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Workers rally, May Day 2017, at Pearson International as part of airport workers' fight for rights.

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## Government Amendments to Canadian Aviation Regulations

# Trudeau Government Abdicates Social Responsibility for Aviation Safety

- Pierre Chénier\* -

Federal Minister of Transport Marc Garneau proposed amendments to the Canadian Aviation Regulations on June 30. The changes deal with hours of work and rest periods for flight crews of air carriers operating in Canada. According to the Minister of Transport, the new regulations are aimed at improving the safety of passengers and flight crews. However, even a brief look at the regulations reveals that the changes do not respond to repeated requests from pilots for necessary and urgent measures to reduce pilot fatigue.

The proposed regulations continue the discredited system of self-regulation by the air carriers themselves in dealing with aviation safety. Nowhere is air safety considered to be a matter of principle that takes precedence over the aims of private air carriers and restricts what they can do to receive permission to operate. On the contrary, the air carriers consider air safety as subordinate to their business plans, similar to the companies in the railway sector. The document accompanying the new regulations repeatedly says that the government should not impose prescriptive measures on air carriers; otherwise it will hamper their performance as commercial enterprises.



The Minister of Transport published the proposed amendments in the *Canada Gazette*, Part I, on July 1. The news release states, "Canadians and members of the industry are encouraged to provide feedback on the draft regulations until September 29, 2017."

It is striking that the regulations proposed by the Minister introduce a concept of "fit-for-duty rules" applying only to workers. The concept of "fit to operate an airline" is nowhere to be found in the regulations. The communique states that the proposed amendments include, "New fit-for-duty rules that will prohibit any flight crew member from working while they are not fit for duty. This will include consumption of alcohol or drugs, mental and physical conditions, and fatigue."

In this regard, the federal government appears more interested in taking disciplinary action against workers than taking measures that reduce pilot fatigue and reduce the likelihood of a pilot contracting a physical or mental illness.

## Hours of Work and Fatigue Reduction

According to the Minister of Transport, consultations with pilots and others on hours of work and their relationship to fatigue have been ongoing for seven years. It must be noted that the most recent regulations date back to 1996 and did not even recognize the issue of time of day, that is to say the effect on fatigue depending on whether the flight is in the daytime or night-time.

The Minister's proposed changes in hours of work, while taking night-time into account, do not meet the demands that pilots have made for years based on scientific studies. The scientists include those

from NASA and even Transport Canada itself. The studies examined standards established throughout the world and the experience of the pilots themselves.

The basic demand of the pilots is that for any flight service commencing after 5:00 pm, the maximum duty period be 10 hours and the maximum flight time period 8.5 hours. Duty time includes all of a pilot's duties prior to take-off, the flight time and any post-flight operations required to complete the service. Flight time is the period of time when the pilot is actively engaged on the flight deck.

The government's amendments do not change the current regulations in the sense that they do not specify a limit on maximum flight time within a day. What they do is reduce flight time over an entire year, from 1200 hours to 1000 hours per calendar year and give a duty period of between nine and 13 hours depending on the start time of a pilot's shift.

These changes are not consistent with the demand of the pilots who have been very clear in demanding regulations to govern maximum flight time within daylight and night-time hours for all pilots regardless of whether they fly small aircraft or work for larger carriers. The government is proposing company-controlled "fatigue reduction regulations" for pilots while opposing the specific demands of those who are experiencing and documenting this fatigue!



In the typical Trudeau Liberal way, Transport Canada is claiming that consultations were held with unions and others, but is forced to recognize that unions are critical of the proposals and is asking the unions to show a spirit of compromise.

### **Fatigue Risk Management System**

As in the rail sector, the proposed regulation will incorporate the new measures into fatigue risk management systems (FRMS) that will empower air carriers to exempt themselves from the proposed rules (which are already unacceptable to workers) by developing their own fatigue management system.

The proposed regulations will provide an opportunity for air carriers to deviate from prescriptive measures (except the maximum annual flight time period and maximum annual service time) if, "they can demonstrate, by way of a safety case, that they can provide at least the same level of safety as the prescriptive requirements introduced as part of this proposal."

The document reads: "For example: an air operator could be permitted to fly longer than the prescribed flight duty time limit if they can meet Fatigue Risk Management Systems requirements and show that alertness and fatigue will not be affected."

The document continues: "The proposal would amend prescriptive requirements (except for private operators and aerial work air operators) and introduce an FRMS option to deviate from the prescriptive requirements for all air transport services in Canada."

As in the railway industry, the Ministry of Transport says it is using a "holistic risk management approach" in opposition to a prescriptive approach that relies on enforcement of legislation and regulations.

Pilots are urgently asking for safety measures. They themselves have defined the most basic one, which is a prescriptive measure for all pilots on flight time and flight service on evenings and nights to reverse the current unacceptable situation. In response, the federal government, always keen to use phrases to mask what is really going on, has concocted a holistic fantasy world in which the airline can "identify hazards; assess risk; develop mitigation strategies; offer training and education programs; introduce fatigue monitoring systems; and adopt continual improvement processes to reflect changing circumstances; and feedback."



**One of the demands of striking CP railway workers in 2015 was for proper rest periods to prevent fatigue.**

The people are to believe that airline workers in all these years never identified hazards and know nothing about them and their solutions, which for starters would be specific enforceable regulations on flight time for pilots.

What will Transport Canada do in all this? The role it has taken and will continue with these amendments is to put the power in the hands of the private airlines to regulate themselves in a manner that serves their narrow private interests. The Ministry will rubber stamp their reports on safety, if they even bother to read them, or have non-scientific personnel in human resources read them. The *Canada Gazette* document is very clear about continuing the policy of no restrictions on airlines and enforcement: "There will be zero administrative cost to the Government of Canada, since Transport Canada does not intend to approve the FRMS. Instead, Transport Canada would require the air operators to notify Transport Canada by means of a notice of intent and a letter of confirmation that they would be using an FRMS to manage pilot flight duty periods. Only upon request, the air operator would have to submit documentation describing their system, a safety case supporting the proposed deviation(s) and a year's worth of data to support their suggested flight schedules. Transport Canada regional inspectors would assist to administrate the process as part of their day-to-day activities, which would simply be added to the inspection schedule at no additional cost to the Government."



And if that is not clear enough, it adds:

"The regulatory administration cost associated with the aforementioned activities would be negligible. The assessment process is expected to be part of the responsibilities of existing resources. Preliminary assessment also concluded that hiring additional personnel would not be required. Therefore, there would be no overall incremental regulatory administration."

Transport Canada inspectors are described not as worker and passenger safety advocates and front-

line interveners with the power to stop an operation if it is not safe, but as detached readers of

company reports. In this way the federal government adds reading of company reports to the responsibilities of the inspectors without having to modify the existing resources and heaven forbid increase costs to enforce safety regulations. The already insufficient resources of the Transport Ministry will be used to prettify the retrogressive concept that the private transportation oligopolies are those who know best what is good for safety and wish to incorporate safety into their "operating costs" to remain competitive in the global air transport market.

The safety of workers and passengers is not considered a principle that gives rise to restrictive measures by the state on the ability of private monopolies to do as they please to suit their aim of private profit at the expense of the well-being of all. Safety measures are turned into hollow policy statements that have no teeth except to attack the workers themselves and make them scapegoats when disasters occur.

The Workers' Centre of CPC(M-L) fully supports the fight of the pilots to defend their safety and the safety of passengers and communities. It also lends its voice to the fight of all transportation workers against the degrading of their working conditions, the privatization of Canada's transportation systems and weakening of state restrictions on the monopolies that may serve the common good.

\* *Pierre Chénier is Secretary of the Workers' Centre of CPC(M-L).*



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## Pilots Severely Criticize Transport Canada's New Regulations



**Click to enlarge.**

As part of their Safer Skies campaign to urge Transport Minister Marc Garneau to introduce stricter rules on airline safety, pilots' organizations are criticizing the new regulations that Transport Canada announced on June 30.

In a July 4 release, the pilots' unions declare that the changes posited by Transport Canada are well below what scientists propose in terms of fatigue reduction, including scientists working for NASA

and Transport Canada itself. The recommendation of the scientists, the unions say, is to limit the duty time of pilots starting work after 5:00 pm to 10 hours, which amounts to 8.5 hours of flight time. Duty time includes pre-flight duties, flight time and post-flight operations. Pilots are calling for these limits to be put in place and enforced by Transport Canada.

Not only does the new Transport Canada regulation not take into account pilots' demands on the regulation of flight time and duty time at night, but, the unions state, "The new maximum allowable time for long haul flights at night far exceeds the hours recommended for pilots by NASA's Ames Research Center by up to 25 per cent."

The pilots also criticize the proposals for implementation because they create a division amongst pilots, their passengers, and the communities they serve. They point out that pilots flying smaller aircraft will have to wait a full four years to be protected by the meagre measures Transport Canada is proposing while implementation for the pilots of the larger carriers is 12 months.

Pilots also criticize the fact that the rules are based on a fatigue risk management system (FRMS). This system does not rely on science-based prescriptive limits or even independent verification and approval, and supervision by Transport Canada. The FRMS allows carriers to exempt themselves from rules according to their own business plan and considerations, rules that are already deemed unacceptable to pilots. According to the pilots' unions, "This will allow operators to place commercial considerations ahead of safety concerns, thereby creating an unacceptably low margin of safety for Canadian air passengers and for those communities and neighbourhoods near airports."

## **Petition on Fatigue Reduction**

In April 2017, unions representing Canadian pilots began circulating a petition calling for Transport Canada to adopt specific measures to reduce the fatigue experienced by pilots. The petition is addressed to the Minister of Transport and can be signed online [here](#).

The petition reads:

"Petition to the Minister of Transport

"Whereas:

"Canada's commercial pilots play an essential role in safeguarding their passengers, crew and the public;

"Scientific research has established that fatigue impairs cognitive ability and performance for all -- including pilots;

"Other jurisdictions, including the U.S., have updated pilot fatigue rules to manage the risk of fatigue;

"Canada's current pilot fatigue rules are more than 20 years out of date;

"The government's proposed updates to Canada's pilot fatigue rules do not adequately align with fatigue science, especially for long-haul night flights, or with limits established in other jurisdictions; and

"The proposed fatigue rules would permit air operators to bypass these fatigue limits by introducing weak Fatigue Risk Management System (FRMS) provisions that lack adequate regulatory oversight, pilot input, and enforcement provisions.

"We, the undersigned, residents of Canada, call upon the Minister of Transport to protect the safety of passengers, flight crews and the public by amending the proposed flight crew fatigue management regulations to:

- "1. Afford pilots and passengers of all sizes of aircraft -- whether they carry passengers or cargo -- the same protective fatigue limits, coming into force at the same time;
- "2. Address pilot fatigue on long-haul flights at night by limiting duty periods that begin after 1700h to 10 hours (or 8.5 hours of flight time) -- in line with NASA research findings; and
- "3. Ensure that any FRMS relies on science-based prescriptive limits as a foundation, requiring independently verifiable data and stringent Transport Canada approval and oversight."

The Safer Skies campaign is supported by Canada's largest pilot groups: the Air Canada Pilots Association; the Air Line Pilots Association International; Unifor; Teamsters Canada; the International Association of Machinists and Aerospace Workers and the Office and Professional Employees International Union.

For more information on the campaign, visit [www.SaferSkies.ca](http://www.SaferSkies.ca)



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#### 4th Anniversary of the Railway Tragedy at Lac-Mégantic

### Lac-Mégantic Residents Demand Railway Security



July 6, 2017 marks the fourth anniversary of the railway tragedy at Lac-Mégantic. The disaster killed 47 people, destroyed the downtown area, and contaminated the surrounding land as well as the Chaudière River. On the sombre occasion, the Coalition of Citizens and Organizations for Railway Safety held a press conference near the railway tracks where the derailment took place. The Coalition demanded the Federal and Quebec governments take immediate action on railway safety beginning with the building of a bypass route around Lac-Mégantic so that dangerous products, especially crude oil, no longer travel through the town. The Coalition forcefully declared that railway safety must be at the heart of all economic development affecting the town and surrounding region and that the people living there should have a say on these developments.

The Coalition denounced, among other things, that instead of building a bypass the railway section where the train convoy derailed was rebuilt days after the tragedy with an eight degree curve, even more pronounced than the original one of four degrees. This makes the route even more dangerous in terms of a possible derailment. This information was revealed to residents only this past May during hearings of the Bureau d'Audiences Publiques sur l'Environnement on the social acceptability of various railway options following the tragedy.

The rebuilt line has been in use since January 2014 for the weekly passage of over ten convoys belonging to the Central Maine and Quebec Railway company, which purchased the assets of the bankrupt Montreal, Maine and Atlantic Railway, the operator of the train that derailed and exploded on that tragic night four years ago. The Central Maine and Quebec Railway regularly transports tank cars through downtown Lac-Mégantic. Similar to before that fateful night, the tanks are filled with dangerous substances such as propane gas, sulfuric acid and gasoline containing ethanol. The transportation of crude oil is expected to resume in 2018. Without a bypass, the Coalition demands at the very least that the curve in the railway where the derailment took place be reduced to the minimum.

The Coalition also raises another risk factor concerning the sorting out of the content of the freight cars. Presently, this is done on the service track at the height of the slope, which descends non-stop into the downtown. Any problem with handling of the freight and in connecting to the main track could lead to a train heading off on its own down the steep slope. The fact that the service track is being used for freight handling also means that trains are still being parked on the main track and not the service track, which is what happened on the night of July 6, 2013 when the parked train full of crude oil raced down the slope on its own, derailed and exploded. The Coalition demands that corrective action be taken on these matters.

As for the bypass route, the Coalition denounces as unacceptable the lack of action by governments, which claim further studies are necessary and then use this as an excuse not to propose any time frame for construction to begin. The Coalition reports that the City Council of the neighbouring municipalities including Nantes and Frontenac have reached an

agreement with the town of Lac-Mégantic on a modified bypass route that is considered safe. The proposed route would minimize passage through farm and forestry land. The farm and forestry producers affected by the bypass have said they would agree to the proposed route in exchange for financial compensation. The Coalition claims that the only factor missing for construction to begin is the political will of the federal and Quebec governments to make it happen! The lack of urgency by governments puts additional stress on residents who have suffered so greatly and demand their safety be the main consideration in the operation of the railway.

On the occasion of the 4th anniversary of this tragedy, *Workers' Forum* extends its support to the people of Lac-Mégantic and the region who are fighting to have their voices heard. Their rights, safety and well-being must be at the heart of all measures to revitalize the town and economy and provide a future for those who have endured such a calamity.







Rally, July 10, 2016, marked the 3rd anniversary of the Lac-Mégantic train disaster.



**Opposition to Public-Private Health Care Facilities in Newfoundland-Labrador**

**"A Government Is Supposed to Provide Good, Strong, Wholesome Public Services "**

*- Interview, Wayne Lucas, President, CUPE Newfoundland and Labrador -*



**CUPE Rally against privatization of Health Care in St. John's, July 11, 2017.**

**Workers' Forum:** The Canadian Union of Public Employees, Newfoundland and Labrador held a rally on July 11 in St. John's to mobilize people against what you call public-private partnerships (P3s) -- Trojan Horse of Liberal health care. This is part of a campaign you are planning to wage across the province. What is the aim of the campaign?

**Wayne Lucas:** Like the Trojan Horse at the time of the Trojan War, the P3s are promised by the government of Newfoundland-Labrador as a gift to the people but you have to be aware of the gift you receive. Sometimes, they are not what they seem to be. During the Trojan War, the Trojan Horse was sent by the Greeks to the city of Troy. After 10 years of war, they gave them the gift of a hollow wooden horse. Inside the horse there were 30 Greek soldiers and the Greeks gave the impression they were sailing back to their country. The people of Troy were happy that this was a gift terminating the war and they took the horse inside the gates of the great wall. While the people of Troy were sleeping, the soldiers crept out of the horse and opened the gates and the rest of the Greek soldiers came back and that was the end of Troy.

This government says that the P3 projects are a gift to the people but it has been proven beyond the shadow of a doubt that P3s benefit one group of people, the big business interests and the wealthy of society, to the detriment of the people inside long-term care hospitals and of course the employees. So we have a 15-foot hollow Trojan Horse that we want to bring around the various communities to tell the people that this government is trying to hoodwink us. We vow to reach every community we can and educate people that what happened with the Trojan horse, that was supposed to be a gift to the people and was the downfall of Troy, in the same way it will be bankruptcy for Newfoundland-Labrador.

The Liberal government has plans for two new health care facilities in Corner Brook as P3 facilities, a long-term care home and a new regional hospital. Because CUPE and other unions have been protesting for years, the government is saying to the people that they have nothing to worry about, that they understand this concern about P3s, that these facilities are going to be publicly run with public employees. We are saying to the people not to fall for that either. In North Bay for example, the people were told the same thing. Years later, there have been three rounds of cuts, beds have closed, employee's jobs have been in jeopardy and the thirst for profit just trumps everything else. The reason is that the entrepreneurs' responsibility is to their shareholders, to make sure that they maximize the profit they can make for their shareholders.



In Newfoundland, we also have got the experience over the last 60-70 years of being in Confederation that usually business interests trump the interests of ordinary Newfoundlanders and Labradorians, of employees and the general public.

We also say that here is a government that is unapologetic in saying that it does not want to govern. A government is supposed to provide good, strong, wholesome public services. Governments are elected to provide the [public with] services, not to serve their masters, not to serve profit makers. They are not listening to the evidence we provided, to the Ontario situation where the P3 experience has been a real disaster.

If we move in this direction, in 10-15 years from now, everything is going to be privatized. The government is actually saying that they are looking at all options -- anywhere there is public service they want to privatize; they are saying that privatization is a better system, that it is cheaper. This is not true. It may look true in the first couple of years because they can hide the money on the books, but when Auditor Generals get involved in five to ten years time they discover just like in Ontario that there are cost overruns in the billions of dollars.

**WF:** How did the rally go in St. John's and are you planning other actions this summer?

**WL:** The rally was very good. We had about 60 people. We rallied first at Glenbrook Lodge which is part of CUPE Local 879, then marched for a while on the sidewalk until we came to an intersection where there was less traffic. We brought the horse into the streets and marched behind the horse. We ended up in a beautiful park, and we had speakers from the NDP and labour who were highly critical of any type of implementation of P3 projects. The spirit was good, the membership was upbeat, people were saying that we have to keep up the fight, that we are not going to let down the next generation.

We are planning to organize a few more actions in St. John's and then get to the west coast of Newfoundland, certainly to Corner Brook, go to the sites where the new facilities are supposed to be built and then go to other cities.



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