

Submission on Bill C-39, Building Canada Strong Act

Submitted on behalf of Canada's Hydroelectricity Industry

Executive Summary

Canada's hydroelectric industry strongly supports the objectives and core provisions of Bill C-39, *Building Canada Strong Act*, particularly its commitment to delivering a "one project, one decision, in one year" framework for major projects.

The hydroelectric sector is poised to invest roughly \$100 billion in new generation, expansions, and refurbishments over the coming decade. Accelerating project approvals is essential to meeting Canada's growing electricity demand, strengthening energy security, and achieving climate objectives.

As outlined in WaterPower Canada's response to the government's consultation on federal regulatory streamlining, the measures proposed in Bill C-39 address many longstanding concerns regarding regulatory duplication, sequential reviews, and permitting delays¹.

While we support Bill C-39 and encourage its prompt passage, we believe Parliament should use this opportunity to go further. We recommend that an opt-in mechanism be created to **allow proponents to access centralized federal coordination services, including the Federal Review Coordinator and Crown Consultation Hub, even where projects do not trigger federal impact assessments.**

Importantly, further amendments to the Fisheries Act should be incorporated into the bill to ensure the federal regulatory framework is fully aligned with the government's objective of accelerating major project delivery, as well as with its National Electricity Strategy.

Unless reforms are made to the Fisheries Act authorization regime, one of the most significant regulatory barriers facing hydroelectric projects will remain unresolved.

Support for Bill C-39

A Necessary Reform of Federal Project Reviews

Bill C-39 correctly recognizes that Canada's federal approval system has become increasingly complex, duplicative, and time-consuming. The bill's central reforms will improve regulatory certainty while maintaining environmental and Indigenous consultation obligations.

For hydroelectric projects specifically, environmental assessment and permitting timelines frequently **extend beyond 10 years**. Bill C-39's approach of coordinating reviews and consultations rather than conducting them sequentially is therefore strongly welcomed.

¹ https://waterpowercanada.ca/wp-content/uploads/2026/07/WPC_Major-Projects-Regulatory-Streamlining_07222026.pdf

Indigenous Consultation Improvements

The proposed approach to coordinating Crown consultations is another significant improvement. Under the current framework, Indigenous communities often receive duplicative requests from multiple federal departments concerning the same project. A coordinated federal consultation process has the potential to improve efficiency, reduce consultation fatigue, and provide more meaningful engagement by consolidating discussions into a single integrated process.

Properly implemented, these reforms can benefit Indigenous communities, governments, and project proponents alike.

Recommendation 1: Extend Reforms Beyond Major Projects by Creating an Opt-In Mechanism

While Bill C-39 focuses primarily on major projects, Canada's hydroelectric industry notes that regulatory burden is not limited to new megaprojects.

Since hydro assets have useful lives that extend beyond 100 years, approximately half the industry's anticipated investment over the next decade will be directed toward:

- facility refurbishments;
- modernization projects;
- equipment replacements;
- dam safety improvements; and
- facility expansions.

Many of these initiatives do not trigger federal impact assessments but nevertheless require lengthy federal permitting processes. As a result, significant delays and compliance costs may continue even if Bill C-39 succeeds in streamlining major project reviews.

We therefore support mechanisms that would allow proponents to access centralized federal coordination services, including the Federal Review Coordinator and Crown Consultation Hub, even where projects do not trigger federal impact assessments. Such an opt-in process would allow the benefits of Bill C-39 to extend to a broader range of economically important infrastructure investments.

Fisheries Act reform remains the missing piece

The most significant remaining obstacle to efficient project delivery and capacity growth is the *Fisheries Act* authorization regime. We welcome the amendments aiming to increase flexibility in offsetting proposed in C-39 but believe the bill must go further to make current framework consistent with the objectives of Bill C-39 and the government's National Electricity Strategy.

While Transport Canada has successfully implemented risk-based approaches under the Canadian Navigable Waters Act, including exemptions and streamlined treatment for minor works, Fisheries and Oceans Canada (DFO) continues to administer a framework that frequently focuses on very small-scale impacts requiring disproportionate regulatory effort.

The 2019 amendments to the *Fisheries Act* replaced the previous focus on serious harm to fish and fish habitat with broader prohibitions relating to the death of any fish or impacts to fish habitat. This has led to increased and unreasonable scrutiny of **individual fish** mortality and minor habitat impacts rather than concentrating regulatory attention on fish populations, fisheries sustainability, and ecosystem outcomes.

While DFO's constitutional mandate speaks to fisheries, the modernized Act has led the department's assessors to count every fish specimen and routinely require multi-million-dollar studies and compensation plans for fish mortality cases that are well below what an individual fishing license would allow to harvest, or in some cases the monthly fish consumption of an individual seagull.

The process and its requirements have become so onerous that some of WaterPower Canada members have opted not to go forward with projects that trigger a requirement for a *Fisheries Act* authorization.

The Department has also maintained a focus on existing facilities that hinders investments in new projects. Asking operators to file applications for some 600 decades-old facilities that were constructed in accordance with the standards of the day will result in **billions of dollars being diverted away from new projects that would otherwise contribute to meeting the Government's goal of doubling electricity capacity by 2050** as stated in the National Electricity Strategy².

We believe these outcomes are inconsistent with the broader policy objectives underlying Bill C-39, and with the Government's objective to reduce red tape.

Recommendation 2: Restore the *Fisheries Act's* focus on fisheries and fish populations

WaterPower Canada's response to the consultation paper recommended restoring the *Fisheries Act's* focus on fisheries and fish populations rather than individual fish. Specifically, legislative amendments to the Act's purpose statement (2.1), and sections 34.4(1) and 35(1) should refocus decision-making on impacts that are significant at the fishery or population level.

Such reforms would:

- improve regulatory efficiency;
- better align regulatory attention with actual ecological risk;
- allow regulators to focus resources on significant impacts;
- reduce unnecessary permitting for low-risk activities; and
- support Canada's clean electricity expansion objectives.

Importantly, these changes would not eliminate environmental protections. Rather, they would direct regulatory resources toward the activities and impacts that matter most from a conservation perspective.

Proposed language regarding amendments to sections 2.1, 34.1(1), 34.4(1), 35(1) of the Act is included in Appendix 1.

² [Powering Canada Strong: A National Strategy for an Electrified Canadian Economy - Natural Resources Canada](#)

Recommendation 3: Mandate the consideration of public interest in the decision-making criteria included in 34.1(1)

We welcome the proposed amendment to section **34.1(1)** of the *Fisheries Act* included in bill C-39, which aims to add greater certainty regarding the consideration of all factors when issuing an authorization.

We further believe that the public interest ought to be added to the list of factors included in this section of the Act to ensure it is properly considered in combination with other factors.

Proposed language regarding an amendment to section 34.1(1) is included in Appendix 1.

Recommendation 4: Amend section 35.01 to make the consideration of the technical, economic and practical feasibility of conditions required for all works, undertakings and activities.

We also welcome the addition of section **35.01** to the Act, which will require assessors to take into account the technical, economic and practical feasibility of the conditions if the authorization relates to a work, undertaking or activity.

We further recommend that this requirement be extended to all works, undertakings and activities instead of being limited to those included in the *Physical Activities Regulations*, which only capture hydro projects of 200 MW or more.

Our sector has regularly experienced conditions that were not technically, economically or practically feasible³ and having the requirement applicable to all projects would provide much needed regulatory certainty.

Proposed language regarding an amendment to section 35.01 is included in Appendix 1.

Recommendation 5: Create clear *Fisheries Act* authorization thresholds

Another critical reform needing to take place is the establishment of clear categories identifying which hydroelectric activities require *Fisheries Act* authorizations.

At present, proponents often face an unnecessary focus on existing facilities by the Department, which is requesting Fisheries Act authorizations (FAAs) for Canada's 600 existing facilities. This diverts time and resources away from the capacity building projects Canada needs. Hydro-Québec alone estimates that obtaining authorizations for all of its facilities would cost approximately 2 billion dollars.

We therefore recommend the addition of a section to the Act that would:

- exempt the continued operation of existing facilities from authorization requirements unless a significant change in risk to fish populations arises;
- recognize routine maintenance activities for those facilities;
- focus authorizations on genuinely significant changes in risk; and
- establish transparent thresholds for federal review.

³ By way of example, one generator was asked to build fish passage infrastructure evaluated at 20 million dollars for a 2 MW facility that does not produce a profit. Requirements such as that have been frequent since the 2019 amendments to the *Fisheries Act*.

Such an approach would parallel successful risk-based frameworks already used elsewhere in the federal regulatory system.

A proposal for a new section in the Act is (4.2.1) is provided in Appendix 1.

Conclusion

Canada's hydroelectric industry strongly supports Bill C-39 and commends the Government of Canada for advancing meaningful reforms to federal project approvals. The legislation's commitment to coordinated reviews, streamlined decision-making, and a one-year federal timeline represents an important step toward improving Canada's competitiveness and accelerating investment in critical infrastructure.

However, to fully achieve the government's objective of getting major projects built faster, Parliament should address the regulatory bottlenecks that remain outside the bill's current scope. Chief among these is the *Fisheries Act* authorization regime.

We therefore urge Parliament to:

Recommendation 1: Extend Reforms Beyond Major Projects by Creating an Opt-In Mechanism

Recommendation 2: Restore the *Fisheries Act*'s focus on fisheries and fish populations

Recommendation 3: Mandate the consideration of public interest in the decision-making criteria included in 34.1(1)

Recommendation 4: Amend section 35.01 to make the consideration of the technical, economic and practical feasibility of conditions required for all works, undertakings and activities.

Recommendation 5: Create clear *Fisheries Act* authorization thresholds

Taken together, these reforms would preserve strong environmental protection while ensuring that Canada can build the electricity infrastructure necessary to support economic growth, affordability, energy security, and decarbonization.

About WaterPower Canada

Founded in 1998, WaterPower Canada is the national association representing the waterpower industry. Its members span the breadth of the sector and include publicly- and privately-owned hydropower producers, manufacturers, developers, engineering firms and other organizations.

Operating over 600 facilities across Canada, WaterPower Canada members represent more than 95% of the country's waterpower installed capacity, advocating for the responsible development and use of waterpower to meet our present and future electricity needs in a sustainable manner.

Waterpower provides more than 60% of Canada's electricity, ensuring our electricity grid is one of the cleanest globally.

APPENDIX 1 - Key Recommendations by WaterPower Canada for Amendments to the 2019 *Fisheries Act* and the creation of a new regulation regarding hydroelectric works

1. We recommend restoring the focus of the *Fisheries Act* on fisheries and their sustainability rather than on individual fish through the following amendments:

1. Amend the Act's purpose statement:

2.1 *The purpose of this Act is to provide a framework for*

(a) *the proper management and control of fisheries; and*

(b) *the **[proper management and]** conservation and ~~protection of fish [populations]~~ and fish habitat, including by preventing pollution.*

2. Amend the section of the *Fisheries Act* relating to death of fish be amended as follows:

34.4 (1) *No person shall carry on any work, undertaking or activity, other than fishing, **[that results in significant harm to fisheries and fish populations that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery].***

3. Similarly, the section of the *Fisheries Act* relating to the harmful alteration, disruption or destruction of fish habitat should be amended as follows:

35 (1) *No person shall carry on any work, undertaking or activity that results in **[significant harm to fish habitat for fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery].** ~~the harmful alteration, disruption or destruction of fish habitat.~~*

2. Considering the importance of hydropower facilities to Canada's energy needs and efforts to reduce GHG emissions, we recommend restoring the consideration of public interest among the Act's decision-making factors in article 34.1(1).

INSERT: **(h) the public interest**

~~(h)~~ (i) *any other factor that the Minister considers relevant.*

3. We also recommend expanding the requirement to take into account the technical, economic and practical feasibility of conditions to all projects by amending proposed section 35.01 as follows:

35.01 (1) *Before establishing, adding or amending any conditions in respect of an authorization issued under paragraph 34.4(2)(b) or 35(2)(b), the Minister must take into account the technical, economic and practical feasibility of the conditions if the authorization relates to a work, undertaking or activity.*

~~(a) that is related to a designated project, as defined in section 2 of the Impact Assessment Act;~~

~~(b) that is regulated under the Canadian Energy Regulator Act; or~~

~~(c) that is prescribed by regulations made under subsection (2) or that belongs to a class that is prescribed by regulations made under that subsection.~~

4. Finally, to specify which hydro projects, works, undertakings or activities require a *Fisheries Act* authorization, we also recommend adding the following to the Act:

[4.2.1 Existing facilities

The operation of a hydroelectric facility that was in operation on August 28, 2019 is presumed to comply with this Act unless the Minister establishes that the operation of the facility causes serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.]