

Indigenous Gender-Based Issues and the Fisheries

**Cultural and Economic Importance of the Fisheries to Indigenous Women and
2SLGBTQQIA Persons**

Seeking Your Views

December 2020

Summary

This document is a request for written comments on gender-based issues related to traditional and commercial Indigenous fisheries and, in particular, the protection and conservation of fish and fish habitat. This document will briefly discuss provisions of the *Fisheries Act* dealing with Indigenous fisheries and fish and fish habitat protections (FFHP) and will seek comment through proposed discussion questions. Respondents are encouraged to share their knowledge, perspectives and views on these matters as they see fit and are not required to respond strictly to the discussion questions.

The information provided through these written submissions will inform the development of information documents and best practice recommendations for engagement with Indigenous women and 2SLGBTQQIA persons when making regulations or decisions under the FFHP provisions of the *Fisheries Act* and the Fish and Fish Habitat Protection Program.

Objectives

1. To receive information on the cultural and spiritual importance of fish, fishing and fish habitat to Indigenous women and 2SLGBTQQIA persons.
2. To better understand the importance of traditional and commercial Indigenous fisheries to Indigenous women and 2SLGBTQQIA persons.
3. To receive information and perspectives on the impacts of works, undertakings and activities (i.e., industrial projects) on fish and fish habitat important to Indigenous communities and culture.
4. To identify potential positive and adverse effects of FFHP decisions on Indigenous women and 2SLGBTQQIA persons.
5. To identify barriers Indigenous women and 2SLGBTQQIA persons face in participating in the fisheries.
6. To identify barriers Indigenous women and 2SLGBTQQIA persons face in participating in the fisheries and fish habitat protection and conservation activities.

Factors to be Considered under the *Fisheries Act*

The *Fisheries Act* does not just regulate fishing activities in Canada; it also regulates works, undertakings and activities that can affect fish and their habitat. The Act prohibits certain activities that can cause the death of fish or harm fish habitat and gives the Department of Fisheries and Oceans (DFO) certain powers to make decisions and regulations related to the protection of fish and fish habitat, including issuing authorizations to undertake activities that can harm fish and fish habitat.

When making decisions under the *Fisheries Act*, certain factors must be taken into consideration and other factors may be taken into consideration. Some of the factors that may be taken into consideration include:

- Indigenous knowledge provided to the Minister of Fisheries;
- Cooperation with Indigenous governing bodies;
- Social, economic and cultural factors; and
- The intersection of sex and gender with other identity factors.

Some of the factors that must be taken into consideration before making decisions under the FFHP provisions include:

- The productivity of fisheries;
- Fisheries management objectives;
- Measures that can avoid harm to fish and fish habitat;
- Cumulative effects on fish and fish habitat;
- Effects on certain conservation fish conservation activities;
- Indigenous knowledge; and
- Any other factors the Minister of Fisheries considers relevant.

Regulation-Making Powers

Under the FFHP provisions of the *Fisheries Act*, the Governor in Council (Cabinet) can make regulations, when the Minister of Fisheries recommends so, related to fish and fish habitat protections. This includes the power to make regulations related to, among other things:

- The restoration, conservation and protection of fish habitat;
- Listing activities that may cause harm to fish or fish habitat, but are permitted;
- Listing waters where activities that can harm fish or fish habitat are permitted;
- Regulating when and how authorizations to cause harm to fish or fish habitat may be issued;
- Listing types of projects/activities that must apply for authorizations to cause harm to fish or fish habitat; and
- Regulating the circumstances under which confidential Indigenous knowledge provided to the government under the Act may be disclosed without written consent.

Decision-Making Powers

Under the *Fisheries Act*, the DFO has the power to make various decisions related to the protection of fish and fish habitat, including:

- Making orders that obstructions be removed from fish habitat or modified;
- Granting authorizations to undertake activities that can cause the death of fish or harm fish habitat;
- Establish, by regulations, lists of types of activities that require authorizations because they can harm fish or fish habitat; and
- Grant authorizations to undertake potentially harmful activities in ecologically significant areas.

Discussion Questions

1. Are there different roles for men, women and 2SLGBTQQIA persons in **traditional** Indigenous fishing activities? If so, what are some of these differences?

2. Are there different roles for men, women and 2SLGBTQQIA persons in **commercial** Indigenous fishing activities? If so, what are some of these differences?
3. Do Indigenous women and 2SLGBTQQIA persons have equal opportunity to participate in commercial Indigenous fishing activities? If not, what are some of the barriers to their participation.
4. Are there different roles for men, women and 2SLGBTQQIA persons in **traditional** Indigenous environmental conservation activities? If so, what are some of these differences?
5. Do Indigenous women and 2SLGBTQQIA persons have equal opportunity to participate in modern environmental conservation activities? If not, what are some of the barriers to their participation.
6. What are some activities, projects or works that negatively affect Indigenous traditional and commercial fisheries?
7. How might negative impacts on Indigenous traditional and commercial fisheries affect women and 2SLGBTQQIA persons differently than men?
8. How might regulations related to fish and fish habitat protections affect traditional and commercial Indigenous fishing activities?
9. What are some potential positive effects of fish and fish habitat protection regulations for Indigenous cultural activities?
10. What are some potential negative effects of fish and fish habitat protection regulations for Indigenous cultural activities?
11. What are the circumstances, if any, under which you feel Indigenous knowledge may be disclosed without the written consent of the knowledge holder?
12. What steps should be taken to ensure that, before Indigenous knowledge holders provide confidential Indigenous knowledge to the government, the free, prior and informed consent of the knowledge holder is given?

Conclusion

The *Fisheries Act* gives authority for regulation-making and decision-making that affects the protection of fish and fish habitat. Before exercising powers under the Act, certain factors must be taken into consideration, including Indigenous knowledge.

Indigenous peoples have close cultural, economic and social relationships with fisheries and the environments that sustain them. This document seeks to facilitate the exchange of gender-based information about traditional and commercial Indigenous fisheries and conservation activities related to the fisheries.

The information shared through this process will inform the development of information documents that aim to increase awareness of the FFHP sections of the *Fisheries Act*, and promote culturally appropriate and gender-informed engagements with Indigenous peoples on regulation and decision-making under the Act.