



## TSB Recommendation M23-04

### Pacific Pilotage Authority oversight of pilotage waivers

The Transportation Safety Board of Canada recommends that the Pacific Pilotage Authority implement a process to verify ongoing compliance with waiver conditions by companies operating tugs in compulsory pilotage areas.

Marine transportation safety investigation report	<a href="#">M21P0030</a>
Date the recommendation was issued	08 March 2023
Date of the latest response	30 May 2023
Date of the latest assessment	August 2023
<a href="#">Rating</a> of the latest response	Satisfactory Intent
<a href="#">File status</a>	Active

All responses are those of the stakeholders to the TSB in written communications and are reproduced in full. The TSB corrects typographical errors in the material it reproduces without indication but uses brackets [ ] to show other changes or to show that part of the response was omitted because it was not pertinent.

#### Summary of the occurrence

On 10 February 2021, the tug *Ingenika*, with 3 crew members on board, was towing the loaded barge *Miller 204* in the Gardner Canal when the tug sank approximately 16 nautical miles west-southwest of Kemano Bay, British Columbia (BC). The barge subsequently drifted and went aground about 2.5 nautical miles southwest from where the tug sank. The search and rescue operation located 1 surviving crew member on land and recovered the bodies of the 2 other crew members from the water. The barge was recovered; the tug was not found. At the time of the occurrence, the tug had 3500 L of diesel fuel in tanks on board.

The Board concluded its investigation and released report M21P0030 on 08 March 2023.

#### Rationale for the recommendation

At the time of the occurrence, the *Ingenika* was operating in a compulsory pilotage area that falls under the responsibility of the Pacific Pilotage Authority (PPA). The PPA is a Crown corporation that has a mandate to establish, operate, maintain, and administer safe and efficient

pilotage services in British Columbia. Pilotage services are provided by licensed pilots, who are highly trained navigators that use their knowledge of local waters to direct a vessel and navigate it using the safest route.

The PPA has a pilotage waiver system under which some vessels, mainly tugs, may obtain waivers that exempt them from having to take a licensed pilot on board in designated pilotage areas if the operators and tugs meet certain requirements. However, when a company requests a pilotage waiver, the PPA does not check the information submitted to ensure that it meets regulatory requirements, and the PPA relies on operators to ensure that they are complying with waiver conditions once a waiver is granted. In BC, there are currently 364 tugs, owned by 85 different companies, that operate under pilotage waivers.

This investigation identified that, although the master of the *Ingenika* had been issued a pilotage waiver, he held a certificate of competency that was restricted to passenger vessels operated by a specific company and therefore should not have been eligible for a waiver on a towing vessel. As well, one of the deckhands had, on various occasions, been put in charge of a navigational watch on board the *Ingenika*, but he did not hold a certificate of competency or a pilotage waiver. Further, the tug was not fitted with a bridge navigational watch alarm system and did not have a Class A automatic identification system, both of which are requirements for a vessel operating under a waiver.

This investigation is not the first to identify shortcomings around the PPA's process for issuing waivers and its reliance on companies to ensure ongoing compliance with waiver conditions. The TSB found similar issues in occurrences involving the tug *Ocean Monarch*<sup>1</sup> in 2017 and the tug *Nathan E. Stewart*<sup>2</sup> in 2016.

Without an effective process to verify that crew members and vessels meet PPA waiver requirements, there is a risk that non-compliance with waiver requirements will go undetected and compromise safety in compulsory pilotage waters. Given the need to ensure that waived vessels are operating at a level of safety comparable to that afforded by a licensed pilot, the Board recommends that

the Pacific Pilotage Authority implement a process to verify ongoing compliance with waiver conditions by companies operating tugs in compulsory pilotage areas.

**TSB Recommendation M23-04**

## Previous responses and assessments

N/A

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<sup>1</sup> TSB Marine Transportation Safety Investigation Report M17P0244.

<sup>2</sup> TSB Marine Investigation Report M16P0378.

## Latest response and assessment

### May 2023: response from the Pacific Pilotage Authority

The Pacific Pilotage Authority (PPA) has reviewed and accepted the Recommendation M23-04. The PPA requires that all commercial vessel pilotage waivers are renewed annually through an application process. The PPA uses a database to maintain records of documents for all vessels and officers that operate under a pilotage waiver. These records are updated throughout the year and reviewed annually in consultation with the representatives of companies that operate vessels under a pilotage waiver. Commercial operators are required to submit updated vessel and officer records, and a *'Declaration of Compliance – renewals and new applications'* form signed by an authorized representative. Once records are reviewed and the PPA is satisfied that all requirements under Section 25.10(3) of the *General Pilotage Regulations* and the PPA Standard of Care have been met, a waiver renewal is issued. The PPA uses a checklist to track each operator's progress through the application process, and records are uploaded to PPA's waiver database.

Following the TSB report M21P0030 that was released on March 8, 2023, the following actions have been taken and communicated to all pilotage waiver applicants:

1. The two 'Declaration of Compliance' forms were updated to specify that certificates of competency must be appropriate for the vessel.
2. Commercial vessel operators (US and Canadian) are now required to submit evidence of sea time showing that new officers meet the minimum sea time requirements under Section 25.10(3) of the *General Pilotage Regulations*.
3. Sea time submissions for officers are reviewed by PPA's Operations Coordinator. Sea time that requires further review is forwarded to PPA's Chief Operating Officer (COO).
4. Applications from companies requesting dispensations for officers who do not meet the sea time requirements under the Regulations are forwarded to the Chief Executive Officer (CEO) for consideration. Operators are required to show mitigations for these officers, such as additional training, simulated training, mentorship program, etc. This information is then communicated to Transport Canada.
  - Note: this process is required until the General Pilotage Regulations are updated. Without this consideration, companies would not be able to utilize new officers that do not meet the minimum watchkeeping time requirements under the Regulations. Although the Standard of Care recognizes deck watch time as a deckhand with lookout, steering or other bridge watch duties in the area, the General Pilotage Regulations section 25.10(3) only recognizes time in charge of the watch. The Pacific Pilotage Authority is working closely with Transport Canada on resolving this issue.
5. Canadian companies seeking pilotage waivers for their vessels are required to provide official numbers for each vessel so that the PPA may verify vessel registration.

6. Beginning on April 15, 2024, Canadian commercial operators will be required to provide a valid Certificate of Registry for each vessel that operates under a pilotage waiver. US commercial operators provide a Certificate of Documentation for each vessel that operates under a pilotage waiver.
7. PPA issued a memorandum to Canadian operators on April 20, 2023, communicating the above-mentioned changes. Pilotage waiver renewals for US commercial vessels were completed on February 27, 2023; i.e., before the TSB recommendations were released: however, the above-mentioned changes will be applied to all US commercial vessels during subsequent updates and/or renewals of their pilotage waivers.
8. PPA is developing a documented procedure which will outline the application and renewal process for pilotage waivers.

#### **August 2023: TSB assessment of the response (Satisfactory Intent)**

The Pacific Pilotage Authority's (PPA) response indicates that it agrees with the recommendation and has already taken concrete steps to address it. The PPA has updated its Declaration of Competency forms to specify that certificates of competency must be appropriate for the vessel, and commercial vessel operators are now required to submit evidence to show new officers' sea time requirements are met. Sea time submissions for officers will now be reviewed. Official vessel numbers and Certificates of Registry (or Certificates of Documentation for U.S.-flagged vessels) will also be required for the PPA to verify registration, and a procedure document is in development for the renewal process of pilotage waivers.

The Board is encouraged by the steps taken by the PPA in addressing the recommendation and the need to maintain oversight of waiver conditions. Implementation of these changes will ensure that compliance with waiver conditions will be verified on an annual basis. The TSB will monitor the PPA's implementation of its new requirements and actions to monitor compliance with waiver requirements. Therefore, the Board considers the response to Recommendation M23-04 to show **Satisfactory Intent**.

#### **File status**

The TSB will monitor the actions taken by the Pacific Pilotage Authority.

This deficiency file is **Active**.