

What is the Guild's Position on The Importance of Consistent Enforcement of Marine Safety Regulations? Particularly with Regard to Tugs – January 2025

Transport Canada has had a project underway for many years to make amendments to the *Marine Personnel Regulations* (MPR's) and has invited comments and suggestions a number of times. The Guild has made numerous written submissions since 2010 regarding improving the safety requirements of the MPR's based on feedback provided by Guild members indicating that the provision for the protection of the safety of **crew members** has not been adequately addressed. One of the highest priorities demanded by Guild members was the requirement that the ability to recover a crewmember falling overboard be made mandatory for all tugs. Guild members have repeatedly pointed out that a number of the high-horsepower, multi-deck ship berthing tugs that they worked aboard, did not in fact have the ability to recover a crewmember falling overboard and that the matter needed to be addressed by Transport Canada.

Secondly, an additional priority brought forward by Guild members for many years has been the need for increased oversight and enforcement regarding so-called "under-tonnage" tugs (the many vessels registered as "under 15 gross tons"). The Western Branch of the Guild has reported to Transport Canada numerous instances of under-tonnage vessels that were obviously being operated with insufficient crew levels to be able to meet safety requirements.

The Guild and other unions have advocated extensively to have safety regulations amended to specifically address these 2 gaps, and for increased enforcement of existing rules.

Below (in blue) are the Guild's proposals sent to Transport Canada regarding these two important matters, which were submitted again, prior to the most recent deadline for MPR revisions in the Spring of 2022. These submissions were previously posted onto the Guild website with a notice emailed to all members at that time containing a link to the submissions:

A) *CMISG Comments on Draft New Marine Personnel Regulations* - *Minimum Safe Manning*

Sections 3004 to 3006 of the Draft MPR require that the minimum crew complement of the vessel must be sufficient to be able to ensure:

- the security of the vessel (this is mentioned 3 times)
- the protection of the marine environment (this is mentioned 3 times)
- the evacuation of passengers on board (this is mentioned 3 times)
- carrying out a fire patrol, and other important considerations are also identified.

We submit that having a sufficient complement on board a vessel to ensure the "SAFETY OF THE **CREW**" is clearly missing, and needs to be added in the 3 places where ensuring the "vessel security" and "protecting the marine environment" have already been identified. We further propose that having a sufficient complement on board a vessel to "**RECOVER A PERSON FALLING OVERBOARD**" needs to be added immediately following each of the 3 instances where the "evacuation of passengers" has already been identified. The Guild has made a number of previous submissions regarding the importance of Transport Canada implementing a requirement to have a sufficient number of persons on board vessels in order to be able to recover a person falling overboard, particularly with regard to multi-deck, high-horsepower ship-berthing tugs. This factor needs to be specifically added to the determination of the safe manning level of a vessel. It is as important as having a minimum complement sufficient to evacuate passengers and to respond to other emergencies, and in our view it is MORE important than some of the other factors that have been specifically identified in draft Section 3004 through 3006.

B) CMSG Comments on Draft New Marine Personnel Regulations **- Division 1 - Minimum Safe Manning - Part 3 – Crewing**

The “*Application*” Section of draft 3002 (c) indicates that this Division would not apply to uninspected vessels. We propose that these draft regs be amended to indicate that this Division does not apply to uninspected vessels “**OTHER THAN TUGS**”

CMSG Rationale: “Uninspected” Vessels refers to vessels under 15 gross registered tons. In many cases, tugs under 15 gross tons perform the same work as tugs over 15 gross tons. By proposing to have Division 1 not apply to these tugs, the draft proposes to exempt tugs under 15 gross registered tons from the Minimum Safe Manning regulations. In order to comply with watchkeeping requirements and to prevent fatigue and to be able to cope with emergencies, all vessels need to be operated with a safe level of manning, particularly tugs, which are known for small crew sizes and sometimes risky assignments. To ensure a level playing-field across the tug industry, the minimum level of safe manning should be approved and enforced by the regulator (Transport Canada).

In this country, there is a well-known problem with tonnage measurements of tugs, and this has not been addressed. The matter was identified once again following the 2017 accident with the 9.81 Gross Ton tug “Ocean Monarch” (see public [Transportation Safety Board - Investigation Report # M17P0244](#)). The report states that following the accident, the TSB obtained a sampling of tonnage measurement data for tugs measuring 12 to 15 m long and registered as not more than 15 GT currently operating in BC. Using this data, the TSB conducted an analysis of 51 tugs' depth dimensions to determine whether they were realistic, given each tug's overall registered GT. The TSB assessed that 17 tugs did not have accurately registered GT measurements because of unrealistic depth dimensions. At the time of the occurrence, the Ocean Monarch's GT was estimated as 63.6 not 9.81 tons as registered with TC.

This public TSB report also contains a reminder that in the Spring of 2017, TC inspected 30 tugs of not more than 15 GT and 30 tugs of greater than 15 GT. Based on an analysis of results from the campaign, TC concluded that tugs of not more than 15 GT had significantly more instances of regulatory non-compliance than tugs of greater than 15 GT. The TSB report also contains a reminder that prior to any of this, the Guild and other stakeholders had brought the tonnage measurement issue to the attention of TC: “In 1991, owners of tugs with accurately registered GT measurements, the Canadian Merchant Service Guild, and some employees on tugs with inaccurately registered GT measurements brought this issue to the attention of TC. ... To understand the magnitude of the issue, TC conducted a survey and identified at least 25 tugs registered as less than 15 GT that were suspected to be of greater than 15 GT. After deliberations with industry, TC grandfathered these tugs. The Ocean Monarch was constructed around the time this decision came into force. Although TC did not grandfather the Ocean Monarch, following a dispute between TC and the owner, TC did allow the tug to be listed with a GT of 9.81, even though its actual GT was calculated as 31.18”

The Guild recognizes that we are proposing an administrative burden on Transport Canada by advocating that, for important safety reasons, all tugs, no matter what their gross tonnage supposedly is, should be required to comply with the Minimum Safe Manning requirements of the Marine Personnel Regulations. However, an increased administrative burden is legitimately justified because it has been recognized that tugs of under 15 GT have more instances of regulatory non-compliance than tugs of over 15 GT; tugs of under 15 GT often perform the same work as tugs of over 15 GT; there is a well-known and long-standing problem with the measurement of the gross tonnage of tugs in Canada; and most-importantly, establishing and enforcing proper levels of safe manning is but one minimum contributing factor to improving safety on all tugs.

Why is the Guild Sending Out this Notice?

Very recently, a major West Coast towboat company made a decision to lay up one of their tugs, which is a disappointing development. The vessel is registered over 15 gross tons and therefore is subject to inspection. During a routine inspection, Transport Canada made a determination that the vessel crew size needed to be increased to a minimum of 3 personnel instead of 2. The vessel is not one of the multi-deck ship berthing tugs identified by Guild members. The company does not agree with Transport Canada's assessment of the minimum safe manning level.

The purpose of this bulletin from the Guild is two-fold. On the one hand, the safety submissions made by the Guild to Transport Canada have been included (above in blue) to provide an **accurate** picture or reminder of "where exactly does the Guild fit in this". And on the other hand, this is an opportunity to emphasize the importance of why safety requirements, especially minimum safe manning levels, need to apply to all tugs regardless of their "supposed" tonnage.

A number of Guild members have indicated that they have information regarding tugs that are registered under 15 gross tons that operate with insufficient crew, which leads to safety deficiencies and risk of fatigue and accidents. Examples would include a 2-person vessel engaged on trips which exceed 18 hours.

As you know, there is a requirement for at least two personnel to be on watch in the wheelhouse during periods of darkness and in other circumstances. There are certain exceptions, including for vessels engaged in log-sorting, and for tugs engaged in ship berthing etc. but not for vessels engaged in long trips. To comply with the regulations regarding "Hours of Rest", a crewmember must have a minimum of 6 hours of rest in the first 24-hour period and 16 hours of rest during a 48-hour period. It would be impossible for a 2-man operation to comply with these provisions for a continuous trip exceeding 18 hours, which would obviously include periods of darkness, during which the entire complement of the vessel would be required to be on watch continuously. Regardless of tonnage, not only are these types of operations not permitted by the *Marine Personnel Regulations*, but they have been identified as contributing to serious accidents.

It would be useful for the Guild to have accurate examples of instances that identify either tugs that are supposedly under 15 gross tons, or their operators, engaging in voyages or work or routines that do not comply with the Hours of Rest requirements, or the requirements for maintaining a 2-person watch or other safety regulations regarding manning levels. The Guild has reported such infractions in the past to Transport Canada, however in the event that you have knowledge of recent examples of such behaviors or patterns or specific instances with "under tonnage" vessels, especially if the circumstances led to any problems or hazards, please submit this information as soon as you have an opportunity to the Western Branch office of the Guild. You should include as much detail as possible including your contact information, however your confidentiality will be protected and your identity will not be disclosed without your permission.