

Transport Canada Update

CBMU Fall Conference 2018





OVERVIEW

- Bill C-64 and the Wreck Removal Convention
- Passenger Insurance Regulations
- Bill C-86 and Amendments to the *Marine Liability Act*
- 2010 HNS Convention
- HNS Preparedness and Response
- Fee Modernization Initiative for Marine Insurance Certificates



BILL C-64 & WRECK REMOVAL CONVENTION

Bill C-64 focuses on:

1. Strengthening owner liability for their vessels;
2. Addressing irresponsible vessel management, including prohibiting vessel abandonment;
3. Enhancing federal powers to take proactive action on problem vessels, including undertaking hazard assessments to inform measures;
4. Introduces compliance and enforcement regime with offenses and penalties;
5. Clarifies roles and responsibilities between Transport Canada and the Canadian Coast Guard



BILL C-64 & WRECK REMOVAL CONVENTION

- Bill C-64 implements the *Nairobi International Convention on the Removal of Wrecks, 2007* which entered into force on April 14, 2015
- TC consulted stakeholders in 2010 and 2015 on Canada's adoption
- The Convention makes the registered owner strictly liable for the costs of locating, marking and removing the wreck
- No limit of liability for the shipowner – Canada took a reservation permitted under the 1996 Limitation of Liability for Maritime Claims Convention (LLMC) in 2008
- Canada will extend its application in all of its waters – EEZ, Territorial sea and territory



BILL C-64 & WRECK REMOVAL CONVENTION

- Owners of ships of 300 GT and above will be required to maintain insurance or other financial security with direct action
- Will apply to all Canadian ships and foreign ships calling at Canadian ports
- Insurance is in accordance with limits set out in 1996 LLMC
- TC will issue certificates of insurance to all Canadian ships and ships registered in non-state parties calling in Canada



BILL C-64 & WRECK REMOVAL CONVENTION

- Bill C-64, the *Wrecked, Abandoned and Hazardous Vessels Act*, was introduced in the House of Commons in October 2017
- Bill C-64 is currently under review by the Senate Transportation Committee
- After Royal Assent, Canada would accede to the Wreck Removal Convention
- Convention will enter into force 3 months after Canada accedes – estimated to be **Summer 2019** if Bill passes by end of 2018



COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

- TC has been working on compulsory insurance regulations for passenger vessels for several years
- In 2009, the *Marine Liability Act* (MLA) was amended to exclude adventure tourism (e.g., white water rafting, jet boating) from Part 4 as that sector would not have been able to comply with proposed insurance requirements
- The proposed *Regulations Respecting Compulsory Insurance for Ships Carrying Passengers* were pre-published in the Canada Gazette, Part I in December 2016



COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

The proposed Regulations would:

1. Require Canadian registered passenger vessels engaged in domestic voyages to maintain liability insurance in an amount of \$250,000 multiplied by the passenger capacity of the vessel
2. Require evidence of insurance to be demonstrated upon demand
3. Enhance the financial protection of marine passengers entitled under the MLA



COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

- Stakeholder response to pre-publication was positive and some minor changes made to draft Regulations.
- TC hopes to finalize the Regulations in the near future for publishing in the Canada Gazette, Part II.
- TC will work with CBMU to inform stakeholders of the new insurance requirements when the Regulations come into force



BILL C-86 – AMENDMENTS TO THE *MARINE LIABILITY ACT*

- The Government introduced Bill C-86 on October 29, 2018 and includes amendments to the *Canada Shipping Act, 2001*; and the *Marine Liability Act*.
- This proposed legislation strengthens marine safety and helps protect Canada's waters and coastal communities the Oceans Protection Plan as part of:
 - The federal government's **Oceans Protection Plan** (November 2016); and
 - **Canada's Whales Initiative** (June 2018)



BILL C-86 – AMENDMENTS TO THE *MARINE LIABILITY ACT*

Legislation Objectives:

1. To better protect marine environments, including at-risk marine life such as whales, from the impacts of shipping and navigation
2. To enhance marine safety
 - Prevention
 - Response
 - Liability and compensation
3. To strengthen deterrence and enforcement
4. To support further research and innovation



BILL C-86 – AMENDMENTS TO THE *MARINE LIABILITY ACT*

Objective: to enhance the Ship-Source Oil Pollution Fund and enable faster access to compensation by responders and victims of ship-source oil spills

Gaps/Issues	Oceans Protection Plan Act	Benefits to Canadians
Insufficient compensation in a worst case scenario	Introduce unlimited compensation; the Government may top up the Fund, to be repaid by industry, if compensation exceeds the balance of the Fund	The polluter-pay principle is reinforced; full compensation for damages related to oil spills and the cost of clean-up
The Fund's current levy mechanism is not aligned with modern business practices or international obligations	Reporting and payment will be required on an annual basis; a supplementary levy can be put in place in the event of a Government loan	Fund is replenished and compensation available when it is needed
Quickly providing funds to responders and victims of spills is crucial to the system's integrity	A fast-track process for small claims, access to emergency funding, and compensation for proactive response measures	Faster access to compensation for small claims, and the Canadian Coast Guard has resources to respond to a major oil spill



2010 HNS CONVENTION

- Four states have ratified: Norway, Canada, Turkey and Denmark
- Canada ratified on April 23, 2018
- Clear momentum as Convention now needs 8 more states
- European Union issued a Decision in 2017 instructing member states to ratify by 2021
- Expected to reach intro into force requirements by 2021



HNS PREPAREDNESS AND RESPONSE

- Primary focus of HNS Preparedness and Response (P&R) is on substances that are toxic or potentially harmful (excepting petroleum as it already has a P&R regime).
- Development of Canada's P&R has been based off expert reports, including the Tanker Safety Expert Panel's 2014 report which recommended:
 - Canada sign on to the IMO's *Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000* (OPRC-HNS Protocol).
- Guiding Principles in the development of Canada's HNS P&R initiative
 - Protect human health and the marine environment
 - Develop a national risk-based approach
 - Build on Canada's existing marine safety system
 - Uphold the "polluter pays" principle and industry involvement
 - Respect international commitments
 - Maintain the viability of marine shipping



HNS PREPAREDNESS AND RESPONSE

- Collaborative action in the development of Canada's HNS P&R includes:
 - 9 Government of Canada departments and agencies
 - Industry (such as ship or cargo owners, chemical producers, terminal operators, salvors, liability insurers) and port authorities
 - Provincial/territorial and municipal governments and indigenous groups/coastal communities
 - International partners (include the IMO and the United States Coast Guard)

HNS PREPAREDNESS AND RESPONSE

Three phased approach:

- Phase I: Strengthen the foundation of HNS P&R by clarifying the current system - This involves engaging partners and stakeholders to help enhance Canada's readiness.
- Phase II: Step-by-step improvement to strengthen industry and government preparedness.
- Phase III: Evaluate and improve the national program to reflect changing conditions.





HNS PREPAREDNESS AND RESPONSE

TC issued a Discussion Paper in September 2018 and is open for comments from stakeholders until December 21, 2018

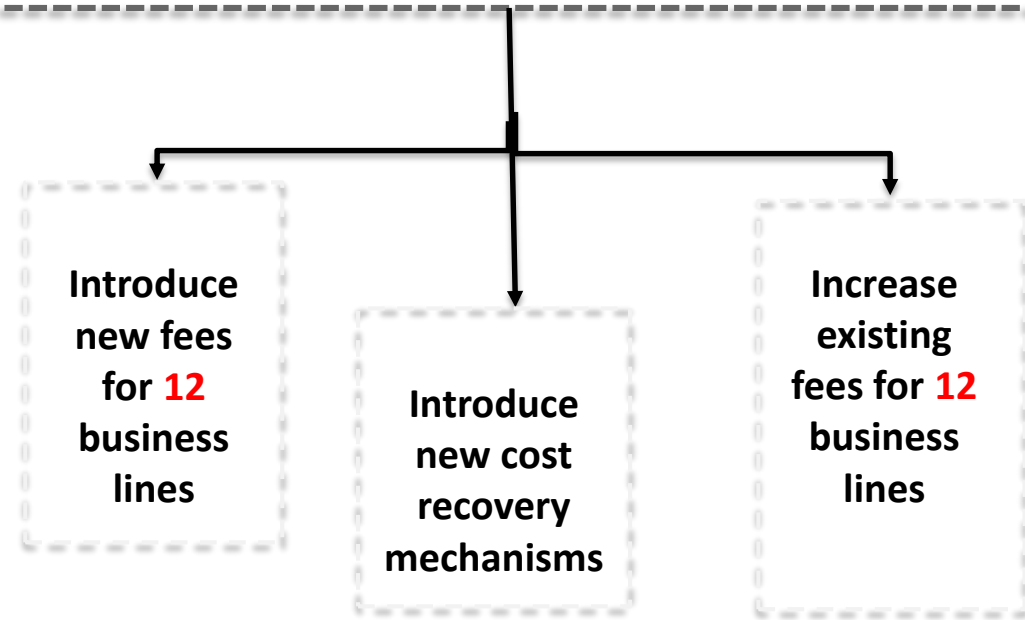
www.letstalktransportation.ca/HNS

FEE MODERNIZATION INITIATIVE FOR MARINE INSURANCE CERTIFICATES



The Government of Canada is embarking on the modernization of government fees as part of Budget 2017, including the repeal of the User Fees Act and its replacement by the Service Fees Act

5 – Year Plan (2017-22)



FEE MODERNIZATION INITIATIVE FOR MARINE INSURANCE CERTIFICATES

- Currently, TC issues two marine insurance certificates with no fees:
 - Civil Liability Convention Certificate (tankers/barges carrying ➤2000 tonnes of oil)
 - Bunkers Convention Certificate (all ships ➤1000 GRT)
- Two more certificates will be added in the future:
 - Wreck Removal Convention Certificates in 2019
 - HNS Convention Certificates in 2023-24

FEE MODERNIZATION INITIATIVE FOR MARINE INSURANCE CERTIFICATES



- Create awareness for stakeholders, industry, and other government departments of fee changes
- Seek stakeholder feedback on Economic Impact Analysis results (if applicable)
- Seek initial stakeholder views on pricing options and fee structures being considered
- Refine policy proposals based on stakeholder feedback

FEE MODERNIZATION INITIATIVE FOR MARINE INSURANCE CERTIFICATES

- Recommended fee design structure is for one fixed fee for all certificates given there is little variation with services for issuing certificates
- Proposed 10 working days service standard

Full Cost per Certificate	\$109
Cost recovery rate	90%
Proposed fee	\$98



THANK YOU!

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