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DRAFT
MINOR WORKS AND WATERS (NWPA)
REGULATIONS

INFORMATION PAPER

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Please forward your comments to:

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The proposed *Minor Works and Waters (NWPA) Regulations* are still being developed. While Transport Canada has made every effort to ensure the intent of the regulatory proposal is clear in this draft, there may be significant changes in the wording of certain parts before it is in its final form and ready to be pre-published in Part I of the *Canada Gazette*.

MINOR WORKS AND WATERS (NWPA) REGULATIONS INTERPRETATION

Definitions

1. The following definitions apply in these Regulations.

“Act” « *Loi* »

“Act” means the *Navigable Waters Protection Act*.

“charted navigable waters” « *eaux navigables cartographiées* »

“charted navigable waters” means navigable waters for which navigation charts are produced by the Canadian Hydrographic Service or the National Oceanic and Atmospheric Administration.

“dock” « *quai* »

“dock” includes a wharf, a pier and a jetty.

“ice breaker” « *brise-glace* »

“ice breaker” means a vessel that is specially constructed or modified for the purpose of navigating through ice.

“navigation channel” « *chenal de navigation* »

“navigation channel” means a charted channel, a buoyed channel or a channel that is required for navigation purposes.

“ordinary high-water mark” « *laisse des hautes eaux ordinaires* »

“ordinary high-water mark” means, in respect of navigable waters, the limit or edge of the bed of the navigable waters.

“pipeline” « *pipeline* »

“pipeline” includes a conduit that contains wires or pipes.

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CLASSES OF WORKS

EROSION PROTECTION WORKS

Definitions

2. (1) The following definitions apply in this section.

“erosion protection works” « *ouvrages de protection contre l'érosion*»

“erosion protection works” means shoreline-stabilization, riprap or bank-protection works.

“groyne” or “spur” « *épi ou éperon*»

“groyne” or “spur” means a structure built out from the bank of navigable waters in a direction transverse to the current in order to prevent erosion of the bank.

“riprap” « *enrochement*»

“riprap” means a layer of stones or rocks placed irregularly on a slope or a bank of navigable waters in order to protect it against scouring or erosion.

“shoreline stabilization” « *stabilisation des rives*»

“shoreline stabilization” means stones, rocks, concrete, logs or other common building materials placed in order to protect the shores of navigable waters from erosion.

Class established

(2) Erosion protection works are established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the works are integrated with and parallel to the existing or natural shoreline or bank;
- (b) the works do not, when measured from the ordinary high-water mark, extend horizontally more than 5.0 m into, onto, over, through or across the navigable waters;
- (c) the works do not incorporate a water outfall that, when measured from the ordinary high-water mark, extends horizontally into, onto, over, through or across the navigable waters more than 1.0 m farther than the rest of the works;

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(*d*) in the case of a river, a stream, a creek or similar navigable waters, the works

(i) do not extend horizontally more than 33% of the distance from the ordinary high-water mark on one side of the waters to the ordinary high-water mark on the other side, and

(ii) are not on, over or across the thalweg of the waters;

(*e*) the works are not associated with any other proposed works that are not of a class established by these Regulations; and

(*f*) the works do not include groynes or spurs or other devices to deflect the current.

Water outfalls

(3) In the case of an erosion protection work that incorporates a water outfall that, when measured from the ordinary high-water mark, extends farther horizontally into, onto, over, through or across the navigable waters than the rest of the work, paragraphs (2)(*a*), (*d*) and (*e*) do not apply to the portion of the outfall that extends farther than the rest of the work.

Temporary works — class established

(4) Temporary works that are required for the construction or placement of works of the class established by subsection (2) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

(5) During the construction or placement of works of the class established by subsection (2) or (4), the owner of the works must ensure that

(*a*) vessels are allowed safe access through the work site at all times and are assisted as necessary; and

(*b*) in the case of a river, a stream, a creek or similar navigable waters that, when measured from the ordinary high-water mark on one side of the navigable waters to the ordinary high-water mark on the other side, are of a width set out in

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column 1 of the table to this subsection, signs stating “Construction Ahead” and “Travaux de construction” that are legible from at least 50 m are in place, upstream and downstream from the work site, at the minimum distance set out in column 2.

TABLE

Column 1	Column 2
Item Width	Minimum distance
1. Less than 10 m	25 m
2. 10 m or more but less than 20 m	50 m
3. 20 m or more but less than 50 m	100 m
4. 50 m or more	200 m

During construction or placement of temporary works

(6) During the construction or placement of works of the class established by subsection (4), the owner of the works must ensure that

(a) if the works are on, over or across navigable waters, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

- (i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,
- (ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,
- (iii) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or
- (iv) located on each end of the works and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

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(b) if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(7) The owner of works of the class established by subsection (4) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Restoration of contours

(8) The owner of works of the class established by subsection (2) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

(a) the placement or construction of the works or of works of the class established by subsection (4);

(b) the removal of works of the class established by subsection (4).

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Works in disrepair

(9) If works of the class established by subsection (2) become a danger to navigation because of disrepair, the owner of the works must immediately repair the works so that they are no longer a danger to navigation.

DOCKS AND BOATHOUSES

Class established

3. (1) Docks and boathouses are established as a class of works for the purposes of subsection 5.1(1) of the Act if

(a) the works are within 100 m of a dock, boathouse or other structure that, when measured from the ordinary high-water mark, extends horizontally at least as far into, onto, over, through or across the navigable waters as the works extend;

(b) the works are not within 5 m of the adjoining property lines at the ordinary high water mark;

(c) the works are not within 10 m of a dock, boathouse or other structure that is in, on, over, through or across the navigable waters and that is not owned by the owner of the works;

(d) in the case of charted navigable waters, the works are not within 30 m of a navigation channel;

(e) the works do not block the access to real or personal, or movable or immovable, property owned by a person who is not the owner of the works;

(f) the works do not, when measured from the ordinary high-water mark, extend horizontally more than 30 m into, onto, over, through or across the navigable waters;

(g) the works are not associated with any other proposed works that are not of a class established by these Regulations; and

(h) the works are not used for float planes or other aircraft equipped with floats.

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Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

(3) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that vessels are allowed safe access through the work site at all times and are assisted as necessary.

During construction or placement of temporary works

(4) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that

(a) if the works are on, over or across navigable waters, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

(i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

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(b) if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located at each end of the works and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(5) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Restoration of contours

(6) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

(a) the placement or construction of the works or of works of the class established by subsection (2);

(b) the removal of works of the class established by subsection (2).

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Works in disrepair

(7) If works of the class established by subsection (1) become a danger to navigation because of disrepair, the owner of the works must immediately

- (a) repair the works so that they are no longer a danger to navigation; or
- (b) remove the works.

BOAT RAMPS, SLIPWAYS AND LAUNCH RAMPS

Class established

4. (1) Boat ramps, slipways and launch ramps that are not marine railways are established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the works are not within 5 m of the adjoining property lines at the ordinary high water mark;
- (b) the works do not block the access to real or personal, or movable or immovable, property owned by a person who is not the owner of the works; and
- (c) the works are not associated with any other proposed works that are not of a class established by these Regulations.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

(3) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that vessels are allowed safe access through the work site at all times and are assisted as necessary.

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During construction or placement of temporary works

(4) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that

(a) if the works are on, over or across navigable waters, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

(i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

(b) if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

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(iv) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(5) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Restoration of contours

(6) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

- (a) the placement or construction of the works or of works of the class established by subsection (2);
- (b) the removal of works of the class established by subsection (2).

Works in disrepair

(7) If works of the class established by subsection (1) become a danger to navigation because of disrepair, the owner of the works must immediately

- (a) repair the works so that they are no longer a danger to navigation; or
- (b) remove the works.

AERIAL CABLES — POWER AND COMMUNICATION

Class established

5. (1) Aerial cables that are across navigable waters and that are only for power or communication purposes, and the associated structures and equipment, are established as a class of works for the purposes of subsection 5.1(1) of the Act if

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- (a) the width of the crossing is less than 15 m when measured from the ordinary high-water mark on one side of the navigable waters to the ordinary high-water mark on the other side;
- (b) the works are not over or across a lake or tidal waters;
- (c) the works are more than 1 000 m from any lake or tidal waters that are connected to the navigable waters that the works are over or across;
- (d) the works are not over or across charted navigable waters;
- (e) the works are not over or across a canal that is accessible to the public;
- (f) the works do not include towers or poles within the area between the ordinary high-water marks on each side of the navigable waters; and
- (g) the works meet the requirements of section 5.3.3.2 of *Overhead Systems*, CAN/CSA-C22.3 No. 1-06, as amended from time to time.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

(3) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that

- (a) vessels are allowed safe access through the work site at all times and are assisted as necessary;
- (b) in the case of a river, a stream, a creek or similar navigable waters, signs stating “Construction Ahead” and “Travaux de construction” that are legible from at least 50 m are in place 50 m upstream and downstream from the work site; and

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(c) any cables that in, on, over, under, through or across the navigable waters are not left unattended or unsupervised unless they meet the requirements referred to in paragraph (1)(g) or are lying on the bed of the waters.

Maintenance and operation

(4) The owner of works of the class established by subsection (1) must ensure that the works continue to meet the requirements referred to in paragraph (1)(g).

Works in disrepair

(5) If works of the class established by subsection (1) become a danger to navigation because of disrepair, the owner of the works must immediately

- (a) repair the works so that they are no longer a danger to navigation; or
- (b) remove the works.

SUBMARINE CABLES — POWER AND COMMUNICATION

Class established

6. (1) Submarine cables that are only for power or communication purposes are established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the works lie on or under the bed of the navigable waters;
- (b) the works are more than 10 m from any dock, boathouse or boat launch whose owner has not consented to the construction or placement of the works;
- (c) the works are not in or under chartered navigable waters; and
- (d) the works are not across the entrance to any port, including any marina.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

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During construction or placement

(3) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that vessels are allowed safe access through the work site at all times and are assisted as necessary.

During construction or placement of temporary works

(4) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(a) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length;

(b) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length;

(c) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length; or

(d) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(5) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

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Restoration of contours

(6) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

- (a) the placement or construction of the works or of works of the class established by subsection (2);
- (b) the removal of works of the class established by subsection (2).

Re-laying works

(7) Subject to subsection (8), if works of the class established by subsection (1) no longer lie on or under the bed of the navigable waters, the owner of the works must, as soon as feasible,

- (a) re-lay the works so that they lie on or under the bed; or
- (b) remove the works.

Dangers to navigation

(8) The owner must immediately take the action referred to in subsection (7) if the works become a danger to navigation because they no longer lie on or under the bed of the navigable waters.

PIPELINES

Under the Bed of Frozen Navigable Waters

Class established

7. (1) Pipelines that are buried under the bed of navigable waters that are not charted navigable waters are established as a class of works for the purposes of subsection 5.1(1) of the Act if the works cross the waters and

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(a) the waters are frozen to such an extent that it is not possible to navigate in, on or through the waters with any vessel that can navigate in, on or through the waters when they are not frozen; or

(b) the waters are frozen to such an extent that the only vessels that can navigate in, on or through the waters are ice breakers, and ice breaking does not take place on the waters.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act.

Removal of temporary works

(3) The owner of works of the class established by subsection (2) must ensure that they are completely removed before spring breakup commences.

Restoration of contours

(4) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state before the waters are thawed to such an extent that navigation by a vessel, other than an ice breaker, is possible:

(a) the placement or construction of the works or of works of the class established by subsection (2);

(b) the removal of works of the class established by subsection (2).

Under the Bed of Navigable Waters at Low Levels

Class established

8. (1) Pipelines that are buried under the bed of navigable waters that are not charted navigable waters are established as a class of works for the purposes of subsection 5.1(1) of the Act if

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- (a) the works cross under the bed;
- (b) when the construction or placement of the works starts, the waters within 100 m upstream and downstream of the works have
 - (i) an average width of less than 3.0 m, and
 - (ii) an average depth of less than 0.3 m along the centre line; and
- (c) the construction or placement of the works is completed within two weeks after the day on which construction or placement of the works started.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act.

During construction or placement of temporary works

(3) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that any temporarily submerged cables that are not lying on the bed of the navigable waters are not left unattended or unsupervised.

Removal of temporary works

(4) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

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Restoration of contours

(5) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

(a) the placement or construction of the works or of works of the class established by subsection (2);

(b) the removal of works of the class established by subsection (2).

Under the Bed of Uncharted Navigable Waters

Class established

9. (1) Pipelines that are buried under the bed of navigable waters that are not charted navigable waters are established as a class of works for the purposes of subsection 5.1(1) of the Act if

(a) the works cross under the bed; and

(b) in the case of works that are built or placed using a trenched method, the width of the crossing is less than 50 m when measured from the ordinary high-water mark on one side of the navigable waters to the ordinary high-water mark on the other side.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works include or consist of cables that do not lie on the bed of the navigable waters.

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During construction or placement

(3) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that

(a) vessels are allowed safe access through the work site at all times and are assisted as necessary; and

(b) if a trenched method is used and the works are under a river, a stream, a creek or similar navigable waters that, when measured from the ordinary high-water mark on one side of the navigable waters to the ordinary high-water mark on the other side, are of a width set out in column 1 of the table to this subsection, signs stating “Construction Ahead” and “Travaux de construction” that are legible from at least 50 m are in place, upstream and downstream from the work site, at the minimum distance set out in column 2.

TABLE

	Column 1	Column 2
Item	Width of navigable waters	Minimum distance
1.	Less than 10 m	25 m
2.	10 m or more but less than 20 m	50 m
3.	20 m or more but less than 50 m	100 m
4.	50 m or more	200 m

During construction or placement of temporary works

(4) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that

(a) if the works are on, over or across navigable waters, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

(i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

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(ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

(b) if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(5) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

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Restoration of contours

(6) The owner of works of the class established by subsection (1) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

- (a) the placement or construction of the works or of works of the class established by subsection (2);
- (b) the removal of works of the class established by subsection (2).

OUTFALLS AND WATER INTAKES

Definitions

10. (1) The following definitions apply in this section.

“crib” « *encoffrement* »

“crib” means pieces of timber affixed together to form bays or cells that are filled with stones or concrete.

“headpond” « *bassin d’amont* »

“headpond” means a reservoir of water created by the construction of a dam or weir.

“outfall” « *émissaire* »

“outfall” does not include a diffuser type outfall.

“weir” « *déversoir* »

“weir” means a low dam or barrier that raises the level or diverts the flow of navigable waters.

Class established

(2) Outfalls and water intakes are established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the piping of the works is less than 10 cm in diameter and lies on the bed of the navigable waters;

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- (b) the outfall or intake end of the works is
 - (i) in charted navigable waters that are less than 0.5 m in depth according to chart datum, or
 - (ii) in navigable waters that are not charted navigable waters and that have a depth, at the 10-year low-water level, of more than 2.5 m;
- (c) in the case of charted navigable waters, the works are not within 30 m of a navigation channel;
- (d) the works do not include a crib or other outfall or intake structure, such as a fish screen, an anchor, a collar or a weight, that extends more than 50 cm above the bed of the navigable waters; and
- (e) the works are not associated with a dam, a weir or a headpond, including a proposed dam, weir or headpond.

Temporary works

(3) Temporary works that are required for the construction or placement of works of the class established by subsection (2) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel.

During construction or placement

- (4) During the construction or placement of works of the class established by subsection (2) or (3), the owner of the works must ensure that
- (a) vessels are allowed safe access through the work site at all times and are assisted as necessary; and
 - (b) no floating pipes are left unattended or unsupervised.

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Removal of temporary works

(5) The owner of works of the class established by subsection (3) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Restoration of contours

(6) The owner of works of the class established by subsection (2) must, if the contours of the bed of the navigable waters were disturbed by either of the following, ensure that the contours are restored to their natural state on completion of the construction or placement of the works:

(a) the placement or construction of the works or of works of the class established by subsection (3);

(b) the removal of works of the class established by subsection (3).

Re-laying piping

(7) Subject to subsection (8), if the piping of works of the class established by subsection (2) no longer lies on the bed of the navigable waters, the owner of the works must, as soon as feasible,

(a) re-lay the piping so that it lies on the bed; or

(b) remove the works.

Dangers to navigation

(8) The owner must immediately take the action referred to in subsection (7) if the piping becomes a danger to navigation because it no longer lies on the bed of the navigable waters.

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DREDGING

Class established

11. (1) Dredging of materials from a bed of navigable waters that has been dredged previously is established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the works consist of dredging to maintain the width or depth of the navigable waters;
- (b) the works and associated marine equipment are not within 30 m of a navigation channel marked by the federal government, a provincial government or an agency of one of those governments;
- (c) all dredged materials are disposed of
 - (i) above the ordinary high-water mark, or
 - (ii) in waters where the disposal is authorized by or under an Act of Parliament and where there are more than 20 fathoms (36.576 m) of water at all times;
- (d) no suction dredging is used;
- (e) the works have no cables that cross on, over or through any portion of the navigable waters; and
- (f) the works do not include blasting.

Temporary works — class established

(2) Temporary works that are required for the construction or placement of works of the class established by subsection (1) are established as a class of works for the purposes of subsection 5.1(1) of the Act unless the temporary works are in, on, over, under, through or across a navigation channel marked by the federal government, a provincial government or an agency of one of those governments.

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Before starting construction or placement

(3) Before starting the construction or placement of works of the class established by subsection (1) that are in charted navigable waters, the owner of the works must request the Canadian Coast Guard to issue a Notice to Shipping.

During construction or placement

(4) During the construction or placement of works of the class established by subsection (1) or (2), the owner of the works must ensure that vessels are allowed safe access through the work site at all times and are assisted as necessary.

During construction or placement of temporary works

(5) During the construction or placement of works of the class established by subsection (2), the owner of the works must ensure that

(a) if the works are on, over or across navigable waters, the works are marked, from dusk to dawn and during periods of restricted visibility, with yellow flashing lights that are

(i) located on the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located on each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located on each end of the works, and at any other location on the works so that the lights are spaced not more than 30 m apart, if the works are more than 30 m in length; and

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(b) if the works are in or through navigable waters, the works are marked with cautionary buoys that are lighted from dusk to dawn and during periods of restricted visibility, and are

(i) located at the end of the works that is farthest from the nearest bank or shore, if the works are not more than 3 m in length,

(ii) located at each end of the works, if the works are more than 3 m in length but not more than 20 m in length,

(iii) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 20 m apart, if the works are more than 20 m in length but not more than 30 m in length, or

(iv) located at each end of the works, and at any other location alongside the works so that the buoys are spaced not more than 30 m apart, if the works are more than 30 m in length.

Removal of temporary works

(6) The owner of works of the class established by subsection (2) must ensure that they are completely removed on completion of the construction or placement of the works for which they were required.

Contouring

(7) The owner of works of the class established by subsection (1) must ensure that the bed of the navigable waters is, on completion of the construction or placement of the works, contoured to prevent hazards to navigation.

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MOORING SYSTEMS

Definitions

12. (1) The following definitions apply in this section.

“length” « *longueur* »

“length” means, in respect of a vessel, the distance between the fore and aft extremities of the vessel.

“mooring system” « *système d’amarrage* »

“mooring system” means a system that is used to secure a vessel and that consists of an anchor that is set in or on the bed of navigable waters, a single anchor line, a single buoy and a mooring line to attach to a vessel.

“swing area” « *aire d’évitage* »

“swing area” means the diameter of a circle created by the swinging of a vessel moored to a mooring system.

Class established

(2) Mooring systems are established as a class of works for the purposes of subsection 5.1(1) of the Act if

(a) the swing area of the works is not

(i) within 20 m of a work, other than a pipeline or an aerial or submarine cable, that is not owned by the owner of the works,

(ii) within 20 m of the swing area of another work of the class established by this subsection,

(iii) within 20 m of the swing area, as shown on a plan approved under Part I of the Act, of another mooring system that is a work or a part of a work approved under that Part, or

(iv) within 50 m of a marina, public launch-ramp, charted channel or buoyed channel;

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(b) the width of the navigable waters, when measured from the ordinary high-water mark on one side of the waters to the ordinary high-water mark on the other side, is more than 100 m; and

(c) the buoy has the following characteristics:

(i) it displays, in a conspicuous location and in a legible manner, the name, address and telephone number of the owner of the works;

(ii) the part of the buoy that shows above the surface of the water is at least 15.25 cm wide and at least 30.5 cm high, and

(iii) the top third of the buoy is orange and the rest of it is white.

Swing area

(3) For the purposes of subparagraphs (2)(a)(i) and (ii), the swing area of a vessel is considered to be the area set out in column 1 of the table to this subsection when the navigable waters have the depth set out in column 2

(a) at high tide, in the case of tidal waters; or

(b) at the 10-year high-water level, in any other case.

TABLE

	Column 1	Column 2
Item	Swing area	Depth of navigable waters
1.	50 m	6 m or less
2.	70 m	More than 6 m but not more than 10 m
3.	80 m	More than 10 m but not more than 14 m
4.	100 m	More than 14 m

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Buoys and anchors

- (4) The owner of the works must ensure that
- (a) the buoy maintains the characteristics described in paragraph (2)(c) during the navigation season; and
 - (b) the anchor remains in the position in which it was set in or on the bed of the navigable waters.

Mooring of vessels and removal of works

- (5) The owner of the works
- (a) must not moor, or permit the mooring of, a vessel that is more than 12 m in length to the works; and
 - (b) must remove the works if
 - (i) any part of the works is removed, or
 - (ii) during any two-year period, no vessel has been moored to the works.

TEMPORARY WORKS — FROZEN NAVIGABLE WATERS

Class established

13. (1) Temporary works are established as a class of works for the purposes of subsection 5.1(1) of the Act if

- (a) the navigable waters are frozen to such an extent that it is not possible to navigate in, on or through the waters with any vessel that can navigate in, on or through the waters when they are not frozen; or
- (b) the navigable waters are frozen to such an extent that the only vessels that can navigate in, on or through the waters are ice breakers, and ice breaking does not take place on the waters.

Removal of works

(2) The owner of the works must ensure that they are completely removed before spring breakup commences.

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Restoration of contours

(3) The owner of the works must, if the contours of the bed of the navigable waters were disturbed by the construction, placement or removal of the works, ensure that the contours are restored to their natural state before the waters are thawed to such an extent that navigation by a vessel, other than an ice breaker, is possible.

TEMPORARY WORKS — NAVIGABLE WATERS AT LOW LEVELS

Class established

14. (1) Temporary works are established as a class of works for the purposes of subsection 5.1(1) of the Act if, when the construction or placement of the works starts, the navigable waters within 100 m upstream and downstream of the works have

- (a) an average width of less than 3.0 m; and
- (b) an average depth of less than 0.3 m along the centre line.

Removal of works

(2) The owner of the works must ensure that they are completely removed within two weeks after the day on which construction or placement of the works started.

Restoration of contours

(3) The owner of the works must, if the contours of the bed of the navigable waters were disturbed by the construction, placement or removal of the works, ensure that the contours are restored to their natural state on removal of the works.

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CLASSES OF WATERS

MINOR NAVIGABLE WATERS

Definitions

15. (1) The following definitions apply in this section.

“high-water level” « *limite des hautes eaux* »

“high-water level” means the level at which navigable waters begin to overflow their natural banks.

“natural obstacle” « *obstacle naturel* »

“natural obstacle” means a natural physical obstruction in navigable waters, such as a beaver dam, a deadfall, a steep drop or thick vegetation, that prevents the passage of a vessel.

“section of navigable waters” « *section des eaux navigables* »

“section of navigable waters” means a 200-m-long section of a river, a stream, a creek or similar navigable waters.

Class established — width or depth of navigable waters

(2) Sections of navigable waters are established as a class of navigable waters for the purposes of subsection 5.1(1) of the Act if

(a) the section’s average width measured at the high-water level is less than 3.0 m; or

(b) the section’s average depth measured at the high-water level is less than 0.3 m.

Class established — width of navigable waters and other criteria

(3) Sections of navigable waters are established as a class of navigable waters for the purposes of subsection 5.1(1) of the Act if

(a) the section’s average width measured at the high-water level is 3.0 m or more but not more than 5.0 m;

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(b) the section's average depth measured at the high-water level is 0.3 m or more but not more than 0.6 m; and

(c) the section meets one or more of the following criteria:

(i) the differential elevation between its two ends is 8 m or more when measured at the high-water level,

(ii) it has a sinuosity ratio greater than 2, and

(iii) it has more than two natural obstacles, at least one of which is upstream and another of which is downstream from the midpoint of the centre line of the section.

Slope and sinuosity ratio

(4) For the purposes of subparagraph (3)(c)(ii), the sinuosity ratio is the ratio of the length of the centre line of the section to the length of a straight line that starts and ends at the same points as the centre line.

Works

(5) The owner of works built or placed in, on, over, under, through or across navigable waters of the class established by subsection (2) or (3) must ensure that

(a) the midpoint of the works is 100 m from each end of the section; and

(b) if the works interrupt navigation, there are suitable means, such as a portage, to allow vessels whose navigation is interrupted on one side of the works to resume navigation on the other side of the works.

Non-application of subsection (5)

(6) Subsection (5) does not apply to works of a class established by any of sections 2 to 14 or works in, on, over, under, through or across waters of the class established by section 16 or 17.

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ARTIFICIAL IRRIGATION CANALS AND DRAINAGE DITCHES

Class established

16. Artificial irrigation canals and drainage ditches, other than those created or built in whole or in part from a natural body of water, that have an average width of less than 5.0 m are established as a class of navigable waters for the purposes of subsection 5.1(1) of the Act.

PRIVATE LAKES AND PONDS

Class established

17. Lakes and ponds that have an area of five hectares or less are established as a class of navigable waters for the purposes of subsection 5.1(1) of the Act if

- (a) one person, other than Her Majesty in right of Canada or a province, is the registered owner of all of the land abutting the lake;
- (b) there are no navigable waters that enter into or exit from the lake;
- (c) there is no current or past public access to the lake; and
- (d) there are no easements or servitudes that allow access to the lake.

COMING INTO FORCE

Registration

18. These Regulations come into force on the day on which they are registered.