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CANADA

RAILWAY SAFETY AND THE EFFECTS OF RAILWAY OPERATIONS ON THE SURROUNDING COMMUNITIES IN WHICH THEY OPERATE

**Report of the Standing Committee on Transport,
Infrastructure and Communities**

Peter Schiefke, Chair

**MAY 2022
44th PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON TRANSPORT, INFRASTRUCTURE AND COMMUNITIES

has the honour to present its

FIFTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied railway safety and has agreed to report the following:

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A NOTE FROM MEMBERS

The members of the Committee note the passing of Dawn Remington, who provided witness testimony for this study, and express their deepest condolences to her family and loved ones, as well as their gratitude for her meaningful contribution to this study.

SUMMARY

Canada has one of the largest railway networks in the world, and the volume of freight transported by rail is on the rise. Despite some improvements made in the aftermath of the Lac-Mégantic disaster, many Canadians are concerned that this traffic increase will result in more railway transportation accidents.

In March 2021, the Standing Committee on Transport, Infrastructure and Communities (the Committee) undertook to study the Auditor General of Canada's Follow-up Audit on Rail Safety. This report follows an expansion of that study.

The Auditor General of Canada and the Canadian Transportation Accident Investigation and Safety Board both outlined their outstanding recommendations to Transport Canada, particularly regarding regulatory oversight and Safety Management Systems (SMS).

Witnesses also spoke to the Committee about the difficult relationship between municipalities and adjacent properties, as well as Indigenous communities, and the railway companies that run traffic through their communities. Railway crossings represented a significant concern.

The Committee was also told about labour condition issues facing railway workers and heard recommendations to improve fatigue management in the rail industry.

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Fatigue management

Recommendation 1

That Transport Canada, based on the latest science, and in consultation with labour representatives and other stakeholders, strengthen fatigue management rules for railway operators and require railway companies to do better in this area.

Ensuring predictable scheduling for rail workers

Recommendation 2

That Transport Canada, in consultation with labour representatives and other stakeholders, develop legislative and/or regulatory structures to ensure predictable scheduling for rail workers which reflect best practices for fatigue management.

Addressing the impact of deadheading on maximum duty periods

Recommendation 3

That Transport Canada, in consultation with labour representatives, review CN and CP rail's draft fatigue management plans, to address the impact of deadheading on the maximum duty period and require advance work schedule notice to employees.

Establishing standards for away from home rest facilities

Recommendation 4

That Transport Canada, in consultation with labour representatives and other stakeholders, establish adequate standards for away-from-home rest facilities used by rail employees to ensure proper rest between shifts.

Fund – Feasibility studies

Recommendation 5

That the Government of Canada establish a fund to support feasibility studies on developing and relocating rail lines from urban areas.

Fund – Development and relocation projects

Recommendation 6

That the Government of Canada consider establishing a fund to support priority projects to develop and relocate rail lines from urban areas.

Recommendations of the Auditor General of Canada

Recommendation 7

That Transport Canada commit to fully and expeditiously implementing the recommendations of the Auditor General of Canada in the Follow-up Audit on the Transportation of Dangerous Goods.

Reviewing SMS effectiveness

Recommendation 8

That Transport Canada undertake a comprehensive review of Safety Management Systems in the rail sector to assess its effectiveness in improving safety standards.

Measuring Transport Canada effectiveness and operator compliance

Recommendation 9

That Transport Canada develop comprehensive indicators, as suggested by the Auditor General of Canada's report to measure the effectiveness of its rail safety oversight activities and compliance rates amongst operators, that these indicators be used to perform annual assessments of rail safety improvements and that the outcome be reported annually.

Following-up after compliance violations

Recommendation 10

That Transport Canada commit to consistent follow-up interventions following rail safety compliance violations to ensure operators have achieved compliance.

Reforming SMS regulations

Recommendation 11

That Transport Canada reform Safety Management System regulations to ensure that rail companies are sufficiently conducting risk assessments and addressing hazards.

Length of trains

Recommendation 12

That Transport Canada review the regulations to limit the length of trains to address safety and crossing-blockage concerns.

Unannounced on-site inspections

Recommendation 13

That Transport Canada significantly increase the number of unannounced on-site inspections to determine the safety of railway tracks, including rail company operations, and that such inspections be conducted by inspectors who are specialised in rail transportation.

Reporting accidents and incidents

Recommendation 14

That Transport Canada require rail operators to report all rail accidents and incidents identified by inspectors and company officials and that this information be made publicly available.

Ensuring adequate resources for Transport Canada

Recommendation 15

That the Government of Canada ensure Transport Canada has adequate resources for monitoring rail safety compliance, including hiring more rail inspectors.

Lac-Mégantic public inquiry

Recommendation 16

That the government launch an independent public inquiry into the Lac-Mégantic tragedy in order to investigate the incident and make recommendations to prevent a similar incident from happening again.

Lac-Mégantic bypass

Recommendation 17

That Transport Canada commit to building the Lac-Mégantic bypass as soon as possible and be transparent about its progress and completion timeline through consultation with Lac-Mégantic residents, landowners, and elected officials.

Lac-Mégantic bypass: maximum speed

Recommendation 18

That Transport Canada consider opting for a lower maximum speed on the Lac-Mégantic bypass than that proposed by Canadian Pacific and that this evidence-based approach be shared with the residents of Lac-Mégantic.

Expanding requirements for information sharing with municipalities and emergency services

Recommendation 19

That Transport Canada develop legislative and/or regulatory structures to require rail companies operating in Canada to provide, in a timely manner, detailed information sharing on the passage of dangerous goods with appropriate municipal officials and emergency services, beyond the current requirements under the Transportation of Dangerous Goods Act.

Removing a potential conflict of interest relating to the jurisdiction of private railway police

Recommendation 20

That the Government of Canada amend Section 44 and 44.1 of the Railway Safety Act to remove the potential conflict of interest from the jurisdiction of private railway police in investigations involving their companies.

Expanding non-compliance enforcement

Recommendation 21

That Transport Canada increase non-compliance enforcement by imposing fines on railway operators that commit safety violations and by using an escalation in the case of continued violations, up to and including revoking licences.

Enshrining whistleblowing protections into legislation

Recommendation 22

That the Government of Canada enshrine adequate whistleblowing protections into legislation to ensure rail company employees can report safety concerns without intimidation or retribution.

Mandating training standards

Recommendation 23

That Transport Canada mandate appropriate standards for emergency response training along rail routes and that this training include emergency responses to derailments and dangerous goods fires.

Granting timely final approval to ERAPs

Recommendation 24

That, as recommended by the Commissioner of the Environment and Sustainable Development in 2020, Transport Canada work to finalize timely approval to emergency response assistance plans for the transportation of dangerous goods.

Improving data collection

Recommendation 25

That, as recommended by the Commissioner of the Environment and Sustainable Development in 2020, Transport Canada improve its data collection to provide more complete information on railway companies and their compliance status.

Undertaking public regional risk assessments

Recommendation 26

That Transport Canada undertake public regional risk assessments to assess the impact of increased rail activity on communities, First Nations and the environment in regions that have seen significant increase in the transportation of dangerous goods.

Mandating maximum response times

Recommendation 27

That Transport Canada mandate maximum response times as part of rail companies' Emergency Response Assistance Plans for the transportation of dangerous goods.

Reducing the burden on municipalities and volunteer fire departments

Recommendation 28

That Transport Canada examine ways to reduce the burden on municipalities and volunteer fire departments for emergency responses to train accidents.

Improving railway companies' relationships with municipalities and Indigenous communities

Recommendation 29

That rail companies work to improve their relationships with municipalities, Indigenous communities, and neighbouring properties affected by railway operations, including residents affected by railway operations, establishing forums for dialogue and community engagement concerning rail activity.

Improving Canada Transportation Agency (CTA) responses to complaints received

Recommendation 30

The Committee recommends that:

- the Canada Transportation Agency shall respond to complaints (noise, vibration, odour, etc.) with actionable and enforceable recommendations within 4 months of receiving a formal notice of complaint(s) from a local government and/or adjacent properties effected by railway operations;
- based on complaints received from neighbouring properties affected by railway operations, as per the above noted, limit hours of railway operations to exclude the resting hours between 23:00 and 06:00. This precedence has been established as per comments made by Witness - Mr. Tom Oommen – CTA;

Mr. Tom Oommen - CTA: Thank you. Perhaps an example would be most enlightening. There was a case, for example, where there was a rail yard that was doing loading and switching operations overnight late at night. The agency heard the complaint. The order of the agency was that no further such operations would be done at nighttime. They were only to be conducted during the day. That is an enforceable order by the agency.

- upon completion of a (CTA) mediation process, the CTA provide a full report that includes recommendations within 6 months to all participants; and
- the Ministry of Transport evaluate the capacity and delegated authority of the CTA.

Fully phasing-out DOT-111 tank cars

Recommendation 31

That Transport Canada continue to fully phase out the use of DOT-111 tank cars for the transportation of all forms of dangerous goods and, if possible, look at ways to expedite the process.

Addressing the TSB's recommendations on the 2019 derailment near Field, B.C.

Recommendation 32

That Transport Canada move urgently to address the recommendations of the Transportation Safety Board in light of their investigation into the 2019 derailment near Field, British Columbia.

Addressing deficiencies at rural crossings

Recommendation 33

That Transport Canada ensure CN and CP Rail address infrastructure deficiencies at rural crossings.



RAILWAY SAFETY AND THE EFFECTS OF RAILWAY OPERATIONS ON THE SURROUNDING COMMUNITIES IN WHICH THEY OPERATE

INTRODUCTION

Canada's railway network is the third largest in the world, with over 40,000 route-kilometers of track¹ and freight transportation by rail playing a significant part in Canada's economy.²

Eight years after the Lac-Mégantic disaster,³ in which 47 people lost their lives, the volume of freight traffic being transported by rail continues to rise. This has led to concerns of a potential increase in the number, if not necessarily the rate, of accidents.⁴ Data for 2021 show an increase in both railway accidents (1,038) and rail-related fatalities (60) over 2020, but a decrease over the five-year average.⁵ A specific recent example is the tragic derailment near Field, British Columbia, that took the lives of three crew members on 4 February 2019.⁶

It is in this context that, on [25 February 2021](#), the Auditor General of Canada, Ms. Karen Hogan, tabled in the House of Commons a report entitled [Report 5 – Follow-up Audit on Rail Safety—Transport Canada](#) (Follow-up Audit).

On [9 March 2021](#), the House of Commons Standing Committee on Transport, Infrastructure and Communities (the Committee) adopted the following motion:

That the Committee hold a minimum of one meeting to study the Follow-up Audit on Rail Safety, that the Auditor General of Canada be invited to

1 Transport Canada, [Rail Safety in Canada](#).

2 Auditor General of Canada, [Report 5 – Follow-up Audit on Rail Safety—Transport Canada](#), 2021 (AGC, *Follow-up Audit*), paras 5.1-5.2.

3 Transportation Safety Board of Canada, [Rail transportation safety investigation R13D0054](#), 6 July 2013.

4 AGC, *Follow-up Audit*, para 5.3.

5 Transportation Safety Board of Canada, [News Release](#), 25 February 2022.

6 Transportation Safety Board of Canada, [Rail transportation safety investigation R19C0015](#), 31 March 2022.



appear for the first hour, that the Minister of Transport be invited for the second hour and that this meeting occur no later than 25 March 2021.

The Committee held one meeting on this subject on 13 April 2021, hearing from six witnesses, and subsequently, on [27 April 2021](#), adopted the following motion to expand and further the study:

That in light of the numerous rail disasters that have occurred since the Committee last studied rail safety in 2016, and given projected increases in the volumes of dangerous goods transported through some regions of Canada, the committee commit to a follow-up study focusing on Canadian rail safety, including but not limited to the transport of dangerous goods, emergency response capacity and efficacy, and labour conditions for workers in the sector; that the study identify measures that can be taken by the federal government to improve rail safety; that the study consider impacts on the surrounding communities in which they operate; that the committee include the evidence and documentation from its study on the Follow-up Audit on Rail Safety; and that the study conclude in four meetings or fewer.

The Committee held two meetings on this subject, on 15 and 17 June 2021, heard from 17 witnesses, and received three briefs.

Parliament having subsequently been dissolved, the Committee voted to resume its study on Canadian rail safety, including but not limited to the transport of dangerous goods, emergency response capacity and efficacy, and labour conditions for workers in the sector, identifying measures that can be taken by the federal government to improve rail safety; and considering impacts on the surrounding communities in which railways operate. To that end, the following motion was adopted on [31 January 2022](#):

That the Committee resume its study on rail safety from the 43rd Parliament; that the evidence and documentation received by the committee during the second session of the 43rd Parliament on the subject be taken into consideration by the committee in the current session; and that the study conclude after a further two meetings of witness testimony.

The Committee held two meetings on this subject, on 10 February 2022 and 3 March 2022, heard from 11 witnesses and received two briefs.

REGULATORY OVERSIGHT

[Ms. Hogan](#)'s audit identified two fundamental gaps in Transport Canada's oversight activities that, in her view, require immediate action. Both relate to Transport Canada's inability to measure effectiveness: of railway companies' safety management systems (SMS), in the first instance, and of its own oversight activities, in the second. The Canadian Transportation Accident Investigation and Safety Board (TSB)'s [Watchlist 2020](#), as reported by [Kathleen Fox](#), Chair of the TSB, also lists safety management and regulatory surveillance as points of concern.

With regards to the second gap, [Dawn Campbell](#), Principal with the Office of the Auditor General, gave the following example to describe the importance of measuring the effectiveness of Transport Canada's own oversight activities:

if the compliance rates are improving but the accident rates are not, then that would be an indicator that the department needs to go back and take a look at whether it is focusing on the right areas or what exactly the nature of the concern is there.

[Ms. Hogan](#) explained that the problems her office identified are not an issue of data gathering, but rather of using the compliance data obtained from railway companies to inform risk-based planning. [Mr. Brazeau](#) told the Committee that the Railway Association of Canada is in constant dialogue with the TSB and Transport Canada to discuss data gathering methodology.

Safety Management Systems

The TSB's [Watchlist 2020: Safety Management](#) defines SMS as "an internationally recognized framework that allows companies to identify hazards, manage risk, and make operations safer—ideally before an accident occurs." [Ms. Hogan](#) described SMS as "a framework for safety thinking," a position that [Ms. Fox](#) supported in saying that SMS "needs to be a mindset," although [she](#) added that safety culture, while critical, cannot alone ensure an effective SMS.

For her part, [Teresa Eschuk](#), National Vice-President of the Union of Canadian Transportation Employees, saw SMS as a form of self-regulation. [Bruce Campbell](#), Adjunct Professor at York University's Faculty of Environmental and Urban Change and author of *The Lac-Mégantic Rail Disaster: Public Betrayal Justice Denied*, had a similar view, describing SMS as "a form of blame-shifting, providing cover for the government." This, in his view, is due to a shift away from prescriptive regulations in favour of SMS, with no additional regulatory resources provided and a reduction in the number of



unannounced on-site inspections which he felt resulted in railway companies being provided “much greater leeway to manage their operations.”

The Auditor General’s Follow-up Audit and the TSB’s Watchlist both found that while Transport Canada does require railway companies to have SMS, it does not measure how effective these systems are at improving rail safety in daily operations.⁷ The Follow-up Audit includes a list of recommendations made since 2007 by several parties, including the Committee, that Transport Canada measure the effectiveness of SMS⁸. In referring to this list, [Ms. Hogan](#) told the Committee: “I’m discouraged that Transport Canada hasn’t acted on our recommendations from eight years ago.”

Transport Canada representatives explained to the Committee that the department’s focus over the past years had been on training and outreach with railway companies with regards to the new SMS regulations and requirements, as well as completing audits of all federally regulated railway company in Canada, which was done in 2020.⁹ [Michael DeJong](#), Director General of Rail Safety with the Department of Transport, added that a framework was then created to implement effectiveness audits in accordance with the Auditor General’s recommendations, and that these audits were scheduled to begin in September 2021. [Ms. Fox](#) confirmed that she was aware of Transport Canada’s indications that effectiveness audits were underway.

[Ms. Eschuk](#) expressed to the Committee her view that SMS can be useful as an additional layer of safety to be used by inspectors, but that SMS cannot be a replacement for inspections. Random and unannounced inspections, [she](#) claimed, can ensure railway companies are complying with policies, whereas “audits only reveal what went wrong.” [Mike Martin](#), Policy Advisor for the Union of Canadian Transportation Employees, added that inspectors should be specialists in one mode of transportation to avoid expertise being “watered down.” [Ms. Hogan](#) also recommended the use of random inspections as part of a larger strategy that includes SMS audits and reactive inspections.

From an industry perspective, [Kyle Mulligan](#), Chief Engineer with the Canadian Pacific Railway (CP), told the Committee that both the Canadian National Railway Company(CN)

7 Standing Committee on Transport, Infrastructure and Communities (TRAN), *Evidence*, 44th Parliament, 1st Session, [Kathleen Fox](#), Chair, Canadian Transportation Accident Investigation and Safety Board (TSB); [Karen Hogan](#), Auditor General of Canada, Office of the Auditor General (OAG).

8 AGC, *Follow-up Audit*, Exhibit 5.5.

9 TRAN, *Evidence*: [Michael DeJong](#), Director General, Rail Safety, Department of Transport (Department of Transport); [Aaron McCrorie](#), Associate Assistant Deputy Minister, Safety and Security, Department of Transport (Department of Transport).

and CP are employing new technologies to improve their inspection processes, allowing a move towards “dynamic, in-motion, performance based” inspections, rather than “a traditional visual, static inspection in which the train is not moving.” [Tom Brown](#), Assistant Vice-President of Safety with CN, also told the committee about new technologies being deployed, such as CN’s “autonomous track inspection program” and “automated inspection portals” which, in conjunction with predictive analysis algorithms, can help better schedule train and track maintenance.

[Prof. Bruce Campbell](#) expressed serious concern over track infrastructure issues, which [Robert Bellefleur](#), spokesperson for the Coalition des citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic, attributed to increased rail wear due to “longer, heavier, and faster trains.”

Risk Assessments

As [Mr. McCrorie](#) told the Committee, railway companies are required to conduct risk assessments of their operations, particularly when transporting dangerous goods. However, [Chris J. Apps](#), Director of the Kitselas Lands and Resources Department for Kitselas First Nation reported dissatisfaction with the consultation process of such assessments. He explained that Kitselas First Nation was informed it would be able to participate in a key route assessment process but was limited to a 500-character submission, to which it received no response. [Mr. Apps](#) added that Kitselas First Nation felt the need to undertake its own safety assessment due to increasing rail traffic.¹⁰

[Ms. Hogan](#) indicated that risk assessments should have a standard procedure but be tailored to each region to reflect its “uniqueness” in terms of “different geographies, different temperatures, [...] whether there are larger stretches of tracks that run through communities versus in areas that are less populated.” Similarly, [Dawn Remington](#), Chair of the Friends of Morice-Bulkley, relayed a request by local governments to the Minister of Transport for “an independent, public risk assessment of hazardous traffic on the northern B.C. rail line.”

Railway Police Services

As the Committee heard from [Lyndon Isaak](#), President of the Teamsters Canada Rail Conference, section 44 of the [Railway Safety Act](#) provides for the establishment of specialised constables to provide police services on, and within 500 meters of, “property owned, possessed or administered by a railway company.” [Mr. Isaak](#) argued that

10 Kitselas First Nation ([brief](#)).



investigations of railway incidents by the company's own police force constitute a concerning conflict of interest and pointed to the recent example of the investigation into the fatal derailment on Field Hill, near Field, British Columbia. [He](#) recommended that section 44 be amended to “curb or change the jurisdiction and the power of these corporate police forces.”

[Marc Brazeau](#), President and Chief Executive Officer of the Railway Association of Canada, expressed the view that railway police services receive the same training as, and collaborate closely with, other police services, but that they also have an added familiarity with the workings of railways. He also argued that they are able to more quickly deal with trespassing incidents, as they are located on site.

For her part, [Ms. Fox](#) stressed the difference between a TSB investigation and a criminal matter pursued by police. [She](#) told the Committee that the TSB does not, and in her view should not, play a role in determining civil or criminal liability, as that would make it more difficult for investigators to build trust and cooperation to gather truthful information.

TRANSPORTATION OF DANGEROUS GOODS

Several witnesses¹¹ cited data showing encouraging decreases in the number of railway accidents in Canada, with [Gregory Kolz](#), Director, Government Relations at the Railway Association of Canada, declaring Canada's rail network to be “the safest in North America and among the safest in the world.” Nevertheless, many others¹² expressed concern with the transportation of dangerous goods through their communities. The Committee heard that smaller municipalities, in particular, simply do not have the resources to adequately take charge in the event of a rail disaster, often depending on volunteer fire fighting services.¹³

In particular, some municipal representatives told the Committee of their struggles to obtain advance warning from railway companies of the transit of dangerous goods through their community. They indicated that the process is extremely difficult to

11 TRAN, Evidence: [Marc Brazeau](#), President and Chief Executive Officer, Railway Association of Canada (RAC); [Fox](#) (TSB), [McCrorie](#) (Department of Transport).

12 TRAN, Evidence: [Isabelle Bleau](#), City Councillor, City of Boucherville, Comité ferroviaire de Boucherville (Boucherville); [Michel Bourdeau](#), Mayor, Municipality of Terrasse-Vaudreuil (Terrasse-Vaudreuil); [Dawn Remington](#), Chair, Friends of Morice-Buckley (Friends of Morice-Buckley); [Gerry Thiessen](#), Chair, Regional District of Buckley-Nechako (Buckley-Nechako); [June Wolfrath](#), Member, Port Robinson Proud.

13 TRAN, Evidence: [Bourdeau](#) (Terrasse-Vaudreuil); [Remington](#), (Friends of Morice-Buckley); [Thiessen](#), (Buckley-Nechako).

navigate, with information often coming only after a train had passed, if at all.¹⁴

[Mr. Thiessen](#) related his community's suggestion to CN for providing a cargo manifest to all municipalities along a train's route, to ensure that fire services, particularly volunteers, can identify potential concerns ahead of time. [He](#) also reported that this suggestion has received "very little response" from CN.

In response to these concerns, [Mr. Kolz](#) told the Committee that municipalities are in fact advised of dangerous goods travelling by rail in order to help them train and prepare emergency responses. [Mr. Brazeau](#) clarified that first responders have access to this data through the AskRail mobile app. However, due to security concerns over the sensitive nature of this information, [he](#) explained that the app is available only to those first responders who have completed training provided by TRANSCAER. This training is offered free of charge and organized by the Railway Association of Canada and the Chemistry Industry Association of Canada. [Mr. Brown](#) also indicated that, in addition to offering training to first responders in some areas, CN maintains caches of emergency response equipment in the "unlikely" event of a dangerous goods derailment. [He](#) added, however that the company does not have a maximum allowable response time for responding to a major incident involving dangerous goods.

DOT-111s and Lac-Mégantic

Following the Lac-Mégantic tragedy, the TSB identified DOT-111 tank cars as insufficiently crash resistant.¹⁵ [Benoit Turcotte](#), Director General, Transportation of Dangerous Goods with the Department of Transport, told the Committee that a phase-out schedule for the DOT-111s was risk-based, in accordance with the volumes of dangerous goods being transported in those cars. As such, crude oil has not been transported in DOT-111 tank cars since 2016, and they will not be permitted to transport any flammable liquids by 2025.

[Isabelle Bleau](#), City Councillor for the City of Boucherville with the Comité ferroviaire de Boucherville, expressed apprehension, however, that, until the phase-out process is complete in 2025, "those cars could continue to transport refined oil or any other dangerous goods through our cities." She added that "transportation of heavy oil and dangerous goods through our densely populated areas will continue to pose risks."

14 TRAN, *Evidence*: [Bleau](#) (Boucherville); [Bourdeau](#) (Terrasse-Vaudreuil); [Benoit Turcotte](#), Director General, Transportation of Dangerous Goods, Department of Transport (Department of Transport).

15 Transportation Safety Board of Canada, [Reassessment of the response to TSB recommendation R14-01](#).



[Mr. McCrorie](#) told the Committee that Transport Canada has addressed most of the recommendations made following the Lac-Mégantic derailment, and that it continues to work on those that remain outstanding. When asked the reason for the delay, [he](#) responded that it was simply an issue of prioritizing.

[Prof. Bruce Campbell](#) said that he was troubled that an independent public inquiry has never been held with regard to Lac-Mégantic. [Mr. Bellefleur](#) echoed that sentiment, saying the absence of an inquiry “has prevented people from coming to terms with the tragedy,” describing it as “is a big open wound.” [Prof. Bruce Campbell](#) added that, in his view, “CP’s continued denial of its role in the disaster is inexcusable, though not surprising.”

Emergency Response Assistance Plans

As [Mr. McCrorie](#) told the Committee, Transport Canada requires railway companies to maintain an emergency response assistance plan (ERAP), that “describes the response capabilities, including the specialized personnel and equipment needed to respond to an accident involving dangerous goods.” [He](#) described these as being part of Transport Canada’s overall strategy of “building layers of protection,” with ERAPs putting “the onus on companies to have in place procedures so that they have the capacity to respond when necessary to accidents.”

[Mr. Turcotte](#) explained that these ERAPs are not public but are reviewed by Transport Canada’s transportation of dangerous goods program through a “careful vetting process, confirmation and a sort of audit.” However, [Chad McPherson](#), Locomotive Engineer with Teamsters Canada Rail Conference, related to the Committee that the procedures included in emergency response plans “are often simply re-signed from the previous year, with little attention given to mock drills or practices to prepare employees and the public for an emergent situation that may involve evacuation.”

COMMUNITY IMPACT

The Committee heard from many witnesses on the interactions between railway companies and the communities they affect, a relationship that [Gian-Carlo Carra](#), City Councillor of the City of Calgary, described as being “based on unhelpful conflict.”

[Mr. Brazeau](#) spoke of collaboration with municipalities and urban developers, while [Mr. Kolz](#) highlighted the importance of a collaborative approach, “exemplified by the proximity initiative, which is a partnership between the (Railway Association of Canada) and the Federation of Canadian Municipalities.” Similarly [Vince Gagner](#), General

Manager at Bluewater Association for Safety, Environment and Sustainability, also spoke of a consultation-based model used in Sarnia, Ontario, which was informed through discussions with First Nations communities to address community complaints. [He](#) clarified, however, that this “holistic look at risk” is not currently widespread. [Mr. Apps](#) described his own community’s relationship with railway companies as inconsistently “hot and cold.”

Complaints against railway companies, particularly regarding issues like noise and vibration, can be raised with the Canadian Transportation Agency (CTA), which will ensure a dialogue and help facilitate or mediate a solution if necessary.¹⁶ A final step can then be an enforceable order by the CTA.¹⁷ [Tom Oommen](#), Chief Compliance Officer with the CTA, also confirmed to the committee that his agency will keep track of previous complaints and ensure that the railway company is complying with any agreement or order. Continued problems would then be addressed by Transport Canada through “graduated enforcement mechanisms.”¹⁸

[Mr. Oommen](#) provided the following example for clarification:

There was a case, for example, where there was a rail yard that was doing loading and switching operations overnight late at night. The agency heard the complaint. The order of the agency was that no further such operations would be done at nighttime. They were only to be conducted during the day. That is an enforceable order by the agency.

[Jonathan LePera](#), a member of Port Robinson Proud, expressed frustration with his own experience with the CTA’s dispute resolution process, as he indicated that no changes had occurred after two mediation sessions, and that no options for additional escalation had been offered.

[Mr. Carra](#), in describing the current system between railway companies and municipalities as “conflict-based,” proposed creating “a new framework that understood the essential role that both play in each other’s success.” [Michel Bourdeau](#), Mayor of the Municipality of Terrasse-Vaudreuil, also agreed that the legislative framework should compel railway companies to cooperate with municipalities, while [Mr. Apps](#) stressed the importance of balancing the benefits of industrial development for a community with safety concerns stemming from increased rail traffic.

16 TRAN, *Evidence*: [Tom Oommen](#), Chief Compliance Officer, Canadian Transportation Agency (CTA).

17 TRAN, *Evidence*: [Oommen](#) (CTA).

18 TRAN, *Evidence*: [DeJong](#) (Department of Transport).



[Ms. Bleau](#) told the Committee that her community of Boucherville commissioned its own feasibility study to determine whether a railway line could be diverted to avoid the urban area. She believes the federal government should help pay for such feasibility studies, an idea supported by [Mr. Bourdeau](#).

Rail Crossings

Rail crossings were raised throughout the study as a particularly contentious issue, especially relating to the length of trains. [Mr. McPherson](#) gave an example of multiple blocked crossings taking place in Regina, Saskatchewan:

a train at approximately 9,600 feet, or 2.9 kilometres, is required to stop and line manual switches. While doing this, the train is occupying 11 crossings. This is from Winnipeg Street and Ring Road all the way down to downtown Regina. Many of these crossings are major roadways with high vehicular traffic volumes. There's also a school playground with a pedestrian crossing in the area that is blocked for a significant amount of time while this process happens.

[Terry Ugolini](#), Mayor of the City of Thorold, and [Mr. Bourdeau](#) both told the Committee that similar situations occur in their respective communities, causing significant stress. [Mr. Bourdeau](#) added that motorists in Terrasse-Vaudreuil have to leave home early to avoid blocked rail crossings, and occasionally speed through smaller streets and roll through stop signs to attempt a detour. [Cliff Penn](#), a member of Port Robinson Proud, also expressed concern about the impact of blocked rail crossings on first responders' response times. In fact, several witnesses spoke to the particular challenges of blocked rail crossings in the small community of Port Robinson, Ontario.¹⁹

[Ms. Fox](#) confirmed that significant improvements were made to grade crossing regulations and standards in 2014 and, as a result, the TSB no longer has outstanding recommendations on this issue. However, [she](#) indicated that the length of time that a train can occupy a crossing is currently being investigated.

Some witnesses also referred to Operation Lifesaver, a national not-for-profit funded by Transport Canada and the Railway Association of Canada that works to raise public awareness of rail safety in order to prevent rail crossing and "trespassing" deaths.²⁰

[Mr. Bourdeau](#), however, was dismissive of the program, which he described as a

19 TRAN, *Evidence*: [Jonathan LePera](#), Member, Port Robinson Proud; [Cliff Penn](#), Member, Port Robinson Proud; and [Terry Ugolini](#), Mayor, City of Thorold.

20 TRAN, *Evidence*: [Brazeau](#) (RAC); [Gregory Kolz](#), Director, Government Relations, Railway Association of Canada (RAC); [McCrorie](#) (Department of Transport).

once-a-year event in which “(p)eople come here one fine morning and hand out brochures about driver safety.”

LABOUR CONDITIONS

The labour condition issue that was most raised during this study related to fatigue management. As [Prof. Bruce Campbell](#) reminded the Committee, sleep-related fatigue has been identified as a contributing or risk factor in 31 rail occurrences since 1994, and fatigue management has consistently been on the TSB’s Watchlist since 2016. He described it as “a major safety risk that’s still not dealt with,” because “(s)cience-based fatigue management practices continue to be thwarted by the companies.”

Since the publication of the TSB’s Watchlist 2020, new duty rules have come into effect in November 2020 to address the issue of fatigue management for railway employees. [Ms. Fox](#) told the Committee that it may take some time to fully appreciate the impact of these new rules and that the TSB would continue to look at fatigue as a “possible causal or contributing risk factor” during investigations. [Mr. McPherson](#) expressed his view that, while the new rules are a significant improvement, much more needs to be done, particularly regarding the accuracy of train lineups. [He](#) explained that scheduling inaccuracies can result in workers being on stand-by, and therefore unable to properly rest, for hours at a time, before beginning a twelve-hour shift.

For his part, [Mr. Isaak](#) dismissed the draft fatigue management plans submitted by CN and CP as insufficient, particularly with regards to the impact of “deadheading”²¹ on the maximum duty period and advance notice for work schedules. He added that many away-from-home rest facilities used by the railroads are “woefully insufficient for meaningful rest” and recommended the establishment of separate federal standards for these facilities.

Another issue raised during this study was additional protections for whistle-blowers, which [Ms. Eschuk](#) recommended be enshrined in legislation and promoted through a new independent office. [Prof. Bruce Campbell](#) reminded the Committee of its own recommendation²² that Transport Canada review whistle-blower protection to determine if SMS is the appropriate framework. He added that, in his view, it is “clearly not an appropriate framework” given that Canada was, in 2021, found to be tied for last

21 “Deadheading” is defined under Section 3.1 of the [Duty and Rest Period Rules for Railway Operating Employees](#) as “the authorized transportation of an employee from one location to another at the direction of the railway company, without the employee operating railway equipment and does not include commuting.”

22 TRAN, 42nd Parliament, 1st Session, [An Update on Rail Safety](#), June 2016.



place in a comparison of the effectiveness of 37 countries' whistle-blowing frameworks.²³

CONCLUSION

The Committee heard throughout this study of significant improvements made to rail safety in Canada since the Lac-Mégantic tragedy. Nevertheless, it is clear from witness testimony that much work remains to be done, particularly with regards to measuring the effectiveness of SMS and Transport Canada's own oversight activities, as well as the relationship between railway companies and the municipalities, adjacent properties, and Indigenous communities through which they transport dangerous goods.

²³ *Are whistleblowing laws working? A global study of whistleblower protection litigation*, a collaborative report by the Government Accountability Project and the International Bar Association, found that "Canada, Lebanon, and Norway's laws are tied for the world's weakest whistleblower protection laws, only matching one out of 20 criteria" (at page 10).

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
Canadian Transportation Accident Investigation and Safety Board Kathleen Fox, Chair André Lapointe, Chief Operating Officer	2022/02/10	4
City of Calgary Gian-Carlo Carra, City Councillor	2022/02/10	4
Kitselas First Nation Chris J Apps, Director Kitselas Lands and Resources Department	2022/02/10	4
Teamsters Canada Rail Conference Lyndon Isaak, President	2022/02/10	4
Bluewater Association for Safety, Environment, and Sustainability Vince Gagner, General Manager	2022/03/03	7
Municipality of Terrasse-Vaudreuil Michel Bourdeau, Mayor	2022/03/03	7
Railway Association of Canada Marc Brazeau, President and Chief Executive Officer Gregory Kolz, Director Government Relations	2022/03/03	7
Union of Canadian Transportation Employees Teresa Eschuk, National Vice-President Mike Martin, Policy Advisor	2022/03/03	7

APPENDIX B LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

43rd Parliament – 2nd Session

Organizations and Individuals	Date	Meeting
Canadian Transportation Agency Tom Oommen, Chief Compliance Officer	2021/06/15	38
Comité ferroviaire de Boucherville François Beaulne, Chair Subcommittee Isabelle Bleau, City Councillor City of Boucherville	2021/06/15	38
Department of Transport Michael DeJong, Director General Rail Safety Aaron McCrorie, Associate Assistant Deputy Minister Safety and Security Benoit Turcotte, Director General Transportation of Dangerous Goods	2021/06/15	38
Friends of Morice-Bulkley Dawn Remington, Chair	2021/06/15	38
Regional District of Bulkley-Nechako Gerry Thiessen, Chair	2021/06/15	38
As an individual Bruce Campbell, Adjunct Professor, Faculty of Environmental and Urban Change, York University Author of The Lac-Mégantic Rail Disaster: Public Betrayal Justice Denied	2021/06/17	39
City of Thorold Terry Ugolini, Mayor	2021/06/17	39

Organizations and Individuals	Date	Meeting
Coalition des citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic Robert Bellefleur, Spokesperson	2021/06/17	39
Comité ferroviaire de Boucherville François Beaulne, Chair Subcommittee Isabelle Bleau, City Councillor City of Boucherville	2021/06/17	39
Port Robinson Proud Jonathan LePera, Member Cliff Penn, Member June Wolfrath, Member	2021/06/17	39
Teamsters Canada Rail Conference Chad McPherson, Locomotive Engineer	2021/06/17	39

APPENDIX C LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Bluewater Association for Safety, Environment, and Sustainability

Kitselas First Nation

APPENDIX D LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

43rd Parliament – 2nd Session

Campbell, Bruce

Coalition des citoyens et organismes engagés pour la sécurité ferroviaire de Lac-Mégantic

Comité ferroviaire de Boucherville

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 4, 7, 17 and 18](#)) from the 44th Parliament, 1st Session and ([Meetings Nos. 38 and 39](#)) from the 43rd Parliament, 2nd Session is tabled.

Respectfully submitted,

Peter Schiefke
Chair

