

**REPORT OF THE  
STANDING COMMITTEE ON RECREATIONAL BOATING**

**Agenda**

1. Opening Remarks (John Murray, TC / Bob Minielly, CSBC).
2. Adoption of Minutes.
3. Introduction of Agenda (John Murray, TC).
4. Canadian Safe Boating Council – PFD Taskforce Update (Bob Minielly, CSBC).
5. Canadian Hydrographic Services (Dr. Kian Fadaie, DFO):
  - Information from CCG and CHS on the Digitization of Products.
  - CHS Levels of Service Results.
  - E-Navigation Updates.
6. Report of Navigable Waters Protection Program Working Group – Regulatory Developments (Kenneth Hahn, TC).
7. Update on Operator Competency Program (Krista Kendall, TC).
8. Regulatory Update (Kevin Monahan, TC).
9. Update on the Office of Boating Safety (John Murray, TC).
10. Proposal for change in Standing Committee format (John Murray, TC).
11. Regional OBS Update.
12. Tentative agenda items for the next CMAC meeting.
13. Other Business.

The meeting of the Standing Committee co-chaired by John Murray, Transport Canada and Bob Minielly, Canadian Safety Boating Council, was held on Tuesday, April 27, 2010.

**1. OPENING REMARKS**

The Committee was welcomed and invited to attend the Standing Committee on the Environment being held on Wednesday, April 28, 2010. Issues of interest could be the R&D projects currently underway regarding waste generation and the latest technologies on water treatment.

**2. ADOPTION OF MINUTES**

The Committee approved the Minutes of the Standing Committee for the November 3, 2009 meeting.

**3. INTRODUCTION OF AGENDA**

Agenda was adopted.

#### **4. CANADIAN SAFE BOATING COUNCIL – PFD TASKFORCE UPDATE**

The Canadian Safe Boating Council informed the Committee that their Symposium would be held from September 23 to 26, 2010 at the Delta Centre-Ville Hotel in Montreal. A full day would be dedicated to an open forum to discuss stakeholders' positions regarding the possibility of legislating the mandatory wear of lifejackets by recreational boaters. There will also be an all day hands-on first responder training on cold-water shock conducted by Dr. Gordon Giesbrecht. The Standing Committee participants were encouraged to visit the Canadian Safe Boating Council website at [www.csbc.ca](http://www.csbc.ca) for more information.

#### **5. CANADIAN HYDROGRAPHIC SERVICES**

The Canadian Hydrographic Services gave a presentation on the digitization of products, Levels of Service and E-Navigation Updates. The five-year cycle for Levels of Service was completed at the end of 2009/10. Safe and secure navigation is part of Canadian Hydrographic Services' mandate. They are currently working with the Canadian Coast Guard to improve the Notices to Mariners system. The Committee was encouraged to visit [chsinfo@dfo-mpo.gc.ca](mailto:chsinfo@dfo-mpo.gc.ca) for more information.

#### **6. REPORT OF NAVIGABLE WATERS PROTECTION PROGRAM WORKING GROUP – REGULATORY DEVELOPMENTS**

The Navigable Waters Protection Program Working Group was held on April 26, 2010. Stakeholders and interested parties had an opportunity to comment on changes that are being considered for proposed regulations that will be based on the existing *Minor Works and Waters (Navigable Waters Protection Act) Order*. A summary of the Working Groups is attached as Annex A.

#### **7. UPDATE ON OPERATOR COMPETENCY PROGRAM**

An update on to the Pleasure Craft Operator Competency Program was provided. This included activity highlights such as the database agreements, course manuals, internet testing, test assessment project, monitoring activities, operator competency program evaluation, communications, the rental boat safety standards and the issuance of Pleasure Craft Operation Cards to seafarers. The Operator Competency Program has now received thirty-eight signed database agreements from course providers and six are still in the process. Many agreements were formalized on April 20, 2010. The Operator Competency Program is now ready to start receiving cardholder information and is currently working with Dr. Rafael Spain, Coordinator of Educational Technology at Dawson College to develop new standards for Pleasure Craft Operator Card testing over the Internet.

#### **8. REGULATORY UPDATE**

An update on the status of the new *Small Vessel Regulations*, the *Contraventions Regulations* and the *Vessel Operation Restriction Regulations* was provided. The proposed *Small Vessel Regulations* were pre-published in Part I of the *Canada Gazette* on April 25, 2009 with a 30-day comment period. Minor modifications were made. The new *Small Vessel Regulations* and the *Contraventions Regulations* are expected to be in force for the 2010 boating season.

## **9. UPDATE ON THE OFFICE OF BOATING SAFETY**

The Office of Boating Safety (OBS) provided an update of their Pleasure Craft Licensing Program and the Boating Safety Class Contribution Program.

In 2009, six organizations received funding under the Boating Safety Class Contribution Program for a total amount of \$280K. Marine Safety received approval to increase the funding level to \$500K for years 2010/11, 2011/12 and 2013. For 2009/10, the Minister approved funding for twelve projects.

In the fall of 2009, OBS was advised by Service Canada that as of November 1, 2010, they would no longer issue pleasure craft licences on behalf of the department. The service delivery will then focus on direct mail-in where Canadians will need to mail applications along with the required supporting documents to the Pleasure Craft Licensing Centre for processing. This boating season will be business as usual.

OBS proposed regulatory amendments to allow owners of previously licenced pleasure craft up to 90 days from the date of purchase to transfer a pleasure craft licence during which time they may continue to operate their boat with the existing licence. A pilot project was initiated to allow boat dealers the ability to apply for a pleasure craft licences on-line and mark new vessels. The intent is to have the process up and running for all dealers in time for the 2011 boating season.

## **10. PROPOSAL FOR CHANGE IN STANDING COMMITTEE**

The Committee agreed to change the format of the November meeting. The proposal is to hold two Working Groups in the morning to discuss specific issues and report to the Standing Committee during the afternoon. The Committee supported this new approach.

## **11. REGIONAL OBS UPDATE**

The Regional Office of Boating Safety Managers provided an update on issues surrounding their region.

## **12. TENTATIVE AGENDA ITEMS FOR THE NEXT CMAC MEETING**

- Flare disposal.
- Construction Standards for Small Vessels (TP 1332), specifically flotation.

### **13. OTHER BUSINESS**

#### **Debrief of the North American Lifejacket Standards Working Group**

A presentation of work achieved during the past six months on the North American Standard for Lifejackets. The goal of the drafting group is to compare Canadian Standards with ISO 12402 to recognize the differences that will be discussed with ISO and thus reduce the number of national deviations without compromising safety. The Canadian process and structure for the implementation plan is yet to be developed and it is suggested that Canada follow the same mechanism as is followed in the United States for managing a standard. A lot of work was also done on the comparison of ISO, Canadian, and American standards. An overview was given on the risk-based model (known as RBM) that is being developed by an expert group represented by test labs, manufacturers and regulators from both the sides of the border. The acceptance of 50N devices is still being debated in the United States. The drafting group is clear on the inclusion of 70N device into the new standard, either by persuading the ISO group to accept it as a new part of the standard, or it will remain as a deviation to the standard.

***Approved by:***

*John Murray, Marine Safety, TC, Standing Committee Co-Chair*

*Bob Minielly, Canadian Safe Boating Council, Standing Committee Co-Chair*

**ANNEX A**  
**REPORT ON THE WORKING GROUP ON**  
**NAVIGABLE WATERS PROTECTION PROGRAM**

The Working Group on Navigable Waters Protection Program provided stakeholders and interested parties with an opportunity to comment on changes that are being considered for the proposed regulations that will be based on the existing *Minor Works and Waters (Navigable Waters Protection Act) Order*.

Stakeholders and interested parties were pleased with the consultation efforts, however, the following concerns remain:

- The addition of a notification clause would strengthen the proposed regulations, and reduce the possibility of these regulations allowing substantial interferences to navigation.
- The identification of specific waterways on which the proposed regulations would not apply (thus proposed works on those waterways would continue to require an application for approval) would strengthen the proposed regulations and reduce the possibility of substantial interference to navigation on waterways of interest to Canadians.
- There are concerns about the proposed criteria for Minor Navigable Waterways.
- The Maritime Aboriginal Peoples Council is concerned that these proposed regulations would exempt the Crown from consultation requirements under Section 25 of the Charter.

**Overview of Regulatory Project**

Ken Hahn provided a summary of the current status of the regulatory activity within the Navigable Waters Protection Program, focusing on the conversion of the existing *Minor Works and Waters (Navigable Waters Protection Act) Order* into proposed regulations. Key elements include the following:

- The Order came into effect in June 2009.
- Consultation on converting this Order into proposed regulations began in September 2009.
- Over 480 comments have been received with approximately 2/3 of them directly related to the proposed regulations. All have been considered or are in the process of being considered.
- The proposed regulations are anticipated for pre-publication in Part I of the *Canada Gazette* in the Fall 2010 followed by final approval and publication in Part II of the *Canada Gazette* in the Spring 2011.

## **Proposed Changes**

The Working Group reviewed the Discussion Paper and the following key comments were received:

1. Is there a limit to the time period that a temporary work can be in place?

*The intention of the temporary work is to facilitate the construction of a minor work. Once the work is being used for its intended purpose, the temporary work is no longer necessary and should be removed. In the event of a disagreement, the Navigable Waters Protection Program is available to review the project.*

2. Why were tree trunks removed from the list of acceptable materials from the erosion protection works? They are a common building material in the Northwest Territories.

*Tree trunks that have not been trimmed are not a standard construction material and therefore are not permitted to be used for erosion protection works in these proposed regulations. Trimmed tree trunks are allowed.*

3. The addition of an access requirement strengthens the proposed regulations.

4. Increasing the width of the Minor Navigable Waters from 1.2 meters to 3.0 meters, and from 3.0 meters to 5.0 meters was a concern. What was the rationale for that change?

*The majority of comments that were received from recreational users of the waterways were that the width constraint was less important than the depth constraint (which remains unchanged) and that access was the single most significant issues. Subject Matter Experts within the Navigable Waters Protection Program felt that if access is maintained then the width of the waterway could be increased with no significant increase in the interference to navigation.*

5. There was a fair amount of discussion concerning the idea of designated lists – lists that specifically identify stretches of waterways that would not be deemed to be minor waterways, even if they met the criteria of width, depth, sinuosity, barriers, grade as defined in the proposed regulations.
  - a. There are stretches of waterways (i.e., parts of the Madawaska River) that are used for white water kayaking training.
  - b. There are parts of the Historic Fur Trade route (i.e., the Lavoise Portage between Trout Lake and Lake Nipissing) that are parts of the Canadian Heritage River System that should not be considered a Minor Navigable Waters. Jay Morrison of Paddle Canada offered to supply specific examples.

*In general the Navigable Waters Protection Program is very receptive to the idea of designated lists – so that specific waterways can be exempted from the proposed regulations, so that proposed works on those waterways would continue to require specific approval by the Department. The details of that specific activity are not part of the regulatory development*

*activity that involves converting the existing Order to proposed regulations, but will be considered in subsequent activities.*

6. The sinuosity of a waterway is not a barrier to navigation and recreational enjoyment of a particular waterway may in fact be enhanced by sinuosity. Paddle Canada asked where the sinuosity requirement came from and recommended dropping it entirely.

*Sinuosity will be revisited.*

7. Item #6 of Mooring Buoys (that the mooring buoy swing area shall require a circular area having a radius equal to three (3) times the length of the vessel) seemed excessive.

*Alain Briere will provide additional information.*

8. The barrier criterion for Minor Navigable Waters (that there be more than two natural obstacles in the navigable waters, at least one of which is upstream and another of which is downstream from the midpoint of the centreline of the navigable waters) was criticized. Natural barriers are temporary and they do not necessarily constitute an undesirable barrier to navigation.

*Natural barriers, temporary or not, impact navigation and three such barriers in a 200 meter stretch of water is significant. The addition of a proposed work, for which there must be a mechanism to bypass, will not provide substantial additional impact to navigation on that section.*

- a. The Lake Ontario Waterkeepers were very concerned about the lack of notification requirements in the proposed regulations and do not believe that it would be onerous to include it.

*The Navigable Waters Protection Program is investigating the use of a webpage to support self-assessments, including a confirmation mechanism. It seems to be relatively straightforward to include a registration mechanism that would allow Canadian citizens to monitor the proposed minor works. Having said that, Navigable Waters Protection Program is not convinced that there is a need for a notification mechanism for the following reasons:*

- a) *Many of the contemplated changes in the proposed regulations have been in place as Transport Canada Policy for several years, and there has never been a complaint about a work under those policies. There is no reason to believe that the conversion to regulations would change that.*
- b) *According to Subject Matter Experts within the Program, the criteria specified in these proposed regulations is very conservative. No specific examples where a notification mechanism would have prevented a substantial impact to navigation have been identified.*

## **Questions and Comments**

Naomi Crane, Maritime Aboriginal Peoples Council, read a statement raising concerns about the impact of these proposed regulations on the Crown's Duty to Consult with Aboriginal Peoples. As well, Naomi Crane read a similar statement at the Regional CMAC meeting in Charlottetown, Prince Edward Island on Thursday March 18, 2010.

There will be other opportunities for stakeholders and interested parties to provide input into these proposed regulations, specifically:

- There will be a 30-day public comment period when the proposed regulations are pre-published in Part I of the *Canada Gazette*.
- The Navigable Waters Protection Program plans on providing regular updates on its Regulatory Activity Web Log, available at <http://www.tc.gc.ca/eng/marinesafety/oep-nwpp-menu-2983.htm>.
- The Navigable Waters Protection Program provides regular email updates to the its Regulatory Activity Contact List. Contact Ken Hahn at [Kenneth.Hahn@tc.gc.ca](mailto:Kenneth.Hahn@tc.gc.ca) for further details.

## **Other Business**

David Osbaldeston provided a short overview of the *Navigable Waters Protection Act* Modernization Initiative.

## **Tentative Agenda Items for next CMAC Meeting**

The current agenda was proposed and accepted as the tentative agenda for the next meeting, with the addition of an additional item – an update on the *Navigable Waters Protection Act* Modernization Initiative.

Proposed Agenda:

1. Introduction and Approval of Agenda
2. Overview of Regulatory Project
3. Proposed Changes
4. Questions and Comments
5. Update on the *Navigable Waters Protection Act* Modernization Initiative
6. Other Business
7. Tentative Agenda Items for the next CMAC meeting