

MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM**TIER II – PROCEDURE****NAVIGATION SAFETY ASSESSMENT PROCESS**

Effective Date	Date of Revision

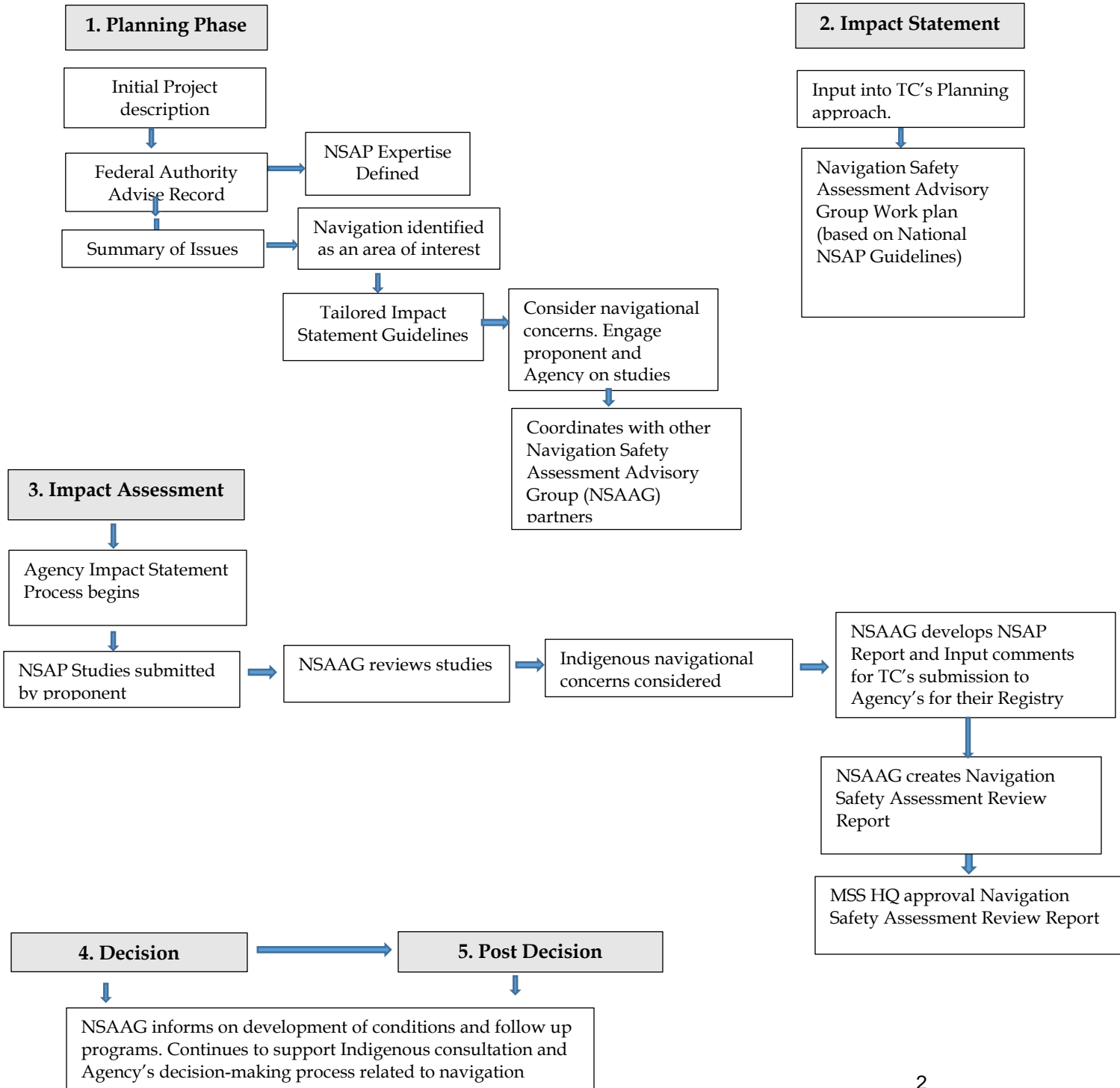
MARINE SAFETY AND SECURITY MANAGEMENT SYSTEM

TIER II – PROCEDURE

NAVIGATION SAFETY ASSESSMENT PROCESS

1 High Level Process Flowchart – Impact Assessment Phases Related to Navigation Safety Assessment Process (NSAP).

1.1



2 Purpose

- 2.1 The purpose of this procedure is to provide guidelines to Transport Canada (TC) Marine Safety and Security (MSS) personnel responsible for responding to the *Impact Assessment Act* (IAA) requirements for a navigation safety assessment process (NSAP) of a proposed marine terminal/transshipment site project.

3 Authority

- 3.1 The Impact Assessment Agency (Agency) is responsible for the administration of the IAA, including stakeholder and Indigenous consultations associated with designated projects.
- 3.2 TC is considered a Federal Authority (FA) under the IAA process. As an FA, TC is expected to provide any mandate-related expertise or knowledge for designated¹ marine terminals implicated in a federal government review.
- 3.3 TC Programs Group is the departmental Impact Assessment Coordinator (IAC) for all Agency requests, including the NSAP prepared by TC MSS.
- 3.4 TC MSS is responsible for administering the *Canada Shipping Act, (CSA) 2001*.
- 3.5 TC MSS is the authority on the navigation safety assessment process (NSAP) of designated projects under the IAA.

4 Background

- 4.1 In August 2019, the IAA came into force and replaced the *Canadian Environmental Assessment Act, 2012* which saw the Agency transition as the sole lead for all designated project federal environmental assessment reviews.
- 4.1.1 Under the IAA, every FA (including TC) is required to provide expert information or knowledge with respect to a designated project, on request by the Agency, within a project's assessment process.
- 4.1.2 In response to the IAA requirements, the voluntary, cost recovered TERMPOL Review Process has been discontinued and replaced by the NSAP to better align with the IAA mandated project phases and timelines.
- 4.1.3 In the past, the TERMPOL review process was limited to oil and gas marine terminal projects. However, the IAA encompasses various types of marine terminals and therefore, NSAP now applies to the broader scope.
- 4.2 The NSAP continues to reflect TC MSS's mandate for navigation and ship safety under various statutes and regulations such as the *Canada Shipping Act, 2001* and the *Pilotage Act*. The *National Navigation Safety Assessment Process Guidelines* replaces the TC TP 743, TERMPOL Manual and TERMPOL Report.

5 Scope

- 5.1 This procedure applies to:
- 5.1.1 *Tier I Policy on the TC, MSS, Navigation Safety Assessment Process*.

¹ **Designated projects** – listed in the [Physical Activities Regulations](#) (aka the "Project List") – may require an impact assessment. Examples include the construction, operation, decommissioning and abandonment of a new marine terminal designed to handle ships larger than 25 000 DWT pursuant to item 52.

- 5.1.2 TC Programs Group IAC is responsible for the coordination of all departmental IA information on designated projects, including related Indigenous consultation.
- 5.1.3 Regional MSS personnel, supported by HQ MSS, is responsible for NSAP pertaining to designated IAA projects in accordance with *the Memorandum of Understanding Concerning Participation of Federal Authorities under the Impact Assessment Agency of Canada and Transport Canada*.
- 5.1.4 The scope of this procedure *does not* include requests for a navigation safety assessment not applicable to designated projects under the IAA. Independent requests for navigation safety assessments (i.e., provincial, or federal land reviews under the IAA) will be managed on a case-by-case basis by MSS Headquarters and regions, with Programs Group support as required.

6 Responsibility

- 6.1 The Executive Director of Navigation Safety & Operational standards group is responsible for the development, implementation, maintenance, and continuous improvement of this procedure.
- 6.2 Comments or queries related to this procedure and its application should be addressed to:

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

7 Procedure

- 7.1 This MSS NSAP regional procedure is intended to be integrated into the IAA environmental review process administered by the Agency and coordinated by TC Programs.
- 7.2 Under the IAA, MSS as a departmental specialist on navigation and ship safety must, on the Agency's request, make that information or knowledge available **within a specified period of time during the assessment process. The assessment process includes the following five phases under the Impact Assessment regime: Planning, Impact Statement, Impact Assessment, Decision Making, Post Decision.**
- 7.3 MSS region is responsible for keeping a record of each step/action undergone in the process, including those taken by the Navigation Safety Assessment Advisory Group members. Specifically, a summary report of meetings and discussions with the proponent and the Agency. The NSAP dedicated Sharepoint site is to be used as the records management mean.
- 7.4 *Note:* MSS regions may interact directly with the proponent at any time during the Planning, Impact Statement, Impact Assessment and Post Decision phases provided they keep the Agency informed of all essential communication—either by inclusion to meetings or by a record of discussion through the regional IAC. MSS regions need to discuss with Transport and Infrastructure Legal Services before interacting with the proponent during the Decision-Making phase.

- 7.5 **Phase 1: Planning (maximum 180 days):** is when the Agency must decide whether an IA of the designated project is required. The Agency leads the consultation with FAs, Indigenous communities, and the public on the **Initial Project Description**, which is submitted by the proponent and is the first formal step in a project's review.
- 7.5.1 **The Federal Authority Advice Record (FAAR):** During this phase, the Agency first seeks input from FAs via the FAAR. The regional IAC prepares the department's FAAR response based on a review of the initial project description and input from expert groups, including MSS, within the department.
- 7.5.2 TC's FAAR response covers all potential areas of expertise within the department, including navigation and ship safety considerations that could inform a project's review. The regional IAC will engage the regional MSS once an *initial* project description and FAAR request is received from the Agency.
- 7.5.3 Upon receiving the initial project description under the IAA, MSS region as a specialist in navigation/ship safety will be requested to provide feedback and input into the FAAR related to potential "marine accidents and malfunctions."² For any given project, MSS region would be asked to review the initial project's description for potential safety impacts on vessel operations, shipping routes, and cargo transfer operations. MSS region may ask questions and highlight relevant considerations.
- 7.5.4 MSS region would not typically write directly in the FAAR, rather will input into the Agency's **standard template** at the request of the regional and/or HQ IAC via email. The FAAR would identify NSAP expertise if it has the potential to be applicable to a project.³
- 7.5.5 In coordination with the MSS region, HQ IAC to inform MSS HQ of a potential project review and FAAR response and seek any additional comments/feedback.
- 7.5.6 At this point, MSS region should start to consider other marine safety expertise with partnering organizations (i.e., other levels of government and industry) that may form the Navigation Safety Assessment Advisory Group to assist with a potential navigation safety review.
- 7.5.7 This group is not limited to departmental experts and may include other relevant maritime agencies and departments (i.e., Canadian Coast Guard, Pilotage Authorities, Indigenous Groups etc.) to assist with components of the review, including an assessment of marine shipping related accidents and malfunctions.
- 7.5.8 A key Agency step in the planning phase is their preparation of a project's **Summary of Issues** document (SOI). The SOI document consolidates FAAR input from FAs, public input from the initial project description's public review, and input from consultations with Indigenous communities. Typically, a list of Issues is prepared as part of a SOI, to which the proponent is expected to provide a response indicating how the issue could, or could not, be considered in the Impact Assessment process.
- 7.5.9 After the FAAR is completed and the SOI has been prepared by the Agency, it is the proponent's responsibility to prepare a response to the SOI as well as a

² *Accidents and Malfunctions is an EA term. The IAA requires a project assessment to consider how the potential effects of malfunctions and accidents could negatively impact the environment. TC's expertise is one component of the overall A&M requirements. In each case, TC MSS's expertise will need to be discussed and decided upon.*

³ *The FAAR is our opportunity to provide topics for the 'Summary of Issues' document. At the highest level, if there are aspects of a project (issues or considerations) we would like a proponent to assess within the IA we would describe these issues in a few short sentences. The proponent, as part of their detailed project description submitted later in the IA Planning Phase, would need to provide a reply to each issue in the summary of issues describing how the assessment process would consider an issue.*

Detailed Project Description (DPD). **It is the DPD that informs the Tailored Impact Statement Guidelines.**

- 7.5.10 The Tailored Impact Statement Guidelines (TISG): Once the DPD is submitted to the Agency by the proponent, the IAC will contact TC MSS region to initiate further discussions on a project's potential to require an NSAP. **If so, MSS region will form and chair the Interdepartmental Navigation Safety Assessment Advisory Group (reference NSAP Guidelines).**
- 7.5.11 MSS region will request the Agency to incorporate the applicable navigation/ship safety information requirement into the TISG, including pertinent surveys and studies that includes (but is not limited to):
- Vessel information,
 - Route information
 - Terminal operations
 - Risk analysis
 - Contingency planning
 - Cargo spill preparedness and response
 - Hazardous and noxious substances
- 7.5.12 The regional IAC will work with the regional MSS in the development and refinement of the TISG requirements, including supporting consultations with Indigenous communities should they raise MSS mandate-related inquiries in commenting on the TISG. The planning phase is complete when the TISG are completed and posted on the Agency public registry.

MSS HQ is always included in the information exchange to ensure national consistency in the interpretation of legislative and or regulatory implication and on the overall MSS response to Agency requests.

- 7.6 **Phase 2: Impact Statement (maximum 3 years):** is the phase when the proponent develops their assessment for their submission to the Agency including information and studies outlined in the TISG, including NSAP.
- 7.6.1 During this stage, regional MSS and IAC should be available to the proponent as necessary to respond to inquiries on TISG requirements and provide support to the proponent's study and analysis planning and development stages.
- 7.6.2 Although this stage is proponent-led; this is also the period for the NSAAG to establish a general **workplan**—identifying anticipated review period timeframes, key milestones, and approaches for integrating Indigenous participation and expertise in reviewing NSAP documentation.
- 7.6.3 The proponent is required to integrate all NSAP information into the Impact Statement and associated appendices and submit to the Agency's broader working group members, including Indigenous communities, for their review.
- 7.6.4 Once the proponent submits the Impact Statement, the Agency will initiate the next phase, the Impact Assessment review, and work closely with departmental IACs to establish timeframes and plan this next phase of the assessment process.
- 7.6.5 At the request of the Agency, TC regional IAC will engage with the TC MSS region who will provide them with comments on whether the proponent has met the NSAP requirements of the TISG.
- 7.6.6 It is an Agency responsibility to determine whether the Impact Statement meets the basic requirements of the TISG enabling the assessment to proceed. HQ IAC and MSS HQ will continue to be kept apprised of the information exchange and timelines. Timelines are likely to vary from project to project.

- 7.7 Phase 3: Impact Assessment (maximum 300 days for a review led by the Agency or 600 days if the designated project is referred to a review panel):** is when the Agency or a Review Panel is conducting the IA and prepares the Impact Assessment Report.
- 7.7.1 Should the NSAAG require longer timeframes to complete the NSAP, the regional IAC will work with MSS region to develop an appropriate work plan and critical path in keeping with the overall timeline established and maintained by the Agency.
- 7.7.2 MSS region will assist the regional IAC with any information exchange with the proponent pertaining to NSAP. This could include an invite to a meeting or a summary of discussion (required under IA record keeping (Public Registry requirements)).
- 7.7.3 The NSAAG will combine the key components of their review into a *Navigation Safety Assessment Review Report (the "Report")* including findings and recommendations based on the information submitted by the proponent and the Agency's Indigenous consultation process. The information contained in the *Navigation Safety Assessment Review Report (the "Report")* is intended to support and align with the Agency's documentation soliciting input from federal authorities.
- 7.7.4 The *Navigation Safety Assessment Review Report (the "Report")* will be used for departmental reporting purposes (i.e., Marine Safety Executive) and may be submitted via the regional IAC coordinator to the Agency for the purposes of the Agency's public registry.
- 7.8 Phase 4: Decision (Maximum 30 days):** is when the Agency is developing the Project Decision Statement and final Conditions of approval, when the Minister of Environment and Climate Change is making their determination on the significance of the effects, and/or when Governor in Council is making their public interest determination.
- 7.8.1 MSS region and HQ will support the regional and HQ IACs by providing support on the Impact Assessment Report conclusions specific to NSAP related conditions and by providing advice as NSAP experts in supporting resolution of Indigenous consultation issues.
- 7.9 Phase 5: Post Decision:** is where MSS region and HQ may be called upon to provide expert advice related to follow-up programs, participate in an Environmental Monitoring Committee to provide expert advice, participate in ongoing Crown Consultation, and provide expert advice when amendments are made to a Decision Statement.

8 Related documents

*Some documents are accessible only on the Government of Canada network.

- 8.1 Update to IAA Transport Canada as a Federal Authority
- 8.2 Transport Canada Impact Assessment Training Workshop Presentation
- 8.3 NSAP and Impact Assessment Agency Shared Objectives Flow Chart
- 8.4 MOU between TC and the IA Concerning Participation of Federal Authorities under the Impact Assessment of the Impact Assessment Act
- 8.5 Tier I - Navigation Safety Assessment Process

8.6 Navigation Safety Assessment Process National Guidelines (*UNDER DEVELOPMENT*)

8.7 *Navigation Safety Assessment Review Report*

8.8 [*The Canada Shipping Act, 2001*](#)

8.9 [*The Impact Assessment Act*](#)

8.10 [Impact Assessment Agency](#)

8.11 Tailored Impact [Statement](#) Guidelines

9 Definitions

9.1 Federal Authority Advice Record (FAAR): The process used by the Impact Assessment Agency of Canada to engage Federal Authorities in impact assessments of designated project at the start of the Planning Phase.

9.2 Federal Authority (FA): A “federal authority” is every federal Minister of the Crown, agency or body of the federal government, every department or departmental corporation listed in Schedule I, I.1 or II to the [Financial Administration Act](#), and any other body prescribed in Schedule 1 of the [Impact Assessment Act](#) (i.e. Canada Port Authorities).

10 Date of application

10.1 This procedure came into effect on July 17, 2023.

11 Date for review

11.1 This Procedure should be subject to review twelve (12) months after initial issue, and at a frequency of not less than three (3) years thereafter.

12 Reference

The following documents are accessible only on the Government of Canada network.

12.1 The applied naming convention is (PUBLICATION – TP 13585 – PROCEDURE - NAVIGATION SAFETY ASSESSMENT PROCESS).

12.2 La règle d'affectation des noms est (PUBLICATION – TP 13585 – PROCÉDURE - PROCESSUS D'ÉVALUATION DE LA SÉCURITÉ DE LA NAVIGATION).

13 Keywords

- Impact Assessment Act
- Impact Assessment Agency
- Navigation Safety Assessment
- Navigation Safety Review
- Project Review
- TERMPOL