

**Railway Safety Act Review**  
**AAMDC SUBMISSION**  
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Partners in Advocacy & Business

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The Alberta Association of Municipal Districts and Counties (AAMDC) advocates on behalf of Alberta's rural municipalities. AAMDC members have several common traits: large land masses, relatively small populations, and a lack of a traditional "population center." As they provide municipal governance to approximately 85% of Alberta's land mass, AAMDC members host much of Alberta's industrial and natural resource development in sectors such as agriculture, forestry, oil and gas, and natural resource extraction, and therefore, also host a large proportion of the 9,328 kilometres of rail lines (as of 2015) serving those industries.

Due to the large number of rail lines located in Alberta's rural municipalities, the AAMDC appreciates the opportunity to provide the rural municipal perspective on rail safety and the effectiveness of the *Railway Safety Act*. The AAMDC lacks technical expertise on rail safety issues, and will therefore approach this submission from a high-level, policy-oriented position. This response will be guided by the questions posed in the *Consultation Guidance Document*, but will only address questions for which the AAMDC has an informed position.

***Question 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?***

The AAMDC has been generally pleased with the changes made by Transport Canada in recent years to enhance rail safety. While some of these changes were precipitated by tragic rail accidents, and could then be labelled as a reactionary approach to regulatory enhancement, they nonetheless represent a concerted effort on the part of Transport Canada to strengthen safety regulations, reduce the likelihood of future accidents, and improve the ability of local governments and others to better respond when incidents do occur.

Examples of the positive approaches made in recent years by Transport Canada include the development and coming into force of regulations dealing with administrative monetary penalties for individual and companies in contravention of the Act, requirements for railways to develop and abide by safety management systems, and enhanced grade crossing regulations.

It is also important to acknowledge progress made by Transport Canada to enhance information sharing between railways and municipalities regarding the transportation of dangerous goods through communities. Although this does not fall under the *Railway Safety Act*, it is still a critical development in enhancing the ability of municipalities to plan for and respond to potential rail accidents involving hazardous goods.

***Question 4: What key issues remain, that if successfully addressed, would result in a further strengthening of the railway safety and security regime?***

As noted, the AAMDC appreciates the effort made by Transport Canada to enhance rail safety through strengthened regulations. However, for some municipalities, the costs required to abide by the regulations (in the case of the *Grade Crossing Regulations*) or maximize the benefits of the regulations (in the case of the regulations that provide municipalities with more information on the type of good travelling through communities) are prohibitive.

For example, while the new *Grade Crossing Regulations* will increase safety at road-rail grade crossings, the costs of upgrading crossings may be prohibitive for some road authorities, particularly rural municipalities who manage extensive road networks with many low volume crossings. Closing roads is not an option for rural municipalities, so upgrading crossings to comply with the regulations by November 27, 2021 will be required, regardless of cost.

Similarly, some railways may be unwilling or unable to make investments required to upgrade their areas of responsibility under the Act due to a perception that given grade crossings do not support adequate traffic volume to justify upgrading. Thus, rural municipalities are concerned that railways may use the new regulations as justification for closing some rural grade crossings, which could have major safety and quality of life consequences for rural residents and productivity consequences for rural industries.

Similarly, while enhanced information-sharing between municipalities and railways over the goods being transported through communities is helpful, many smaller municipalities lack the financial capacity, technical expertise, and access to equipment to plan for proper responses to rail accidents.

In addition to the lack of funding support associated with information-sharing, the lack of permanence associated with Protective Direction 36 (which may be cancelled at the Minister's discretion) indicates that this is not the ideal tool to integrate information-sharing processes into the operations of railways and municipalities. The AAMDC recommends that Protective Direction 36 be replaced with a regulation under section 27 of the *Transportation of Dangerous Goods Act* in order to permanently require information sharing.

These examples indicate the importance of supporting municipalities and other local stakeholders in being able to properly adhere to or leverage the regulations. It is important to consider that while railways directly profit through the rail lines travelling through communities, municipalities must incur costs of ensuring that their infrastructure networks and emergency planning and response take into consideration rail networks, yet they benefit only indirectly (through economic development) or not at all from the presence of rail lines. Municipalities must also balance the cost of complying with regulations with the costs of providing a range of other services to their residents.

An additional outstanding issue relates to blocked crossings. While the AAMDC is pleased with the changes already made to the *Grade Crossing Regulations* to better address the safety risks of blocked crossings, this review provides a good opportunity for the Minister to consider expanding regulatory powers to address repeatedly blocked crossings that may have an economic or social impact by blocking commuters or access to industry, etc.

***Question 5: What recommendations do you have that will ensure progress on these residual issues?***

To ensure that recent regulations under the *Rail Safety Act* and similar legislation have maximum effectiveness, Transport Canada should develop a grant program to support municipalities and local stakeholders in meeting regulatory requirements and building the capacity to properly utilize information that is now accessible to them. Such a program could be accessible only to municipalities/local stakeholders or to municipalities collaborating with a railway on a specific project (for example jointly upgrading both the road authority and railway responsibilities at a grade crossing, or jointly developing a local emergency response plan for hazardous goods). Such a funding regime will take pressure off municipalities and local stakeholders and will ensure that new regulatory requirements provide the maximum safety benefits.

Developing a regulation based on Protective Direction 36 would be an effective means of developing a permanent approach to information-sharing between railways and municipalities.

Finally, working with road authorities such as municipalities and provinces to seek credible examples of repeated blocked crossings with a social and economic impact would be a good first step in considering how to broaden the regulatory approach to blocked crossings to consider these issues.

***Question 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?***

The current roles are adequate, and the AAMDC appreciates Transport Canada's efforts to better acknowledge the role of municipalities in rail safety. However, the AAMDC would like to emphasize the importance of considering the diversity of municipal types, sizes and capacities across Canada when designing rules or regulations under the Act. Large cities may be impacted very differently by regulatory changes than small, rural or isolated communities. For example, requirements in the *Grade Crossing Regulations* may impact a municipality with a limited revenue base but many rail lines within its boundaries much more than a large city with the financial and technical capacity to adapt to the changes required.

***Question 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)?***

Due to a limited ability to generate revenue through taxation, municipalities in Alberta depend on provincial and federal grant funding for a considerable proportion of capital and maintenance costs. While criteria for certain federal funding programs such as the new *Investing in Canada* program could potentially allow for upgrades to road approaches to grade crossings or the development of emergency preparedness plans, the AAMDC cautions the Government of Canada that broadening existing funding programs without proportionally increasing the overall funding available simply forces municipalities to sacrifice one project for another. In other words, to leverage existing funds, the total amount of funding must be increased, otherwise the desired outcomes (increased safety around rail lines) will not be met.

***Question 5.1.1: Are the roles and responsibilities of the provinces and municipalities clear and adequate?***

As mentioned above, the cost implications for municipalities to ensure that the roads they manage align with rail safety legislation can, in some cases, be prohibitive, and are not accompanied by the direct financial incentives to comply that apply to railways. The AAMDC believes that when federal rail safety regulations extend beyond rail lines and equipment and onto land or infrastructure under municipal jurisdiction, adequate financial support is needed to ensure municipalities can comply without sacrificing the delivery of other services they must provide to residents.

***Question 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 railway safety?***

Historically, AAMDC members have struggled to gather information from railways about the nature of goods travelling through their communities. To some extent, this is understandable, as this information may not be known in advance, and compiling and sharing it may carry a financial cost for railways.

Municipalities have been appreciative of increased information sharing related to dangerous goods through Protective Directions 32 and 36, as it allows first responders to better prepare for potential accidents involving those goods. However, some municipalities lack the financial capacity or technical expertise to make use of such information. The AAMDC believes that Transport Canada could play a role in facilitating capacity-building among smaller municipalities to maximize the benefits of this information. This could include the facilitation of collaboration between the municipality and railway, best practice guides or templates for how to plan response measures for different types of materials, and similar means.

The AAMDC appreciates Transport Canada's actions to require information-sharing, but looks forward to seeing their advisory/capacity-building role increasing in ensuring that this information is leveraged as much as possible by municipalities.

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

As mentioned above, railways have historically been unwilling to share information with municipalities. Even now, as regulations have required increased collaboration and information-sharing, the usefulness of the information being made available is dependent on the municipality's ability to interpret it and use it to inform their planning. An increased advisory/capacity-building role on the part of Transport Canada in working directly with interested municipalities may address this barrier.