

*Your file*

From:  
Navigable Waters Protection Program  
Transport Canada  
Ottawa, ON

*Our File*  
**RDIMS: 5277706**

To: Address  
Executive Director  
ORGANIZATION  
ADDRESS

DATE

Dear NAME:

**SUBJECT: PROPOSED MINOR WORKS AND WATERS REGULATIONS OF THE NAVIGABLE WATERS PROTECTION ACT**

On March 12, 2009, the amended *Navigable Waters Protection Act* received Royal Assent. On June 7, 2009, under the authority of that Act, the *Minor Works and Waters Order* came into effect. It is attached.

This Order defined classes of works (such as docks and boathouses, winter crossings, etc.) that are considered to be minor in nature and are thus exempt from the approval process required under the Act. It also defined classes of waters (such as small streams less than four feet wide) that are considered minor and thus works that interfere with navigation on them are also exempt from the approval process required under the Act.

Proposed *Minor Works and Waters Regulations* are currently being developed. Transport Canada intends to use the content of the existing Order as the starting point for these proposed regulations.

Transport Canada Marine Safety, through its Navigable Waters Protection Program, is now seeking comments on the Order so that those comments can be considered during the development of the proposed regulations. We would appreciate hearing from you or members of your organization by **December 31, 2009**.

A presentation that provides an overview of this activity is attached.

Please contact Kenneth Hahn (at 613-998-6442, or [Kenneth.Hahn@tc.gc.ca](mailto:Kenneth.Hahn@tc.gc.ca)) for additional information, to provide comments, or to discuss how best to engage with your organization.

## Details

The following classes of works and navigable waters are defined as minor:

- **Classes of Works:**
  - Erosion Protection Works
  - Docks and Boathouses
  - Winter Crossings
  - Aerial Cables – Power and Communication
  - Submarine Cables – Power and Communication
  - Pipeline Crossings
  - Water Intakes
  - Dredging
  - Temporary Works
  
- **Classes of Waters:**
  - Private Lakes
  - Artificial Irrigation Channels and Drainage Ditches
  - Minor Navigable Waters

Further information on the specific criteria for each of the above classes is available in the attached presentation. The Order itself is available from the *Canada Gazette* Part 1, Volume 143, No. 19, page 1403. See [www.tc.gc.ca/marinesafety/oep/nwpp/minorworks/menu.htm](http://www.tc.gc.ca/marinesafety/oep/nwpp/minorworks/menu.htm).

The following questions, while not intended to restrict the scope of your comments, may be worth considering during your review. A description of reasoning behind your concerns would be useful as well:

- (1) Should the list of classes of works be modified, either by adding new classes or removing existing classes?
- (2) Are there ambiguities in the criteria defined in the *Minor Works and Waters (Navigable Waters Protection Act) Order*?
- (3) Are there contradictions or inconsistencies between criteria?
- (4) Is the rationale for some criteria not evident?
- (5) Are some criteria too onerous? Too lenient?

Transport Canada Marine Safety anticipates that the proposed *Minor Works and Waters Regulations* should be ready for pre-publication in Part I of the *Canada Gazette* in the fall 2010. They will be pre-published with a 30-day comment period. We expect that final approval and publication in Part II of the *Canada Gazette* will follow in early 2011.

Marine Safety will also be happy to receive comments and discuss the development of other proposed regulations, pursuant to Section 12. (1) of the *Navigable Waters Protection Act*, which reads:

12. (1) The Governor in Council may make any orders or regulations that the Governor in Council deems expedient for navigation purposes respecting any work to which this Part applies or that is approved or the plans and site of which are approved under any Act of Parliament or order of the Governor in Council, and may make regulations
- (a) prescribing the fees payable to the Minister on an application for an approval under this Part;
  - (b) respecting the grant, amendment, renewal, suspension and cancellation of approvals under this Part;
  - (c) prescribing the period for which an approval under this Part is valid;
  - (d) respecting notification requirements for a change in ownership in a work;
  - (e) establishing classes of works or navigable waters for the purposes of subsection 5.1(1);
  - (f) respecting the placement, construction, maintenance, operation, safety, use and removal of works; and
  - (g) for carrying out the purposes and provisions of this Part.

### **Next Steps**

We would appreciate receiving any comments or concerns that you may have in this regard by **December 31, 2009**, in order that your input can be considered during the development of these proposed regulations.

For more information or clarification regarding these activities, please contact:

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