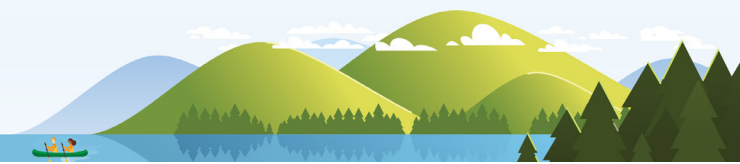


THE CANADIAN NAVIGABLE WATERS ACT

What will be different?



	Navigation Protection Act		Proposed Canadian Navigable Waters Act	
	Scheduled waters	Non-scheduled waters	Scheduled water	Non-scheduled water
New Works	✓	✗* *Some project proponents voluntarily sought approvals for greater certainty	✓ A better process with clear criteria for adding navigable waters to the list of waters needing extra oversight (Scheduled waters) ✓ Project proponents must notify and consult on proposed works on all navigable waters	✓ Project proponents must notify and consult on proposed works on all navigable waters ✓ A new resolution process would allow the Minister of Transport to review navigation concerns review works where concerns remain unresolved on non-Scheduled waters and require approval.
Minor works	✓ Pre-approved	✗	✓ Deems minor works as pre-approved on all navigable waters when built to established criteria	
Major works (e.g., dams)	✓	✗* *Some project proponents voluntarily sought approvals for greater certainty	✓ Requires approval of major works that greatly interfere with navigation on all navigable waters in Canada.	
Transparency	Discretionary	✗	✓ Requires project proponents to notify the public and give people the opportunity to raise navigation concerns before construction begins on any navigable water	
Navigational obstructions	✓	✗	✓ Minister of Transport would have authority to remove obstructions (e.g. a partially sunk vessel) on all navigable waters in Canada	
Indigenous engagement	✓ Legal duty to consult	✗	✓ Legal duty to consult ✓ Requires decision-makers: <ul style="list-style-type: none">• when considering approvals, to consider and protect traditional Indigenous knowledge provided• to consider any adverse effects that decisions may have on Indigenous rights ✓ Introduces a new, more comprehensive definition of a “navigable water” that includes travel on the water to exercise Indigenous rights; and ✓ Enables partnership agreements with Indigenous groups for activities such as monitoring, enforcement and decision-making.	
Navigability test	Common law test (water must be part of aqueous highway)		✓ Contains a new, more comprehensive definition of a “navigable water”	
Prohibited activity (depositing, throwing of material, dewatering)	✓		✓ More clearly explains the prohibitions related to dewatering	
Enforcement	✓	✗	✓ Delegates powers to enforce the new protections of the public right of navigation ✓ Increases amounts for violations and offences and extends the set limitation periods for violations and offences; and ✓ Expands the Minister’s powers to order offenders to correct or remove a work, or stop a prohibited activity on all navigable waters.	