

Minor Works Order – Summary

The CNWA – Canadian Navigable Waters Act – is a comprehensive statutory definition of “navigable water” that broadens the scope of regulatory power and includes considering means of transport or travel of Indigenous peoples of Canada. It is a new approval scheme for minor and major works on any navigable water.

The assessment/review stage for the Minor Works Order has passed and we are currently in the second phase, where Transport Canada would like to:

- ✓ Seek views on proposed amendments and if new categories should be added
- ✓ Update next steps for additional navigable waters to the schedule
- ✓ Registry development

Minor Works – simply put, items that are unlikely to interfere with navigation, or works that are likely to slightly interfere with navigation.

- ✓ Typical Minor Works include:
 - ✓ Shoreline erosion control
 - ✓ Docks and boathouses; boat ramps and slipways, and many others
 - ✓ New MW under consideration include culverts, swimming areas, buoys, etc.

Major works - works that are likely to substantially interfere with navigation and they require approvals from the Minister, via application and approval process.

- ✓ Typical Major Works include:
 - ✓ Aquaculture sites, bridges, dams, causeways, etc.

Indigenous Engagement Plan – What We Are Asking - The purpose of this exercise/engagement is to understand and discuss the impacts of the proposed amendments and report on comments / questions / concerns, and the overall activities of the CNWA, with respect to Minor Works.

Indigenous Engagement – Why?

1. Create new agreements and arrangements for how we administer the Act (monitoring, enforcement)
2. Ensure Indigenous Knowledge (IK) is considered and protected
3. Explicitly include transport or travel to exercise Indigenous rights in the definition of “navigable water”
4. Ensure that potential adverse impacts on Indigenous rights are considered before making a decision under the Act

5. With respect to Minor and Major Works, consideration will be made of any adverse effects on the rights of Indigenous peoples. And Traditional Knowledge (TK) needs to be considered in any Major Works orders.

Indigenous Partnerships

- ✓ Provision would allow the government to enter into agreements and arrangements with Indigenous groups for the purpose of administering elements of the Act:
 1. Joint decision-making
 2. Monitoring
 3. Enforcement
 4. Before approval, a new requirement will consider and protect any IK that is provided
 5. Consider adverse impacts on Indigenous rights before making decisions
 6. Capacity funding programs will be available (i.e., training)
 7. Use by Indigenous peoples to exercise Indigenous or treaty rights.

Indigenous Stakeholders

- ✓ Will Indigenous rights be affected by development, design or implementation of proposed new or modifications to TC's programs, policies, processes, regulations, legislation and directives, such as:
 1. Living or owning a property in an area that would be affected (cabin owners)
 2. Has community knowledge or Indigenous Knowledge relevant to the subject
 3. Has expert information of knowledge relevant to the anticipated effects of the subject
 4. Has interests in the potential impact of the subject on treaty lands, settlement lands or traditional territories or related claims and rights.
- ✓ Directly benefits the specific communities or regions identified by Transport Canada in the call for proposals
- ✓ If CNWA becomes law, a policy will be implemented to consider and protect any IK that is provided.

Some questions/points/ideas to consider for Minor Works revisions:

- ✓ Fish habitat disturbances
- ✓ Hunting, fishing, trapping and other Indigenous activities
- ✓ Ability for Indigenous groups to review all works prior to approval

- ✓ Minor Works currently not subject to environmental assessments
- ✓ There are NO environmental provisions, and no social, cultural or heritage considerations
- ✓ Requires public notification for certain minor works, but not all minor works
- ✓ Minor Works are required to be built to specific criteria to be considered as a Minor Work, but are not subject to inspections
- ✓ Currently, there are no considerations of Indigenous Knowledge (IK) and no procedures to identify and address impacts on First Nations, and no allowance for Indigenous participation. Need to establish an Indigenous consultation process
- ✓ Aquaculture projects are an example of a “work” that may have environmental effects that negatively impact navigation but would not require an environmental review
- ✓ Need to Identify ways for Indigenous groups to be involved in all Works – develop proposals for:
 1. Monitoring
 2. Enforcement
 3. Decision-making

For more information:

See Transport Canada paper “Let’s Talk Navigation Minor Works Order Phase 2”, downloadable from link # 1 below.

As well, for more information on the Minor Works Order, see link # 2 below.

For more information on the Major Works Order, see link # 3 below.

A Summary PowerPoint is available upon request, just provide an e-mail address.

1 - <https://tc.canada.ca/en/corporate-services/consultations/let-s-talk-navigation-minor-works-order-phase-2>

2 - <https://tc.canada.ca/sites/default/files/2020-08/minors-works-order-discussion-paper-acc-v2.pdf>

3 - <https://tc.canada.ca/en/corporate-services/consultations/major-works-order>

Please send any comments, questions, concerns via mail or e-mail, to:

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All comments received will be compiled and sent to Transport Canada, to help guide the passage from the present engagement stage into law.