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2026 11 11

Navigation Protection Program
Transport Canada
Ottawa, ON

Re: WaterPower Canada comments regarding proposed amendments to the *Navigable Waters Works Regulations* (Phase 2)

email: tc.npphq-ppnac.tc@tc.gc.ca

WaterPower Canada is pleased to provide comments regarding proposed amendments to the *Navigable Waters Works Regulations*.

As the national trade association representing Canada's hydropower industry—including 70 public and private power producers, equipment manufacturers, and engineering firms—WaterPower Canada's members represent over 95% of Canada's installed waterpower capacity and operate more than 600 facilities nationwide.

We address each of the questions posed as part of the consultation in detail below.

Proposal 1: Exclude certain smaller bodies of water from the *Canada Navigable Waters Act* (CNWA)

We agree with Transport Canada's observations outlined in the discussion paper:

a) Bodies of water that might trigger consideration under the CNWA also fall under provincial water resources legislation.

b) Transport Canada should focus its attention on bodies of water where navigation needs to be protected.

c) Navigability assessments for smaller bodies of water are not a productive use of resources for everyone involved, including proponents, Indigenous communities, and Transport Canada.

Since provinces have permitting processes to address alterations of bodies of water, **we recommend Transport Canada consider amending its legislation to permit delegation of decisions relating to minor bodies of water to provincial authorities. We suggest a minor body of water is one where navigation is possible, but where commercial navigation is not expected to occur.**

We do not see this as a reduction in oversight or Indigenous consultation, as provinces are also responsible to consult Indigenous groups regarding permits. A provincial permit authorizing the alteration of a watercourse or water body could easily address navigation issues affecting Indigenous or recreational users.

We appreciate that the discussion paper already outlines targets on water body width and depth to screen out smaller watercourses, but the limited dimensions of 3 m wide and 0.3 m deep may not be effective in screening out projects from further debate as to whether they affect navigation. A stream that is generally not navigable but has a small pond more than 3 m wide and 0.3 m deep could still create debate even though it meets the dimensions outlined in the discussion paper.

If Transport Canada chooses not to delegate decisions relating to minor water bodies to provinces, then we recommend that, at a minimum, a water body should be navigable over a reasonable distance before it should be considered navigable, and **we suggest that a navigable water should be at least 3 m wide and 0.3 m deep over at least 1 kilometre.**

Proposal 2: Exclude Certain Works from the CNWA

We strongly agree with Transport Canada's effort to reduce regulatory burden on projects that are already regulated and/or have no or minimal impact on navigation. We support excluding the classes of works listed in the discussion paper from the CNWA definition of "work":

- Geotechnical testing
- Power and telecommunication aerial cables constructed in accordance with the requirements of CAN/CSA C22.3 No. 1, Overhead Systems.
- Canadian Coast Guard aids to navigation
- Fishing gear managed by Fisheries and Oceans Canada
- Works within Small Craft Harbours managed by Fisheries and Oceans Canada

We believe Transport Canada has named the two key considerations for excluding works from the requirements of the *CNWA*:

1) Are they already well regulated?
2) Do they have a minimal impact on navigation?

We further believe the CNWA should include a process where the Minister could designate additional works through regulation rather than via amendment to the *CNWA*.

In conclusion, we are pleased that Transport Canada is continuing its efforts to streamline its regulatory activities while maintaining appropriate oversight. We are pleased to provide further details, or clarification should they be required.

Sincerely,



Lorena Patterson
President and CEO