

## Creighton, Kathleen

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**From:** Collins, Mark  
**Sent:** March 10, 2020 9:57 AM  
**To:** Bruce Chan; John Horning  
**Cc:** Storey, Corrine; Marshall, Captain Jamie; Johnston, Darren; Fagen, David; Clackson, Gregg; Barabash, Jason  
**Subject:** RE: Safety (pax isolation v enclosed car deck)

Hello Bruce,

Thanks for your email.

Yesterday I talked about this directly with the Deputy Minister of Transport Canada, Michael Keenan, and his point person for marine regarding Covid, Regional Director General (Pacific), Robert Dick. At present they believe the risk of covid transmission on a ferry is less than the several risks mitigated by the closed car deck regulation. So they do not anticipate a change at this time. They are not dogmatic about this, however, and will change their stance if there is evidence that a change is warranted. In their view that evidence is not yet in hand.

Ferry operators already have, and have always had, the ability under the regulation to allow limited numbers of people to remain on closed car decks, on a case by case basis, at the Master's discretion. Our staff are using this ability to allow people who declare they are sick to remain, at the Master's discretion.

On-board sales and revenue are not part of our decision making considerations.

We are in touch with TC and public authorities regularly. I am also consulting with the ferry operator sector across Canada via the CFA. The sector presently shares the view that there is no compelling evidence to open the closed cars as yet. If that changes CFA will approach TC with a request for temporary change. I will let the Board know if this happens.

Kind regards,

Mark

Mark F. Collins  
President & CEO  
British Columbia Ferry Services Inc.

M: [REDACTED] FOIPP Act, ss. 15, 19 and 22

-----Original Message-----

From: Bruce Chan <[REDACTED]> FOIPP Act, s. 22  
Sent: March 10, 2020 8:39 AM FOIPP Act, s. 22  
To: John Horning <[REDACTED]>; Collins, Mark <Mark.Collins@bcferries.com>  
Cc: Storey, Corrine <Corrine.Storey@bcferries.com>; Marshall, Captain Jamie <Jamie.Marshall@bcferries.com>  
Subject: Safety (pax isolation v enclosed car deck)

## **Creighton, Kathleen**

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**From:** Collins, Mark  
**Sent:** September 06, 2020 12:54 PM  
**To:** John Horning  
**Subject:** Re: BC Ferries Task Force - Updated Draft COVID Framework

Good day John,

please feel free to circulate the following to the board, as you think best.

In responses to Bruce's comments about the Transport Canada decision, here is the summary of managements actions and position.

We were informed about two months ago that the regulation would be reimposed in the fall but no date was given. We were told government would set the date based on input from industry.

We made a detailed submission, 125 pages, to Transport Canada answering questions and detailing our procedures. We proposed a date of January 2021. Following the submission we heard nothing further from TC until Tuesday last week.

On Tuesday last week Transport Canada informed us the date would be 30 September. We again requested January 2021. They refused saying the decision had been taken and was final.

The next day, Wednesday, we received a formal letter from Transport Canada reiterating the date and simultaneously implying we were now both noncompliant with the regulation and responsible for ensuring the public compliance with the regulation. We do not agree with either of these statements and have legal justification for our disagreement.

We've written to Transport Canada objecting to the letter and asking for its withdrawal.

We have also had a series of telephone meetings with Transport Canada objecting to the letter and asking for its withdrawal. The meetings were with the director general of marine safety and security, the federal minister of transportation, the provincial minister of transportation, the deputy minister of Transport Canada and the special advisor for the Pacific region to the federal minister of transportation. These discussions took place between Wednesday and Friday of last week.

In all of these discussions TC made clear the date is fixed and will not change.

We maintained our position that there is risk of widespread noncompliance if the rule is re-imposed on 30 September. This is because cases in British Columbia are on the increase.

We also vigorously put forward our view that BCFerries is not, and has never been, non-compliant with the regulation as we were operating under a Transport Canada exemption. We subsequently received verbal assurances from the federal Minister of transportation's office that they agree we have not been noncompliant. But I'm still waiting to see that in writing.

Our second major objection is about enforcement. The regulation and the law is quite clear: It is the individual traveller who must comply and the operator is not responsible to ensure compliance. This was well confirmed in the first implementation two years ago.

Nonetheless, Transport Canada appears to be attempting to once again cast operators in the role of enforcer. We will not accept this. It is for Transport Canada to provide enforcement and it is for the operator to provide information. This was our position before and it is our position today. We are on solid legal ground and we will continue to insist on the withdrawal of their letter which states the contrary.

FOIPP Act, s. 13

As it stands today we are planning to reactivate our normal closed car deck procedures on 30 September. Our communications plan is well developed. We will place the “trigger” for this event squarely on Transport Canada, and they know that we will do this.

I am very concerned about the potential for abuse of our workers. We will not enforce on the car deck, rather we will inform and advise. This is the way we handled it before and it’s how we will do it again.

We expect the public to be much more resistive this time and we will have extra security and support for our people as required.

Moving people up from the main deck may also have some impact on the total number of passengers we can carry, due to physical distancing requirements. We expect this impact will be small. We are doing the calculations now.

To address the specific suggestions from Bruce:

- We have provided Transport Canada with our mitigation plans including extra patrol people, but they ignored this and went for September 30. So that conversation has been done and is, I’m afraid, closed.
- We explored modifying the ships the first time around two years ago. Those solutions have all been rejected by the regulator.
- The BC government has been engaged, as noted above.
- As noted, we do not enforce and we never have. We will not do so in this time. We are not required to enforce by law. We are merely required to inform and advise. That’s what we will do this time.
- At the same time we are insisting that Transport Canada provide enforcement so as to provide protection for BC Ferries front line workers.

That’s where we stand right now. Happy to answer any questions.

Regards

Mark

## Creighton, Kathleen

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**From:** Collins, Mark  
**Sent:** October 21, 2020 10:14 PM  
**To:** Johnston, Darren  
**Cc:** Storey, Corrine  
**Subject:** Re: Enclosed Vehicle Decks - Disclosure of Customer Information

Darren,

What has been the response from Transport Canada on the 500 or so reports we have submitted to date? Any actions or planned actions on their part?

Thanks

M

M Collins  
BC Ferries

M: [REDACTED] FOIPP Act, ss. 15, 19 and 22

On Oct 19, 2020, at 17:32, Johnston, Darren <Darren.Johnston@bcferries.com> wrote:

Diana,

Please see attached.

Thank you,

Darren Johnston  
Executive Director, Fleet Operations  
**British Columbia Ferry Services Inc.**  
The Atrium  
Suite 500, 1321 Blanshard St., Victoria, BC V8W 0B7

[REDACTED] FOIPP Act, ss. 15, 19 and 22  
[darren.johnston@bcferries.com](mailto:darren.johnston@bcferries.com)  
**bcferries.com | Facebook | Twitter**

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<201020 Transport Canada - Disclosure of Customer Information.pdf>



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October 19, 2020

Diana Trager  
Regional Director  
Marine Safety and Security  
Transport Canada  
Suite 820 – 800 Burrard Street  
Vancouver, BC V6Z 2J8  
[diana.trager@tc.gc.ca](mailto:diana.trager@tc.gc.ca)

BY EMAIL

**Re: Enclosed Vehicle Decks – Transport Canada Enforcement Activities  
Disclosure of Customer Information to Transport Canada**

Dear Ms Trager,

We are writing with regard to section 152 of the Cargo, Fumigation and Tackle Regulations (“CFTR-152”) and BC Ferries’ disclosure of customer personal information to Transport Canada in support of the obligation of customers to vacate enclosed vehicle decks while BC Ferries’ vessels are under way.

Transport Canada has enforcement abilities under the *Canada Shipping Act* and can levy administrative monetary penalties (fines) to customers for a violation of CFTR-152 (“enforcement activities”). Transport Canada has provided BC Ferries with a form to be completed and returned to Transport Canada, so that it has the basic customer information with which to pursue enforcement activities, and BC Ferries may, at its discretion, also provide additional details about customers to Transport Canada in support of the enforcement activities (“customer information”).

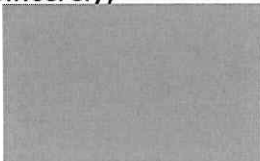
As we are sure Transport Canada will appreciate, customer confidentiality and privacy is of paramount importance to BC Ferries. We would like to take this opportunity to confirm that Transport Canada will ensure that the customer information it receives from BC Ferries through the enforcement activities will be administered in accordance with the privacy laws of Canada, including the *Privacy Act* (Canada) and the *Freedom of Information and Protection of Privacy Act* (British Columbia). Without limiting this, BC Ferries confirms that Transport Canada will:

- Continue the secure transfer of customer information between BC Ferries and Transport Canada, in a manner agreeable to both parties;
- Make reasonable security arrangements to protect the customer information once in its custody;
- Use and disclose the customer information only for the purposes of the enforcement activities, or as required by Canadian law, unless it has BC Ferries’ prior written agreement;
- Store and access the customer information only in Canada;

- **Dispose of or destroy the customer information when it is no longer required for the enforcement activities; and**
- **Promptly respond and provide reasonable details to BC Ferries in response to its inquiries about the administration of the customer information, including how it has been used, disclosed, accessed, stored or disposed of.**

**We appreciate Transport Canada's support with regard to customer confidentiality and privacy, and would be happy to respond to any questions you might have about the foregoing. We request please that you counter-sign a copy of this document and return it to my attention to confirm your understanding and agreement to the above.**

Sincerely,



s. 22 - signature

**Darren Johnston  
Executive Director, Fleet Operations**

**The undersigned hereby acknowledges and agrees to the contents of this letter:**

\_\_\_\_\_  
**Transport Canada  
Representative Countersignature**

**cc: Mark Collins, President & Chief Executive Officer  
Corrine Storey, Vice President & Chief Operating Officer, Operations  
Gordon Hunter, Legal Counsel  
Jason Eamer-Goult, Senior Manager, Regulatory & FOIPP**