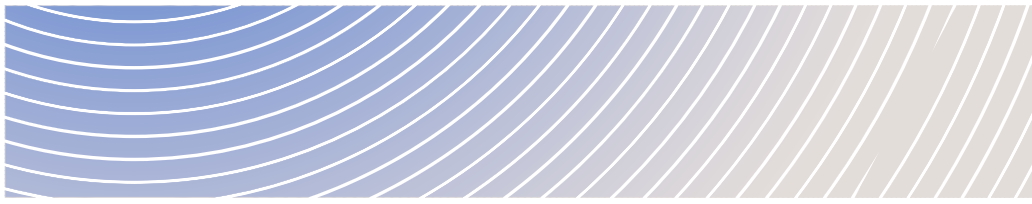


Sorel-Tracy Port Terminal Project



PERMITTING PLAN (DRAFT VERSION)

February 2023



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

Canada



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1. Introduction

On December 16, 2022 the Impact Assessment Agency of Canada (the Agency) determined that an impact assessment is required for Sorel-Tracy Terminal Project (the Project) pursuant to Section 16(1) of the *Impact Assessment Act*.

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

The Agency may revise a permitting plan during the impact assessment process in response to new information or advice from the proponent, regulators, jurisdictions or other participants in the process, and in order to accommodate any changes with respect to the project that may occur during the assessment.

2. Project description

QSL International Ltd. is proposing the construction and operation of a new port terminal in the industrial-port zone of Sorel-Tracy, Quebec. As proposed, the Sorel-Tracy Port Terminal Project would include a new floating wharf and related intermodal infrastructures. The project would support the transportation of agricultural goods, fertilizers, road salt and oversized steel parts and would accommodate up to 35 ships per year.

3. Required Regulatory Instruments Identification and Justification

According to the Detailed Project Description submitted to the Agency by the proponent on December 6, 2022, three regulatory instruments may be required for the Project should the Minister of Environment and Climate Change Canada (ECCC) issue a Decision Statement to the proponent allowing the Project to proceed.



The following regulatory instruments may be required for the Project:

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

An authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the Fisheries Act may be required for proposed works, undertakings or activities that could result in the death of fish or harmful alteration, disruption or destruction of fish habitat.

Approval of works under the Canadian Navigable Waters Act

Based on the available Project information, an approval under the Canadian Navigable Waters Act (CNWA) may be required. An approval is not required for minor work (subsection 4[1]). An approval is required for any major work on navigable waters, whether listed or not in the Schedule to the CNWA (paragraph 5[1][a]). An approval is required for a work, other than a minor work, on navigable waters listed in the Schedule (paragraph 5[1][b]). A work, other than a major work or a minor work, on a navigable water body that is not listed in the Schedule to the CNWA, requires either an approval (paragraph 10[1][a]) or a public notice and a deposit of information (paragraph 10[1][b]). An exemption from the Governor in Council (section 24) is required for the deposit of stone in navigable waters or in a watercourse flowing through navigable waters (section 22) and for the dewatering or lowering of water levels in navigable waters (section 23).

Permit under subsection 73(1) of the Species at Risk Act

A permit under the Species at Risk Act (SARA) may be required if the Project can affect wildlife species at risk listed in Schedule 1 of SARA, as an endangered, threatened or extirpated species or on any element of their critical habitat or the residence of their individuals in a manner that is prohibited under subsection 32(1), section 33, subsection 58(1) and section 61 of SARA.

Activities that can affect wildlife species at risk include, but are not limited to: inventories of wildlife species that may affect individuals or residences, site preparation (clearing, levelling, stripping of vegetation cover, site access, blasting), construction and operation of temporary and permanent works and infrastructures, creation of new roads, railways or power lines, infilling of wetlands or watercourses, any monitoring that requires the capture or release of individuals, and sensory disturbance effects.



4. Information on required Regulatory Instruments

Find in the following section, information on applicable regulatory instruments.

4.1. Authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the Fisheries Act

4.1.1. Description

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

Subsection 34.4(1) of the Fisheries Act prohibits the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish. Under paragraph 34.4(2)(b) of the Fisheries Act, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the works, undertaking or activity that result in death of fish.

Subsection 35(1) of the Fisheries Act prohibits carrying on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat. However, under paragraph 35(2)(b) of the Fisheries Act, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

4.1.2. Regulatory Process

The Fish and Fish Habitat Protection Program from DFO ensures compliance with the provisions of the Fisheries Act and the Species at Risk Act (SARA). The program considers any proposed work, undertaking or activity that may result in adverse effects on the fish and its habitat.

It is recommended to submit a request of project review to DFO using the [Request for Review form](#). This form must be submitted to the following email address: habitat-qc@dfo-mpo.gc.ca.

An authorization will be required if DFO considers that the Project may result in the death of fish or in harmful alteration, disruption or destruction of fish habitat. For more details on the process for requesting an authorization, the proponent is invited to consult the following section of the DFO website, in the tab Projects Near Water: [Request a review of your project near water: Step 5. Apply for project authorization](#).



It should be noted that the new provisions of the Fisheries Act regarding the protection of the fish and its habitat came into force on August 28, 2019. The proponent is encouraged to consult [the Projects near water](#) website in order to take notice of the changes made and ensure compliance of the Project with the new provisions of the modified Act.

A permit under subsection 73(1) of SARA may be required from DFO if the proposed project can affect aquatic species at risk listed on Schedule 1 of SARA or on any element of their critical habitat or the residence of their individuals in a manner that is prohibited under subsection 32(1), section 33 and subsection 58(1) of SARA.

For any additional questions on the processes for requesting a review and an authorization to DFO, please contact the DFO regional office by phone at 1-877-722-4828 or by email at habitat-qc@dfo-mpo.gc.ca.

4.1.3. References

Fisheries Act, R.S.C. 1985, c F-14

<https://laws-lois.justice.gc.ca/eng/acts/f-14/>

Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-286/index.html>

Applicant's Guide Supporting the "Authorizations Concerning Fish and Fish Habitat Protection Regulations"

<https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html>

Permits Authorizing an Activity Affecting Lister Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/FullText.html>

Request a review of your project near water

<https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-eng.html>



4.1.4. Contact information

For more detailed guidance on this authorization, please contact the DFO regional office in Quebec:

Fish and Fish Habitat Protection Program

Fisheries and Oceans Canada
850, route de la Mer
P. O. 1000
Mont-Joli, QC, G5H 3Z4
Telephone : 1-877-722-4828
Email : habitat-qc@dfo-mpo.gc.ca

4.2. Approval or works under the Canadian Navigable Waters Act

4.2.1. Description

Transport Canada (TC) is the lead department for the administration of the Canadian Navigable Waters Act (CNWA), where the Minister of Transport is responsible for the approval of works that may interfere with navigation.

The CNWA requires work owners to comply with requirements of the Act for the protection of navigation on navigable waters. As per section 2 of the CNWA, a work includes (a) any structure, device or other thing, whether temporary or permanent, that is made by humans, including a structure, device or other thing used for the repair or maintenance of another work, and (b) any dumping of fill in any navigable water, or any excavation or dredging of materials from the bed of any navigable water. Examples of works are dams, bridges, weirs, causeways, aerial cables and ferry cables. Some of these works can also meet criteria listed of the designated physical activities project list of the Agency.

Major works in navigable waters

As per paragraph 5(1)(a) of the CNWA, the owner of a major work that may interfere with navigation is required to apply to TC.

The following classes of works, established in the Major Works Order, are designated as likely to substantially interfere with navigation on any navigable water:

- Water control structures;
- Bridges;
- Ferry Cables;
- Causeways;



- Aquaculture facilities.

Works in navigable waters listed on the schedule

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

Works in navigable waters not listed on the schedule

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which may interfere with navigation, has the option to either:

- apply to the Minister of Transport; or
- seek authorization through the public resolution process.

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which is not likely to interfere with navigation, may proceed if:

- the work, or its construction, placement, alteration, rebuilding, removal or decommissioning, would not interfere with navigation; and
- the owner deposits information and publishes a public notice before beginning the construction, placement, alteration, rebuilding, removal or decommissioning of the work.

4.2.2. Regulatory Process

Application submission

There are different requirements for owners of works regarding approval, deposit of information and public notice depending on the type of work, and if the work is located on a navigable water listed on the Schedule. With any approval to TC, the owner is required to deposit information on the proposed work, and invite interested persons to provide written comments on the owner's proposal to the Minister within 30 days after publication of the notice, or within any other period specified by the Minister. For works that do not interfere with navigation, with the exception of designated minor works, the owner/proponent is required to deposit information and a public notice on TC's registry.



Application analysis and consultation

Upon issuing approval, the Navigation Protection Program is required by law to consider the following assessment factors:

- The characteristics of the navigable water in question;
- The safety of navigation in that navigable water;
- The current or anticipated navigation in that navigable water;
- The impact of the work on navigation, including as a result of its construction, placement, alteration, rebuilding, removal, decommissioning, repair, maintenance, operations or use;
- The impact of the work, in combination with other works, on navigation, if the Minister is provided with, or has in his or her possession, information relating to that cumulative impact;
- Any Indigenous knowledge that has been provided to the Minister;
- Any comments that he or she receives from interested people within the period provided for under subsection 7(4);
- The record of compliance of the owner under this Act;
- Any other information or factor that he or she considers relevant.

Regulatory Decision

The Minister of Transport may issue a decision under the CNWA during the 90-day period following the Minister of Environment and Climate Change's decision relative to the impact assessment if the CNWA application is complete by the time the impact assessment completeness decision is taken.

The Minister of Transport issue terms and conditions with the approval of a work to mitigate navigation safety risks and protect the public right to navigation.

4.2.3. References

Canadian Navigable Waters Act

<https://www.tc.gc.ca/eng/canadian-navigable-waters-act.html>

Guide to the Navigation Protection Program's Notification, Application and Review Requirements

<https://tc.canada.ca/en/programs/guide-navigation-protection-program-s-notification-application-review-requirements>

Apply to the Navigation Protection Program

<https://tc.canada.ca/en/marine/apply-npp>



4.2.4. Contact Information

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

Navigation Protection Program
Transport Canada
801-1550, Estimaerville Avenue
Quebec, QC G1J 0C8
Telephone: 1-877-646-6420
Email: pqnque-nppque@tc.gc.ca

4.3. Permit under subsection 73(1) of the *Species at Risk Act*

4.3.1. Description

Permits are required by those persons conducting activities affecting wildlife species listed on Schedule 1 of SARA as extirpated, endangered, or threatened and which contravene SARA's general prohibitions where they are in force.

General Prohibitions

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

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

The general prohibitions apply to federal species (migratory birds, as defined by the *Migratory Birds Convention Act, 1994*, and aquatic species covered by the *Fisheries Act*) everywhere in Canada and to other listed species where found on federal land.

Under sections 34 and 80 of SARA, general prohibitions may apply on lands other than federal lands for species that are not aquatic species or migratory birds protected under the *Migratory Birds Convention Act, 1994*.



Critical Habitat Prohibitions

Under subsections 58(1) and 61(1) of SARA, no person shall destroy any part of the critical habitat of any listed endangered species or of any listed threatened species — or of any listed extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada. These restrictions apply if they are triggered by a number of factors, including:

- the species is an aquatic species;
- the species is a migratory bird protected by the *Migratory Birds Convention Act, 1994*; and
- the critical habitat (for species that are not aquatic species or migratory bird species) is on federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada.

Under section 61 of SARA, restrictions relative to critical habitat may apply on non-federal lands under an Order in Council.

Applicable situations

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

- The activity is scientific research relating to the conservation of the species and conducted by qualified persons;
- The activity benefits the species or is required to enhance its chance of survival in the wild;
- Affecting the species is incidental to the carrying out of the activity.

Responsibilities

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

- DFO is responsible for considering permit applications with respect to aquatic species (as defined by SARA), other than individuals of species in the waters situated on federal lands administered by the PCA. An “aquatic species” under SARA includes:
 - fish, shellfish, crustaceans and marine animals including any parts thereof;
 - all of their life stages, such as eggs, sperm, spawn, larvae, spat and juvenile stages of fish; and
 - marine plants, including all benthic and detached algae, marine flowering plants, brown algae, red algae, green algae and phytoplankton.



- PCA is responsible for considering permit applications with respect to individuals in or on federal lands administered by PCA, including aquatic species (as defined by SARA) as well as terrestrial species.
- ECCC is responsible for considering permit applications with respect to all individuals that are not under the responsibility of PCA or DFO. This includes all terrestrial species on federal land and any land affected by a protection order issued under SARA, and for migratory birds wherever they are found.

If a competent department issues an authorization, licence or permit under another federal Act, authorizing a person or organization to engage in an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals, this authorization, licence or permit can act as a SARA permit, provided that the pre-conditions described under subsection 73(3) of SARA are met.

4.3.2. Regulatory Process

Proponents must submit an application to the DFO, ECCC or PCA Regional Office in a manner and form satisfactory to these organizations.

Application submission for an aquatic species at risk

To seek a permit under SARA from DFO, the proponent must submit an application to the relevant regional office of the Fish and Fish Habitat Protection Program (refer to section 4.1.4 for contact information). The timing of when the application is submitted is determined by the proponent. If the proponent is also seeking a *Fisheries Act* authorization, the process to apply for a SARA permit can be combined with the process to seek a *Fisheries Act* authorization.

Application submission for a terrestrial species at risk

To obtain a permit from ECCC, proponents must submit an application using the Species at Risk Permit System found on the [Species at Risk Public Registry](#) and provide the required information detailed in the application.

Application analysis and consultation

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

- All reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted;



- All feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals;
- The activity will not jeopardize the survival or recovery of the species.

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

Regulatory decision

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

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

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

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

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

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



4.3.3. References

Species at Risk Act (S.C. 2002, c. 29)

<https://laws-lois.justice.gc.ca/eng/acts/S-15.3/>

Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/index.html>

Permitting for aquatic species at risk under SARA

<https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>

Permitting for terrestrial species at risk under SARA

<https://wildlife-species.canada.ca/SPLEP-SARAPS/index.cfm?fuseaction=home.main&>

Species at Risk Public Registry

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>

Guidelines for permitting under Section 73 of SARA

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

4.3.4. Contact Information

For more detailed guidance on permits for aquatic species at risk, please contact the DFO regional office in Quebec :

Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada
850, route de la Mer
P.O. Box 1000
Mont-Joli, QC G5H 3Z4
Telephone: 1-877-722-4828
Email: habitat-qc@dfo-mpo.gc.ca

For more detailed guidance on permits for terrestrial species at risk, please contact the Canadian Wildlife Service regional office:

Canadian Wildlife Service
Environment and Climate Change Canada
801-1550 Estimauville Avenue
Quebec, QC Québec G1J 0C3
Telephone: 418-648-4663
Email: ec.permislepqc-sarapermittingqc.ec@canada.ca



5. Interpretation

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

6. Contact Information

The Agency office designated for administering the impact assessment of the project is:

Agency Regional Quebec Office
Impact Agency Assessment of Canada
901-1550, avenue d'Estimauville
Québec (Québec) G1J 0C1
phone : 418-649-6444
email: Sorel-Tracy@iaac-aeic.gc.ca