

Transport Canada Railway Safety Act Review 2017-18

Government of Alberta Submission

For Consideration by the RSA Review Panel

Alberta 

Forward

This paper has been prepared in response to the Railway Safety Act Review Panel's request to hear from those with an interest in rail safety.

Alberta Transportation

[on behalf of the cross-Ministry working group for the RSA review]

September 2017

Executive Summary

Alberta relies on a safe, efficient and reliable transportation network to connect individuals and to ship goods domestically and abroad. The Railway Safety Act (RSA) is vital legislation for ensuring the reliability and safety of Canada's rail transportation system.

The Government of Alberta applauds the RSA Review Panel's comprehensive approach to the review process. We also encourage continued collaboration of multiple levels of government in advancing Canada's railway safety policy issues. The Government of Alberta engaged a cross-ministry team; with participation from various ministries and subject matter experts. It is the result of this engagement that forms the basis of this submission.

In Alberta, in addition to the federally regulated railways operating in the province, there are many railways which are provincially regulated. Provincially regulated railways operate in accordance with the Railway (Alberta) Act. Alberta Transportation is responsible for administering the Act and its associated rules, regulations and standards. Some of the rail safety areas that Alberta Transportation is responsible for, include: inspecting new construction and issuing approvals for construction; approving applications for operating certificates; conducting compliance reviews of operations including training, procedures and company inspections; conducting inspections of rolling stock, crossing signals, dangerous goods loading racks and track; legislative review; enforcement; and investigation of incidents. The Government of Alberta has adopted several of the federal railway rules, regulations and standards in the Alberta Railway Regulation for its shortline, industrial and heritage railway operations. Federal railway amendments are noted and considered when the applicable provincial regulation comes due for review. While these provincially regulated railways, and the legislation under which these operate, is not the focus of this review, the lessons learned from these processes and the interaction between the provincial and federal systems of rail safety legislation and regulation will be discussed in our responses.

In this submission, the Government of Alberta offers feedback, identifies opportunities and outlines concerns related to the following crucial railway safety items:

Roles, responsibilities and oversight – Alberta Transportation has identified siloed jurisdictions created under the RSA as a significant policy concern. We believe there is a need to clarify jurisdictional responsibilities and regulatory oversight. Similarly, engagement with railway regulators and stakeholders is essential to successful policy development and regulatory implementation. There is a need for integrated coordination, especially during emergency situations, such as spills and derailments. During these situations, there must be adequate resources in place to address all aspects of an incident in a collaborative fashion. Each jurisdiction's roles and responsibilities should be clearly defined and outlined in policies, regulations and procedures, which shall encompass all aspects of the process including, response, recovery, environmental remediation and investigation.

Work/Rest Rules – Another area of concern for Alberta is work/rest rules and their implementation, including follow-ups in cases where maximum hours are reached or where improper record keeping of these hours occurs. Alberta Transportation has identified benefits to

electronic log books in ensuring that companies are audited and inspected for work/rest rule compliance and recordkeeping. Alberta also encourages the establishment of evidence-based measures to effectively develop policies and procedures that mitigate the risks associated with fatigue and the enforcement of work/rest rules.

Finally, Alberta recommends the involvement of a third party in order to establish impartial dispute resolution processes and to provide support to all parties during discussions and negotiations concerning policy and program development, as well as regulatory oversight.

Track, Infrastructure and Equipment – Alberta Transportation has identified an opportunity to enhance rail safety through improvements to the track integrity, maintenance and inspection regime. The regime should be reviewed to ensure it accounts for current and forecasted freight volumes and to factor in emergency preparedness. Class 1 railways, for example, should be required to coordinate incident response with regional and provincial emergency responders. Additionally, track and bridge condition reporting should be done more effectively and frequently, which will allow us to assess the need to increase investments in railway infrastructure renewal programs, based on data collected through the reporting process. Investments in infrastructure, including track, should be evaluated through a long-term lens that considers proximity issues using the “Guidelines for New Development in Proximity to Railway Operations,” published by the Rail Association of Canada/Federation of Canadian Municipalities. Regarding equipment, railways should ensure that there is effective and accurate equipment condition reporting, as well as out of service/fault resolution processes in place to respond to potential critical safety conditions. Hence, Transport Canada has a role to play in auditing and inspecting railways consistently.

Safety Management System and Approaches – Safety Management Systems and the approaches used in development and implementation of those systems is another concern of the Government of Alberta. Current systems require revisions to include Transport Canada best practices and the most up-to-date procedures. For the sake of consistency and efficiency, Transport Canada should oversee the development of railways’ Safety Management Systems. Railways should have effective Safety Management Systems and protocols in place, which shall be audited on a regular basis. This includes ensuring that railways’ workers are trained in the most recent technologies that allow the industry to respond and contribute to overall rail safety.

Blocked Crossings – Whereas legislation regarding blocked crossings exists through the Grade Crossing Regulations, Alberta Transportation has identified challenges with legislation enforcement in this particular area. Blocked crossings may not only have impacts on road users, especially when crossings are blocked for extended periods of time, but may impact other areas such as emergency services. Alberta Transportation recommends further collaboration at all levels of government and railway companies in order to find solutions to enhance crossing safety, and assistance in the enforcement of the legislation.

Cooperation, Collaboration and Education – Alberta Transportation has identified a need for further cooperation and collaboration related to rail safety. Railways and Transport Canada should

involve stakeholders and the public in the discussions and decision-making processes related to proximity issues, relocation of routes, designation of hubs and strategic route planning (especially for trains carrying dangerous goods). There is an opportunity for railways and Transport Canada to work collaboratively with provinces/territories/municipalities on a variety of issues and programs, such as grade separated crossings. This entails improving interactions and communication, and clarifying roles and responsibilities between jurisdictions.

Moreover, there is a need for increased rail safety education. Transport Canada and the railways have an opportunity to increase the level of consultation, engagement and information-sharing with the public to increase public knowledge and participation, while promoting the importance of the industry, as well as public knowledge on the goods and services being transported through the railways in Canada. Increased investment in outreach and public education programs would be of benefit to all stakeholders while contributing to railway safety.

Shortlines – Finally, Alberta has identified the limitations on the federal liability insurance and compensation regime and its potential impacts on shortline railways as a challenge that needs to be addressed. In Alberta, each location that handles dangerous goods is required to purchase \$25 million in liability insurance. The Government of Canada is considering increasing insurance requirements for railways that move dangerous goods from \$25 million to \$100-\$250 million. The expectation is that provinces and territories will follow. In Alberta, this change will significantly impact provincial shortlines, putting them at risk of going out of business and hindering the future growth of shortlines, as well as Alberta's economic development. Alberta's position on the insurance increase requirements is that the proposed amounts may be prohibitive to the provincial industry. The Government of Alberta continues to work with other Canadian jurisdictions and has proposed a number of options related to the Rail Liability and Compensation Regime. While Transport Canada has not accepted the proposed options, this review provides an opportunity to globally consider the best policies and regulatory options to continue to promote economic growth and stability across the country.

The following sections outline the Government of Alberta responses to the key questions asked by the Railway Safety Act Review Panel to focus input from stakeholders with an interest in rail safety.

Key Positions

Overall Provisions of the Railway Safety Act including Roles and Responsibilities

1.1. Are the roles, responsibilities and authorities for railway 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?

- The Railway Safety Act is unclear about whether provincial or federal jurisdictions have responsibility and authority for ultimate control of rail incidents. The overall regulatory system could benefit from greater transparency and clarity through legislation and amendments.
- There is a lack of communication and collaboration between the federal and provincial rail authorities. There must be a better approach to governance and administration.
- The Railway Safety Act assigns multiple jurisdictions to multiple regulators (up to three levels of government). This split in jurisdiction can cause confusion amongst operators and regulators.
- The Railway Safety Act further requires to clearly define the roles and responsibilities of each authority. Currently only limited roles and responsibilities of key parties are evident in the Act (found throughout several different sections of the Act).

1.2. How effective is the rule-making process? Are there particular aspects of this process that might benefit from a closer examination?

- Currently, Transport Canada appears to seek minimal involvement from the provincial and territorial authorities on decision-making. There is an opportunity to enhance collaboration.
- Transport Canada needs to communicate, cooperate, coordinate and collaborate better.

Adoption of Safety Management Systems and Safety Culture

2.1 Since the last Review have there been advances with integrating safety into day-to-day railway operations?

- The Government of Alberta has found benefit in Transport Canada developing and putting into practice regulations addressing administrative monetary penalties for individuals and companies in contravention of the Railway Safety Act (RSA). However, there is a need for provisions in the RSA that address the public disclosure of incidents.
- The Government of Alberta recognizes that Transport Canada developed requirements for railways to develop and abide by safety management systems and enhanced grade crossing regulations. These new requirements have been helpful.
- The Government of Alberta and Alberta rail safety stakeholders have also found benefit in the fact that Transport Canada has enhanced some information-sharing between railways and municipal stakeholders regarding the transportation of dangerous goods through municipalities. This allows municipal stakeholders to plan for and respond to potential rail accidents involving hazardous goods. However, there needs to be more data granularity of what products are being transported.

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?

- Transport Canada's SMS approach would benefit from an improved audit review process (by an external or third party auditor) to assess whether or not the approach is achieving outcomes.
- Transport Canada needs to establish SMS performance metrics before being able to measure and determine if and how approaches are working.
- Transport Canada should conduct consistent compliance inspections (beyond their SMS and include things such as track and equipment), particularly for those operators who have demonstrated ineffectiveness at managing risks. In addition, this includes conducting frequent audits for operators who have demonstrated that they have a mature safety management system.
- The Railway Safety Act does not adequately address recreational use on public lands/parks and pathway access adjacent to or intersected by railways.
- The Railway Safety Act does not fully speak to non-acute risk, such as invasive species spread, ecological management requirements, etc.
- Transport Canada, in conjunction with all stakeholders, should develop a protocol for emergency response to spills of environmentally hazardous goods that are not designated as "dangerous goods" under the Transportation of Dangerous Goods Act.
- The Railway Safety Act should require any product causing an adverse effect to the environment to require an elevated response to the release in conjunctions with provincial response teams along with the efforts to reopen the rail lines.
- The Railway Safety Act should require a product release to have a response adequate for the effect on the environment, not based on whether it is regulated by dangerous goods legislation. For example, some fertilizers are non-regulated but can cause large mortality in fish.

2.3 What role should Transport Canada and railway companies play in reinforcing Safety Management Systems?

- Transport Canada needs more oversight to ensure that federal railways have an effective SMS and that the railway operators are compliant with the requirements.
- Transport Canada needs to audit and enforce SMSs since a SMS is only as good as its governance approach.
- Transport Canada should have established criteria, templates, and best practices, including clear outcomes, of various Safety Management Systems.
- Transport Canada should establish and conduct regular audits/reviews of railways SMS with follow-up recommendations and management action plans.
- Transport Canada, in conjunction with the industry, should establish a Canadian standard of emergency response for the railway industry (for dangerous goods, environmentally hazardous goods and other goods).
- The Railway Safety Act should establish the same collaborative procedures for dangerous goods spills and non-dangerous goods (but potentially environmentally damaging) spills.

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?

- Transport Canada implemented the requirement for a SMS many years ago; however, initially, there were limited resources and training of staff related to the SMS requirement.
- Transport Canada should recognize that shortline rail operators may not have the same resources as Class I operators. Therefore, Transport Canada may be required to step in to provide the training and resources required to develop and adhere to an effective SMS plan.
- Transport Canada is advised to identify best SMS practices in order to evaluate its effectiveness, provide appropriate and frequent training and conduct regular annual refreshers. Consequently, Transport Canada needs to clearly define what is deemed as "effectiveness" in this context.

Quality and Use of Performance Data for Risk Management

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?

- Transport Canada should conduct periodic reviews of the risk management framework to ensure suitability for the current environment and industry advancements.
- Currently, Transport Canada, through current risk management frameworks with respect to dangerous goods, does not adequately address safety issues relating to present and future traffic volumes and types of goods being carried.
- Transport Canada should develop regulations that require railway carriers to provide web-based real time data on dangerous goods that travel by rail through communities to first responders. For communities without internet service, railway carriers would need to devise alternative means of communication to provide real time information on dangerous goods.
- Railways need to utilize the most recent technologies to contribute to addressing safety issues.

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?

- Provinces and territories have limited access to Transport Canada data therefore are not able to determine data sufficiency for a robust risk assessment. Hence, Transport Canada needs to ensure access to open data and transparency for the provinces and territories.
- Transport Canada should enhance engagement and work more closely with the National Energy Board to understand trends in the petroleum industry and the interface between pipelines and rail transport. This would allow regulation to be consistent with true risk rather than perceived risk.
- Transport Canada should further take into consideration the multi-modal nature of rail transport and collect data related to connections of rail freight or passengers into these

3.3 What is the current quality and availability of performance information? Is it contributing to establishing key performance indicators regarding the state of railway safety?

- Provinces and territories have limited access to Transport Canada data, which is a barrier to establishing key performance indicators.

3.4 Is performance information being analyzed and disseminated? To what extent is it contributing to a feedback loop regarding risk management and learning?

- Similarly, provinces and territories have limited access to Transport Canada data in order to contribute to a feedback loop regarding risk management and learning.
- There is a lack of transparency related to performance information.

Ability to Respond to Industry Trends

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?

- Transport Canada, the rail industry and Municipalities should work in partnership to plan long term strategies and mitigation for current proximity issues.
- Transport Canada should make sure that long term strategies ensure rail traffic is not impacted and spilling over to road traffic, as this would exacerbate other safety issues.
- Transport Canada should also require rail carriers to conduct strategic route planning and analysis, and perform risk assessments to ensure that risk-control measures are effective for all trains carrying dangerous goods as population growth and trade expansion increase rail safety risks.
- Railways need to take a collaborative approach to multi-modal corridors.

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?

- There may be increases in congestion due to passenger and freight train conflict especially in areas where there is shared track or other shared infrastructure.
- There will continue to be conflict with recreational and agricultural users and railways.
- Transport Canada's long term strategies should include options for the possible relocation of freight operations to hubs in rural areas and increases in funding for grade separated crossings.

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?

- Transport Canada should work with the railways to ensure that investments in rail lines ensure designs and locations have a positive impact on existing proximity issues and do not create new ones.
- Transport Canada needs to work closely with provincial counterparts, railway associations, carriers, and shippers to better understand emerging trends and innovations to ensure investments in infrastructure are made in a timely manner to maximize economic benefit, respond to fluctuations in the market, and ensure infrastructure is available.
- Transport Canada's implementation of a robust, accessible and sustainable data and information system through the Canadian Centre for Transportation Data and open data portal initiatives will support evidence-based decision making on the required transportation infrastructure investments to accommodate future demand growth and shifts in trade.
- Transport Canada should involve the public in discussions around new developments to ensure increases in safety through such developments add to the social license to continue operation of the rail lines.
- Transport Canada and the railways should work cooperatively to ensure better track condition and double tracking is in place where appropriate to support long/heavy trains.

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)?

- Transport Canada should review current funding /allocations for grade crossing improvements to ensure sufficient funds in relation to the demand from the Class 1's and shortlines as improved crossing warning systems, reductions in at-grade crossings, or increases in the number of grade separated crossings would all improve safety.
- Transport Canada should take into account projects which would increase safety around rail lines, such as grade separations, that would also serve to improve the efficiency of trade corridors and address transportation bottlenecks, when considering funding decisions under the National Trade Corridors Fund.

4.3 Technological

4.3.1 Is the RSA framework properly positioned to address industry advances in technology and innovation?

- The Railway Safety Act should foster the adoption of applicable technologies and the testing of new technology.
- The Railway Safety Act should not create unnecessary barriers to 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?

- The RSA should ensure that new technology (i.e. positive train control, electronic logging devices, etc.) be used to prevent rail safety incidents; not just to respond to them after they happen.
- Transport Canada should foster the implementation of new rail technology through grant incentives and ensure regulations are adopted in a timely manner.
- Transport Canada should consider applying new technology standards across the entire industry so all companies are operating with the same higher standards.
- Transport Canada should continue to support the development of oil tank cars designed to sustain an impact without leaking.

4.3.3 Does the adoption of new technologies impact the skill set required of railway employees?

- New processes or technology requires railway worker skill sets to be updated to ensure safe railway operations. Railways have historically developed training to provide staff with the competencies and skill sets to operate/function safely in railway operations.
- Transport Canada should be involved in oversight of railway training programs in response to new processes or technologies requiring worker skill sets to be upgraded to ensure safe rail operations.
- Transport Canada should ensure that digital skills and competencies of railway workers are updated in order to safely understand and operate train onboard computer systems as research and innovation provide new technological solutions for the railway industry.

4.4 Labour

4.4.1 Do employee fatigue, hours of service, and overtime remain concerns for railway safety?

- Current work/rest rules are not effective and there are concerns about how these are monitored and enforced.
- Transport Canada should have an unbiased third party establish a path forward regarding fatigue management. Historically, fatigue management has been a controversial issue for both workers and employers. It is known that fatigue can be a significant safety factor in all modes of transportation and must be taken seriously.
- Transport Canada should develop evidence-based policies and procedures to effectively mitigate the risk of fatigue for operating crew members on freight trains.

4.4.2 Are there best practices to be gained from work-rest requirements in other modes of transportation or employment sectors?

- The Government of Alberta amended the Employment Standards Regulation (Division 10) for municipal fire fighters in 2012 to build in rest requirements when the use of 24 hour shifts became allowable.
- Transport Canada should examine national rules to enhance the safety of operations established for air and trucking modes for their potential applicability to the rail mode.
- Transport Canada should examine programs built to address fatigue management within some industry associations such as the Alberta Roadbuilders and Heavy Construction Association.

4.4.3 Is there a need to regulate testing for use of substances like alcohol and drugs?

- Transport Canada should encourage companies to develop a testing policy as part of their SMS. Should Government regulations be implemented, the regulation should be narrow and confined to set circumstances such as testing after an incident or if there is a safety concern.
- In Alberta, Occupational Health and Safety legislation requires provincially regulated employers to assess and control hazards on their work site. If impairment by any means (prescription drugs, alcohol, fatigue, illegal drugs) may create a hazard, the employer must develop controls to ensure the protection of workers. Such controls, which may include testing for alcohol and drugs, must align with the Alberta Human Rights Act, which prohibits discrimination in the area of employment. Employers may have a role to play in supporting workers who have a drug or alcohol addiction.

Relationship Building and Coordination

5.1 Federal – Provincial Interface

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

- Transport Canada needs to improve interaction regarding roles and responsibilities between the federal, provincial/territorial and municipal jurisdictions. All levels of government could benefit from improved and coordinated communication to the public about roles and responsibilities.
- Transport Canada needs to ensure that they are conducting proper levels of communication/cooperation/coordination/collaboration with the provinces/territories and municipalities.

5.1.2 Should the provinces be consulted on the drafting of rules and regulations? To what extent?

- Transport Canada has jurisdiction over federal railways and is responsible for regulatory amendment/development, however, when a province or territory is inadequately engaged and rule making negatively affects the provincial railway industry, significant problems arise (i.e. proposed changes to the federal railway liability regime). A case in point:
 - The Safe and Accountable Rail Act (SARA) amends the Canada Transportation Act (CTA). It ensures that more resources are available, if a rail accident occurs, to:
 - compensate victims;
 - pay for clean-up costs; and
 - protect taxpayers.
 - New measures under the Act:
 - require federally regulated freight railways to hold a minimum insurance of \$25 million to \$1 billion, based on risk;
 - define railway liability, including liability without proof of fault or negligence for crude oil accidents;
 - create the Fund for Railway Accidents Involving Designated Goods, which: is financed by crude oil shippers; and
 - pay compensation when the railway's mandatory insurance level is not enough to cover the full cost of damages from a crude oil accident.
 - Without a fulsome dialogue and consultation with the provincial jurisdictions, the amendments to the CTA under the SARA create a gap in terms of accessing the Fund for Railway Incidents involving Designated Goods (FRAIDG). The fund is financed by crude shippers. In many instances the crude oil moves first by an industrial railway, to a short line or Class 1 railway and hence on to the mainline system. By using the CTA as the legislative vehicle, any incident in the system before the designated good reaches the Class 1 federally regulated railway, would not be accessible by a claimant.
 - The issue is it is the "designated good" that creates the risk, not necessarily the class of railway; as such, the Government of Alberta believes that the appropriate legislative instrument for the system would be the *Transportation of Dangerous Goods Act*. In this way, federal jurisdiction extends back to the shipper site, and the compensation fund umbrella would cover all claimants, no matter where in the shipping chain the incident occurred. After all, it is the shipper at the front end that fuels the fund.
- Transport Canada should engage in more regular information-sharing and ongoing consultation with the provinces and territories to create better co-ordination and risk management.
- Transport Canada should also engage municipal associations at both the national and provincial level in discussions relating to the drafting of rules and regulations. All key stakeholders should be consulted.
- Transport Canada needs to ensure that they are conducting proper levels of communication, cooperation, coordination and collaboration with the provinces, territories and municipalities.

5.1.3 Should smaller railways that mostly operate on provincial track be subject to the same requirements as larger national railways?

- In terms of insurance requirements, the proposed federal liability insurance requirements for railways that move dangerous goods, which would increase from \$25 million to \$100-\$250 million, threaten the viability of Alberta's shortline railways. Alberta proposes that shortline railways should be covered under the Federal Compensation and Liability Regime should an accident exceed \$25 million liability insurance limits. In addition, smaller railways that mostly operate on provincial track should be obligated to maintain the same insurance coverage as the larger national railways. This is the case in Alberta, where Section 37(1) of the Railway Regulation stipulates that the operator of a railway must maintain third party liability insurance coverage of at least \$25 million for each occurrence.
- Transport Canada should not require local railway companies operating on a minimal amount of track to obtain a rail operating certificate from Transport Canada. The issue here is when small industrial railways operating on approximately 100 feet of spur track owned by a Class 1 trigger the need to obtain a rail operating certificate and the associated administrative burden.
- Transport Canada should be actively soliciting recommendations from industrial railways and shortlines located in rural settings to ensure all requirements imposed on national carriers have the same effect on their safety.
- The Railway Safety Act should not exclude any conditions that would improve the safety in rural areas and have little or no impact on the national carriers.

5.1.4 Are the current Federal-Provincial agreements an effective approach to safety oversight?

- The Government of Alberta is not aware of any railway safety agreements between Alberta and Transport Canada, with the exception of the agreement regarding dangerous goods. This agreement, along with the *Provincial Dangerous Goods Transportation and Handling Act and Regulations*, provides effective oversight ability for surface transportation and the handling of Dangerous Goods in Alberta.
- More Federal-Provincial agreements need to be put in place through communication, cooperation, coordination and collaboration.

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

- The Government of Alberta has adopted 12 of the federal rules, regulations and standards in the Alberta Railway Regulation for its shortline, industrial and heritage railway operators, however, any federal changes are not automatically adopted. Federal amendments are noted and would be considered when the applicable provincial regulation comes due for review.
- Transport Canada should put additional consideration into the Comprehensive Review of the Third Party Liability and Compensation Regime to ensure that compensation is available in the case of an incident due to a provincially operated shortline railway operator.
- Transport Canada should ensure that environmental legislation is harmonized with federal rail legislation. There are continued challenges with retaining fish passage and connectivity at railroad watercourse crossings (i.e., railroad crossings should not present a barrier to fish movement in watercourses).
- The Railway Safety Act should require timely communications of activities by the railway companies to all stakeholders, particularly the provinces and territories, on things such as notice of activities that impact access through their right of ways to get to portions of public land/parks and railway crossing standards for recreational use versus vehicle use.

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 railway safety?

- The Railway Association of Canada and the Federation of Canadian Municipalities in May 2013 published Guidelines for New Development in Proximity to Railway Operations which appear to be extensive and give good guidance.
- Transport Canada should carry out engagement activities and educate the public on the railway system and safety activities and should work closely with communities to educate the public on what are actual risks and dispel myths. Rather than reacting to the mode of transport, the public reacts to products transported; therefore, it is important that the public is educated on the various products being shipped, the associated risks, and the measures taken to mitigate risks.

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

- Transport Canada should engage provinces and municipalities to identify barriers to collaboration. Railway companies may not have the resources required to complete the level of collaboration and engagement required in communities and municipalities.

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

- Transport Canada should support more public education programs in schools to reduce trespassing. Operation Life Saver can be an effective means to engage school children in the dangers of trespassing on railway right of ways.

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

- Transport Canada should ensure that the Railway Association of Canada and Federation of Canadian Municipalities Guidelines for New Development in Proximity to Railway Operations are being used as they are quite extensive and give good guidance.

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?

- There have been some improvements with initiatives like the “Ask Rail” Application, manifest availability, the quarterly summary of dangerous goods shipped across a municipality, etc.
- Transport Canada should enhance communication (i.e. increased dialogue and education and outreach programs) between stakeholders, especially the public, to better educate Canadians about the railway system.
- Transport Canada should enhance railway data sharing by making the data more readily available and ensuring more granular information is collected. Given the vast number of products shipped on the rail network, having access to high quality and accurate data is important from an information sharing and transparency perspective. Additional data availability will allow stakeholders to use this data for forecasting and research. Regulators can use this data to make changes and enhancements based on trends and forecasts.

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

- Transport Canada should ensure rural stakeholder involvement is actively solicited. Advocacy groups that provide a rail safety perspective could be supported by Transport Canada to remain active on a regular basis providing not only feedback during the review processes but also between *Railway Safety Act* reviews.

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

- Transport Canada should provide advanced notice and opportunity for consultation with municipalities on rules and any exceptions to rules.

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?

- No Input.

Promoting Railway Security

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?

- There is a need to partner with jurisdictions on many rail safety items and particularly on security.
- There is a need to engage provinces/territories as full stakeholders as the provinces/territories are responsible for public security.

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

- The RSA relies on the establishment of a SMS to address the security of rail transportation. Relying solely on the SMS will not be adequate to address future threats.

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

- Transport Canada can advance its degree of preparation for rail security threats this must be done in conjunction with provinces/territories and municipalities and put in place through communication, cooperation, coordination and collaboration.
- The RSA must ensure rail security threats have a coordinated response.