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# **Preliminary Submission to the Canada Transportation Act Review**

**Federation of Canadian Municipalities**

**December 24, 2014**





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Canada's cities and communities are hubs of economic activity, social and environmental innovation. They compete for the world's top talent and foreign investment needed to boost Canada's productivity and prosperity. Be they remote communities in resource rich regions, or densely populated metropolitan areas, municipalities in Canada depend on a reliable, well-designed and safe national transportation system.

While transportation policy is a shared responsibility between Canada's three orders of government, changes to national transportation policy inevitably have impacts throughout the system. All orders of government must work together to develop a rational, coherent, regionally sensitive and multimodal transportation system that involves all interested stakeholders and incorporates an appropriate balance of public-sector responsibility and private sector support.

The Federation of Canadian Municipalities (FCM) is pleased to participate in the initial round of consultations that will inform the statutory Review of the *Canada Transportation Act* (CTA) due to be completed by December 24, 2015. FCM and our member municipalities look forward to contributing to the panel's work over the coming year. The topics detailed in this preliminary submission will provide a starting point for the conversation and we look forward to further discussions with the Chair, Advisors and Secretariat over the coming months.

FCM has been the national voice of municipal government since 1901. With 2,000 member municipalities, FCM represents the interests of municipal governments on policy and program matters that fall within federal jurisdiction. Members include Canada's largest cities, small urban and rural communities, and 18 provincial and territorial municipal associations.

### **Long-term investments in municipal transportation infrastructure**

Canada's overall economy is directly dependent on the transportation systems in its largest cities. Canadians count on modern, efficient transportation networks. They count on high-quality roads to get to and from work. Businesses count on these same systems to link their goods and services to domestic and international markets.

To build the globally competitive transportation system envisioned in the CTA Review Discussion Paper, local governments will need access to predictable, secure investments that allow them to budget responsibly and effectively for their future. Long-term, predictable and dedicated funding is critical when planning and building transportation infrastructure with a lifespan ranging from 30 to 70 years. It is important to note that predictable revenue streams are essential to both traditional and P3 procurement models. As for the latter, it is unlikely that private-sector partners will choose to participate in a P3 without assurances as to how the project will be funded for the duration of what can be multi-decade financing plans. That said municipalities are best placed to decide which form of procurement provides the most benefits, and this choice must remain a local decision.

Long-term investments are critical. The condition of our roads and transit system has a direct and well-documented impact on economic productivity. According to the Toronto Region Board of Trade,



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gridlock created by inadequate transportation infrastructure costs the Toronto region \$6 billion annually in lost productivity. This is projected to grow to \$15 billion annually by 2031. In 2012, the Canadian Infrastructure Report Card, a joint project of FCM, the Canadian Construction Association, the Canadian Public Works Association and the Canadian Society for Civil Engineering, similarly concluded that the infrastructure asset class of municipal roads requires urgent attention. The report found that one in four Canadian roads is operating above capacity, highlighting a real challenge to moving goods and people within our communities in the short and medium term. The Report Card estimates that the replacement cost of roads in 'fair' to 'very poor' condition is \$91.1 billion nationally. For the average Canadian household, this amounts to a cost of \$7,325. (These figures will be updated in the next edition of the Report Card, which will be published in the fall of 2015 and include new sections on municipal bridges, buildings and transit.)

Recent investments through the Government of Canada's New Building Canada Plan will help meet some of the infrastructure needs of municipalities in the coming years. The Gas Tax Fund (GTF) in particular provides the type of long-term, predictable funding that local governments rely on year after year to build the infrastructure that is critical to Canada's economic success. A majority of GTF transfers are invested in public transit and local roads and bridges, with 39% and 28% of GTF funding invested in these two categories respectively, as of May 2013. Canada's municipalities welcomed the Gas Tax Fund's recent evolution into a permanent \$2 billion dollar annual transfer, now indexed at two percent a year.

It is anticipated that the application-based New Building Canada Fund (NBCF) will also make major investments in municipal transportation infrastructure projects over the coming years, although it is important to note that this fund is not dedicated to local government projects, other than the \$1-billion Small Communities Fund for communities with a population of 100,000 or less.

The CTA Review Discussion Paper underscores the reality that although these investments will offset some of the transportation infrastructure needs of municipalities, funding needs far exceed resources available at a time when all levels of government are facing fiscal constraints. Municipal infrastructure projects are planned, financed, executed and maintained over 40, 50 and even 60 years. To make the most of public investments and eliminate the municipal infrastructure deficit, municipal governments need significant additional predictable, long-term and dedicated sources of revenue, to complement the \$12 to \$15 billion that is currently invested on an annual basis by municipalities using locally-generated revenues.

### **Safe and efficient rail transport and rail freight**

Canada's national rail network is an integral part of national transportation infrastructure and vital to our economic prosperity. Exports account for approximately 30 percent of Canada's GDP, and according to the Railway Association of Canada, railways move roughly 50 percent of exports (by volume). For businesses, such as resource producers that rely on railways, a loss or even a reduction of rail service increases production costs and lessens their competitive advantage. Canada's future



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success in international trade depends on its ability to serve markets competitively through all transportation modes, including rail.

The federal government must work with the national railway companies to mitigate the risks of disruptions such as the backlog of grain shipments by rail that took place during the winter of 2013-2014. Maintaining a strong level of trust in the national rail system's capability to meet commitments on time should be top of mind and may require new solutions to increase railway capacity and meet the demands of the country's economic growth.

### ***Transporting dangerous goods through communities***

The tragic derailment and fire in Lac Mégantic, Québec in July 2013 was a heartbreaking reminder of the importance of a strong regulatory framework for rail safety and the transportation of dangerous goods. Since the incident, FCM has led the call for concrete action to improve the regulatory regimes governing rail safety and the transportation of dangerous goods. Our position remains that Transport Canada must fully implement any safety recommendations identified by the Transportation Safety Board of Canada (TSB) as part of its investigation into the Lac-Mégantic tragedy and other rail incidents.

Led by our National Municipal Rail Safety Working Group, FCM has worked with the federal government to address critical safety issues. This has resulted in a series of measures that are critical to ensuing community safety, including: tough new insurance requirements for railways and shippers; a rapid-phase out of less crash-resistant DOT-111 tank cars used to ship flammable liquids; a new regulatory requirement for all shipments of key flammable liquids (i.e. crude oil, ethanol, diesel, etc.) to have Emergency Response Assistance Plans (ERAPs); a new requirement for railways to conduct detailed risk assessments along key routes; and information sharing with first responders on dangerous goods for emergency planning purposes, among others.

While Transport Canada has taken concrete action in these areas, more must be done to prevent future tragedies like the one that occurred in Lac-Mégantic. Of particular importance is the development of a process to share the outcomes of railway risk assessments with municipalities and the public, and the development of a more stringent tank car standard for flammable liquid shipments. FCM fully supports Transport Canada's July 2014 proposal for an enhanced tank car standard, as well as the Minister of Transport's commitment to phase out all DOT-111 tank cars which fail to meet the TP14877 standard (equivalent to the American Association of Railroads' 2011 industry standard) no later than May 1, 2017.

There is also a need to develop a mechanism for providing the public and municipalities with information about dangerous goods being shipped through rail corridors. FCM was involved in the development of Transport Canada's *Protective Direction No. 32*, which requires railways to provide municipal emergency planners with detailed, historical information on dangerous good shipments on a confidential basis. While *Protective Direction No. 32* has provided municipal staff with useful information, our members have also identified a need for more information to be provided in a public context.



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FCM is also a member of Transport Canada's Emergency Response Task Force, which has a mandate to undertake further research, assess, evaluate and make recommendations to advance and make improvements to the department's ERAP program. Of particular importance to FCM is the establishment of real-time information sharing between railways, Transport Canada and municipalities during emergencies, and the need for enhanced Canadian-based training for local first responders so that they are properly prepared for possible rail incidents involving flammable liquids.

***Minimizing the impact of blocked grade crossings on safety and productivity***

As the amount of goods shipped by Canada's railways increases, so too does the amount of rail traffic, both in terms of volume and frequency, going through our cities and communities. The reality of longer and more frequent crossings has led to widespread safety concerns caused by repeated obstruction of grade crossings by moving trains.

The risk of collisions between passenger trains and vehicles has been on the TSB's *Watchlist* since 2010. In February 2014, FCM submitted comments on Transport Canada's proposed *Grade Crossing Regulations* (GCR), which were finalized and published in the *Canada Gazette*, Part II, on December 17, 2014 and are intended to respond to the TSB's long-standing recommendations related to safety management at grade crossings. While FCM fully supports the intent of the *Grade Crossing Regulations*, there remain issues of outstanding concern related to these crossings and railway-community proximity more generally.

A major concern of the municipal sector is the different treatment that is currently afforded to the obstruction of grade crossings by standing trains versus repeated blocking by moving trains. FCM is fully supportive of the prohibition on stopped trains or switching operations from obstructing a public grade crossing for more than 5 minutes as specified in section 103(d) of the *Canadian Railway Operating Rules*, and in section 97(2) of the GCR. Nevertheless, FCM and its members remain extremely concerned about the frequent obstruction of grade crossings by moving trains, which is only addressed in a limited fashion through section 98 of the GCR. While this section includes a process for municipalities to identify safety concerns raised by repeated obstruction by moving trains, there is no upper time limit as exists for stopped trains, although it is important to note that Transport Canada had proposed a 10 minute blocking rule during its preliminary consultations on the GCR.

In the process that was ultimately included in the final regulations, railways will be obligated to work towards a solution with any municipality that identifies a safety concern as per the process laid out in section 98 of the GCR. If this is not possible within a period of 90 days, municipalities are then able to notify the Minister of Transport who can use his/her existing powers under section 31 of the *Railway Safety Act* to take action if there is an immediate threat to safety.

While FCM is hopeful that this process will address cases of blocked crossings that have clear safety implications, the fact remains that the obstruction of grade crossings by moving trains is both a safety and economic issue that can cause significant disruptions to the local economy as well as for other the movement of goods by other transportation modes, especially road transport. This



problem is felt acutely by municipalities of all sizes, and is an increasing concern due to the rapid growth in the volume and frequency of freight shipments with little to no commensurate increase in network capacity on the part of the railways. The result is heavy traffic congestion leading to delays and frustration for residents, commercial and emergency vehicles.

To give an example of the impact of obstruction by moving trains, the City of Saskatoon recently undertook a three-month study of delays at three key grade crossings in effort to quantify the extent of blocked crossings in the city. The city's analysis documented regular delays in excess of 10 minutes at the three grade crossings, with many delays in excess of 20 minutes. The fact that blocked crossings can have serious behavioral impacts on delayed road users was also the subject of a Transport Canada study in 2014. The study recommended that Transport Canada consider reviewing 42 critical locations where an assessment could be made of the specific cause or causes of the delay as well as possible mitigation measures.

In summary, while the *Railway Safety Act* includes provisions for dealing with blocking situations where there is a clear safety threat, there are no measures in place to limit the economic impact of blocked crossings or establish an upper limit for the amount of time that moving trains can occupy a grade crossing. It is strongly recommended that the CTA Review consider possible legislative changes that would allow Transport Canada to take a more comprehensive approach to the obstruction of grade crossings by moving trains, taking into account both safety and economic factors.

In terms of the *Grade Crossing Regulations* more generally, it is also recommend that additional funding be made available to municipalities and railways to assist them with meeting their obligations to upgrade existing crossings to basic standards over the next seven years.

### ***Railway Proximity Issues***

Another component of ensuring the safe movement of dangerous goods through our cities and communities is the need for land use planning that fully considers safety issues related to developing lands in close proximity to railway facilities. In recognition of this important issue, FCM has a long-standing partnership with the Railway Association of Canada focused on developing and promoting guidelines to help local (and provincial) governments take these safety considerations into account in municipal land use planning. In May 2013, the FCM/RAC Proximity Initiative released updated *Guidelines for New Development in Proximity to Railway Operations*, which include recommended setbacks for "greenfield" developments and a process to review the viability of infill and conversion developments where it is not possible to meet the recommend setbacks. FCM remains committed to this important initiative, but it is important to note that these challenges must be addressed by local and provincial governments as the federal government does not have authority over local land use planning.

A related proximity issue that the CTA Review may want to consider in further depth is the issue of trespassing and access control around rail corridors, particularly in dense, urban areas. Transport Canada is currently undertaking a study on this important issue with the objective of developing a risk and countermeasure assessment tool to control access to railway property. FCM is supportive of this initiative as trespassing results in a high number of injuries and fatalities each year.

### ***Passenger rail service***

Municipal governments across Canada are concerned about the future of passenger rail, an integral and vital part of the national transportation infrastructure. Passenger rail is essential to economic prosperity in many regions where air and road access are limited.

FCM members were encouraged by recent investments in passenger rail infrastructure, which have helped address the declining quality and frequency of passenger rail service, in particular the recent \$10.2 million investment by the federal government to improve a 70-km stretch of track in New Brunswick. This investment is helping to maintain VIA Rail's *Ocean* line service to Bathurst and Miramichi. Nevertheless, more work must be done to maintain and improve rail service and frequency across Canada, in particular to support regional economic development needs.

### **Air transportation and airports**

FCM's Rural Forum and Northern and Remote Forums have a long-standing interest in the federal policy framework surrounding rural, remote and northern airports.

#### ***Small and rural airport viability***

The federal government should broaden eligibility criteria for funding under the Airport Capital Assistance Program (ACAP) to include small and rural airports that do not have scheduled passenger service. These measures would provide an increase in the flow of capital funding to these airports, thus improving their capacity to attract passenger service, and eventually leading to increased revenue generation. There is also a benefit to public safety as air ambulance and forest fire fighting services can be compromised when small airports are closed or left in poor condition.

#### ***Northern and remote airports***

Due to limited year-round road and marine access, many of Canada's northern and remote communities depend on air transportation to receive basic necessities, equipment and services and to access markets for their products. Northern and remote municipalities face heavy financial pressure to invest in the airports that connect their communities to the rest of Canada and the world.

Strong northern and remote communities require a stronger federal role in investing in northern and remote airports. With only ten asphalt runways in Canada's north, many communities are served by small gravel runways and terminals that are operating over design capacity and creating a payload and performance disadvantage for operators. Most modern jet aircraft are no longer approved to serve these airports, placing additional pressure on northern communities to invest in costly upgrades. Proposed federal standards for Runway End Safety Areas also have the potential to place greater financial strain on northern and remote airports.

Given these challenges, FCM recommends that the government establish a new fund dedicated to addressing the specific needs of northern and remote airports, most notably extreme climate and the limited number of asphalt runways. The reality of changing weather patterns is affecting service



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levels at Canada's most northern and remote airports with up to 25 percent of flights at many northern airports cancelled or diverted due to weather and visibility conditions. Automated Weather Observation Systems (AWOS) can help address these issues, but the cost of setting up electronic infrastructure can be prohibitive. It is recommended that the government establish a dedicated Northern and Remote Airports Infrastructure Investment Program to help address these challenges.

## **Conclusion**

FCM and its member municipalities look forward to continuing a conversation beyond this preliminary submission with the Chair, Advisors and Secretariat in the coming year. We will also be available to provide input, examples and regional perspectives on the key issues that emerge following this initial round of consultations. It is our hope that the CTA Review will take into account the infrastructure and connectivity challenges, and safety requirements of Canada's cities and communities, in full recognition of the critical role of our national transportation policy.

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