HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 023 • 2nd SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, April 29, 2014

Chair

Mr. Larry Miller

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● (0845)

[*English*]

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

I want to welcome our witnesses here today. Thanks very much for coming, gentlemen.

With no further ado, I'm going to turn it over to Mr. Powers and Mr. Boissonneault, from the Canadian Association of Fire Chiefs. You have 10 minutes or less, please.

Mr. Paul Boissonneault (Fire Chief, County of Brant Fire Department, and First Vice-President, Canadian Association of Fire Chiefs): Thank you, Mr. Chair.

Good morning, everyone. My name is Paul Boissonneault. I'm the fire chief for the County of Brant, Ontario, and the Canadian Association of Fire Chiefs' first vice-president.

On behalf of the CAFC and our chief fire officers and firefighters from across Canada, I want to thank the committee for the opportunity to present the perspective of first responders on the transport of dangerous goods and railway safety.

The tragic derailment in Lac-Mégantic has focused attention on the impact of dangerous goods incidents on public safety and the environment. The Lac-Mégantic fire service and their mutual-aid fire departments did an outstanding job in dealing with the largest, most destructive dangerous goods incident in recent Canadian history.

All of us here have the shared responsibility of mitigating the risks associated with the transport of dangerous goods in Canada. To do so, we need a system with preventative measures and protections, including legislation but also inspection and enforcement, information sharing, training, and safe operating practices that ensure safe communities.

The goal of our testimony is to broaden your understanding of the composition, abilities, and needs of the fire services across Canada as well as our recommended actions.

In the Canadian fire services, a significant number of fire departments in Canada share one important characteristic: railway lines run through the communities that they protect. When an accident occurs, they will most inevitably be the first responders on scene. Let's put that into context.

There are approximately 3,500 fire departments in communities of all sizes across Canada, of which 3,200 are volunteer fire departments. Of the 120,000 firefighting personnel in Canada, 80% are volunteers, meaning these men and women, with their full-time jobs and family obligations, volunteer to help protect their communities.

With the diversity in size, resources, and responsibilities of these departments, dangerous goods or hazmat response is only one of many emergencies fire departments must prepare for. Our hazmat, or dangerous goods, training is most frequently based on the National Fire Protection Association's NFPA 472: Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents, which has three levels of training/competency.

First is the awareness level, and then there's the operations level and the technician's level. Due to the high cost of training requirements, most fire departments do not operate beyond the awareness level, which basically gives them the ability to recognize hazardous materials, protect themselves, call for trained personnel, and secure the area. In rural areas, the gaps in training and resources are understandably much wider. Fire departments rely heavily on the emergency response assistance plan or ERAP holders to provide the special technical expertise, and logistical and tangible resources to help us mitigate an incident.

Last week the CAFC applauded transport minister Lisa Raitt's announcement that the Government of Canada will now require ERAPs for the shipments of crude oil, ethanol, and other specific flammable liquid products by rail. This will result in first responders having access to specialized response capabilities when responding to these high-risk dangerous goods incidents.

This was a key recommendation put forward by Canada's fire chiefs as part of the Transportation of Dangerous Goods General Policy Advisory Council and the ERAPs working group that we participated in. The establishment of a task force to review ERAPs requirements in the application is an important step in improving emergency response systems in Canada. As we move through this process of addressing classification in ERAPs, we believe there are various components to the system that will require further discussion and action to mitigate future incidents.

In terms of dangerous goods response requirements, to evaluate what is required to manage dangerous goods incidents, emergency response planners consider several key aspects: information, training, resources, and planning. For the benefit of the committee, we want to focus on a few programs and ideas in these areas that we believe are particularly relevant.

We should first consider information and the vital resource that is the Canadian Transport Emergency Centre, CANUTEC. CANUTEC is critical for the emergency response and planning in Canada, especially in rural areas. CANUTEC is the equivalent of a first responder calling 911 for dangerous goods incidents. Its industry-leading emergency response guide for initial reference and its experienced 24-hour-a-day professional chemists assist emergency responders with advisory and regulatory information in the event of a dangerous goods accident.

● (0850)

We cannot stress enough the importance of maintaining, and frankly strengthening, this service in order for first responders to continue to protect Canadians, the environment, and themselves.

While it has been suggested that individual municipalities should receive real-time data from the railways on trains scheduled to transit their communities, we believe this would be unrealistic and a largely futile exercise, given the thousands of train movements daily across Canada, 99.9% of which occur without incident.

However, when a derailment does occur, the fire service needs immediate access to the train manifest information, as well as the material safety data sheets, the MSDS, and contact with remedial measures advisors, RMAs, having specialist knowledge of the dangerous goods involved. This is the role that CANUTEC can play and must play for all municipalities, and this is where the CAFC believes Transport Canada has a critical responsibility to assist first responders in safely mitigating an incident.

In training, until the Lac-Mégantic tragedy and subsequent incidents in the U.S. and Canada, the dangers presented by large quantities of crude oil had not been recognized as an area where special training and equipment would be required by municipal firefighters. It is imperative that we provide firefighters with the appropriate training and equipment for these types of incidents.

The CAFC has worked with various industry stakeholders to help develop and promote training programs for fire departments, municipal officials, and emergency planners. This has included firefighter training by CN Rail on incident command at derailments, the Chemistry Industry Association of Canada and its transportation emergency assistance program, as well as the Fertilizer Safety and Security Council, in the development and distribution of training programs on anhydrous ammonia.

Flammable liquid firefighting requires special training and equipment that was not included in earlier programs. This now must be developed using a national standard program delivered effectively across Canada. The CAFC is actively working with its stakeholders to further enhance promotion of these resources to our members as well as to develop new programs. To reach the thousands of firefighters with the basic awareness level of training, we believe that using a web-based program will be the most effective means of delivering this information. Additional advanced hands-on training is necessary and should be coordinated with the railways and fire services on a regional basis to maximize the number of firefighters that can be included with the capacity of training resources available.

When we talk about resources and planning, two main issue arise from discussions with our members and stakeholders: access to organized resources, and standards for coordination and planning. A critical point that needs to be recognized is that part of the risk assessment planning process for these emergencies is defining the operational capabilities that are required.

These operational capabilities will be based on three key technical elements. First is the amount of class B foam concentrate that is available to suppress the vapours or extinguish the fire. Second is available water resources or supplies to make finished foam, recognizing that class B firefighting foam streams consist of 94% to 97% water combined with the foam concentrate. Third is the foam education and application devices to apply the foam streams to the hazard. To successfully apply the foam onto the fire for extinguishment requires trained and competent responders who can size up these scenarios and perform the required tasks.

On the planning side, we believe that standardizing an incident command system process for railway incidents is required to coordinate emergency planning and identify the roles and responsibilities of municipalities, railways, producers, and the federal government. Jurisdictional issues and conflicting priorities should be identified and resolved as part of the emergency planning function, and not during an emergency incident. A clearly articulated system that's based on a changeable, scalable response organization providing common and predictable hierarchy will make for a more efficient and effective collaboration and response to incidents.

With regard to resources for ERAPs, the CAFC believes that a mutual aid approach, with all shippers and carriers participating, would be the most cost-effective and efficient means to deliver resources needed to assist first responders. Western Canadian Spill Services, WCSS, and the Liquefied Petroleum Gas Emergency Response Corporation, LPGERC, are two examples of this very approach.

● (0855)

In conclusion, we believe the systematic approach outlined here is required to address the evolving risks associated with the transportation of dangerous goods in Canada. As the voice of the Canadian fire service, the CAFC is proactively seeking opportunities to find collaborative solutions and best practices.

We were proud to actively participate in the TDG advisory council and to lead the emergency response assistance plan working group. We have engaged the Canadian Association of Petroleum Producers and the Railway Association of Canada to initiate longer-term projects to identify gaps as well as align resources and planning to mitigate future risks.

We will diligently work through Transport Canada's newly established ERAP task group, and with the Government of Canada, this committee, and all members of Parliament, to strengthen rail safety across Canada.

On behalf of Canada's emergency responders, thank you for this opportunity, and I look forward to taking any questions you may have.

The Chair: Thanks, Mr. Boissonneault.

We'll now move to the Freight Management Association of Canada, Mr. Robert Ballantyne, for 10 minutes or less, please.

Mr. Robert Ballantyne (President, Freight Management Association of Canada): Thank you, Mr. Chairman.

The Freight Management Association of Canada was the Canadian Industrial Transportation Association until this year. We've been representing the freight transportation concerns of Canadian industry to various levels of government and international agencies since 1916.

The 90-plus members of FMA spend approximately $6 billion annually on transportation services by all modes, and we advocate for our member companies' interests regarding air freight, trucking, marine, and rail.

As background, I am a member of the Transport Canada advisory committee on rail safety representing the shipper community. The role of the advisory committee relates only to the Railway Safety Act and its regulations, including SMS, and does not generally deal directly with TDG issues. While your committee's mandate from the minister is to consider transportation of dangerous goods and safety management systems in all modes, my remarks will focus primarily on rail freight.

Before addressing the specific topics, I would like to offer a few general comments about transportation safety. One, by any reasonable standard, modern transportation in all modes in the western world is very safe. Two, as long as there is movement controlled by human beings, there will be accidents. Three, safety can never be taken for granted and vigilance can never be let down, and four, there is always room for improvement.

The Canadian transportation safety regime—that is, the policy, the laws, the regulations, enforcement, accident investigation, and practice—focuses on prevention of accidents. This, of course, is the right emphasis. The recent Lac-Mégantic derailment was a tragedy, and the work by all stakeholders in both Canada and the U. S. to take actions to minimize the possibility of another such accident has been intense and thorough. As the Transportation Safety Board continues its investigations, it is expected to make further recommendations that will lead to even more improvements. While many of the recommendations and subsequent actions of the minister focus on prevention, there is a tendency by both media and government to focus on "the next Lac-Mégantic," and by that I mean that considerable activity is focused on the characteristics of, in this case, the DOT-111 tank cars and on making them more robust for the next big accident.

Such accidents are extremely rare, a fact that needs to be considered in any actions the government decides to take. The last accident that came even close to Lac-Mégantic was a derailment of propane cars as well as some cars carrying other DG substances, including chlorine, on the CPR in Mississauga on November 10, 1979, nearly 35 years ago. In that accident, no one was killed or injured. There was limited direct property damage, and about 250,000 people had to be evacuated for several days. Transport Canada and the railways learned significant lessons from the Mississauga accident, with the result that there has been no accident as severe as the one in Mississauga on either CN or CPR since that time. There of course have been other derailments, and some of them have been relatively serious, but there has been nothing of quite that magnitude.

The Transportation Safety Board is the scorekeeper with regard to accidents in aviation, marine, rail, and pipeline, and the statistical trend in all modes is uniformly in the right direction.

When we look at the TDG Act, the evidence is that the TDG Act and the regulations administered by the TDG directorate are generally working well. There continues to be a downward trend in DG accidents, even with increased volumes of these dangerous goods.

The minister has asked your committee how Canada's TDG regime compares with that of the United States. The minister's recent actions announced on April 23 provide some insights into the working of the TDG regime here as compared with that in the U.S. The ability of the minister to quickly issue protective directions pursuant to section 32 of the TDG Act when there is danger to the public indirectly indicates that it compares well with that of the U.S., where rapid response seems to be somewhat more difficult.

While specifications regarding the DOT-111 tank cars should be mandated and older models should be removed from service, the most important follow-on work should be prevention. The Lac-Mégantic accident involved a runaway train of 72 cars that derailed at a speed well above the allowable track speed. If the cars had contained only grain, there still would have been significant damage to the heart of Lac-Mégantic. The immediate focus of the TSB was on actions to prevent runaways, and this was of course the correct immediate focus by the Transportation Safety Board.

● (0900)

In this connection, the minister announced last week that the DOT- 111 cars used to transport crude oil and ethanol that do not meet the CPC-1232 standards set by the Association of American Railroads in October 2011 must be phased out or retrofitted within three years.

Just to give you some idea of the size of the fleet, there are currently about 1.5 million freight cars of all types in operation in North America, and virtually all of these are able to move between all railways in Canada and the U.S. According to the AAR, included in this 1.5-million car fleet are 228,000 DOT-111 cars, and 92,000 of these are used to move flammable liquids.

As of last fall, 14,000 of these cars moving flammable liquids were built to the new 2011 standard. The Railway Supply Institute reports that an additional 30,000 compliant cars are expected to be built by the end of 2015. This will leave a significant shortfall of car capacity to move flammable materials, including crude oil and ethanol.

There is provision to retrofit the older cars to bring them up to the current standard; however, there is not enough North American capacity to build or retrofit enough cars to meet the three-year timeline. As these cars move cross-border, it is imperative that the regulations and timelines be harmonized between Canada and the United States.

Turning now to the Railway Safety Act and the safety management systems, the RSA is the enabling legislation for safety management systems, and it is useful to understand the philosophy and context that the RSA provides. This was one of a series of laws passed in the final third of the 20th century that ended the long dark night of oppressive regulation on the railways.

The RSA places responsibility on railway management for safety and provides for relatively rapid rule-making by the industry to facilitate the introduction of new technology and operating methods, but gives Transport Canada very strong powers to protect the public interest. The RSA also provides a significant role for organized labour to participate in the rule-making process.

The RSA became law in 1988. The first rules submitted and approved under this new act in 1990 were the Canadian rail operating rules. This was the first significant update of these fundamental rules since 1962. These are the basic rules that train crews and other operating employees must follow for safe train operation.

I was directly involved in this and the subsequent rules and engineering standards submissions throughout the 1990s, so I am familiar with that rule-making process.

The introduction of SMS in 2001 was a logical extension to railway safety culture, and it facilitates improved oversight by the railway safety directorate at Transport Canada. Safety management systems have been successfully implemented on all the major railways, including the commuter railways, and on the short lines.

The class I carriers have more extensive and complex operations than short lines and have more depth of resources to implement SMS and to provide the required data to Transport Canada. SMS of course will be much more complex on the class I railways than on the short lines, which may have a top speed of only 30 miles an hour.

In 2013 the Auditor General undertook an audit of Transport Canada's administration of SMS. In his report, the Auditor General validated the basic philosophy of the RSA and SMS and stated as follows:

> Safety risks are inherent to all modes of transportation, and rail...is no exception. Federal railways have the primary responsibility for managing these risks and ensuring the safety of rail operations, while Transport Canada plays a key role in advancing the safety of rail transportation...specifically by maintaining the regulatory framework and overseeing federal railways.

The Auditor General's report identified issues that need improvement by Transport Canada related to data gathering, the number of audits undertaken, development tools to assist inspectors, and skills development. Transport Canada has responded positively to the Auditor General's recommendations and has set timelines for implementing the changes that were recommended.

● (0905)

In answering the three questions on SMS posed to you by the minister, I offer the following comments.

First, SMS implementation in the railway industry is well advanced. Transport Canada is addressing the recommendations of the Auditor General, especially to increase the number of audits.

Second, while it's difficult to determine specifically how SMS has improved transportation safety, the TSB statistics indicate continuing improvement over the period that SMS has been implemented.

Three, on the question of additional methods to improve SMS, continued education and training both within the railways and in Transport Canada will be needed as SMS evolves. The oversight by Transport Canada needs to be robust, not only by the audit function but also with continuing inspections. Where the carriers are found to be deficient, Transport Canada needs to take strong action, including the imposition of administrative monetary penalties.

Safe transportation is vital to the Canadian economy. The members of our association are ready to work constructively with the government and the carriers to improve the safety of Canadian supply chains for the benefit of everyone.

I would be pleased to answer any questions.

The Chair: Thank you, Mr. Ballantyne.

Now we have, from Teamsters Canada, Mr. Phil Benson.

You have 10 minutes or less, please.

Mr. Phil Benson (Lobbyist, Teamsters Canada): Thank you, Mr. Chair.

My name is Phil Benson, and I am a lobbyist with Teamsters Canada. With me is Mr. Rex Beatty, president, Teamsters Canada Rail Conference, locomotive engineers.

Mr. Bill Brehl, president of Teamsters Canada Rail Conference, maintenance of way, couldn't be with us today, and my prayers are with him.

Railways have been self-governing and self-regulating without meaningful supervision or inspection, conducting business behind a wall of secrecy. These safety management systems are so secret that the MPs, the public, even we can't see them.

Are you surprised that there is no safety culture at railways? You know it, and Parliament has acted by unanimously passing, by voice vote, the amendments to the Railway Safety Act. The inspectors and auditors are ready. Workers will have a direct line to Transport Canada to report safety violations. Unions will take part in developing all components of safety management systems and will sign off on them. Workers are not inattentive; they are fatigued and will welcome fatigue management based on science.

We recommend a change in the current rule-making process. The rail sector should follow the rule-making process of all other sectors. The advisory council to the minister of rail safety should vet and recommend rules, like other sectors. Exemptions should be rarely granted, if at all.

We recommend that safety management systems audit safety violations and the resolutions should all be made public. The public has a right to know.

After the tragedy of Lac-Mégantic, the delayed Railway Safety Act regulation process is moving forward. Next year they might clear the approval process, and it might be years before the safety management systems and fatigue management is in place. This is unacceptable, and we strongly recommend that it be sped up. Companies and unions should immediately commence discussions on both factors. The direct reporting line to Transport rail safety should have been put in place yesterday.

After Mississauga, the transportation of dangerous goods is something that all sectors do well. ERAPs and the knowledge of dangerous goods that are transported through communities remain an issue. Without knowledge of what dangerous goods are in transit, first responders cannot be prepared. Even with knowledge, long response times are possible. A glaring problem is that of our first nations. They need to know and to participate in all discussions. That is a problem shared with smaller towns, especially regarding resources.

We recommend that ERAP discussions be expanded, and cities and towns and the public be given access to the information of dangerous goods in transit through their communities, reserves, and nations.

Crude oil has a UN designation. Diluted bitumen and Bakken are not crude oil. Dilbit may have environmental issues, but I'm not sure that explosion of the product is a concern. Bakken oil can contain more than 30 psi of gas; it would not be transportable by pipeline. If Bakken is like a gas, it should be treated as one and transported as such.

The new DOT-111 cars may not be adequate according to the TSB, and the acquisition of what may be inadequate DOT-111s is dismissed through cost concerns. The industry does not want to deal with these issues.

Teamsters, me included, have spent many years dealing with the post 9/11 crisis. The government, industry, and unions worked together because they knew they had to restore public confidence. It was inconvenient, costly, and “business as unusual”. Lac-Mégantic is rail's 9/11. I do not see any desire by the rail industry to work in any meaningful way to restore public confidence. It is business convenient, at no cost, as usual.

Teamsters Canada is Canada's transportation union. Moving oil by rail or pipeline is in our interest, as long as it is safe for the public, the environment, and our members. Our recommendations are to help get the public licence to move oil, consistent with government policy.

We have confidence in Minister Lisa Raitt. She knows her files and is moving forward. We ask that you help her move quicker, so that we can work with her, and you, to make rail transportation as safe as possible.

The following are the comments of Mr. Bill Brehl, president of the TRC maintenance of way. They are the people who look after the tracks, the infrastructure, at CP, and most of the short lines in Canada.

He says that they are understaffed, overworked, and they are tired, many working 10- to 12-hour shifts five days a week and then travelling hundreds of kilometres home on their own time. At home they have a handful of hours with their families before having to turn around and drive hundreds of kilometres back to the job. Their work shifts change regularly between morning, afternoon and night, sometimes all within the five-day cycle.

As a personal comment from me, that is a clear violation of fatigue management science.

This has been going on for months. So far this year we have been told that it will continue for the rest of the season. There are other cycles, more humane cycles, that we can work. However, current management has decided to experiment with this new cycle, which practically eliminates any proper rest.

Seemingly with no concern for our fatigue, our ability to focus, or for safety, we are constantly told by front-line supervisors that production is all that counts. Human beings aren't built for this. We break down. We become fatigued. When there's no attempt to manage it, we can lose focus. We can lose lives.

● (0910)

When the vast majority of main line derailments are caused by infrastructure or equipment failure, don't you think that the men and women maintaining these tracks should be properly rested?

The railways do not share their safety management systems with us. We have no education concerning what these systems are, let alone how they manage safety. We need this information shared with the workplace health and safety committees. Ask yourself, who's better to look after the safety of the tracks than the people on the tracks?

The way to achieve safer railways is through regulation, education, and communication, with all stakeholders fully involved. We are proud Canadians. We are hard-working, loyal employees, many of us second, third, and sometimes fourth generation. We want and Canada needs a safe, productive, and viable railway system.

Mr. Beatty.

Mr. Rex Beatty (President, Teamsters Canada Rail Conference, Teamsters Canada): Thank you, Mr. Chairman and committee.

I don't have any written notes to pass out. This is ad lib. I just want to talk to you about what it's like to be a railroad in Canada these days.

Let me start off by saying that I represent 99% of the operating crews in Canada: the locomotive engineers, the conductors, the yardmen, etc. We represent the main carriers: Canadian National, CP Rail, VIA Rail, Bombardier, the GO trains in Toronto, etc. We have a vested interest in the safety and the movement of goods.

A lot of people don't understand what it's like to be a railroad. I'm going to walk you through a trip so you really get the sense of what we deal with.

What we do is we leave from what's called a home terminal, where we live, and most of the time those trains are scheduled. In other words, we have an eight-hour window in which we know we're going to go to work, and we can prepare ourselves for that as far as rest is concerned. Thereafter, we're on that train in a cab that's 12 feet by 6 feet, for a minimum of 10 hours, and in most cases, 12 hours straight, with no breaks. You're not allowed to stop and have lunch; that train has to move.

When you get to the other end of the road, the terminal, which in some cases is as far as 300 miles away, what happens is that you go into an unassigned type of service. You do not know when you're coming back. For example, you go off duty in the morning at eight o'clock after working all night, and you don't get called right away.

You don't get called right away because of the way they operate their trains. You're not entitled to book rest except at that initial time, so even if you've booked rest, which is a maximum of eight hours, after eight hours you're subject to call. What takes place is that you might not get called for another eight hours. In other words, just when you're ready to go back to work, there are no trains, and you sit there for another eight hours. Then you get called to come back to work. You cannot refuse that. You must come back. Fatigue sets in. These crews coming back now have to work for 10, 11, or 12 hours, with no breaks, moving these trains.

When I hired on in 1973, these trains were roughly a mile long, maybe. Some of them were up to two and even three miles long. There used to be four-member crews. Now there are two-member crews. The management style of the major freight railways right now is very Machiavellian. What happens is that we work on what's called the Brown system of demerits. You get up to 60 demerits and you are discharged from the service of the company. That's what happens.

When you take a look at the Canadian railway operating rules, you can see that there's very little that can happen on the property where you can't point to an employee failure somewhere. That's the reality of the life in how we operate. The problem is that the companies.... For the discipline that is assessed, they don't want to have the employees discharged. They'd rather have you at up around 50 to 55 demerits. Why? You're more apt to do what you're told because you're subject to being discharged if you get 5 or 10 more demerits, which puts you over the 60. It's very Machiavellian in how we operate.

Then you take a look at the stress of the crews. I don't know if you know that within labour law we have what's called “do now, grieve later”. You cannot refuse. Other than for issues of safety, you can't refuse. You must go to work.

Right now, we have thousands and thousands of grievances against the company moving their way through an arbitration process. Just to let you know, there are two arbitrators who sit three days a month, 11 months out of the year. Three days a month, that's all they sit, and they hear virtually every case of every railway union and every railroad in the country. If you think you have a grievance and you think it's going to progress in your lifetime to arbitration to get a result, give your head a shake. It's not going to happen. This adds to the stress.

They've done a study. The railroads have done a study on retaining employees. If they can get an employee to be on the railroads for up to five years, they're locked in then, because they're vested within the railroad. They have mortgages and families and so on, so they're in a situation where they can't leave. But it's very hard to retain employees right now under this system. Just take a look at the moving of grain and the problems with moving grain. A lot of this is that you don't have the manpower to do it.

This is the environment we live in. When I see this type of committee where we can sit here and have our voice, I have to say that the first responders are the crews. They're the first responders, because when those trains derail—and I've been in derailments—I'm the one who has to go back and assess the damage.

● (0915)

I have no knowledge of SMS, the safety management system, no input. When I walk back to find out where the derailment has occurred in that two-mile train, I don't know what I'm coming to. I don't know if gases are going to be blowing my way. I have no idea what's on that train. The training in dangerous commodities for workers is superficial. It tell us where we have to locate those cars within a train.

The whole system is fatigued, not just the railcars. I would appreciate it being looked at very carefully.

Thank you very much.

The Chair: Thank you very much.

We'll now move to questioning.

Mr. Mai, you have seven minutes.

[*Translation*]

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

Thank you to all the witnesses for being here today. It is very important for us to hear what they have to say, especially given that they have all played a role in the studies that have been done and in the recommendations that have been made.

I will start with the representatives of the Canadian Association of Fire Chiefs.

First of all, I would like to thank you very much for the work that you do in general. I know that all Canadians have a high level of admiration for firefighters, particularly given that 80% are volunteer firefighters. I would like to thank you for that.

Among the questions that are being asked are questions on the Emergency Response Assistance Plans. These plans were introduced following a recommendation from the Transportation Safety Board. We know that none existed previously, as you said. This is a new plan that has been put forward.

I would like it if you could explain what is happening in concrete terms. We will not talk about the tragedy of Lac-Mégantic and of what could have been different if there had been a plan. Instead, let us look towards the future. How will we intervene directly? Concretely, what does this emergency response plan do?

● (0920)

[*English*]

Mr. Paul Boissonneault: Thank you very much for the question.

We believe that the ERAP process, where we're going in future plans.... We are very pleased with the initial steps, the inclusion not only of crude oil but also ethanol and other flammable liquids. We feel if we prepare for the worst, we will be much better prepared should it be a less volatile product.

One of the things that was shown with the Lac-Mégantic situation was that most fire personnel, who were trained and understood the burning characteristics of crude oil, realized very quickly that the characteristics they thought they knew were not the reality at Lac-Mégantic.

What we want the ERAP process to do, and why we're so excited to be part of the task force as we move forward in the ERAP process, is to allow communities to prepare properly through scientific and data-based research on all flammable liquids, and for our firefighters to have resource planning and training, so we can ensure that communities have the most information possible and safety processes in place.

Mr. Hoang Mai: I did gather information regarding important training and resources. You talked about real-time information, but that's not necessarily what we're talking about. We're talking about the municipalities and especially first responders having all the information beforehand, knowing what's going on in the municipalities so they're better informed, and knowing they have the necessary resources to intervene should something happen. How important is it to know? In 2009 we had 500 tankers of crude oil, and in 2014, almost 200,000.

Mr. Paul Boissonneault: We believe there is a responsibility for emergency management training and planning in our communities, and that the information provides us that planning piece. In the event of an emergency, the real-time information would come by contacting CANUTEC to find out immediately what's on the train manifest so we could mitigate the situation from that point.

We feel the protective directive offers information sharing for our communities once a year. It provides emergency planning so we can do proactive exercises and plan for specific derailments.

If we knew all products that were going across our municipalities on a daily basis.... The reality is that we're not going to park fire trucks at various intersections just in case there's a derailment, so that real-time information is not really a viable option for us at this stage. A more comprehensive approach to planning is essentially what we're after.

Chris, do you have any comments on that?

Mr. Hoang Mai: That's why I was mentioning it. It's not necessarily real-time information that we're asking for.

Also, in terms of a general comment representing all the fire chiefs, do you feel comfortable that you have all the information from railway companies? Are you comfortable that the communication and information sharing is really there?

Mr. Paul Boissonneault: I'm going to ask my colleague Chris Powers. Certainly I've done enough talking.

Chris has been a great stakeholder for our organization at various committee levels, and I'd like Chris to comment on that.

The Chair: Okay.

Mr. Powers.

Mr. Chris Powers (Retired Fire Chief, Canadian Association of Fire Chiefs): Thank you.

I think we identified in the ERAP working group report that we need more data. We need to know the routes being used by the rails to transport this, the volumes, and the frequency. This is something we hope the ERAP task force will be able to achieve.

There is a gap in data now, but certainly protective direction that requires an annual reporting to municipalities is key to long-term planning. We don't plan for the emergency when it happens; we plan ahead of time.

● (0925)

Mr. Hoang Mai: I don't have much time.

I have a question for Teamsters.

The analysts—who do very good work—say that a strong safety culture is essential for the full and effective implementation of a safety management system within an organization. Another condition for an effective safety management system is that railway employees must be involved in the development of the company's safety management system, be able to escalate their safety concerns to the highest levels in the organization without fear of punishment, and receive appropriate supervision and training to ensure that errors lead to improvements in safety.

How comfortable are you in terms of all of those criteria being met when we deal with safety management systems?

Mr. Phil Benson: We represent 65% of rail employees. You've heard from all the other unions. We've made it very clear today that the safety management system doesn't exist. There is no safety culture. It is not safe.

However, to be very fair, you know that. Parliament has acted. The Railway Safety Act amendments are in place. They changed that to our signing off on all components. All of these things, hopefully, will be in place.

Again, with the companies seeing it post-9/11, a lot will have to do with their willingness to move forward. We're certainly willing to move forward with them, but as a backcheck, the minister shall inspect.... To be blunt, that's why the direct line to Transport Canada was put in place. If you deal with the company more than likely you'll be disciplined, as brother Beatty said, and it will not be good for your career.

At this time, it doesn't exist. It will exist. We're asking you to move it forward more quickly. It was delayed by the companies as we've moved forward.

That's why we're asking to start the process now. We don't want to wait until September or October of next year. It took seven years to get fatigue management, or eight years, which I worked with. It took 18 months for the pilots just to continue, which I also worked on. They're sitting on the minister's desk. I hope she signs them soon.

To redo their safety management system, with all of their involvement, is going to take a long time. That's why we're calling for a recommendation to start the process now or in September, not next April, May, or June, whenever the regulations come into effect.

The Chair: Thank you.

We'll now move to Mr. Pacetti for seven minutes.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chair.

Thank you to the witnesses for coming.

I have to agree with you also, Mr. Boissonneault. It was not only the firefighters but also the first responders who did a great job at Lac-Mégantic, and of course made us proud. The incident was unfortunate, but these are the things that we have to deal with.

I'm not a regular member of the committee, but the way I look at it is that there are two things: prevention, and I think we spoke a bit on that; and what actually is going to happen in the case of an incident, whether minor or major.

I'm trying to understand how you would view it if an incident were to happen. You said yourself that there are thousands of cars going around. You're not going to put fire trucks at every stop or potentially dangerous place because you can have a train derailed in the middle of a major urban centre without flammables and it could cause damage.

How do you react when an incident is going to happen, in terms of accessing the data on that railcar, or accessing the first responders and whether it's medical people or firefighters who are needed? In your view, how does all of that get put together if an incident were to happen?

Mr. Paul Boissonneault: Thank you very much for the question.

I would offer that much like the process initiated by the minister in terms of protective directives and a phased-in approach, plus data supporting the information and task groups and working groups, I think what you're seeing as far as the Canadian fire service goes is much the same. We realize now that the incident was dealt with very well, but certainly there needs to be that preventative and planning piece in place, so that communities can rely on their first responders certainly providing a safe response.

You are correct. It doesn't necessarily happen in the core of a location like it happened in Lac-Mégantic. It can happen outside of areas, which becomes very challenging for resource deployment and/or management.

The three points that I offered as far as information, training, and resource—

● (0930)

Mr. Massimo Pacetti: I'm sorry. Can I just interrupt for a second? I'm trying to conceptualize this.

Let's say a derailment happens in the middle of a large urban centre. You call the firefighters and they'll go online—no problem—and they'll figure out or be able to assess what's on the railcar.

How about some faraway municipality where there is no Internet access, or where they have difficulty that day accessing the Internet, or where there's just one person at the booth because the derailment happens at night? There may not even be somebody there because that person is outside smoking a cigarette or on a coffee break or whatever. What happens in that situation?

How do you compare both of them? How do you make sure the firefighters are not just properly protected but also have proper access to information?

Mr. Paul Boissonneault: The information—and that's what I spoke about—is key. The process for a large urban centre and a rural fire department operation needs to be the same, and that would be that when the public realizes an incident has taken place, they phone 911. When an emergency takes place out in the field or an urban centre, as a first responder our 911 is the immediate call, not the Internet.

There needs to be an immediate call to CANUTEC to advise that there's a train derailment on the line. They also need to be told the location of the incident. Because we're trained to an awareness level, we can give information on the type of car that's being used and the products that are on that train. From that, they can give us initial isolation distances and how to react to that situation appropriately. That's whether we're in the smallest community across Canada or in the largest urban centre.

That information sharing and the necessity of ensuring that these chemists provide that vital information to our emergency responders is absolutely key.

Mr. Massimo Pacetti: Okay. So what would you need as a firefighters association to make sure that all of your ground people have the same service from one end of the country to another? Is there anything that's lacking anywhere?

Mr. Paul Boissonneault: I think it's the training piece and information sharing right across Canada to ensure that every fire department is on board. As we said, there are 3,500 fire departments, and 3,200 of those are volunteer. In some municipalities and some small centres, we're dealing with situations where they raise money to put gas in their vehicles. We're talking about a very diverse group of fire departments and very different resource allocations across Canada.

For the information component, we want the CAFC to be a conduit of resources and training availabilities that we develop with stakeholders, so that we can certainly be the voice of the Canadian fire services to provide that information to everybody, so that in the event of an emergency our communities are safe.

Mr. Massimo Pacetti: Thank you.

Mr. Ballantyne, in your presentation you were talking about your short-haul people, who are not necessarily also resourced in the same fashion as the long-haul people or the bigger rail companies. Are your members going to be able to provide that information?

Mr. Robert Ballantyne: The members of our association are the people who buy freight services, such as Canadian Tire, the grain companies, and various mining companies. Our membership is made up of the people who have the freight that is moved by railways and trucks, and so on.

Mr. Massimo Pacetti: But don't they have a responsibility to make sure the information is made available on what goods are being transported?

Mr. Robert Ballantyne: Yes, they do, and of course when goods are loaded, whether it's on rail or truck or whatever, that information is provided to the carrier. If they are dangerous goods, there are the processes in place that the fire chiefs have talked about. That goes to CANUTEC and, where necessary, is then available to the first responders. So yes, they do have a responsibility—

Mr. Massimo Pacetti: It's done on a timely basis. Do they take weekends off or nights, not reporting what they're shipping?

Mr. Robert Ballantyne: Every time that a shipper puts a shipment to a carrier, they produce a document called a bill of lading. A bill of lading says what the stuff is that is being shipped. That goes directly to the carrier. It's part of the whole financial process between the carrier and the owner of the goods, to make sure that the carrier gets paid for shipping the goods, but it also is the source of information for the railway company and for CANUTEC, and so on, where that's appropriate.

● (0935)

Mr. Massimo Pacetti: Mr. Ballantyne.

The Chair: Sorry, your time has expired, Mr. Pacetti.

Mr. Watson, you have seven minutes.

Mr. Jeff Watson (Essex, CPC): Mr. Chair, thank you to our witnesses for appearing today. We appreciate not only your testimony but your ongoing interest and participation in increasing the safety of transport by rail, and our ability to respond.

I want to start with Mr. Benson. I just want to probe your comments a little further here.

First, you said there's no safety culture in Canada. Then later you said there's no SMS. I want to be clear what we're suggesting here. Just to clarify your own remarks, are you saying that no companies have SMS, safety management systems, or that they haven't been able to produce a safety culture? I want to be clear about the distinction between the two.

Mr. Phil Benson: Certainly, by law, they're required to have a safety management system. But what we're saying is that it's something we don't participate in, we don't see it, we have no knowledge of it, there is no training on it, and because of the disciplinary nature of the industry, there is no safety culture.

Mr. Jeff Watson: I wanted to be clear about that because at one point I think interchangeably you said there was no SMS—

Mr. Phil Benson: Sorry—

Mr. Jeff Watson: —and we need to be precise on the record for that.

No, you don't need to apologize.

Dr. Fleming, from Saint Mary's University, who appeared here, did point out for the benefit of the committee that safety management systems don't necessarily produce a safety culture, but they actually require a safety culture, which is shared values, attitudes, and norms with respect to safety.

We heard from Unifor at this committee. I asked whether their members were surveyed on a regular basis about their perceptions of safety. I'm going to ask you the same question, Mr. Benson, about the Teamsters members, or Mr. Beatty, if you want to take that question. Are your members either interviewed or surveyed on some regular basis about their perceptions about safety?

Mr. Rex Beatty: Not that I'm aware of.

Mr. Jeff Watson: Not that you're aware of, okay.

The Senate committee, when it was looking at rail safety and other aspects, pipelines, and others, on page 9 of its report stated that interviews and perception surveys of both management and employees are not currently mandatory.

Would you recommend that it be a mandatory requirement of safety management systems under law, that they must regularly interview members for their perception of safety within the company?

Mr. Rex Beatty: The short answer is yes.

Mr. Jeff Watson: Very good. That's important for the committee.

We could get into other questions about whether you can bridge the cultural divide with respect to the leadership there. I don't know how you overcome that with respect to regulation and other things. Mr. Vena, from CN, was here at this committee. He said they did 1,000 audits a day “to see what our employees are doing”, as if employees are to blame for safety in the system.

I want to turn for a moment now, if I might.... Actually, before I do, would you like to comment on the effect of Bill S-4, and whether or not what happened in the upgrades to the Railway Safety Act are in any way changing the structural relationship or hold the promise to changing a structural relationship between unions and the company? By that, I'm talking about the integration of health and safety committees with the company.

Mr. Benson, maybe you want to comment.

Mr. Phil Benson: You're referring to the Bill S-4 amendments?

Mr. Jeff Watson: Yes.

Mr. Phil Benson: The committee worked very diligently on that, as we did, for several years. I think it's a real turning point and we note that. The funny thing is that we're here talking about the past and I think the future has great promise.

I've only met Mr. Mongeau once. He talked about how we have to work like a family. If you look at Mr. Brehl's comments about how we're second, third, and fourth generation railroaders, this is something that's in their blood, in their families.

I think it holds promise if the companies are willing to realize that this is going to be productive for them. It's going to increase public confidence to move goods. It's actually going to make money all around and produce a safer environment. We're certainly willing to work with them and we think the amendments are very good.

Mr. Jeff Watson: Okay.

Do you want to comment on your union's position on the use of video and audio recording in locomotive cabs? I did ask that question of Unifor and I think of VIA as well when they were here. I'd like to understand your position on that.

● (0940)

Mr. Phil Benson: Thanks for the question.

The industry did have a study and looked at it. The conclusion was that there was no probative value to having it. Secondly there was also an opinion by Justice that in fact you couldn't go forward with it unless there was voluntary compliance.

The company said it would cost $8 million—these are multi-billion dollar companies—and they weren't willing to spend the money for TSB purposes unless they could use it for discipline.

Notwithstanding that, we are moving forward with VIA, because VIA is willing to comply, if you like, with the law and the precedence. Clearly things like video recorders and hands-only audio recordings to our loops, like the ones pilots use, which are wipeable when you leave, for TSB purposes only, not for any discipline or other uses.... There are lots of other things like not using it when they are.... Again, we're working with VIA.

Mr. Jeff Watson: So your position, if I could summarize then, is that you're supportive of the TSB's recommendation, which comes with certain caveats about how that information is used. I think that's effectively what I'm hearing. The caveats would protect the privacy of people.

Mr. Phil Benson: I think it's something we'll look at and we have looked at.

Mr. Jeff Watson: Mr. Boissonneault, maybe there isn't a simple answer to this. I just don't know. I'll be frank with you. Can you talk about how many different means of combatting dangerous goods in a derailment incident we could be dealing with? You mentioned class B foam. Are there other types or ways of combatting, and what types of specialized equipment would be required for either a regionalized or a national response in the case of derailments?

Mr. Paul Boissonneault: Yes, I guess—

Mr. Jeff Watson: I don't know how complex that is.

Mr. Paul Boissonneault: —I should mention something similar to what my colleague said. The easy answer is yes. There are very diverse means of combatting various types of dangerous goods and/or chemicals that are transported, and that philosophy doesn't change whether it's rail, shipping, road, or air. There are various types of....

Mr. Jeff Watson: Are we talking about dozens or...?

Mr. Paul Boissonneault: Essentially we can say that some urban centres, because of the reality of budgets and preparation and training and those kinds of things, are better suited to deal with the myriad different types of chemicals that may go through. For some of the rural departments I mentioned, which are fundraising to buy equipment and/or operate on a daily basis, obviously even getting access to class B foam to respond to a specialized incident becomes a challenge.

There are various ways of dealing with incidents, and there are sustainability factors. I talked about the awareness level, operations level, and technician's level. In many cases there are those mutual aid support components from large urban centres that would come and assist in much the same way as they did in Lac-Mégantic. But yes, there are many different appliances, different types of foam adductors, and different types of water curtains. The way the guidelines are set out in that response, specific to our ERG or our contact in CANUTEC, can provide that information.

Mr. Jeff Watson: How much response time do you have, or what's the critical response time?

The Chair: I'm sorry, Mr. Watson. You're well over.

Mr. Komarnicki, go ahead for seven minutes, please.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you very much for your presentation.

The couple of questions I have are with respect to our firemen volunteers. Of course, many small communities, like the one I come from, deal with volunteers for the most part.

I liked your comment. You said that preventative measures in planning should take place not during an emergency, but before one happens. You applauded, of course, the minister's announcement regarding a task force to determine how to strengthen emergency response capacity.

It seems to me that when one is dealing with various capabilities, various resources across the country, it becomes important particularly, perhaps, on an issue we have in my city where we have a transload facility. Before one goes into a city you generally want to be sure you have an emergency response plan that is effective for that, yet somehow we find that these do take place while discussions are taking place about response capacity.

I know in the instance I'm looking at there were some issues about the water supply on site, and you mentioned that was a fairly important thing. Whether the couplings in the water containment facility match the fire department's equipment was an important one, and whether the city had a water line coming in or not was an important consideration. They're still talking about that.

Let me ask you this. For the emergency response plan that the task force will be talking about, would there not be some objective standards where you would say that you would have to have (a), (b), (c), and (d) in place before you had a transload facility? What might (a), (b), and (c) be, and is that something that should be incorporated when you're dealing with various kinds of goods?

Would you like to make a comment on that?

● (0945)

Mr. Paul Boissonneault: Yes, and there is no really short answer to this, but I'm going to turn this one over to Chris Powers. Chris has worked on the transportation of dangerous goods advisory council for over 15 years and has represented us on the ERAP working group, so I'm going to ask Chris to answer this question.

Mr. Chris Powers: Thank you.

The issue of the transload didn't initially come up with the review from the ERAP working group, but it certainly has been identified as a concern, particularly in western Canada because apparently there are about 80 transloads currently in place and being constructed, some very small and some very large.

Because they're a fixed facility it has a different connotation than rail transportation. If you look at a number of issues, there is zoning. What is the appropriate location for that transload with respect to residential development, and what have you? Is water supply there?

The Railway Association identified the fact that they're concerned there doesn't seem to be, and I haven't identified, any particular standards to which transloads should be built or protected. So it is a concern, but because it's a fixed facility I think we have to look at fire code, building code, and zoning requirements to make sure that this municipality has the resources or that the transload facility installs the fire protection systems to mitigate any incident.

Mr. Ed Komarnicki: It seems to me that before you place a transload facility anywhere, shouldn't you have some specific standards in place that have to be met before that happens?

Mr. Chris Powers: Yes, I would agree.

The trouble is that there doesn't seem to be, at this time, any identified standard to which they're built. There may be. I've asked the National Fire Protection Association, which writes most of the standards for fire protection, to research that and advise us if they're aware of transload standard construction facilities and fire protection requirements. I haven't heard back from them but this is a big issue and some of these facilities are multi-track unit train types of facilities, and these are where these products are being loaded. So if something happens there, you could have a major incident and that is certainly a concern.

Mr. Ed Komarnicki: The second concern, obviously...if you have a standard, which you should have before you actually go into the place. Assuming you had a standard and there were certain requirements—and we talked about water lines and things like that, that have to be in place—who pays for ensuring that the capacity and the resources are there?

Mr. Chris Powers: Basically, because it's a fixed facility, in most instances it's the property owner. For example, in a building, if you're required to have sprinkler systems or fire alarm systems, it's a cost of the construction of the building. So it should be the property owner and they may have to put in fire pumps, and foam systems, and water supplies as opposed to having the general taxpayers pick up the cost. So that's certainly a concern. I think some small municipalities in the rural areas where these are being built probably don't have the resources to do that kind of research and requirement.

So it's something that needs to be looked at. I know Transport Canada identified it a couple of years ago as a concern, but I don't know if they have the resources to do the research on that at this time. So we're trying to investigate some of the needs for that protection of those facilities.

● (0950)

Mr. Ed Komarnicki: Specifically, what is your task force doing with respect to these transload facilities as they relate to western Canada and to not only the ones that are existing but the proposed extensions?

Mr. Chris Powers: The task force's terms of reference haven't been finalized, but certainly if that's one of the areas that needs to be looked at I suggest that it should be included in the terms of reference as part of the work.

Mr. Ed Komarnicki: Thank you. Do I have more time?

With respect to Mr. Benson, I know that obviously safety management systems are important and safety values have to be entrenched in the minds of not only the management but the employees as well. At all operational levels that must be displayed. So it is important to have a buy-in by employees for sure. Any safety concerns must be elevated right to the top of the organization without fear of reprisal or any recrimination or retribution and so on. It's important.

It is somewhat remarkable that you're saying we haven't got to that place. I look at a relatively simple matter, the use of on-board voice and video recorders to strengthen safety management systems. Your members would object to that happening when legislation states that it cannot be used for any other purposes than the investigation of accidents and to deal with that. Now you may ask if there is a probative value to it, but most would say that empirically there would be some probative value to it that should trump privacy concerns you may have. Why would you not be prepared to let safety take priority? This is a good place to start. It's a very narrow issue. Why can't we cross that hurdle, notwithstanding that there are other hurdles to cross?

I know, Mr. Beatty, you were going to conclude and didn't have the opportunity, so I'll give you that opportunity now.

Mr. Phil Benson: If I could comment for a second, it was the industry, including railways, including Transport Canada, that felt that there was no probative value. That's not the Teamsters talking, and the privacy is the law of the land.

I'll leave the rest to Mr. Beatty.

Mr. Rex Beatty: Sure. So first off, I don't know where that came from, that we're against LVVR, voice and video recording. We've never made that statement. In fact, I have meetings coming up with the TSB. My own executive is meeting today and tomorrow to give a position on that. So we think that there may be value there for LVVR.

I don't want this committee to take away that we're against it. That is definitely not the case at this point.

The Chair: Thank you very much.

We now move to Ms. Morin for five minutes.

[*Translation*]

Ms. Isabelle Morin (Notre-Dame-de-Grâce—Lachine, NDP): Thank you very much, Mr. Chair.

Welcome to all of the witnesses.

First of all, I would like to ask you new questions, Mr. Boissonneault and Mr. Powers, on the way that the owners of goods and shippers contribute in both financial and material ways to the Emergency Response Assistance Plan. We know that they participate in insurance coverage. You said that the cost to train volunteer firefighters and first responders is quite high. Do these persons and groups contribute financially to that?

[*English*]

Mr. Paul Boissonneault: There's certainly the ongoing collaboration that we're using our association to be the conduit for the fire departments across Canada. We're working with various stakeholders to try to increase those training and information-sharing possibilities. That is going to be part of this process as we move forward. I believe that any large-scale incident creates a precedence for which we have a duty to act, and when I say “we have a duty”, that's everyone in this room. That's collectively everyone.

[*Translation*]

Ms. Isabelle Morin: Currently, do goods owners or shippers contribute financially or materially to preventive measures and to the training of first responders?

[*English*]

Mr. Chris Powers: To expand on that, the ERAP process includes a requirement for training and resources to be provided. That's why we look at the ERAP as a key to making sure that when an incident occurs, those resources are provided by the transporters or the shippers of the product and that it doesn't become a cost to the local municipality. For example, in Lac-Mégantic, the foam came from Irving and Valero refiners, we believe.

The ERAP program should be a requirement, and that includes the provision of training to first responders, in our view.

● (0955)

[*Translation*]

Ms. Isabelle Morin: Thank you very much.

I would now like to talk about these emergency plans. My riding has this particularity: all of the railways run through the Saint-Pierre district, in the borough of Lachine, and they carry many dangerous goods.

In what way are our citizens kept informed of these emergency plans? The only way to leave this district is by using roads that follow the railways. If there were a spill of dangerous goods, it would be impossible to get out. How do you inform citizens on the measures to take in the event of a spill or an accident?

[*English*]

Mr. Paul Boissonneault: The easy answer is that the emergency management process is all-encompassing. The transportation of dangerous goods may be identified as one of the key elements within a municipality because what they do is that they go through a HIRA process, the hazard identification and risk assessment process, and they identify probability and frequency of various issues. Depending on location, flooding may be included in that, tornadoes, hurricanes, and of course, the man-made ones.

[*Translation*]

Ms. Isabelle Morin: Right now I am talking about the transport of dangerous goods in Lachine.

[*English*]

Mr. Paul Boissonneault: Yes. What I'm getting to is that the authority having jurisdiction of a municipality determines what is the priority of that area.

Ms. Isabelle Morin: Okay.

Mr. Paul Boissonneault: If some of the information is not getting out to citizens or within a specific region or riding, then there needs to be a greater focus on ensuring that if a major rail line goes through a municipality, testing the emergency planning and ensuring it gets bolstered certainly needs to take place specifically within a municipality.

[*Translation*]

Ms. Isabelle Morin: Thank you very much.

I will now move to another subject.

Mr. Benson, you spoke to us about employee fatigue. I was very surprised to learn under which conditions employees must work. They sometimes work for 12 hours without knowing when they will need to return to work.

That said, I did not hear you make any recommendations on this subject. In your opinion what should be done? How can we regulate these conditions? How can we ensure that this will no longer happen?

Mr. Ballantyne has told us that as long as there are humans, there will be accidents. Fatigue is certainly a major factor that we must try to avoid. What are your recommendations? What could the government do to ensure that there are better working conditions and to prevent employee fatigue?

[*English*]

Mr. Phil Benson: Thank you for the question.

First of all, the current work-rest rules came out of the Hinton disaster. It always comes out of a disaster in rail. They were very, should we say, inadequate. The rest being left to collective bargaining, to allow companies to have unique features. Of course, as you know, the company's method of collective bargaining is to have a back-to-work law—and it doesn't matter if it's Conservatives or Liberals—it's what happens. Every time we go to collective bargaining, that's the issue and it isn't dealt with.

Parliament has dealt with it. In the amendments to the Rail Safety Act, the requirement is to have a fatigue management system based on science. I congratulate the government for supporting and passing it because it's the most definitive statement I've ever seen on fatigue management in Canada. That's why we're urging to move it quicker.

On the second part, we are working with the department now. A team has been put together, at the behest of the minister, to try to address the worst components of the current work-rest rules. I'm hopeful that they won't in fact eliminate some of these 18- to 20-hour days and get something totally unreasonable at 16, which violates fatigue science, but the minister is moving this forward and we hope that will be in place.

In a funny way, Parliament has acted. You understood. You did your job, and we thank you for doing it. Delays are just unacceptable. So, first the committee here could perhaps recommend that it happens. Second, another amendment put forward by myself and supported by all the parties, was to give the committee a chance to review, at its own behest, all regulations regarding safety, and the committee read that as security as well.

I suggest that in a couple of years or 18 months, you have us all back and ask us specifically how it is going. That's your ability, to actually keep a finger on the pulse.

● (1000)

[*Translation*]

Ms. Isabelle Morin: That is a very good idea.

Thank you very much.

[*English*]

The Chair: Thank you very much.

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

Ms. Wai Young (Vancouver South, CPC): Thank you again for being here this morning, gentlemen. It was certainly very interesting and enlightening to hear your testimony.

Just following up on the safety management systems, frankly I'm very shocked about what we heard today about the management of fatigue. The fact that the employees and certainly the people working on the railroads for generations do not feel like they have a part in ensuring the safety of the railroads, and of course the communities and all of that going through....

I wanted to just say this for the record. In our situation and in our general culture, if I phone somewhere to get service there's a recording made. Certainly on the airplane, there are the black boxes and recordings are made. Why is there a stress on voice recordings to ensure safety?

Mr. Rex Beatty: I think it's within the processes that we're talking about. If it's designed to discipline employees and move in that direction then we're absolutely against it. If it's designed to assist for example the TSB in assessing safety concerns, we support that. That's the divide and somewhere in between there's a solution to this. We're not against this.

Ms. Wai Young: Just to be clear and for the record then, it's not so much that you're against voice recordings for the purposes of safety, but you are against their use for discipline?

Mr. Rex Beatty: The answer is absolutely yes to that.

Ms. Wai Young: So there is middle ground there that you have not achieved so far with this particular technology and the use of it.

Mr. Rex Beatty: I think we're going through the process right now. I think very shortly we're going to be starting to deal with substance on these issues.

Ms. Wai Young: Moving on, because I know that time is always an issue here, what I'm hearing from you on protective direction no. 31 is that it is a positive thing. As well, thank you so much for your accolades for the Minister of Transport and the fact that we as a government are moving forward on assuring the safety of communities and the railway system.

Is that correct?

Mr. Phil Benson: Having been around for a long time, I'll say this publicly. I think Ms. Raitt is probably the most qualified transport minister I've seen. She has an open-door policy with us. She takes our advice...she certainly looks at it very closely.

Yes, on the new directives, the first part we've had a briefing on we're very happy with. I'll be having another briefing with TDG on Friday and I'm sure it will also be positive.

To go back to your comments on the safety management system, it isn't video on a car cab. The safety management system isn't as it is in the air, because we helped develop it in the air as well. It's about the complete...how a company works, where everybody is part of a team, where we constantly get feedback, learn from mistakes, fix them and correct them, and move forward in a non-punitive manner.

Ms. Wai Young: What's surprising the members of the committee is the fact that we have looked at this from the air perspective, the intermodal, and I am very shocked about the fact that this does not exist in the rail culture, given how old our rail culture is.

Mr. Phil Benson: I can tell you a story. As I say, I'm a storyteller. When they were bringing it in for air I met with one of the senior bureaucrats. He's a good friend, a wonderful person, and he does a great job. I asked him, why are you doing this in the air when rail is such a disaster? His response was, but we'll get it right here. In a funny way they have. It's a much better process.

Again you've actually rectified it. We're talking about the past here. What we see today is the past. What I'm very hopeful for is the future.

Ms. Wai Young: What I'm asking you here today, and I think that the committee members are all very concerned, especially following Lac-Mégantic, is this. Why aren't we moving forward on this faster? Why aren't these things in place now?

Mr. Phil Benson: Thank you.

Ms. Wai Young: I think that your comment about coming back in 6 or 18 months, or whatever the timeframe is, to see where exactly this is at is certainly something we need to consider as a committee.

Mr. Phil Benson: Thank you. I really appreciate that because that's clearly what a recommendation is. It's to start that process. Don't wait until the regulations come back in 15, because these companies will have to be forced. We're ready to sit at any time. It's to have the companies and the unions come together now to go through the SMS, to start the fatigue management process, to bring the scientists in, to say let's start now, so that just maybe instead of two years after the regulations come in, six months after we'll actually have them in place. So thank you very much.

● (1005)

Ms. Wai Young: Exactly. Thank you.

What kind of timeline, Mr. Chair...? Do I have time for one more quick question?

The Chair: A quick question.

Ms. Wai Young: Again, I am actually very shocked about the transloads. That came up in a previous testimony in a previous meeting, the fact that there are no fire or building codes, or protection and safety systems. One would think these should be standardized across Canada. So again for the record, I'm going to direct this question to Mr. Boissonneault or Mr. Powers...actually all of you.

Why is there this lackadaisical sort of build-anything-as-you-happen-across-it...particularly since some of these transloads are very close to communities and don't need to be? They can be better designed, put in safer places slightly away from communities with some kind of coding around them, obviously, to ensure maximum safety. Can you answer that question for me?

Mr. Chris Powers: I think we're in the investigation mode to try and find out. I don't want to leave the impression that there are no codes at all, we're simply not aware of which codes. When these facilities are built...and some of them are described as mom-and-pop operations with a pump and trucks show up and they pump it into a car and away they go. Other ones are multi-million dollar installations. The thing is that because they're fixed facilities, the extent to which TDG regulations apply and what standards would be applied may have some interface with local fire and building codes.

There has to be cooperation between Transport Canada and the local municipality because, while it's a transportation facility and they're handling dangerous goods, I think the exact interface between those codes and regulations still has to be looked at.

Ms. Wai Young: Very quickly—

The Chair: Very quickly.

Ms. Wai Young: —is there no committee looking at developing this right now?

Mr. Chris Powers: As I said, during the ERAP working group, transloads was not identified as an issue. It was basically the railcars and the movement of the goods. But it did come up at a meeting in Calgary a couple of weeks ago and it is a concern with the railways, and now it's something that has been flagged as something that needs to be looked at. I agree that it should be investigated and some consideration given to it.

The Chair: Okay, thank you very much.

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

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair and thank you to the witnesses.

We recently learned it's not difficult to find out what's on the trains as they pass by, because it's right there on a card saying exactly what's in them. So ethyltrichlorosilane and methyl bromide, both of which cause death by inhalation, are routinely running through the centre of the city of Toronto. The issue that the residents and the councillors in the city of Toronto have tried to come to grips with is the public's right to know. The railroad's response has been that it's a security issue. Mr. Benson, you're sitting on a security committee. Is this ever raised as a security issue?

Mr. Phil Benson: First, only to be on the record, I agree with the firefighters and Mr. Powers when they talk about the issue of the knowledge and the timing of the knowledge. What you raise is the side that I think we're raising, which is the public's right to know. I'll try to deal with that question, because it's difficult.

In the Transportation of Dangerous Goods Act—unanimously supported by the industry, it was a great act—there was one controversial point and that was a disagreement between the Teamsters and truckers associations on the need for security. Everybody agreed that security would be required because of the issue of.... I'm sorry, it's a difficult thing to talk about. On the terrorism issue the workers would have to have some kind of security clearance. The Teamsters policy is that it will be the transport security clearance. It is in the act. It has never been enacted. It's not in force, in fact. It's the only section of the act that.... I would put it to you, if there were any concerns whatsoever about terrorism and the transportation of dangerous goods, those two sections would be enacted.

As to the second part, I am bound by the secrecy legislation. There are things that I simply cannot talk about in public. I strongly recommend that the committee, perhaps, would like to have an in camera hearing, or maybe a few, at some time to talk about terrorism, etc. I would say I lose sleep at night about our members losing sleep at night. I lose sleep at night about the lack of a safety management system. I lose sleep at night about lots of things. I do not lose sleep at night worrying about terrorism in the rail industry.

● (1010)

Mr. Mike Sullivan: Thank you, Mr. Benson. That's good to know. So the railroads are really only trying to keep the public from knowing what's going through their communities for public relations reasons, not for security reasons. At least, that's the impression we're left with.

The minister's safety directives last week are welcomed by all and I appreciate that they have dealt with some of the problem, but I don't believe they went far enough. The Transportation Safety Board made other recommendations that were not acted on. One was to avoid major population centres, like Toronto, by routing rail around the city. We have learned in this committee that the DOT-111s are not safe even at 20 miles an hour and there was no recommendation that these cars should go less than 20 miles an hour, which is what the public seems to be asking for. If we must have this stuff go through because you're not going to reroute it, can you not slow it down?

In addition, we found in this committee that neither CN nor CP seem to have taken into account the effect of abandonment of less populous lines at the time they decided to abandon them. So we asked them if they did a risk assessment when they abandoned those lines, and they said no. So now to Mr. Ballantyne, are you concerned? Is the freight association concerned about the fact that there are so few choices left for the transportation of dangerous goods, when they're abandoning lines in New Brunswick, when they abandoned the two Ottawa Valley lines, leaving no other choice but to go through heavily populated areas?

Mr. Robert Ballantyne: That's clearly an issue that has come up only recently, especially in the movement by rail of crude oil and ethanol in larger quantities. Prior to that, while the railways have been moving dangerous goods for 100 years, this had not been considered an immediate issue. The railways have been abandoning lines for quite a long time now, certainly since the late 1950s, early 1960s. In some cases, they were branch lines that weren't handling a lot of dangerous goods. They wouldn't have been appropriate alternate routes in any case.

There are other routes that in retrospect might have been kept if there had been proper analysis, the two lines up the Ottawa Valley that you mention are a good case in point. The CPR second line west from Perth through Peterborough and Havelock, and those places, which was abandoned some years ago, is also another case where that might have been an appropriate place. It's really very difficult to answer your question definitively, but there may be some cases where that would have been appropriate.

I think one of the things that the minister's announcement dealt with last week was the fact that Canadian railway routes tend to be somewhat linear, so there aren't the same opportunities for looking at alternative routes as there are within the U.S. rail network. One of the options where there isn't is to look at speed restrictions and while the minister's announcement talked about a 50 mile an hour speed limit, there also was a provision in her announcements that there would be investigations through certain municipalities. Obviously in municipalities where there are large populations, there would and could be lower speed limits as well.

Mr. Mike Sullivan: As I understand it, that analysis will be done by the railways themselves. They have no interest in slowing down their trains.

Mr. Robert Ballantyne: I have to look at the minister's announcement specifically, but my recollection was that more than just railways were to be involved in that.

If I could, Mr. Chairman, I have just one comment on the DOT-111 cars.

The Chair: Make it quick, please.

Mr. Robert Ballantyne: That's a very broad category. Within DOT-111, there's a whole range of different specifications. Some of those cars I think have been considered. The ones post-2011 specification are considered to be adequate.

● (1015)

The Chair: Thank you, Mr. Ballantyne.

We'll now move to Mr. Toet for five minutes.

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

Mr. Benson and Mr. Beatty, you both talked about the second, third, and fourth generation of railroaders. I'm quite familiar with that from my riding, which was essentially built around the railway. How long have the rail lines been established in the corridors they're in? There are always going to be exceptions—but on average, would you say...? I'm sure you're both very familiar with rail history. Even in major centres, have the rail lines been built essentially outside major centres and essentially the major centres have crept around the rail lines and development has happened around the rail lines?

Mr. Rex Beatty: You're right. I know we're the oldest union in the country, so there's a lot of history there. If you go back in history and you see where the lines were built, they were in rural areas and the cities grew around them. I think that's a fair statement.

Mr. Lawrence Toet: So it's fair to say the rail companies have to be able to move their goods far out of municipalities and avoid them. Essentially at one point, it was that way. The municipalities encroached on the railways more than the other way around, if you want to be true to history.

I can see that for myself. I have historical pictures of my riding in my office. The main CN shops there were completely isolated with just the odd home around it. Now they're completely surrounded on both sides and houses are being built closer to them all the time. I think we have to be fair about acknowledging that fact. We can't blame the rail lines for houses that are being built close to them. If they had their say, I think they would rather have those houses further away.

I want to go on to the fire chiefs. Regarding the response process and specifically how you acquire the information from CANUTEC, what is that information and how does it support the firefighters' response to an incident?

Mr. Paul Boissonneault: Thank you very much for the question.

Essentially what takes place is that we're notified that there's an incident, be it through notification from a rail line that there's been an accident, notification from the public through a call on 911 that there's smoke, or whatever the case may be. Indication of an incident obviously comes from many different means, and in the world of many cell phones and everything else, 911 is usually the means through which we get the call.

So the initial process is that the first response to that location would indicate if it's a train derailment. Most of our individuals are trained to an awareness level, so they approach the location of the defined incident from a safe distance, and that's isolated through training of awareness level. They try to ascertain where and what products may be involved and/or indicated, and that's where communication centres start the process of contacting the rail lines—

Mr. Lawrence Toet: So how do they ascertain what products are involved?

Mr. Paul Boissonneault: Usually safe distance indicates binoculars and/or closeness to the proximity of the incident. You approach an incident upwind, uphill from any location, and there are various means to actually get to the scene. In more remote locations like what was indicated, that process might become very much challenged.

So if there is an indication of an identification number that's identified when we speak to CANUTEC, then initial evacuation distances or isolation distances, if there's more than one product involved.... That's where those.... If there's fire impingement, if there's environmental considerations like rivers, drinking water, or whatever, that's where the complexity and scalability of the incident grows immensely and very quickly. That's where we talked about the necessity for the train manifests and the MSDS sheets to be available very quickly. They are needed very quickly.

Mr. Lawrence Toet: So you're able to access the actual train manifests through CANUTEC?

Mr. Paul Boissonneault: We are hopeful that in this process that will become automatic. The answer today is that the information may not be available. In some circumstances, it may. In some circumstances, it may not, so that is a key recommendation.

● (1020)

Mr. Lawrence Toet: So it's a visual recognition at this point in time.

Mr. Paul Boissonneault: Correct.

Mr. Lawrence Toet: So that's also how your engineers would also be recognizing this, true visual recognition. I'm assuming the firefighters who deal with it on a fairly sporadic basis—hopefully an extremely sporadic basis—are able to identify and recognize what's on those train cars, and that also your operators would be able to identify that.

Mr. Rex Beatty: Well, you have to understand that when a train derails—and you say there's some history to it—the train is like a snake, so it could be on a curve. The only way we know what's happened when the train has come to an emergency stop is to actually go back and take a look at what's happened. You can only do that from the lead of the train. There's nobody on the tail end any more.

So you would walk back, and it could be just around the corner, and it might just be a pull apart. It might not be a derailment at all, or it could be a major derailment. So you don't know until you get back there what you're facing.

Mr. Lawrence Toet: I wanted to touch quickly on the voice and video recording for safety but not for discipline. I understand essentially where you're coming from there and I think most people would see that as a fair process.

I do want to have confirmation, though. Does this means to you that absolutely under any circumstances, even if it was very obvious that an egregious safety violation occurred that was an extreme danger, not only to that employee but to many other employees around them, that you would say absolutely that it could never be used as evidence?

You know, I get what you're saying with the minor violation, etc, but I'm talking about an extremely egregious act that is very obviously endangering many people. Would you say it absolutely has to be thrown out?

Mr. Phil Benson: I'll start and then I'll pass it to Mr. Beatty.

Our poster boy during the rail safety amendments was Brother McDavid, who was fired for not having his bootlaces correctly tied as he was leaving a cab to sign off. What you're talking about may, in 10 or 15 years, similar to pilots who have processes in place—non-punitive processes—upon agreement with agreements.... We're dealing with companies who fire people for not having their bootlaces correctly tied. So when you're talking about the future, let's start baby steps, and what you're talking about is way down in the future, just like with SMS and everything else. But at this point, these companies—you've heard the stories and the grievances—they're simply not trusted by the membership. Mr. Beatty will have more practical responses.

The Chair: Very quickly, Mr. Beatty, please....

Mr. Rex Beatty: Sure. Very simply, as we sit here today, the answer is no. We're against that, simply by the history of how the railways are conducting themselves. But who knows how that relationship will develop over the future?

Quite frankly, we don't trust them.

The Chair: Thank you.

Mr. Braid, you have five minutes.

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

Thank you to our panel for being here this morning.

Mr. Boissonneault, I wanted to start with a couple of questions for you, please. Thank you very much for being here and for the important work that you and other fire chiefs and firefighting organizations do across the country. It's great to have you and many of your colleagues in Ottawa this week as well.

You talked about the importance of first responders having access to additional information with respect to the transportation of dangerous goods that are moving through communities across Canada. I just want to have a good clear discussion on this. Are you suggesting that we need to go further than the current agreement that involved the Federation of Canadian Municipalities, and what are the gaps?

Mr. Paul Boissonneault: Yes, we're suggesting that information sharing needs to be enhanced. There needs to be a more comprehensive approach to information sharing. We feel that, certainly since the Lac-Mégantic situation, there has been clear leadership and direction towards the necessity for that information sharing to continue and to be enhanced. In looking at the future, which has been identified here, we feel that certainly there is an effort that information sharing will be a key communication piece as we move forward. But yes, I am suggesting that it needs to be enhanced and that the gaps at this point continue to be that municipalities do not have the information on a yearly basis.... Up until such time as the protective direction had indicated that it shall take place at least once a year, we didn't have that before.

● (1025)

Mr. Peter Braid: I'm just curious to know why the gap occurred. I presume you were quite involved with discussions with the Federation of Canadian Municipalities. What happened?

Mr. Chris Powers: Maybe I'll answer that.

I was involved with that committee, with the FCM and the Railway Association, and you have to distinguish between information for emergency planning purposes, which is the protective direction, which says that once a year the railroads will provide a quarterly report of movements. That's in order to address... for seasonal changes in dangerous goods. For example, propane would be a higher volume in the fall and winter, and anhydrous ammonia in the spring and summer.

So the planning process for the municipality in terms of what types of products present the greatest danger and the greatest volumes can take place as part of their overall municipal emergency plan, and the emergency responders can then say they need to train based on these types of commodities and have the resources provided by the people who are shipping them.

We don't start training when we're responding. We have to be trained before that. We recognize that there's going to be a time gap between the notification and when we can do the assessment at the scene as to what exactly the involvement is, the type of products involved, and get all the resources necessary. It's not an instantaneous resolve. It takes time to assess. So part of the awareness is, let's secure the area to prevent as many injuries and deaths...and then come up with an action plan. Some of those components are still missing.

Mr. Peter Braid: But given that there is little if no change to the types of goods that go through specific communities, aren't you able to train based on the information you're receiving now?

Mr. Chris Powers: As Chief Boissonneault said, once we get this information then that will be a big improvement over what occurred before. Frankly, the big change has been the increase in the crude volumes, and those will continue to increase. That was a significant change that wasn't recognized by the municipalities to the extent of the risk that's presented. Now we know.

Mr. Peter Braid: Okay.

With respect to the possibility of enhancing the type or the level of information, there is some concern about balancing additional information with security risks or about having that information getting into the hands of the wrong individuals. Others might, but I don't want to minimize those potential risks, so how do we continue to find the balance if we want to provide more information but minimize security risks?

Mr. Paul Boissonneault: With respect, we understand those security risks as well. We're saying we want to take a proactive approach so we can plan for an emergency. As you indicate, even if products change at different times of the year, there is an indication that those products are coming, and we know when they're coming, and on a yearly basis we can understand and train to those.

Again, the challenging piece for us is that training element, which does not specifically blanket-cover every municipality across Canada because of the diversity that exists in the Canadian fire service. With over 80% of our entire population being volunteer-based, the increased need for training and the responsibility to prepare and to have a viable, experienced, trained emergency response group for different types of events become substantial challenges for these municipalities. Without the information and training pieces, they're not going to be readily prepared. That's why the ERAP process was so vital. There is a training piece involved in those ERAPs, which may assist these municipalities to enhance the training and therefore provide a better public safety aspect for that community.

Again, they may not be able to afford that training piece, but that's where that relationship is built, and there needs to be leadership to ensure that the ERAP is enacted.

Mr. Peter Braid: Thank you.

The Chair: Thank you.

Just before we go on to our last few questions, Mr. Beatty, in your opening remarks, you talked about conductors or engineers on the train and about 60 demerit points, but you didn't go into any detail.

When you're talking about demerit points for driving a car or whatever, you get two if you're driving 10 kilometres per hour over; three if you're 15 kilometres per hour over; three for not wearing a seat belt, and so on. You have a total of 15, and well before that, you actually have to go in and write your licence. So 60 seems like a lot, but I don't know how the system works, and I was wondering if you could explain a little more about how that works.

● (1030)

Mr. Rex Beatty: Sure.

In the Brown system, the lowest amount of discipline is just a letter of reprimand. The minimum you would normally get would be 10 for a minor infraction—

The Chair: Could you give me an example of a minor infraction?

Mr. Rex Beatty: Sure. We'll say, if you're late for work, you'd get 10 demerits or if you're crossing a track and you stepped on a rail.... You're not allowed to step on the rail. In the case of Mr. McDavid, he didn't have his shoelaces tied to the top eyelets. He got 10 demerits for that, so we're talking about those types of things. If you did something a second time, you might get 15 demerits, because you'd already have 10 for it, so there would be progressive discipline.

Then you get into more serious matters. We'll say if you go by a red signal, a stop signal, even if it's by 10 feet, that could be a discharge immediately. You could be discharged for that. So it varies, based on the infraction that's occurring.

Normally, what happens is there are quite a few members out there sitting at around 45 to 50 demerits, so they're just on the cusp of being disciplined. Quite frankly, it's those types of people who will not raise safety issues. They want to keep low. They want to keep out of the limelight. They want the target off their back and just to do as they're told. I think that's where the system has its problems.

The Chair: In that system, if after a certain timeframe they don't gain more demerit points, do they gain them back? Do they come off of their total?

Mr. Rex Beatty: If you go for one full year after the incident without any discipline—and you have to be an active employee, so you can't be off on holidays and so forth—you'll lose 20. Every year they'll take 20 back from you.

The Chair: Okay.

There was just one other thing. You said that the trains never stop and that kind of thing. Coming from an agricultural background, I'll have a half-million-dollar combine sitting there. In harvest season I can't afford to let it sit there for one minute other than to refuel it and check the oil. It's the same thing in planting season, you have to keep that tractor and your equipment running.

So are you suggesting that the trains have to stop to address the fatigue issue or something else within that? Because, to me, when you have that kind of money sitting there, that investment not just in the engines and the cars but in the cargo that's on them, you have to keep them moving. So maybe you could....

Mr. Rex Beatty: Sure.

I come from a farmer's background, my family. No, that's not what I'm suggesting. What I'm suggesting is that when those trains are moving, those crews are alert, they're not physically fatigued, and whatever stress is put on them outside the issue of just sleep is minimized. We want these crews to be alert and to be efficient doing their jobs.

So it's not about stopping the trains—not at all.

The Chair: Okay, thank you very much for that.

We're running out of time here and I'm going to give Mr. Mai, Mr. Pacetti, and two from the government side one question, and I think that'll take us up to the time.

Mr. Mai.

Mr. Hoang Mai: Thank you, Mr. Chair.

I'll ask my question to Teamsters Canada. You mentioned that we went from four to two crews, and then obviously in Lac-Mégantic we had one crew. Again, that's a big issue. But also with respect to fatigue management, I think we actually haven't covered it fully.

From what I read, again, from the great work that the analysts have been doing, they say, for instance, that according to the Railway Safety Act review "fatigue management plans have been developed and submitted to Transport Canada, Rail Safety Directorate by all railway companies."

So can you comment on the extent to which fatigue management plans are respected by railway companies?

Mr. Phil Benson: I could deal with that.

As I understand—this is talking out of school—when they went to do an audit, they asked where the fatigue management plan was. They said it was in the cupboard. They said, "Oh no, no. You said we had to have one. You didn't say we had to use it." The fatigue management is basically a mixture of collective bargaining rules and totally inadequate Hinton rules.

During the last cold snap we had, the polar vortex, CN totally ignored the rest rules contained in the collective agreements and basically ran fatigued crews for three months carrying dangerous goods, because the goods had to move and they had to make their profit margin, to hell with fatigue management. Under the act that you passed—we thank you for passing it—that will end. So again we're talking about the past and the future. Because under fatigue management based upon science, that nonsense can't happen.

Go ahead.

● (1035)

Mr. Rex Beatty: Just let me make a comment.

The issue of crew fatigue in the running trains has been litigated to the extent that we've had arbitrators' awards, including the Canada Industrial Relations Board, issuing cease and desist orders to the company to stop violating those rules. In fact, our next step now is that we've registered those awards with the federal courts just simply to force the companies to live up to those decisions, and they continue to violate them, even to this day.

The Chair: Thank you very much.

Mr. Pacetti has indicated he doesn't have a question.

Mr. Watson.

Mr. Jeff Watson: No, I don't want to take his time.

Mr. Massimo Pacetti: Just a quick question, Mr. Beatty.

What would the solution be, two crews at the same time in the cabin to avoid fatigue? You indicated you preferred the train didn't stop, so what would the alternative be?

Mr. Rex Beatty: Make sure they're properly scheduled so that they can have their rest, and it's predictable.

Mr. Massimo Pacetti: So if the trains are properly scheduled, you would feel comfortable with that.

Mr. Rex Beatty: For sure. Actually, it was one of the recommendations out of the Hinton inquiry. Years ago, on the railroad, you used to be scheduled from the home and the away-from-home terminal. It's interesting that it's not there now. You're only scheduled out of the home terminal. It went backwards.

The Chair: Okay, thank you.

Mr. Watson.

Mr. Jeff Watson: Thank you, Chair.

Let me first clarify something with respect to the emergency directive issued under section 33 of the Railway Safety Act. Mr. Sullivan had alluded to it earlier, somehow, as if the TSB made a recommendation that trains should be diverted around municipalities. In fact, that is not the case. If one goes to the website you'll be able to read what the Transportation Safety Board's recommendation actually is. I'll quote it for the record:

> The Department of Transport set stringent criteria for the operation of trains carrying dangerous goods, and require railway companies to conduct route planning and analysis as well as perform periodic risk assessments to ensure that risk control measures work.

So the TSB's recommendation was that the railway companies be compelled to do route planning analysis and risk assessment. They further recommended that in the U.S. They said Circular No. OT-55 and/or similar operating restrictions were necessary to alleviate many of the shortcomings. I invite anyone to take a look at the emergency directive pursuant to section 33 that is consistent with OT-55, and the government has fulfilled its objectives in that.

Further, I want to state for the record that I'm not sure that the issue for the NDP is the public's right to know, but the ability of communities to veto trains coming through their communities, if they don't like what's on the train. I think that's the real objective here, and if that were the case then nothing would be transported in this country.

I want to ask Mr. Ballantyne a question. We have had witnesses who've addressed the question of liability at this table. Liability in the case of needing to clean up, for example. That hasn't been addressed, or I didn't hear it in your comments, but I would like your perspective on this. We had shippers who were here, in particular the Canadian Association of Petroleum Producers, who suggested that liability belongs only to the railway companies. Is that a position that your membership share, or should shippers also bear some of the responsibility for the liability and not, in the end, taxpayers?

Mr. Robert Ballantyne: I think the whole issue of liability is something that both the Canadian Transportation Agency and Transport Canada are reviewing right now.

Mr. Jeff Watson: Consultations, I think, are just completed.

Mr. Robert Ballantyne: Consultations, that's right, and we have addressed that.

The government stated in the Speech from the Throne that the basic underlying philosophy that the government would follow is that the polluter pays. We agree with that. In other words, whoever has the care and responsibility of the goods, at any stage in the whole process, is the one who should be liable. We agree with that.

The owners of the goods clearly understand their responsibilities and where they are liable, and if there's joint liability, which there could be in some cases, the allocation of that joint liability would be set by the courts. The shippers, generally, agree with that. Where the goods are under the care of the railways or the truckers or whoever, whichever kind of carrier it is, they should bear the responsibility.

● (1040)

The Chair: Thank you, Mr. Ballantyne.

The last question goes to Mr. Braid.

Mr. Peter Braid: Thank you, Mr. Chair.

I also wanted to continue discussion with Mr. Ballantyne. I had a question for you earlier but didn't have the opportunity to ask it.

I want to continue with this topic as well. In your opening remarks, Mr. Ballantyne, you mentioned that in terms of recommendations you think there should be more robust audit and inspection. In fact, of course, the Auditor General said the same and we absolutely agree with that.

In addition, you indicated that there should be strong enforcement action, including administrative monetary penalties. I would ask you to please elaborate on those comments and what this might look like.

Mr. Robert Ballantyne: The way the Railway Safety Act is structured, it encourages the rail safety directorate and the inspectors they have across the country to carry out fairly rigorous inspections. In situations where the rail safety directorate sees there are chronic violations, then clearly there should be some penalty provision and the act provides for that. I think it provides for penalties of up to $250,000 per incident. Certainly, I would see that where there are chronic violations, continuing violations, there clearly needs to be some penalty and it does need to be applied and should be applied rigorously.

Mr. Peter Braid: But the mechanisms are there now as a result of Bill S-4 amendments.

Mr. Robert Ballantyne: Yes.

Mr. Peter Braid: That's great. Thank you.

The Chair: Thanks very much, gentlemen, for being here today and participating in our study. We've had some great testimony, and we'll see everybody on Thursday.

The meeting is adjourned.