

**Recommendations
concerning the proposed
*Marine Personnel
Regulations***

**Submitted to
Transport Canada**

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INTRODUCTION

The Canadian Labour Congress (CLC) is the voice on national issues for 3 million Canadian workers. As Canada's largest labour organization, the CLC brings together Canada's national and international unions, along with provincial and territorial federations of labour and 130 district labour councils. Members of CLC-affiliated unions work in all regions and virtually all sectors of the Canadian economy, including thousands of members who work in Canada's marine and transportation sectors and their associated supply chains and communities.

The CLC welcomes the opportunity to provide feedback on the proposed *Marine Personnel Regulations* (MPR). British Columbia's (BC) marine sector, including the ferry industry, is integral to the province's socio-economic growth, landscape and sustainability. From providing thousands of decent well-paying jobs, to transporting goods to and from islands and coastal communities, to providing passenger service for commuters and tourists, to allowing residents to partake in social, cultural and recreational pursuits, the integration of this industry to the broader society and economy is undeniable.

Given the importance of our ferries and marine sector to our economy and to the livelihoods of hundreds of thousands of Canadians, it is of the utmost importance that the industry is regulated and operated in a way that protects and promotes safe working environments, decent jobs, environmental sustainability, reconciliation with Indigenous peoples, opportunities for equity-seeking groups, and the sustainability of rural and remote communities.

As such, marine sector workers and their labour representatives have brought forward a number of concerns regarding the negative implications of the proposed MPR on workers, passengers and local communities.

The CLC endorses and supports the positions and recommendations that have been brought forward by CLC's affiliated union, the BC Ferry and Marine Workers' Union¹ (BCFMWU). In addition to supporting the recommendations of the BCFMWU, the CLC welcomes the opportunity to provide further details on our particular concerns with two of the proposed changes to the MPR.

First, the CLC is troubled by the changes to the Small Vessel Machinery Operator (SVMO) certificate that will raise the maximum HP allowed for passenger vessels that are sailing near coastal voyage, class 2, and less than six hours duration from 1499 kW to 1999 kW. Prior to the creation of the SVMO certificate, any vessels

¹ The BCFMWU is the largest Maritime Union in Canada, representing over 3600 members, from across 35 vessels, 47 ports of call, and numerous job sites. It is sole bargaining agent for all ferry workers in British Columbia, including those in the Trades, Ships' Officers, Commercial Services Drivers, and Unlicensed Workers, both on ship and shore.

(passenger, cargo or tug) of more than 750 kW would require a marine engineering certificate.

The CLC recommends that Transport Canada leave the allowable propulsive power rating for SVMO on passenger vessels at 1499 kW, where it currently stands in MPR Section 219(2). **Alternatively, the CLC recommends** the elimination of the SVMO certification for passenger vessels, in line with the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) adopted by the International Maritime Organization (IMO).

Second, the CLC is concerned with the proposed changes to the MPR that will shorten the window for sea time required for certificate renewal. Currently, to obtain the sea time required for certificate renewal, marine engineers are allowed to accumulate either 90 days of sea time in a one-year period, or one year of sea time in five-year period. The proposed changes would require that the 90 days be accumulated in a six-month period.

The CLC recommends that the time period allowed to obtain the required sea time for certificate renewal is not shortened, and is instead maintained at 90 days during a one-year period, or one year during five-year period.

The intent of our recommendations regarding the two proposed changes is to ensure that the MPR are designed, implemented and enforced in a manner that promotes and protects:

- the health and safety of workers and the public;
- opportunities for training, development and certification;
- decent jobs within the sector, including reducing the current labour shortage of marine engineers;
- opportunities for Indigenous peoples, women and other equity-seeking groups;
- the sustainability of rural, remote and isolated communities; and
- environmental protection and sustainability.

This written submission provides further information and details on each of these areas of concern under their respective headings below.

HEALTH AND SAFETY OF WORKERS AND THE PUBLIC

The health and safety of workers should not be taken lightly. One need not be reminded of the most recent tragedy in the transportation sector, where three workers were killed in the catastrophic derailment of a CP train on February 4, 2019.

In 2017, 251,625 Canadians lost time from work due to workplace injuries. Of these cases, 16,310 were in the transportation and storage industry.² This figure only includes reported injuries that resulted in successful claims; the actual number of injuries is much higher.

That same year, 951 Canadians lost their lives due to workplace accidents or disease. Of this figure, 70 fatalities were in the transportation and storage sector.³ Similar to the figures on workplace injuries, available statistics on workplace fatalities only capture those that resulted in successful claims. For example, using crime statistics as a comparison, these statistics would only count solved murders, excluding unsolved murders or suspicious deaths. In light of this, recent research estimates that “the number of annual work-related fatalities in Canada is *at least* ten to thirteen times higher than the approximately 900 to 1,000 annual average fatalities reported by the AWCBC.”⁴

Beyond the safety of workers, the transportation industry has an important role to play in ensuring that public health and safety, be it passengers or individuals in local communities, are not put at risk through its operations. Whether it be in the marine, trucking, or rail industry, we cannot underestimate the dangers that are posed to both workers and the public when there is improper or insufficient regulatory design, implementation or enforcement.

The CLC recognizes the need to take a balanced, thoughtful and workable approach to regulatory development in the transportation sector. We understand the fine balance that regulators must attain between upholding the economic viability of the industry and protecting the health and safety of workers and the public. Nevertheless, the proposed change to the SVMO certificate does not meet this balance and, if implemented, will put the safety of workers, the public and communities at risk.

The Chief Engineer on a ship holds the primarily responsible for safety. Removing the requirement to have this position on board, will mean that an officer with a minimum of three years of experience (as is currently required) may be replaced by a worker with solely a couple months experience.

The importance of ensuring that workers in the transportation sector have a sufficient level of education, training and on-the-job experience cannot be underestimated. One need only to look to the very recent tragedy of the 2018 Humboldt bus crash that left 19 people dead and another 13 injured. While Judge Inez Cardinal has reserved her

² Association of Workers' Compensation Boards of Canada (2018). 2017 Lost Time Claims in Canada. Statistics. Retrieved February 2019 from the AWCBC website: http://awcbc.org/?page_id=14

³ Association of Workers' Compensation Boards of Canada (2018). 2017 Fatalities in Canada. Statistics. Retrieved February 2019 from the AWCBC website: http://awcbc.org/?page_id=14

⁴ Steven Bittle, Ashley Chen, and Jasmine Hébert (Fall 2018). Work-Related Deaths in Canada. Research Note. Journal of Canadian Labour Studies. Retrieved February 2019 from the Iltjournal website: <http://www.iltjournal.ca/index.php/ilt/article/view/5897>

sentencing decision until this coming March, during the recent court proceedings the driver of the truck pleaded guilty to multiple counts of dangerous driving causing death and dangerous driving causing bodily injury. The driver's lawyer attributed his actions that caused the accident to a "classic case" of inexperience.

OPPORTUNITIES FOR TRAINING, DEVELOPMENT AND CERTIFICATION; DECENT WORK; AND PREVENTING OCCUPATION-SPECIFIC LABOUR SHORTAGES

Completing occupational training or apprenticeship programs are an often-lauded route to career advancement and success, providing workers with the training and skills needed for the jobs available. Currently, workers across many sectors and industries face a number of barriers in accessing and completing training.

Although enrollment in apprenticeships and training is on the rise, the number of Canadians in registered apprenticeships still only represents a fraction of the labour force, and apprenticeship completion rates remain extremely low at only about 56 percent. There are a number of reasons for such low apprenticeship or training completion rates, including the costs of training and tools, lower wage rates during training, separation from family and community during training, and difficulty obtaining sufficient hours to complete certification.

This low certification rate is problematic because it means that workers are not benefiting from the wage premium that comes alongside completion and certification. Across all Canadian industries and occupations, those who complete an apprenticeship and become certified earn, on average, 20.4 percent more than those who neither complete nor achieve certification.

For many years, the marine sector has been a source of quality jobs with good wages, stability and benefits. These are not only the result of collective bargaining and a strong union presence in the workplace, but are also the result of opportunities for professional development and advancement. Unfortunately, these quality jobs that are at the heart of our marine sector are currently at risk.

Over the past few decades, a series of regulatory changes in the marine sector have inhibited training and development opportunities. For example, a few decades ago regulatory changes removed the requirement for an apprentice engineer to be on board certain vessels. This regulatory change eliminated this avenue for apprentice engineers to accumulate the hours necessary to fulfill certification requirements.

Proposed changes made in the MPR to the SVMO certificate will add yet another barrier to those seeking to access professional development and obtain certification. By removing the requirement for a second engineer to be on board vessels, the proposed regulations are also removing a stepping-stone for engineers that require a sufficient level of sea time hours to acquire higher certificates.

The proposed MPR would limit opportunities for workers (especially women and Indigenous peoples) to be trained on ships and find decent work in their local, or remote, communities. This is in direct conflict with Canada's Ocean Protection Plan (OPP), which commits to enhancing opportunities for Indigenous peoples, coastal communities and women in the marine sector.⁵ The proposed regulations would inhibit opportunities for upward advancement in the careers of many workers in the industry, making it instead a "dead-end job." In some cases, the new regulations may force workers to choose between staying in their local communities and advancing in their careers, which includes obtaining the wage premium and other benefits associated with such advancement.

In relation to the proposed change that will shorten the window of time to obtain the hours required for certificate renewal, it will make it very difficult for members who do not live aboard the vessel to acquire the amount of sea time required for certificate renewal. Unlike other categories of marine engineers, coastal engineers do not spend months at a time onboard vessels and, as such, it takes longer for them to acquire the required sea time. The change is extremely detrimental to engineers' ability to uphold the certification required to retain their classification level and ultimately, to retain their job. This change is especially problematic for women who, due to higher levels of family-related duties and obligations, will be particularly disadvantaged by this change. More details on the impact on women and other equity-seeking groups is discussed in further detail below. As such, this proposed change is a step backwards for promoting and protecting opportunities for decent, well-paid jobs in the sector and present an even greater step backwards in our continued efforts to achieve more diversity among those holding officer positions.

Beyond presenting additional barriers for individual workers that are striving for better job and wage prospects, this change will only worsen the current engineer shortage facing the sector.

Despite a 2005 industry report that predicted labour shortages in the sector⁶, neither governments nor industry took appropriate steps to prevent this shortage. In light of this inaction, not only are we currently experiencing this predicted shortage, but the proposed regulations will actually further contribute to the shortage by further undermining the already stressed system for training and certification in these desperately needed occupations. It should be noted that this shortage is not due to a lack of interest in these careers. While many workers have attempted to pursue jobs in

⁵ Transport Canada (November 9, 2018) Improving marine safety through the Oceans Protection Plan. Oceans Protection Plan. Retrieved February 2019 from the TC website: <https://www.tc.gc.ca/eng/improving-marine-safety-through-the-oceans-protection-plan.html>

⁶ Roslyn Kunin and Associates, Inc. (August 8, 2005). A Comprehensive Report on the Human Resources and Human Resource Needs in the Maritime Sector in BC. Maritime Sector Human Resources Strategic Planning Committee of the Western Marine Community. Retrieved February 2019 from the Roslyn Kunin & Associates, Inc. website: <http://www.rkunin.com/>

the sector, industry's failure to take the appropriate steps to facilitate new hiring and training has meant that the paths to these careers are simply not available.

Recognizing the shortage of engineers in this sector, regulatory changes should enhance training and development opportunities, in particular support for obtaining sufficient hours to complete certification requirements, not diminish them.

As is discussed in further detail below, and in line with the government's broader strategy on decent work and enhancing opportunities for equity-seeking groups, it is essential that the government review how such changes will exacerbate barriers to training and certification that are already faced by Indigenous peoples, and other equity-seeking groups, including women, at-risk-youth, racialized workers, and new immigrants.

OPPORTUNITIES FOR INDIGENOUS PEOPLES, WOMEN, AND EQUITY-SEEKING GROUPS

As has been pointed to throughout this submission, the proposed changes will reduce opportunities for women and Indigenous peoples to be trained on ships and to find decent work in local communities.

The CLC recognizes that the government has been making efforts to consult and work with Indigenous peoples on the development and implementation of the OPP. The CLC also recognizes the importance of such consultation, not only in light of the government's commitment to reconciliation, but also given the considerable and invaluable contributions that are made by Indigenous peoples because of their expansive local knowledge of the sector. Maritime unions, including the BCFMWU and the International Longshore and Warehouse Union (ILWU), also value and recognize the importance of collaborating with Indigenous peoples in an effort to increase their representation in maritime sector jobs.

The following excerpt highlights one of the barriers that the proposed regulations present for equity-seeking groups, in particular for women. The following was written by a Marine Engineer and member of BCFMWU in response to the proposed changes to the MPR that will shorten the window for sea time required for certificate renewal:

“As a Marine Engineer and mother, the changes to the sea time requirements to renew a certificate concern me. Starting a family presents many challenges for women in the marine industry. Aside from pregnancy, working conditions and leave, female officers are faced with the challenge of ensuring that they are able to get enough days at sea to maintain a certificate. Transport Canada is wanting to change regulations so that the 90 days in one year will no longer apply. Now an officer will need 90 days in the 6 months before their certificate expires or 360 days in 5 years. If a woman chooses to have 2 children in a 5-year period and cannot sail for a

period of the pregnancy plus takes 1 year of maternity leave with each birth (Canadian government standard) getting 360 days while working on the coast will be difficult. Creating a shorter timeline in which to collect the required sea time to renew a certificate presents an additional barrier. Although having a family is a personal choice, putting policy in place that is detrimental to one group of mariners is not the way to encourage more women to join the industry.”

THE SUSTAINABILITY OF RURAL, REMOTE AND ISOLATED COMMUNITIES AND ENVIRONMENTAL PROTECTION

For many island, coastal, remote and isolated communities, ferries are an important and essential source of income. The proposed MPR removal of the third class certification on board, which currently generally requires two watches per day, will reduce the much needed influx of income into rural and remote communities.

The proposal to remove the third class certification on board will also reduce the ability to address emergencies on board in an efficient and timely manner, putting the vessel’s surrounding environment, and the species and communities that depend on it, at risk. In line with the important work being done on the OPP, ensuring the safest handling of passenger ships is essential to protecting against accidents that could be devastating to the waters, species and surrounding environments.

CONCLUSION

The CLC expresses concern that the two proposed MPR discussed in this written submission will: put the health and safety of workers and the public at risk; erect barriers to training, development and certification; reduce the number of quality jobs in the sector and exacerbate the current labour shortage of marine engineers; disproportionately disadvantage Indigenous peoples, women and other equity-seeking groups; and will harm the sustainability of rural and remote communities and the environment.

As such, **the CLC recommends that** Transport Canada leave the allowable propulsive power rating for SVMO on passenger vessels at 1499 kW, where it currently stands in MPR Section 219(2). **Alternatively, the CLC recommends** the elimination of the SVMO certification for passenger vessels, in line with the STCW adopted by the IMO.

The CLC further recommends that the time period allowed to obtain the required sea time for certificate renewal is not shortened, and is instead maintained at 90 days during a one-year period, or one year during five-year period.

