

Consultation Guidance Document

Review 2017-18 of the Railway Safety Act

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Message from the Panel

On April 26, 2017, the Honourable Marc Garneau, Minister of Transport, announced our appointment to the *Railway Safety Act* Review (Review). We are mandated to conduct a comprehensive and independent review of the *Railway Safety Act's* authorities, governance and operation. We are proud to have been chosen for this work, and look forward to doing our part to make rail transportation in Canada safer and more secure. Our focus will be on ensuring that this primary piece of legislation for the safety and security of the railway transportation network in Canada continues to uphold the best interests of Canadians. We will be submitting a report with our findings and recommendations to the Minister of Transport by May 1, 2018.

This Consultation Guidance Document has been published to help stakeholders participate in the Review. The Review will not only seek formal written submissions from stakeholders, but it will also aim to promote dialogue among the key players that have provided submissions, by organizing roundtable discussions on the issues that could benefit from such a process. The Panel will also meet bilaterally with many stakeholders, and will ensure a web presence, so that members of the general public can engage directly with the Review.

Your written submissions are key, foundational inputs to this Review, and will inform much of the work that we will carry out over the upcoming fall and winter. We also encourage you to participate in our online consultation forum, or to write to us ahead of your more detailed submissions, so that the Panel can learn about what is most important to you early on. This will allow us to focus our research and gain a better understanding of the key issues ahead of the consultations to be held in the fall.

Based on our preliminary work, we have identified a number of issues and associated questions that we believe warrant further investigation by ourselves, as well as by those involved in making rail transportation safer. We invite you to consider these issues and questions as you prepare your written submissions to the Review. We also recognize that there may be issues that we have overlooked, and as such we are prepared to consider additional issues that are within the scope of this Review¹.

This Consultation Guidance Document provides background and summary information on rail safety in Canada and on the mandate of the Panel, and identifies the [six main questions](#) that will guide the Panel's work. Additional questions are provided in Appendix A to help you focus on key issues that we are interested in exploring. We look forward to hearing from you.

Richard Paton, Chair

Brenda Eaton, Vice-Chair

¹ It is worth noting that the requirements for the transportation of dangerous goods, such as placarding, means of containment, and emergency response in the event of a dangerous goods spill, are not within the scope of our Review. These matters fall under the framework of the *Transportation of Dangerous Goods Act*.

Pauline Quinlan, Vice-Chair

Introduction

In addition to being inextricably linked to early Canadian history and associated with many Canadian landscapes, rail transportation is integral to the supply chain for numerous commodities and vital to Canada's economic activity, including its trading relationship with the United States and the rest of the world. Each year more than \$280 billion worth of goods is transported by Canada's freight railways, including half of the country's exports by volume². Canadian railways carry a wide variety of products to market, such as: agricultural products, including grain; coal; forest products; minerals and metals; machinery and motor vehicles; fertilizer materials; fuel and chemicals; industrial products; and intermodal containers. From a passenger transportation angle, Canadian railways transport more than 75 million passengers each year. Canada has commuter railways serving its urban centres, and intercity passenger rail service connecting Canadians from coast to coast.

Given rail transportation's importance to the economy, and given Canadian imperatives of safe transportation and the protection of the environment, rail transport operators must operate at the highest possible levels of safety. While Canadian railways, at the aggregate level, appear to be improving their safety performance, a number of unfortunate events in recent years have served as reminders that there is room for improvement. Indeed, strengthening railway safety has been identified as a key priority for Canadians and the Government of Canada³.

On April 26, 2017, the Minister of Transport launched, a year before it was required, a Statutory Review of the *Railway Safety Act* (Act) with a focus on the effectiveness of the federal rail safety legislative and regulatory framework, the requirements of the Act itself, and the degree to which the Act meets its core objective of ensuring the rail safety regime is working in the best interest of Canadians. As the *Railway Safety Act* is the primary piece of legislation for the safety of the railway transportation network, the review of its authorities, governance, and operation will help address issues raised by Canadians and by rail stakeholders to further strengthen rail safety across Canada.

The purpose of this Consultation Guidance Document is to help interested parties participate in the Review in a meaningful manner. To this end, the document contains background and summary information on rail safety in Canada and the mandate of the Review. Importantly, the document also identifies a number of issues and associated questions that, in the Panel's opinion, need to be further analyzed and considered in the context of the Review. It is the Panel's expectation that stakeholder submissions will focus on these issues and will be a key input to the Review.

The Railway Safety Regime in Canada

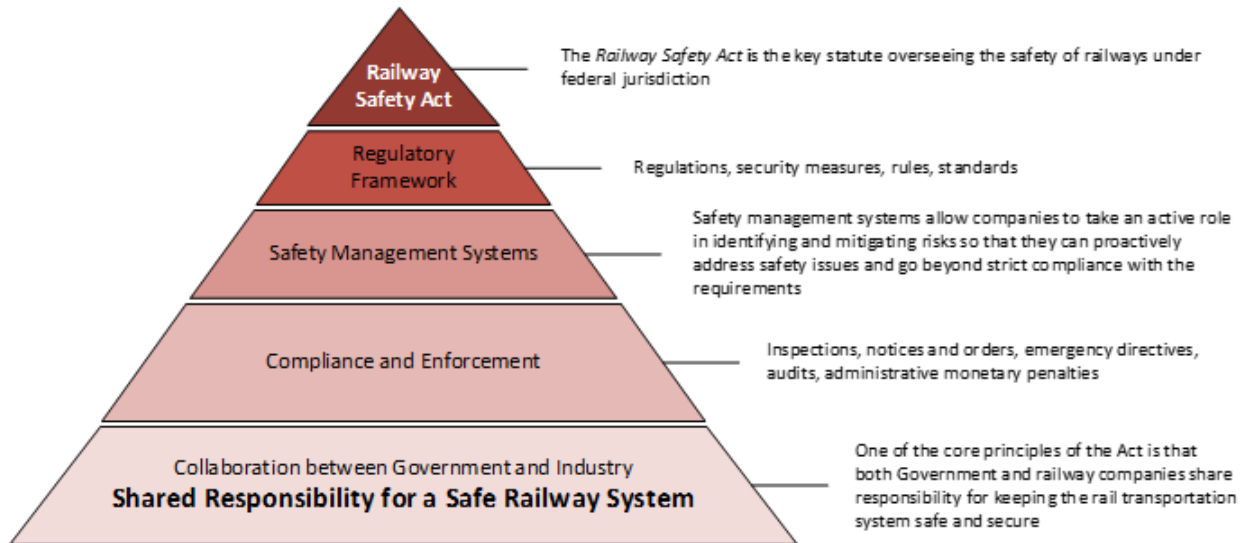
Although the Government of Canada plays a key role, rail safety is truly the responsibility of many parties, including railway companies, governments at multiple levels, railway employees

² Railway Association of Canada (RAC), *Railway Trends 2016*.

http://www.railcan.ca/assets/images/publications/Rail_Trends_2016/Rail_Trends_2016.pdf

³ Minister of Transport Mandate Letter. <http://pm.gc.ca/eng/minister-transport-mandate-letter>

and their unions, railway customers, and the public. Rail transportation should be viewed holistically with individual interrelated elements working together to achieve rail safety in Canada. These interrelated and interdependent elements forming Canada’s railway safety regime need to be of sufficient quality to ensure the overall regime functions safely and effectively. The legislative and regulatory framework under the *Railway Safety Act* recognizes this, and is currently structured to leverage each party’s roles, responsibilities, and expertise to advance safe rail transportation.



Review 2017-18 of the Railway Safety Act

Need for a Review of the Railway Safety Act

The last Review of the Act was completed in 2007. The Panel at the time found that the Act and its general principles were fundamentally sound but recommended that a number of improvements be implemented⁴. In response, Transport Canada undertook various measures, including amending the Act. These amendments came into force in May 2013 and June 2015 and granted greater oversight and enforcement capacity as well as new regulation-making powers to the Governor in Council.

Following the accident in Lac-Mégantic, the Government of Canada implemented a series of immediate actions to further strengthen the federal rail safety regime. These included the issuing of Emergency Directives to immediately address initial safety risks highlighted by the accident, the accelerated development of a series of new rules and regulations, as well as the above mentioned legislative amendments to the Act.

⁴ *Stronger Ties: A Shared Commitment to Railway Safety*, Report of the *Railway Safety Act* Review Secretariat, November 2007.

Since 2014, Transport Canada has promulgated six new or updated regulations: the *Grade Crossing Regulations*; the *Railway Safety Management System Regulations, 2015*; the *Transportation Information Regulations*; the *Railway Operating Certificate Regulations*; the *Administrative Monetary Penalties Regulations*; and the *Prevention and Control of Fires on Line Works Regulations*. The Government also repealed obsolete regulations and orders made under older versions of the Act and has revised or introduced major rules, in particular, the *Train Securement Rule* and the *Rule Respecting Key Routes and Key Trains*. Finally, the Minister of Transport recently introduced legislative amendments in the House of Commons that would create a mandatory regime for in-cab locomotive voice and video recorders across Canada's federally-regulated rail industry.

Transport Canada has also been working to address recommendations from recent studies focusing on rail safety, including an Auditor General Report on the Oversight of Rail Safety⁵, a Transport Canada Internal Follow-up Audit of Rail Safety⁶, and several Parliamentary studies^{7,8} (Please see Appendix B for a full list of key enhancements post-2013 to the safety of rail and the transportation of dangerous goods).

The activities identified above have resulted in significant modifications to the railway safety legislative and regulatory framework. A number of these modifications, however, are still being implemented and there has not been sufficient time for their full effect to be felt. As such, a key challenge for the Review will be to assess, without complete information, where the residual weaknesses in the regime lie, and how best to address them. The Panel is particularly interested in issues where progress has been difficult or where challenges have persisted despite the recent changes.

To help address this challenge, this Review will build on earlier work, carry out its own analysis, and draw from the experience, knowledge, and opinions of those with an interest and a stake in rail safety.

Key Questions

The key overarching questions that will underpin the Panel's work are listed below. These questions, together with those found in Annex A, should also guide participants' input to this Review.

1. Do the various components of the *Railway Safety Act* (e.g. regulations, rules, Safety Management Systems, the compliance and enforcement regime) work as intended? What could be improved?

⁵ Auditor General of Canada. (2013). "Chapter 7 – Oversight of Rail Safety – Transport Canada." *2013 Fall Report of the Auditor General of Canada*. Retrieved from http://www.oag-bvg.gc.ca/internet/English/parl_oag_201311_07_e_38801.html

⁶ Transport Canada. (2015). *Follow-up Audit of Rail Safety*. Retrieved from https://www.tc.gc.ca/media/documents/corporate-services/Follow_up_Audit_of_Rail_Safety.pdf

⁷ Standing Committee on Transport, Infrastructure and Communities. (2014). *Interim Report on Rail Safety Review*. Retrieved from <http://www.ourcommons.ca/DocumentViewer/en/41-2/TRAN/report-3>

⁸ Standing Committee on Transport, Infrastructure and Communities. (2016). *An Update on Rail Safety*. Retrieved from <http://www.ourcommons.ca/DocumentViewer/en/42-1/TRAN/report-6>

2. Have the changes made over the past five years been effective in addressing some of the major issues that have emerged regarding rail safety?
3. Does the *Railway Safety Act* put the Government in a good position to address current and future security threats to the rail transportation system?
4. What key issues remain, that if successfully addressed, would result in a further strengthening of the railway safety and security regime?
5. What recommendations do you have that will ensure progress on these residual issues?
6. Are the current roles played by Transport Canada, the railways, provinces, municipalities and other stakeholders in keeping the railway transportation system safe and secure sufficient? Should changes be made?

How to Participate

The Panel wants to hear from those with an interest in rail safety, whether they be railway companies, industry associations, private citizens, researchers, or any level of government. The Panel plans to carry out much of its consultations in the fall of 2017, following its initial scoping and research phases. Face-to-face consultations will be held with those parties that have provided formal submissions and could include bilateral meetings and roundtable discussions on key issues. Through its consultation forum, the Review is also making it possible for Canadians to answer and discuss some of the key questions that are guiding the Panel's work.

Interested persons are free to provide submissions at any time through the consultation portal, or at the below coordinates, and are encouraged to refer to the website for information on the progress of the Review. **For transparency considerations, all submissions will be published on the website, except where the authors express a compelling rationale for redacting elements of their submissions.**

Stakeholders are invited to provide formal written submissions to the Panel as soon as possible, and no later than September 22, 2017. The consultation forum will remain open until December 29, 2017.

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Appendices

Appendix A - Topics to be Explored

The following list of key questions is designed to help focus input from stakeholders. It is not an exhaustive list and does not in any way restrict the possibility of other issues coming forward. When providing input stakeholders are asked to consider what is working well, what needs improvement, and the significance of the issues being raised. For example, what areas are working as expected, what areas may require limited modifications, and finally what are the significant gaps that if not addressed could erode the Government and industry's ability to achieve a safe and secure rail transportation regime?

1. Overall Provisions of the *Railway Safety Act* including Roles and Responsibilities

The *Railway Safety Act* grants the Minister of Transport authorities relating to the oversight of railways that are within the legislative authority of Parliament. The Act provides the regulatory framework for railway safety, security, and for protection against some of the environmental impacts of railway operations in Canada. The Act also provides for the development of railway-initiated rules and Minister-mandated rules for railway operation and maintenance, a practice that is not commonly observed in other legislative frameworks. Collaboration and shared responsibilities for railway safety are key characteristics of the Act.

Transport Canada's Rail Safety Directorate is the departmental organization responsible for developing and enforcing the regulations, rules, engineering standards, and policies necessary to oversee the safety of railway operations in Canada. It includes Railway Safety Inspectors who are designated by the Minister to monitor the safety of railway operations, equipment, infrastructure, and road crossings. The conduct of rail accident investigations is undertaken by the Transportation Safety Board of Canada which is independent of Transport Canada and reports to Parliament through the President of the Queen's Privy Council for Canada.

- 1.1. Are the roles, responsibilities and authorities for rail safety in Canada clear? Is the current structure appropriate? To what extent should the responsibilities of railways be reflected in the Act? Are all the participants fulfilling their roles and responsibilities?
- 1.2. How effective is the rule-making process? Are there particular aspects of this process that might benefit from a closer examination?

2. Adoption of Safety Management Systems and Safety Culture

The Act seeks to promote and provide for safety in the operation of railways using a modern, flexible and efficient regulatory scheme adapted to the current context of the rail sector. A Safety Management System (SMS) is a key tool to achieve this objective. An SMS is defined as a formal framework for integrating safety into day-to-day railway operations; it includes safety goals and performance targets, risk assessment, responsibilities and authorities, rules and procedures, and monitoring and evaluation processes. Transport Canada assesses the industry compliance through risk-based oversight that includes SMS audits and on-site inspections.

- 2.1 Since the last Review have there been advances with integrating safety into day-to-day railway operations?
- 2.2 Is the current SMS approach to managing risks working - for the owners and employees of railway companies? For their customers (shippers and travelers)? For those who live near railway lines? For Canadians?
- 2.3 What role should Transport Canada and railway companies play in reinforcing Safety Management Systems?
- 2.4 Do railway employees have the training and support they need to properly implement SMS and integrate safety culture into their day-to-day activities? Do Transport Canada employees have the training they need to evaluate whether a company's SMS is effective? What kind of training would be helpful?

3. Quality and Use of Performance Data for Risk Management

The 2007 Review highlighted the need for better railway safety data collection, analysis and dissemination and proposed a number of recommendations focused on improving this area. Following that Review, Transport Canada's Rail Safety Directorate adopted a new Integrated Oversight Model to allow for the planning and prioritizing of its activities based on risk. Moreover, the Transportation Information Regulations were amended to give the Department access to more data to support this effort.

- 3.1 Does the current risk management framework adequately address safety issues relating to current and future traffic volumes and types of goods being carried?
- 3.2 Does Transport Canada have sufficient data to carry out robust risk analysis in order to address the challenges of the railway safety mandate?
- 3.3 What is the current quality and availability of performance information? Is it contributing to establishing key performance indicators regarding the state of rail safety?
- 3.4 Is performance information being analyzed and disseminated? To what extent is it contributing to a feedback loop regarding risk management and learning?

4. Ability to Respond to Industry Trends

The railway industry is continually evolving and attention needs to be paid to key trends that will shape the industry in the future, to the impact these will have on safety, and to whether the *Railway Safety Act* allows for the necessary adoptions to occur.

4.1 Economic

- 4.1.1 Will trade patterns and population growth affect route planning and traffic through major urban centres, and further exacerbate proximity issues?
- 4.1.2 Will there be an increase in congestion due to passenger and freight trains operating on shared tracks? What would be the safety impact should alternative routes or trade corridors be implemented?

4.2 Infrastructure

- 4.2.1 How can Canada ensure the required investments in infrastructure to accommodate future traffic patterns, train lengths, and train volumes?
- 4.2.2 Can infrastructure funds and programs (beyond the existing Rail Safety Improvement Program) be leveraged to fund projects that would increase safety around rail lines (e.g., grade crossings)?

4.3 Technological

- 4.3.1 Is the RSA framework properly positioned to address industry advances in technology and innovation?
- 4.3.2 There is potential that new technology will increase safety, for example through assisting with the identification of risks or the causes of accidents. Are there any barriers preventing the rail industry from investing in these technologies? Can the Government of Canada assist in their adoption?
- 4.3.3 Does the adoption of new technologies impact the skill set required of railway employees?

4.4 Labour

- 4.4.1 4.4.1 Do employee fatigue, hours of service, and overtime remain concerns for railway safety?
- 4.4.2 4.4.2 Are there best practices to be gained from work-rest requirements in other modes of transportation or employment sectors?
- 4.4.3 4.4.3 Is there a need to regulate testing for use of substances like alcohol and drugs?

5. Relationship Building and Coordination

Rail safety is the shared responsibility of multiple parties. The Act applies to railway companies, as well as road authorities, municipalities, and the public. There are also inter-jurisdictional relations to consider between the Government of Canada and many provincial governments. For example, the Act applies to provincially-regulated railway companies operating on federally-regulated tracks. In addition, the Government of Canada currently has several Memoranda of Agreement with provincial governments to conduct rail safety inspections on their behalf. Finally, there's an international component since much of Canada's federally-regulated rail industry also operates in the United States and falls under the Authority of the Federal Railroad Administration (FRA).

5.1 Federal – Provincial Interface

- 5.1.1 Are the roles and responsibilities of the provinces and municipalities clear and adequate?
- 5.1.2 Should the provinces be consulted on the drafting of rules and regulations? To what extent?
- 5.1.3 Should smaller railways that mostly operate on provincial track be subject to the same requirements as larger national railways?
- 5.1.4 Are the current Federal-Provincial agreements an effective approach to safety oversight?

5.1.5 Is there sufficient harmonization with provincial jurisdictions? To what extent is alignment still required and in what areas?

5.2 Proximity/Railway – Municipality Interface

5.2.1 Is there sufficient dialogue between railway companies and communities/municipalities? What can be done to ensure that railway companies and communities/municipalities work together to advance rail safety?

5.2.2 Are there barriers to collaboration between companies and communities/municipalities? What are they? Can they be addressed?

5.2.3 What incentives are available at the various levels of government to reduce or eliminate trespassing?

5.2.4 Are the “Guideline for New Development in Proximity to Railway Operations” a useful tool? Do they go far enough? What more could be done?

5.3 Consultation with Stakeholders

5.3.1 Is there adequate information sharing and transparency between Transport Canada, railway companies and stakeholders? Can this be improved?

5.3.2. Are there stakeholders that should be consulted on rail safety matters that are not currently consulted?

5.3.3 Does the current rule-making process allow for sufficient consultation with stakeholders?

5.4 Canada and USA Coordination

5.4.1 Is there sufficient harmonization with the USA? To what extent is alignment still required and in what areas?

6. Promoting Railway Security

Rail transportation remains a possible target for terrorist attacks. The RSA provides for the government to make regulations respecting the security of rail transportation and to designate any person whom the Minister considers qualified as a screening officer. Screening officers may require that a person or any goods undergo screening before coming on board railway equipment or entering a restricted area. The Act also sets out that a judge of a superior court may appoint a person as a police constable to protect railway company property and the persons and property on that property.

6.1 Are the roles, responsibilities and authorities for the security of rail transportation in Canada clear? Should any changes to the authorities be considered to further improve the security of rail transportation in Canada?

6.2 Does the RSA position the Government well to address future threats to the security of rail transportation?

6.3 Can Transport Canada advance its degree of preparation for rail security threats?

Appendix B - Key Enhancements Post-2013 to Safety of Rail and Transportation of Dangerous Goods

The following tables summarize the different actions that Transport Canada has undertaken to strengthen both rail safety and the transportation of dangerous goods in Canada since 2013. While not all of these measures have been undertaken under the authority of the Railway Safety Act, they are nonetheless all included below, to provide a complete picture of what has changed since 2013.

Table 1: Legislative Changes

Act	Key Measure	Date	Objective
<i>Railway Safety Act</i>	New Powers to Minister and Inspectors	June 2015	The <i>Railway Safety Act</i> was amended to provide both the Minister of Transport and Transport Canada Railway Safety Inspectors with several authorities to address rail safety issues when there is a risk, threat or concern to railway operations, to persons or properties in relation to grade crossings.
<i>Canada Transportation Act</i>	Liability and Compensation Regime	June 18, 2016	The <i>Canada Transportation Act</i> was amended to strengthen the liability and compensation regime for railways (e.g., risk-based minimum insurance levels and a supplementary shipper-financed compensation fund). Federally-regulated railways are required to carry a mandatory minimum level of insurance, based on the type and volume of dangerous goods they carry, ranging from \$25 million to \$1 billion.
<i>Transportation Modernization Act (Bill C-49)</i>	Mandating Locomotive Voice and Video Recorder (LVVR)	May 16, 2017	Bill C-49 proposes to amend the <i>Railway Safety Act</i> to mandate the installation of LVVR in locomotive cabs to further enhance the safety of the rail transportation regime in Canada. The proposed legislative amendments would also limit the purpose for which the data is used, to mitigate employees' privacy concerns.
<i>Transportation of Dangerous Goods Act</i>	DOT-111 Tank Car Standard	July 2, 2014	<i>The Transportation of Dangerous Goods Act</i> was amended to update the DOT-111 tank car standard, including thicker steel requirements and top fitting and head shield protection.

Act	Key Measure	Date	Objective
<i>Safe and Accountable Rail Act</i>	Accountability	June 19, 2015	The coming into force of the <i>Safe and Accountable Rail Act</i> is intended to enhance rail safety and make the rail industry and crude oil shippers more accountable to Canadians.

Table 2: Regulatory Changes

Regulations	Date	Objective
<i>Grade Crossings Regulations</i>	December 17, 2014	The <i>Grade Crossings Regulations</i> establishes comprehensive and enforceable safety standards for grade crossings; clarifying the roles and responsibilities of railway companies and road authorities; and requiring the sharing of key safety information between railway companies and road authorities.
<i>Railway Administrative Monetary Penalties (AMPs) Regulations</i>	April 1, 2015	The AMPs regulations introduce penalties as a new enforcement tool to help ensure compliance with the <i>Railway Safety Act</i> and its regime.
<i>Railway Operating Certificates (ROC) Regulations</i>	January 1, 2015	<i>The ROC regulations</i> dictate the baseline safety requirements that railway companies need to meet in order to operate on federally-regulated railways in Canada.
<i>Railway Safety Management Systems (SMS) Regulations</i>	April 1, 2015	The SMS Regulations require a documented framework for integrating safety into day-to-day operations and allowing companies to identify risks and take early action. The new SMS Regulations apply not only to railway companies (federally-regulated companies) but also local railway companies (provincially-regulated railway companies operating on federal track
<i>Transportation Information Regulations (TIRs)</i>	April 1, 2015	The TIRs were amended to require data reporting from Class I and Class II rail carriers to better identify and address safety risks.
<i>Prevention and Control of Fires on Line Works Regulations</i>	Coming into force June 2017	Designed to enhance rail safety by reducing the likelihood of fires along railway lines which result from railway operations.
<i>Transportation of Dangerous Goods Regulations</i>	May 20, 2015	Amendments were made to the <i>Transportation of Dangerous Goods Regulations</i> to establish TC-117 tank car standards, the next generation of stronger, safer rail tank cars.

Table 3: Railway Safety Rule Changes⁹

Rule	Date	Objective
<i>Canadian Rail Operating Rules</i> (i.e., Train Securement Rule, or Rule 112)	October 14, 2015	Amendments were made to the <i>Canadian Rail Operating Rules</i> to address final Transportation Safety Board recommendations pertaining to train securement.
Rule Respecting Key Routes and Key Trains	February 19, 2016	The requirements in the rule seek to reduce the risks and the consequences of rail accidents involving dangerous goods.

Table 4: Emergency Directives

Date	Objective
July 23, 2013	An Emergency Directive was issued under the <i>Railway Safety Act</i> to require securing unattended locomotives and establish the number of crew members required for operating a locomotive carrying dangerous goods.
April 23, 2014	An Emergency Directive was issued under the <i>Railway Safety Act</i> to require railway companies to immediately implement key operating practices, including reducing the speed of trains transporting dangerous goods.
October 29, 2014	An Emergency Directive was issued under the <i>Railway Safety Act</i> to establish a standardized minimum for hand break applications and specific testing requirements, and additional physical defenses for unattended trains.
April 23, 2015	An Emergency Directive was issued under the <i>Railway Safety Act</i> to slow trains transporting dangerous goods.

Table 5: Ministerial Orders

Date	Objective
October 29, 2014	A Ministerial Order was issued under the <i>Railway Safety Act</i> to require railway companies to develop and enhance rules on train securement.
October 29, 2014	A Ministerial Order was issued under the <i>Railway Safety Act</i> requiring certain railways (including short lines) to submit training plans to Transport Canada for review.
August 17, 2015	A Ministerial Order was issued under the <i>Railway Safety Act</i> renewing requirements for all railway companies and local railway companies to formulate rules and, as the case may be, revise rules respecting the transportation of dangerous goods.

Table 6: Transportation of Dangerous Goods – Protective Direction

⁹ Rules are developed by the industry and approved by the Minister of Transport. They have the force of law once approved.

Protective Directive	Date	Objective
Protective Direction No. 31	October 17, 2013	Protective Direction No. 31 was issued under the <i>Transportation of Dangerous Goods Act</i> requiring any person who imports or offers for transport crude oil to retest, or classify, their crude oil prior to shipment, and, in the interim, ship it at the highest packing group level (PG1) until testing is completed.
Protective Direction No. 32	November 20, 2013	Protective Direction No. 32 was issued under the <i>Transportation of Dangerous Goods Act</i> requiring railway companies to share information with municipalities to support emergency planners and first responders.
Protective Direction No. 36	April 28, 2016	Protective Direction No. 36 was issued under the <i>Transportation of Dangerous Goods Act</i> to replace Protective Direction No. 32. It requires railways to provide municipalities and first responders with even more dangerous goods information to improve emergency planning, risk assessments, and help train first responders. It also requires operators to provide jurisdictions with information that can be shared directly with the Canadian public.
Protective Direction No. 37	June 6, 2016	Protective Direction No. 37 was issued under the <i>Transportation of Dangerous Goods Act</i> to require top-fitting protection when TC/DOT-111 tank cars are retrofitted according to the retrofit schedule introduced in May 2015 regarding the TC-117 tank car standard. These requirements will enhance the safety of the transportation of flammable liquids including crude oil and ethanol in Canada, and will further align Canadian requirements with those for retrofitted TC/DOT-111 tank cars in the U.S.
Protective Direction No. 38	July 25, 2016	Protective Direction No.38 was issued under the <i>Transportation of Dangerous Goods Act</i> to accelerate the phasing out of DOT-111 tank cars for crude oil service to November 1, 2016. The accelerated timeline will phase out unjacketed legacy DOT-111 tank cars six months early and legacy jacketed DOT-111 cars 16 months early.

Table 7: Funding

Fund	Date	Objective
Rail Safety Improvement Program	October 12, 2016	The Rail Safety Improvement Program provides grant and contribution funding to improve rail safety and reduce injuries and fatalities related to rail transportation in the areas of infrastructure, technology, and research, as well as public education and awareness. Its total funding is \$55 M to spend over three years.

Appendix C - Overview of the Railway Safety Act¹⁰

The Act is the main safety legislation governing the operations of federally-regulated railways in Canada. The Act gives the Minister responsibility to oversee rail safety. It establishes a regime for the regulation of rail safety in Canada founded on the principles that railway companies must be responsible and accountable for the safety of operations, and that the regulator must have the power to protect public and employee safety, and the environment.

Under the Act, Transport Canada is to promote and regulate the safety of railway operations that fall within the legislative authority of Parliament. This means railway companies which hold a Certificate of Fitness from the Canadian Transportation Agency (CTA).

The *Railway Safety Act* underwent comprehensive amendments which came into force in May 2013 and June 2015. These amendments gave the Minister greater oversight and enforcement capacity, expanded the use of Safety Management Systems, increased the importance of environmental protection, and clarified the Minister's authority and responsibilities in railway matters.

The RSA, as amended, has six parts:

Part I: Construction or Alteration of Railway Works

This section outlines the Minister of Transport's authority to regulate and approve the safety of railway structures, with sufficient flexibility for railway companies to carry out routine construction with a minimum of delay. The Minister is also given the authority to make grants for crossings, grade separations and special safety projects.

Part II: Operation and Maintenance of Railway Works and Equipment

Part II sets out the requirement for Railway Operating Certificates (ROCs). It grants the Governor in Council the authority to make regulations concerning ROCs and gives the Minister the authority to suspend or cancel a ROC and exempt certain companies from needing a ROC.

This section also describes the authority to establish regulations and rules for railway operation and maintenance. Safety regulations may be made by the government covering the operation or maintenance of railways in general, such as tracks, signal systems and crossing works, as well as the design, construction, alteration, operation, and maintenance of railway equipment. The government may also establish regulations related to employment of persons in designated positions critical to safe railway operations. Additionally, the government may make regulations respecting the security of railway transportation.

Regarding rules, a railway company may be required by the Minister to formulate safety rules also covering the operation and maintenance of railways and rail equipment, or a company may

¹⁰ *Railway Safety Act* (1985, c. 32). Retrieved from the Justice Laws website: <http://www.lib.sfu.ca/help/cite-write/citation-style-guides/apa/gov-docs-apa#actsstatutes-a704-pp-219-221>

formulate rules of its own initiative. All rules are subject to review and approval by the Minister.

Finally, this section includes provisions regarding cessation of whistling at crossings.

Part III: Non-railway Operations Affecting Railway Safety

This part provides the powers to ensure that railway operations are not endangered by operations on land adjacent to a right-of-way. It also includes provisions regarding trespassing and the right-of-way of trains at crossings.

Under this section the Minister may develop regulations dealing, for example, with: construction of structures; mining operations; drainage systems; removal of trees and bush obstructing the field of view; removal of weeds and the use of alternatives to chemical pesticides; restricting or preventing access to the land on which a railway line is situated by people, vehicles, or animals; construction, alteration and maintenance of roads; control of vehicular and pedestrian traffic on road approaches to road crossings; and any other activity that could constitute a threat to safe railway operations.

Part IV: Administration and Enforcement

Part IV contains the provisions necessary to enforce the requirements of the Act. It covers the designation and authority of Railway Safety Inspectors and security Screening Officers, Ministerial Orders, including orders for the removal of works, Ministerial emergency directives, enforcement through courts, medical reporting, inquiries, security measures, and sets out offences and penalties.

This section provides the Minister with the authority to make regulations regarding Administrative Monetary Penalties and to designate enforcement officers. It outlines the authorization and powers of enforcement officers. In addition, the maximum monetary amounts payable by individuals and corporations are set out along with payment requirements. This section also sets out the provision for any affected party to request a review of an alleged contravention or the amount of a penalty, as well as the review procedure.

This section also sets out the appointment, jurisdiction, and powers of police constables. Police constables are railway employees hired to protect railway company property and the persons and property on that property.

Part V: Miscellaneous Provisions

This part provides for delegation of powers, the authority to regulate the development and implementation of Safety Management Systems, the authority to regulate the release of pollutants, the authority to make regulations regarding environmental management plans, and a number of miscellaneous provisions.

Part VI: Consequential Amendments and Transitional Provisions

This section refers to any consequential amendments as well as any transitional provisions relating to *Railway Act* amendments and to the repeal of Parts II and III of the *Railways Relocation and Crossing Act*.

Appendix D – Terms of Reference

Please see here for the Terms of Reference of the Review.

Appendix E - Biographies of Panel Members

Mr. Richard Paton, Panel Chair

Ms. Brenda Eaton, Vice-Chair

Ms. Pauline Quinlan, Vice-Chair