



## Laurentian Pilotage Authority

### COMPLIANCE AND ENFORCEMENT OF THE PILOTAGE ACT POLICY

#### 1 Policy Objectives

- 1.1 This Compliance and Enforcement Policy (CEP) sets out the compliance and enforcement responsibilities of the Laurentian Pilotage Authority (LPA) related to its mandate under the *Pilotage Act* to administer, manage and provide for the safety of navigation an efficient pilotage service.
- 1.2 The LPA has elaborated and implemented this policy to enhance and promote compliance by the regulated community with the requirements of the *Pilotage Act* and its regulations.

#### 2 Definitions

- 2.1 Regulated community includes individuals, public or private organizations or vessels subjected to the requirements of the *Pilotage Act* and its regulations.
- 2.2 Compliance and enforcement activities and measures means the set of actions designed to achieve adherence and respect with the requirements and provisions of the *Pilotage Act* and its regulations.

#### 3 Policy Statement

- 3.1 The top priorities of the LPA are navigational safety, the safety of licensed pilots, the effective administration of the pilotage system in the Laurentian region, and the provision of efficient pilotage services.
- 3.2 When faced with non-compliant matters, the LPA determines the appropriate response in accordance with this compliance and enforcement policy to achieve the objectives enumerated in section 3.1.
- 3.3 Ship owners, operators, authorized representatives, masters, crew and pilots are obligated to operate their vessels in accordance with the applicable legislation and regulations.
- 3.4 The role of the LPA is to encourage and promote compliance with the *Pilotage Act* and its regulations, and to deal with non-compliance in an effective manner through compliance and enforcement activities and measures that:



- Facilitate and promote compliance with the *Pilotage Act* and regulations;
- Encourage clear, effective and timely communication with the regulated community;
- Apply the legislative and regulatory requirements in a fair, impartial, predictable and consistent manner;
- Apply appropriate measures in response to non-compliance that are proportional to the seriousness of the offence; and
- Respect the confidentiality of information obtained in the administration of the legislation by complying with Privacy and Access to Information legislation.

3.5 Establishing fair, consistent and transparent guidelines for addressing contraventions of the *Pilotage Act* and its regulations is central to this policy.

## **4 Compliance Monitoring and Enforcement Response Policy**

### *4.1 Compliance Promotion & Monitoring*

4.1.1 The LPA's policy is to promote compliance by actively fostering the cooperation and participation of all parties interested in the safety of navigation, in order to benefit from their expertise in activities regulated by the *Pilotage Act*. Those parties include owners, operators, crew, pilots, pilot Corporations as well as Transport Canada, the Canadian Coast Guard, port authorities and the St. Lawrence Seaway Management Corporation.

4.1.2 This cooperation and participation may take forms such as:

- Assisting with the communication of the LPA's policies and regulations to the regulated community and interested parties;
- Encouraging the regulated community and members of the public to bring to the LPA's attention all cases of non-compliance with the *Act* or to its regulations;
- Collaborating with audits and investigations conducted by the LPA;
- Seeking assistance or conducting joint investigations, where appropriate, with relevant federal authorities and partners.



#### 4.1.3 Compliance Promotion Activities may include:

- Education, consultation and information sharing with the regulated community and public ;
- The establishment of clearly defined, well-understood regulatory and other requirements that are accessible to all stakeholders.
- The consultation and participation of the marine industry, pilots, their corporations, and other stakeholders in the development of LPA regulations and policies, as well as their proposed modifications.

4.1.4 The LPA will also conduct compliance monitoring activities to seek to evaluate the extent to which the regulated community conforms to the *Pilotage Act* and its regulations.

4.1.5 Proactive compliance monitoring activities may include fact gathering and evaluation activities such as conducting spot checks and audits, communicating or meeting with masters, crews and pilots and other members of the regulated community.

4.1.6 The public, pilots, industry as well provincial or federal regulatory bodies and partners are encouraged to bring forward potential non-compliance cases to the LPA for appropriate review and follow up.

4.1.7 The LPA's compliance promotion and monitoring activities and their frequency will notably take into account the following factors:

- The results of audit activities, scheduled or periodic;
- The availability of limited resources;
- The history of the operator, the owner or the vessel with regards to compliance; and
- An evaluation of the risks related to any actual or potential non-compliance and its impact on the safety of navigation, the safety of pilots, the environment or the efficiency of pilotage services.

## 4.2 Enforcement Response

4.2.1 When the LPA learns of a possible contravention of the *Pilotage Act* or its regulations, an appropriate review and response will be taken based on the



nature and circumstances of the contravention and the tools available to it under the law.

- 4.2.2 The enforcement response will follow the established guidelines for timely and appropriate action. The enforcement response may include non-penalty actions, oral counselling, warning letter or Assurance of Compliance undertaking or legal proceedings.
- 4.2.3 The LPA adheres to the Government of Canada policy of graduated escalation of severity of enforcement responses. However, significant enforcement actions may be taken or recommended, when appropriate, as the first response in serious non-compliance cases.
- 4.2.4 The enforcement actions for non-compliance with the *Pilotage Act* or regulations may include the withholding of pilotage services, and the suspension or revocation of a pilot licence or certificate.
- 4.2.5 When appropriate, the LPA may recommend the laying of charges to the Public Prosecution Service of Canada as provided for by the dispositions dealing with offences and punishment under the *Pilotage Act*. Alternatively, the LPA may seek to lay charges directly when appropriate to do so.

## **5 Non-Penalty Enforcement Response**

- 5.1 Verbal advice or a warning letter should be used when the offender commits a minor, inadvertent violation or where the imposition of a more serious sanction is not appropriate.
- 5.2 The LPA will assess all aspects of the violation and take into account the attitude of the offender to determine whether oral advice or a warning letter will be sufficient to achieve future compliance. Verbal advice or a warning letter are not to be used if the offender disputes committing the violation.
- 5.3 An Assurance of Compliance (AC) is a binding agreement that allows a person or vessel to come into compliance within a specified period of time without incurring any sanction.
- 5.4 ACs will be used where the person or vessel responsible for the violation accepts the terms of the agreement and is able to make the appropriate rectifications within the specified time period.



- 5.5 ACs will not be used if the person or vessel has a recent history of non-compliance.

## **6 Scope**

- 6.1 The CEP is used as a guide when dealing with any non-compliance issues and for assessing an appropriate enforcement action against an alleged offender.
- 6.2 The CEP is applicable to all contraventions of the *Pilotage Act* and LPA regulations.
- 6.3 The LPA fully recognizes the powers and authorities of government agencies having jurisdiction in the maritime environment, according to the relevant Laws.
- 6.4 The LPA will coordinate its compliance and enforcement efforts with relevant government departments and agencies as appropriate.
- 6.5 The CEP does not apply, however, to any activities under Part II of the *Canada Labour Code*.

## **7 Authority**

- 7.1 Under the *Pilotage Act*, the LPA has the authority to monitor compliance by the regulated community and to deal with acts of non-compliance with provisions of the *Act* and its regulations.
- 7.2 These authorities are found in the *Pilotage Act*, and include sections 18, 27, 45, 47, 48, and 48.1.

## **8 Responsibility / Further information**

- 8.1 This policy is approved and issued under the authority of the Chief Executive Officer.
- 8.1 The Executive Director, Safety and Marine Efficiency is accountable for the development, implementation, maintenance, and continuous improvement of the CEP.



Administration de pilotage des Laurentides  
Laurentian Pilotage Authority

8.2 Comments or queries related to the CEP and its application should be addressed to:

Executive Director  
Safety and Marine Efficiency  
Laurentian Pilotage Authority  
999, De Maisonneuve Blvd. W., Suite 141  
Montreal, QC H3A 3L4  
Tel: (514) 282-6320

## **9 Related Documents**

- 9.1 *Pilotage Act*
- 9.2 General Pilotage Regulations
- 9.3 Laurentian Pilotage Authority Regulations
- 9.4 Laurentian Pilotage Tariff Regulations

## **10 Date of Application**

10.1 This policy is effective on 01-11-2018.

## **11 Date for Review or Expiry**

11.1 This policy will be reviewed not later than 24 months after it comes into effect and on a five (5) year cycle thereafter.

Last revised on: Oct. 16<sup>th</sup> 2018