

Railway Safety Act Review 2017-2018

Submission by Metrolinx, Réseau de transport métropolitain, TransLink

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RAILWAY SAFETY ACT REVIEW 2017-18 SUBMISSION

METROLINX RÉSEAU DE TRANSPORT MÉTROPOLITAIN TRANSLINK

Metrolinx, the Réseau de Transport Métropolitain, and TransLink (each an “**Urban Transit Authority**”) are pleased to present their submissions to the Review Panel preparing a report to be submitted to the Federal Minister of Transport in regard to the review of the *Railway Safety Act*.

Overview

The Urban Transit Authorities operate commuter transit services for the largest three Canadian metropolitan areas. Collectively, the Urban Transit Authorities move almost 100 million people each year. For stewards charged with safely moving Canada’s most valuable resource, its people, a *Railway Safety Act* which supports and accommodates urban rail commuters is essential.

The *Railway Safety Act* was first introduced in 1989 and, understandably, had a decidedly freight-focussed orientation. In 2013, the Act was amended to take jurisdiction over and place obligations on “local railway companies”: provincially-regulated railways operating on tracks owned by federally-regulated railways, including the Urban Transit Authorities. It is now time for the Act to formally and specifically acknowledge the unique operations of Urban Transit Authorities and allow them to continue to play, and enhance, their vital role in Canada’s economy by providing them with the benefits of the Act.

This submission follows the Consultation Guidance Document issued by the Review Panel and begins by outlining the operations of each of the Urban Transit Authorities.

The Urban Transit Authorities

Metrolinx

Metrolinx, an agency of the Government of Ontario, was originally established in 2006 and was continued under the name Metrolinx in 2009. Metrolinx assumed all of the assets of GO Transit and grew further with the addition of the Union Pearson Express in 2010. Metrolinx was created to improve the coordination and integration of all modes of transportation in the Greater Toronto and Hamilton Area. GO Transit is the operating name of the regional public transit service for the Greater Toronto and Hamilton Area; an 11,000 square kilometre area with a population of approximately seven million. GO Transit’s buses and trains carry approximately 68 million passengers a year. GO Transit has seven train lines and 65 stations. It runs over 300 train trips each week day, carrying approximately 187,000 passengers by train each week day, and over 300 train trips each weekend.

Metrolinx owns approximately 80% of the rail corridors upon which GO Transit operates and is undertaking the largest transit build in Canadian history. Metrolinx currently has over 200 projects worth over \$16 billion already underway with the goal of providing two-way, all-day regional transportation service.

Réseau de transport métropolitain

The Réseau de transport métropolitain (RTM) is a public transit authority in operation as of June 1, 2017. Most notably, the RTM will oversee commuter rail service as well as the north and south shores' transit agencies for bus and paratransit services, taking over for the Agence métropolitaine de transport (AMT).

The RTM is responsible for operating, throughout its territory, regular bus and commuter train services, including paratransit services for disabled and mobility-impaired persons.

The primary mandates of the RTM are to

- Operate the commuter rail network
- Operate the metropolitan bus network (north and south shores)
- Operate paratransit services
- Establish a public transit service plan for its territory
- Build and maintain the infrastructure and equipment under its responsibility
- Advise the Autorité régionale de transport métropolitain (ARTM) on introducing codes of conduct for occupants of its vehicles, stations, platforms and parking lots
- Participating in public transit planning, development, support and promotion at the ARTM's request

The RTM's territory comprises those of the Communauté métropolitaine de Montréal (82 municipalities), the Kahnawake Mohawk Territory, and the Ville de Saint-Jérôme. This territory is shared with the ARTM.

TransLink

TransLink is Metro Vancouver's transportation authority and is governed by the South Coast British Columbia Transportation Authority Act (SCBCTAA).

Our regional transit system spans 21 municipalities as well as Electoral Area 'A' and the Tsawwassen First Nation. TransLink's current transit service area is 1,800 square kilometres. With the largest transit-service area in Canada, TransLink is responsible for:

- Managing and operating an integrated regional transportation system that moves goods and people by bus, rail, SeaBus, pedestrian and cycling paths, custom transit services, the major road network and bridges under the responsibility of TransLink;

- Operating, maintaining, and rehabilitating the Major Road Network (MRN), five bridges and investing in road and cycling projects across the region in partnership with municipalities;
- Supporting the region's growth strategy, provincial and regional environmental objectives, and regional economic development;
- Funding a dedicated Transit Police force; and
- Managing transportation demand-management strategies and programs.

Submission

This submission will follow Appendix A – Topics to be Explored as provided in Consultation Guidance Document for the Review 2017-18 of the *Railway Safety Act*.

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

Generally speaking, the Urban Transit Authorities are content with the roles, responsibilities and authorities for railway safety in Canada. It is clear that 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.

That said, the Urban Transit Authorities seek stronger leadership on the part of the Rail Safety Directorate to grant exemptions not already obtained by freight railways. As the operations of Urban Transit Authorities are unique, certain regulations, standards, policies and rules that were developed in a freight-focussed context simply do not apply or make sense for commuter-focussed operations.

For example, some operating rules do not take into account the superior operating characteristics of commuter trains. On approach to a slide detector fence¹ that has been triggered, the Canadian Railway Operating Rules require train movements at restricted speed through extended blocks. While a long, heavy freight train should move at restricted speed in these circumstances, commuter trains are lighter and much more responsive. Commuter trains can accelerate and decelerate much faster than freights: they have a higher horsepower/ton ratio; are lighter; and have dual braking systems with both conventional tread brakes and advanced disc braking systems. In circumstances such as this it would be more appropriate for a commuter train to proceed at reduced speed,² rather than restricted speed.³ There are numerous examples of this imbalance between freight and commuter operations.

¹ A slide detector fence is part of a railway signaling system whose purpose is to prevent trains from being derailed by rock slides in mountainous areas where rock slides may occur without warning. The fence is designed to be displaced by a rock slide, causing the signaling system to display a stop aspect on nearby signals.

² The CROR define "REDUCED Speed" as "a speed that will permit stopping within one-half the range of vision of equipment."

³ The CROR define "RESTRICTED Speed" as "A speed that will permit stopping within one-half the range of vision of equipment, also prepared to stop short of a switch not properly lined and in no case exceeding SLOW speed." "SLOW Speed" is defined as "a speed not exceeding 15 miles per hour."

As such, the Urban Transit Authorities will be applying for exemptions from regulations, standards, policies and rules that do not apply or make sense for commuter operations. Moreover, the Urban Transit Authorities would like to signal to the Rail Safety Directorate that in addition they intend on applying in the future for exemptions which allow rail operations to evolve. In line with the Minister of Transport's mandate letter,⁴ the Urban Transit Authorities' respective provincial ministries will be investing heavily in public transit. These investments will not only include infrastructure upgrades and service increases, but will also allow for the adoption of new technologies. In order to take advantage of these investments, accelerated reviews by the Rail Safety Directorate and where appropriate, accelerated approvals of exemption applications will be critical for applications concerning future technological advances and standards employed in other jurisdictions (e.g. European railway safety standards).

Finally, and in line with the taking of jurisdiction over the Urban Transit Authorities as "local railway companies", the exemptions obtained by Urban Transit Authorities need to be recognized by all players: operators and owners alike. Requiring federally-regulated railways to allow Urban Transit Authorities to operate on federally-owned trackage according to exemptions that have been obtained will help ensure inter-operability and is particularly important for inter-line movements between trackage owned by Urban Transit Authorities and trackage owned by federally-regulated railways.

The Urban Transit Authorities have taken the liberty of drafting provisions specific to Urban Transit Authorities which are included at Appendix "A" (the "**Draft Provisions**"). The Draft Provisions could be included in the Act itself, or by enactment of a regulation (with minor enabling amendments to the Act). Where possible, the headings included in the Draft Provisions align with those used in the *Railway Safety Act* (the "**Act**").

The Draft Provisions will be addressed in the appropriate section of this Submission. With respect to the issues raised in this section, the Draft Provisions invite the Minister of Transport to consider technological advancements, standards employed in other jurisdictions, and the unique operations of an Urban Transit Authority when determining whether to grant an exemption to a regulation, rule, engineering standard or policy. Further, the Draft Provisions make these exemptions binding on federally-regulated railways to ensure that the Urban Transit Authority is able to obtain the benefit of the exemption.

- Section 2 of the Draft Provisions applies the engineering standards of section 7 of the Act to Urban Transit Authorities, allows for exemptions, and binds federally-regulated railways to exemptions obtained by Urban Transit Authorities in their operations on the federally-regulated track. Section 9 of the Draft Provisions ensures that compliance with engineering standards as required by section 17.21 of the Act references any exemption obtained.

⁴ The Minister of Transport was directed by the Prime Minister "to develop and implement an Infrastructure Strategy which will see significant investments made to improve public transit infrastructure and green infrastructure. The Strategy should also improve access to, and governance of, existing infrastructure programs, increase data collection capacity, promote better asset management of infrastructure in Canada and provide better supports for local communities." <http://pm.gc.ca/eng/minister-transport-mandate-letter>

- The Draft Provisions make it clear that an Urban Transit Authority can be a “proponent” under the Act by including a definition for “proponent”.⁵ Section 5 allows Urban Transit Authorities to apply for exemptions from applicable engineering standards with respect to railway works and requires federally-regulated railways upon which the Urban Transit Authority operates to respect those exemptions.
- Sections 10-12 and 14 of the Draft Provisions concern exemptions from rules and regulations and require the federally-regulated railway upon which the Urban Transit Authority operates to respect those exemptions.
- Section 13 of the Draft Provisions amends section 21 of the Act slightly by requiring the Minister to have regard to the unique operations of Urban Transit Authorities when determining the uniformity of rules.

2. Adoption of Safety Managements Systems and Safety Culture

The Urban Transit Authorities would like to express their support for the current SMS approach to managing risks. In particular, the Urban Transit Authorities would like to urge the Review Panel to make recommendations in response to trends as opposed to incidents. Lac Mégantic was certainly a tragedy. In the wake of tragedies, it is important for all participants and stakeholders to take stock and review the implications. That said, any changes to the existing safety regime should be made with a focus on the industry as a whole, not one event.

Provided that Urban Transit Authorities are able to obtain accelerated reviews by the Rail Safety Directorate and, where appropriate, accelerated approvals for exemption applications, the current SMS approach will not only continue to appropriately manage safety risks, but also allow operations to evolve.

3. Quality and Use of Performance Data for Risk Management

The Urban Transit Authorities would like to request the sharing of safety performance data that Transport Canada has in its possession. Specifically, Transport Canada has infrastructure inspection data, and information obtained from audits which would be beneficial to Urban Transit Authorities. This information, provided in a summary form, would allow Urban Transit Authorities to benchmark their safety performance.

4. Ability to Respond to Industry Trends

The Urban Transit Authorities agree with the Review Panel that the railway industry is continually evolving and that attention needs to be paid to key trends that will shape the industry in the future.

⁵ The Act defines a “proponent”, in relevant part, as “...the *person* who proposes, or has proposed, the construction or alteration of the railway work...” (emphasis added). The better view is that “person” includes an Urban Transit Authority. However, to avoid disputes with railway companies and regulators clarity would be appreciated.

Economic

With respect to the changing economic landscape, the Urban Transit Authorities do have concerns with respect to the increased development of major urban centres and believe that this will further exacerbate proximity issues. These concerns are addressed in Section 5 of these Submissions.

One cannot overestimate the importance of public transit to the health and economy of an urban centre, and the nation as a whole. As pointed out by the Canadian Urban Transit Association, transit is playing a leading role in improving Canada's productivity through a range of economic, environmental and health benefits, and is only growing in importance. Indeed, a recent economic review by the Organization for Economic Co-operation and Development determined that traffic congestion was costing Toronto's economy \$3.3 billion per year.⁶ Another study determined that the hidden value of transit could be worth anywhere from \$1.5 million to \$1.8 billion a year, depending on the size of the city.⁷

Given this importance, the Urban Transit Authorities request that passenger service providers be given primacy with respect to dispatching. Not only does this make economic sense, but it also decreases safety risks by ensuring that passengers get to locations quickly and with minimal delay. Giving priority to passenger traffic will help decrease the risk that passengers pry the doors of trains open and create safety hazards by exiting the train.

- Section 19 of the Draft Provisions requires railways performing dispatching to give primacy to passenger service providers. This primacy is subject to any legal obligations requiring the dispatcher to give primacy otherwise.

An economic issue that is not specifically included in the Consultation Guidance Document is the use of third party operating entities. Urban Transit Authorities have historically used, and at least one Urban Transit Authority is currently contemplating using, a third party operating entity to manage its operations. Such an arrangement requires a regulatory model which places regulatory burden on the entity best positioned to manage the risk (the operating entity), while not excluding an entity bearing the ultimate responsibility for safety (the Urban Transit Authority). As a proposed solution, the Draft Provisions include a section placing the Act's obligations on the operating entity, while ensuring that the Urban Transit Authority is not 'left in the dark' when it comes to regulatory matters by requiring it to be included on any correspondence.

- Section 17 of the Draft Provisions applies the obligations in the Act to the operating entity as if it were the Urban Transit Authority. The provision further requires that any correspondence between an authority empowered to administer the Act and the operating entity include the Urban Transit Authority. An "operating entity" is defined as a third

⁶ Urban transit projects are shaping the growth of Canadian cities, SNC Lavalin available at <http://www.snclavalin.com/en/urban-transit-projects-are-shaping-the-growth-of-canadian-cities>.

⁷ Public Transit Is Worth Way More to a City Than You Might Think, CityLab, available at <https://www.citylab.com/life/2013/08/public-transit-worth-way-more-city-you-think/6532/>.

party entity contracted by an Urban Transit Authority to manage the Urban Transit Authority's operations.

Infrastructure

The Urban Transit Authorities are thankful for being eligible to access funding available in the Rail Safety Improvement Program. In order to increase the benefits provided by this program, the Urban Transit Authorities would suggest linking the Rail Safety Improvement Program with other programs from Infrastructure Canada (e.g. the Building Canada Fund).

In the spirit of allowing Urban Transit Authorities access to the benefits of the Act and recognizing their unique operations, the Draft Provisions specifically allow Urban Transit Authorities to access the grants available under the Act. Further, in making determinations as to whether grants will increase safety, the draft provisions direct the Minister to consider developments in technology, standards employed in other jurisdictions and the unique operations of Urban Transit Authorities.

- The Draft Provisions include a definition of “proponent” which includes an Urban Transit Authority. Sections 6 and 7 authorize an Urban Transit Authority, where it is a “proponent” on both trackage it owns and trackage owned by a federally-regulated railway upon which it operates to apply for grants for railway works and grade separations. These sections also direct the Minister to consider technological advancements, standards in other jurisdictions and the unique operations of Urban Transit Authorities when determining whether to award the grant.
- Section 8 of the Draft Provisions authorizes Urban Transit Authorities to apply for grants with respect to certain activities outlined in the Act which is likely to promote safe rail operations. Again, the Minister is directed to consider technological advancements, standards in other jurisdictions and the unique operations of Urban Transit Authorities.

Technological

As a constant theme running through these submissions, technological advancement will be an issue for rail regulators and operators alike. Urban Transit Authorities advocate for including consideration by Transport Canada and the Minister of Transportation of technological advancements in making determinations on whether to provide an exemption from a regulation, rule, standard or policy, or whether to make grant funding available. Specifically including technological advancement as a criteria Transport Canada and the Minister of Transportation must consider in these situations will help ensure that railway operators can seize on the opportunities technological advancements provide, and ensure that regulatory authorities devote resources to properly analyzing these applications. As mentioned previously in these submissions, accelerated reviews by the Rail Safety Directorate and where appropriate, accelerated approvals with respect to future technological advancements and standards will be increasingly important.

Labour – Fitness for Duty

The Act currently provides for regulation making authority with respect to the control or prohibition of drugs and alcohol, and for “local railway companies” to formulate rules relating to the consumption of drugs and alcohol. However, Urban Transit Authorities request a stronger fitness for duty regime. Specifically, it is not clear whether these provisions provide authority

for random drug and alcohol testing of employees/contractors in critical safety positions. For a variety of reasons, especially interaction with unionized workforces, Urban Transit Authorities request that regulations be promulgated requiring random drug and alcohol testing of individuals in critical safety positions.

5. Relationship Building and Coordination

Federal-Provincial Interface

The issue of Federal-Provincial interface is of paramount importance to Urban Transit Authorities. As provincially-regulated and created organizations, ensuring an adequate interface between the Federal and Provincial level is essential. However, there continue to be issues with respect to Urban Transit Authority operations that arise due to gaps between the Federal and Provincial levels. The Urban Transit Authorities raise the following five issues.

The first issue concerns jurisdiction. The Urban Transit Authorities request greater clarity in Transport Canada's role in all railway operations. The Federal-Provincial complexities are difficult for operators and the public alike. Simplifying jurisdictional questions, especially with respect to crossings and whistling, would go a long way to providing clarity on the relevant regulator and the applicable rules. The Urban Transit Authorities suggest allowing for agreements between Provinces and the Federal government to apply federal railway rules to provincial railways. Further, the elimination of dual regulation (being regulated both at the Federal and Provincial level) would provide clear standards of safety to adhere to.

A second issue arising from Federal-Provincial gaps has to do with proximity issues. As Urban Transit Authorities increasingly become owners of trackage and in their capacity as users of trackage owned by other railways, new developments in close proximity to railways are increasing leading to incompatible land uses. Moreover, developments in close proximity lead to an increased likelihood of noise and vibration applications which are costly to defend. Urban Transit Authorities would suggest the inclusion of provisions requiring developers and municipalities to engage in a process of consultation with railways and Urban Transit Authorities prior to any decision respecting land use that may affect railway safety.

The third issue arising from the Federal-Provincial gap is in the provision of information relating to dangerous goods to Urban Transit Authorities. As a result of provincial investment, Urban Transit Authorities are increasingly becoming owners of trackage. However, Urban Transit Authorities are unable to obtain information from federally-regulated railways on the goods transported over its track or near stations used by its passengers (whether owned by the Urban Transit Authority or not). It is essential for Urban Transit Authorities to have this information in order to develop adequate safety management plans.

Though some issues could possibly be addressed by provincial legislation, it is possible this legislation would not apply to federally-regulated railways. Accordingly, the Draft Provisions include a requirement for a shipper or a railway company who transports dangerous goods to provide that information to the Urban Transit Authority. This provision is essential to ensure that Urban Transit Authorities are aware of and able to respond to any emergency situations created by dangerous goods. For clarity, the Urban Transit Authorities simply request summary information: a risk profile or summary profile, similar to that required by Protective Direction No. 36, in order to adequately prepare safety and emergency plans.

- Section 18 of the draft provisions require a shipper and a railway company who transport goods regulated by the *Transportation of Dangerous Goods Act* to provide an Urban Transit Authority with a list of and the approximate timing dangerous goods will pass stations used for passengers or any time they travel on trackage owned by an Urban Transit Authority.

The fourth issue arising from Federal-Provincial gaps is the ability of an Urban Transit Authority to access adjoining land in order to prevent a threat to safe operations. It is not clear whether all of the Urban Transit Authorities have the power to do so under Provincial legislation, but it is clear that Urban Transit Authorities, as “local railway companies”, do not have this authority under the Act. In order to provide Urban Transit Authorities with this authority, the Draft Provisions include a section which mirrors the powers of railway companies in this regard.

- Section 15 of the Draft Provisions authorize Urban Transit Authorities to enter land adjoining land on which they operate for the purposes, in the manner and subject to any compensation requirements as provided for by section 25 of the Act.

Finally, the Urban Transit Authorities have had issues concerning the different obligations placed on Urban Transit Authorities and federally-regulated railways with respect to infrastructure improvements on federally-regulated trackage. Where an Urban Transit Authority undertakes work on federally-regulated trackage, it is often subject to provincial environmental assessment obligations. Typically, these obligations include provincial heritage obligations. However, in attempting to negotiate terms which address these requirements, all too often the federally-regulated railway who owns the trackage and directs the works refuses to adhere to provincial requirements citing inter-jurisdictional immunity (as opposed to legitimate safety concerns). This is notwithstanding offers to pay for any increased costs. The Draft Provisions include a provision requiring a federally-regulated railway to follow the provincial heritage laws of the Urban Transit Authority for the duration of the work where the Urban Transit Authority is the “proponent” of works on the federally-regulated railway’s trackage. To ensure fairness, there is also a provision requiring the Urban Transit Authority to pay for any increased costs incurred by the application of provincial laws on the federally-regulated railway.

- Section 3 of the Draft Provisions requires a federally-regulated railway to comply with provincial heritage laws binding on the Urban Transit Authority for the duration of the work where the Urban Transit Authority is a “proponent” undertaking work on the federally-regulated railway’s trackage. The section also requires the Urban Transit Authority to pay for any increased costs as a result.

In order to ‘close the loop’ where an Urban Transit Authority is a “proponent”, the Draft Provisions apply the dispute resolution mechanism contained in section 16 of the Act to Urban Transit Authorities.

- Section 4 of the Draft Provisions authorizes an Urban Transit Authority, where it is the “proponent”, to refer the apportionment of liability for the construction, alteration, operation or maintenance costs of the work to the Canada Transportation Agency for a determination. The section also requires the Canada Transportation Agency to consider the relative benefits in making this determination.

6. Promoting Railway Security

The Urban Transit Authorities agree that rail security remains an important national concern. Urban Transit Authorities face many security challenges not faced by traditional freight carriers due to the sheer number of people using these services every day. In light of these concerns, and continuing in the spirit of providing Urban Transit Authorities with the benefits of the Act, the Draft Provisions include a provision allowing Urban Transit Authorities to have a judge of a superior court appoint persons as police constables for law enforcement.

- Section 16 of the Draft Provisions authorizes a judge of a superior court to appoint a person as a police constable for the enforcement of the laws of Canada or a Province relating to property owned, possessed or administered by an urban transit authority and for the protection of persons and property on that property, subject to the same restrictions as those contained in section 44 of the Act.

A security issue which was not addressed in the Guidance Document relates to cyber security. To ensure safe rail operations that increasingly rely on internet-based technology, it is imperative that railway companies and local railway companies who provide services to other companies are required to ensure that their infrastructure is cyber-secure. The Urban Transit Authorities request that provisions be included which not only require cyber-security, but also require a company providing services to another company to certify compliance.

Thank you for your consideration.

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**APPENDIX “A”
DRAFT PROVISIONS FOR URBAN TRANSIT AUTHORITIES**

Definitions

1. In this Part:

“**urban transit authority**” means an entity owned or controlled by the federal government or a provincial, municipal or district government that provides commuter services.

“**host railway**” means a railway company owning a railway upon which an urban transit authority operates.

“**operating entity**” means a third party entity contracted by an urban transit authority to manage its operations.

“**proponent**” means the person, including an urban transit authority, who proposes or has proposed the construction or alteration of a railway work, whether voluntary or because of a requirement imposed under another Act or an order made under section 32.01 of the Act.

Standards

2. (1) An urban transit authority shall file with the Minister for approval any engineering standards in respect of the construction or alteration of railway works, and such engineering standards may embrace both physical specifications and performance standards.

(2) Where the engineering standards referred to in subsection (1) are approved by the Minister, they shall be binding on the urban transit authority’s operations, including the urban transit authority’s operations upon a host railway. For clarity, a host railway shall not require an urban transit authority to construct or alter railway works or operate pursuant to standards contrary or in addition to those approved by the Minister.

Railway Works

3. (1) Where an urban transit authority is a proponent, the host railway shall abide by the provincial heritage laws binding on the urban transit authority for the duration of the work where the host railway carries out the proposed works.

(2) The urban transit authority shall be liable for any increased costs of the works as a result of the application of laws to the host railway that the host railway is otherwise not subject but for this section.

4. (1) Where an urban transit authority is the proponent with respect to work on a host railway’s railway, the urban transit authority may refer the apportionment of liability for the construction, alteration, operation or maintenance costs of the work to the Agency for a determination if they

cannot agree on the apportionment. The referral may be made either before or after construction or alteration of the work begins.

(2) In making a determination pursuant to subsection (1), the Agency shall have regard, in addition to any other factor the Agency considers relevant, the party who is proposing the work and the benefits that may be realized by the urban transit authority and the host railway.

5. (1) In considering requests filed under subsection 10(3) of the Act, the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside Canada as well as the unique operations of an urban transit authority.

(2) Where the Minister approves a work pursuant to an application made by an urban transit authority pursuant to subsection 10(3), the approval shall be binding on the host railway. For clarity, a host railway shall not require an urban transit authority to implement a proposed railway work pursuant to standards contrary or in addition to those approved by the Minister.

Grants

6. (1) Where an urban transit authority is a proponent with respect to works on a host railway, or works on a railway owned by the urban transit authority, the urban transit authority may apply for a grant or grants pursuant to section 12.

(2) In making a determination pursuant to section 12(4), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

7. (1) Where an urban transit authority is a proponent with respect to works on a host railway, or works on a railway owned by the urban transit authority, the urban transit authority may apply for a grant or grants pursuant to section 13.

(2) In making a determination pursuant to section 13(3), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

8. (1) Urban transit authorities may apply for a grant or grants pursuant to section 14.

(2) In making a determination pursuant to section 14(1), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

Operations and Maintenance of Railway Works and Equipment

9. Where an urban transit authority has received an approval pursuant to subsection 10(3) for works to be undertaken on a host railway, section 17.21 shall be read to refer to the engineering standards applicable to the urban transit authority.

10. In making a determination pursuant to subsection 17.4(3), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

Rules

11. (1) Where rules formulated pursuant to section 19(1) or 20(1) are approved by the Minister pursuant to section 19(4)(a) or amended by the Minister pursuant to section 19(4.2), they shall be binding on the urban transit authority's operations, including the urban transit authority's operations upon a host railway. For clarity, a host railway shall not require an urban transit authority to operate pursuant to rules contrary or in addition to those approved by the Minister.

(2) Where the Minister establishes rules pursuant to section 19(7), they shall be binding on the urban transit authority's operations, including the urban transit authority's operations upon a host railway. For clarity, a host railway shall not require an urban transit authority to operate pursuant to rules contrary or in addition to those approved by the Minister.

12. In making a determination pursuant to subsection 19(4.2), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

Miscellaneous Provisions Relating to Regulations and Rules

13. In determining the uniformity of rules pursuant to section 21, the Minister shall have regard to urban transit authorities and how their operations are unique from other companies.

14. In exercising discretion pursuant to section 22(1) or granting an application pursuant to section 22(7), the Minister shall be receptive to, and consider developments in technology and standards employed in other jurisdictions outside of Canada as well as the unique operations of an urban transit authority.

Power of Railway Companies on Adjoining Lands

15. Urban transit authorities may enter onto any land adjoining the land on which the urban transit authority operates for the purposes, in the manner, and subject to any compensation requirements provided for by section 25 of the Act.

Police Constables

16. A judge of a superior court may appoint a person as a police constable for the enforcement of the laws of Canada or a province in so far as their enforcement relates to the protection of property owned, possessed or administered by an urban transit authority and the protection of

persons and property on that property in the manner and subject to the restrictions contained in section 44 of the Act.

Operating Entity

17. Where an urban transit authority has contracted for a third party operating entity, the Act shall apply to the operating entity as if it were the urban transit authority; provided that the urban transit authority shall be included on any correspondence between the operating entity and any authority empowered to administer this Act.

Dangerous Goods

18. A shipper and a railway company whose goods are transported or who transports goods regulated by the *Transportation of Dangerous Goods Act* shall provide an urban transit authority with a listing of the dangerous goods and the approximate timing of the transportation of the dangerous goods where the dangerous goods will pass by stations used by the urban transit authority or where the dangerous goods will travel along a railway owned or used by the urban transit authority.

Primacy of Passenger Traffic

19. (1) Subject to subsection (2), when engaging in dispatching, railways shall give primacy to passenger service providers.

(2) Railways shall not be required to comply with subsection (1) where it would violate any legal obligation.