

AGENDA



SHARK FINNING COMMITTEE

THE CORPORATION OF THE CITY OF MISSISSAUGA

**WEDNESDAY, JUNE 6, 2012 –
IMMEDIATELY FOLLOWING COUNCIL**

**COMMITTEE ROOM A, 2ND FLOOR, CIVIC CENTRE,
300 CITY CENTRE DRIVE, MISSISSAUGA, ONTARIO L5B 3C1
<http://www.mississauga.ca>**

Members

Councillor Jim Tovey, Ward 1
Councillor Pat Mullin, Ward 2 (**Chair**)
Councillor Ron Starr, Ward 6
Councillor Pat Saito, Ward 9 (**Vice Chair**)
Councillor George Carlson, Ward 11

Agency Representatives

Stephen Chu, Mississauga Chinese Business Association
Victor Oh, Mississauga Chinese Business Association

Contact: Carmela Radice, Legislative Coordinator, Office of the City Clerk
905-615-3200 ext. 5426 Fax: 905-615-4181
carmela.radice@mississauga.ca

CALL TO ORDER

DECLARATIONS OF (DIRECT OR INDIRECT) PECUNIARY INTEREST

MINUTES OF PREVIOUS SHARK FINNING MEETING

(a) March 7, 2012

APPROVAL OF THE AGENDA

DEPUTATIONS

MATTERS TO BE CONSIDERED

1. Corporate Report dated May 22, 2012, from the Commissioner of Transportation and Works re: **Enforcement of Shark Fin By-law 0268-2011.**

Recommendation

1. That the report from the Commissioner, Transportation and Works Department, dated May 22, 2012 titled "Enforcement of Shark Fin By-law 268-11, as amended" be received for information.
2. That Compliance and Licensing Enforcement staff enforce Shark Fin By-law 268-11, as amended (the By-law), on a reactive basis to complaints received in the manner set out in the Enforcement Action Plan outlined in the report from the Commissioner, Transportation and Works Department, dated May 22, 2012 titled "Enforcement of Shark Fin By-law 268-11, as amended".

RECOMMEND APPROVAL

Information Items

2. Letter dated March 29, 2012, from the City of Stratford endorses the City of Mississauga resolution encouraging a ban on the importation of shark fin foodstuff.

Recommend Receipt

3. Email dated April 24, 2012, from the Federation of Canadian Municipalities on the Amendments to the Fisheries Act.

Recommend Receipt

OTHER BUSINESS

ADJOURNMENT

Minutes



SHARK FINNING COMMITTEE

THE CORPORATION OF THE CITY OF MISSISSAUGA

WEDNESDAY, MARCH 7, 2012 – 12:42 p.m.
IMMEDIATELY FOLLOWING COUNCIL

COMMITTEE ROOM D, 2ND FLOOR, CIVIC CENTRE,
300 CITY CENTRE DRIVE, MISSISSAUGA, ONTARIO L5B 3C1
<http://www.mississauga.ca>

Members Present

Councillor Jim Tovey, Ward 1 (arrived at 12:45 pm)
Councillor Pat Mullin, Ward 2 (**Chair**)
Councillor Ron Starr, Ward 6
Councillor Pat Saito, Ward 9 (**Vice Chair**)
Councillor George Carlson, Ward 11

Agency Representatives Present

Stephen Chu, Mississauga Chinese Business Association
Victor Oh, Mississauga Chinese Business Association

Staff Present

Martin Powell, Commissioner of Transportation and Works
Mickey Frost, Director of Enforcement
Douglas Meehan, Manager of Compliance and Licensing
Wendy Law, Legal Council
Catherine Monast, Team Leader, External Media Communications
Carmela Radice, Legislative Coordinator, Office of the City Clerk

CALL TO ORDER 12:45 (P. Mullin)

DECLARATIONS OF (DIRECT OR INDIRECT) PECUNIARY INTEREST - Nil

MINUTES OF PREVIOUS MEETING

Draft Minutes of the November 9, 2011 Shark Finning Committee meeting.

Recommendation

SFC-0001-2012

That the minutes of the Shark Finning Committee meeting held on November 9, 2011 be approved as presented.

Approved (G. Carlson)

APPROVAL OF THE AGENDA

That the agenda be approved as amended as follows:

- (a) That the draft minutes of the previous meeting November 9, 2011 be included.
- (b) Deputation by Nikki Donnelly be withdrawn.

Approved (G. Carlson)

DEPUTATIONS

(a) Canadian Food Inspection Agency (CFIA)

Peter DeSouza, Acting Inspector Manager and Catherine Mar, Fish Policy Officer from the Canadian Food Inspection Agency provided an overview of the roles and responsibilities of the CFIA and general information on the Fish Inspection Program with a focus on imports.

Members of the Committee asked questions of Mr. DeSouza and Ms. Mar on the regulations of importing aquatic animals and if that also means dealing with the human or inhuman slaughtering aquatic animals. Mr. DeSouza indicated that CFIA is legislatively driven when it comes to the inspection of food. In order for the CFIA to deal with such a request the *Fish Inspections Act* and the *Health of Animals Act* need to be amended to include such a clause.

Recommendation

SFC-0002-2012

That the deputation by Peter DeSouza, Acting Inspector Manager and Catherine Mar, Fish Policy Officer be received.

Approved (J. Tovey)

(b) Shark Finning Presentation

Nikki Donnelly, student withdrew her deputation on shark finning.

MATTERS TO BE CONSIDERED

Information Items

1. Letter dated November 30, 2011 from The Honourable Leona Aglukkaq in response to the Mayor's letter requesting the support of banning shark fin products.

There was no discussion on this matter.

Recommendation

SFC-0003-2012

That the letter dated November 30, 2011 from The Honourable Leona Aglukkaq in response to the Mayor's letter requesting the support of banning shark fin products, be received for information.

Approved (P. Saito)

2. Letter dated January 16, 2012, from the Minister of Fisheries and Oceans in response to the Mayor's indicating that Canada has prohibited the practice of shark finning since 1994 and will continue to work closely with other countries to promote the sustainable management and conservation of sharks worldwide.

There was no discussion on this matter.

Recommendation

SFC-0004-2012

That the letter dated January 16, 2012, from the Minister of Fisheries and Oceans in response to the Mayor's indicating that Canada has prohibited the practice of shark finning since 1994 and will continue to work closely with other countries to promote the sustainable management and conservation of sharks worldwide, be received for information.

Approved (P. Saito)OTHER BUSINESS(a) Maxxam Analytics International Corporation

Stephen Chu, Mississauga Chinese Business Association presented the Committee with a sample of food analysis from Maxxam where the level of mercury was tested on salmon, tuna, shark meat and shark fin. Peter DeSouza, Acting Inspector Manager Canadian Food Inspection Agency (CFIA) indicated that the sizes of the species will affect the level of mercury.

Recommendation

SFC-0005-2012

That the food analysis from Maxxam Analytics International Corporation, be received for information.

Approved (V. Oh)(b) Lake Ontario 5 – Credit River

Stephen Chu, Mississauga Chinese Business Association presented the Committee with a chart that represents the maximum number of meals per month recommended for each species. Mr. Chu indicated that there are high levels of mercury in some species on the chart which is not harmful to human health. Mr. DeSouza indicated that it all depends on the size of the species.

Recommendation

SFC-0006-2012

That the chart from Lake Ontario 5 – Credit River, be received for information.

Approved (V. Oh)

ADJOURNMENT 2:02 p.m. (R. Starr)

DRAFT



Corporate Report

Clerk's Files

Originator's
Files

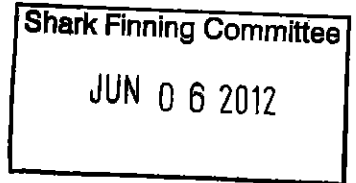
1-1

DATE: May 22, 2012

TO: Chair and Members of the Shark Fin Committee
Meeting Date: June 6, 2012

FROM: Martin Powell, P. Eng.
Commissioner, Transportation and Works Department

SUBJECT: **Enforcement of Shark Fin By-law 268-11, as amended**



- RECOMMENDATION:**
1. That the report from the Commissioner, Transportation and Works Department, dated May 22, 2012 titled "Enforcement of Shark Fin By-law 268-11, as amended" be received for information.
 2. That Compliance and Licensing Enforcement staff enforce Shark Fin By-law 268-11, as amended (the By-law), on a reactive basis to complaints received in the manner set out in the Enforcement Action Plan outlined in the report from the Commissioner, Transportation and Works Department, dated May 22, 2012 titled "Enforcement of Shark Fin By-law 268-11, as amended".

**REPORT
HIGHLIGHTS:**

- This report provides background research on how shark fin is imported into Canada, evidentiary issues and challenges concerning enforcement of the By-law, enforcement strategies of other municipalities and an enforcement action plan for consideration by the Shark Fin Committee (SFC).

BACKGROUND: On October 12, 2011 Council enacted the Shark Fin By-law 268-11, (Appendix 1) prohibiting the possession, sale, trade and distribution of

shark fins or derivative products and formed a SFC to draft an action plan to enforce the By-law and report back to Council.

Council also moved a motion to request Health Canada to prohibit the import of shark fins and shark fin food products into Canada and that the City of Mississauga request other municipalities to join in the lobbying of the federal government to take necessary actions for a ban on shark finning.

On December 14, 2011 Council amended the Shark Fin By-law 268-11, by enacting By-law 322-11, which set June 30, 2012 as the date that the By-law will come into force and effect. On March 7, 2012 the SFC requested staff to conduct further research on the shark fin issue. This report provides the additional research requested by the SFC and outlines an enforcement action plan for the SFC's consideration.

COMMENTS:

Additional Research

Current Status of Bill 380 – An Act to amend the *Fish Inspection Act* and the *Fisheries Act* (importation of shark fins):

Bill C – 380 - An Act to amend the *Fish Inspection Act* and the *Fisheries Act* (importation of shark fins) had its First Reading in late 2011. Fin Donnelly, MP New Westminster-Coquitlam, British Columbia, introduced the Bill as a private member's Bill on December 8, 2011. His office has advised that it could be at least one year before the Bill continues to its second reading.

Amount of Shark Fin Products Imported into Canada and Mississauga:

Access to Information Requests (AIRS) were submitted to the Access to Information and Privacy Coordinators at the Canadian Health Food Inspection Agency (CFIA) and Health Canada in order to obtain information pertaining to the amount of shark fin and shark fin derivative products that have been imported into Canada and Mississauga over the last year. Shark fin is usually imported in lots of frozen or dried form. Shark fin is imported into Canada as processed food products and not as fresh catch.

In 2011/2012, approximately 35,165 kilograms (77,526 pounds) of shark fin lots (dried, salted, soup, stew and other) were imported into Canada. The CFIA's fiscal year starts April 1st and ends March 31st. Approximately 10,000 kilograms (22,046 pounds) were imported into the Province of Ontario through the CFIA Mississauga Inspection Office. Staff from the CFIA advised that a minimal amount of shark fin is imported into Mississauga. Further, they also advised that their Mississauga Fish Inspection Office inspects the shark fin lots and then the lots are transferred out of the municipality as their jurisdiction also includes Ajax, Kitchener, Markham and Scarborough. Please note that the above data does not include shark fin derivative products that are considered natural health products and regulated by Health Canada.

Complaints Received To-date:

Compliance and Licensing Enforcement staff have received two complaints regarding the sale of shark fin soup. The By-law does not come into force and effect until June 30, 2012. No enforcement or investigation into complaints will be taken until an enforcement action plan has been developed by the SFC and approved by Council as directed by Council when they enacted the by-law on October 12, 2011.

Enforcement Strategies of Other Municipalities:

Staff contacted the Cities of Brantford, London, Oakville, Pickering and Toronto; all of whom have enacted by-laws prohibiting the sale of shark fins and requested information on how they intend to enforce the by-law.

The City of Brantford will enforce their by-law on a complaint basis and issue a two week warning notice to contraveners. If there is still non-compliance, a summons will be issued to appear in Court. The City of London will enforce their by-law on a complaint basis. Both the City of Brantford and the City of London have advised that they have not received any complaints as of the date of this report.

The Town of Oakville do not have an enforcement action plan and are providing notices of the requirements of their by-law with all of their food shop licence renewals. Both the Cities of Pickering and Toronto

have passed by-laws which do not come into force and effect until September 2012. Neither City has developed an enforcement action plan as of yet.

Enforcement Challenges

For a Municipal Law Enforcement Officer (MLEO) to issue a charge under the By-law they must have reasonable and probable grounds on which to believe an offence has been committed. To obtain a conviction under the By-law, there must be sufficient evidence to prove the essential elements of the offence beyond a reasonable doubt. In this case, that a person is distributing, selling, offering for sale, trading, preparing for consumption or possessing shark fin or shark fin derivative products. This would mean that under the By-law a charge could be laid simply on the evidence where shark fin is being offered for sale such as an advertisement or on a restaurant menu. However, where there is no such evidence more comprehensive evidence such as DNA Barcoding, will be required for the issuance of a charge.

DNA Testing of Shark Fin & Shark Fin Derivative Products:

Dr. Peter Miller, PhD, Director of Barcoding Applications, Canadian Centre for DNA Barcoding, Biodiversity Institute of Ontario at the University of Guelph was consulted to gain a better understanding of forensic evidence issues relating to the positive identification of a shark fin product. The Canadian Centre for DNA Barcoding provides forensic evidence for agencies such as the Ontario Provincial Police, Ontario Ministry of Natural Resources and the U.S. Federal Drug Administration. They are the first large-scale core facility for DNA barcoding in the world and at the forefront in this research field.

Shark fin can be purchased in frozen or dried form. When frozen it comes in strands and is ready to use after soaking for an hour. Dried versions come in two forms: skinned (shredded) or un-skinned (whole) and requires more preparation.

Dr. Miller advised that DNA barcoding has the potential to identify species of shark, but it is not a tool for identifying specific tissues or pieces of a shark, such as shark fin versus any other part of the shark. Thus, the Canadian Centre for DNA Barcoding can, for example,

possibly determine that a soup contains shark, but not the particular part of the shark. Dr. Miller has confirmed that they could, however, identify dried shark fin by DNA barcoding and visual observation.

Expert Witness Costs:

If required, it will cost \$200 to \$300 to process and identify each alleged shark fin specimen. In addition, there will be additional costs for a forensic scientist to attend Court as a witness and provide expert evidence. Detailed reporting would be provided including a summary of the chain of custody, results, identification of the specimen, photos of the sample in its labelled container and actual specimen, as well as an explanation of each step in the molecular procedure used and quality of the DNA sequence data. Such a comprehensive report provides for greater confidence that there is no human error in the interpretation of the specimen.

Dr. Miller has advised that the cost for a forensic scientist to attend as a witness is \$150/hour, in 15 minute increments, with a one hour minimum. Pre-court preparation time is \$100/hour, in 15 minute increments. All expenses for travel, food and document preparation must also be covered. It is estimated that at minimum, the cost for a forensic scientist to attend as a witness would be in the range of approximately \$750 to \$1,000.

Issues with Obtaining Evidence:

Enforcement staff have the legislative authority to enter and inspect premises such as restaurants and take-out lunch counters licensed under the City of Mississauga Business Licensing By-law 1-06, as amended. They do not, however, have the power of entry to enter and inspect private residences or establishments that do not require a licence issued under Business Licensing By-law 1-06, as amended. In addition, Enforcement staff do not have search and seizure powers and would therefore have to obtain a search warrant to search and seize shark fin from a person or establishment they believe to be in possession of shark fin, unless it was voluntarily provided to them.

Proactive Versus Reactive Enforcement:

Proactive enforcement of the By-law would entail conducting inspections of restaurants; take-out lunch counters; supermarkets, including grocery food stores; "health food" outlets; and, banquet facilities. In order to proactively enforce the By-law and inspect the above-noted establishments, it would require at a minimum one additional full-time MLEO at a cost of approximately \$84,488 per annum including salary and benefits.

Reactive enforcement of the By-law would be in response to complaints received. Charges for contravening the By-law would only be initiated if Enforcement staff are able to obtain sufficient evidence such as shark fin being sold or offered for sale.

Enforcement Action Plan

Once Council has approved an Enforcement Action Plan, Enforcement staff propose that an awareness of the By-law be brought forward by staff through a media release. Following that, Enforcement staff recommend that the By-law be investigated and enforced in the same manner as other similar City by-laws, as noted below.

Upon receipt of a complaint, enforcement staff will initiate the following action:

- First seek compliance with the By-law through an education and awareness program.
- Investigate the complaint by conducting an inspection of the premises, advising of the requirements under the By-law and providing a copy of it.
- Will educate the contravener of the applicable provisions of the By-law, if a contravention of the By-law is observed.
- Will then re-inspect to determine if the Bylaw is being complied with. If the By-law is being complied with the complaint file will be closed as rectified.

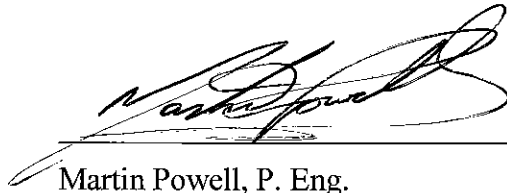
- If determined that the By-law is not being complied with they will attempt to gather sufficient evidence to issue a charge for contravening the By-law.
- No further action will be taken if they are not able to obtain sufficient evidence to issue a charge and will close the complaint file.

FINANCIAL IMPACT: Proactive enforcement of the By-law will require, at a minimum, one additional full-time MLEO at a cost of \$84,488 per annum including salary and benefits. Reactive enforcement of the By-law is not anticipated to require additional resources.

CONCLUSION: It is proposed that the By-law be enforced in accordance with the Enforcement Action Plan. Enforcement of the By-law will first be through education and awareness. Enforcement of the By-law may pose some challenges in obtaining sufficient evidence to pursue charges for contraventions of the By-law, particularly if DNA forensic testing is required.

Enforcement staff are confident that the By-law can be enforced if sufficient evidence can be obtained. Further, Enforcement staff recommend that the By-law be enforced as outlined in the Enforcement Action Plan.

ATTACHMENTS: Appendix 1 Shark Fin By-law 268-11, as amended



Martin Powell, P. Eng.
Commissioner of Transportation and Works

*Prepared By: Douglas Meehan, Manager, Compliance and
Licensing Enforcement*



**THE CORPORATION OF THE CITY OF MISSISSAUGA
SHARK FIN BY-LAW 268-11**

(Amended by 270-11, 322-11)

WHEREAS section 8 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (hereinafter the “*Municipal Act 2001*”) states that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

AND WHEREAS section 8(3) of the *Municipal Act 2001*, authorizes a municipality to regulate or prohibit a matter for which it may pass a by-law under section 11 of the *Municipal Act 2001*;

AND WHEREAS section 11 (2) 5. of the *Municipal Act 2001*, authorizes a municipality to regulate matters related to the economic, social and environmental well-being of the municipality;

AND WHEREAS section 11 (2) 6. of the *Municipal Act 2001*, authorizes a municipality to regulate matters related to the health, safety and well-being of the inhabitants of the municipality;

AND WHEREAS section 11 (2) 8. of the *Municipal Act 2001*, authorizes a municipality to regulate matters for the protection of persons within the municipality;

AND WHEREAS the City of Mississauga is a leader in environmental issues as evidenced by the Green Pillar of the Strategic Plan which has as its principle “Mississauga is a city that values its shared responsibility to leave a legacy of a clean and healthy natural environment.”;

AND WHEREAS the consumption of shark fins and shark fin derivative products by humans may cause serious health risks, including risks from mercury;

AND WHEREAS the practice of shark finning, where a shark is caught, its fins are sliced off while many are still alive, and the live animals returned to the sea severely and almost always fatally wounded, constitutes a serious threat to the oceans’ ecosystems and biodiversity;

AND WHEREAS over 70 million sharks are being slaughtered every year for their fins, a rate at which experts predict could result in the loss of many shark species within a decade;

AND WHEREAS the City of Mississauga is a market for shark fins where shark fin soup is prepared and consumed in various establishments;

AND WHEREAS the risk to the health of the City’s inhabitants and the negative impact to the oceans’ ecosystems, posed by the consumption and trade in shark fins, are both municipal issues that affect the citizens of Mississauga;

NOW THEREFORE the Council of The Corporation of the City of Mississauga **ENACTS** as follows:

PART I - DEFINITIONS

1. For the purpose of this By-law:

“**City**” means The Corporation of the City of Mississauga and for clarification includes the territorial jurisdiction of the City of Mississauga where the context requires;

“**Compliance and Licensing Enforcement Section**” means the Compliance and Licensing Enforcement Section of the City’s Enforcement Division, or any successor section or division;

“**Council**” means the elected council for the City;

“**Expenses**” means any and all sums of money actually spent or required to be spent by the City, and shall include but not limited to all charges, costs, administrative fees, HST, outlays, legal fees and losses;

“**Officer**” means a Person employed by the City to perform the duties of enforcing its By-laws and appointed by Council as a Municipal Law Enforcement Officer;

“**Shark**” means a fish that is commonly referred to as a shark and includes any fish that belongs to a species under the common name of shark;

“**Shark Fin**” means the raw, dried, or otherwise processed detached fin, or the raw, dried, or otherwise processed detached tail, of a Shark or any derivative product of a Shark Fin.

PART II – ADMINISTRATION

2. The Compliance and Licensing Enforcement Section of the City shall be responsible for the administration and enforcement of this By-law.

3. Section 4, 5, and 6 do not apply where the Shark Fins were purchased and brought within the City prior to the enactment of this By-law. (270-11)

PART III - GENERAL PROHIBITIONS

- 4. No person shall possess, sell, offer for sale, trade, or distribute Shark Fins within the City. (270-11)
- 5. No person shall prepare for consumption or process Shark Fins within the City.(270-11)
- 6. No person shall cause shark fins to be prepared for consumption or processed in the City.

PART IV - ENFORCEMENT

- 7. An Officer acting under this By-law may, at any reasonable time, enter and inspect any property, including all buildings and structures thereon, to determine whether there is compliance with this By-law.

PART V - PENALTY

- 8. (1) Every person who contravenes any provision of this By-law, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended and the *Municipal Act, 2001*, as each may be amended from time to time.
- (2) In addition to Subsection 8 (1) of this By-law, any person who is charged with an offence under this By-law by the laying of an information under Part III of the *Provincial Offences Act* and is found guilty of the offence is liable: (270-11)
 - (i) on a first conviction to a fine of not more than \$15,000.00, and
 - (ii) on any subsequent conviction to a fine of not more than \$30,000.00.

PART VI - VALIDITY & INTERPRETATION

- 9. If a court of competent jurisdiction declares any provisions or part of a provision of this Bylaw to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.
- 10. All words importing the singular shall include the plural and the converse of this also applies.
- 11. This By-law shall not be in force and effect until June 30, 2012, on which date this By-law shall come back into force and effect. (322-11)

PART VII - SHORT TITLE

12. This By-law shall be known and may be cited as the “Shark Fin By-law”.

ENACTED AND PASSED this 12th day of October, 2011

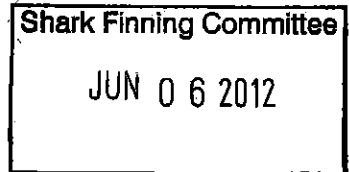
Signed by: Hazel McCallion, Mayor and Crystal Greer, City Clerk



Corporate Services Department
Clerk's Office
CITY of STRATFORD
City Hall, P.O. Box 818
Stratford ON N5A 6W1

519-271-0250 Ext. 237
Fax: 519-273-5041
TTY: 519-271-5241
www.city.stratford.on.ca

March 29, 2012



Martin Powell
Commissioner, Transportation and Works
City of Mississauga
300 City Centre Drive
MISSISSAUGA ON L5B 3C1

Dear Mr. Powell:

Re: Shark Fin as Foodstuff

Please be advised that, at its meeting on March 5, 2012, Stratford City Council passed the following resolution:

That Stratford City Council endorse the City of Mississauga resolution encouraging a ban on the importation of shark fin foodstuff.

Sincerely,

Joan Thomson
City Clerk
Ile

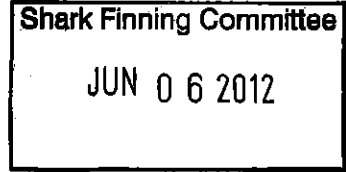
c: Gary Schellenberger, MP
Randy Pettapiece, MPP

From: FCM Communiqué [mailto:communique@fcm.ca]

Sent: 04/24/2012 12:22 PM

To: Carol Horvat

Subject: [MAYBE SPAM] FCM Board Alert: Amendments to the Fisheries Act/Avis au Conseil de la FCM: Modifications à la Loi sur les pêches



La version française se trouve à la suite du texte anglais.

Dear Board Members,

Today, the federal Minister of Fisheries proposed amendments to the Fisheries Act. Some of these amendments respond directly to municipal concerns that FCM has been advancing to the Department of Fisheries and Ocean (DFO) for over a decade. In particular, changes announced today should reduce the time federal, provincial and municipal governments spend processing paperwork for small, low-risk public works projects, so they can dedicate more of their resources to protecting fisheries from major threats.

Over the last decade, FCM has consistently called for common sense reforms in Ottawa that deliver better value for taxpayers at the same time as protecting the environment. Today, it appears as if the federal government was listening. We will be working with the government to develop the regulations and policies that will implement these legislative changes. This consultation process will ensure municipal interests are reflected in how these changes affect everyday municipal operations, and that the balance between environment protection and efficient, streamlined government is maintained.

Please see the statement released by President Vrbanovic in response to the announcement, as well as key messages and a short briefing note providing our analysis of the Minister's proposal. Our analysis was based on a briefing by DFO officials prior to the announcement; we will be reviewing the changes in detail and will provide additional analysis if necessary. If you have any questions about the Fisheries Act or our response, please contact Shannon Joseph, Policy Advisor.

Sincerely,

Brock Carlton
Chief Executive Officer



Key messages:

- We welcome today's commitment by the Government of Canada to reform the Fisheries Act.
- The changes announced today will allow governments to spend less time processing paperwork for small, low-risk public works projects and dedicate more resources to protecting fisheries from major threats and enforcing the rules when people break them.
- By reducing the time municipal employees are forced to spend filling out forms and waiting for federal approvals, the changes will make it faster and less expensive for local governments to perform routine public services, from clearing ditches to repairing storm water systems.
- These reforms will make it easier for governments to set clear, sensible priorities for protecting fish habitats. Currently the Fisheries Act applies the same protections to rivers and streams as municipal drains and farmers' irrigation canals. That doesn't make sense.
- The federal government has pledged to give the Fisheries Act more teeth by introducing enforcement provisions where none have existed before and giving regulators new legal tools to keep invasive species from entering Canada and harming our environment.
- Municipal leaders have consistently called for common sense reforms in Ottawa that deliver better results for Canadians. We look forward to working with the federal government to turn the broad reforms announced today into a strong, sensible action plan that strengthens our communities and protects our fisheries and environment.

3-2

Statement by FCM president on proposed changes to Fisheries Act (24/04/2012)

Statement by FCM president on proposed changes to Fisheries Act

OTTAWA - The following statement was released today by FCM president Berry Vrbanovic following the federal government's announcement on proposed changes to the Fisheries Act:

"The Federation of Canadian Municipalities welcomes today's commitment by the Government of Canada to reform the Fisheries Act.

The changes announced today will allow governments to spend less time processing paperwork for small, low-risk public works projects and dedicate more resources to protecting fisheries from major threats and enforcing the rules when people break them.

By reducing the time municipal employees are forced to spend filling out forms and waiting for federal approvals, the changes will make it faster and less expensive for local governments to perform routine public services, from clearing ditches to repairing storm water systems.

These reforms will make it easier for governments to set clear, sensible priorities for protecting fish habitats. Currently the Fisheries Act applies the same protections to rivers and streams as municipal drains and farmers' irrigation canals. That doesn't make sense.

The federal government has pledged to give the Fisheries Act more teeth by introducing enforcement provisions where none have existed before and giving regulators new legal tools to keep invasive species from entering Canada and harming our environment.

Municipal leaders have consistently called for common sense reforms in Ottawa that deliver better results for Canadians. We look forward to working with the federal government to turn the broad reforms announced today into a strong, sensible action plan that strengthens our communities and protects our fisheries and environment."

Page Updated: 24/04/2012

Federation of Canadian Municipalities

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Ottawa, Ontario

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Email: info@fcm.ca

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3-3



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Canada

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Harper Government Commits to the Responsible Protection and Conservation of Canada's Fisheries

April 24, 2012

Ottawa, Ontario - The Honourable Keith Ashfield, Minister of Fisheries and Oceans Canada, announced that the Harper government will introduce changes to protect the productivity of recreational, commercial and Aboriginal fisheries. This means focusing protection rules on real and significant threats to these fisheries and the habitat that supports them while setting clear standards and guidelines for routine projects. It also means strengthening partnerships with provinces and conservation groups as well as creating better tools to ensure compliance and enforce the rules where necessary.

"Our government is committed to adopting a more sensible and practical approach to protecting Canada's fisheries and making sure they are productive and sustainable for future generations," said Minister Ashfield.

"We have been clear that the current rules governing the protection of fish habitat are indiscriminate and unfocused and do not reflect the priorities of Canadians," continued Minister Ashfield. "We are committed to making sure our rules protect the fisheries that Canadians value and the habitat that supports them. We can do this while giving Canadians the freedom to maintain their properties and minimizing restrictions on everyday activities that have little to no impact on Canada's fisheries."

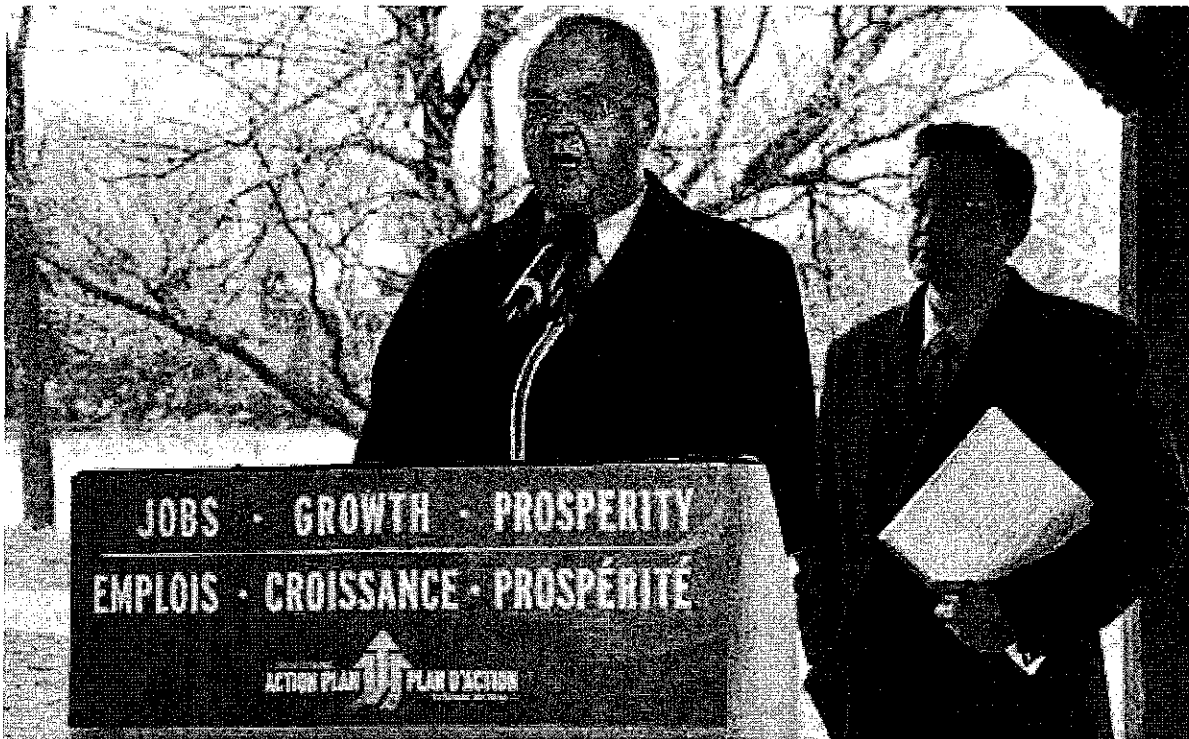
Under the *Fisheries Act*, no distinction is drawn between the vital waterways, lakes and rivers that support Canada's fisheries and small bodies of water that may not even be home to fish. For example, under the current system, drainage ditches, man made reservoirs and irrigation channels are subject to the same rules and guidelines as rivers, lakes, and oceans that support fish and local fisheries.

"The Ontario Federation of Anglers and Hunters (OFAH) agrees that Canada's fish habitat protection policies need to be improved and we are encouraged by the government's commitment to the conservation of Canada's recreational fisheries" said Dr. Terry Quinney, Provincial Manager of Fish and Wildlife Services. We are convinced that with the participation of stakeholders like the OFAH and others across the country, that better protection and enhancement of our fisheries, habitat and aquatic ecosystems can be achieved. We look forward to working with the Minister and Government of Canada on these important issues."

"Our government recognizes that Canada's fisheries are important to Canadians. We simply want the rules to focus on these priorities and ensure our fisheries continue to be protected," said the Minister.

According to the most [recent survey on recreational fishing in Canada](#), recreational fishing generates approximately \$8.3 billion of economic activities to local economies across Canada. Approximately 3.3 million Canadians take part in recreational fisheries and the industry brings over 2 million tourists into the country every year. [Fish and seafood is one of the largest single food commodities exported by Canada](#). The commercial fishing, aquaculture and processing sectors employ about 80,000 Canadians. The Government also recognizes the importance of fishing to the Aboriginal people of Canada and will continue to respect Aboriginal and treaty rights and protect food, social and ceremonial fisheries.

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The Honourable Keith Ashfield (left), Minister of Fisheries and Oceans, at Chapman Mills Conservation Area in Ottawa, announces changes to the federal government's policies to conserve and protect Canada's fisheries. Beside Minister Ashfield is M.P. Pierre Poilievre, Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities.



The Honourable Keith Ashfield, Minister of Fisheries and Oceans, at Chapman Mills Conservation Area in Ottawa on April 24, 2012. Alongside Minister Ashfield are Dr. Terry Quinney (left), Ontario Federation of

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Anglers and Hunters; James Brennan, Ducks Unlimited Canada; M.P. Pierre Poilievre, Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities; Minister Ashfield; and Andrea Barnett, Ducks Unlimited Canada.

Backgrounders:

- [Responsible Protection and Conservation of Canada's Fisheries](#)
- [Frequently Asked Questions - New Fisheries Protection Measures](#)
- [Speaking Notes for the Honourable Keith Ashfield at the Protection and Conservation Announcement](#)

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Speaking Notes

for The Honourable Keith Ashfield, P.C., M.P. Minister of Fisheries and Oceans

at the

Protection and Conservation Announcement

Ottawa, Ontario
April 24, 2012

Good morning and thank you for joining us.

I would like to thank Pierre Poilievre, MP for Nepean-Carleton, for being with us today. Pierre has been a great advocate for the people of Nepean-Carleton on a variety of issues, including raising concerns on behalf of his constituents about the appropriateness of the current laws on fish habitat.

I particularly want to thank representatives of the Ontario Federation of Anglers and Hunters and Ducks Unlimited.

They have also raised concerns about the effectiveness of our current policies, so we all agree that these changes are a good thing.

Our government is pleased to work with these organizations on a variety of files. Our strong relationships will serve us both as we continue to work together on developing the changes being introducing today.

Canada is blessed to have a vast network of waterways that support important fisheries across the country. Our government recognizes that fisheries are a great contributor to Canada's economy and the Canadian way of life.

For example, approximately 3.3 million Canadians take part in recreational fisheries across our country. It is an industry that was worth 8.3 billion dollars in 2010.

And approximately 80,000 Canadians are employed in the commercial fishing, aquaculture and processing sectors across Canada.

Recognizing the importance of Canada's fisheries across the country, our government is introducing changes that will focus our fish and fish habitat protection rules on Canada's fisheries.

These changes solidify our government's commitment to protecting recreational, commercial and Aboriginal fisheries and the habitat that supports them.

We want to adopt a sensible and practical approach to managing real and significant threats to fisheries and the habitat that supports them while minimizing the restrictions on routine, everyday activities that have little to no impact on the productivity of Canada's fisheries.

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We have heard from Canadians across the country that the current rules protecting fish and fish habitat go beyond their intended conservation goals.

The laws are indiscriminate and mean that all bodies of water where fish live - or could live - are subject to the same rules and evaluation, regardless of size, environment or contribution to a fishery.

That does not make sense to us, and frankly we don't think it makes sense to the majority of Canadians.

In fact, we've heard Canadians tell us about farmers being prevented from cleaning out their irrigation channels, municipalities being delayed in repairing bridge supports and routine maintenance of drainage ditches, businesses not being allowed to clear flooded fields and campsites, and cottage owners prohibited from keeping up their properties - all because of the existing rules.

Conservation groups have also indicated that we are using our resources ineffectively and that there are better ways to protect important wetlands, rivers, lakes and oceans. We believe that by improving our partnerships with conservation groups, we can strengthen our collective ability to protect these important, natural areas.

Government resources are not limitless and I think we can all agree that it does not make sense to evaluate a minor project, like a farmer cleaning out an irrigation channel, in the same way we would treat a major project like a hydro dam affecting one of Canada's important fisheries.

The new changes will protect the productivity of Canada's fisheries while providing much-needed clarity to Canadians by:

- Focusing the government's protection efforts on recreational, commercial and Aboriginal fisheries.
- Drawing a distinction between vital waterways that support Canada's fisheries and unproductive bodies of water, like man-made reservoirs, drainage ditches and irrigation channels.
- Identifying and managing real threats to the fisheries, including direct impacts to fish, habitat destruction, and aquatic invasive species.

Regulatory standards for routine, low-risk projects such as building a boat launch or a dock at the cottage do not exist at this time. Through these changes, we will be able to establish new, clear and accessible guidelines for projects in or near water.

It makes good, common sense that the government should be able to minimize or eliminate restrictions on commonplace activities that pose little to no threat, at the same time, maintain appropriate, reasonable and responsible protection for Canada's fisheries.

Currently, all areas are treated indiscriminately under the law - be it a wetland or a floodplain. Under the new system, we will have the tools to identify ecologically sensitive areas that require enhanced protection. The existing rules to protect waterways from pollution will continue to do so, as they have in the past.

The changes I am introducing today strengthen our capacity to crack down on those who break the rules. We will now be able to enforce conditions associated with Fisheries Act authorizations. At present, Fisheries and Oceans Canada can impose conditions, but does not have the ability to enforce them.

Moreover, infractions under the Fisheries Act will now be aligned with what is set out in the Environmental Enforcement Act which provides higher maximum penalties.

Fisheries protection rules will focus on a broad range of threats to recreational, commercial and Aboriginal fisheries.

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Of particular note to our friends in the angling community, the proposed changes recognize the importance of the recreational fishery. The new rules would provide protection to recreational fisheries from threats to their ongoing productivity.

You will also be happy to know that regulations will be developed prohibiting the import, transport and possession of live aquatic invasive species, such as Asian carp, which are threatening the Great Lakes.

For landowners and municipalities, the new system will provide much-needed clarity about whether and how fisheries protection provisions apply to you.

We want to move DFO out of the business of reviewing every activity on every body of water, regardless of the impact - to focusing on activities that pose a significant threat to the sustainability and productivity of recreational, commercial or Aboriginal fisheries.

For routine and low-impact projects, we will set clear standards and regulations to guide you in your projects without harming fish and fish habitat.

Under the new rules, the government will be able to enter into productive partnerships with conservation groups, to enable these groups to use their expertise to protect, monitor and conserve specific areas.

This could include innovative approaches to protecting habitat or efforts to fight aquatic invasive species.

Our government's strong partnership with groups like these and others will be crucial in the coming weeks and months as we work together to develop regulations and policies that will support these changes.

In the process of developing this supportive regulatory and policy framework, we will consult with conservationists who have the necessary expertise - like the ones that are here with me today, and other interested Canadians.

We will work with the provinces and territories that manage certain fisheries, with anglers and conservation groups, landowners, municipalities, commercial fishermen and Aboriginals as we go forward with the development of these new rules.

As we prepare to implement changes, we will continue to listen and to build partnerships with stakeholders devoted to preserving and protecting fisheries with the hope that they can play an even larger role in the future.

We want our rules to support their efforts and the important work they do every day and we will work with them to develop innovative conservation measures. Many are already investing time and money to make this happen and should be commended for their efforts.

My objective is to create an enabling environment where we can work together towards our common objectives.

Our recreational, commercial and Aboriginal fisheries are important to Canadians - from a family on the end of the dock casting for a trout for the dinner table to a crew setting to sea in search of lobsters to a First Nation gathering salmon for food, social and ceremonial purposes.

We want to put in place rules that are clear and practical and that focus on the priorities of Canadians. And, in doing so, we want to conserve and protect Canada's fisheries so that they can contribute to the Canadian way of life for generations to come.

Thank you.

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Briefing Note

AMENDMENTS TO THE FISHERIES ACT

April 24, 2012

Issue

On April 24, the government proposed amendments to the *Fisheries Act*. Some of the proposed changes respond directly to requests FCM has made of the government for almost a decade. Many of our members will welcome the changes. Some members, however, will have legitimate questions and concerns about the possible impact of the changes on environmental protection.

This briefing note provides background on the history of this issue at FCM, an overview of the impacts of the amendments on municipal operations, and some potential questions and answers to help respond to concerns raised by the media or the public.

Background

The federal *Fisheries Act* has been a corner stone of fisheries protection legislation for over a century, protecting Canada's aquatic biodiversity. It has not been meaningfully amended since 1977, and many sections of the Act date to 1868.

It is currently designed to provide blanket protection to all fish habitat. This orientation to habitat protection has, in many cases, created administrative barriers to municipal and local projects that would have no significant, real-world impact on fish populations. Municipal drainage systems and irrigation canals in farmers' fields were subject to the same oversight and approval processes as major projects affecting environmentally sensitive lakes and rivers. This was not a sensible or effective approach.

Tensions between municipalities and DFO over the enforcement of the Act's habitat protection provisions have been escalating over the past several years. This culminated in the unreasonable and unfair arrest of a municipal official by DFO over the actions of a housing developer, which led FCM to press for changes to both the Act and its enforcement. Municipalities wanted a risk-based approach to habitat protection, whereby projects affecting marginal habitats (such as irrigation ditches) or projects with minor or time limited habitat impacts were not blocked in the name of unlikely and insignificant environmental outcomes. Municipalities also sought to be treated as partners in the Act's review and enforcement and to be recognized as an order of government and a regulator, and not just a stakeholder or project proponent.

Overview of April 24 proposed amendments:

On April 24, 2012 the federal government proposed amendments that will be important to local governments as property owners and regulators:

- 1. Reorientation of the Act to protect commercial, recreational and aboriginal fisheries and their supporting systems:**
 - a. Protection of habitat and feeding fish that support a fishery
 - b. Definition of minor works and minor waters that are automatically excluded from the Act
 - c. Creating provisions that would allow regulators to address the issue of invasive species – which is currently unaddressed
- 2. Enhancing environmental protection tools:**
 - a. Providing the government with the authority to enforce conditions of permits under the Fisheries Act – currently no enforcement provisions exist.

- b. Providing the Minister of Environment with the authority to target certain waters for special protection even if the water or work might otherwise be excluded from the Act.
- c. Creating provisions for recognition of habitat off-sets.
- 3. Avoiding duplication and reducing administrative costs and burdens:**
 - a. Self-exclusion of smaller projects – reducing the number of applications for permits from 8,000 to 1,000.
 - b. “Meet or beat” option to recognize the equivalency of provincial and territorial regulations in areas of shared jurisdiction under the Act.
 - c. Allowing locally developed standards and tools to be referenced in the Act to address particular needs.

Municipal benefits of proposed amendments:

- 1. Clearer definition of what activities and what areas will require a permit under the *Fisheries Act* and the possibility of self-exclusion from application of the Act.
- 2. Reduced administrative since few projects will require a federal permit and associated application process.
- 3. Reduced infrastructure cost since fewer minor projects will require significant adjustment and additional cost to comply with the *Fisheries Act*.
- 4. Neutral to positive environmental benefits since the focus on protecting fisheries, rather than any water occupied by fish regardless of environmental or public interest, will make resources available for better evaluation of projects which may in fact affect fisheries, and enforcement of permit conditions.
- 5. Increased emphasis on working with other regulations, including municipalities, as partners and opportunities to reference locally developed best policies and practices in the revised Act.

Key Questions and Answers:

- 1. Why are changes to the Fisheries Act important to municipalities?**
As land owners, local governments are subject to the Fisheries Act and must currently seek federal authorization for any project that might impact the habitat of any fish. The restoration of a culvert, the draining of a field for an annual traditional festival or the maintenance of storm water treatment wetland are examples of projects that could trigger the Fisheries Act at great cost to municipalities.
- 2. How will the proposed changes to the Fisheries Act benefit local governments?**
Instead of providing blanket protection to any habitat in which a fish might live, including a drainage ditch, the Act will focus on the potential of any proposed work to impact the long-term viability of a fishery over the long or short term. The changes make it clear which municipal projects would trigger the act and which won't. It also reduces the number of projects that are likely to trigger the act.
- 3. Will the environment still be adequately protected?**
Right now significant resources are dedicated to evaluating projects that will have no significant impact on fish or their habitat – these resources will be freed for projects that require scrutiny. Furthermore, the current act has no enforcement provisions, so proponents that receive the go-ahead for their project subject to conditions are under no obligation to comply with those conditions – this will change under the new provisions. Finally, for the first time the issue of invasive species, which have significant environmental and ecosystem impact, will be addressed in Canadian law – this will provide regulators with the tools to protect indigenous Canadian aquatic species from these pests.