

July -2009

## **Regional Habitat Regulatory Decision Framework**

Habitat Management Program  
Fisheries and Oceans Canada, Pacific Region

### **Purpose:**

The purpose of this framework is:

1. To provide a clear and transparent regional framework for categorizing and prioritizing projects requiring regulatory reviews (referrals)
2. To develop mechanisms for managing workloads in lower priority bins
3. To improve client communications

### **The Framework:**

#### **Context and Challenges**

A significant proportion of the Pacific Region Habitat Management Program is dedicated to regulatory review of development projects (referrals) that have the potential to negatively affect fish and fish habitat. In many parts of the region the current referral process is not sustainable and exceeds DFO capacity to service.

The clientele of the habitat program is very diverse as are the types, complexity, scope and size of projects that may be submitted to DFO for review. Across the region there are also significant differences in: DFO capacity and staff classification levels; size(s) of management area(s); nature and number of referrals received; and local relationships or partnerships with other regulatory agencies, FN's, ENGO's, municipalities or the public.

Despite a recent downturn in the global economy, energy projects such as independent hydro-power production; wind farms, shale oil and gas and coal bed methane exploration are increasing in BC and the infusion of federal economic stimulus funding under the "Build Canada" infrastructure programs are creating significant new demands for DFO regulatory project reviews.

Over the last decade habitat management responsibilities have also expanded significantly and now include additional regulatory obligations under CEAA, SARA, the Yukon Environmental and Socio-Economic Assessment Act and the National Energy Board Act. The habitat management program in Pacific Region also faced a series of FTE reductions over this period.

Accompanying this have been legal decisions and changes in provincial direction, both of which have had significant implications for the habitat program. For example in response to the 1989 Supreme Court decision (Friends of the Oldman River Society vs Canada ) the department deployed staff into non anadromous areas of South and North Eastern BC which had not previously been serviced. This expanded service delivery into new areas was accommodated by relocating existing staff without increasing the regional habitat FTE complement. In addition prior to 2000 DFO and the Provincial Ministry of Environment (MOE) had (subject to a 1986 agreement) developed a number of informal working relationships in many parts of the region which supported collaborative project reviews. The province often led the reviews of projects affecting provincially managed fish species while DFO led on projects affecting habitats of federally managed species. Following a series of resource reductions in 2001 BC MOE de-emphasized its role in fish habitat referrals leaving DFO with the responsibility for regulatory reviews of projects affecting all fish habitat in BC. This significantly increased the DFO habitat regulatory workload.

These demands and pressures on the program, along with increasing expectations from clients for greater service, more process transparency and enhanced predictability have created a number of significant and unique challenges for the habitat regulatory program in Pacific Region.

### **Framework Context**

This regulatory decision framework is one response to these challenges. The framework used in conjunction with the new HMP internet site will establish a foundation from which a more effective and streamlined DFO regulatory review process can be developed.

Effective implementation of this framework and development of a new and more efficient referral management model will require a number of new service delivery instruments which are outlined in the implementation issues section of this document . These will be pursued as resources permit.

This framework is built with recognition of the unique suite of local tools, alternate delivery mechanisms and partnerships that have evolved over time in each of the areas to support referral management. As a result the framework will standardize the approach to setting priorities however our approaches to managing referrals will vary across the region.

This framework focuses on conventional “ referrals” or requests for regulatory reviews. Requests for information required to support a proposal or requests for verbal approvals of works constitute a considerable workload for DFO habitat staff but are not considered regulatory project “reviews”. They are a public service DFO staff have historically provided and one we will only be able to continue to provide where resources permit. The new HMP website is expected to provide an effective alternative that will reduce these demands on staff time.

Also not addressed by this framework are Environmental Assessments of Major Projects and MPMO projects. These are subject to other legislated or agreement based processes, timelines and service standards and are managed by EAMP staff.

This referral decision management framework will assist habitat staff in establishing priorities for project reviews however it will not address systemic challenges facing the regional habitat management regulatory program. Where the number of mandatory regulatory reviews outstrips DFO capacity, there will be reductions to client services. These will be managed by informing clients as soon as possible if and when they can expect to receive a DFO review of their project and directing them to our website for relevant guidance on best practices and a decision framework for when to retain services of qualified environmental professionals.

### **Framework Overview**

The Regional Decision Framework is a clear and consistent approach to establishing priorities for project review. It provides the rationale for why some projects will be reviewed more quickly than others while others may not be reviewed at all.

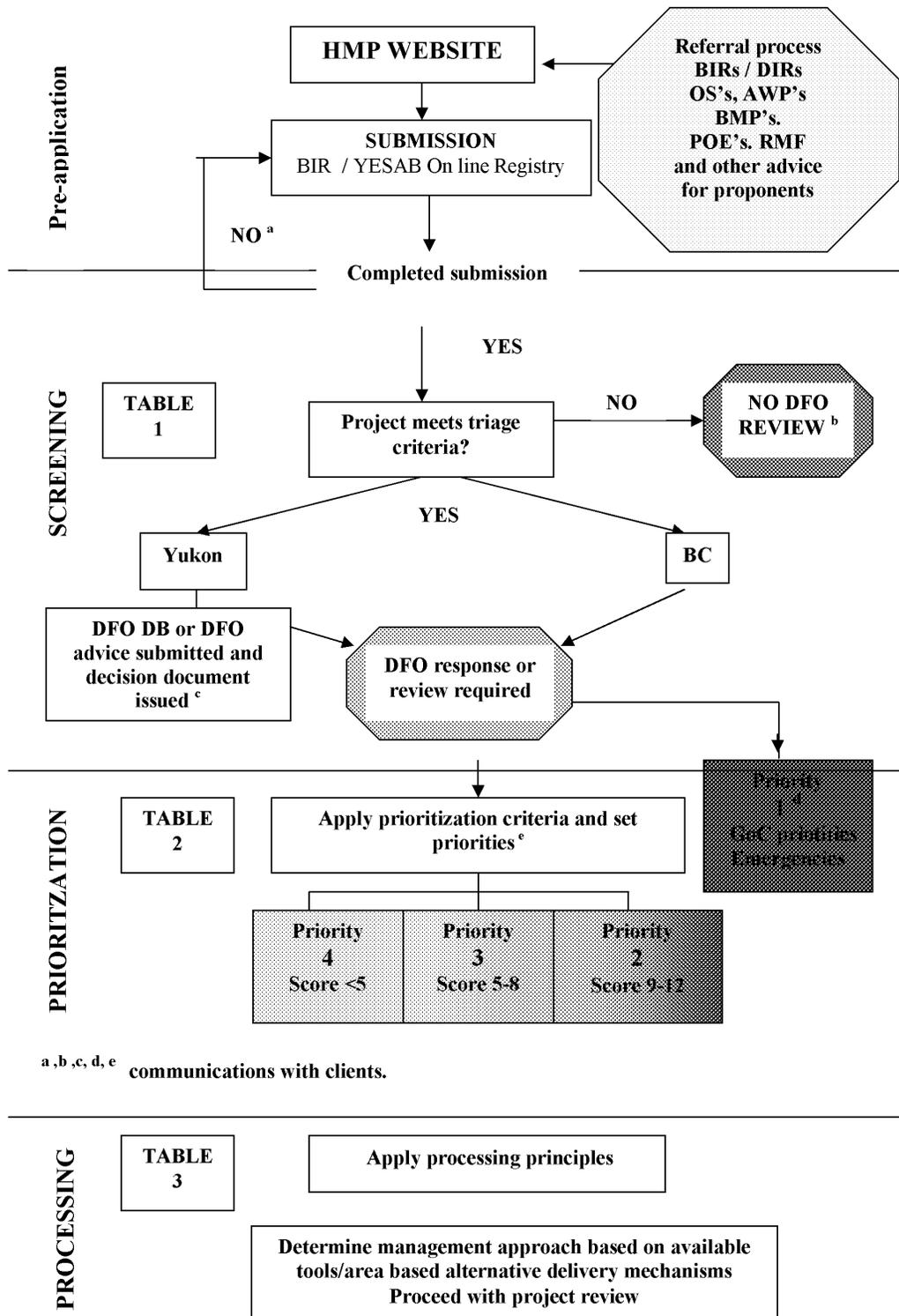
The elements of the referral prioritization framework include a series of coarse filters, prioritization criteria, and processing principles which are presented in Tables 1 through 3 respectively and described in greater detail below.

The decision framework and its supporting elements are complementary to, and consistent with, the National Habitat Risk Management Framework. It is a systematic, tiered and transparent approach to referral prioritization that is based on risks and is not simply a sequential first in- first out system.

### **Referral Triage and prioritization process**

The referral screening and prioritization process is graphically presented in the following flowchart. The tables associated with the flowchart are presented at the end of this document.

This framework is also accompanied by a list of non reviewable projects (Appendix 1)



a, b, c, d, e communications with clients.

## **Step # 1 - Adequacy of information**

The first step is to determine if the information provided to the Department is sufficient to permit project prioritization or review. The HMP website will be the primary source of information and advice to guide development of project submissions.

A regional Basic Information Requirement (BIR) form which will be available on the HMP website will form the basis of a submission and the information provided in the BIR will be used to triage and prioritize the referral.

Where all sections of the application have not been properly completed the submission will not be processed further. The proponent will be advised via a template letter that the application is incomplete and cannot be processed until the required information is submitted. If they require technical advice or assistance in completing their application they will be advised to retain the services of qualified environmental professionals.

Where a collaborative referral management process has evolved in an area and relies upon another established submission format that provides the information required by DFO, submissions received in this manner will be considered equivalent and can be used to prioritize and commence review of a project

Projects are not “in the queue” until all information required to triage and prioritize the referral has been provided.

## **Step #2 – Initial triage- coarse filter (Table 1)**

The second step in the triage and prioritization process is to determine if a DFO review must be conducted. This determination is based on regulatory requirements and process obligations (coarse filter criteria) which have been outlined in Table 1. The intent of the coarse filter is to limit DFO reviews to only those projects for which there is either: a high potential for a HADD a legal decision (ie: FA order or authorization) required; a legislated or agreement based review obligation under CEAA , YESAB, MPMO or another statute and/or agreement, or the project is an identified priority of the Government of Canada.

Projects that do not meet these coarse filter criteria or for which there is a relevant alternate management mechanism will not be prioritized or subjected to further review Clients will be advised using a template letter that their project does not require a DFO review based on the information provided.

## **Prioritization process**

## **Step # 3 - Establishing priorities for processing ( Table 2)**

Much of the risk and species information required for this step should be provided in the BIR or application. Information on legal or agreement based review obligations, time sensitivity, relevant partnership arrangements, and departmental priorities will need to be provided by those doing the screening and prioritization..

The first priorities for review (Priority #1) are verifiable emergency works or Government of Canada priority projects. The latter currently only include federally funded infrastructure projects. These will be identified on an ongoing basis by RHQ . These are “mandatory” projects that must receive a review and will not be subjected to further prioritization. Where these are low risk the assessor should close these files as soon as possible, by advising the clients a DFO review is not required

The remaining proposals that have been screened, and determined to be reviewable are then arrayed against the criteria outlined in Table 2, and scored to determine relative processing priority. High values for any criteria scores a 3 while moderate is 2 and low receives a score of 1

Relative priorities will be determined as follows:

Priority #2- projects that score a total of 9-12 based on considerations in Table 3

Priority #3- projects that score a total of 5-9 based on considerations in Table 3

Priority #4- projects that score a total of <5 based on considerations in Table 3

Appendix 2 provides additional information for applying the criteria in Table 2

#### **Step #4 - Applying processing principles (Table 3)**

Prioritized referrals will be managed in accordance with the processing principles in Table 3.

#### **Step # 5 – Conducting the review**

This framework provides the basis for consistent referral prioritization , however the approach taken to managing referrals will vary from area to area and will reflect the differing array of referral management mechanisms, partnerships and alternate delivery mechanisms that have evolved in each area over time.

#### **Non reviewable projects lists (Appendix 1)**

Accompanying the framework is a list of non reviewable project types. In addition to non reviewable projects the list also includes a number of optionally reviewable activities and works for which best management practices have been developed. .In all cases the advice in guidelines should improve the quality of project submissions however they can also provide sufficient advice to effectively mitigate impacts and negate the need for a DFO review and letter of advice. Where the advice in a guideline is insufficient to

address all project elements however a review will still be required and the referral will need to be prioritized .

### **Other process risk considerations**

There are a number of other factors or considerations that do not necessarily affect a projects priority but may influence when the project enters the queue, the decision to authorize; the compensation that will be required in the event of an authorization and the rigor and scrutiny a project review will receive. These additional process risk factors include:

**Uncertainty** –there is a lack of confidence or significant uncertainty in the information provided or conclusions drawn (eg; there are acknowledged knowledge gaps; mitigation or compensation measures are new, novel or untested.)

**Risk/Potential for Failure-** based on assessments of similar works or expert opinion there is a high potential for the proposed works to fail to operate as designed and intended, or there is significance risk to habitat, other resources or public safety if the works fail

**Proponent or consultant history-** The proponent or consultant have previously demonstrated an inadequate understanding of Fisheries Act requirements, an inability to properly assess risk, a lack of knowledge of common and appropriate mitigation measures or an unwillingness to comply with required measures.

### **Client Service Standards**

The time required to reach decisions, or provide proponents with a regulatory response, is highly variable and will be influenced by many factors, over which DFO has no control. These factors include: project size and location, project complexity, degree of uncertainty regarding feasibility of proposed mitigation or compensation measures; level of client sophistication / knowledge, proponents ability and willingness to secure professional advice, quality of professional advice, and willingness to implement required mitigation or compensation measures. A decision to authorize also triggers an environmental assessment under CEAA or YESEA and will commit the department and the client to a number of process obligations and legally established timelines. All of these factors make it very difficult and of questionable value to establish meaningful service standards for decisions, which is why the service standards attached to this framework focus instead on communicating to clients if a project review is required and when one will commence. .

Client communications are linked to decision points in the framework and are supported by template letters which will be posted to the HMP Intranet site for easy access by those conducting the triage and prioritization

Template letters have been developed to advise clients either:

1. Their submission is incomplete and cannot be reviewed;
2. The project is not of concern to DFO
3. Their project will be reviewed and the review will commence within a certain timeframe, which will be based on the assessors capacity, current workload and number of higher priority projects already in the queue.
4. DFO will not be providing advice on their project due to capacity constraints and higher priority workload commitments \*.

\* This letter will only be provided to clients of lower priority projects (ie Bin # 4 and potentially some of Bin #3) when it is apparent that a review cannot commence within a reasonable time frame (ie: 90-120 days)

### **Communications service standards for non reviewable projects**

Time to triage- 1- 2 weeks

Time to inform proponents that their submission is incomplete and cannot be processed further until required information is provided - within 2 weeks of triage

Time to inform proponents their project is not a concern to DFO and will not receive further review - immediately following triage

Time to inform clients that of lower priority projects which we cannot begin to review in a reasonable time frame (ie:90-120 days) that DFO will not be providing advice on their project- immediately after triage

### **Communications service standards for reviewable projects**

Time to triage- 1-2 weeks

Time to inform proponents that their project will undergo a DFO review –within 2 weeks of triage

The time to commence a review of projects will vary and the estimate provided to clients will be based on area staff capacity, the relative priority of the project and the number of higher priority projects already in the queue for processing..

Other client communications may be necessary as the project undergoes a review (ie: relocation or redesign or additional information required ). There are national template letters for these situations which are available at [http://oceans.nrc.dfo-mpo.gc.ca/habitat/hmp/guides/letter-templates\\_e.asp](http://oceans.nrc.dfo-mpo.gc.ca/habitat/hmp/guides/letter-templates_e.asp)

All of the aforementioned service standards are approximations. Compliance with these will be entirely dependent upon capacity and workload.

## **Application of the Framework**

This framework rationalizes project prioritization decisions. It also reduces ambiguity in decision-making, however it is simply a guide and professional judgment, and local circumstances must continue to play important roles in prioritizing individual projects for review.

There will be situations where certain projects do not readily fall into a specified priority category. Projects may also shift to a higher or a lower priority based on extenuating circumstances; changes in regional and area priorities or emergent issues. This framework is intended to be adaptive and will be reviewed frequently and revised as necessary to incorporate new considerations and experience.

## **Implementation Issues**

As indicated earlier, additional measures are required to support effective implementation of this framework and ultimately development of a new DFO referral management model. Some of these implementation tools are currently being developed, others can only be developed over the longer term as resources permit.

### HMP website

An essential tool for operationalizing this framework is the new Habitat Management internet site. This framework relies extensively on proponents (and their agents) to self evaluate and determine if a review is required, navigating the regulatory review process and developing submissions that have a higher likelihood of proceeding through the process quickly. The website is being designed to clearly explain the review process, provide clients with standardized submission forms, and direct readers to guidance documents and tools such as BMP guides, approved work practices, area based timing windows and compensation planning checklists. The site will also provide information on how to determine effects associated with a project, when to submit a project to DFO for review and when to retain services of qualified environmental professionals.

### File management

The process of triage and prioritization requires a rapid assessment of the clients submission, entry of tombstone data into PATH, and distribution of client communications letters. Depending on the volume of incoming applications this may represent a significant workload. A standardized submission form (Basic Information Requirements) which will be available on line is expected to improve submission quality and provide information in a format that would support rapid assessment. Area based approaches will be developed to support file management (ie: data entry into PATH, CEAR or other tracking program databases, hard copy file management) and preparation

/distribution of client communications letters.) Pilots will help determine the incremental resource implications of implementing these measures.

#### Provision of advice for Moderate Risk Projects

The bulk of DFO regulatory reviews are Letters of Advice. A review of the first 6 months of habitat referral and EA decisions entered into PATH for 2008-09. indicated that 55% (152/274) of referrals were Letters of Advice (LOAs) to proponents while 29% (81/274) was advice to other agencies.

Advice ranges from identifying standard mitigation measures and practices (simple LOA) to summarizing the full array of site specific measures and conditions, that have been negotiated with proponents on project siting, design, operation and monitoring (detailed LOA). A number of activities that have been typically managed using LOA's with common mitigation requirements are being examined as candidates for best practices guidelines.

#### Detailed LOA's and authorizations

These projects are generally high risk. PATH does not differentiate between simple and complex LOA's so it is not possible to analyze the relative workload associated with these. The review of PATH data for 2008-09 did however indicate that only 9% of referrals entered into PATH were authorizations. While this would appear to represent a small percentage of overall workload, the time and effort associated with developing an authorization can be significant. Several streamlining initiatives need to be pursued to alleviate workloads associated with managing high risk projects many of which are process related. Streamlining opportunities include: webbased advice for avoiding impacts; activity specific guidelines, negotiations with the CEA Agency or YESAB to assume more of the administrative workload for EA's, amendments to the CEAA exclusion list regulation to include additional low risk activities, simplified CEAA screening templates; template authorizations and development of model class screening reports for certain common activities

#### General process management requirements

Longer term initiatives that need to be pursued to streamline all project reviews and reduce referral management workloads include: process agreements with other regulatory agencies or levels of government in particular the provincial or territorial government to triage or manage certain referral streams, work share or improve guidance to industry; development of a professional reliance model and training of environmental consultants; additional industry partnerships for development and application of BMP's; enhanced habitat inventory, mapping and classification tools and possibly greater use of industry funded DFO referral management positions.

Some effort will continue to be required as well to develop and deliver low risk management tools such as ROS however this effort should be minimal.

As this framework promotes greater reliance on proponents and their agents to self identify the effects and risks associated with their projects, and to incorporate available mitigation advice into project designs there will be a need to link this framework to the HCM program to assess effectiveness of these approaches.

## **Summary**

The Regional Decision Framework:

1. Is consistent with the Fish Habitat Risk Management Framework
2. Limits DFO reviews to only those projects for which we have a legal mandate, a process obligation or an agreement based review/response commitment.
3. Establishes priorities based on risks to: fish and fish habitat, processes and partnerships as well as regional departmental management considerations.
4. Increases reliance on proponents and environmental professionals to assess risks, determine effects, and ascertain if a DFO review or authorization is required
5. Recognizes that capacity limits our ability to service all incoming referrals in a timely manner and establishes both principles for determining processing priorities and client communication standards to inform proponents when DFO will not be providing comment on their project, .
6. Employs all currently available management and streamlining tools
7. Identifies additional tools and mechanisms required for effective implementation

## Table 1- Coarse filter (screening) considerations

**Only projects which meet at least one of the following four coarse filter criteria and do not have an alternate delivery mechanism in place will be considered for further DFO prioritization or review**

**The Basic Information Requirement form (BIR) submitted by proponents will form the basis from which DFO screens and prioritizes referrals**

1. Project is located within 30 m of a waterbody\* and/or involves vegetation removal within 30 m of a waterbody
2. Project involves in-water works
3. DFO must respond based on legal or agreement based process obligations.

Examples include:

### LEGAL OBLIGATIONS

- a. An authorization is requested or required
- b. Another environmental regulatory agency requires a DFO response or review pursuant to legislation ( ie: YESEAA, CEAA, NEB Act)
- c. Another federal agency issues a CEAA federal coordination response (FCR) letter

### AGREEMENT BASED COMMITMENTS

- a. A provincial or territorial fisheries or habitat management agency requests a DFO review
- b. Project is brought to the attention of DFO via a collaborative referral management partnership (ie: FREMP/BIEAP; municipal ERC's)
- c. Project is subject to an agreement with the province and requires a DFO review (ie RAR variance)

4. Project is an identified Government of Canada priority <sup>1</sup>

Alternate delivery mechanisms for managing referrals such that they do not require DFO review include:

- a. **DFO ROS's** – projects to which DFO Operational Statements apply
- b. **Gov't/gov't agreements/arrangements** – projects another agency or level of government will review and to which they will apply mitigation measures acceptable to DFO, Examples include:

- MOE applying BMP's that "meet or beat" DFO requirements as part of their Water Act Section 9 instream works reviews
  - YTG Fisheries Management Branch or BC MoE reviewing or managing non anadromous fish habitat projects that do not require an authorization
  - Vancouver Port Authority managing Track 1 projects in BIEAP/FREMP areas,
- c. **DFO/Industry Approved Work Practices (AWP's) or Best Management Practices (BMP's)** – projects for which DFO has an agreement or arrangement with a specific industry sector or corporation to apply AWP's or BMP's, monitor compliance and report. Examples include:
- DFO/ BCTC/BC Hydro protocol agreement (and associated activity specific AWP's)
  - DFO/CFP/BCTS BMP's for marine helilogging and log dump reactivations;
  - DFO/ MoFR /MoE /COFI Fish Stream Crossing Guidebook/ BMP's
- d. **Planning based provisions-** projects for which measures to protect fish habitat have been incorporated into a water or land use plan endorsed by DFO and will become conditions of a regulatory permit, license, order, lease, approval or operational protocol of a partner agency or crown corporation. Examples include:
- BC Hydro managing works and maintenance activities authorized in a facility specific Water Use Plan
  - Regional Districts, municipalities or provincial agencies applying conditions acceptable to DFO to manage development impacts pursuant to an Integrated Watershed Management Plan, a Lake, River or Estuary Foreshore Management Plan or other DFO endorsed land, water and fish habitat integrated plan..

\* waterbodies includes permanently wetted areas such as: oceans, rivers, streams and lakes as well as intermittently wetted features such as marine intertidal areas, floodplains or seasonally wetted channels that are used by fish during certain times or provide food, nutrients and flows to fish bearing areas.

<sup>1</sup> These will change over time but currently only include "Building Canada" federally funded infrastructure projects. MPMO projects which are also a GoC priority are managed by EAMP staff not habitat staff. and are addressed through other project management schemes

**Table 2 - Project prioritization criteria\***

CRITERIA	RELATIVE RATING		
	HIGH (3)	MODERATE (2)	LOW (1)
Relative Risk to Fish and Fish Habitat	High	Moderate	Low
Obligatory reviews and time sensitivity	A DFO review or response is <b>required</b> pursuant to legislation or agreement and is time sensitive	A DFO review or response is <b>expected</b> based on process obligations or biological requirements and is time sensitive	Non obligatory and non time sensitive reviews
Regional/Area Priority	The project type or activity is either: <ul style="list-style-type: none"> <li>• A priority in regional or area work plans or</li> <li>• Subject to an existing referral management partnership arrangement or agreement</li> </ul>	Project is in the public interest or provides an essential public service	All other requests for project review
Species affected and level of conservation concern	Project affects at least one of the following: <ul style="list-style-type: none"> <li>• Federally managed species with an elevated level of conservation concern,</li> <li>• SARA listed aquatic species, or</li> <li>• Areas with elevated federal conservation concern</li> </ul>	Project affects either: <ul style="list-style-type: none"> <li>• Federally managed species with no elevated level of conservation concern or</li> <li>• Provincial red or blue listed fish species</li> </ul>	Project affects: <ul style="list-style-type: none"> <li>• Other provincial species or</li> <li>• non fish bearing waterbodies</li> </ul>

\* See Appendix 2 for elaboration on each of these criteria.

### **Table 3- Referral Processing Principles**

#### **Referral processing will be governed by the following principles**

1. Processing will proceed through priority bins as capacity permits
2. All authorizations or requests for authorizations will be processed.
3. Client communications standards outlined in this document will be followed
4. Where a Government of Canada (priority #1) project represents low risks to fish or fish habitat the file will be concluded quickly by informing the proponent or originating agency that DFO has no concerns or objections to the project as proposed
5. Well planned and designed projects that have considered POE's/RMF and or have incorporated appropriate mitigations and are therefore lower risk, but easily reviewed should be processed whenever opportunities permit.
6. Where further prioritization of lower priority projects is required in order to determine those projects which will not receive a review, the factors to consider (in order) are:
  - a. Relative risk (higher risk elevates priority)
  - b. Species (federally managed species receive priority over provincially managed species)
  - c. Date received (longest in bin receives priority)
7. Projects will not queue jump unless there are exceptional extenuating circumstances (i.e. elevated FN, public, OGD or media interest, legal challenges/injunctions, new GoC priorities, approaching deadlines for mandatory project review)

## Appendix 1 - Non-Reviewable Activities (v 1.0 )

**Non-Reviewable Activities** are those that due to their nature are considered low risk or for which mitigation measures have been identified that if complied with, would prevent a HADD.

The Referral Prioritization Framework relies on this non-reviewable projects list as one tool to assist DFO staff in prioritizing and managing referrals.

The list also includes a number of activities for which Best Management Practices (BMP's) exist, however it is recognized that in some circumstances these activities could still represent significant risk and would necessitate a review. These have therefore been identified for optional review.

Likewise there are some activities that are not low risk but due to extenuating circumstances may require that a review be delayed. These have been identified as deferred reviews.

Compliance or effectiveness monitoring should be linked to these activities in order to confirm assumptions regarding risk and ability of mitigation measures to effectively address the risks. Outcomes from monitoring will be used to reevaluate and revise this list as appropriate.

In keeping with the regional referral prioritization framework projects located outside the Fisheries Sensitive Zone<sup>1</sup> have been identified as non reviewable.

### Non-reviewable activities

1. All activities to which Regional Operational Statements apply (e.g)
  - (i) Aquatic Vegetation Removal in Lakes
  - (ii) Public Beach Maintenance
  - (iii) Bridge Maintenance
  - (iv) Clear-Span Bridges
  - (v) Culvert Maintenance
  - (vi) Directional Drilling
  - (vii) Dock and Boathouse Construction in Freshwater Systems \*
  - (viii) Dry Open-cut Stream Crossings
  - (ix) Ice Bridges and Snow Fills \*
  - (x) Isolated Ponds
  - (xi) Maintenance of Riparian Vegetation in Existing Rights-of-Way

- (xii) Off-Bottom Deepwater Shellfish and Kelp Aquaculture
- (xiii) On and Near-Bottom Intertidal Shellfish Aquaculture
- (xiv) Overhead Line Construction
- (xv) Punch and Bore Crossings
- (xvi) Routine Maintenance Dredging for Navigation \*
- (xvii) Small Moorings
- (xviii) Temporary Ford Stream Crossing
- (xix) Underwater Cables in Freshwater Systems

2. All activities to which DFO/Industry protocol agreements and associated AWP's/ BMP's apply (e.g.):
  - (i) DFO/BCTS/CFPA Marine log handling activities that comply with:
    - Best Management Practices for Helicopter Log Drop Sites in Marine Waters of British Columbia or
    - Best Management Practices for Re-activated Log Dumps in Marine Waters of British Columbia
  - (ii) DFO/MOE/BCH/BCTC Approved Work Practices for:
    - managing riparian vegetation in and adjacent to ROW's
    - maintenance of submarine powerline cables and grounding grids in marine and coastal foreshore areas
    - routine electrical cable maintenance in freshwater and marine coastal areas
3. Crown land tenure transfers
4. STP upgrades that do not involve new outfalls, foreshore or subtidal works
5. Ice roads constructed with clean water and snow
6. MOF Special Use Permits notifications
7. MOF Timber Mark permits
8. MOF Root Buck/log salvage permits
9. MOTH subdivision referrals
10. Installation of land-based erosion control measures and materials
11. Debris removal on an Intake or Dam face:
12. Maintenance of small docks, wharves, boat launches- where work is restricted to the current footprint. \* This does not apply to replacement of historic structures that created an unauthorized HADD.

13. Rock placement to maintain or upgrade existing bank and flood protection structures (i.e. dykes, revetments, berms, banks) - where rock placement is within the existing structural footprint and meets timing windows.

### **Planning based non reviewable activities**

1. Hydropower operations, maintenance activities or works specifically authorized pursuant to a facility specific *Water-use Plan* (WUP).
2. Gravel removal done within the context of a pre-approved annual or multi-year gravel management plan.
3. Agricultural ditch maintenance works undertaken pursuant to a local government/DFO protocol agreement and predetermined mitigation measures.
4. Foreshore works or activities that comply with mitigation measures or conditions outlined in a DFO endorsed management plan for the area

### **Projects for which guidelines apply – review optional.**

1. Routine farming and agricultural practices that are consistent with DFO endorsed environmental protection guidelines such as:  
Environmental farm planning drainage management guidelines  
Environmental farm planning grazing management guidelines  
Environmental farm planning- riparian management guidelines  
Environmental farm planning- nutrient management guidelines  
Environmental farm planning- irrigation assessment guidelines
2. Construction of small boat moorage that is consistent with DFO endorsed guidelines such as:  
BC MOE guidelines for small boat moorage on lakes, and small boat launch construction on lakes,  
DFO South Coast guidelines for marine and freshwater construction of docks and floats
3. Vegetation management on existing flood protection structures- that is consistent with Environmental Guidelines for Vegetation Management on Flood Protection Works to Protect Public Safety and the Environment (DFO/MELP 1999)
5. Integrated shoreline and bank stabilization works that are consistent with DFO endorsed guidelines such as;

Washington State Integrated Streambank Protection Guidelines  
Shoreline Structures Environmental Design (2002) guidebook  
Lakeshore stabilization projects in the Okanogan region  
Lakeshore erosion protection in the Columbia basin  
**Marine Foreshore designs outlined in Green Shores Canada**  
DFO South Coast guidelines for marine foreshore erosion control works

6. Regular agricultural ditch maintenance on constructed channels” that complies with DFO endorsed Agriculture Ditch Maintenance guidelines . Note watercourse inventories and classifications must have been endorsed by DFO. .

7. Selective vegetation maintenance (danger tree /blowdown removal, ROW management )outside the streamside riparian areas as determined by existing guidelines or RAR that comply with Best Practices for tree topping, limbing and removal in riparian areas

8. Single pedestrian trail or pathway construction and maintenance that complies with the advice and guidance in the Access Near Aquatic Areas (1996) guidebook

9. Bridge maintenance or washing activities that complies with .  
Pacific Region guidelines for protecting fish habitat during bridge maintenance (BC)  
Yukon, bridge washing guidelines (Yukon)

10. Beaver dam removal that complies with:  
Provincial guidelines for beaver and beaver dam management (BC)  
Territorial guidelines for the management of beaver in fish-bearing streams (Yukon)

11. Short term emergency water withdrawals from non drought prone systems by fire departments, MOT or industry that comply with: .  
Best Management Practices for Installation and Maintenance of Water Line Intakes  
Freshwater Intake End of Pipe Fish Screen Guidelines and  
Guidelines for sizing screens at end of pipe diversions

12. Routine maintenance of existing public utilities (i.e. outfalls, culverts) –where works are limited to existing footprints  
**Reminder:** An OS exists for culvert maintenance .

13. Recreational winter activities on Yukon lakes that comply with  
Guidelines for recreational events on frozen lakes or rivers in the Yukon

## Deferred reviews

### 1. Instream works emergencies .

**Note:** all instream work emergencies should be assessed and managed in accordance with the emergency protocols outlined in Section 7.8.4 of the BC Ministry of Environment Standards and Best Practices for Instream Works Guidebook. Many “emergencies” can be addressed through proper proactive planning, however exigent circumstances will arise that require flexibility, Specifically where emergency the emergency is a Type 1 emergency and hazard management is required to address imminent and significant risks to human health, safety or property (i.e. major flooding or fire affecting homes or businesses) public infrastructure (i.e. damage to bridges, highways, railroads, flood protection structures), or environment ( i.e. contaminant spills) and timelines do not permit an immediate assessment, a one page commitment letter can be requested. In these circumstances a review may be deferred, with authorization and compensation negotiated subsequently

2. Avalanche management activities- similar to instream works emergencies – where these must proceed immediately to protect human health, safety or property and the activity will negatively affect fish habitat a review may be deferred, with authorization and compensation negotiated subsequently

### <sup>1</sup> Definitions:

**Fisheries Sensitive Zone:** includes all instream aquatic habitats including seasonally or intermittently wetted areas such as side channels and floodplains in fresh water, as well riparian areas (as defined by the *Riparian Area Regulations* (RAR ) or existing DFO guidelines). In marine situations the fisheries sensitive zone includes all subtidal and intertidal areas as well as a 30 m zone measured upland from the highest high tide level.

## APPENDIX 2- INFORMATION FOR APPLYING PRIORITIZATION CRITERIA

### Explanations of prioritization criteria in Table 3

#### 1. Relative risk\* to fish and fish habitat .

Relative risk is based on the factors in the Habitat Risk Management Framework (ie: effect severity and habitat/species sensitivity). The basic information required to determine relative risk (ie: species, habitats affected and nature, duration and extent of impact) is expected to be provided by the proponents in their Basic Information Requirements form. This can be augmented by the assessors local knowledge

**High risk-** are projects where both effect severity and habitat/species sensitivity is high

**Moderate risk** - are typically projects where both effect severity and habitat/species sensitivity is moderate but may include projects where the effect severity is high and the project is either located in very low value/sensitive habitat; or affects species that are tolerant and resilient or effect severity is low and the project is either located in very high value or sensitive habitats or affects species that are particularly vulnerable and sensitive to the effects anticipated.

**Low risk-** are typically projects where both effect severity and habitat/species sensitivity are low but may include projects with very low effect severity located in extremely high value/sensitivity habitat or affecting extremely sensitive species; or extremely high effect severity projects located in marginal or very low value/sensitivity habitat or affecting insensitive or highly tolerant species.

#### 2. Obligatory reviews and time sensitivity

**High** - are projects that are subject to federal legislation or federal agreements and require DFO review or response within a specified timeframe. These include projects where: an authorization is required which will trigger an EA (and associated timelines) under CEAA; DFO is identified as a decision body under YESAB, DFO receives an CEAA FCR letter from another FA, the project is a harmonized EAO EA with established timelines, NEB requests DFO advice or participation in a panel hearing,

**Moderate-** are projects which DFO is expected to review and generally have associated review or response timelines. These include projects that: require timely response in order to meet DFO instream work windows, are managed through a regularly scheduled collaborative referral management process with a partner (i.e., FREMP/BIEAP, SLIPP, DFO/local government Environmental Review Committees);

or are important provincial referrals with established process review timelines (ie: BC Water Act referrals, BC ILMB foreshore tenuring referrals).

**Low-** are projects with no established timelines for review

### 3. Regional/Area Priority

**High** – are either:

- Project types or activities that have been identified in regional or area work plans as a priority– these will change from year to year and between areas. Staff conducting the triage will have to consult their area workplan for the current year. Regional priorities for 2009-10 include: hydro projects (BC Hydro WUP authorizations + IPP regional action plan ); coastal log handling BMP implementation, RAR implementation, forestry fish passage action plan implementation, aquaculture (development of finfish regulations) Fraser River Gravel (agreement and protocol).
- Projects affected by (or affecting ) an existing partnership or established referral management process – these may be regional in nature but most often will be local partnerships, agreements or arrangements that have evolved over time in area offices to streamline regulatory reviews or referral processing. YESAB; FREMP/BIEAP; SLIPP, and DFO/municipal ERC's are examples of one window approaches for referral management that have been established in certain areas. A list of regional DFO/Industry or Interagency agreements which may have implications for referral prioritization are available on the DFO Intranet site. Area staff are expected to be aware of any local referral management partnerships, agreements or arrangements with other agencies, organizations or local industry sectors

**Moderate-** are publicly funded projects or projects that are in the public interest.

These include but are not limited to: major public transportation projects (highways, railways, bridges, rapid transit, ports), public services (sewer and water treatment or distribution systems, gas trunk lines, electrical generation or transmission systems), major flood protection works (dykes, pumping stations, maintenance dredging) or other essential public services.

**Low-** are all other requests for review

### 4. Species/area affected

**High-** are either:

- Federally managed species/areas with an elevated level of conservation concern. Local stock assessment staff may identify local stocks of concern on an annual basis and until wild salmon stocks or CUs are prioritized according

to risk and level of conservation concern staff can refer to the Departmental Salmon Stock Outlook for a one year look ahead at salmon stock assemblages of concern. The outlook can be found on the DFO extranet site @ <http://www.ops2.pac.dfo-mpo.gc.ca/xnet/content/salmon/webdocs/SalmonStockOutlook2009.htm>

A copy of the 2009 outlook is also attached below



2009 Salmon  
Stock\_VERS\_2 J

- SARA Schedule 1, 2 or 3 listed aquatic species which are listed @ [http://www.sararegistry.gc.ca/sar/listing/default\\_e.cfm](http://www.sararegistry.gc.ca/sar/listing/default_e.cfm)
- Areas of high federal conservation concern, which include:
  - Local watersheds, sub-watersheds or sites identified as sensitive (or of high fisheries conservation concern) through local planning processes
  - Rockfish Conservation Areas
  - Marine Protected Areas which are identified @ <http://oceans.info.pac.dfo.ca/mpa.htm>
  - National Marine Conservation Areas located in Gwaii Haanas and the Southern Strait of Georgia.

**Moderate-** are either:

- Federally managed species with no elevated level of conservation concern or
- provincially managed red or blue listed fish species

**Low** - are either provincially managed species with no elevated level of conservation concern or non fish bearing waterbodies

