



BRIEFING NOTE FOR INFORMATION

DATE: July 10, 2015
PREPARED FOR: Honourable Todd Stone, Minister of Transportation and Infrastructure
MEETING: Minister Yamamoto and MLA Barnett, July 15, 2015
ISSUE: Mid-Coast Ferry Service – Route 40

SUMMARY:

- The decisions to cancel the Route 40 service serviced by the 115 car Chilliwack and replace it with a connector service using the 16 car Nimpkish continues to be criticized by the tourism industry in Bella Coola and from the broader Cariboo Chilcotin area.
- The old Route 40 service was not sustainable having lost \$37 million since 2003/04.
- The retirement of the Nimpkish in 2017/18 creates an opportunity to re-envision how the mid-coast communities are connected particularly in the summer peak season when there is tourism demand for circle route through Bella Coola.
- The Province of British Columbia (Province) has publicly committed to maintaining a ferry service that will support a basic connector service and provide for circle tour traffic to/from the mid-coast.
- We are exploring how best to balance the tourism demands with the ability to provide an affordable, efficient and sustainable ferry service.
- In order to have a better understanding of the potential for private sector service providers to provide a tourism-focused service through Bella Coola in the summer and shoulder seasons, the Ministry of Transportation and Infrastructure (Ministry) engaged Partnership BC (PBC) to do a market sounding study.

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- The Ministry must confirm the service for Route 10S with BC Ferries by September 2015 to allow sufficient time to procure a new vessel to replace the Nimpkish.



BACKGROUND:

- Minister Stone met with Chamber of Commerce in Williams Lake on June 25, 2015. At that meeting, concerns were raised about the adequacy of Route 10S to serve the tourism market in the summer and shoulder seasons.
- Tourism organizations and local governments have been vocal in expressing these concerns to MLAs and provincial Ministers since the discontinuance of Route 40.
- The Aboriginal Tourism Association of British Columbia (ATBC) and partners commissioned a report in 2014 suggesting options should be explored, including type and size of ferry and route configuration.
- Winter usage is limited and there is not enough traffic to warrant increased service.
- Basic service between Bella Bella – Shearwater – Ocean Falls could be served by a simple connector service to Route 10 all year round through the use of an ASP.
- Tourism demand is primarily for connection between Bella Coola and Vancouver Island/Lower Mainland during the summer/peak seasons.
- There is potential for a route to support a tourism related service from Port Hardy or Vancouver to/from Bella Coola.

DISCUSSION:

- Following up on the ATBC sponsored report, the Ministry has engaged Partnerships BC (PBC) to conduct a market sounding report on interests/issues for private sector involvement for a summer/peak season tourism ferry service. s.13
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- Given that the Nimpkish is fully booked to the 2015 summer season, the Ministry is working with BC Ferries to ensure that tourism operators are not making speculative bookings which they will cancel at the last minute, thus “pushing out” legitimate circle tour travellers.

FINANCIAL IMPLICATIONS:

- None.

PREPARED BY:

Kirk Handrahan, ED
Marine Branch
(250) 952-0678

REVIEWED BY:

Deborah Bowman, ADM,
Transportation Policy and Programs

INITIALS:

DB



BRIEFING NOTE FOR DECISION

DATE: July 16, 2015
PREPARED FOR: Honourable Todd Stone, Minister of Transportation and Infrastructure
MEETING: Andy Smith, Container Trucking Commissioner on July 22, 2015
ISSUE: Update on Container Trucking Reform and the Activities of the Commissioner

SUMMARY:

- Meeting will provide an opportunity for the Container Trucking Commissioner (CTC) to update the Minister on his activities, including state of industry and future actions of the Commissioner.
- Approval of a joint MOU between Minister and the CTC is recommended
- The Minister may wish to raise the following issues:
 - BC Maritime Employers Association (BCMEA) review of Mr. Smith's dual role;
 - Benefits of new truck parking and potential truck staging facilities;
 - Transferring of licences; and
 - Joint legal agreement.
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 To meet this requirement, the Minister should seek from the CTC by December 31, 2015:
 - Annual Report by August 31, 2015, for fiscal year 2014/15 and 2015/16 year to date expenditures;
 - Budget forecast for 2016/17 and 2017/18; and
 - Analysis by the CTC of the state of the industry.

BACKGROUND:

The Container Trucking Act and Container Trucking Regulations are in place. In May 2015, further revisions to rates were completed. With the whistleblower line, appointment of the CTC and establishment of the CTC office, the Province of British Columbia (Province) has now fulfilled all its commitments under the Joint Action Plan.

The initial Truck Licencing System (TLS) reform reduced the size of the container trucking fleet from approximately 2000 trucks to 1464. As a result of judicial review of Port Metro Vancouver's (PMV) TLS reform process, PMV was directed by the courts to reconsider TLS applications that met the minimum threshold and issue licenses to those companies that met the threshold. PMV reviewed 31 company applications and issued new licenses to 28 companies (three declined to participate) – this added 251 licensed drayage trucks for a total fleet size of 1715.

The CTC has posted a call for new "specialty licenses" to companies that either move containers for export carrying a specific type of cargo/commodity from a single manufacturer or natural resource entity (often requiring specialized equipment). The closing date for specialty license applications was July 15, 2015. The CTC will issue truck tags to successful companies by August 7, 2015, which will further increase the size of the licensed drayage fleet. The CTC has formed an Industry Advisory Committee (IAC), launched a new website, and posted his intent to put in place a new policy regarding the utilization of truck tags. Following industry consultation, the CTC will put these potential policies into



practise through license changes. The Ministry of Transportation and Infrastructure (Ministry) staff have assisted the CTC in procuring the support of two staff members and securing office space. The Ministry is not aware of any current rate payment audits taking place and does not believe the CTC has issued any warnings or sanctions resulting from an audit.

DISCUSSION:

Provincial support for the Lower Mainland Container Trucking Industry

The Minister announced on July 8, 2015, its intention to construct a new truck parking facility in Delta, and the Ministry is working with PMV on a potential truck staging facility near Deltaport for truckers servicing Roberts Bank. This is part of commitments in *BC on the Move* and the Provincial Trucking Strategy.

Information to Meet Minister's Mandate Letter Reporting

An MOU between the CTC and the Minister that outlines respective roles and the responsibilities is attached for Ministerial signature. To meet commitments under the Minister's Mandate Letter, the CTC must provide to the Minister by August 31, 2015, an Annual Report for 2014/15, and by fall 2015 the CTC's projected balanced budget for the upcoming fiscal year and planned balanced budgets for the subsequent two fiscal years. This can be used as input to the report to Cabinet. The CTC should also be asked to provide an update on changes in the trucking sector resulting from the recent reform.

BCMEA Board Review

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fall of 2015 (six months after the appointment).

Transferring Licenses

The CTC have been contacted by companies who are acquiring assets of existing license holders, seeking to have the licenses transferred to the new owners. Under the license, licenses will be terminated if assets of license holders are sold. This was done to address concerns that container trucking licenses have no market value and cannot be sold or transferred (so as to avoid issues experienced with taxi licenses).

Legal Agreement between the Ministry/CTC/PMV

The successful implementation of the recent reforms and ongoing oversight of the truck licensing system will depend, in part, on the established relationships and communications between the Ministry, the CTC and PMV. PMV has agreed to collect licences fees on behalf of the CTC and distribute the funds to the Ministry. It monitors the fleet's activities through its GPS program, providing regular updates to the CTC on fleet activities. In addition, PMV issues access to trucking companies in tandem with issuance of a provincial trucking licence from the CTC. Legal counsel are drafting a legal agreement that will formalize the relationship between the Ministry, the CTC and PMV.

FINANCIAL IMPLICATIONS:

- None.

**APPROVED/NOT APPROVED**

Honourable Todd Stone
Minister of Transportation and Infrastructure

Date

Attachments: (1): Appendix 1: MOU between Minister of Transportation and Infrastructure and
Container Trucking Commissioner

PREPARED BY:

Michael Crawford, A/Senior Manager
Pacific Gateway Branch
(250) 356-9818

REVIEWED BY:

Lisa Gow, A/Assistant Deputy Minister
Partnerships Division

Grant Main, Deputy Minister
Ministry of Transportation and Infrastructure

INITIALS

LG



Ministry of
Transportation
and Infrastructure

CONTAINER TRUCKING COMMISSIONER

MEMORANDUM OF UNDERSTANDING

BETWEEN

MINISTER OF TRANSPORTATION AND INFRASTRUCTURE

AND

CONTAINER TRUCKING COMMISSIONER

April 2015

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1.0 Introduction

1.1 Preamble

The Commissioner is an independent officer appointed by the Minister with responsibility for the licensing, fees, audits, and enforcement of the drayage sector as set out in the *Container Trucking Act* and associated regulations. On appropriate matters, the Minister may designate the Deputy Minister or other Ministry staff to undertake Ministry responsibilities under this MOU. The Commissioner may designate a Deputy Commissioner or employees and consultants to undertake Commissioner responsibilities.

The Commissioner and the Ministry (through the Minister) are each independently responsible for meeting respective obligations as outlined in this MOU as mandated by legislation or as directed by the Minister. Neither party is responsible for the supervision of the other party, other than as specifically outlined in the reporting relationship set out in this MOU.

This MOU sets out arrangements and understandings concluded in good faith between the Minister and the Commissioner. The responsibilities, accountabilities and expectations set out herein recognize that the Commissioner will be:

1. Provided with the resources reasonably necessary to carry out his mandate; and
2. Accountable to the Minister for complying with applicable government administrative, financial and personnel management legislation, directives, orders and policies.

The roles and responsibilities set out in this MOU will not be interpreted or exercised in a manner that would impinge, or could reasonably be seen to impinge, upon the Commissioner's impartiality or independence in the exercise of his adjudicative functions.

1.2 Definitions and Acronyms

"Act" means the Container Trucking Act (SBC C. 28), as amended from time to time;

"Annual Report" means the report that will be submitted annually to the Minister as at fiscal year end (March 31);

"the Commissioner" means the Container Trucking Commissioner;

"Government" means the Government of the Province of British Columbia;

"Minister" means the member of the Executive Council assigned responsibility for the Container Trucking Commissioner, currently the Minister of Transportation and Infrastructure;

"Ministry" means the Government ministry responsible for the Container Trucking Commissioner, currently the Ministry of Transportation and Infrastructure;

"MOU" means this Memorandum of Understanding, entered into between the Minister and the Commissioner;

"Parties" means the Commissioner and the Minister;

1.3 Effective Date and Duration

This MOU and any amendments are effective on the date they are signed by the Parties and remain in effect until a replacement MOU is signed between the Minister and the Commissioner or the Minister and the Commissioner agree that this MOU is no longer in effect.

1.4 Review and Amendment

Either party may request a review of the MOU upon the appointment of a new Minister or a new Commissioner or any material change in circumstances that affect the work of the Commissioner.

Amendments to the MOU will be in writing, dated and signed by the Parties. Once signed, amendments will be attached to, and form part of, this MOU.

1.5 Statutory Authority

The Commissioner is established under section 2 of the Act. The Commissioner operates under the authority of the Act.

2.0 General Roles and Responsibilities

The *Container Trucking Act* provides the authority to put in place a Container Trucking Commissioner (the Commissioner), who is authorized to oversee four key drayage industry activities in the Lower Mainland:

- Setting remuneration for on and off-dock moves, including rates and fuel surcharge;
- Oversight of a licensing program;
- Management of a complaints process; and
- Responsibility for an audit and enforcement program related to rates, wait time payments and fuel surcharge.

The Commissioner has been requested to consider the following immediate deliverables:

- Rate structure review, including the review of round trip rates and independent operator hourly rates
- Fuel surcharge review
- Call out rate determination (evaluated in the context of Service Level Agreements and reservation considerations)

Longer term tasks of the Commissioner include reviewing Vince Ready/Corinn Bell recommendations to ensure the facilitation of:

- Discussions regarding Service Level Agreements between terminal operators and trucking companies with twin goals of better organizing driver work through reservation systems as well as increasing driver trips into Port Metro Vancouver and hence driver compensation;
- Stakeholder discussions regarding terminal reservations policy (including wait time issues and night and weekend gates);
- Stakeholder discussions respecting drayage governance and potential changes to regulatory framework; and
- Stakeholder discussions regarding issues that may arise such as: how to handle potential, future undercutting of rates; number of trucking companies and drivers; and moratoriums on new licenses.

The Commissioner is expected to communicate with stakeholders on an ongoing basis through both legislated requirements (laid out in the MOU), via the Whistleblower line and in person.

2.1 Minister

The Minister's general responsibilities in relation to the Commissioner include:

- Reporting to the Legislature and to Cabinet on the affairs of the Commissioner as outlined in the Commissioner's Annual Report;
- Ensuring the Commissioner complies with all applicable legislation, directives, orders, guidelines and policies relating to the Commissioner's accountability measures and management of public resources; and

- Providing the Commissioner with the financial and other resources that are reasonably required for the Commissioner to implement and administer his statutory and procedural mandate through fees collected from the container trucking industry.

2.2 Commissioner

The Commissioner's general responsibilities in relation to the Minister include:

- Being accountable to the Minister for the effective management and efficient operation of the Commissioner's resources within the Commissioner's approved annual budget;
- Ensuring that the Commissioner's procedures and processes are conducted in accordance with the Act, its regulations and other relevant legislation;
- Ensuring that Commissioner proceedings are conducted in a manner that is fair to participants and complies with the principles of administrative justice and applicable legislation; and
- Reporting to the Minister on the Commissioner's activities.

3.0 Commissioner Administration

The Commissioner, under the Act, may be supported by a Deputy Commissioner and up to 3 additional staff resources, provided funding is available within the Commissioner's budget. The Commissioner may also, or in lieu of employees, be supported via contracted resources. In order to perform his duties, the Commissioner will require:

- Licensing administration services, fee collection and management services;
- Contract management services;
- Complaint investigation services; and
- Website administration and other IT services.

The Commissioner agrees that an administrative realignment of the licencing system is required to fulfill the duties and responsibilities being assumed by the Commissioner. Therefore, the Commissioner agrees to allow Port Metro Vancouver, at no cost to the Commissioner, to provide licensing administrative support, advice and recommendations relating to license and truck tag applications and renewals, and sponsorship agreement changes as required by the Commissioner. The Ministry of Transportation and Infrastructure, Port Metro Vancouver, and the Commissioner will formalize this arrangement through a legal agreement.

Port Metro Vancouver currently has a contract with Canpro Global Solutions Inc./CKR Global Services to administer a Drayage Confidence Line (Whistleblower Contract). The Commissioner authorizes the re-assignment of the contract from Port Metro Vancouver to the Commissioner for management and funding.

At present, the Province administers contracts for audit services provided by two investigators and a program director. These contracts are due to expire September 30th, 2015. The Commissioner is of the view that the financial obligations under these contracts should transfer to the Commissioner's budget effective February 1, 2015. These contracts will remain with the Province for administration until such

time as new contracts are procured, at which point the Commissioner will be the contract administrator. All future contracts will be signed jointly by the Commissioner and the Ministry. Whether or not the Commissioner is named as a party to or has executed a contract, all contracts involving the Commissioner are considered binding on the Commissioner.

3.1 Commissioner:

- Ensuring that his administrative activities comply with the relevant statutes, regulations, policies and procedures set by Government and the Ministry.

3.2 Minister:

- Ensures that the Ministry provides the Commissioner with advice and guidance on administrative matters.

4.0 Delegation of Responsibility & Hiring Practices

Under Section 4 of the Act, the Commissioner may delegate his powers, duties and functions. Under Section 5 of the Act the Commissioner may appoint employees. In the event that the Commissioner chooses to delegate responsibility to a Deputy Commissioner, that position must be filled by Cabinet through an Order-in-Council. In selecting a Deputy Commissioner, the Commissioner shall discuss with the Minister the criteria by which the potential delegate is being considered, to ensure that the candidate has the required competencies and suitability and their selection adheres to government principles of merit based hiring under the *Public Service Act*. If deemed to be acceptable, Ministry staff will assist the Commissioner in establishing a Deputy Commissioner through an Order-in-Council.

As per Section 3 of this MOU, other than a Deputy Commissioner it is expected that support staff will be contracted and not hired as employees. However, if the Minister approves the hiring of employees, the Commissioner shall also ensure that the requirements of the *Public Service Act* have been adhered to. This means:

- All hiring must adhere to the Government's merit based hiring principles and process;
- The Commissioner has the ability to staff a Senior Executive Assistant (SEA) – this position will be automatically excluded from the union. The terms and conditions of employment, including salary and benefits is defined under the applicable collective agreement and/or management compensation framework;
- All other positions appointed by the Commissioner are automatically included in the union and, if the Commissioner chooses to pursue exclusion, will have to apply to the GEU to do so. The terms and conditions of employment for these employees will be defined under the collective bargaining agreement or the terms and conditions of excluded employees of the Government, whichever is applicable; and
- The Ministry must approve all staffing requests due to periodic provincial staffing restrictions on the Ministry.

Ministry staff are available for consultation by the Commissioner as needed regarding these issues.

5.0 Commissioner Finance and Procurement

5.1 Finance

The Commissioner's budget is included in the voted appropriation of the Ministry. The *Financial Administration Act* (FAA) and Treasury Board policies and directives apply to the Commissioner. The Commissioner is subject to audit and, as such, shall make available to the Province all financial records in the event of an audit.

5.1.1 Minister

The Minister is responsible for ensuring that the Ministry:

- Provides financial services support including but not limited to financial and procurement policies and procedures;
- Ensures that the Commissioner is consulted regarding the administration of the Commissioner's budget; and
- Works with the Commissioner on setting the Commissioner's annual budget.

5.1.2 Commissioner

The Commissioner is responsible for:

- Ensuring that his financial and administrative activities conform to relevant legislation and government/ministry policies;
- Provide all required financial information in a timely manner; and
- Ensuring that current fiscal expenditures and commitments do not exceed current actual revenue generated under the Container Trucking Act.

5.2 Fiscal 2014/15 and 2015/16

The Commissioner's first budgets (February-March 2014/15 & Fiscal 2015/16) have been set by government at \$133,000 for fiscal 2014/15 and \$800,000 for fiscal 2015/16 on the basis of \$570 per truck tag and estimated truck tags issued with licences. The Commissioner's budget will account for the costs necessary for carrying out the duties of his office including the following expenses:

- Operation of the Drayage Confidence Line (Whistleblower Line)
- Contracts for audit and enforcement
- Professional services such as legal, administrative, IT services, audits and auditor advice, and financial analysis
- Office expenses such as office space rental, supplies and services.
- Commissioner fees and travel expenses

The initial licences that have been deemed by the Act cover the period from February 1, 2015 to May 31, 2016. The Commissioner must operate within the actual revenue collected on his behalf by Port Metro Vancouver. Port Metro Vancouver will collect license fees on behalf of the Commissioner quarterly and report on and remit the revenue to the Ministry as per an agreement that will be signed between Port Metro Vancouver and the province.

5.3 Budget Setting

Budgets submitted by the Commissioner and approved by the Minister, are for the Government's fiscal year (April 1st to March 31st). The budget is based on projected fiscal expenditures forecasted income that is derived from the number of trucks in the container trucking fleet.

Each fall the Commissioner must submit, to the Ministry, a projected balanced budget for the upcoming fiscal year and planned balanced budgets for the subsequent two fiscal years.

Each fiscal year, the Minister defends his annual budget in the Provincial Legislature during Estimates Debate. In support of the Minister during Estimates Debate, The Commissioner will be required to provide any required information.

In March, Port Metro Vancouver will begin reviewing its container trucking score card and providing information to the Commissioner for use in the annual licensing process. At that time, the Commissioner will provide his budget requirements to PMV in order for the budget requirements to be reflected in the annual licence/access agreement charge.

5.4 Fees Collected by the Commissioner

New licence fees or changes to existing fees and fines require Treasury Board approval. Ministry staff will, on behalf of the Commissioner, seek such approvals. As a budget increase may mean an actual change to annual licence fees charged per truck tag, the Commissioner must provide assumptions regarding licences and associated truck tags with the proposed budget changes for Treasury Board review and approval.

5.5 Spending Authority

The Commissioner will have full authority to approve expenses that fall under the responsibility and duties of the office of the Commissioner (e.g., office expenses, administrative staff, operating contracts). These expenses must be within the Commissioner's approved annual budget, necessary for carrying out the duties of office. These expenses are must be incurred in compliance with all Provincial legislation and financial policies.

The Ministry will act as the Commissioner's financial agent in that invoices will be paid by the Ministry on behalf of the Commissioner once the Commissioner has provided his approval.

Contracts will be signed jointly by the Commissioner and the Ministry and managed by the Commissioner.

The Commissioner must adhere to OIC 062 for per diem-fees and Government approved Group II travel reimbursement policy and rates. The Commissioner must submit monthly per diem/travel forms to the Ministry for approval and payment.

5.6 Procurement

The Commissioner is responsible for conducting procurement and contracting activities in a manner consistent with government legislation, policy, and trade agreements. Specifically, the Commissioner should ensure that procurement activities:

- Are planned, managed and fully document the process to acquire goods and services;
- Use existing Corporate Supply Arrangements for goods and services where applicable;
- Manage solicitation and contract award processes in a prudent and unbiased manner that is fair to all potential vendors and bidders; and
- Ensure that contracts for goods and services are designed to provide the best value for money.

The Commissioner will follow the spirit and intent of procurement policy requirements as set out in the:

- Ministry of Finance Core Policy and Procures Manual:
<http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/CPMtoc.htm>
- The Ministry of Transportation and Infrastructure Contract Administration Manual:
<http://gww.th.gov.bc.ca/contractinfo/Content/Home/home.asp>

The Province is a party to the national Agreement on Internal Trade (AIT)

http://www.ait-aci.ca/index_en.htm and the New West Partnership Trade Agreement (NWPTA)

http://www.newwestpartnershiptrade.ca/the_agreement.asp. The Commissioner must abide by the terms and conditions of the agreements when undertaking contracts.

5.7 Industry Bonds and Irrevocable Letters of Credit

As part of the licencing requirements, each licence holder has provided and is expected to provide as a condition of licence a performance bond or irrevocable letter of credit. All current and future bonds will be held securely by the Ministry on behalf of the Commissioner.

5.8 Commissioner Performance

The Commissioner is responsible for:

- Providing by August 31 of each year to the Minister an Annual Report that contains a financial summary, a summary of statistical information regarding Commissioner decisions for the previous year and highlights of the Commissioner's activities during the previous year; and
- Upon approval from the Minister, posting the Annual Report on the Commissioner's website and making it available to the public on request.

6.0 Legal Services

The Ministry of Justice will act as legal counsel for the Commissioner. The following "core" legal services will be provided by the Ministry of Justice to the Commissioner at no cost to the Commissioner:

- Judicial Reviews
- Constitutional Litigation

The following legal services are not deemed to be “core” legal services and will be provided to the Commissioner by the Ministry of Justice at a cost to the Commissioner:

- Bias and conflict advice/litigation
- Ad hoc legal advice

Any external legal advice sought by the Commissioner must be pre-approved by the Ministry of Justice and those services will be the financial responsibility of the Commissioner or the Ministry of Justice as outlined above.

7.0 Commissioner/Stakeholder Engagement

Industry Advisory Committee

7.1 Commissioner

Pursuant to Section 29 of the Regulation, the Commissioner must establish an Industry Advisory Committee to:

- Provide a forum to facilitate cooperation amongst stakeholders in the drayage sector;
- Advise the Commissioner on all matters relating to best practices in the drayage sector, including, rates and remuneration issues and the development of contractual frameworks between trucking companies and terminal operators; and
- Provide advice and recommendations to the Commissioner with respect to the drayage sector generally or any related matter.

The Commissioner is responsible for serving as the chair of all Industry Advisory Committee meetings, and provides staff secretariat support, leadership and direction as required to assist in obtaining the input of Industry Advisory Committee members.

The IAC will work to reach collaborative solutions and/or recommendations regarding issues presented to it by the Commissioner. Any opinion expressed by the IAC will be for information purposes only and is non-binding on any organization or party – including the Commissioner.

7.1.1 Compensation

No remuneration will be offered for membership on the Industry Advisory Committee.

BC Employment Standards Branch

7.2 Minister

The Ministry will support the Commissioner in establishing all required information sharing agreements with the BC Employment Standards Branch in order for the Commissioner to work with the Director of Employment Standards on relevant issues.

8.0 Trucking Rate Regulation

8.1 Commissioner

After consultation with industry and labour, the Commissioner may choose to set new trucking rates for the sector. To do so, the Commissioner will be required to provide to the Minister a detailed summary and explanation of the proposed rate changes and results of industry/labour consultation.

8.2 Minister

Upon receiving the Commissioner's recommended rate changes, the Minister will seek approval from Cabinet to repeal some or all of the regulated rates.

Any rate changes must be communicated on the Commissioner's website.

9.0 Communications

Communication activities include publications, correspondence, stakeholder consultations and media relations. The activities must be carried out efficiently and effectively in a manner that respects the arm's length relationship between the Ministry and the Commissioner. The Commissioner:

- Does not speak for or represent either the Government or the Minister to whom he or she is accountable;
- Shall give at least 24 hours notice to the Ministry in advance of any Commissioner publications and/or news releases;
- Acknowledges that any and all documents or work products (i.e. systems, forms, reports, software, etc.) created by the Commissioner or by his or her employees or contractors are confidential and are the sole intellectual property of the Ministry; (the "Intellectual Property").
- Shall not share any of the Intellectual Property or any other information regarding the activities of the Commissioner with any other persons, entities, organisations or jurisdictions without obtaining the Ministry's written approval in advance.

9.0.1 Requirements of the *Container Trucking Act*

The Commissioner is required under Section 11 of the *Container Trucking Act* to publish, in accordance to the regulations on his website:

- a) All orders of the Commissioner;
- b) Information and records required to be submitted to the Commissioner when applying for a licence;
- c) All annual fees issued by the Commissioner; and
- d) Any revised rate and fuel surcharge structures.

9.0.2 Commissioner Requirements

The Commissioner is responsible for:

- In addition to the publication requirements above, ensuring the rules of practice and procedure and decisions of the Commissioner are accessible to the public;
- Implementing processes to facilitate stakeholder consultation; and
- Acting as public and media spokesperson on behalf of the Commissioner's Office.

9.2 Website

The Commissioner's website is the required forum by which the Commissioner publicises all relevant publications, laws, decisions, annual reports and other information. The Ministry will support the Commissioner in establishing a website by moving an existing, draft website off government servers.

9.3 Government Communications Support

The Ministry's Government Communications and Public Engagement branch (GCPE) will work with the Ministry to answer any public/media queries regarding the appointment, budget and remuneration of the Commissioner. The Ministry will, on behalf of the Minister, prepare Issues Notes and other material to brief the Minister, government and the public on issues relating to the Commissioner and container trucking. It is expected that the Commissioner will assist the Ministry in supplying requested information for the preparation of documents.

10.0 Audit and Enforcement

The Act enables the Commissioner to pursue complaints and conduct audits and investigations to ensure compliance with the Act, regulations and the license agreement. Audits and investigations will be funded and carried out by auditors under contract to the Commissioner. In the event an audit results in the need for the administration of fees or penalties, the Commissioner shall be guided by the Act. Under the Act, the Commissioner has the responsibility for reconsideration of decisions and, when issuing a reconsideration, the Commissioner must also be guided by the Act.

11.0 Information Technology Security, Record Keeping & Freedom of Information

The Commissioner will be guided, where applicable, by government best practices that support the management of recorded information. Key policies and procedures can be reviewed at the following site:

http://www.gov.bc.ca/citz/iao/records_mgmt/policy_standards/index.html

Commissioner records fall under the *Freedom of Information and Protection of Privacy Act* and the Commissioner may be called upon at any time to produce records requested under the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

11.1 Commissioner

The Commissioner shall, when requested by Ministry staff, produce documents requested under FOIPPA, for review and processing. The Commissioner may also be required to review the documents and provide potential harms to Ministry staff for analysis.

11.2 Minister

For the purposes of FOIPPA processes, the Ministry is deemed to have custody and control over the Commissioner's records and therefore, FOI requests for Commissioner records will be processed as Ministry requests. Ministry FOIPPA analysts will request records of the Commissioner and assist in reviewing potential harms in the records before releasing documents.

12.0 Commissioner Assets

Any assets (computer, phone, office equipment etc.) purchased by the Commissioner, or the Commissioner's Office, during the course of his tenure are the property of the Ministry and must be returned to the Ministry upon completion of his tenure for distribution to subsequent Commissioners.

13.0 Signatures



Mr. Andy Smith
Container Trucking Commissioner

Date

Honourable Todd Stone
Minister of Transportation and Infrastructure

Date



BRIEFING NOTE FOR DECISION

DATE: July 14, 2015

PREPARED FOR: Minister Stone, Ministry of Transportation and Infrastructure

ISSUE: Safety Review of the Commercial Motor Coach Industry

RECOMMENDED OPTION:

- **Option 1: Approve the review of safety statistics and performance and a regulatory review for the motor coach bus industry.**

BACKGROUND:

On June 27, 2015, a motor coach operated by Universal Coach Line (UCL), based in Richmond, crashed on the Coquihalla Highway approximately 20km south of Merritt. The bus hit a tow truck parked at the side of the road to assist a disabled vehicle. Approximately 37 people were injured with two people suffering serious injuries. RCMP have not definitively identified the cause, but have indicated publicly that charges are being considered in this case. Initial witness reports indicated that speed was not likely a factor.

This follows a similar incident on the Coquihalla Highway on August 28, 2014. In this case, a motor coach operated by Western Bus Lines crashed on a section of the highway resulting in 22 people with serious injuries. As with the recent incident, RCMP have not yet completed their investigation into the cause of the crash. However, they did indicate in the days following the crash that speed was not a likely factor.

DISCUSSION:

The motor coach bus sector is a relatively small component of the broader commercial transportation industry.

Motor coaches include larger buses commonly identified as 'over the road' buses with an elevated seating area over the luggage storage. (School buses and Transit buses, intended for a different use with different licencing standards, are outside the scope of this review).

This industry is regulated by the Ministry of Transportation and Infrastructure through the Commercial Vehicle Safety Enforcement (CVSE) group and the Passenger Transportation Branch (PTB). CVSE staff are directly responsible for ensuring safe operation of motor coaches through the National Safety Code (NSC) system of rating and monitoring carriers. CVSE staff inspect motor coach drivers and vehicles, provide education related to regulations and carrier obligations, perform audits and compliance reviews on carriers, and apply compliance measures based on a system of progressive discipline.

PTB staff are responsible for licensing all carriers wishing to provide passenger transportation services. Their responsibilities include receiving and reviewing applications, checking and verifying information contained within the applications, granting licenses to those that meet conditions, investigating complaints related to license compliance, and applying compliance measures to those that are in violation of regulations.



OPTIONS:

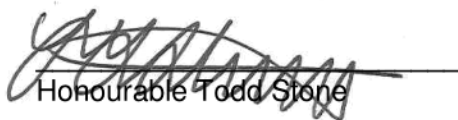
Option 1: Approve the review of safety statistics and performance and a Regulatory Review for the motor coach bus industry. The scope of this review is outlined in Appendix A – Terms of Reference

s.13

Option 2: Defer a decision on a motor coach safety review until the CVSE audit of UCL and the RCMP investigation into the crash are complete.

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APPROVED / NOT APPROVED


Honourable Todd Stone

July 14, 2015

Date

Attachments:

APPENDIX A – Terms of Reference – Motor Coach Bus Safety Review

PREPARED BY:

Mike Lorimer, Regional Director
Southern Interior Region
(250) 828-4220

REVIEWED BY:

Kevin Richter, ADM
Highways Department

Deborah Bowman, ADM
Policy and Programs Department

INITIALS:

KR

DB

Terms of Reference – Motor Coach Bus Safety Review

PURPOSE:

- **After two high profile motor coach bus crashes in the last three years, the Ministry will be conducting a review of the safety of the industry to assess trends and potential areas of improvement.**

SCOPE:

Motor coaches include larger buses commonly identified as ‘over the road’ buses with an elevated seating area over the luggage storage. School buses and Transit buses, intended for a different use with different licensing standards, are outside the scope of this review. The scope of the **Motor Coach Bus Safety Review** is outlined as follows:

Complete a systemic review of safety statistics and performance for the industry. The motor coach bus sector is a relatively small component of the commercial transportation industry. Safety trends are improving for the entire industry, but this review will look specifically at the motor coach bus sector. The review will look at various aspects of bus safety including safety trends, and statistics relative to other commercial sectors. In addition, the review will look to other jurisdictions as a comparison.

Complete a review of current regulatory framework and procedures. Review the current methodology and legislative framework in place to monitor the industry. Areas of focus may include company licensing, driver licensing, hours of service, driver training, vehicle inspections and vehicle standards.

Complete a review of other jurisdictions and best practices. Assess the level of consistency between British Columbia and neighbouring jurisdictions. In addition, include a broader review of practices around North America to look for innovative practices that are helping to make the industry safer.

TIMELINE:

Complete the Systemic Review of safety statistics and performance for the industry

- Complete by Fall 2015.

Complete the Regulatory Review and prepare a summary report for discussion

- Complete by Winter 2016.

Review Conducted by:

Ministry of Transportation and Infrastructure staff will undertake the review, overseen by both the ADM Highways Department and the ADM of the Transportation Policy and Programs Department. The ministry team will include staff from Commercial Vehicle Safety Enforcement and the Passenger Transportation Branch.

CONSULTATION:

Consultation will be focused on industry groups, safety-based organizations and other government agencies responsible for bus safety.



BRIEFING NOTE FOR INFORMATION

DATE: July 15, 2015

PREPARED FOR: Honourable Todd Stone, Minister of Transportation and Infrastructure

ISSUE: The Council of the Federation

SUMMARY:

- **The Council of the Federation meets on July 16 and 17, 2015 in St. John's, NL.**
- **The Premiers will address several issues, including internal trade, international trade and infrastructure investment.**

BACKGROUND:

The Council of the Federation (COF) comprises Canada's 13 provincial and territorial Premiers. Its objectives include:

- Promote interprovincial-territorial cooperation and closer ties between Premiers, to ultimately strengthen Canada;
- Foster meaningful relations between governments based on respect for the Constitution and recognition of the diversity within the federation; and
- Show leadership on issues important to all Canadians.

The 2015 summer COF meeting is scheduled for July 16 and 17, 2015 in St. John's, NL.

DISCUSSION:

The initiatives which are on the Premiers' agenda and are most relevant to Ministry of Transportation and Infrastructure initiatives are internal trade, international trade and infrastructure investment.

Internal Trade:

In August 2014, COF agreed to undertake a comprehensive renewal of the Agreement on Internal Trade. Initial priority areas were to include: government procurement, goods, services, investment, technical barriers to trade, and regulatory cooperation. s.13.s.16

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International Trade:

s.13,s.16



Infrastructure Investment:
s.13,s.16

FINANCIAL IMPLICATIONS:

- None.

Attachments: (1) Appendix 1: Draft Communique Sections

PREPARED BY:

Greg Gilks, Executive Director
Transportation Policy Branch
(250) 387-0882

REVIEWED BY:

Deborah Bowman, Assistant Deputy Minister
Transportation Policy and Programs Division

INITIALS

DB



Appendix 1: Draft Communique Sections

The following components of the draft communique are as proposed on July 10, 2015. The communique contains several other sections; these are the sections which are relevant to the Ministry of Transportation and Infrastructure.

Breaking down internal trade barriers

Today, Premiers announced progress on enhancing internal trade and investment. This includes signing a provincial-territorial protocol to help facilitate the mobility of apprentices in Canada and further enhance the conditions for economic growth across the country. The protocol will enable mutual recognition of technical training, work experience and associated exams for apprentices moving between jurisdictions for work, either permanently or temporarily, as well as establish clear, accessible, consistent and transparent mobility information for apprentices.

Premiers also announced the coming into force of an improved Person-to-Government dispute settlement process under the Agreement on Internal Trade (AIT). The new dispute process includes the introduction of monetary penalties for non-compliance with panel reports. Creating a fairer and more transparent process for persons and firms to challenge regulatory practices when government measures are considered inconsistent with the AIT will increase accountability and improve the flow of goods, services, investment and labour.

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Expanding international trade around the globe

Premiers discussed the importance of international trade in supporting and sustaining a competitive economy.

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The United States continues to be Canada's largest trading partner and Premiers discussed the importance of continuing to develop and support this relationship. Premiers also discussed ongoing trade issues with the U.S., including the need for the U.S. Congress to bring an end to country-of-origin labeling (COOL) for beef and pork and ongoing challenges with "Buy American" provisions in U.S. legislation.

Premiers discussed how Canada's competitors are securing free trade agreements with key trading partners in Asia. Premiers expressed their strong support for the creation of a Canada-China panel to actively explore the way to deepen bilateral trade and economic cooperation between the two countries.



The benefits of new free trade agreements can only be realized if Canadian goods and services have a clear path to international markets. It is therefore incumbent on the federal government to ensure that it has sufficient capacity in essential trade-related services to take full advantage of opportunities created by free trade agreements.

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s.13,s.16 In circumstances in which the federal government has made commitments to or agreements with provinces/territories that are linked to international trade negotiations, the federal government should honour these commitments and obligations.

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Investment in Infrastructure

Premiers agreed that investing in public infrastructure is a priority for provinces and territories and that there is a need to build on the successful infrastructure partnerships with the federal government. Canada needs to consistently invest at a level that reflects the proven capacity of public infrastructure to:

- drive economic growth;
- manage congestion and facilitate getting goods to market;
- drive international trade;
- increase productivity;
- improve Canadians' quality of life; and
- mitigate the impacts of severe weather on our communities.

The Conference Board of Canada suggests that to keep up with our competitors, the country needs to increase its current level of public infrastructure investment, which is 3.6% of GDP. Currently, the costs of public infrastructure across Canada are borne disproportionately by provinces, territories and their municipal partners, compared to the federal government. Premiers call on the federal government to make infrastructure a priority for new investment, with increased funding to provinces and territories to support the construction or maintenance of key infrastructure which is integral to economic development. s.13,s.16

s.13,s.16