

# Fee Proposal

## Transport Canada, Navigation Protection Program

*Canadian Navigable Waters Act*

November 2020



Transport  
Canada

Transports  
Canada

Canada 



## Executive Summary

Transport Canada's Navigation Protection Program helps keep Canada's navigable waters safe and open to navigation through the *Canadian Navigable Waters Act*. The Act helps to protect Canada's navigable waters so that recreational boaters and Indigenous peoples can use Canada's vast network of rivers, lakes and canals for years to come. The Act was passed in 2019 and was informed by over 14 months of public, stakeholder, and Indigenous consultations, reports from expert panels, and parliamentary studies.

Works on navigable waters (like culverts, bridges and dams) that could affect navigation may need to be approved by the Navigation Protection Program. A navigable water may be exempted from certain prohibited activities (like dewatering) with a Governor in Council exemption requested through the Program.

It costs Transport Canada approximately \$12.7 million per year to administer the Navigation Protection Program. These funds cover services like reviewing applications for approval of works (approximately 800 to 1,100 works approved per year), reviewing applications for an exemption from prohibited activities (which are infrequent), and other public safety functions such as managing obstructions and wrecks. The Program doesn't currently charge fees related to approvals of works or exemptions, or for any other service. Since there are no fees, Canadian taxpayers cover the program's costs.

The Navigation Protection Program receives applications from a wide range of clients, for example:

- Individuals and cottager associations seek approval for docks and swimming rafts;
- Companies apply for aquaculture facilities, marinas, and helicopter logging sites;
- Governments seek approval for transportation projects like bridges and causeways;
- Mining companies request to exempt navigable waterways from prohibited activities such as dewatering.

Under this Fee Proposal, Transport Canada seeks to introduce fees that:

- are easy to understand;
- reflect the cost of service delivery;
- ensure that those who benefit from the Program's services pay a share of



the service delivery costs.

Details on the proposed fees are included in section 6.3.

The proposed fees were set by considering:

- how Navigation Protection Program services benefit companies and individuals;
- what other jurisdictions charge for similar services;
- the impact on the Program's clients.

These new fees will balance the Program's administration costs between the public and those who use the services. This project is part of Transport Canada's plan to modernize transportation laws, regulations, fees and services.



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## 1. Purpose

This document is a Fee Proposal outlining the introduction of fees for Transport Canada (TC)'s Navigation Protection Program (NPP), and describes the context, policy rationale, costing and pricing analyses that have been considered in its development.

This Fee Proposal provides an opportunity to engage with Canadians who may require certain NPP services and approvals in the future, as well as with other interested parties. Comments on the content of this document can be submitted to TC on its Let's Talk Navigation website.

### [Let's Talk Navigation](#)

Taking into consideration the comments received on this Fee Proposal, TC will develop and pre-publish proposed Cost Recovery Regulations in the *Canada Gazette*, Part I, targeted in mid- 2021.

This Fee Proposal will not apply for works that are not subject to the requirement to apply for approval, such as minor works, and works that do not interfere with navigation.

## 2. Issue and Objective

The NPP is responsible for the administration and enforcement of the [Canadian Navigable Waters Act](#) (CNWA). Among other functions, the NPP approves and sets terms and conditions for works in navigable waters and provides an avenue for proponents requiring an exemption of a navigable waterway from prohibited activities such as dewatering. At present, TC does not charge fees for any of its NPP services. As such, Canadian taxpayers are shouldering the full cost of providing these services.

Under this Fee Proposal, TC is proposing to introduce fees for:

- review of an application for approval of a work, where NPP has determined that the work may interfere with navigation in navigable waters and an approval would be required before a project could proceed; and
- review of an application for an exemption from the prohibition of dewatering navigable waters or depositing and throwing certain materials into navigable waters, where the NPP has determined that an exemption would be required by the Governor in Council (the Prime Minister and Cabinet) before a project could proceed.

Introducing fees for these services would ensure that those who directly benefit pay a share of the costs incurred by TC to deliver the services, while reducing the burden placed on taxpayers who currently fully cover the Program's costs.



### 3. Fee Modernization at Transport Canada

This Fee Proposal is part of a wider, transformative fee modernization project at TC. Some TC services have been provided to individuals and industry free of charge, while fees for other services have not been updated in over 20 years and therefore do not reflect the real cost to TC to deliver those services.

The [Service Fees Act](#) (SFA) recently amended the legal framework governing fee setting. The SFA represents the Government's commitment to modernizing its services and delivering value to Canadians. The SFA applies to all fees that currently exist and those that TC plans to introduce.

Over the next few years, TC will:

- Introduce new fees;
- Increase existing fees; and
- Simplify fee structures.

Fee modernization will be achieved primarily through regulatory changes. It is part of a broader plan to:

- Modernize laws, regulations, rules and standards;
- Ensure TC continues to uphold safety and security; and
- Ensure TC can continue to support innovation in the transportation sector.

## 4. Current Environment

### 4.1 Program Profile

The NPP helps to keep Canada's navigable waters open for transport and recreation through the administration of the CNWA, which came into force in 2019, and through applicable sections of the 2019 [Wrecked, Abandoned or Hazardous Vessels Act](#) (WAHVA) as well as the [Canada Shipping Act, 2001](#) (CSA).

The CNWA regulates works (for example culverts, bridges and dams) that may interfere with the public right of navigation on navigable waters. Proponents seeking to construct, place, alter, rebuild, remove or decommission a work in, on, over, under, through or across any navigable water are subject to the requirements of the CNWA. In addition, the CNWA requires that an exemption be granted by the Governor in Council before a proponent may undertake certain prohibited activities in navigable waters, namely dewatering and depositing or throwing certain materials, such as mine tailings.

A navigable water means a body of water, including a canal or any other body of water created or altered as a result of the construction of any work, that is used or reasonably



likely to be used by vessels, in full or in part, for any part of the year as a means of transport or travel for commercial or recreational purposes, or as a means of transport or travel for Indigenous peoples of Canada exercising rights recognized and affirmed by section 35 of the *Constitution Act*, 1982.

The NPP approves many applications for works which are stand-alone undertakings by proponents (e.g. swimming raft, footbridge). The program also approves works which are components of larger projects (e.g. barge facilities or a road at a mine). For such larger projects, the NPP only approves individual works that may interfere with navigation, but not the project as a whole, or other activities that are part of the project. Similarly, exemptions of a navigable waterway from prohibited activities apply only to that waterway for that activity, not to other activities that may be part of a larger project and which do not impact navigable waters.<sup>1</sup>

Works approvals are granted to a diverse mix of proponents, including industry, private individuals, Indigenous peoples, federal departments, provincial and territorial governments and municipalities. These entities profit from the economic development of Canada's natural resources, make use of navigable waterways for commercial and other transportation purposes, enjoy recreational activities along the country's navigable waterways, use waterways to exercise Indigenous rights, and/or contribute to the construction of public infrastructure. Proponents requesting an exemption of a navigable waterway from prohibited activities are traditionally mining companies which require the ability to deposit materials, such as waste rock, into a navigable waterway to facilitate the development of projects with significant commercial benefits.

[Learn more about the Navigation Protection Program](#)

The NPP accepts applications through a fully digital online application process, which can be accessed at the following location:

[Apply to the NPP](#)

NPP projects can be tracked through the Government of Canada's online Common Project Search (CPS) Registry:

[Common Project Search \(CPS\) Registry](#)

## 4.2 Statutory Framework

### Regulations Respecting Fees

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<sup>1</sup> As part of such larger projects, approvals from other government agencies may be required prior to the project proceeding, and additional fees may be payable in such cases.



The CNWA Paragraph 28 (1) (b) provides that the Governor in Council may, for the purposes of the Act, make regulations respecting fees, or the method of calculating fees, to be paid for any service provided or any right or privilege conferred by means of an approval, exemption or other authorization under the Act and respecting the payment of those fees.

### 4.3 Current Fees

As noted, TC does not currently charge fees for any NPP services. The Governor in Council intends to make a new regulation under the CNWA that will set out the proposed fee design and pricing schedule for applications for approval of works and applications for exemption of a navigable waterway from a prohibition.

## 5. Cost Analysis

TC undertook a costing exercise to estimate the cost of delivering NPP services. The exercise adhered to the Treasury Board of Canada Secretariat's (TBS) *Guide to Cost Estimating* and followed TC's *Guideline on Costing for Fee Modernization* to arrive at credible cost estimates.

Costing for cost recovery purposes requires calculation of the “full cost” of delivering services. According to the *Financial Administration Act* and applicable TBS guidance, full cost is the upper legal limit that can be recovered through service fees, and represents the departure point for pricing decisions.

A full cost estimate comprises all relevant resource costs incurred to provide a service, including direct and indirect costs, specifically:

- Employee salaries;
- Operating and maintenance;
- Amortization of capital assets;
- Program support;
- Internal services;
- Centrally managed costs, such as employee benefit plans; and
- Services provided by other departments, such as office accommodations.

TC developed a costing model that captures these cost elements and applies principles of activity-based costing to assign costs to all NPP activities and services based on their use of resources. The cost estimate is built on a combination of historical program delivery expenditures, future spending plans for administration of the CNWA, and level-of-effort estimates obtained from NPP officers nationwide.





The results of the analysis indicate that the ongoing full cost of delivering the NPP program is estimated at \$12.7 million per year. About \$8.5 million is associated to the delivery of application review services for which fees are proposed, while \$4.2 million is associated to other functions such as dealing with obstructions, wrecks, and emergencies.

While some NPP applications require input towards additional reviews (i.e. environmental impact assessments or consultation with Indigenous peoples and other interested parties), only TC costs are included in the cost estimate in such cases. Costs incurred by other departments, such as the Impact Assessment Agency of Canada, are not included.

To establish the starting point for pricing NPP reviews and approvals, 136 possible work types were sorted into low complexity and high complexity categories. Works with higher complexity require more effort on the part of NPP officers to review and approve. The complexity assessment took into account typical construction methods, industry practices, size of the work, and likely impacts to the waterway. The full cost to process all applications for low complexity works, high complexity works, and exemptions from prohibitions was then divided by the expected number of reviews in each category to obtain a cost-per-unit.

The analysis concluded that the average cost to review and make a determination on approval for one low complexity work is \$3,510. The average cost to review and make a determination on approval for one high complexity work is \$7,220.

The average cost to process an application to exempt a navigable water from a prohibition is \$66,000. This service is complex and time-consuming to provide, typically involves NPP input towards an environmental impact assessment and consultation with Indigenous peoples, and requires preparation of a regulatory package to obtain an Order in Council, which is the mechanism used to obtain approval of the exemption by the Governor in Council.

## **6. Proposed Fees**

### **6.1 NPP Fee Design**

The proposed fee design aims to ensure that fees will reflect the level of effort required to provide NPP services, and be easily understood by project proponents.

It is proposed that a fixed fee be charged for the review of works that are subject to the requirement to apply for an approval. The fee would be payable after the NPP has notified the proponent that the application has been properly completed and submitted.



Projects requiring multiple works would be billed for each individual work requiring an approval, so that total charges are proportional to the effort expended by NPP for larger projects.

A fixed fee would also be charged for reviewing an application to exempt a waterway from a prohibition and shepherding it through the regulatory process. The fee would be payable after NPP has confirmed that an exemption would be required in order for the activity to proceed, and the NPP has notified the proponent that the application has been properly completed and submitted.

Proposed works that meet the criteria and requirements found in the Minor Works Order do not require approval from the NPP and would not be subject to fees.

TC is proposing to update the Minor Works Order. On August 4, 2020, a 60-day consultation period was launched for the proposed changes to the Minor Works Order, with a flexible period for Indigenous peoples to participate in the process.

[Learn more about the current Minor Works Order](#)

TC considered a number of pricing factors that helped develop the fee design and pricing structure described in this Fee Proposal. These factors are outlined below.

## 6.2 Pricing Factors

A key principle of TC's fee modernization initiative is that those who directly benefit from TC services should pay a share of the cost to provide the services. As noted, the full cost of providing NPP services represents the maximum possible amount that TC can charge.

TC applied a series of pricing considerations to determine the proposed fee levels. The factors considered include:

- (a) Public-Private Assessment: Determines the level of benefit that accrues to NPP proponents versus the Canadian public generally;
- (b) Comparison to Other Jurisdictions: Examines comparable national and international jurisdictions to see what, if any, fees are charged for similar services under other regimes; and
- (c) Impact on Users of NPP Services: Assesses the impact fees would have on prospective NPP applicants.

### 6.2.1 Public-Private Benefit Assessment



Determining what constitutes public vs. private benefit is fundamental to decisions regarding what services should be subject to fees and what the cost recovery rate (the percentage of the costs paid by the user) should be for the services.

TC provides many services that offer neither purely public nor purely private benefits and must therefore consider this proportion when setting cost recovery rates. While services that convey purely public or private benefit have cost recovery rates that logically follow (0 percent and 100 percent, respectively), setting the cost recovery rate for a service that provides a mix of private and public benefits requires complex deliberation and analysis.

A Public-Private Benefit Assessment (PPBA) was conducted using the PPBA tool developed by TBS. The PPBA tool estimates the degree to which NPP services provide a private benefit (to a proponent or owner of a work who may be an individual, an organization, an Indigenous community, a company or a government entity) above and beyond those enjoyed by the general public.

#### Approval of Works

The PPBA results reveal that for applications for works, 80% of the benefits of the NPP's review and approval services accrue to the proponent or owner of the work. The general public receives 20 percent of the benefits, such as improved waterway safety.

#### Exemption of a Navigable Waterway from Prohibited Activities

The PPBA indicated that for the service of reviewing an application for an exemption of a navigable water from a prohibition and guiding it through the regulatory process, 100 percent of the benefits accrue to the proponent who requested the exemption. While these exemptions are only granted when it is found that the exemption would be in the public interest, the services provided to the proponent to arrive at a determination of approval are a fully private benefit since they enable the authorization needed to proceed with these commercially advantageous undertakings.

TC used the percentage of private benefit to establish a cost recovery rate ceiling of 80% for the review of applications for approval of works. Since the review of applications for exemptions from a prohibition is 100% private benefit, the cost recovery rate ceiling remains 100% of full cost for this service. However, the PPBA is only one of several factors used to determine the eventual cost recovery rate and set proposed prices. Additional factors that were considered are described below.

### 6.2.2 Comparison to Other Jurisdictions



For the purpose of comparability, fees from three other jurisdictions were reviewed: the United States (US), the United Kingdom (UK) and, because additional international comparisons were not identified, the Vancouver Fraser Port Authority (VFPA).

The fees presented for other jurisdictions provide a frame of reference for developing fees for NPP review of works applications, particularly with regard to fixed and tiered fee design. However, the fees themselves are not directly comparable to NPP's proposed fees for several reasons:

1. Each jurisdiction uses different criteria to define a work, either individually or in groups, making direct comparisons across jurisdictions or with NPP works and activities difficult;
2. Information was not available on costing methodologies, proportion of costs recovered, or pricing considerations applied in other jurisdictions;
3. The US, UK and VFPA's assessment of proposed projects in waterways can include environmental reviews and consultations, while NPP's review is focused specifically on impacts to navigation. The proposed fees for NPP consider that expert advice from NPP officers towards environmental reviews and consultation with Indigenous peoples is sometimes required, but the fees do not reflect the activities of other TC groups or federal departments who lead these processes.

The review of other jurisdictions did not identify comparable fees that would provide a useful point of reference with respect to fee-setting for the review of applications to exempt a navigable water from a prohibition.

Refer to Appendix A for a comparison of fees for approval of works across the jurisdictions examined.

### 6.2.2.1 International Comparison

The UK and the US provide useful points of reference as both feature federal regulation of works in navigable waters and charge fixed fees for authorizations of such works. The UK model also employs tiered pricing to reflect works of varying size and/or complexity, much like TC is proposing for the NPP.

#### United Kingdom

To ensure that works do not endanger life or property by increasing the risk of flooding or causing harm to the environment, the UK *Water Resources Act 1991* prohibits the construction of a structure in, over or under a watercourse which is part of a main river except with the consent of and in accordance with plans and sections approved by the Environment Agency. Since the UK process includes technical and environmental assessments, the regime has a broader scope than in Canada where NPP reviews are focused primarily on the impact on navigation.



The UK model features fixed permit application fees for various categories of works, as well as an “annual subsistence activity charge” to recover regulatory costs while the authorization is in force.

As shown in Appendix A, the UK Environment Agency charges \$292 (all amounts in Canadian dollars) for an authorization to install an access culvert less than 5 metres in length, plus an annual charge of \$117 while the permit is in force. Over a 10-year period, this would equal a total fee of \$1,462. Permits for a vehicle bridge cost \$1,661 plus \$465 annually, for a 10-year total of \$6,311, while a permit for a reservoir spillway costs \$2,500 plus \$640 annually, for a 10-year total of \$8,900.

### United States

The US Army Corps of Engineers regulates activities that could obstruct or alter navigable waters of the US under Section 10 of the *Rivers and Harbors Act of 1899*. Authorization is required from the Corps to conduct work in, over, or under navigable waters. The US charges nominal fixed fees based on the type of applicant. As shown in Appendix A, individuals and non-commercial applicants are charged a fee of \$13 for a standard individual permit; commercial and industrial applicants are charged a fee of \$131. Fees are not charged to federal, state or local governments.

## 6.2.2.2 Domestic Comparison

### Vancouver Fraser Port Authority

The VFPA is a shared governance organization responsible for the stewardship of federal port lands in and around Vancouver, British Columbia. VFPA is the permitting authority for projects around Vancouver harbour and in the Fraser and North Fraser Rivers, and it conducts environmental reviews of projects in accordance with Section 82 of the *Impact Assessment Act*. VFPA is exempt from the CNWA if the work is done by the port authority or on behalf of the port authority.

VFPA’s consideration of project permit applications includes technical and environmental reviews and any required municipal, stakeholder and community engagement and consultation with Indigenous peoples. Therefore, the review is broader in scope than NPP which is focused mainly on impacts to navigation.

VFPA groups project types into five categories based on the complexity of the project and the associated review. Category A works are minor in scale and may be temporary in nature, with predictable, minimal potential impacts. This category aligns closely to work types described in the proposed update to the CNWA’s Minor Works Order. No fees are payable to VFPA for an approval in this category, nor are NPP fees proposed for minor works.

Category B works are also relatively minor in scale, such as shoreline protection, but have attributes requiring additional technical analysis and may require specialized



mitigation. A fee of \$500 is payable to obtain a permit for works in this category. Category C works include the same type of projects as B, but where consultation is required; the fee for a Category C work is \$2,500. Categories D and E comprise increasingly complex project types which usually require a variety of supporting technical studies and consultation processes, including major dredging (Category D) and commercial marinas (Category E). Permit fees for Category D and E are \$12,500 and \$22,500, respectively. Examples of VFPA fees are shown in Appendix A.

### 6.2.3 Analysis of Impacts on Users of NPP Services

As noted, a key principle of TC’s fee modernization initiative is that those who directly benefit from TC services should pay a share of the cost. This goal is to be balanced with TC’s role as a regulator and economic enabler. The fees proposed for NPP were developed by taking into consideration the economic environment in which NPP project proponents operate.

Applicants to the NPP are a diverse mix of individuals, small and large businesses, non-governmental organizations, private and public utilities, Indigenous peoples, federal government departments, and provincial, territorial and municipal governments.

#### Approvals of Works

The NPP typically processes between 800 and 1,100 approvals of works per year. As shown in Figure 1, over half (53%) of such approvals were issued to private sector commercial entities. The next largest proponent group (36%) is various levels of government, with Fisheries and Oceans Canada as the federal department with the most approvals. The NPP client group is rounded out with residential works proponents (7%), which includes cottager’s associations and private citizens, and Indigenous peoples (4%).

Geographically, NPP approvals are issued to proponents across Canada, as shown in Figure 2. Since 2017, 28% of approvals were issued in the four Atlantic provinces, while British Columbia and Quebec – large provinces with lengthy coastlines – represented 29% and 25% of approvals,

Figure 1:

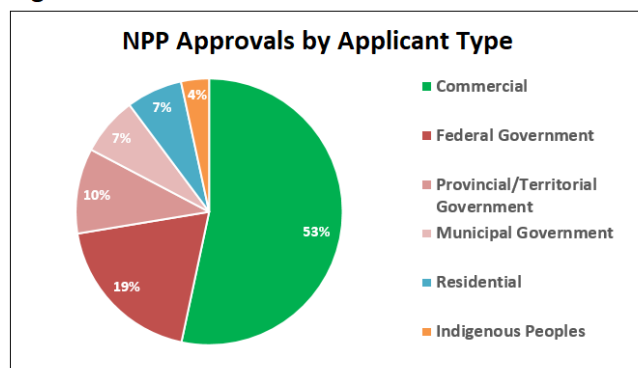
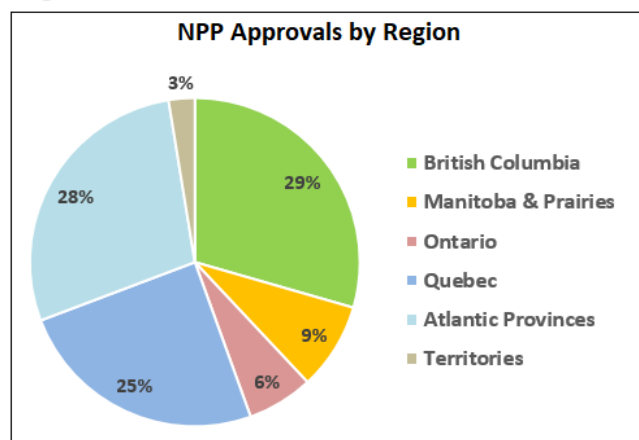


Figure 2:



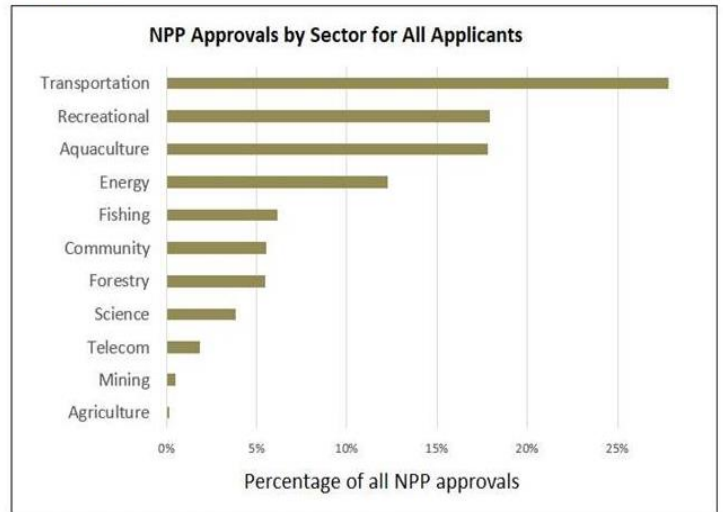
Source: Navigable Waters Database System 2017-2019



respectively. Ontario, Manitoba, the territories, and the Prairie provinces collectively accounted for 18% of approvals.

The NPP gathers data on the nature of the projects for which approval of works is sought. As shown in Figure 3, works associated to the transportation sector are most common. Projects in this category include road and rail bridges, dredging at ports and other improvements to harbours, works in canals, ferry terminals, and causeways. About two-thirds of transportation-related works approvals are issued to public sector entities.

Figure 3:

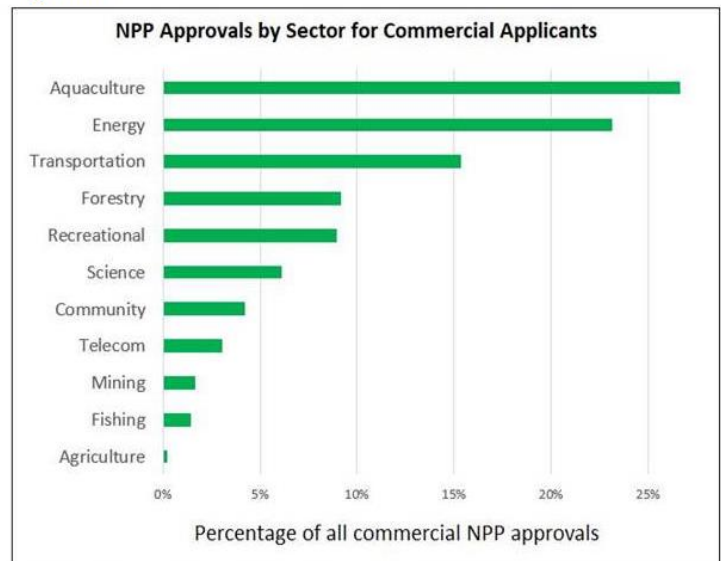


Source: Navigable Waters Database System 2017 - 2019

Recreational works are the second most common category of approvals, and are the most frequent approval issued to residential clients, such as property owner associations. Such works include small-scale residential docks, floating fireworks platforms, and markers for swimming areas. Other works in this category include marinas, floating parks, and slalom courses, which are typically associated to commercial proponents.

Figure 4 provides a closer look at the nature of works approvals granted to commercial entities. (This chart excludes all approvals granted to other types of proponents).

Figure 4:



Source: Navigable Waters Database System 2017 - 2019

As shown, aquaculture projects represent the largest category of commercial approvals. It is not uncommon for the NPP to approve over 100 aquaculture works in a year. Energy-related approvals – for works such as dams, aerial cables, tidal turbines and generating stations – are also well-represented. These are typically requested by utility companies, such as power companies, and firms involved in the oil and gas sector. A



fair number of approvals are also requested from forestry companies, for helicopter logging “drop zones” and log storage areas on navigable waterways.

### Expected Impacts of Fees for Approval of Works

Due to the diversity of proponents, the expected impacts of the proposed fees are challenging to quantify. For the private sector, impacts will be varied. Based on a review of publicly available details regarding the specific businesses who have applied to the NPP in recent years, it is estimated that over half of commercial NPP proponents are large businesses, which would have a greater ability to absorb costs compared to medium and small businesses. Large businesses such as utility companies are also the most likely to require multiple approvals, either because they are the owner of a project requiring approval of several works (e.g. hydroelectric dam projects), or because they are proponents of multiple projects in various locations.

Aquaculture companies are frequent applicants to NPP and can range from small to large firms. According to Fisheries and Oceans Canada, Canadian aquaculture production has increased four-fold since the early 1990s, and annual production is currently valued at over \$1 billion. The industry employs about 14,000 people in full-time, well-paying jobs that are primarily located in smaller coastal and rural communities<sup>2</sup>. The strong health of this industry suggests an ability to absorb NPP fees without significant adverse economic impacts.

A significant share of NPP approvals are provided to government proponents. The proposed NPP fees would represent a tiny fraction of the budget of most federal or provincial government departments. Municipal governments, particularly those of small or rural municipalities, may find it more challenging to absorb new fees, however municipalities generally receive a small proportion of total approvals (7% per Figure 1).

NPP approvals do not require renewal. However, owners of a work previously approved by the NPP would submit a new application when proposing to alter, rebuild, remove or decommission their work. Applications to alter, rebuild, remove or decommission a work, which require a review, would be charged the same fee as charged for the original construction or placement of the work.

While some larger businesses and governments do apply to the NPP with some frequency, many smaller companies may apply only occasionally to NPP, and most private individuals (e.g. requesting approval of a cottage dock) may apply only once to the program. For these reasons, overall, the economic impact of the proposed fees on

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<sup>2</sup> <https://www.dfo-mpo.gc.ca/aquaculture/sector-secteur/stats-eng.htm>





NPP clients is expected to be negligible, and the fees would not result in a long-term negative impact on business competitiveness.

The coronavirus pandemic has created a serious downturn in Canada's economy and users of NPP services have been impacted to varying degrees. TC heard from program stakeholders in many areas of business indicating that they would not have the capacity to participate in consultations on fees or other matters during the height of the pandemic. Thus, TC delayed planned public consultation on the NPP Fee Proposal by 6 months, so consultations originally intended to occur in spring 2020 are now proposed to take place later in 2020. Further, TC proposes to delay the coming into force of the new fees by 6 to 9 months from the original intended date (April 2021) to late 2021/beginning of calendar year 2022. This approach will allow significantly impacted NPP clients more time to improve their economic circumstances before these new fees would become payable.

#### Exemption of a Navigable Waterway from Prohibited Activities

Over the past 15 years, the Governor in Council has approved four exemptions of navigable waterways, all related to mining activities by large companies, in each of British Columbia, Saskatchewan, Quebec, and Newfoundland and Labrador. Canada is one of the leading mining countries in the world and one of the largest producers of minerals and metals. The industry has a vast economic reach, and the total value of mining projects planned or under construction from 2018 to 2028 is estimated at \$72 billion<sup>3</sup>. Due to the infrequency of NPP applications to exempt a navigable waterway from a prohibition, the value that these exemptions provide to proponents by allowing them to proceed with profitable mining activities, and considering that NPP fees would represent a negligible amount compared to the cost to build and operate a mine, the impact of fees on clients of this service is expected to be insignificant.

#### 6.2.4 Summary of Pricing Considerations

The Public-Private Benefit Assessment, multijurisdictional comparison, and analysis of impacts on users of NPP services described above provide a comprehensive frame of reference that TC took into account when designing the proposed NPP fee structure and setting prices. It is also understood that approvals, permits, and licenses may be required from other federal departments, provincial agencies, municipalities, or other regulators depending on the nature of the work being proposed, and that additional fees may be payable in such cases.

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<sup>3</sup> Mining Association of Canada: Facts and Figures 2018



TC is participating in an Interdepartmental Committee on Cost Recovery, which is being led by the Impact Assessment Agency of Canada. This Committee includes other government departments who charge fees to some NPP clients, such as Fisheries and Oceans Canada and Natural Resources Canada. As cost recovery projects are advanced across the Government of Canada, this Committee will be able to provide clarity on both the complete fee landscape for NPP clients and the cumulative impact of fees. It is important to note that the majority of NPP projects requiring multiple approvals are associated with large and/or commercial projects, whose proponents have the economic capacity to pay higher fees as a consequence of their large scale operations.

### 6.3 Proposed Fee Levels

TC has considered the factors described above in setting prices for the review of applications for approval of works, and for the review of applications to exempt a navigable water from a prohibition. The fee would be payable once a complete application has been submitted to the NPP, and NPP has determined that the proposed work or activity will require an approval or exemption before it may proceed. Applications requesting an approval for several works will be charged a separate fee for each work, and invoiced for the total amount.

#### Applications for Approval of Works

There are 136 types of works that may require an approval by the NPP. As discussed above under Cost Analysis (Section 5), TC reviewed each of the 136 works and categorized each as either low complexity (Fee Categories A1 and A2) or high complexity (Fee Category B) based on construction methods, industry practices, size of the work, and likely impacts to the waterway.

The low complexity category of works was sub-divided into categories A1 and A2 in part to isolate work types often associated with, but not limited to, residential clients. Individuals and cottager associations generally do not have the same ability to absorb fees as commercial businesses or governments. Most of the lower-priced works in Fee Category A1 are recreational, such as residential docks, swimming rafts, and boathouses.

Fee Category A1 also includes certain work types more typically associated with commercial or government clients, but which merit lower pricing than other low complexity works due to the nature of the projects these works relate to. Such projects involve groups of identical works in close proximity, such as water sampling and helicopter logging. These activities often require multiple approvals from the NPP for a single project; in some cases over 10 approvals are required. These NPP reviews benefit from economies of scale since many characteristics of the works are identical. Most projects do not require multiple approvals of this sort, so to promote equity in the



fee design, work types that are often approved in bundles of identical works (such as helicopter logging sites and scientific data acquisition buoys) are included in Fee Category A1.

Fee Category A2 is comprised of the remaining low complexity works that did not merit lower pricing consideration as discussed above. Works in this category include non-residential docks, dredging, aerial cables, structures, geotechnical testing, catwalks, and footbridges.

Fee Category B is made up of high complexity works. Examples include aquaculture facilities, road and rail bridges, wharves, breakwaters, marinas, and causeways.

Appendix B provides a summary of the fee categories for works, and identifies into which category each of the 136 work types fall.

Although the PPBA tool determined that the review of applications for approval have an 80% private benefit for all types of works, the fee design involves tiered fixed fees with varying cost recovery rates for each tier. The proposed fee tiers reflect the greater level of effort required to provide NPP review and determination of approval services for high complexity works, and the lesser level of effort to review and make a determination of approval for low complexity works. As discussed above, in order to not unduly burden proponents of certain low complexity works in Fee Category A1, a lower price and lower cost recovery rate is proposed (14%) compared to Fee Category A2 (40%). The pricing and cost recovery rate proposed for Fee Category B works (60%) reflects that the large businesses and governments who are typical proponents of such works have the most capacity to pay for NPP services.

#### Applications for Exemption of a Navigable Waterway from Prohibited Activities

The PPBA tool determined that the proponent (typically very large companies) derives 100% of the benefit from the service of reviewing an application to exempt a navigable water from a prohibition and shepherd it through the regulatory process. This service requires considerable TC resources to provide, and offers significant commercial benefits to proponents. These companies have the capacity to pay fees as a cost of operations, and no significant negative economic impact is anticipated due to the introduction of NPP fees. This service is captured under Fee Category C, and a proposed cost recovery rate of 100% is applied.

Figure 5 details the proposed pricing structure for Fee Categories A1, A2, B, and C, and identifies the cost recovery rates for each category. At an aggregate level (all fee categories combined), TC aims to recover up to 41% of the cost of providing NPP application review services.



**Figure 5:**

Fee Category Name	Fee Category Description	Examples of Work Types	Fee Payable per Application for Approval <sup>1</sup>	Estimated Cost to TC to Provide Service	Cost Recovery Rate
A1	Low complexity works that do not meet the criteria to be considered a Minor Work, and are often associated with, but not limited to:				
	homeowner/cottager applications	Swimming raft, Boathouse	\$500	\$3,510	14%
	multi-work projects with a number of identical small works in close proximity	Helicopter logging drop zone Scientific data acquisition buoys			
A2	Other low complexity works	Dredging, Aerial Cable, Slalom Course	\$1,400	\$3,510	40%
B	High complexity works	Aquaculture Facility, Bridge, Wharf	\$4,300	\$7,220	60%
C	Exemption from prohibited activities	Dewatering a navigable waterway Throwing and depositing of certain materials	\$66,000	\$66,000	100%

<sup>1</sup> A project involving multiple works will be billed for each work for which approval is sought, even if a single application is submitted for the project.

## 7. Proposed Service Standards

In order to meet the requirements of the *Service Fees Act*, TC has a proposed service standard for each of the services for which fees are proposed:



Service		Proposed Service Standard
1.	Review of application for approval of a work	Within 5 business days of acknowledgement to the proponent of receipt of a complete application for a work that requires an approval, NPP will make available a tracking tool within the NPP external submission site to enable the proponent to track the status of their application.
2.	Review of application for Governor in Council approval of an exemption of a navigable waterway from prohibited activities	Within 5 business days of acknowledgement to the proponent of receipt of a complete application for a Governor in Council exemption of a navigable water from prohibited activities, NPP will make available a tracking tool within the NPP external submission site to enable the proponent to track the status of their application.

The NPP’s proposed service standards include a timeliness component, but are primarily “access standards,” meaning a commitment outlining the ease and convenience a client should experience when accessing a service. A service standard tied to the timing of a decision regarding whether or not an approval for a work will be issued or when an exemption will be granted is not possible as the timing of these decisions is not always within the NPP’s control. Although the NPP has internal timeliness standards for reviewing applications for works, where an environmental impact assessment or consultation with Indigenous peoples and other interested parties is required, the NPP cannot make its decision until these processes are complete. While the NPP participates in these processes, the time required to complete them varies and the NPP is not responsible for establishing the timelines for completing these processes.

Similarly, NPP has internal timelines for the work it undertakes in regard to applications for an exemption. However, these applications must also go through the regulatory process for obtaining an Order in Council, which would be granted by the Governor in Council. Although the NPP participates in the regulatory process, NPP is not responsible for establishing the timeline for completing this process.

In the interest of transparency and to provide proponents with as much information on their application as possible, the NPP proposes to post within its external submission



site the internal timelines that NPP follows in relation to its review of works and exemption applications.

## 7.1 Effective Date of Proposed Service Standards

The proposed service standards would come into force upon Governor in Council approval of the NPP cost recovery regulations.

## 7.2 Remission Policy

The *Service Fees Act* requires government departments to remit a portion of a fee when the department considers that a service standard associated with a fee has not been met. Guidance concerning the SFA from the TBS further requires departments to develop and publish a Remission Policy outlining the circumstances under which fees will be remitted. Remissions will take place in accordance with TC's Remission Policy and the TBS *Directive on Charging and Special Financial Authorities*.

# 8. Implementation

## 8.1 Transitional Provisions

Applications received prior to the coming into force date of the proposed NPP cost recovery regulations will not be subject to fees. However, applications received after the coming into force date, and which are subsequently determined by NPP to be a complete application, and which would require an approval or exemption in order for the project to proceed, will be subject to the full fee amount.

## 8.2 Other Implementation Considerations

TC will develop guidance and explanatory materials to ensure that the new fees are applied consistently across Canada, and to ensure that users of NPP services can clearly understand how and when the fees will be applied and what their responsibilities and liabilities will be under the regulations. These materials will be developed based in part on feedback received in response to this Fee Proposal as well as throughout the regulatory process. These materials will be ready before the new fees come into force.

In accordance with the *Service Fees Act*, the proposed fees will be indexed annually, based on the applicable Consumer Price Index published by Statistics Canada. The inflation-adjusted fee levels and the date they will come into effect will be published in TC's Fees Report and will be made available on the TC website annually.

The planned *Canada Gazette*, Part II publication date for the proposed regulatory amendments introducing fees is late 2021/start of 2022.



## 9. Consultation with Users of NPP Services and Other Interested Parties

TC will consult with users of NPP services and other interested parties regarding the proposed fees for approval of works and exemption of a navigable waterway from prohibited activities.

In addition to posting the Fee Proposal on TC's Let's Talk Navigation website, two information webinars will be held, one in English and one in French, to review the Fee Proposal and obtain comments from targeted stakeholders.

Users of NPP services and other interested parties from industry, utilities, non-government organizations, the transportation and recreational sectors, and provincial, territorial and municipal governments, will receive a copy of the Fee Proposal for review and comment. Indigenous peoples will also be invited to participate to the consultation with a flexible timeline and optional capacity funding for their participation.

The views of users of NPP services and other interested parties will be taken into account, and reflected in the Regulatory Impact Analysis Statement that will be published with the proposed regulations in the *Canada Gazette*, Part I in mid-2021. TC's Let's Talk Navigation website will also include a link to the formal Gazette publication.



## Appendix A – Multijurisdictional Comparison of Fees Charged for Review and Approval of Works on Waterways

(All figures in Canadian \$)

The NPP process for review and approval of works focuses on assessing impacts to navigation. Other jurisdictions also approve works in waterways, though most consider other factors in their assessment so the fees charged are not directly comparable to the NPP approach. These other jurisdictions still provide pertinent points of reference in regard to fee design and pricing for the review of applications for approval of works, which TC considered in the development of the proposed fee structure for NPP.

Work Type Examples	United States	United Kingdom (England)		Vancouver Fraser Port Authority	Proposed NPP Fee Structure	
	Federal Fees (US Army Corps of Engineers)	Environment Agency Fees	Total Fees over 10 year period	Fees	Fee Category	Price
<b>Non-commercial activities<sup>1</sup></b>						
Residential dock	\$13				A1	\$500
Shoreline protection	\$13			\$500	A1	\$500
<b>Commercial activities<sup>1</sup></b>						
Dredging	\$131			\$12,550	A2	\$1,400
Small culvert	\$131	\$292 + \$117 annually while permit in force	\$1,462		A2	\$1,400





Marina	\$131			\$22,500	B	\$4,300
Bridge	\$131	\$1,661 + \$465 annually while permit in force	\$6,311		B	\$4,300
Reservoir spillway	\$131	\$2,500 + \$640 annually while permit in force	\$8,900		B	\$4,300

<sup>1</sup> Many work types are not necessarily uniquely commercial or non-commercial. The work types presented are for comparative and illustrative purposes only.



## Appendix B – Summary of 136 Work Types and Applicable Fee Category

<b>Fee Categories for Approval of Works</b>  <b>Applies to works that may interfere with navigation and which do not meet the requirements of the Minor Works Order</b>		
<b>Low Complexity Work Types</b>  Based on construction methods, industry practices, size of the work, and likely impacts to the waterway		<b>High Complexity Work Types</b>  Based on construction methods, industry practices, size of the work, and likely impacts to the waterway
<b>Fee Category A1</b>  Low complexity works often associated with, but not limited to:  a) homeowner/cottager applications, or b) projects with a number of identical small work types in close proximity that are often associated with, but not limited to, commercial and government applications.	<b>Fee Category A2</b>  Other low complexity works	<b>Fee Category B</b>  High complexity works
1. Boat House 2. Boat Lift 3. Buoy (Mooring Buoy, Single Point)	12. Aerial Cable 13. Anchors 14. Armour Stone	68. Aquaculture Facility 69. Artificial Island 70. Barge Facilities



4. Buoy (Ocean Data Acquisition Systems (O.D.A.S.) Buoys	15. Artificial Reef	71. Boat Basin
5. Buoy (Swimming Buoys Area)	16. Cathodic Protection System	72. Breakwater
6. Helicopter logging	17. Catwalk	73. Bridge
7. Launching ramp	18. Cofferdam	74. Building
8. Raft and Swimming Raft	19. Cribwork	75. Cable Tunnel
9. Dock - Residential	20. Culvert	76. Causeway
10. Scientific Instruments	21. Dock	77. Causeway – Road
11. Shore Protection	22. Dock - Commercial	78. Counting Fence
	23. Dredging	79. Dam
	24. Dumping Site	80. Debris Boom
	25. Embankment	81. Deep Water Terminal
	26. Environmental Compensation Structure	82. Diversion
	27. Fence	83. Diversion canal
	28. Fendering System	84. Dock - Aerodrome
	29. Fish Net	85. Dolphins
	30. Fish Net Stakes	86. Drilling Platform
	31. Fish Trap	87. Dyke
	32. Fishway	88. Feeder canal
	33. Floating Park	89. Ferry Cable
	34. Floating Wave Break	90. Ferry Terminal
	35. Footbridge	91. Fill
	36. Gabion	92. Fish Diversion Structure
	37. Geotechnical Testing	93. Fish Habitat Compensation Structure
	38. Geothermal Loop	94. Fish Weir
	39. Groyne	95. Floating Building
	40. Intake	96. Floating Home
	41. Jetty	97. Flood Draining Canal
	42. Log Dump	98. Fountain
	43. Log Salvage	99. Generating Station
	44. Marine Railway - Recreational	100. Harbour
	45. Nautical Sports Utilities Structures	101. Helicopter Pad
	46. Outfall	102. Ice Boom
	47. Pier	103. Independent Power Projects
	48. Platform	104. Leak Canal
	49. R & D Equipment	105. Lobster Pound
	50. Retaining Wall	106. Lock
	51. Rip Rap	107. Log Boom
	52. Scientific Platform	108. Marina
	53. Seaplane Terminal	109. Marine Railway - Commercial
		110. Marine Terminal

**Total Number of Fee Category A1 Work Types: 11**

