offender D. \$10,000 fine and in addition, the court ordered that Offender C and Offender D must jointly pay out \$20,000 to the fish habitat branch, Gulf Region, to be utilized for the assessment, restoration and enhancement of fish habitat in the Cape Tormentine region.

## **5.0 Administration and Enforcement of the Pollution Prevention Provisions of the *Fisheries Act***

In 1978, the Prime Minister confirmed the assignment, to the Minister of the Environment, of the responsibility for the enforcement of the pollution prevention provisions of the *Fisheries Act* - namely section 34 and sections 36 to 42 of the *Fisheries Act*. These sections of the Act deal with the deposit of deleterious substances into waters frequented by fish. In addition, a 1985 Memorandum of Understanding between DFO and EC outlines their respective responsibilities in the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*, and outlines several mechanisms to facilitate information sharing and cooperation.

EC develops sector-based strategies and undertakes activities to promote and secure compliance with the pollution prevention provisions of the *Fisheries Act*.

This section of the annual report provides an overview of two main programs that EC uses to fulfill its responsibilities in the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*. It also includes an update on the status of three bilateral agreements that involve the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*, and a brief review of some of the major issues, developments, and activities of fiscal year 2006-2007.

### **5.1 Environment Canada Programs**

In order to fulfill its obligations with respect to the pollution prevention provisions of the *Fisheries Act*, EC has implemented two major national programs: the Environmental Enforcement Program under the Enforcement Branch, and the Environmental Emergencies Program under the Environmental Stewardship Branch. Both programs operate within EC's five administrative regions (Atlantic, Quebec, Ontario, Prairie & Northern, and Pacific & Yukon).

#### **5.1.1 The Enforcement Branch**

Environment Canada's Enforcement Program aims to create and sustain the most effective and efficient environmental and wildlife law enforcement function in fulfillment of statutory requirements under the Acts administered by the Department.

EC's Enforcement Branch is headed by a Chief Enforcement Officer (CEO). The CEO has direct authority over all enforcement operations within EC's five regions through the National Directors of Environmental and Wildlife Enforcement at headquarters and the Directors of Enforcement within the regions for both those subject areas. A number of

services, including training and assisting in the development of the policy direction necessary for the efficient functioning of the Enforcement Branch is being provided by a third National Directorate, namely the Enforcement Services. The Branch's operations focus on verifying compliance, identifying instances of non-compliance and taking appropriate measures to enforce compliance. This is done through three principal activities:

- *Inspections:* Annual National Inspection Plans identifying priority areas for the coming year are developed in consultation with EC programs and enforcement partners. Inspection findings and intelligence estimates are often the starting point for investigations;
- *Investigations:* Investigations are triggered by inspection results, intelligence or public complaints/requests;
- *Intelligence:* On-going information collection and analysis of compliance activities and emerging non-compliance issues within regulated sectors to identify potential violators. Production of intelligence reports for internal consumption to support enforcement decision making and information to national and international partners as appropriate.

### **5.1.2 The Environmental Enforcement Directorate**

In order for the Environmental Enforcement Directorate to meet its mandate to secure compliance with subsection 36(3) of the *Fisheries Act* and with six regulations made under subsection 36(5) of that Act, EC fishery inspectors/fishery officers in the Department's five administrative regions conduct inspections and investigations into the deposit of deleterious substances into water frequented by fish. In the event of alleged violations, they may also apply a number of enforcement tools including issuing written warnings or directions and laying charges. In selecting appropriate enforcement measures, EC fishery inspectors/fishery officers consider the following criteria set down in policy:

- The nature of the violation (seriousness of harm, intent of the violator, compliance history, attempts to conceal information or obstruct);
- The effectiveness of the measure in achieving the desired result (general result sought is compliance within the shortest time with no further occurrence);
- Consistency in enforcement (consistency in responses to violations so similar situations are addressed in a similar fashion across regulated communities and across the country).

The *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* is used to guide EC fishery inspectors/fishery officers in the fair, predictable and consistent application of the law. EC fishery inspectors/fishery officers also use an electronic database called the National Emergencies and Enforcement Management Information System and Intelligence System to record, track, and analyze enforcement activities.

### 5.1.3 The Environmental Emergencies Program

EC's Environmental Emergencies Program plays an important role concerning the response to the deposit of deleterious substances in water frequented by fish. Subsection 38(5) of the *Fisheries Act* states that persons who own or are responsible for a deleterious substance, or persons who cause or contribute to a deposit of the deleterious substance in water frequented by fish, must "take all reasonable measures consistent with safety and with the conservation of fish and fish habitat" to prevent the deposit or, where that deposit actually does occur, "to counteract, mitigate or remedy any adverse effects that result".

If a spill, or other deposit out of the normal course of events occurs, Environmental Emergencies Program personnel provide environmental and technical advice to the responsible parties, environmental response organizations and to other levels of government. In addition, Environmental Emergencies personnel:

- receive notifications and reports of spills, leaks and deposits of deleterious substances in water frequented by fish in Canadian and trans-boundary waters;
- access the site of the deposits of deleterious substances in water frequented by fish, in order to observe or to carry out spill response activities;
- collect and analyze relevant information at the site of the deposit;
- issue inspector's directions requiring the responsible parties to take remedial or preventive measures, should they fail to take all reasonable measures to prevent the deleterious deposit as required under subsection 38(5) of the *Fisheries Act*, or to counteract, mitigate, or remedy any adverse effects that result from the deposit; and
- support enforcement actions, when required, by collecting and preserving evidence under exigent circumstances or when encountered in plain view.

In fiscal year 2006-2007, EC's Environmental Emergency Officers, who are designated as inspectors under the *Fisheries Act*, conducted 82 on-site inspections to verify that the responsible parties complied with subsection 38(5) of the *Fisheries Act*.

The scope and nature of on-site inspections conducted by Environmental Emergency Officers varies across EC's five regions depending on the location of the incident, the responsible parties and arrangements that exist with other jurisdictions. Efforts are made to ensure that the environment is protected against deposits of deleterious substances in water frequented by fish while minimizing duplication of administrative effort between the federal, provincial and territorial governments.

The Environmental Emergencies Program also coordinates the activities of the Regional Environmental Emergencies Teams in EC's five administrative regions. These are interdisciplinary, interdepartmental, multi-stakeholder teams that provide agencies involved in an environmental emergency response with consolidated advice and scientific information on environmental protection, environmental damage assessment, clean-up measures and the disposal of waste resulting from clean up activities.

#### 5.1.4 Enforcement activities and measures

Enforcement activities and measures are described below in Table 8. This table refers to the number of inspections and investigations carried out under the *Fisheries Act* during fiscal year 2006-2007. The following explanations should be noted with respect to the Table:

- An **inspection** is an activity that involves verification of compliance with the environmental or wildlife legislation administered, in whole or in part, by Environment Canada. Only closed files using the end date are tabulated. The number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations.
- An **investigation** is the gathering and analyzing, from a variety of sources, of evidence and information relevant to a suspected violation where there are reasonable grounds to believe that an offence has been, is being or is about to be committed with regard to the environmental or wildlife legislation administered, in whole or in part, by Environment Canada. Investigations are tabulated by the number of investigations files, based on Start Date of the investigation. An investigation file may include activities also relating to another piece of legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add up to equal the total at the legislation level.
- The measures such as Inspection Tickets, Written Warnings, Written Directions, Injunctions, Ministerial Orders and Environmental Protection Compliance Orders are tabulated at the section level of a regulation. For example, if the outcome of an inspection is the issuance of a written warning which relates to three sections of a given regulation, the number of written warnings is three.
- **Prosecutions:** The number of prosecutions is represented by the number of regulatees that were prosecuted by charged date regardless of the number of regulations involved (including Tickets).
- **Environmental Protection Alternative Measures (EPAM):** The number of EPAMs is represented by the number of regulatees who signed EPAMs by the charged date regardless of the number of regulations involved.
- **Charges:** The number of charges (excluding tickets) is tabulated at the section level of the regulation by charge date, by regulatee.
- **Counts:** The number of counts (excluding tickets) is tabulated at the section level of the regulation, by offence date relating to the regulatee's charge.
- **Convictions:** The number of convictions (excluding tickets) is represented by the number of counts where the regulatee was found guilty or pleaded guilty.
- **Investigation Tickets:** It is tabulated at the section level of the regulation by charge date, by regulatee.
- (-) Means no activity or measure for the report period



**Table 8:  
Enforcement Activities and Measures Carried Out under *Fisheries Act*  
Fiscal Year 2006-2007**

National	Inspections <sup>10</sup>			Investigations <sup>11</sup>	Enforcement measures				
	Total	Off-site	On-site		Prosecutions	Charges	Convictions	Written Directives	Written Warnings
<b>FA - Fisheries Act</b>	<b>3,439</b>	<b>2,746</b>	<b>693</b>	<b>35</b>	<b>4</b>	<b>8</b>	<b>3</b>	<b>23</b>	<b>198</b>
General Prohibition	1,403	872	531	32	4	8	3	23	112
Alice Arm Tailings Deposit	1	1	-	-	-	-	-	-	-
Chlor-Alkali Mercury Liquid Effluent and Guidelines	10	10	-	-	-	-	-	-	-
Meat and Poultry Products Plant Liquid Effluent and Guidelines	71	66	5	-	-	-	-	-	-
Petroleum Refinery Liquid Effluent and Guidelines	78	74	4	-	-	-	-	-	-
Port Alberni Pulp and Paper Effluent	1	1	-	-	-	-	-	-	-
Potato Processing Plant Liquid Effluent and Guidelines	67	62	5	-	-	-	-	-	-
Pulp and Paper Effluent	1,366	1,289	77	5	-	-	-	-	35
Guidelines for Effluent Quality and Wastewater Treatment at Federal Establishments	2	-	2	-	-	-	-	-	-
Metal Mining Effluent	440	371	69	2	-	-	-	-	51

**Additional statistics:**

There were 78 Referrals to another federal/provincial or municipal government or department.

**Investigation Breakdown:****# of Investigations**

Investigation Started and Ended in FY 2006-2007	12
Investigation Started in FY 2006-2007 and still on-going at end of FY 2006-2007	23
Investigation Started before FY 2006-2007 and ended in FY 2006-2007	23
Investigation Started before FY 2006-2007 and still ongoing at end of FY 2006-2007	48

<sup>10</sup> **Number of Inspections - new way of counting:** Only closed files using the end date are tabulated. The number of inspections relates to the number of regulatees inspected for compliance under each of the applicable regulations.

<sup>11</sup> **Number of Investigations:** Investigations are tabulated by number of investigations files, based on Start Date of the investigation. An investigation file may include activities relating also to another legislation and may include one or more regulations. Therefore, the total number of investigations shown by regulation may not add to the total at the legislation level.

## **5.2 Fisheries Act Enforcement Highlights**

### **5.2.1 Regulations**

#### ***Pulp and Paper Effluent***

On May 16, 2006, Spruce Falls Inc. was ordered by the Court of Quebec to pay a penalty totalling \$750,000, consisting of a \$250,000 fine and the obligation to pay \$500,000 to the Environmental Damages Fund administered by Environment Canada. Spruce Falls Inc. pleaded guilty to having deposited 16 times between April 9, 2003, and December 14, 2004, a deleterious substance (final effluent from the biological treatment system) into the waters of the Ottawa River, thus contravening subsection 36(3) of the *Fisheries Act*. In addition, twice there was a failure to monitor the final effluent from the biological treatment system. Finally, the company failed to comply in part, between March 1, 2004, and June 14, 2004, with a directive issued by an inspector under subsection 38(6) of the *Fisheries Act*, requiring the putting in place of the necessary measures to prevent recurrence of the depositing, out of the normal course of events, of deleterious substances. The charges had been laid following an investigation conducted by officers of EC's Environmental Enforcement Division, Quebec Region.

### **5.2.2 General prohibition**

A municipality in the province of Quebec was to carry out repair work on its wastewater treatment facilities that required discharging wastewater effluent directly into the Chambly Basin for approximately one month. In a meeting with city officials, EC fishery inspectors/fishery officers requested mitigation measures since the project, as planned, would have contravened subsection 36(3) of the *Fisheries Act*. Following these discussions, the municipality set up a provisional treatment system for the duration of the repair work. These measures were undertaken by the municipality in a spirit of cooperation, without the need for any formal enforcement action.

On April 26, 2006, in a landmark decision, a judge in New Brunswick convicted an environmental engineering consulting company and one of its senior engineers, of offences under the general provisions of the *Fisheries Act*, related to the faulty decommissioning of a large municipal landfill. The defendants were hired by the City of Moncton to provide closure options for the former Moncton landfill and were also contracted by the City of Moncton to implement the closure plan that it had recommended. The defendants were convicted because they designed, recommended, and implemented a landfill closure plan predicated on depositing landfill leachate (contaminated runoff) into waters frequented by fish. The conviction has been upheld through two appeals including, most recently, to the Court of Queen's Bench of New Brunswick.

On March 8, 2004 a drilling company received a Sentencing Order pursuant to subsection 79(2) of the *Fisheries Act* as a result of a conviction for a violation of subsection 36(3) of the *Fisheries Act* that occurred on December 20, 2000 for permitting the



release of bentonite drilling mud into Gunderson Creek near Grande Prairie, Alberta. One of the requirements of the Order was that the company publish an article before the end of September 2004 in a publication widely available to the horizontal drilling industry within Alberta relating to the commission of the offence. The company did not publish the article until October 2006 and was charged and convicted of an offence under subsection 79(6) of the *Fisheries Act* for failing to comply with the Order. The company was fined \$7,500.

A mining company was sentenced in Nunavut Territorial Court in Cambridge Bay on March 12, 2007 to a penalty of \$100,000 for a violation of subsection 36(3) of the *Fisheries Act*. The company had entered a guilty plea to the charge on January 15, 2007. Upon the court's acceptance of the guilty plea by the mining company, other related charges against the company and four related companies were stayed. The charges were laid by Environment Canada following an incident in June 2004 when 19,000 litres of P40 diesel fuel were released into the waters of Windy Lake, Nunavut. The penalty includes a fine of \$10,000 and a payment of \$90,000 to the Environmental Damages Fund.

Agriculture-related (i.e. cattle in streams, manure) complaints continued to be a problem in fiscal year 2006-2007. The Saskatchewan District of Environment Canada worked jointly with Saskatchewan Environment, DFO, the Saskatchewan Watershed Authority and Saskatchewan Agriculture & Food to try and resolve the problems. A total of ten field inspections were conducted in relation to agriculture complaints. This resulted in four Inspector's Directions being issued.

Enforcement Officers from EC's Pacific and Yukon Region conducted an investigation against the West Fraser Timber Company Ltd, with the assistance of the British Columbia Conservation Officer Service and DFO into a spill that occurred at the Eurocan Pulp and Paper Mill in Kitimat, B.C. between December 10 and 13, 2002. On September 26, 2006, the West Fraser Timber Company Ltd pled guilty to violations of the provincial *Waste Management Act* and the federal *Fisheries Act*. As a result of the investigation, charges were laid against the company, which was fined \$1,000 and ordered to pay \$49,000 to the Habitat Conservation Trust Fund for violations under the provincial *Waste Management Act*. It was also fined \$1,000 and ordered to pay \$49,000 to the Minister of Environment for the conservation and protection of fish habitat for violating of subsection 36(3) of the *Fisheries Act*. The courts directed that the federal penalty be spent under the Direction of the Manager, Central and Northern B.C. Enforcement Section and DFO for Environmental Protection Studies at the University of Northern British Columbia addressing the conservation and protection of fish habitat.

### **5.2.3 Agreements**

The *Canada-Alberta Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* entered into force on September 1, 1994. The agreement, establishes the terms and conditions for the cooperative administration of subsection 36(3) and the related provisions of the *Fisheries Act*, as well as regulations under the *Fisheries Act* and the *Alberta Environmental Protection and Enhancement Act*. The Agreement streamlines and coordinates the regulatory activities of EC and Alberta Environment in relation to the

protection of fisheries, and reduces duplication of regulatory requirements for regulatees. During the fiscal year 2006-2007, Alberta Environment reported 1,450 incidents to EC, of which 352 were related to the *Fisheries Act*. This collaboration led to 240 (onsite and offsite) inspections and five investigations.

In order to facilitate the cooperative administration of subsection 36(3) of the *Fisheries Act* and its accompanying regulations, Environment Canada maintains bilateral agreements with Saskatchewan. The *Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* sets out the principles for cooperation and identifies a preliminary list of activities where detailed collaborative arrangements could be developed. Existing collaborative arrangements are described in the five annexes to the agreement. In the fiscal year 2006-2007, Saskatchewan Environment conducted one joint inspection under the *Pulp and Paper Effluent Regulations (PPER)* with Environment Canada. Weyerhaeuser Prince Albert mill has been closed since March 28, 2006. Saskatchewan Environment reported 474 spills to Environment Canada, of which 28 were related to the *Fisheries Act*. These calls led to nine inspections and six investigations. In addition, Saskatchewan Environment forwarded three TIP calls relating to the *Fisheries Act*, which resulted in one inspection. Environment Canada is in the process of renegotiating the *Canada-Saskatchewan Administrative Agreement for the Control of Deposits of Deleterious Substances under the Fisheries Act* with Saskatchewan Environment.

The *Canada-Quebec Pulp and Paper Agreement* expired on March 31, 2007 and negotiations to renew the agreement are under way. The agreement enables the Environment Ministry of Quebec to act as a “single window” with the pulp and paper industry for the gathering of information required pursuant to the *PPER*, the *Fisheries Act*, and two other regulations under the *Canadian Environmental Protection Act, 1999*. The agreement puts a cooperative procedure in place between the Environment Ministry of Quebec and EC with respect to regulating the pulp and paper industry.

In March 2006, EC, DFO and the Canada-Nova Scotia Offshore Petroleum Board signed a joint work plan for activities relating to the offshore oil and gas sector. A Memorandum of Understanding, originally signed in 1999, commits the three agencies to develop annually a shared work plan with regards to environmental protection issues. In this work plan, a renewed commitment was made towards joint enforcement ventures, including inspections, audits and investigations. This MOU and work plan have functioned well through fiscal year 2006-2007 and continue to provide efficiencies and other benefits to both agencies.

## **5.3 Compliance Promotion Activities**

### **5.3.1 Pulp and Paper**

In fiscal year 2006-2007, EC initiated consultations on proposed amendments to the *PPER*. The proposed amendments are a result of operational experience gained through implementing the environmental effects monitoring (EEM) requirements, as well as feedback

from a multi-stakeholder group of policy experts brought together to work on the Smart Regulation Project on *Improving the Effectiveness and Efficiency of Pulp and Paper EEM*. The proposed amendments are intended to improve the *PPER*, so that the pulp and paper EEM requirements are more effective and efficient. More information on the proposed amendments can be found at <http://www.ec.gc.ca/eem>

Ongoing compliance promotion activities, meetings and site visits on the EEM program for operating mills subject to the *PPER*, were conducted in several provinces and advice was provided on EEM study designs to these facilities.

This year, the Regulatory Information Submission System (RISS) for pulp and paper mills was rolled out in the Atlantic and Pacific Regions. RISS is a Web-based reporting tool used by industry to report mandatory data as required under *PPER*.

### **5.3.2 Metal Mines**

Information on the *Metal Mining Effluent Regulations (MMER)* was given to regulated and operating mines, advanced exploration projects and exploration projects. Regulated mines were notified of amendments to the regulations in November 2006. Twenty-eight mining projects received formal compliance promotion notification letters to advise them of their responsibilities under the regulations and the *Fisheries Act*. Twenty-seven advanced exploration projects have been identified in Ontario and work began to estimate how many new facilities could become regulated in 2007-2008 and subsequent years. A national compliance promotion program was initiated in Ontario aimed at addressing issues with the testing protocols for acute lethality testing using rainbow trout and *Daphnia magna*. The regulated community and testing laboratory consultants will be informed. Compliance promotion, education and awareness of *MMER* requirements are often provided to new mines or mining projects during the EA process or through the provincial permitting process when required. The department was actively involved in EAs for new or expanding mining projects across the country.

During fiscal year 2006-2007, EC reviewed EEM study designs, interpretive reports and provided advice on compliance with the *Metal Mining Effluent Regulations*, the EEM requirements and subsection 36(3) of the *Fisheries Act* to several new metal mines.

By June 2006, the first phase of EEM results had been submitted by 68 mines operating in Canada, as required by *MMER*. A major multi-stakeholder review of the EEM program was also conducted in fiscal year 2006-2007, and about 40 recommendations are expected to be submitted for EC's consideration.

In fiscal year 2006-2007, to improve the identification process for new and re-opened mining projects, Ontario Region entered into an agreement with the Ontario Ministry of Northern Development and Mines to receive copies of Notices of Project Status under the Ontario *Mining Act*. Notices have been received for ten advanced exploration projects and for nine production projects resulting in an improved position to provide *MMER* compliance

promotion information in a timely manner. In Ontario, advanced exploration projects are classified as operations that excavate greater than 1,000 tonnes of ore and production status is given to projects that produce mineral for immediate sale or stockpiling for future sale.

### **5.3.3 Wastewater**

During fiscal year 2006-2007, Environment Canada provided compliance advice, related to the *Fisheries Act*, on more than 50 wastewater treatment projects reviewed under the *CEAA*.

Environment Canada recognizes the key role that provinces and territories play in the management of the wastewater and is working with these jurisdictions and other stakeholders through the Canadian Council of Ministers of the Environment (CCME). In November 2003, the CCME agreed to develop a Canada-wide Strategy for the management of municipal wastewater effluents. The strategy, to be completed in 2007, will include:

- a harmonized regulatory framework;
- coordinated science and research; and
- an environmental risk management model.

Environment Canada intends to develop wastewater effluent regulations under the *Fisheries Act* as its principal instrument to contribute to the implementation of the Canada-wide Strategy. The regulations will include national standards and be applied in a harmonized regulatory framework with the provinces and territories. The desired outcomes is one set of standards applied in a fair, consistent, and predictable manner and to ensure that the release of wastewater effluent does not pose unacceptable risks to human and ecosystem health or fisheries resources.

Environment Canada regularly provides information to municipal, provincial government representatives, other government departments and First Nations on the Canada-wide Strategy for wastewater effluent management.

### **5.3.4 Shellfish Sanitation – Water Quality Monitoring**

In fiscal year 2006-2007, the total area assessed in Canada increased from 15,529 km<sup>2</sup> to 15,684 km<sup>2</sup>, the total area approved for harvest increased from 9,872 km<sup>2</sup> to 10,003 km<sup>2</sup>, the total area conditionally approved increased from 460 km<sup>2</sup> to 463 km<sup>2</sup>, and the total area closed for harvest increased from 5,197 km<sup>2</sup> to 5,218 km<sup>2</sup>.

In fiscal year 2006-2007, EC in the Atlantic provinces, together with its partners, conducted growing area surveys in eastern and southwestern New Brunswick; portions of the north and eastern coasts of Newfoundland; the Eastern Shore, Annapolis Basin, Bras d'Or Lakes and portions of the Northumberland Strait in Nova Scotia; and all growing areas of Prince Edward Island. In Quebec, EC conducted growing area surveys on portions of the North Shore, the Magdalen Islands, the Gaspé and the Lower St. Lawrence. On the Pacific coast, EC together with its partners and stakeholders conducted water quality monitoring surveys in

most shellfish growing areas in the Pacific region. Nationally the majority of surveys were re-evaluations of existing classified areas; there were some comprehensive surveys resulting in a few new harvest areas.

Additionally, EC provided guidance to a number of community projects funded through EcoAction and the New Brunswick Environmental Trust Fund to identify and remediate selected pollution sources that were suspected to adversely affect shellfish water quality in Eastern New Brunswick. Although the results of these projects are unlikely to have an immediate effect on shellfish classification, it is expected that they will help stem the potential degradation of water quality. The results will be evaluated through EC's routine re-evaluation surveys of the nearby growing areas.

The Canadian Shellfish Sanitation Program partners in Quebec continued to update information for its new internet portal (<http://www.mollusca.gc.ca/>) on shellfish classified areas launched in March 2005. This portal provides information on the status on classified areas in this province.

On the Pacific coast, EC's compliance promotion activities coupled with collaboration with BC's Provincial Environmental Health Officers, resulted in the removal of unapproved sewage discharges and the removal of some sanitary shellfish closures on the BC south coast-mainland, east and west of Vancouver Island and the north coast.

### **5.3.5 Deleterious Substances**

During the fiscal year 2006-2007, EC drafted a BMPs fact sheet on riparian buffers geared to municipal planners. This document supports a proactive approach to protecting the estuarine and marine environment under the *National Programme of Action for the Protection of the Marine Environment from Land-based Activities* (NPA). The NPA responds to an international call to protect the marine environment through coordinated actions at local, regional, national and global levels.

EC in the Atlantic Provinces continued to deliver the *Operation Clean Feather* Program. The program delivers information to the shipping industry, through ship visits. It provides information on the negative effects of waste oil releases in marine waters and the environment. A new brochure has been printed in 10 different languages and is distributed during ship visits. The brochure is endorsed by EC, the Canada Shipping Federation and World Wildlife Fund. It focuses on the effect of releases on marine seabirds. Ninety-six ships were visited in a variety of Atlantic Region ports, and compliance promotion materials distributed to ships and port personnel. A DVD video "Silent Disaster" was distributed to marine shipping industry representatives.

### **5.3.6 Contaminated Sites**

Contaminated Site programs work to mitigate, reduce and/or eliminate negative impacts from contaminated sites on the environment and on human health. During fiscal year 2006-2007,

EC provided ongoing scientific and technical advice related to contaminated sites (federal and non-federal sites) and potential *Fisheries Act* implications for more than 230 sites through various avenues including the Federal Contaminated Sites Action Plan (FCSAP), compliance promotion activities, and EAs. Through its secretariat and expert support role in FCSAP, EC provided expert advice to custodial departments of contaminated sites as well as scored and ranked applications for funding through FCSAP.

EC also provided compliance promotion information during the assessment and remediation stages of a number of contaminated sites, and through its participation on close to 40 technical working groups.

### **5.3.7 Pollution Prevention**

#### ***Fin Fish Farms***

EC collaborated with the University of Guelph Aquaculture Centre on two projects to look at physical and chemical characteristics of rainbow trout fecal waste. These projects will generate information that can be used for assessing potential environmental impacts and for development of wastewater treatment in land-based aquaculture.

The Ontario Sustainable Aquaculture Working Group is completing analyses of the data for a project to look at the level of contaminants in certain rainbow trout feeds. The working group includes members from EC, the provincial government, fish farmers, Ontario aquaculture association representatives and scientists from the University of Guelph Aquaculture Centre. The major tasks of the working group are to test and develop verifiable approaches to maintain acceptable water quality and fish habitat in the vicinity of aquaculture operations and to make recommendations for an environmentally sustainable aquaculture industry.

#### ***Metal Finishers***

The Atlantic Metal Finishing project had positive feedback from the 12 companies who participated in the general program, and the six companies who received detailed evaluations. Each of these last six companies received a confidential Canadian Association of Metal Finishers (CAMF) report on their compliance status, and another on eco-efficiency options. EC received an amalgamated version of these reports. In follow-up surveys, five out of seven respondents reported changes in procedures or plant layout to improve their environmental performance, while others plan to take similar action in the future.

APC Coatings (formerly ARGO Protective Coatings Inc.) from Dartmouth (NS), a program participant, was the recipient of the CAMF Pollution Prevention Award on November 8, 2005 for showing strong eco-efficiency leadership.

#### ***Clean Boating***

EC program staff and enforcement officers from the Pacific and Yukon Region facilitated three Boat Hull Maintenance BMPs Workshops in Vancouver, Nanaimo and Victoria in October 2006 as part of a three-year compliance and enforcement project. This initiative is intended to encourage adoption of BMPs to reduce pollution from hull maintenance activities and brought together the boating community, wastewater treatment system industry and

various levels of government to discuss the effective prevention of anti-fouling paint residues entering the aquatic environment during paint removal activities. Compliance promotion activities continued in fiscal year 2006-2007, to raise awareness of the boatyards program. Brochures on BMPs were developed and distributed at information booths at various events such as the Vancouver and Victoria Boat Shows. Presentations on the status of the program were made at various Coast Guard Local Marine Advisory Council and Transport Canada's Recreational Boating Advisory Council meetings, as well as at the Harbour Authority Association of BC annual conference. In consultation with the stakeholders, EC designed and produced three best management practice signs for use at marinas, boatyards and harbours. Over 500 signs have been distributed to 110 facilities in BC to date. The three-part compliance and enforcement project for this sector will continue with phase two in 2007-2008. A Website with information on BMPs for boatyards can be found at: <http://www.pyr.ec.gc.ca/boatyards>.

EC Atlantic staff provided input in response to an inquiry from SNC Lavalin requesting assistance in updating environmental aspects of ship hull maintenance contracts for the Department of National Defence including information on sampling, handling and disposal of used materials.

#### ***Agriculture***

EC partnered with provincial governments to help lead the Environmental Farm Planning process under the Agricultural Policy Framework. Environmental Farm Planning is built around the concept of stewardship and is one of the primary approaches that EC is promoting with regards to livestock access to waterways. The Planning process provides an excellent venue for EC to promote the stewardship approach since many funding programs require that producers complete an Environmental Farm Plan in order to be eligible for sources of funding.

Under the Adopt-a-Watershed pilot project, *Fisheries Act* compliance promotion activities were conducted at approximately 500 sites in four priority watersheds in Ontario by local community working groups (site visits). Twenty nine projects have been initiated or have been completed in fiscal year 2006-2007 by the community working groups to reduce the release of deleterious substance into fish bearing waters. In addition, approximately 45 projects have been identified as having the potential to reduce/eliminate violations to the *Fisheries Act* in the priority watersheds. Ontario Region is currently seeking financial assistance for some of these projects to assist landowners to comply with the *Act*. Compliance promotion material was distributed at three farm shows in priority watersheds. The region supported the activities of the four priority watersheds pilot project community working groups and the Conservation Authorities by providing direction, training, supplying educational materials, organizing meetings, site visits and conference calls.

EC worked with the local Conservation Authority to bring two farmers into compliance with the *Fisheries Act* in response to complaints from the public. EC also provided advice on EcoAgriculture BioFuels Capital Initiative: EA Guidelines for Screening Level Assessments of Biogas (ethanol).

Over 60% of manure spills in Ontario are from subsurface runoff of liquid manure via field tiles. EC Ontario produced 4,100 tile outlet and 1,000 tile inlet markers to identify tile inlets and outlets. Over 40 drainage superintendents and Ontario Ministry of the Environment agriculture officers will be installing them in 2007-2008. The “Liquid Manure Application TIPS for Tiled Fields” brochure will be distributed with the markers to assist landowners with the application of liquid manure to comply with the requirements of the *Act*. The markers will remind landowners to monitor the tile outlets when they are applying manure and in case of a spill, it will facilitate landowners and inspectors to locate the source of the spill to contain it. This is all done to prevent the release of deleterious substances into waters frequented by fish.

Four sites have been located and supplies have been purchased to install alternate watering systems as a demonstration project/research on properties where fencing can not be done to restrict cattle from waters frequented by fish like in flood plains or areas too large to fence.

Environment Canada updated guidelines/standard conditions relating to “Pesticide Free and Buffer Zones” for ongoing comment to BC Ministry of Environment Pesticide Use Permits.

Environment Canada also coordinated the Wireworm Task Force, a stakeholder group whose aim is to develop and implement non-chemical means of controlling the wireworm pest in BC. Assessments of various pesticides used in BC were conducted in order to provide information to the Pest Management Regulatory Agency for pesticide re-evaluation purposes.

Environment Canada conducted an assessment of methoprene application to storm drains in the City of Richmond to determine levels of this substance and transformation products released to the surface waters. Methoprene is a chemical insecticide for the control of mosquito larvae. The study was undertaken to inform the development advice to stakeholders respecting environmental considerations associated with methoprene use. EC officials were also asked to provide advice on several proposals or commercial operations. In particular, EC officials were asked to provide advice on West Nile mosquito larviciding proposals and on the potential impacts of thermal water discharges.

#### ***Non-Metal Mines***

EC provided guidance, through the EA process (federal and/or provincial), to a number of coal mines, gravel or aggregates pits and quarries with respect to requirements under subsection 36(3) of the *Fisheries Act*.

#### ***Fish Habitat***

In fiscal year 2006-2007, approximately 760 federal EAs were active for projects with a *Fisheries Act* trigger. These projects ranged in size from small-scale, local initiatives such as river bank stabilization projects, to large natural resource developments like oil sands production. EC contributed relevant expertise as a federal authority to many of these EAs, in areas related to prediction, mitigation and verification of impacts on aquatic environments.



***Unregulated Food Sector Issues (i.e. Fish processing, vegetable processing, beverage production, etc.)***

EC continued to work to better understand the potential impacts of effluents from seafood processing plants. Data gaps were identified, and a multi-year project was initiated to address these gaps, undertake a risk assessment, and ultimately identify an appropriate risk management strategy. An Expert Advisory Group including government departments (federal and provincial), academia, and industry was established, and met in November 2006. The data collection phase of the project is on-going.

***Oil and Gas***

EC reviewed the interpretative report for an EEM study for one offshore site and an update of the EEM plan for another offshore site in Newfoundland and Labrador and provided advice to the proponents. EC also reviewed the EEM results and plan for 2007 for one natural gas production facility in offshore Nova Scotia. The Department also reviewed compliance monitoring reports as per the *Offshore Wastewater Treatment Guidelines* and participated in an Environmental Science Research Fund project regarding Oil on Cuttings Treatment.

## 6.0 List of Abbreviations

BMP	Best Management Practices
C&P	Conservation & Protection
CAMF	Canadian Association of Metal Finishers
CCME	Canadian Council of Ministers of the Environment
<i>CEAA</i>	<i>Canadian Environmental Assessment Act</i>
CEO	Chief Enforcement Officer
DFO	Fisheries and Oceans Canada
EA	Environmental Assessment
EC	Environment Canada
EEM	environmental effects monitoring
EIS	environmental impact statement
EPAM	Environmental Protection Alternative Measures
EPMP	Environmental Process Modernization Plan
FCSAP	Federal Contaminated Sites Action Plan
HADD	harmful alteration, disruption or destruction
HMP	Habitat Management Program
<i>MMER</i>	<i>Metal Mining Effluent Regulations</i>
NGO	non-governmental organization
NPA	National Programme of Action for the Protection of the Marine Environment from Land-based Activities
OGLA	Ontario-Great Lakes Area
OS	Operational Statements
PATH	Program Activity Tracking for Habitat
<i>PPER</i>	<i>Pulp and Paper Effluent Regulations</i>
RISS	Regulatory Information Submission System
RMF	Risk Management Framework
<i>SARA</i>	<i>Species at Risk Act</i>



**Annex:**  
**Habitat Protection and Pollution Prevention Provisions, *Fisheries Act***

Section	Intent
20	The Minister may require fish-ways to be constructed.
21	The Minister may authorize payment, order construction or removal or require fish stops or diverters for fish-ways.
22	The Minister may require sufficient flow of water for the safety of fish and flooding of spawning grounds as well as free passage of fish during construction.
26	Prohibits obstruction of fish passage through channels, rivers and streams. Also, the Minister may authorize devices to prevent the escape of fish.
27	Prohibits the damage or obstruction of fish-ways, the impediment of fish to fish-ways and nearby fishing.
28	Prohibits the use of explosives to hunt or kill fish.
30	The Minister may require fish guards or screens to prevent the entrainment of fish at any water diversion or intake.
32	Prohibits the destruction of fish by any means other than fishing.
34	Definitions used throughout sections 35 to 42.
35	Prohibits works or undertakings that may result in harmful alteration, disruption or destruction of fish habitat, unless authorized by the Minister or under regulations.
36	Prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized under regulations.
37	The Minister may request plans and specifications for works or undertakings that might affect fish or fish habitat. The Minister may, by regulations or with Governor-in-Council approval, make orders to restrict or close works or undertakings that may harmfully alter fish habitat or lead to the deposit of deleterious substances.
38	Gives the Minister the authority to appoint inspectors and analysts and describes inspectors' powers, including entry, search and the power to direct preventive, corrective or cleanup measures. Provides for regulations that require reporting of abnormal deposits of a deleterious substance or substances that occur in contravention of the general prohibition, regulations or site-specific authorizations.
40	Sets out penalties in case of a contravention of: sections 35 or 36; failing to provide information or to undertake a project in compliance with section 37; or failing to make a report or to otherwise comply with section 38.
42	Those causing the deposit of deleterious substances in waters frequented by fish are liable for costs incurred by Her Majesty. Also, the Minister shall prepare an annual report on administration and enforcement of the fish habitat protection and pollution prevention provisions of the <i>Fisheries Act</i> as well as a statistical summary of convictions under section 42.1.
43	The Governor in Council may make regulations for carrying out the purposes and provisions of the <i>Fisheries Act</i> , including habitat protection and pollution prevention.