

MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM**TIER I – POLICY****NAVIGATION SAFETY ASSESSMENT PROCESS (NSAP)**

Effective Date	Date of Revision
October 14, 2022	

MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM

TIER I – POLICY

NAVIGATION SAFETY ASSESSMENT PROCESS

1 Policy Objective

- 1.1 The purpose of this document is to outline Transport Canada (TC)'s roles, responsibilities, and authorities for enhanced navigation safety assessments under the department's mandate for marine safety and environmental protection and the federal government's impact assessment review process.

2 Policy Statement

- 2.1 The intent of the enhanced Navigation Safety Assessment Process (NSAP) is to further improve Canada's collective approach to reviewing projects, including marine terminal and transshipment sites implicated in a review process under the *Impact Assessment Act* (IAA).

3 Scope

- 3.1 **This policy replaces all versions of the TC, Marine Safety and Security (MSS), Tier I policy for the [TERMPOL Review Process](#).**
- 3.2 This policy pertains specifically to TC's requirements under the IAA, including the department's participation in the mandatory early planning and engagement phases of the proposed projects. This includes early discussion with Indigenous peoples, provinces, stakeholders, and the public in order to identify and address potential issues and lead to a better project design.
- 3.3 Requests for navigation safety assessments not applicable under the IAA (i.e., provincial and/or territorial) will be determined on a case-by-case basis and will be consistent with the regulatory and policy principles that apply to a federal government review.
 - 3.3.1 This includes environmental assessments that fall under the responsibility of the Nunavut Impact Review Board in Nunavut and the Environmental Impact Screening Committee in the Inuvialuit Settlement Region.

- 3.4 NSAPs will be developed in accordance with the IAA's requirements including timelines, and TC's mandated regulations and legislation for navigation and ship safety.
 - 3.4.1 NSAPs will be incorporated in the Impact Assessment Agency (the Agency)'s federal government of Canada review process for proposed designated marine terminals.
- 3.5 International Maritime Organization (IMO) navigation and ship safety standards and guidelines will be a component of TC, MSS's NSAP considerations and may be addressed and/or implemented as mitigation measures within the NSAP.
- 3.6 This policy applies to:**
 - 3.6.1 TC, Marine Safety and Security personnel responsible for leading and completing navigation safety assessments under the IAA mandate.
 - 3.6.2 Other potential TC personnel required to provide input based on their area of navigation and ship safety expertise (i.e., Transportation of Dangerous Goods, Container Safety, Navigation Protection Program).
 - 3.6.3 TC, Environmental Program personnel (IA coordinators) responsible for the coordination of MSS's information and overall departmental response to the Impact Assessment Agency (the Agency) for designated major resource projects.

4 Roles and Responsibilities

- 4.1 The Agency is the lead federal government agency (under the parent organization, Environment and Climate Change Canada) responsible for the review process of *all* proposed designated marine terminal projects under the IAA.
- 4.2 *Transport Canada:***
 - 4.2.1 TC is responsible for adhering to the scope, objectives, and interpretations outlined in the TC/Impact Assessment Agency [MOU Concerning Participation of Federal Authorities in Impact Assessment under the Impact Assessment Act.](#)
 - 4.2.2 Under the IAA, TC is considered a Federal Authority (FA) – meaning, “is in possession of specialists or expert information or knowledge relevant to a project”, and therefore, TC must respond to requests to provide

expertise within areas of its mandate within specified timelines outlined in the IAA.

4.3 *Transport Canada, Marine Safety and Security*

- 4.3.1 TC, MSS is responsible for administering the *Canada Shipping Act, 2001*, the Arctic Waters Pollution Prevention Act, the Safe Containers Convention Act, *Pilotage Act* and relevant Regulations.
- 4.3.2 NSAPs will be in accordance with TC's mandates under these statutes and related regulations.
- 4.3.3 TC, MSS HQ will assist in providing expertise and advice on navigation and ship safety considerations of the proposed project as it pertains to its regulatory mandate for navigation safety.
- 4.3.4 TC, MSS HQ is the lead policy advisor on NSAP requirements and guidelines in collaboration with MSS regions.
- 4.3.5 NSAP guidelines will replace the current TERMPOL Manual but will incorporate relevant information based on the existing table of contents.
- 4.3.6 The guidelines are intended to form a consistent national approach to the way NSAPs are developed and delivered across the country.
- 4.3.7 The NSAP, Review Report (the "Report") will replace the current TERMPOL Review Report.
- 4.4 TC, MSS, HQ will facilitate Marine Safety and Security Executive (MSSE) approval of the final NSAP, including recommendations and findings as outlined in the "Report".
- 4.5 TC, MSS regions are the departmental lead for requesting from the proponent, specific submission information including surveys and studies impacting ship and navigation safety.
- 4.6 TC, MSS regions (with support from TC, Environmental Programs) are the department's liaison with the proponent for any questions pertaining to navigation and ship safety considerations and/or existing components of a project design.
- 4.7 TC, MSS regions are the leads for analyzing ship and navigation safety considerations, in collaboration with other government agencies (including but not limited to, the Canadian Coast Guard, Pilotage Authorities and Indigenous groups) and TC, MSS, HQ expertise pertaining to regulatory, legislative, and port interface requirements.

- 4.7.1 This collaboration will replace the name of the *TERMPOL Review Committee* and shall be referred to the **Navigation Safety Assessment Advisory Group (NSAG)** – a sub-committee under the existing Navigation Safety Advisory Group.
- 4.8 TC, MSS regions are responsible for providing a “Report” of the NSAP including findings and recommendations to the Agency as a part of the federal government’s review of a proposed designated marine terminal project.
- 4.8.1 The “Report” recommendations, findings, and conclusions are based on enhanced safety considerations intended to go above and beyond the legislative and regulatory requirements for such projects.
- 4.8.2 Recommendations and findings that are identified as a part of the NSAP that are incorporated into the conditions of an IAA approval *will not* be enforced by TC.
- 4.9 TC may be called on to review plans developed by the proponent to meet those conditions. In the event of a Review Panel process, TC MSS, with TC Environmental Programs support, will appear before the Review Panel to provide presentations and respond to questioning as required.
- 4.10 TC, MSS regions and TC, Environmental Programs will make the “Report” and all other relevant documents available to the Agency supporting the federal government’s policy on open transparency and for the purpose of public consultation.
- 4.10.1 The proponent is obligated to meet all legislative and regulatory requirements applicable to the proposed project.
- 4.11 TC, Environmental Programs:**
- 4.11.1 TC, Environmental Programs regions and Headquarters (HQ) are the department liaisons between TC and the Impact Assessment Agency of Canada for projects subject to assessments under the IAA.
- 4.12 TC, Environmental Programs regions and HQ will coordinate Impact Assessments (IAs) information submission requirements and related timelines, including the final NSAP Executive Summary.
- 4.12.1 A key role for IA officers will be to work with the Agency to design an NSAP review timeframe that ensures NSAP experts have the time they need to complete their review, that Indigenous communities are provided an opportunity to engage and ask questions and develop confidence in the

NSAP review, and that this process fits within the overall timeframe of the IA process and does not delay key steps or transitions from one IA phase to another.

5 Timelines:

- 5.1 The timelines for the NSAP review will need to be flexible depending on the project. The project NSAP issues may be different, the number of Indigenous communities with an interest will vary, and the timelines for the IA process are ultimately held by the Agency.
 - 5.1.1 Tier II policy will provide guidance on the TC MSS procedures for NSAP respecting the timelines affiliated with proposed projects.

6 Authority

- 6.1 This policy falls under TC's authority under the *Canada Shipping Act, 2001*, and the *Pilotage Act* and under TC's mandate for navigation safety and environmental protection.

7 Accountability

- 7.1 The Executive Director, Navigation Safety and Environmental Programs is accountable for the implementation, maintenance, and continuous improvement of the policy.
- 7.2 The Navigation Safety and Radiocommunications Program Manager is responsible for the development and maintenance of this policy.
 - 7.2.1 Comments or queries related to this policy and its application should be addressed to:

Manager, Navigation Safety and Radiocommunications (AMSEC)
Transport Canada, Marine Safety
330 Sparks Street
Ottawa, Ontario (Canada) K1A 0N8
tc.navradio.tc@tc.gc.ca

8 Related Documents

- 8.1 [TERMPOL Manual 2019](#)
- 8.2 [Canada Shipping Act, 2001](#)
- 8.3 [Pilotage Act](#)

- 8.4 [Impact Assessment Act](#)
- 8.5 [MOU between the Impact Assessment Agency and Transport Canada \(RDIMS: 15995180\)](#)
- 8.6 [Tier II, Navigation Safety Assessment Process](#)
- 8.7 [National Navigation Safety Assessment Guidelines](#)

9 Background

- 9.1 In 2019, the Impact Assessment Act came into force and replaced the Canadian Environmental Assessment Act, 2012.
- 9.2 Subsequently, the Ocean's Protection Plan Initiative included a review on the existing voluntary TERMPOL Review Process.
- 9.3 Research concluded that the voluntary process was not effective in providing a coordinated response to the federal government's regulatory review process of major projects that included marine terminal and/or transshipment sites, whereby navigation and ship safety considerations were being undertaken as a separate process.
- 9.4 The review also considered the need to have navigation safety assessments for projects other than oil and gas.
- 9.5 TC is now implementing an enhanced Navigation Safety Assessment Process (NSAP) that will replace the current voluntary TERMPOL Review Process.
- 9.6 The NSAP will be in accordance with the federal government's commitment to open transparency continued Indigenous consultations.

10 Date of Application

- 10.1 This policy came into effect on October 14, 2022.

11 Date for Review or Expiry

- 11.1 This policy shall be subject to review no later than twelve (12) months after the initial issue, and at a frequency not exceeding five (5) years thereafter.

12 RDIMS Reference

- 12.1 The English version of this document is saved in RDIMS under reference number [18453652](#).
- 12.2 La version française du présent document est dans le SGDDI et porte le numéro de référence [18908628](#).

13 Keywords

- TERMPOL
- Enhanced Navigation Safety Review Process
- Navigation and Ship Safety
- Environmental Protection
- Impact Assessment Act
- Impact Assessment Agency
- Canada Shipping Act, 2001