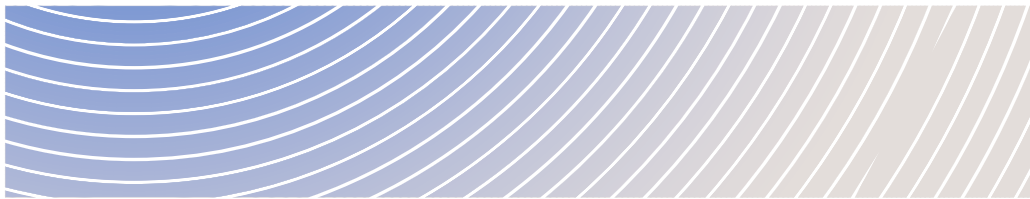


Permitting Plan



IMPACT ASSESSMENT OF THE SUNCOR BASE MINE
EXTENSION PROJECT

Original Posting: May 31, 2021

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Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

Canada



Permitting Plan

SUNCOR BASE MINE EXTENSION PROJECTSUNCOR ENERGY INC.

December 18, 2024

1. Introduction

On August 7, 2020 the Impact Assessment Agency of Canada (IAAC) determined that an impact assessment is required for the Suncor Base Mine Extension Project (the Project) pursuant to Subsection 16(1) of the *Impact Assessment Act*.

This Permitting Plan was developed by IAAC to outline the federal permits, licences and authorizations (regulatory instruments) that may be required for the Project should the Minister of the Environment and Climate Change issue a Decision Statement to the proponent with enforceable conditions to allow the Project to proceed.

IAAC may revise the Permitting Plan during the impact assessment process in response to new information or advice from the proponent, regulators, jurisdictions or other participants in the process, and in order to accommodate any changes with respect to the Project that may occur during the assessment.

2. Project Description

Suncor Energy Inc. (the proponent) is proposing to develop the Project to sustain the supply of bitumen to the existing upgraders at Suncor Energy Inc.'s Oil Sands Base Plant operation (Base Plant). The Project includes an open pit mining operation and associated infrastructure that is required to supply oil sands to new bitumen froth production facilities and deliver bitumen froth by pipeline to the existing Base Plant facilities where further processing occurs, including upgrading into various product blends for market. The Project would be located adjacent to existing Base Plant operations approximately three kilometres north of Fort McMurray, Alberta, within the Regional Municipality of Wood Buffalo. As proposed, the footprint of the Project is anticipated to be approximately 30 000 hectares.

3. Required Regulatory Instruments Identification and Justification

According to the Detailed Project Description submitted by the proponent to IAAC on July 23, 2020, regulatory instruments may be required for the Project should it receive a Decision Statement from the Minister of Environment and Climate Change that allows the Project to proceed. The procedural aspects are summarized in section 5 of this plan.

Further information on required regulatory instruments is detailed in Appendix I.

This Permitting Plan is not a legal document and does not change any existing federal, provincial, or Indigenous legislative or regulatory jurisdiction, right, power, privilege, prerogative or immunity by virtue, nor does it create any new legal powers, duties or legally binding obligations.

Authorization under paragraph 34.4(2)(b) and 35(23)(b) of the *Fisheries Act*

Works, undertakings or activities associated with the proposed Project may cause harmful alteration, disruption or destruction of fish habitat, or death of fish. Some activities may require authorization under the *Fisheries Act* to proceed.

Authorization under paragraph 73(1) of the *Species at Risk Act*

A permit is required by those persons conducting activities affecting species listed on Schedule 1 of the *Species at Risk Act* as Extirpated, Endangered, or Threatened and which contravene the Act's general prohibitions where they are in force. These project activities include, but are not limited to: species surveys, site preparation, construction of temporary and permanent works and infrastructure, activities that create sensory disturbances (e.g. noise, artificial lighting, vibration, vehicular traffic), vehicular traffic during all project stages, creation of new roads, rail lines or powerlines, infilling of wetlands and watercourses, and any monitoring that requires capture or release of individuals.

License for explosives and magazines under subsection 7(1) of the *Explosives Act*

Based on the information available regarding the Project's activities, at this time it is not expected that Natural Resources Canada will be required to issue an authorization or license under the *Explosives Act*.

Approvals under the *Canadian Navigable Waters Act*

Based on the available Project information provided to date, approval(s) under the *Canadian Navigable Waters Act* may be required. Approval is not required for minor works (section 4(1)). Approval is required for major works on any navigable waterway, whether it is listed on the Schedule to the Act or not (section 5(1)(a)). Approval is required for works, other than minor works, on a navigable waterway listed on the Schedule to the Act (section 5(1)(b)). The owner of a work, other than a minor work or a major work, on a navigable waterway not listed in the Schedule that may

interfere with navigation must either apply for an approval (section 10(1)(a)) or seek authorization for the work through the public resolution process described in section 10(a)(b) of the Act. The public resolution process includes publishing a notice inviting public comments on the proposed work. A Governor in Council exemption (section 24) is required for depositing of stone in navigable waterways or any waterway that flows into a navigable waterway (section 22) and for dewatering or lowering of water levels on any navigable waterway (section 23).

4. Contact Information

The IAAC office responsible for administering the impact assessment of the Project is:

Impact Assessment Agency of Canada – Suncor Base Mine Extension Project
160 Elgin Street, 22nd Floor, Ottawa, ON K1A 0H3
Tel.: 343-549-5813
Email: basemine-minebase@iaac-aeic.gc.ca

5. Summary Table – Anticipated Regulatory Activities

These tables assume that the proponent will submit applications to federal departments for review during the Impact Assessment phase. The proponent may choose to submit any particular application at another phase, including after the impact assessment decision.

<i>Fisheries Act</i> paragraph 34.4(2)(b) and 35(2)(b)						
ACTIVITY	RESPONSIBILITY	IMPACT ASSESSMENT PHASE				
		Planning	Impact Statement	Impact Assessment	Decision	Post-Decision
Information gathering and consultation with the public and Indigenous peoples	Proponent	X	X	X	X	X
Submission of application	Proponent			X	X	X
Analysis of the information and application	Fisheries and Oceans Canada			X	X	X
Consultation with the public and Indigenous peoples	Fisheries and Oceans Canada			X	X	X
Regulatory decision	Fisheries and Oceans Canada					X

<i>Species at Risk Act</i> section 73						
ACTIVITY	RESPONSIBILITY	IMPACT ASSESSMENT PHASE				
		Planning	Impact Statement	Impact Assessment	Decision	Post-Decision
Information gathering and consultation with the public and Indigenous peoples	Proponent	X	X	X	X	X
Submission of application	Proponent			X	X	X
Analysis of the information and application	Environment and Climate Change Canada			X	X	X
Consultation with the public and Indigenous peoples	Environment and Climate Change Canada			X	X	X
Regulatory decision	Environment and Climate Change Canada					X

<i>Canadian Navigable Waters Act</i>						
ACTIVITY	RESPONSIBILITY	IMPACT ASSESSMENT PHASE				
		Planning	Impact Statement	Impact Assessment	Decision	Post-Decision
Information gathering and consultation with the public and Indigenous peoples	Proponent	X	X	X	X	X
Submission of application	Proponent			X	X	X
Analysis of the information and application	Transport Canada			X	X	X
Consultation with the public and Indigenous peoples	Transport Canada			X	X	X
Regulatory decision	Transport Canada					X

Appendix I. Information on Required Regulatory Instruments

A1. Authorization under paragraph 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

A1.1. Description

This authorization is the responsibility of Fisheries and Oceans Canada (DFO).

Subsection 34.4(1) of the *Fisheries Act* states: No person shall carry on any work, undertaking or activity, other than fishing, that results in the death of fish. Under paragraph 34.4(2)(b) of the *Fisheries Act*, the Minister of Fisheries, Oceans, and the Canadian Coast Guard may issue an Authorization with conditions relating to the carrying on of the work, undertaking or activity. Subsection 35(1) of the *Fisheries Act* prohibits carrying on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat. However, under paragraph 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries, Oceans, and the Canadian Coast Guard may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in harmful alteration, disruption and destruction to fish habitat.

A1.2. Regulatory Process

A1.2.1. Application Submission

In order to seek an authorization¹ under paragraph 34.4(2)(b) and/or paragraph 35(2)(b) of the *Fisheries Act*, the proponent must submit an application to the Minister of Fisheries, Oceans, and the Canadian Coast Guard in accordance with the *Authorizations Concerning Fish and Fish Habitat Protection Regulations* (hereafter the Fish and Fish Habitat Regulations). This application is transmitted to the relevant regional office of Fisheries and Oceans Canada.

A1.2.2. Application Analysis and Consultation

Once an application for authorization is received, it is reviewed to ensure the information and documentation are complete. The information and documentation that must be submitted in an application for authorization are laid out in schedule 1 of the “*Authorizations Concerning Fish and Fish Habitat Protection Regulations*”. Among others, the following information is required when submitting an application:

¹ Transition provisions that apply to fish and fish habitat protection provisions—linked to the amended *Fisheries Act* in force on August 28, 2019—are not described in this document. Please consult the Projects Near Water website for more information or to contact the relevant DFO regional office (<https://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>).

- description of proposed work, undertaking or activity;
- phases and schedules;
- location (maps);
- description of fish and fish habitat (aquatic environment);
- description of effects on fish and fish habitat;
- measures and standards to avoid or mitigate death of fish or harmful alteration, disruption or destruction of fish habitat;
- residual death of fish or harmful alteration, disruption or destruction of fish habitat after the implementation of avoidance and mitigation measures;
- offsetting plan (if required);
- summary of public and Indigenous engagement activities; and
- financial guarantee to cover the cost for the implementation of the offsetting plan.

A decision as to whether the information is complete must be issued within 60 days of receipt of the application. If the application is incomplete or inadequate, the applicant will be informed and provided an opportunity to provide the information or documentation to complete the application. Once the application is deemed complete and adequate, the applicant will be notified.

A1.2.3. Regulatory Decision

The authorization decision under the *Fisheries Act* is made during the 90-day period following the notification that the application is complete and adequate. The process for reviewing the application can be ceased under certain circumstances, which may include: awaiting the outcome of other federal requirements, such as a federal impact assessment; addressing requirements under the *Species at Risk Act*; consultation with Indigenous peoples relative to the potential effects of the authorization decision on Aboriginal and Treaty rights; and additional or amended information required to make the decision. Therefore, this decision can only be made after the Minister of the Environment and Climate Change's decision statement relative to the impact assessment is posted on the Canadian Impact Assessment Registry Internet Site (the Registry). Several factors are taken into consideration when making a determination as to whether to issue an authorization, those factors are laid out in section 34.1(1) of the *Fisheries Act*.

A1.3. References

Fisheries Act (R.S.C. 1985, c F-14). <https://laws-lois.justice.gc.ca/eng/acts/F-14>

Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286). <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-286/index.html>

Applicant's Guide Supporting the "Authorizations Concerning Fish and Fish Habitat Protection Regulations". <https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html>

A1.4. Contact Information

For more detailed guidance on this authorization, please contact the DFO Fish and Fish Habitat Protection Program:

Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada
Ontario and Prairie Region
1028 Parsons Road SW
Edmonton, Alberta T6X 0J4
Email: Laura.Phalen@dfo-mpo.gc.ca

A2. Permit under the *Species at Risk Act*

A2.1. Description

Permits are required by those persons conducting activities affecting species listed on Schedule 1 of the *Species at Risk Act* (SARA) as Extirpated, Endangered, or Threatened and which contravene the Act's general prohibitions where they are in force.

Pursuant to sections 32 and 33 of SARA (general prohibitions), it is prohibited to:

- kill, harm, harass, capture or take an individual of a species listed under SARA as extirpated, endangered or threatened;
- possess, collect, buy, sell or trade an individual of a species listed under SARA as extirpated, endangered or threatened, or any part or derivative of such an individual;
- damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada.

The general prohibitions apply to federal species (migratory birds, as defined by the *Migratory Birds Convention Act, 1994*, and aquatic species covered by the *Fisheries Act*) everywhere in Canada and to other listed species where found on federal land. Permits are also required by those persons conducting activities that contravene the Act's critical habitat destruction prohibitions (subsection 58(1)). Prohibitions may be in force on land other than federal land pursuant to other orders or regulations under SARA including, but not limited to, under s.34, 53, 59, 61, 71 and 80.

Under section 73, the competent minister may enter into an agreement or issue a permit authorizing a person to engage in an activity affecting a listed wildlife species, any part of its critical habitat, or the residences of its individuals if the proposed activity falls under one or more of the following purposes:

- (a) the activity is scientific research relating to the conservation of the species and conducted by qualified persons;
- (b) the activity benefits the species or is required to enhance its chance of survival in the wild;
- (c) affecting the species is incidental to the carrying out of the activity.

Responsibility for implementing SARA in Canada lies with the Ministers responsible for Environment and Climate Change Canada (ECCC), Parks Canada Agency (PCA), and DFO.

- DFO is responsible for issuing permits for aquatic species (as defined by SARA), other than species in waters found on federal lands administered by the PCA.
- PCA is responsible for issuing permits for species that occur on federal lands administered by PCA, including aquatic species (as defined by SARA) as well as terrestrial species.
- ECCC is responsible for issuing permits for all listed species not described above. This includes for all terrestrial species on federal land and any land affected by a SARA protection order, and for migratory birds wherever they are found.

A2.2. Regulatory Process

A2.2.1. Application Analysis and Consultation

An analysis of the application is conducted by ECCC, PCA, or DFO upon receipt of the application, although there may be occasions when the reviewing department or agency will require additional information. A focus of the analysis is on how the application meets the pre-conditions listed under subsection 73(3). Authorizations may be issued only if the competent minister is of the opinion that all three of the following pre-conditions are met:

- (a) all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted;
- (b) all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals;
- (c) the activity will not jeopardize the survival or recovery of the species.

During this analysis stage, and before the regulatory decision, ECCC, DFO, or PCA may undertake additional Indigenous consultations, as required under s. 73(4) and s. 73(5).

A2.2.2. Aquatic Species at Risk

Based on the information available regarding the Project's activities, at this time it is not expected that DFO will be required to issue a permit for aquatic species at risk as defined under SARA.

A2.2.3. Non-Aquatic Species at Risk

Proponents must submit an application to the competent minister in a manner and form that is satisfactory to that minister. The following information is required in the application:

- names of listed species that will be affected;
- description, purpose (research, benefit for species, or incidental) and objective of activity;
- detailed location of the activity (maps, UTM coordinates, Borden Number for archeological sites, latitude and longitude coordinates);
- planned start and end dates;

- a description of: field collection methods, study techniques, project design, animal handling activities;
- supporting documentation, such as information provided as part of environmental assessments, industry standards, and research protocols, etc.;
- when applicable, copies of other relevant permits, authorization (e.g., provincial permits, Canadian Council on Animal Care approved animal protocols or equivalent);
- documentation in support of the project from the Band Council, or First Nation if it takes place on a reserve or any lands managed or owned by Crown-Indigenous Relations and Northern Affairs Canada;
- any information that the applicant may have on whether asserted aboriginal rights could be affected and any consultation/engagement work that they have done with Indigenous peoples; and
- an explanation of any uncertainty associated with the impacts of the Project on the species, its critical habitat or the residences of its individuals and the effectiveness of any proposed mitigation measures.

A2.2.4. Regulatory Decision

The *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* specify that the competent minister must issue a permit or notify the applicant that the permit has been refused within 90 days following the receipt of the application. This time limit is suspended if the application is incomplete and the applicant is notified. The time limit suspension ends when all the information is received from the applicant.

The Regulations also specify that the 90-day time limit does not apply in the following circumstances:

- additional consultations are necessary, including consultations with wildlife management boards and bands under the *Indian Act* which are required by subs. 73(4) and (5) of SARA;
- another Act of Parliament or land claims agreement requires that a decision be made before the competent minister issues or refuses to issue a permit;
- the terms and conditions of a permit previously issued to the applicant have not been met;
- the applicant requests or agrees that the time limit not apply; or
- the activity described in the permit application is modified before the permit is issued or refused.

For activities requiring a decision under the IAA, permit applications are not subject to the 90-day timeline because another Act of Parliament requires that a decision be made before the competent minister issues or refuses to issue a SARA permit. These applications can be reviewed concurrently with the impact assessment to facilitate alignment of the authorization securing processes.

If wildlife surveys are necessary to obtain more baseline information about SARA listed species at risk that may be impacted by a project, SARA permits may be required if these surveys affect individuals of species, their residence or critical habitat (for example, if they require capture, handling, fencing, baiting, disturbing of normal behaviour, etc.). Permit applications for these baseline surveys would be subject to the 90-day timeline.

It is the proponent's responsibility to identify and carry out all species at risk surveys necessary to support the permit application and review, and to monitor for additional species being listed during the planning of their project. Proponents are invited to consult early with the Canadian Wildlife Service on survey plans.

A2.3. References

Species at Risk Act (S.C. 2002, c. 29). <https://laws-lois.justice.gc.ca/eng/acts/S-15.3/>

Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations (SOR/2013-140). <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/index.html>

Permitting under the Species at Risk Act for aquatic species at risk. <https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>

Permits, agreements and exceptions for Species at Risk Act. <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/permits-agreements-exceptions.html>

SARA E-permitting System. <https://slep-saraps.az.ec.gc.ca/>

Guidelines for Permitting Under Section 73 of the Species at Risk Act. <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

A2.4. Contact Information

For more information on the Species at Risk permit for aquatic species, please contact the Fish and Fish Habitat Protection Program.

For more information on the Species at Risk permit for non-aquatic species at risk, please contact the regional office of the Canadian Wildlife Service:

Prairie and Northern Region
Canadian Wildlife Service
Environment and Climate Change Canada
Eastgate Offices
9250 - 49th Street
Edmonton, Alberta T6B 1K5
Phone: 587-337-0547
E-mail: sarapermitpnr@ec.gc.ca

A3. Approval of works under the *Canadian Navigable Waters Act*

A3.1. Description

Transport Canada is the lead department for the administration of the *Canadian Navigable Waters Act* (CNWA), where the Minister of Transport is responsible for the approval of works that may interfere with navigation. The mandate of the CNWA is focused on assessing impacts of a work/project on navigation.

The CNWA requires owners of “works” to comply with requirements of the Act for the protection of navigation on navigable waters. As per section 2 of the CNWA, a work includes “(a) any structure, device or other thing, whether temporary or permanent, that is made by humans, including a structure, device or other thing used for the repair or maintenance of another work; and (b) any dumping of fill in any navigable water, or any excavation or dredging of materials from the bed of any navigable water.” Examples of works include dams, bridges, weirs, causeways, aerial cables, and ferry cables

The CNWA uses a list of waterways (known as the "Schedule") to identify navigable waters where project proponents must apply to Transport Canada for approval. There are different requirements for owners of works regarding approvals, deposit of information and public notice depending on the type of work, and if the work is located on a navigable water listed on the Schedule. With any application to Transport Canada, the owner is required to deposit information on the proposed work, and to invite interested persons to provide written comments on the owner’s proposal to the Minister of Transport within 30 days after publication of the notice, or within any other period specified by the Minister of Transport. If the owner chooses not to apply to Transport Canada for approval of works, other than a minor work or a major work, on navigable waterways not listed on the Schedule, the owner is instead required to deposit information on the proposed work, and to invite interested persons to provide written comments. This deposit and notice public resolution process requires a 30 day comment period. For works that do not interfere with navigation, the owner is required to deposit information on Transport Canada’s registry and publish a public notice (a 30 day comment period is not required).

Before issuing an approval, Transport Canada’s Navigation Protection Program is required by law to consider the following assessment factors:

- the characteristics of the navigable water in question;
- the safety of navigation in that navigable water;
- the current or anticipated navigation in that navigable water;
- the impact of the work on navigation, including as a result of its construction, placement, alteration, rebuilding, removal, decommissioning, repair, maintenance, operation or use (this includes impacts of construction methodology, including temporary works, on navigation);
- the impact of the work, in combination with other works, on navigation, if the Minister is provided with, or has in his or her possession, information relating to that cumulative impact;
- any Indigenous knowledge that has been provided to the Minister;

- any comments received from interested persons within the period provided for under subsection (4);
- the record of compliance of the owner under this Act; and
- any other information or factor that he or she considers relevant.

The Navigation Protection Program attaches terms and conditions to the approval of a work to mitigate risks to navigation.

A3.1.1. Major Works in any Navigable Water

As per section 5(1)(a) of the CNWA, owners of major works on any navigable waterway, whether it is listed on the Schedule to the Act or not, are required to apply to Transport Canada. The following classes of works established in the Major Works Order, which are designated as likely to substantially interfere with navigation on any navigable water:

- water control structures;
- bridges;
- ferry cables;
- causeways; and
- aquaculture facilities.

A3.1.2. Works in Navigable Waters Listed on the Schedule

A Schedule of waterways is established under the CNWA to identify navigable waters where project proponents must apply to Transport Canada. As per section 5(1)(b) of the CNWA, the owner of a work - other than a minor work - in, on, over, under, through or across any navigable water that is listed in the Schedule, which may interfere with navigation, must apply to Transport Canada.

A3.1.3 Works in Navigable Waters not Listed on the Schedule

- Owners of works - other than a minor work or a major work – in, on, over, under, through or across a navigable water that is not listed in the schedule, which may interfere with navigation, have the option to:
 - (a) either apply to the Minister of Transport for CNWA approval (section 10(1)(a)); or
 - (b) conduct a public resolution process by depositing information and publishing a public notice (section 10(1)(b))
- Owners of works - other than a minor work or a major work – in, on, over, under, through or across a navigable water that is not listed in the schedule, which would not interfere with navigation may proceed if (section 9.1):
 - (a) the work, or its construction, placement, alteration, rebuilding, removal or decommissioning, would not interfere with navigation; and
 - (b) the owner deposits information and publishes a public notice before beginning the construction, placement, alteration, rebuilding, removal or decommissioning of the work.

A3.1.3. Prohibited activities

As per section 23(1) of the CNWA, it is prohibited to take any action that lowers the water level of a navigable water or any part of a navigable water to a level that extinguishes navigation for vessels of any class that navigate, or are likely to navigate, the navigable water in question, including canoes and kayaks. If the proponent plans to lower the water level of a navigable water, they must obtain an Order in Council from the Governor in Council by submitting an exemption application to the NPP.

Navigability assessment

TC must determine navigability for the water bodies and watercourses within the footprint of a project that have proposed prohibited activities (total or partial dewatering or throwing/depositing). The navigability assessment conducted by the Navigation Protection Program (NPP) must address two overarching principles: the use of the watercourse and the accessibility of the watercourse. In determining whether a waterway is navigable, these questions are asked:

- What are the physical characteristics (e.g., size and depth)?
- Is it used for transport or travel for commercial or recreational purposes?
- Is it used for transport or travel by Indigenous peoples?
- Is it likely to be used in the future?
- Was it used in the past?
- Is there public access by land or water?
- Are there two or more waterfront owners?
- Is the Crown the only waterfront owner?

The proponent is responsible for providing the information to TC to facilitate the navigability assessment for any water bodies or watercourses that have proposed prohibited activities or the construction of works. The proponent should note that it may take one to two years to complete the Governor in Council order exemption process, so it is essential that this information be provided to TC as soon as possible.

A3.2. Regulatory Process

A3.2.1. Application Submission

The proponent must apply under the CNWA with an Application for Approval, along with all required documents. The application process is done online through Transport Canada's web-based External Submission Site. The submission timing depends on the proponent who should consider their operational needs and the time required to process the application. The proponent shall describe the proposed work that could affect navigation and potential alternatives and mitigation strategies to ensure continued navigability.

The minimum information needed to apply for an approval is:

- a completed Application for Approval;
- a map showing the work's exact project location;

- the legal site description and position of the work in latitude and longitude;
- the plan view drawings (top down) with all related dimensions;
- the profile view drawings (side view) with all related dimensions;
- the general arrangement drawing (depicting new and entire existing work);
- a detailed project description;
- the construction methodology explaining how the work will be done; and
- the expected start and end dates.

Transport Canada will assess both the nature and degree of the potential interference. For Navigation Protection Program purposes, “nature” identifies the source of the interference and “degree” indicates the severity of potential navigation impacts. Transport Canada will look at a variety of factors, including:

- characteristics of the navigable water;
- safety of navigation;
- current or anticipated navigation in the navigable water;
- impact of the work on navigation in that navigable water as a result of its construction, placement, alteration, repair, rebuilding, removal, decommissioning, maintenance, operation or use (this includes impacts of construction methodology, including temporary works, on navigation);
- the impact of the work, in combination with other works, on navigation, if the Minister is provided with, or has in his or her possession, information relating to that cumulative impact;
- any Indigenous knowledge that has been provided to the Minister;
- any comments that he or she receives from interested persons within the period provided for under subsection (4);
- the record of compliance of the owner under this Act; and
- any other information or factor that he or she considers relevant.

A3.2.2. Application Analysis and Consultation

The request is then analyzed by Transport Canada to see if the file is complete and if the work will have an impact on navigation. Transport Canada may conduct a site visit and may request additional information.

Transport Canada will also consult with the public and Indigenous groups. Transport Canada will seek information regarding potential negative impacts on potential or established Aboriginal or treaty rights related to Transport Canada's conduct. Information may be provided by the proponent or by Indigenous groups, if possible as part of the federal IA process or, if this is not possible, through departmental Indigenous consultation processes.

Upon receipt of a completed application, the Minister of Transport may issue a decision under the CNWA during the 90-day period following the Minister of Environment and Climate Change's decision relative to the impact assessment if the CNWA application and review process is complete by the time

the impact assessment decision is taken. The Minister of Transport may issue terms and conditions with an approval of a work to mitigate navigation safety risks and protect the public right to navigation.

A3.3. Exemption process

The Governor in Council can issue an exemption to the body of water from the application of the prohibitions if they believe that it is in the public interest. The proponent must demonstrate that the exemption would be in the public interest. The proponent will need to provide all the necessary information to support the exemption, including information on all factors that affect the public interest, including:

- Project description;
- Impacts to navigation and description of alternatives;
- Consultation information;
- Environmental assessment; and
- Rational that supports the exemption.

Once the proponent has submitted all of the necessary documentation, TC will assess the application to ensure the completeness of the documentation provided, and complete additional consultations as required. TC will then complete a navigation impact assessment. TC will determine if there is a duty to consult with and accommodate Indigenous communities impacted by the prohibited activities. TC will then prepare a submission to seek approval of the exemption from Cabinet. Once the submission is approved, the Order in Council will be published in the *Canada Gazette*, Part II, and the proponent will be notified of the decision.

A3.4. References

Canadian Navigable Waters Act (R.S.C., 1985, c. N-22). <https://laws.justice.gc.ca/eng/acts/N-22/>

A Guide to the Navigation Protection Program's Notification, Application and Review Requirements. <https://www.tc.gc.ca/eng/programs-673.html>

Apply to the Navigation Protection Program. <https://www.tc.gc.ca/eng/programs-623.html>

Exemption under the *Canadian Navigable Waters Act*
<https://tc.canada.ca/en/programs/navigation-protection-program/exemption-under-canadian-navigable-waters-act>

Applicant Guide - Application for an Exemption
<https://npp-submissions-demandes-ppn.tc.canada.ca/content/doc/Application%20for%20an%20exemption%20%E2%80%93%20Applicant%20Guide.pdf>

A3.5. Contact Information

For more detailed guidance on the CNWA approval process, please contact the Transport Canada office in Alberta.

Navigation Protection Program
Transport Canada
Canada Place
1100-9700 Jasper Ave
Edmonton, Alberta T5J 4E6
Phone: 780-495-8215
Email: NPPPNR-PPNRPN@tc.gc.ca