



PILOTAGE ACT REVIEW

PRELIMINARY SUBMISSION

COUNCIL OF MARINE CARRIERS

EXECUTIVE SUMMARY

The Council of Marine Carriers (CMC) is a Shipowners' Association representing the interests of the towboat industry on Canada's West Coast. The membership consists of more than two dozen towboat operators and eighteen affiliated members, such as marine law firms, insurance and underwriter firms, construction companies, Port Authorities and naval architects.

The carriage of Marine Pilots on board foreign flag vessels where the crews of such ships are not familiar with the local waters, is not unique to Canada and is an effective method of ensuring enroute safety of visiting vessels and in turn protecting the delicate environmental balance along our coastlines.

The report of the review of the Canada Transportation Act was tabled in the House of Commons in February, 2016. This report, *inter alia*, recommends the creation of a single pilotage authority by integrating the four existing Authorities. The report errs in the assumption that the movement of cargo domestically along Canada's coastal waterways by sea has been "eclipsed, first by rail, and then by highways, as the preferred means of shipping all but lower-value bulk products".

Although the foregoing may be somewhat true in the East Coast and the Great Lakes regions, there is little alternative to transportation of goods by sea on the West Coast. This region does not have a network of roads or rail lines connecting many of the coastal communities as is generally the case along the shores of Central Canada and much of the Atlantic Provinces. The wellbeing and standard of living of the people living in those BC communities depends largely upon the tow boat industry delivering their food, fuel, household effects, and other supplies while taking away the products and materials these places produce to local market or for forwarding to offshore consumers.

A single recent grounding of a non-Canadian tug, has led to changes to the approach of the PPA regarding the issue of pilotage waivers. The compulsory carriage of marine pilots for vessels or combination of vessels exceeding 350 gross tons or the need for such vessels to obtain waivers from the Pilotage Authority is problematic and impractical for the west coast towboat industry. This is neither realistically achievable by the industry nor easily administered by the Pilotage Authority.

Tugs employed in the coasting trade of the West Coast of Canada are relatively small when compared to visiting deep sea vessels. Comparatively, tugs present a tiny threat to the environment when considered alongside the large foreign tankers, bulk carriers and cruise ships plying the British Columbia coastal waters. It is counterintuitive that those Canadian vessels not trusted to operate safely without Pilots or required to obtain waivers under almost impossible conditions, are being recommended in a multitude of studies, to perform Search And Rescue and Emergency response functions and escort duties for high risk vessels

Tugs are very maneuverable and powerful vessels and are constructed to carry small crews under fairly austere conditions. Carriage of pilots in addition to the crews is never a consideration when these vessels are designed and certainly never expected. Thus, in order to accommodate a pilot (and on most voyages on the coast two pilots would be required due to the length of the voyage) either the vessel would need to be rebuilt to increase the size of the accommodation, or crew

members would need to be eliminated in order to make way for pilots, which would place them in contravention of Transport Canada requirements.

CMC believes that there has never been an intention to capture the Canadian towboat industry under the requirement to obtain the services of a pilot or even obtain waivers, and it is only because of circumstantial occurrences that this has now become an issue.

The Council recognizes that the Pilotage Act does not specifically address the provision of Pilotage waivers, however we understand that the issue cannot be properly addressed within the regulations associated with the Act. We are therefore proposing that wording be inserted into the act which exempts Canadian flag vessels under a given tonnage from the requirement to carry a pilot.

The Council of Marine Carriers respectfully submits several recommendations to the Pilotage Act Review committee, which recommendations we feel will enhance marine safety and improve the present pilotage system.

RECOMMENDATIONS

- #1 *The Pilotage Act be amended to exempt Canadian commercial vessels under 10,000 gross tons from the requirement to carry a pilot or to hold a waiver in respect to compulsory pilotage***
- Or The Act be amended to specify that masters and mates whom hold a valid Canadian Certificate of Competency appropriate for the vessel and intended voyage are not required to obtain waivers from Pilotage***
- #2 *Canadian vessels operating under a Safety Management System, which includes amongst other things, best practices respecting navigation and assessments of their seagoing staff prior to promotion into watchkeeping duties, be exempted from the requirement to obtain waivers.***
- #3 *Bridge Watch Navigational Alarm Systems be fitted to all tugs which would normally be required to carry a pilot.***
- #4 *Maintain existing Pilotage Authority structure and establish a centralized National Pilotage Advisory Committee.***

The Pacific Pilotage Regulations require every commercial vessel over 350 gross tons to carry a pilot. Very few Canadian tugs are in excess of the 350 ton threshold. The Regulations allow for a pilotage waiver to be issued to the watchkeeping officers in respect to vessels or combination of vessels which do not exceed 10,000 tons in combined tonnage. Most tug and barge combinations will exceed the 350 ton limit, but few will exceed the 10,000 ton limit. This means that almost without exception, every tug on the west coast will be required to seek a waiver for each watchkeeping officer. This is an expensive and in our view, an unnecessary requirement and it is our belief that the Act did not intend to require Canadian coastal vessels to carry pilots or obtain waivers. The requirement for waivers for Canadian tugs on the west coast has only recently been enforced. This has come into place because the PPA has been instructed that a fleet of vessels cannot be exempted under the regulations based on the Flag of those vessels, not because non piloted, Canadian flag vessels have posed an undue risk. Since the Pacific Pilotage Authority regulations cannot specify that an exemption from the waiver requirement may be issued based upon the flag of the vessel, we suggest that this is possible by including the same in the Act. The precedent set for nationality based reasoning within the Act is found under Section 22(2) whereby only Canadian citizens or permanent residents of Canada may be issued with a Pilotage license or certificate.

The Canadian towboat industry on the west coast has an enviable safety record. This is illustrated by the almost complete lack of marine casualty statistics, particularly relating to casualties resulting from a navigational error. Pilots, or watchkeepers holding waivers on board these vessels would not serve to have influence over any other type of occurrence but a navigational error, resulting in a marine casualty. Certain fleets are exempt from the carriage of pilots, namely government ships and ferries. A review of the Transportation Safety Board daily occurrence reports clearly shows that these exempted vessels, *per capita*, have at least as many occurrences due to both navigational errors and mechanical failures as do the Canadian vessels of the towboat industry. The level of risk presented by the tow boat industry therefore is demonstrably no higher than that presented by exempted vessels, particularly government vessels.

To mitigate risk, individual companies within the towboat industry operate their fleets under a Safety Management System approach and have established best practices which go far beyond the regulatory requirements pertaining to both local and coast wide navigation. These practices are beyond Canada Shipping Act regulatory requirements. We feel that in order to further reduce the perceived risk Bridge Watch Navigational Alarm Systems (BWNAS) be fitted to all tugs which are presently be required to carry a pilot.

The foundation of the marine expertise on the West Coast is invested in the Towboat Industry. Pilot recruitment is traditionally and primarily from within this industry. The waiver system has established several zones wherein mariners will be required to prove experience prior to waivers being issued. The ongoing experience required by the rules, in these areas, will be difficult to obtain due to the remoteness of some of the waters visited. This will result in a limitation of the wide experience our seafarers presently enjoy – specialization will no doubt take place, thus making it difficult for crews to transfer from one area to another. Additionally the zonal approach will be very problematic for companies both in their ability to hire experienced crews and to service ports which are only visited occasionally or on a single trip basis. The longer term effect

of this will be that the Pacific Pilotage Authority will find it extremely difficult if not impossible to recruit potential pilots due to the overall lack of experience along the coast.

In respect to the amalgamation of Pilotage Authorities we feel that this would not be a reasonable action in the light of the regional differences across Canada. On the face of it, provision of Pilotage services in all areas of the country may seem to be identical, but in fact the different types of shipping, navigational uniqueness and geography, meteorological conditions and prevailing local language, all combine to require a regional Pilotage authority. The local Authorities are approachable by the industry they serve. Removal of this established order to a remote, absentee type of governance would be detrimental to the efficiency and safety of the transportation system. Certainly the West Coast Domestic marine industry is wary of a National body which might be centered on the interests of a predominantly Eastern biased structure and concerned that a body established over 3,000 km distant from this coast would have difficulty identifying with issues here.

However, in the interests of National consistency and efficiency, it would be useful to establish an National Pilotage Advisory Committee, made up of Transport Canada, Pilotage Authorities and representatives of both the International and domestic marine industries. This body could advise the Government on efficiencies to be gained throughout the national system, look for consistency in service delivery and tariffs and bring order to the way each independent Authority may be organized.