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Chair

Mr. Larry Miller

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● (1530)

[*English*]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): We're going to call our meeting to order.

Once again, I want to thank Transport Canada officials for being here.

Today's topic is the transportation of dangerous goods.

With that, I'm presuming, Mr. McDonald, that you're going to lead off.

Mr. Gerard McDonald (Assistant Deputy Minister, Safety and Security, Department of Transport): Yes, I will.

The Chair: I'll turn it over to you.

Mr. Gerard McDonald: Thank you very much, Mr. Chair.

I have some familiar faces with me today. Just to review, I have with me Luc Bourdon, the director general of rail safety at Transport Canada, and Madam Marie-France Dagenais, the director general of the transportation of dangerous goods directorate. With us today for the first time is Mr. Scott Kennedy, the acting director general of marine safety.

As you mentioned, we had our session on Monday. We talked about the safety management systems at Transport Canada. Today we'd like to give you a bit of an overview of the transportation of dangerous goods program.

The TDG program is governed by the Transportation of Dangerous Goods Act, 1992, but despite the name of the act, it was actually updated in 2009. The TDG act is somewhat unique in Transport Canada, as it is, I believe, our sole piece of safety legislation that carries with it criminal penalties, i.e., contraventions of the act could result in jail terms. It applies to every Canadian who imports, handles, offers for transport, or transports dangerous goods.

The act focuses on public safety, prevention, and response. It looks at people, property, health, and the environment. It's a multimodal act, so it applies not just to one mode but to all modes: air, rail, marine, and road.

I'm following the deck here. I'm sorry. I should have mentioned that. I'm on page 3.

Right now, there are over 51.6 million commercially available chemicals, and the number of available chemicals continues to grow each year. With that growth, obviously we have to determine what the properties of those chemicals are so we can assure ourselves that they're going to be transported in the safest possible fashion.

There are probably about 30 million shipments of dangerous goods every year, and 99.998% of those shipments arrive without serious incident, but obviously it's the 0.002% that concerns us the most. That is the number we're trying to reduce on a continual basis.

As I mentioned, our foundation is the TDG act. It provides us with the authority to develop policy, verify compliance, conduct research to enhance safety and security, guide emergency response, and develop regulations and standards to manage risk and promote public safety while mitigating the consequences of an incident during the transportation of dangerous goods.

Our TDG program is based on the premise that properly classifying a dangerous good while ensuring the dangerous good is transported in the required means of containment, along with other safety measures such as emergency response assistance plans, or ERAPs, documentation, safety marks, reporting, and training, are all crucial elements in the safe transportation of dangerous goods.

With that brief introduction, Mr. Chair, I'll now ask our director general of dangerous goods, Madam Dagenais, to go into more detail on how the program works and how we apply it at Transport Canada.

Ms. Marie-France Dagenais (Director General, Transportation of Dangerous Goods, Department of Transport): One of the first components in the transportation of dangerous goods is classification. Dangerous goods are classified under nine classes: explosive, gases, flammable liquids, oxidizers, poisonous substances, infectious substances, radioactive material, corrosive substances, and a miscellaneous category. Each of more than 2,500 groups of dangerous goods, such as chlorine, gasoline, or corrosive liquid, has a unique UN number and a unique UN shipping name.

Currently, regulatory requirements require industry to properly classify their dangerous goods prior to offering the dangerous goods for transport. This includes requirements to classify crude oil prior to import or offering it for transport. The existing classification regime is harmonized with the United Nations' requirements and is aligned with U.S. requirements.

In response to the Transportation Safety Board's safety letter of September 11, 2013, to Transport Canada and the U.S. Pipeline and Hazardous Materials Safety Administration, the department issued a protective direction on October 17, 2013, to ensure that the classification requirements of the regulations were followed. The protective direction requires importers and shippers to retest their crude oil prior to shipping, to meet the current regulation, and if the test is older than July 7, 2013, to classify and ship their product at the highest packing group level until testing is completed.

One of the other major components of the program is the means of containment. Companies that engage in designing, manufacturing, repairing, testing, or requalifying different types of means of containment, such as trucks, tank cars, and cylinders used or intended to be used in importing, offering for transport, handling, or transporting dangerous goods in Canada, must register with and be certified by Transport Canada. Inspections are conducted to verify compliance with standards. U.S. and Canadian standards are equivalent. Reciprocity is in place to enable free movement across the border of Canadian and U.S. tank cars, tank trucks, and other means of containment.

On page 7, I talk about the oversight of the program, between the provinces, the territories, and the federal government. Memorandums of agreement have been signed with all provinces and territories. The MOAs outline how the provincial and federal governments will work together to enforce the act and its regulations. Transport Canada primarily conducts enforcement activities for rail, marine, aviation, and shippers and manufacturers. Provinces undertake inspection on the road. The premise is that if a dangerous good is offered for transport in compliance with the act and the regulations, the transportation of dangerous goods to destination should be conducted safely.

The target and inspection focus is on manufacturers, producers, shippers, and means of containment facilities that do the repairing and testing. TDG inspectors also verify downstream compliance. The TDG annual inspection plan is developed on a risk-based approach, uniformly across Canada. The goal of the TDG compliance program is to find and remedy non-compliance and seek future compliance. This is accomplished through education and awareness, fines, and prosecutions.

There are more than 40,000 dangerous goods sites across Canada. There are 35 TDG field inspectors positioned, with additional resources in the modes to monitor and enforce legal requirements. There are approximately 3,000 TDG inspections of higher-risk sites done per year. An inspection looks at all components of the program, such as classification, documentation, safety marks, means of containment, training, and emergency response assistance plan when applicable.

The TDG oversight program is augmented by a random inspection program. Inspectors have various enforcement tools they may use to ensure compliance, from issuing directions to remedy a non-compliance, to tickets, and to initiating prosecution.

● (1535)

While situations may differ, the most important factor in determining an enforcement response is the effectiveness of the response in securing future compliance. Inspectors will also look at the alleged violation and consider the seriousness of the harm and potential harm, the intent of the person found in non-compliance, and whether this is a repeat occurrence, before the enforcement tool is determined.

In international representation, Transport Canada leads a federal delegation at the United Nations and participates in the International Civil Aviation Organization, the International Marine Organization, and the North American Free Trade Association dangerous goods meetings. Transport Canada is also a technical advisor at the International Atomic Energy Agency meetings led by the Canadian Nuclear Safety Commission. Transport Canada brings forward various technical papers in support of the Canadian position on international means of containment standards, testing, documentation, training, security, and reporting.

The TDG directorate and the U.S. Department of Transportation's Pipeline Hazardous Materials Safety Administration works closely to ensure alignment with our means of containment standards, regulatory requirements, and oversight approach.

Provinces and territories provide input through the federal-provincial task force. The task force is comprised of representatives from all provinces and territories. The task force meets biannually prior to the international meetings. Informal bilateral meetings occur as required.

The general policy advisory council is used to consult industry, unions, municipalities, modal shippers, and first responders. Meetings are also held twice a year.

The transportation of dangerous goods regulations are adopted by all provinces and territories. They establish the regulatory requirements for the importing, handling, offering for transport, and transport of dangerous goods by all modes within Canada.

Provinces and territories are consulted through the federal-provincial task force meeting, or by bilateral meetings, and then again through publication of the *Canada Gazette*.

The safety standards for means of containment are developed by multi-stakeholder technical committees representing producers, manufacturers, users, inspection and test bodies, regulatory authorities, both federal and provincial, and general interest groups.

Standards are developed by organizations in accordance with the SCC rules, including the use of consensus-based decision-making, public notice, and comment requirement. Meetings are held biannually.

Means of containment standards are updated about every five years. Transport Canada will be publishing a new revised tank car standard in the coming weeks, which will enhance the DOT-111 tank car standard to include requirements for thicker steel, head shields, and top fitting protection. Currently, tanks cars in the U.S. and Canada are being built to this standard. Transport Canada is working with all of its stakeholders, including officials in the United States, as together we look to what additional requirements may be needed for the North American fleet of DOT-111 tank cars.

Certain dangerous goods that necessitate special expertise and response equipment, including propane, for example, are required to have an emergency response assistance plan. The person who offers to transport or imports the dangerous goods must submit a plan to the transportation of dangerous goods directorate. The directorate will review the plan and, if it's found adequate, will approve the plan. The ERAPs are intended to assist local emergency responders by providing them with technical experts and specialized equipment at an accident site.

Current regulations for fuel transport only require an ERAP on certain volatile fuel, as an example, gasoline, moving in interconnected trains, but not for crude oil, such as the one that was involved in the Lac Mégantic tragic incident. Transport Canada is working with industry, first responders, and municipalities to look at expanding the ERAP program to include crude oil and other flammable liquids.

Helping first responders during an incident is CANUTEC's role. CANUTEC is staffed by bilingual, professional scientists specializing in emergency response and experienced in interpreting technical information and providing advice to first responders.

● (1540)

The centre operates 24 hours a day and handles some 30,000 phone calls per year related to safety. Moreover, to help first responders,TC publishes the *Emergency Response Guidebook*. It is an informative and comprehensive guide designed for use at dangerous goods incidents occurring on a highway, aircraft, ship or railroad. It enables first responders to quickly identify the specific or generic hazard of the material involved in an incident. The guidebook also assists first responders in making initial decisions upon arriving at the scene of a dangerous goods incident. For example, it provides recommended evacuation distances, describes potential hazards of a dangerous good, supplies relevant public safety information, including first aid, as well as a recommended type of protective clothing and respiratory protection. Transport Canada makes this guidebook available online or in a PC-downloadable version. Almost 60,000 paperback copies of the most recent version of the guidebook were distributed in early spring of 2012 for all vehicles at Canadian fire departments, police departments, and ambulance services across Canada.

Finally, in 2002, the TDG put in place a chemical, biological, radiological, nuclear, and explosive response program. The mandate of the TDG CBRNE response program is to ensure product response services following a CBRNE incident. Such response would occur once all terrorist-related hazards have been eliminated. The CBRNE response program is based on the existing industrial emergency response network and infrastructure established under ERAP, the emergency response assistance plan requirements, pursuant to the act and regulation. The program is now in place.

This basically summarizes the various components of the TDG program. Thank you for this opportunity to speak to you about the program today.

● (1545)

Mr. Gerard McDonald: We're ready for questions, Mr. Chair.

The Chair: Thanks very much.

I'll just remind all members that we got off track a little bit from the subject of the day on Monday, so I'll remind everybody that we are here to talk about the transportation of dangerous goods. I know there are a whole lot of a different issues the committee wants to look at, and we will look at those as we carry on through this study.

With no further ado, Ms. Chow, you have seven minutes.

Ms. Olivia Chow (Trinity—Spadina, NDP): Would you be able to table the action plan that the Auditor General asked you for in the 2011 audit?

Mr. Gerard McDonald: Is that the Commissioner of the Environment and Sustainable Development's action plan?

Ms. Olivia Chow: That's right.

Mr. Gerard McDonald: Yes. If the committee so decides that they would like to see it, we could certainly table it, Mr. Chair.

Ms. Olivia Chow: I'd like it if you could table it for the committee, through the clerk.

When will you have an action plan coming out from the 2013 AG report?

Mr. Gerard McDonald: We will be appearing shortly before the public accounts committee. We would hope to have a plan available for the committee at that time.

Ms. Olivia Chow: When is “shortly”? What month would that be in 2014?

Mr. Gerard McDonald: That would be up to the public accounts committee to.... We expect it could be as early as this year.

Ms. Olivia Chow: Right. But in terms of the action plan, on how you respond to the Auditor General's report, you will have it sometime in.... Will it be February?

Mr. Jeff Watson (Essex, CPC): A point of order.

Mr. Gerard McDonald: We plan to table it with the committee when it calls us.

The Chair: On a point of order, Mr. Watson.

Ms. Olivia Chow: Stop the clock, please.

Mr. Jeff Watson: In fairness to your opening questions, Mr. Chair, we have a planning meeting coming up on Monday, and the Auditor General's report.... I expect we'll want to have a meeting on that particular issue, rather than at this particular forum right now, if that's all right.

Ms. Olivia Chow: Okay. I won't talk about the AG's report then. It's hard to talk about the transportation of dangerous goods and not talk about the AG's report.

Would you have a national risk-based—

Mr. David McGuinty (Ottawa South, Lib.): On a point of order, to respond, if I could, to my colleague's comments about this report. I look at the notice of meeting today, Mr. Chair, and orders of the day are "...the Review of the Canadian Transportation Safety Regime: Transportation of Dangerous Goods and Safety Management Systems". I don't know how it's possible for this committee not to bring forth conclusions, recommendations, and contexts put forward yesterday by the Auditor General of Canada that address this entire issue.

I'm not sure how Mr. Watson could conceivably describe this as outside the ambit of what we're studying today.

The Chair: I'm not going to speak for Mr. Watson, but, Mr. McGuinty, when we set up this meeting here and the one on Monday, it was before the AG's report came out. If the committee wants to have a meeting dealing specifically with or asking questions about the AG's report, I think that's quite fair. I think, as Mr. Watson alluded to, we have a planning meeting on Monday, and I would certainly suggest to you to bring it up then. But this meeting was, as I said, planned well in advance to talk about the transportation of dangerous goods, and I think we should try to stay on that. It doesn't mean that topic.... It's just that this meeting was, as I said, planned out well in advance.

● (1550)

Mr. David McGuinty: Mr. Chair, then, if I could follow up, any references to the transportation of dangerous goods in the Auditor General's report are off limits today?

The Chair: I guess I wouldn't go as far as saying that, as long as they're just about that. I think the AG's report is broader than that.

I was going to interject with Ms. Chow just before Mr. Watson, because she was starting to dwell on one thing. We are here to talk about the transportation of dangerous goods, so let's go there.

Mr. Watson.

Mr. Jeff Watson: If I may respond, I think if we recall the meeting of this previous Monday, like this one, it was a briefing to establish.... I think there's perhaps an unequal understanding of the various regimes. Monday's meeting was in regard to safety management systems and the role of Transport Canada. This meeting is on the transportation of dangerous goods and the regime responsibility and so on. I think it was understood in advance that this is what these two meetings would be about.

As I suggested in my comments a couple of minutes ago, I know we'll want to get into the Auditor General's report in some detail, and probably have the Auditor General here before committee, so I would submit that we could stick to planning something like that. We can get into a lot of detail relative to that particular issue. But this was intended, it is my understanding, to be set up as a briefing with respect to the transportation of dangerous goods regime, etc. It's an opportunity for us to gain a good understanding and to scope out, if you will, possible issues we could talk about in respect of this study coming up.

The Chair: Ms. Chow.

Ms. Olivia Chow: Specifically on this point of order, the 2011 AG report, as well as the December 2006 departmental report and the 2013 AG report are on the transportation of dangerous products. I will refrain from asking about a national risk-based inspection plan, compliance monitoring, follow-up, high-risk organizations, performance measures, or even emergency response assistance plans and all of that. I will refrain from asking all of those questions that deal with the safe transportation of goods and I will focus on safety management systems, if you prefer. There are a lot of questions about safety management systems. If you want to keep the dangerous products for other meetings—

The Chair: No, this meeting is about the transport of dangerous goods.

Ms. Olivia Chow: But for me, my next question—

The Chair: Okay, then, the time is yours again, so continue on.

Ms. Olivia Chow: Let me try the next thing. My question was whether you would be able to table a national risk-based compliance inspection plan. I don't know whether it deals with the AG report.

Is it in order, before I go on?

The Chair: Yes. I think so.

Ms. Olivia Chow: It's fine?

Will you be able to table such a national risk-based compliance inspection plan? It would be a comprehensive plan showing which products are high risk and which are low risk, how you determine that, and how often you inspect.... You don't have to answer that, because it's a long question and I have only seven minutes. Do you have such a national plan? If you do, would you be able to table it?

Mr. Gerard McDonald: Certainly, we have a detailed inspection plan for the TDG directorate, which is based on risk. I think we could probably provide you with the risk management framework we have for determining what the plan is, and we can certainly provide for this committee what our inspection plan is for the coming year, if that's what the committee would wish us to do.

Ms. Olivia Chow: Thank you.

On the safety management system, why can't you tell municipalities or the first responders, whether it be fire, ambulance, or police, what is in those tank cars before they arrive in a community? Right now, according to the announcement that came out last week, you're going to tell them after the train has departed. Why can't you tell them ahead of time or when they arrive if they're dangerous products? Also, why can't you tell them the safety protocol for these dangerous goods if there's a derailment, so that the firefighters, for example, or the EMS would know the safety protocol of these companies if something goes wrong? If they don't know, they are guessing. If they don't know what's in the tank cars, then they don't know how to respond, and if they don't know the safety protocol of that rail company, it's hard for them to immediately react to dealing with that crisis.

The first responders or the mayors have been saying we need to know as the trains are coming in, and we also need to know the safety protocol. In the case of Lac-Mégantic, I'm not sure the firefighters knew they were supposed to switch the engine back on so that the air brakes would be engaged again. I'm not sure they know the protocol of that company, MMA. If MMA safety protocols are not shared with them, how are the firefighters to know whether they should or shouldn't turn the engine back on? Why keep it secret?

● (1555)

Mr. Gerard McDonald: Certainly it's not secret, Mr. Chair. As we indicated in our protective direction—I believe we explained this at the last meeting as well—the volumes of dangerous goods transported doesn't change that quickly through a given community. When we designed the protective direction, we all sat down at the table with the Railway Association of Canada and the Federation of Canadian Municipalities and asked the best way for us to make this information available. After that consultation it was agreed that the best way would be to do it on a historical basis, because the amount of goods and the volumes don't change appreciably on a day-to-day basis. That would give the municipalities the information they need to be able to respond to whatever is travelling through their communities.

That being said, and the protective direction indicates this, if the type of dangerous goods travelling through a community change appreciably, it is incumbent upon the railway company to advise the municipality how it's changed. With respect to providing information to the municipalities or the firefighters, Madame Dagenais talked to you about our CANUTEC, which is a 24-hour centre, a resource available to firefighters at any time, to provide them with the latest information on the best way to respond to a dangerous goods incident and to provide continuous information to them. During the Lac-Mégantic incident, they were on the line with the firefighters who were there, and they are a well-used and invaluable resource for the firefighting community across the country.

Ms. Olivia Chow: Mayor Nenshi, for example, was saying that his team wasn't able to immediately find out from Transport Canada —they found out from the rail companies—what was in the tank cars that were coming across the bridge, and also, the company's safety management system.... You're saying there is a place where they could find out 24/7 the safety management system of...in that case I think it was CP; they could immediately find out what's in that tank car that has gotten into trouble, and his team would have immediately gotten the information he needed, right? He just didn't know about it. Was that the problem?

Mr. Gerard McDonald: Maybe the mayor doesn't know about it, but I'm sure his fire department would know about. I can't say for certain whether they contacted us in the Bonnybrook event.

Certainly, whenever there is an incident, if a municipality wants to know what's on the consist of that train in terms of dangerous goods, that can be provided to them on a real-time basis as much as we can get it. Obviously, we have to get that from the railways, but the system works fairly well.

● (1600)

The Chair: We'll now move to Mr. McGuinty for seven minutes.

Mr. David McGuinty: Thank you, Chair.

Thank you very much for being here again, folks.

If I might ask, is crude oil a dangerous good?

Mr. Gerard McDonald: Yes, it is.

Mr. David McGuinty: And are the different forms of crude oil all categorized or classified as dangerous goods in one form or another?

Mr. Gerard McDonald: Yes, they are.

Ms. Marie-France Dagenais: There's a flashpoint and there's volatility. There are some types that are the thickest type of petroleum crude coming out of some of the soil that they've expected would not be classified as a dangerous good, but most of them, right now, are classified as dangerous goods.

Mr. David McGuinty: In your deck you talk about international representation, and your bullet says that extensive collaboration exists between Canada and the United States on different aspects of the program to facilitate cross-border shipments.

I understand the minister issued a directive in October addressing the whole question of flashpoint and boiling point. Is that correct?

In the last meeting, I asked you questions about a report in last Saturday's *Globe and Mail* that was very concerning for Canadians. Now we're talking today about the transportation of dangerous goods. Can you help us understand what Canadians are to make of things like this:

> The Globe and Mail has uncovered evidence that oil shippers are exploiting the wording of a recent federal order by Transport Canada and sending most of their crude over the rails without checking first how explosive it is, and whether it is suitable for transporting on trains.

The order requires shippers to test any crude sent by rail. So far, so good. Correct? Is that the directive?

Ms. Marie-France Dagenais: The directive asks that every shipment be tested and classified before it's put on rail. On the other hand, any product that would be tested and classified would be able to be shipped by rail. There's no product that wouldn't be able to be shipped by rail.

Mr. David McGuinty: The *Globe* goes on to say that:

> ...industry insiders in North Dakota told The Globe that very little oil is being tested, and that operating procedures remain mostly unchanged from before the Lac-Mégantic disaster, due to gaping holes in the "protective direction" issued by Ottawa.

What are Canadians to make of this report?

Mr. Gerard McDonald: We saw the report in *The Globe*, and that's concerning to us as well. What's more concerning is that the sources in that are not attributable to anyone other than nebulous industry insiders.

We have an inspection program, and we will verify that goods have, indeed, been classified recently as per the order. If we find that goods haven't been classified as required under the order, then we won't hesitate to take enforcement action, if that's required.

Mr. David McGuinty: I'm not sure if I would agree with your categorization of nebulous sources. I think *The Globe and Mail* is a fairly credible organization, I don't think they put stories on the front page of their Saturday edition without verifying the veracity of those sources.

Let's go back to the article and see if you can help me understand this. The article goes on to say:

> Instead, oil is being sent blindly, with no added degree of safety, and without the higher degree of transparency that Transport Canada sought with its push for more testing. The Transport Canada order "doesn't seem to change anything," said one [senior] industry official whose company is involved in shipping oil to Canada.

Later a former U.S. railway inspector says:

> There is no requirement to test oil, despite what Transport Canada claims.

Is that true?

Ms. Marie-France Dagenais: No. The current regulation requires that every dangerous good that is transported needs to be tested, so that's not true.

The other part of the order, or protective direction, does state that if the product has not been tested, it needs to be tested and be put in the highest high-risk means of containment. Basically what we're telling the industry is that if you haven't had the proper testing done, you need to classify it as a higher-risk product and put it in the proper means of containment. We're basically making sure that there is no loophole.

● (1605)

Mr. David McGuinty: In the wake of this report, this story, which is very disturbing, I'm sure you would agree—very disturbing for Canadians, who are asking themselves really profound questions—plus the Auditor General's report yesterday, which I'm told we're going to go into great detail on in the future, what has the department done on this question? Have you despatched officials to North Dakota? Have you taken this up with the Canadian ambassador? Have you spoken to American authorities? Have you spoken to the American railways that are apparently involved, or for that matter the oil producers? What has happened in response to this five- or six-day-old report now?

Ms. Marie-France Dagenais: What is happening right now is that following the protective direction and a letter sent by the administration in the U.S., we are actually refocusing some of our inspections and doing it together, the U.S. and Canada, to focus on how products are classified in Canada and in the U.S. You understand that we don't have the authority, as the Canadian government, to go in and inspect the facilities in the U.S. But we're going to do it collaboratively to ensure that the proper testing is done. If the testing is not done, then the product is classified as the highest-risk product and put in the proper means of containment.

Mr. David McGuinty: How's my time, Mr. Chair?

The Chair: You've got about one minute.

Mr. David McGuinty: Thank you, sir.

The article goes on to say that Transport Canada effectively refused to answer any questions about compliance with the new rules for testing oil. I'm sure that was a decision taken politically, and I respect that—it's not within the ambit of your responsibility to decide whether you're going to comment to the media or not—but just in terms of your front-line knowledge of what's happening here with this new directive, can you help us understand, is any of this report true?

Mr. Gerard McDonald: Again, without being able to verify the sources of the report and the allegations being made, it's very difficult to ascertain whether any of it is true.

Mr. David McGuinty: Are any steps being taken to come to a conclusion as to whether this is true?

Mr. Gerard McDonald: As Madame Dagenais indicated, we're working with PHMSA in the United States. We're also targeting our inspections to ensure that crude oil shipments are being properly classified, and if we find any contraventions of the order, we will take appropriate enforcement action. We won't hesitate.

The Chair: Your time has expired, Mr. McGuinty.

Mr. Komarnicki, seven minutes.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you, Chair.

It's good to have you here before us again.

I know there's been a lot of mention made of crude oil coming from the Bakken formation in North Dakota, but the Bakken formation also extends to southeastern Saskatchewan, the constituency I represent. Certainly there have been various modes of transportation used to move the oil from the Bakken formation—trucking, pipeline, and more recently via rail. There has certainly been a rapid increase in the use of rail for the transportation of oil. I see more cars in the trains, and in addition to that, there's been the proliferation of transload facilities where truckers haul the oil to the tankers that are located in certain facilities. For example, in a city like Estevan, Saskatchewan, which is located in the southeast portion, it's had a transload facility located in the city near residential premises. My first thoughts were, what are the safety requirements in terms of where transload facilities can be located, and do communities have some reasonable opportunity to object to their location?

Secondly, I know from the meetings I've seen that the city council has had with the transporter, they were very concerned about how their first responders might be able to react to any situation that would develop, particularly within the limits of the city, and whether they had the capabilities or not. My first question is, what are the safety provisions for these transload facilities and communities, and secondly, would the emergency response plans that you referred to be required for crude oil transport within the cities, particularly in regard to the increased traffic? That's probably two questions, but there's a lot in there.

● (1610)

Ms. Marie-France Dagenais: In terms of the safety requirements, the Transportation of Dangerous Goods Act does apply to loading and transloading, so they need to follow the regulations and requirements of the act. We don't actually regulate, or it's not part of our jurisdiction to choose where the transloading facilities will be located. That's not part of our mandate under Transport Canada.

With respect to the ERAP program, we are looking...because right now crude oil is not part of an ERAPable program. ERAP was designed to actually help first responders when there was special equipment needed to respond to an incident. Now, with the type of crude oil that is being transported, foam seems to be an indication of what is needed. So ERAP would be applicable to the new crude oil that is being transported, and that is what we're looking into—expanding the ERAP program.

Mr. Ed Komarnicki: To include them and to develop... Would you have a baseline requirement that the ERAP program must contain with respect to that?

Ms. Marie-France Dagenais: Yes, we would have that in crude oil and other flammable liquids, and there's a working group in place with industry, first responders, and municipalities to look at what would be needed in those ERAPs to ensure that the firefighters can properly respond to an incident.

Mr. Ed Komarnicki: Is that ERAP something that the transporter or the train company would have to put together and you would review it to see if it was satisfactory?

Ms. Marie-France Dagenais: The shippers and the importers are the holders of the plan. We are also looking at whether some carriers should be responsible for some plans. Those are all policy decisions that will be looked at in the next couple of weeks.

Mr. Ed Komarnicki: You may also find that some of the emergency responders, particularly in small communities, might not have the facility or the capacity or the capability to respond. What might be the case in that situation, with respect to any new plan?

Ms. Marie-France Dagenais: That's why emergency response assistance plans are there. They're industry-owned, and they're basically there to help first responders answer and properly respond to an incident.

Mr. Ed Komarnicki: Would the emergency response plan be different with respect to simply the increase of the flow of traffic, as opposed to a transload facility?

Ms. Marie-France Dagenais: They would be totally different, yes.

Mr. Ed Komarnicki: There has been a proliferation of, I might say, transload facilities in southeast Saskatchewan. Is it fair to say there aren't any emergency response plans in place at the present time?

Ms. Marie-France Dagenais: For crude oil, there's no emergency response assistance plan in place.

Mr. Ed Komarnicki: Is the fact that they're located next to residential premises an item of concern? Shouldn't it be?

Ms. Marie-France Dagenais: Every time we do a risk assessment, one of the criteria is a high-density area. We looked at that as part of our risk assessment in terms of determining if there's a need for regulatory amendments or not.

Mr. Ed Komarnicki: At the moment, if a community is in opposition to a transload facility being located without an appropriate emergency response plan, do they have any opportunity for preventing it from taking place?

Ms. Marie-France Dagenais: When we look at amendments to regulations, we do ask. Provinces, territories, and municipalities are part of the minister's advisory council that I participate in with the chair, and they have a chance to voice their concern and comment on whether this requirement should go ahead or not.

Mr. Ed Komarnicki: Outside of voicing their concerns, they can't actually stop the transload facility from taking place.

Ms. Marie-France Dagenais: This is not part of....

Mr. Gerard McDonald: Not under Transport Canada's jurisdiction; we don't have any legislative authority to do that.

Mr. Ed Komarnicki: Do I have more time, Chair?

The Chair: You have one minute.

Mr. Ed Komarnicki: In the matter of testing for classification purposes, of course, you might not have the jurisdiction in North Dakota or South Dakota, but you certainly would in southeast Saskatchewan. What is being done to ensure that the classification is appropriate?

Ms. Marie-France Dagenais: What we are doing right now is... after the protective direction came out...we have plans now to go in and inspect and take enforcement action if the classification is not done.

Mr. Ed Komarnicki: So you would essentially verify that what the shipper says is there is actually there and not something else.

Ms. Marie-France Dagenais: Yes, it's properly classified. You can classify under three packing groups, packing group I being the most dangerous or highly risky and packing group III meaning the ones that are less risky. So depending on how you classify, it has to come under packing group I, II, or III.

What the protective direction says is that you need to properly classify the crude oil. If you don't have the test, then classify under packing group I. That's what we're basically saying. So we're avoiding a gap there if they don't have the proper testing. While the tests are being done, please ship those goods under—

● (1615)

Mr. Ed Komarnicki: A higher category. Now, if you—

The Chair: You're out of time, Mr. Komarnicki. We may get back to you later.

I'll now turn it over to Mr. Watson for seven minutes.

Mr. Jeff Watson: Thank you, Mr. Chair.

Thank you to our witnesses for being here today.

At what point is a ship, a truck, or a train inspected for dangerous goods by Transport Canada? Is it at the...?

Well, I should say that trucks are probably inspected by the provinces, so let me step back for a second. When are ships or trains inspected by Transport Canada? Is it at the point of loading? Is it somewhere in transit? Is it at final destination? Just how does that occur? How does an inspection for what's loaded onto a train happen?

Mr. Gerard McDonald: It can be anywhere. Obviously there are high volumes of dangerous goods moving across the country every day, so we try to focus on those areas that pose the highest risk. That would be largely the transloading facilities, where they're loaded onto the ship or the train. Then we can spot check at any point to make sure the dangerous goods are properly placarded and classified.

Mr. Jeff Watson: You refer on slide 9 to the compliance estimation program. Is that where the spot checks, these sorts of random checks, would occur?

Ms. Marie-France Dagenais: The random inspections are actually taken out of an inspection database that's finding facilities and basically giving us a baseline of compliance. We're actually randomly picking sites and going and inspecting them. Those are the spots, yes.

Mr. Jeff Watson: When you say “sites”, what are you referring to? Is that terminals, plants...or are you talking about the vehicles themselves?

Ms. Marie-France Dagenais: The way the transport of dangerous goods program works is a bit different. We look at means of containment. You're right, we look at trucks, we look at tank cars, but we also look at cylinders on trucks. We look at cylinders on ships. We look at different types of dangerous goods.

So when we're talking about sites, we're talking about shippers' sites at the origin—when the dangerous goods or the means of containment leave for transport at the origin—but we're also talking about means of containment sites when they are manufactured and repaired and tested.

The means of containment, according to standards, need to be tested normally every three, five, six, seven years. A truck needs to be retested, and tested often. We do our inspection at that point to make sure that the means of containment are done properly and that the repairing and testing are also done properly. There are different types of inspection.

Mr. Jeff Watson: I understand that Transport Canada has to effectively approve each containment method. I'm not sure what I'd call it; it could be a vehicle or it could be cylinders, as you're talking about. So Transport Canada must inspect these and verify that they're suitable to a given task.

How many different containment methods have been inspected or approved by Transport Canada? I don't know how many different containment methods would exist.

Ms. Marie-France Dagenais: We have about 20 standards, going from larger means of containment to smaller means of containment. For some types of dangerous goods, it's a box, actually, with some tape—if you're looking at batteries, for example.

We look at different types of means of containment. We go to these facilities that manufacture the means of containment to ensure they're done properly, they're done according to the standards, and they're repaired. The means of containment are tested according to the standards.

Mr. Jeff Watson: When you inspect the loading of vehicles at a transloading facility, for example, you'll be able to test several different trains, let's say, not just any random one train, if you will.

Ms. Marie-France Dagenais: No, we look at the tank car per se. We look at everything that accompanies the trains. We look at how it's transloaded. We look at the safety marks, at the means of containment. An inspection includes all components.

Mr. Jeff Watson: With the compliance estimation program and these random inspections, how many of those would you do in a year?

Ms. Marie-France Dagenais: We do approximately 1,000 per year.

Mr. Jeff Watson: Okay.

What act or regulation covers dangerous goods across international bridges or through international tunnels, whether they're rail or truck?

● (1620)

Ms. Marie-France Dagenais: The Transportation of Dangerous Goods Act and regulations apply.

Mr. Jeff Watson: Are there any international bridges or tunnels where you're allowed to bring dangerous goods through or over them?

Ms. Marie-France Dagenais: Yes, there are some that are allowed—

Mr. Jeff Watson: Why are some considered okay and others not, for example?

Ms. Marie-France Dagenais: We don't make that determination. But often if they're privately owned, the owners of the bridge can decide whether or not they want to transport dangerous goods on their bridge.

Mr. Jeff Watson: Does that have to be approved by anyone, or is it simply a decision that...?

Ms. Marie-France Dagenais: We don't approve.

Mr. Jeff Watson: Very good.

In terms of the inspection of trucks carrying dangerous goods, is that provincial? Is that federal? Who would cover that?

Ms. Marie-France Dagenais: In terms of trucks found on highways, provincial inspectors will inspect them. But manufacturing facilities or testing facilities of trucks are done by the federally appointed inspectors.

Mr. Jeff Watson: Are international trucks bound by the Transportation of Dangerous Goods Act for classification and transport as well?

Ms. Marie-France Dagenais: Yes, they are.

Mr. Jeff Watson: Who verifies that?

Ms. Marie-France Dagenais: We both do, on each side of the border. As I said, they're aligned in terms of classification and standards.

Mr. Jeff Watson: Provincial railways?

Ms. Marie-France Dagenais: We actually will look at the tank car per se. Whether they're provincial railways or federal railways, they're under federal jurisdiction.

Mr. Jeff Watson: Is harmonization with the United States' standards a goal of Transport Canada—harmonization with respect to containers? Or is that not a focus?

Ms. Marie-France Dagenais: It's under the Regulatory Cooperation Council. It's actually a goal for all types and means of containment that they are properly aligned—actually, also internationally.

If you think about air transport, for example, when an airplane comes from Asia, it needs to be compliant with the TDG regulations and the international requirements. So we try to harmonize as much as we can internationally and with our U.S. counterparts.

Mr. Jeff Watson: In your opinion, can dangerous goods be safely shipped by DOT-111 cars? What are the possible risks with respect to DOT-111 cars? I'm talking about the new standards because new DOT-111s have been coming on line, if you will, in 2012 and 2013.

Can you comment on the DOT-111s?

Ms. Marie-France Dagenais: As I indicated in my presentation, standards are developed through the involvement of industry manufacturers, regulators, government, and interest groups.

It was determined that the DOT-111 tank car could be used and is an appropriate means of containment to transport certain types of dangerous goods, like petroleum crude. We are always looking at and improving the safety features of a means of containment to make sure every dangerous good is transported safely.

As I said, we will publish the next standard quite soon. It will help with the safer transport of petroleum crude through Canada by improving certain safety aspects, such as thicker steel, protective head shields, and certain types of components that will make it better.

But we're always looking at ways of improving and of making sure dangerous goods are transported safely.

The Chair: Thank you very much.

Now I'll move to Mr. Mai for five minutes.

[*Translation*]

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you, Mr. Chair.

Ladies and gentlemen, thank you for being here today.

I have some questions about inspections. I'm not going to talk about the Auditor General's report because we can't today. You mentioned that there are 35 transportation of dangerous goods inspectors. Is that for all modes of transportation, so rail, maritime and everything?

Ms. Marie-France Dagenais: No. There are 35 inspectors for ground transport that focus mainly on railways and, as I said in my presentation, on manufacturers and producers, and testing and repair facilities. There are 15 inspectors for air transport.

Mr. Hoang Mai: Please stick with the rail transportation industry because it's something that affects us a great deal at the moment. I have a lot of questions about it.

The Canadian Centre for Policy Alternatives said that there was one inspector for 14 tank cars in 2009, four years ago now. In 2013, there was one for every 4,000. Do these numbers make sense?

● (1625)

Ms. Marie-France Dagenais: When we do our inspections, we don't count the containers as such. Instead, we conduct risk planning and determine which inspections need to be done.

Mr. Hoang Mai: The number of cars is increasing. The Railway Association of Canada said that in 2009, there were 500 tank cars. In 2013, there were 140,000. Those are its figures. We're seeing fewer and fewer inspectors for the number of tank cars on the rails.

Without mentioning the Auditor General's report, can you tell me if you plan to analyze the companies or railways to see where you should focus your inspections?

Ms. Marie-France Dagenais: The program is managed jointly with Mr. Bourdon of Rail Safety. Mr. Bourdon focuses mainly on the railway and its components, while we look at the container as such. We do joint inspections. When we inspect a car, we look at the placards to determine whether the standards are being met, while Mr. Bourdon's service inspectors inspect the wheels, the brakes, and so on.

Mr. Hoang Mai: In the last five or 10 years, how many inspectors have there been? Has the number increased or decreased?

Ms. Marie-France Dagenais: The number has been steady in the past five years.

Mr. Hoang Mai: How many were there 10 years ago?

Ms. Marie-France Dagenais: Overall, the number has stayed the same.

Mr. Hoang Mai: Given the increase in the volume of dangerous goods transported by rail, should there be more inspectors? I imagine it isn't up to you to make that decision.

Ms. Marie-France Dagenais: I'm not the one who decides that.

Mr. Hoang Mai: Right.

We know that perhaps you don't have enough inspectors to analyze it all. In this case, what are you doing to ensure that the emergency and risk management plans are adequate?

Ms. Marie-France Dagenais: We've developed a risk analysis. Naturally, a number of plans have been identified as higher risk. Those are the ones we look at more frequently.

Mr. Hoang Mai: What criteria do you use to determine that a company is at risk?

Ms. Marie-France Dagenais: It isn't the company that's at risk. Rather, it depends on the products being transported.

Mr. Hoang Mai: You look at the quantity of products that a given company transports by rail and you determine the risk as a result of that.

Ms. Marie-France Dagenais: We look at the quantity and kind of products. Obviously, radioactive materials are considered very high risk products. Toxic substances, including chlorine, are also considered high risk products. These are the plans we are going to analyze more closely before approving them.

Mr. Hoang Mai: Like I said, we will talk later about what the Auditor General found. We can't talk about it today, unfortunately.

I asked these questions so I could understand the thought process in relation to how you manage the risks and safety.

You spoke about dangerous goods, including chlorine. What percentage of chlorine and oil is transported in a year?

Ms. Marie-France Dagenais: Oil isn't currently part of our emergency response assistance plans. Most of our plans concern propane, chlorine, hydrogen and ammonia.

Mr. Hoang Mai: Oil does not figure in your risk management?

Ms. Marie-France Dagenais: The emergency response assistance plans do not include the transport of oil as it was transported in certain conditions. The only emergency response assistance plan we currently have has to do with connected trains for a specific product, which is gasoline. We don't have a plan for crude oil.

Mr. Hoang Mai: Thank you for that clarification.

More and more companies are using railroads to transport their goods. The increased transport of crude oil by rail concerns me a little. You said that there's no response plan to that effect. If I understand correctly, companies transporting crude oil that should be inspected aren't being targeted. Shouldn't the MMA Railway be one of the companies you consider a risk?

● (1630)

Ms. Marie-France Dagenais: In terms of transporting dangerous goods, we determined that crude oil was an emerging risk and should become one of our priorities. However, last year, it wasn't among the goods we considered high risk. We felt it represented a risk, but not a high one.

Mr. Hoang Mai: And if you—

[*English*]

The Chair: Mr. Mai, I'm sorry, you're well over your time.

I'll now move to Mr. Albrecht for five minutes.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

Thank you again for being here to give a very good overview of the system. It's clear from the Library of Parliament notes and your testimony today that there has been significant action over the years to improve rail safety as it relates to the transportation of dangerous goods—rail, marine, and air.

In 1992 there was the Transportation of Dangerous Goods Act, with the improvements you pointed out in 2008 and 2009. In 2012 the Railway Safety Act was amended and strengthened, and in October 2013 there was protective direction, and again the protective direction in November 2013.

I just want to go back to a couple of the pages in the Library of Parliament's research. Looking at the graphs there, there are significant improvements in safety: a 48% decrease in rail accidents involving dangerous goods in Canada, in spite of a 60% increase in volume. I think that's a great statistic.

Now, you did point out in your testimony that 99.998% arrive without incident, but you were also clear to say that the 0.002% is our main concern, and obviously with Lac-Mégantic and other incidents, we certainly agree on that point. But I think it's important that we note that the great decrease in the number of incidents is something Canadians should take some solace in.

I'm wondering if you would have any comparison, in terms of rail safety, in the number of incidents related to transportation of dangerous goods in other jurisdictions. This may be an unfair question, so if you're not prepared to answer it.... For example, Australia, the U.K., the U.S., India, and China—do we have any sort of benchmark? Not that we're going to measure ourselves because we're better—we still have to address that 0.002%—but I'm wondering if we have any handle on how other jurisdictions would relate.

Mr. Gerard McDonald: I'm not sure that we do have those type of numbers. We'd have to ask those administrations for their statistics.

Mr. Harold Albrecht: Just a thought. We've all travelled in other countries on trains and it's something you think about.

One of the concerns that I have in the report from the Library of Parliament is in relation to the proximity of railways in residential areas.

The report points out:

> The *Railway Safety Act* requires that a railway company advise owners of adjoining land and the municipality when they plan to undertake line work.

But it goes on to say:

> The opposite is not the case. Developers and municipalities are not required to advise railway companies when they begin a development project in proximity to the railways.

Then it goes on to point out that the Federation of Canadian Municipalities, the City of Edmonton, and Ontario are beginning to address this in terms of regulations.

My question is—I know you don't have the authority to do this—if you had the authority to address this issue of the transportation of dangerous goods through residential areas, what would your answer be to address some of these concerns that I raised?

Mr. Gerard McDonald: I think the biggest concern is getting the parties to work together on potential solutions. As you correctly point out, while proximity issues were identified as something—even under the Railway Safety Act review—that we should look at, we just don't have the legislative construct to be able to do that. So we have to rely on the railways and organizations like the FCM to try to work together to figure out the best way to do this.

Obviously the railways have been around for a long time, and usually municipalities grow up around existing railway lines. It's not an easy prospect to say, "Well, now, we have a municipality, let's move the railway out of here, because there's a dangerous good on the line." It's not an easy solution, but I think it's one of mutual cooperation, quite frankly, that we have to have that communication amongst the parties to be able to—

Mr. Harold Albrecht: It is encouraging to see at least that the FCM and different jurisdictions are beginning to address this.

Mr. Bourdon.

Mr. Luc Bourdon (Director General, Rail Safety, Department of Transport): Actually it was a recommendation in *Stronger Ties*. It was recommendation 34, to try to do something about it, but as Mr. McDonald pointed out, we did not have the jurisdiction—

Mr. Harold Albrecht: Right.

Mr. Luc Bourdon: —to force municipalities to advise the railway. But it was recognized by the panel.

Mr. Harold Albrecht: One of the groups that I've worked with a bit over the last year or so is the chemistry industry, and I notice in the report again from the Library of Parliament that they refer to the Chemistry Industry Association of Canada having the TransCAER program. This is part of their Responsible Care program, and as this group outlined their procedures to me, it seemed to me like a pretty responsible way to address these kinds of issues. I'm wondering if this could be used perhaps as a template for other groups to try to replicate this program. Maybe you could respond on the effectiveness of their TransCAER program.

● (1635)

Mr. Gerard McDonald: We see the TransCAER program as an excellent model to follow, and actually it was with this in mind that we developed our protective direction on information sharing.

While we have some limited ability to regulate how information is shared among municipalities and railways, we feel the parties themselves have a responsibility to educate each other as well, and any program that advances that is very much supported by us.

The Chair: Thank you.

We'll now move to Mr. Sullivan.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair, and my thanks to all of you for being here.

I note that .002% of 30 million is 600 serious incidents per year. That seems like a big number. It's not 600 railcars; it's actually 600 incidents, right?

Mr. Gerard McDonald: It would be 600 incidents; I would not necessarily characterize all of them as serious incidents.

Mr. Mike Sullivan: But that's what your document says.

Mr. Gerard McDonald: Okay.

Mr. Mike Sullivan: Following up on what Mr. Albrecht said, in my riding there are tens of thousands of crude oil cars going by every week, 12 feet from people's windows. Last year the railroads actually moved their tracks closer to those windows, by 12 feet, and there is nothing anybody can do about it, right? It's their choice. They expropriated the land some time ago.

With respect to the crude oil shipments, ERAPs are not available for crude oil. Is there an ERAP for the diluent that's in crude oil?

Ms. Marie-France Dagenais: No, not currently.

Mr. Mike Sullivan: So it's not really crude oil; it's crude oil with something that burns at a very low temperature.

Why is there no ERAP for crude oil with diluents?

Ms. Marie-France Dagenais: When it was determined, after the Mississauga derailment, that an emergency response assistance plan should be put in place, one of the criteria we identified as a policy decision was ensuring that companies had the expertise and tools when first responders were not equipped to deal with the product interaction or the product consequences of an incident. These were determined to be the ERAPable products. Or the product was determined to require an ERAP because of the type of reaction or the tool or equipment needed.

The perfect example is radioactive material. If there is an incident, then you need proper equipment. That is why it was determined that these types of products needed an ERAP, and the determination was that petroleum crude was not a product that needed an ERAP.

Now we are looking at the new product. There is a working group in place right now to look at whether the requirement should be a part of our regulations.

Mr. Mike Sullivan: With regard to the DOT-111A tank cars, I think I heard you say that they were safe. Why is it that the Transportation Safety Board says they're not? Is there a fight going on between Transport Canada and the Transportation Safety Board?

Ms. Marie-France Dagenais: The standard for the DOT-111 was developed with manufacturers, producers, regulators, end groups, and trust groups. They determined that the DOT-111 was appropriate to transport certain types of dangerous goods like petroleum crude. That was the risk-based assessment that was made.

I believe that some of these standards are applied in normal conditions of transport, so they were identified as being appropriate to transport petroleum crude.

Mr. Mike Sullivan: To go back to my question, the Transportation Safety Board says they're not safe and has said on several occasions that they are not appropriate. In fact, we're reacting because you're acting to put shields and other devices on them to make them more compliant with the newer cars. Why are we still running DOT-111As without these shields?

Ms. Marie-France Dagenais: I believe that's part of how the business works. These tanker cars have an extensive life. They run for 40 to 50 years. They were built in the States, mostly. They were not built in Canada. Quite recently, there was a manufacturing facility that started to build the new tanker car to the new standards, but it hadn't been built in Canada.

The fact is that we have accepted the recommendation of the TSB, and we've been working for the past three or four years in implementing the new requirements for all DOT-111 tanker cars.

We believed that to a certain point it was safe. We're always looking at improving safety. If we can add requirements to improve safety, that's what we do. We're doing it right now.

● (1640)

Mr. Mike Sullivan: The residents in my riding who have tens of thousands of them going by every day, 10 feet from their bedroom windows, don't believe that a train like that, with what the Transportation Safety Board says are unsafe cars travelling at 50 miles an hour, is a very secure thing.

Is there a way to meet in the middle and say reduce the speed of these things down to 10, so that if there is an accident, we're not going to have another Lac-Mégantic?

Ms. Marie-France Dagenais: I understand that there are some speed requirements, depending on the proximity of some municipalities and the density, but I think Luc is probably more aware of those regulations.

Mr. Luc Bourdon: We're going back to the early eighties. Those were called following the Mississauga accident. They called it the gateway concept. I would have to go back, but if I remember correctly, in municipalities with a population of between 10,000 and 50,000, as long as the train gets an inspection before it gets into that area, the train can go by at a track speed between 50 and 100. That is if a train has been inspected, and when I say inspected, that's either mechanically, through scanners, or by a certified car man. The train could go through at 35 miles an hour.

In an area of over 100,000 population, the train had to be inspected no more than 20 miles before it got into that area, and then the train would have to be inspected every 20 miles, either mechanically or through a certified car man. Then you'd be allowed to go 35 miles an hour. If not, if you wanted to avoid being inspected, you had to go at 15 through that gateway.

Mr. Mike Sullivan: They're not being inspected?

Mr. Luc Bourdon: No, no. CN has the largest system of wayside detection in North America.

Mr. Mike Sullivan: So it's inspection with—

Mr. Luc Bourdon: Either by hot box detector dragging equipment or by an individual, and if they want to avoid that, it's 15 miles an hour.

The Chair: Thank you, Mr. Sullivan. Your time has expired.

Mr. Toet for five minutes.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair.

I want to follow up a little further on the path Mr. Albrecht was going down at the beginning. There's a very interesting graph on page 7 of the Library of Parliament's briefing document we received, and I'm just wondering if you can help me understand the attribution.

In 2005 there were about 31 or 32 main track derailments and seven accidents with dangerous goods releases. In 2012 we were down to about six main track derailments and about two to three accidents with dangerous goods releases. So we had fewer main track derailments than we had accidents with release of dangerous goods back in 2005.

I'm just wondering if there's anything that any of the officials would attribute that change to. What would you look at to say why we had this? It's obviously a good trend, but what would you attribute that to?

Mr. Gerard McDonald: We'd like to think we played some small part in that, but we're only one player in the system. I feel it's certainly a more diligent focus on safety. The fact that we have introduced safety management systems hopefully has pushed the safety culture further down into the company. And I think companies are realizing that safety is just plain good business.

Mr. Lawrence Toet: When you say “more diligent focus on safety”, is that from Transport Canada's perspective, or are you saying that's right across the board from companies also?

Mr. Gerard McDonald: Companies are paying greater attention to safety now than they have in the past. We certainly noticed a marked change in the culture probably post the Railway Safety Act review. In the mid-2000s there was a spate of accidents that caused a great degree of concern.

We had additional emphasis on safety management systems after that. The Railway Safety Act review took place, so I think companies sat up and took note that it was in their own best interests to improve their safety performance as well.

● (1645)

Mr. Lawrence Toet: Mr. McDonald, in your opening remarks you said that proper classification is a key, and I think Ms. Dagenais also made that comment at the beginning of her presentation. How does Transport Canada verify that companies are classifying their goods properly. If it's such a key component, it obviously has to be a key thing that Transport Canada is looking at all the time too.

Ms. Marie-France Dagenais: We use inspection. Every time we go and inspect a facility—or a shipper, I should say, because the obligation is on the shipper and the importer to properly classify—we have inspections. We have chemists. My advisors at CANUTEC are actually trained chemists who can look at how these tests are done.

The testing is done following the UN recommendations. It's part of our regulations. It's all indicated in part II of our regulations, and it determines and indicates very specifically how testing can and should be done in relation to what the United Nations has recommended as proper testing and classification.

Mr. Lawrence Toet: What happens if you find somebody improperly classifying or labelling a product?

Ms. Marie-France Dagenais: There are tools of enforcement offered to us: we can ticket; we can give direction to remedy and to deal with non-compliance; and we can also prosecute.

Mr. Lawrence Toet: So there are financial penalties as well as legal penalties?

Ms. Marie-France Dagenais: There are financial penalties.

Mr. Lawrence Toet: Can you share with us how many companies may have faced these types of sanctions in the last number of years?

Ms. Marie-France Dagenais: We haven't faced a lot of classification issues in the last couple of years.

I guess crude petroleum is a different matter because it comes from the soil. It's a natural product, I should say, so it's different from classifying chlorine. That's why we have decided to target our inspection more on crude petroleum classification.

Mr. Lawrence Toet: You're saying there aren't that many, but if they have faced sanctions, is that something the public would know about? Is that public knowledge?

Ms. Marie-France Dagenais: It's part of the criminal system. Once charges are laid and they're found guilty, the findings are public.

Mr. Lawrence Toet: Can you give me any sense, by mode of transport, where sanctions would have been applied—marine, air, or rail?

Ms. Marie-France Dagenais: In the past year we have issued approximately 50 tickets under the Contraventions Act. Prosecution is a longer process. In the past two or three years, we've had about five per year.

As I say, it depends on the type of infraction. We usually prosecute when fatalities or injuries are involved, and mostly when the means of containment are not appropriate, because we believe that classification is important. If the means of containment are deficient, that's where the major infraction lies, because that means transport afterwards will be dangerous.

Mr. Lawrence Toet: But you can't give me any sense of what modes of transport you've had to apply these sanctions to?

Ms. Marie-France Dagenais: I can't right now, but if you want, I can get back to you.

Mr. Lawrence Toet: Yes, I would appreciate receiving that information.

The Chair: I'm going to have to cut you off there, Mr. Toet.

We'll move to Madame Boutin-Sweet.

[*Translation*]

Ms. Marjolaine Boutin-Sweet (Hochelaga, NDP): Thank you, Mr. Chair.

I represent the riding of Hochelaga, in Montreal, where the Port of Montreal is located. The port is so large that it covers three ridings. Last night, the port director told me that it was the largest port in the western world. There is one larger, in Asia apparently.

Trucks, boats and trains arrive at the large Port of Montreal which, incidentally, is growing. They can all stay there for a few days, depending on the goods they are transporting.

After the Lac Mégantic accident, citizens seeing all this arrive have some concerns. They know that we are going to talk about it today. What are the major issues for a large intermodal port? What can I tell them? I understand their fears because I was affected by the Mississauga train derailment. I was evacuated for two weeks. We were lucky because we only had to be evacuated. What should I tell Canadians? What are the main issues for a place like that where there are so many diverse activities or where a number of dangerous materials are involved?

● (1650)

[*English*]

Mr. Gerard McDonald: Mr. Chair, I'll answer the question in a bit of a general manner, because I don't know the specifics of the port of Montreal itself. Maybe my colleague might be able to add some colour to my answer.

In terms of the security of ports, the Government of Canada has invested a large sum of money in promoting and augmenting the security at our port system. So a port like the port of Montreal would have security fencing all around it, and anything that's within the port facility would be protected by security fencing. The government has also invested a large amount in recent years in helping ports install things like security cameras to ensure that any goods that are there are constantly monitored. And then we get back to the more traditional inspection we do with respect to the transshipment of any dangerous goods that may be coming in to the port. They would be subject to the inspection we have under the transportation of dangerous goods program.

My colleague, Mr. Kennedy, may have something to add in that regard.

Mr. Scott Kennedy (Executive Director, Navigation safety and Environmental Programs, Department of Transport): Thank you very much.

In a port like Montreal, or any large port around the world, of course, the International Maritime Dangerous Goods Code applies, and that's a uniform set of rules that apply to shipping of all packaged dangerous goods around the world. We have inspectors who do spot checks on containers in a port like Montreal, and if there are any deficiencies found, then often the container will be moved aside and the consignee or the shipper will be instructed to repack the container, which quite often leads to delays. In fact, it's a rather large penalty, although not a monetary penalty. When a container is delayed and misses a shipment, that's a severe penalty.

This applies to Canadian marine as well, which must comply with the Transportation of Dangerous Goods Act and also the International Maritime Dangerous Goods Code.

There have been very few incidents in the marine mode, very few that I can even think of, on packaged dangerous goods.

[*Translation*]

Ms. Marjolaine Boutin-Sweet: I'd like to make a comment about the fencing you mentioned. There's the St. Lawrence River, the boats, the containers and the trains. You can see right through the fencing because it is open. Notre-Dame Street is just on the other side and there are houses. The fencing doesn't offer much protection.

Are the port managers aware of the kind of dangerous goods that are arriving at the Port of Montreal and how long they stay there and so on?

[*English*]

Mr. Scott Kennedy: Absolutely. At ports like Montreal, where there are dangerous goods that could potentially affect neighbouring dwellings or things like that, there are risk assessments done through Natural Resources Canada. They do what they call explosive limit risk assessments to determine the proximity of dwellings and populated areas with respect to the port and what dangerous goods could be stowed and where they're stowed. They're often stowed in particular areas in a port, and in some ports in fact certain dangerous goods are not even permitted to be brought in.

[*Translation*]

Ms. Marjolaine Boutin-Sweet: I'm not sure if you're talking about dangers in general, but I'm talking about something specific. Are the port managers aware that on Thursday, for example, a train will arrive with those kinds of goods on board and that it will stay there for two days? Do they know what kind of goods the train contains and what to do in case of an incident?

[*English*]

Mr. Scott Kennedy: Absolutely. Dangerous goods are required to have a consignment and documentation, and this documentation is well known in advance. When ships arrive, any dangerous good on board the ship is known in advance. When they arrive in port, if there is a dangerous good, they're usually moved to a certain particular dangerous good area in these ports. It's similar under the IMDG code and other regulations like that.

So specifically, yes, there are dangerous goods areas, and documentation precedes the load.

● (1655)

[*Translation*]

Ms. Marjolaine Boutin-Sweet: You mentioned ships. Is it the same thing for goods arriving by train or truck?

[*English*]

Mr. Gerard McDonald: Yes. A port would know any good that is being transported to it. There would be a documentation of what is arriving at the port, and the port would ensure that what they're receiving is actually what they have been told they would receive.

The Chair: Your time has expired.

We'll now move to Ms. Young for five minutes.

Ms. Wai Young (Vancouver South, CPC): Thank you again for being here today.

I noted in the questioning that you've been so patient in terms of the answers. Can we just tie off a little bit around the marine as well as the air safety? We've talked a lot about rail, which is appropriate and good, but perhaps we can wrap that up so that we know we have this comprehensive report on the SMS.

You've talked about the SMS system regarding the rail quite extensively. Can you highlight, then, what happens— and I think we touched upon that—with the marine as well as with the air?

Ms. Marie-France Dagenais: I can talk about the transport of dangerous goods and the air mode. As was explained before, carriers do have an SMS system in place where there's a component for dangerous goods.

The way the transportation of dangerous goods program works is we do targeted inspections of shippers and carriers, so we do an air mode kind of packaging inspection, because you realize that before being on a plane, a package will often be carried by a truck. So that's where we actually target inspection, and that's where civil aviation, under Martin Eley, the director general, who was here on Monday, will look at the SMS system, the safety management system, of a company like Air Canada and look at whether they have the proper component in place. We would do the targeted inspection at the origin, in terms of air.

Mr. Scott Kennedy: On the marine mode, there are actually three layers of protection for Canadian vessels. The first is, of course, the Transportation of Dangerous Goods Act and regulations; secondly, the Cargo, Fumigation and Tackle Regulations; and thirdly, the International Maritime Dangerous Goods Code. Those three tiers regulate the marine mode.

Ms. Wai Young: Would you say that the international codes are higher than the Canadian codes? And where are we in meeting those codes?

Ms. Marie-France Dagenais: Actually, in the Transportation of Dangerous Goods regulations we reference the international code. So we're basically equivalent. Sometimes we may add some requirements. At the other end, we try to avoid this because basically that would make it hard on international transport. We always try to align, and we make reference to each modes' international codes.

Ms. Wai Young: What you're basically saying, then, is that railway, air, as well as marine codes meet or are the same as the international standards?

Ms. Marie-France Dagenais: For marine and air; there are no railway codes.

Ms. Wai Young: Right. What I'm trying to say is that for all three modes of transportation, the codes all meet the international standards. It's just to have that on the record.

Ms. Marie-France Dagenais: Yes. Sorry.

Ms. Wai Young: Okay. I found it quite interesting that Mr. Bourdon talked about the fact that for the safety aspects he looked after the rail lines and the wheels, and that sort of thing—I guess the mechanisms of the trains—whereas, Ms. Dagenais, you talked about the container. Where do the two systems of safety inspection intersect, then? If one person is doing an inspection on just the trains and another is doing inspection on just the containers and the contents, where do they intersect? Is it because they didn't intersect that Lac-Mégantic happened?

Mr. Luc Bourdon: What we've done in some of our regions is we have taken people who had the background to inspect cars and they were trained as TDG inspectors, so they could do both. So you would not have someone who would look at only the running gear of that particular car and then have someone who would never show up to look at the tank, or something like that—or the opposite, someone would look at the tank and not at the running gear.

In many of our regions we try to integrate both of them, so we could have inspectors who could do both.

● (1700)

Ms. Wai Young: Do the inspectors do both, or are they integrated so that if they have a specialty in a certain area they are doing spot inspections on those specific areas? How does it work exactly?

Mr. Luc Bourdon: Usually it's a bit easier to take someone who has a rail background and make them a TDG inspector, because the apprenticeship to be a car inspector is about 8,000 hours, which is usually what you get with the rail industry.

Marie-France's group will give them the training to be a TDG inspector.

In another region they just may work as a team.

Ms. Wai Young: Is that something you have on the radar? As you know, the federal workplace is aging, so what are you doing in terms of replacing the inspectors and training new ones, and all of that sort of thing?

Mr. Gerard McDonald: We're constantly monitoring the level of employment we have in our inspectorate. We want to make sure it remains current and that we have a sufficient number of inspectors to carry out the planned risk-based inspection for the year.

We have a number of initiatives ongoing to encourage people to join the inspectorate, a number of comprehensive staffing programs. I know on the marine side we're just finishing a collective staffing action where we have roughly 300 applications to bring in new inspectors. It's something that's continuous, obviously. With a workforce that large we have to make sure we're constantly replacing those people who retire or move on.

The Chair: Your time has expired, Ms. Young.

I'll move to Mr. Braid for the last five minutes.

Mr. Peter Braid (Kitchener—Waterloo, CPC): Thank you very much, Mr. Chair.

Thank you to our representatives for being here today.

In the course of your opening remarks, someone mentioned that standards for tanker cars are reviewed every five years. When will the next review be?

Ms. Marie-France Dagenais: As I indicated, the latest version of the standard, which is basically thicker steel, extra protection with the head shields, will be coming into force or be published in December. Right now we are already working with our U.S. counterparts, with manufacturing facilities, with producers, with interest groups, to look at a new version of the tank cars.

There is actually a meeting scheduled in January. We meet twice a year and we look at the different components, trying to find ways of improving the standards. As I said, it's on a consensus basis, so sometimes it takes longer, but we try to achieve the work within four to five years.

Mr. Peter Braid: Is that consensus with various stakeholders or with the U.S., or both?

Ms. Marie-France Dagenais: With everyone.

Mr. Peter Braid: Okay. Is the U.S. on the same five-year cycle?

Ms. Marie-France Dagenais: They are on the same five-year cycle. Right now we have set meetings with them, specifically to ensure that there's progress in terms of developing the new standard.

Mr. Peter Braid: Do the consultations take place between those five-year periods? Given the increase in rail transportation, I'm wondering if five years is frequent enough.

Ms. Marie-France Dagenais: It may change. We are working with our American counterparts. The way they regulate is to have a proposed advanced rule-making notice. That came out in the fall. The Association of American Railroads commented on it, and we are working with them to look at the proposals, what could be achieved in terms of research to ensure that the next generation of those tank cars meet the safety needs of dangerous goods transport.

Mr. Peter Braid: Thank you for clarifying that.

Our Minister of Transport has said very clearly that she wants the rail safety regime to be similar to the "world-class tanker safety system". Could you elaborate on that?

Mr. Gerard McDonald: When we talk about the world-class tanker safety system, there are three elements that we feel any good response and prevention system should have. The first of those three elements is prevention. You don't want the accident to take place, so what can you do as an organization or as a government to ensure that accidents don't take place? That includes more effective regulation. That includes more effective inspection and other types of surveillance. On the marine side, we do aerial surveillance for oil spills.

The second element is response. If an accident does take place, how do we ensure that the responders are ready, that they're within a proximity that is going to make a difference, that they have the right information in order to be able to respond effectively to whatever type of event might take place?

The third element of what we call a world-class regime is liability and compensation. If, God forbid, something does happen, how do we ensure that those who are affected by it are effectively recompensed for what took place? We have a fundamental principle that we pursue, which is that the polluter should pay. It shouldn't be borne on the backs of taxpayers. Those who were shipping or transporting the goods should be held accountable for whatever has taken place.

● (1705)

Mr. Peter Braid: When you say that polluters should pay, is that through the payment of liabilities? Is that through the payment of fines?

Mr. Gerard McDonald: Again, it varies from mode to mode, but as the government indicated in their Speech from the Throne, that's something they want to look at, certainly on the rail side. It can take various forms, from insurance to funds, to what have you.

Mr. Peter Braid: As a segue from that, on page 9 of the presentation you indicate that a number of tools are used to enforce compliance, including issuing directions to remedy non-compliance. You say, "These include public awareness, detentions, tickets and prosecutions."

Could you elaborate, please, on these various mechanisms for enforcement?

Ms. Marie-France Dagenais: The way the program works is that we have a severity index. Non-compliance can go from having missing information on a shipping document to missing a placard on the use of containments. For example, according to the regulation, you need to have a placard on each side of these containments. If there's one missing, that's non-compliance: lack of training of your employees.

Depending on the type of non-compliance, the tools vary. The severity will indicate prosecution at the more severe stage. At the lowest stage, you can talk about making sure that you issue a direction saying to please remedy the non-compliance, to please stop doing something, or to please do something. Those are directions. Then we can issue tickets under the Contraventions Act if we believe there has been a contravention and that a tool would be necessary to ensure compliance in the future.

Mr. Peter Braid: On raising—

The Chair: Very quickly, Mr. Braid.

Mr. Peter Braid: How do you raise public awareness?

Ms. Marie-France Dagenais: We have different tools. We issue a publication. We have enforcement bulletins. What we have on our website we distribute to industry. We go to association meetings. There are a lot of tools that we use to ensure our work....

The Chair: Thank you.

That's the end of the first round. We have enough time left to give each party a five-minute round.

Ms. Chow.

Ms. Olivia Chow: Earlier on, you said that crude oil is not part of the dangerous goods act. Are you planning to change that? It's sort of surprising. I guess the act is from 1992. Is that why it hasn't been updated?

Mr. Gerard McDonald: What's subject to an ERAP is something we constantly look at. As we gain new information, we look at what goods should be ERAPable, as we say. Given the events at Lac-Mégantic and the concerns over certain types of crude, like Bakken, from the Bakken fields, that is something we will be looking at, yes.

Ms. Olivia Chow: Do you have a sense of a timeline on when you might be making the change? For example, for the video recorder on locomotive cabs, you have been looking at it for 13 years and you still haven't made it mandatory. So on whether crude would be included or not, you could be considering it for the next 10 years.

Do you have a timeline as to when you might be making a decision?

● (1710)

Mr. Gerard McDonald: We'll be looking at that over the course of the next year, that among other regulatory developments; we're on an accelerated time scale.

Ms. Olivia Chow: Are Canadians to expect a new Transportation of Dangerous Goods Act that might come forward in 2015 or...?

Mr. Gerard McDonald: No, we wouldn't foresee...although I can't preclude that. That wouldn't be my decision to bring in a new act. But the solutions we're looking at now would be regulatory solutions within the current legislative construct.

Ms. Olivia Chow: Right, but it will still take you at least a year before you can make that decision?

Mr. Gerard McDonald: Obviously with any regulation you have to consult—and we have an obligation to consult—with all those who may be affected with regard to that particular regulation, to assess what the potential benefits and costs of bringing in a regulation are, and to give Canadians an adequate time to consult on whatever regulatory changes we might be proposing. There is a time element to that. We're trying to reduce that as much as possible, but we do have certain requirements in order to bring something forth as a regulation.

Ms. Olivia Chow: When did you start examining whether or not crude oil should be included? Have you been examining it just in the last six months or have you been looking at it for the last few years?

Mr. Gerard McDonald: No. It's primarily post-Lac-Mégantic that we have been looking at whether crude should be an ERAPable good.

Ms. Olivia Chow: The previous response about DOT-111, that they last at least 40 years and they're made in the U.S.—there is absolutely no plan to phase out the existing DOT-111s. Do you have a plan on when you want to phase them out?

Mr. Gerard McDonald: That's part of our consultation with our colleagues in the U.S. As you can appreciate, these cars move all across North America, so it would become very difficult for us to regulate a phase-out unilaterally, but this is one of the aspects, in addition to designing the new standard. As Madame Dagenais pointed out, one of the other aspects is what would be a reasonable phase-out period for the existing cars, and also whether or not there should be any restriction on the types of goods they might carry, if some older existing cars remain in use.

Ms. Olivia Chow: The Transportation Safety Board has made recommendations, has flagged this issue for many years. This is not new. DOT-111 punctures very easily because of its lack of thickness.

You have been talking to your American counterparts for many years. How much longer are you going to take to come to a decision so there might be a plan to phase this out? The last recommendations from the Transportation Safety Board are at least five or six years old. They have been flagging it.

Mr. Gerard McDonald: Yes, and that new standard has been developed. As Madame Dagenais said, it will be given the force of law. Even though tank cars already are being built to that standard, it will be given the force of law, hopefully within the next couple of weeks.

Ms. Olivia Chow: No, I'm talking about the old ones, the ones that don't meet the requirements. Seventy per cent of the shipments right now are using DOT-111.

Mr. Gerard McDonald: I can't recall the Transportation Safety Board recommendations verbatim, but I believe their recommendation was to develop a new standard for the 111. As I said, that has been done, and we're on the next generation after that particular standard.

We're constantly trying to improve them with each iteration. But that being said, one of the things we will be looking at and discussing with our American counterparts is whether or not we should consider the accelerated phase-out of older DOT-111 tank cars.

● (1715)

Ms. Olivia Chow: I'm sorry. The Transportation Safety Board is not talking about the new ones or the standards. They are talking about the existing ones, the ones that are in use now, and that conversation has continued for a while.

I'll move on.

The Chair: Mr. McGuinty, you have five minutes.

Mr. David McGuinty: Thanks, Mr. Chair.

Mr. McDonald, can I go back to some testimony you gave on Monday; you were asked about capacity in the department.

In response to capacity you said:

> ...while indeed some of the budgets at Transport Canada have reduced over recent years, when we undertook the deficit reduction plans at Transport Canada, we made a specific effort not to touch any of the inspection resources that were available within the department.
>
> I think you will find that our level of inspection within the department has not decreased. In fact in some areas, rail safety in particular, the number of inspections has actually increased.

Do you still stand by that testimony in the wake of yesterday's report?

Mr. Gerard McDonald: Yes, I do.

Mr. David McGuinty: Our research says you have a three-year cycle for auditing. Is that correct?

Mr. Gerard McDonald: That was the original plan, yes.

Mr. David McGuinty: For example, in the three years ending March 31, 2012, how many audits were completed?

Mr. Gerard McDonald: Perhaps Monsieur Bourdon can....

Mr. Luc Bourdon: About eight.

Mr. David McGuinty: And what percentage would you say that accounts for in terms of what your own policy requires?

Mr. Luc Bourdon: When we set that target, we thought at the time we could probably meet that three-year cycle. We also tried not to decrease the amount of inspection we were doing. For instance, this year we're planning 10 audits for 10 different railways, which is about one-third of the industry.

However, it became obvious to us that to try to have full-blown audits would take a lot more resources than we thought. If I look at our colleagues from civil aviation, their cycle is five years.

Mr. David McGuinty: Let me ask the question again. What percentage of audits did you complete based on your own targets for the three fiscal years?

Mr. Luc Bourdon: According to the OAG, we completed 26%.

Mr. David McGuinty: That's one quarter.

Mr. Luc Bourdon: It's one quarter, yes.

Mr. David McGuinty: One quarter of the audits that you had set out—

Mr. Luc Bourdon: We thought we could do them. At the time we believed we would be able to do all of that.

Mr. David McGuinty: So based on your own projections, you've achieved one quarter of what you planned to do, yet I'm hearing from the ADM of the department that there's not a capacity problem here. Is there a capacity problem here? I mean, what are Canadians to make of this when we hear that one quarter of your targeted audits are actually done?

Mr. Gerard McDonald: As Monsieur Bourdon tried to point out, we had originally thought we would do audits over a three-year period. As we explained on Monday, our oversight program consists of audits and inspections, and there's a mix there.

Mr. David McGuinty: Why would you have set out to achieve so many more audits and do 25% of what you set out? If you set out to do way more than that, did you not do it based on evidence, based on technical projections, based on need, based on safety?

Mr. Gerard McDonald: Yes, and based on our estimation of the risk in the system and what was required to give us a degree of confidence on the safety—

Mr. David McGuinty: Absolutely.

Mr. Gerard McDonald: —we felt at the time that the original number of audits that had been planned for was probably in excess of what was needed.

Mr. David McGuinty: It's in excess of what's required for safety for Canadians and safety in the system. Is that what you're saying now?

Mr. Gerard McDonald: What we're saying is we adjusted our level of audit based on what we felt was necessary on our part to ensure safety in the system.

The Chair: Okay.

You have a point of order, Mr. Watson.

Mr. Jeff Watson: Mr. Chair, no offence here, and I've listened for a few questions, but we're now back to talking about the implementation of SMS. He's not talking about audits or inspections about the transportation of dangerous goods. I just think there should be a distinction there, Mr. Chair.

Mr. David McGuinty: Chair, we are. That's precisely what we're talking about. Maybe the witnesses can help my colleague understand that when we talk about auditing SMSs, we're talking about the transportation of dangerous goods as well.

● (1720)

Mr. Jeff Watson: That's only a specific component of SMS. The statistics referred to by the member opposite relate to the evaluation of an overall SMS system. So they're not necessarily relevant to the specific topic at hand.

Mr. David McGuinty: Mr. Chair, let me ask the witnesses this, if I could, moving on. Does VIA Rail transport any dangerous goods?

Mr. Gerard McDonald: Whatever fuel might be aboard would be it, as far as I'm aware.

Mr. David McGuinty: So with respect to the transportation of the dangerous goods that it does transport...because I conclude that it does.... You suggest that they—

Mr. Gerard McDonald: There's fuel on board, so that would be considered a dangerous good. That would probably not be considered as something that would be of a high enough risk to concern our dangerous goods people.

Ms. Marie-France Dagenais: When the fuel is used to actually make a motor function, it's not part of the Transportation of Dangerous Goods Act regulations.

Mr. David McGuinty: So it's not captured by regulations.

Ms. Marie-France Dagenais: It's not regulated.

Mr. David McGuinty: It's not regulated at all under the transportation of dangerous goods?

Ms. Marie-France Dagenais: Not if it is fuel that is used to actually make sure that the motor functions. It's actually a part of the motor.

Mr. David McGuinty: Right, okay.

The Chair: Your time has expired, Mr. McGuinty.

Mr. Watson, you have five minutes.

Mr. Jeff Watson: Thank you, Mr. Chair.

I'll turn to new rail cars. I don't know—I'm not an engineer who designs rail cars—but presumably there are constraints to redesigning rail cars. If you change the thickness to be thicker, you add weight to an individual car. Looking at the new DOT-111s for example—even the old ones, for that matter—how much latitude is there to add thickness before weight becomes a problem with respect to the rail and the railbed? I presume there isn't a whole lot of tolerance there. In other words, what I'm driving at is this. How many designs are possible for rail cars, to improve the safety, given that there may be constraints with respect to weight on a rail?

Mr. Gerard McDonald: I think the technical detail of that question is probably beyond our expertise set at this point, Mr. Chair. But suffice it to say that the design of any car would take into account a great many factors, all of which have to be assessed in order to determine whether proposed changes are indeed going to be increasing safety, and whether increasing safety in one area might be in fact detrimental to something else.

Mr. Jeff Watson: Well, to follow that further, if you were to increase the thickness of the hull of a particular car, you could lower the capacity to carry a particular dangerous good, for example, to offset the increase in thickness. That could lengthen the train as well, though, could it not? If someone is committed to carrying a certain capacity of a dangerous good, they could presumably lengthen a train. If the choice were to have a thicker hull with less capacity, it could lengthen the train, I guess is what I'm trying to say. Is that fair enough?

Mr. Gerard McDonald: Potentially, yes.

Mr. Jeff Watson: Is the issue with DOT-111s puncture or shear? I wasn't aware that it was puncture; I thought it was the issue of shear. Is that fair enough? Does anyone know?

Ms. Marie-France Dagenais: I'm sorry, but under normal conditions of transport of DOT-111s, they won't identify any major issues with safety in terms of no more than shear or puncture. There was not one more than the other.

Mr. Jeff Watson: You used “normal”. Is there an abnormal way to...?

Ms. Marie-France Dagenais: Yes—

Mr. Jeff Watson: What would that be?

Ms. Marie-France Dagenais: —because standard tank cars are tested to a certain speed. Depending on the certain types of impact, depending on the type of accident that happens, it cannot be—

● (1725)

Mr. Jeff Watson: So at 100 kilometres per hour, there's probably no car that's going to survive something of that magnitude.

Ms. Marie-France Dagenais: It would be questionable.

Mr. Jeff Watson: Fair enough.

I don't know if I have any more questions, Mr. Chair. That's good.

The Chair: Okay.

You have a minute and a half. Does anyone want to...?

Ms. Young?

Ms. Wai Young: How much time do we have left, Mr. Chair?

The Chair: You have one minute and 20 seconds.

Ms. Wai Young: All right. Well, I guess no. That's too little time because I want to start a whole other thing and that's not going to be enough.

A voice: Go for it. Start.

Mr. David McGuinty: Mr. Chair, I have a point of order, if I could go next.

Excuse me, I don't want to interrupt.

The Chair: A point of order?

Mr. David McGuinty: I'm sorry. I wasn't sure whether Ms.—

The Chair: You have time for a question, Ms. Young, if you want.

Ms. Wai Young: We did receive this really good report form the Library of Parliament, and they did talk about the compliance with the requirements and ability to respond. We touched upon that earlier around compliance, and you were very clear about some of those aspects, which I appreciate, so thank you so much. But once again I want to ask you if that applied to all three modes of transport, or are they different?

Ms. Marie-France Dagenais: No, they all apply to the three modes of transport.

Ms. Wai Young: So it's similar?

Ms. Marie-France Dagenais: Yes.

Ms. Wai Young: Just to follow up on my earlier questions, then, regarding the inspections and how they occur, could I ask you if the inspectors are also specialized with all three different modes of transport, or do they interchange?

Ms. Marie-France Dagenais: Under the transportation of dangerous goods, surface inspectors do mostly means of containment, like tank cars, trucks, and means of containment per se. We do have specialized civil aviation inspectors who do TDG inspections, and we also have marine inspectors who do TDG inspections. So they are specialized. They specialize with the modes they are attached to.

Ms. Wai Young: Getting back to the staff training around the inspections and the replacement and retiring, etc., do you then have a plan for all three modes?

Mr. Gerard McDonald: Yes. Each of our modes has quite comprehensive training requirements and programs in place, and that's something we pay a great deal of attention to—making sure they're inspected and have appropriate training to carry out their duties.

Ms. Wai Young: Where would you—

The Chair: You're out of time, Ms. Young.

Mr. David McGuinty: A point of order, Mr. Chair.

The Chair: A point of order on me? Who are you calling a point of order on?

Mr. David McGuinty: I'm asking that when you're free, Mr. Chair, I'd like to raise a point of order. But I won't interrupt you, because you're in mid-sentence. Excuse me, I'll wait until you—

The Chair: I was just going to thank the witnesses for being here.

Mr. David McGuinty: May I raise a point before they leave?

The Chair: If it's a point of order, yes.

Mr. David McGuinty: It is.

I'm wondering two things. First, I wanted to know whether or not witnesses would be prepared to reappear when we actually examine the Auditor General's report in detail. Second, on Monday, Mr. Braid, myself, and Madame Boutin-Sweet all raised a number of questions about additional information, and I'd like to get an idea of when we can anticipate receiving that information from the witnesses.

Ms. Olivia Chow: I asked for some too.

The Chair: On the first point, the committee sets its own destination. If we want to call the officials back, we have that prerogative.

On the additional information you asked about, the clerk just informed me that the department is working on getting that information. I guess it would it be fair to say that it's forthcoming as soon as possible.

Mr. Gerard McDonald: We'll do our best to get it here as quickly as possible, Mr. Chair.

The Chair: Okay.

Mr. Mike Sullivan: With regard to information, can I ask the witnesses to provide some of the information they talked about today? I'd like to see the MOAs with the provinces and an example of an ERAP, so we can see what one looks like.

A voice: Yes.

The Chair: Thank you very much.

I want to remind everybody that our committee meeting on Monday will be basically to discuss the future and how we carry on with this study.

With that, thanks again to all of you for being here today.

This meeting is adjourned.