

GOVERNMENT RESPONSE TO RECOMMENDATIONS AND STATUS UPDATE

	Committee Recommendation	Government Response and Status
1.	<p>That Transport Canada, based on the latest science, and in consultation with labour representatives and other stakeholders, strengthen fatigue management rules for railway operators and require railway companies to do better in this area.</p>	<p>The Government supports the recommendation and action is ongoing.</p> <p>Transport Canada improved the existing framework for fatigue management in November 2020 by approving the new <i>Duty and Rest Period Rules for Railway Operating Employees</i> for freight and passenger companies. The new rules, formulated by industry in consultation with labour representatives, incorporate fatigue science and include requirements to:</p> <ul style="list-style-type: none"> • limit the length of a duty period to 12 hours; • increase the length of the minimum rest period between duty periods; • establish limits on the total number of hours that can be worked in a seven-day period and 28-day period; and, • specify that employees in the freight railway industry must be provided with a reset break after seven days. <p>Requirements for companies to develop <i>Fatigue Management Plans</i> came into force in November 2021. Transport Canada has reviewed and provided feedback to all companies on their plans to ensure regulatory requirements are met.</p> <p>Additionally, in March 2022, Transport Canada completed consultations on the future <i>Fatigue Management System Regulations</i>. These fatigue-specific regulations, due to be pre-published in the <i>Canada Gazette</i> in the coming months, expand requirements beyond operating employees and will prescribe a systematic framework to ensure fatigue is effectively managed by companies for employees performing duties essential to safe railway operations.</p> <p>Together, the <i>Duty and Rest Period Rules for Railway Operating Employees</i> and the future <i>Fatigue Management System Regulations</i> will ensure that companies develop and implement measures to manage fatigue effectively.</p>
2.	<p>That Transport Canada, in consultation with labour representatives and other stakeholders, develop legislative and/or regulatory structures to ensure predictable scheduling for rail workers which reflect best practices for fatigue management.</p>	<p>The Government supports the recommendation and action is ongoing.</p> <p>In November 2020, Transport Canada (TC) approved the new <i>Duty and Rest Period Rules for Railway Operating Employees</i>. The rules define the requirements related to the hours of work and rest periods for employees who are in positions designated critical to safe railway operations. The rules prescribe elements in areas including fitness for duty; duty periods (e.g., maximum cumulative duty period times, split duty) and rest periods (e.g., minimum rest periods). They also outline the requirements for railway companies to develop Fatigue Management Plans. For further information see https://tc.canada.ca/sites/default/files/2020-11/duty-rest-period-rules-for-railway-operating-employees.pdf.</p> <p>The <i>Duty and Rest Period Rules for Railway Operating Employees</i> are complemented by the <i>Railway Safety Management System Regulations, 2015</i>, which require a company's safety management systems to include a method for applying the principles of fatigue science when scheduling</p>

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		<p>an employee who is required to work according to a schedule that is not communicated at least 72 hours in advance.</p> <p>Transport Canada continues to work with industry and labour representatives and conduct oversight of the rules and regulations to verify compliance and has a variety of enforcement tools available under the <i>Railway Safety Act</i>.</p>
3.	<p>That Transport Canada, in consultation with labour representatives, review Canadian National Railway (CN) and Canadian Pacific Railway (CP)'s draft fatigue management plans, to address the impact of deadheading on the maximum duty period and require advance work schedule notice to employees.</p>	<p>The Government supports the recommendation and action is ongoing.</p> <p>In November 2020, Transport Canada approved the new <i>Duty and Rest Period Rules for Railway Operating Employees</i> which require companies to develop fatigue management plans which contain a process for managing deadheading and provide a description of the company's approach to scheduling of employees.</p> <p>Transport Canada has reviewed and provided feedback to CN and CP on their fatigue management plans to ensure they meet regulatory requirements. Additionally, the <i>Duty and Rest Period Rules for Railway Operating Employees</i> require that companies involve employees in the development of the plans and communicate their fatigue management plan to employees, which will ensure employees have the information they need to work collaboratively with their employer to effectively manage fatigue.</p> <p>The <i>Duty and Rest Period Rules for Railway Operating Employees</i> also contain a process specific to managing deadheading and require that any time spent deadheading at the end of a 12-hour shift be added to the employee's rest time, and that time spent deadheading at the end of the shift must be included in the calculation of cumulative duty limits.</p> <p>To support improved scheduling practices, the <i>Duty and Rest Period Rules for Railway Operating Employees</i> and the <i>Railway Safety Management Systems Regulations, 2015</i> work together to require that companies apply the principles fatigue science to scheduling and provide employees sufficient notice of schedules.</p> <p>Transport Canada continues to work with industry and labour representatives, to conduct oversight of the rules and regulations to verify compliance and has a variety of enforcement tools available under the <i>Railway Safety Act</i>.</p>
4.	<p>That Transport Canada, in consultation with labour representatives and other stakeholders, establish adequate standards for away-from-home rest facilities used by rail employees to ensure proper rest between shifts.</p>	<p>The Government supports the recommendation and action is complete.</p> <p>In consultation with labour representatives and industry, Transport Canada approved the <i>Duty and Rest Period Rules for Railway Operating Employees</i> which contain requirements for away-from-home rest facilities to ensure proper rest between shifts.</p> <p>Fatigue management plans must contain measures for companies to select and manage accommodations (including considerations to provide a single-occupancy room with minimal exterior noise and the ability to control temperature and light); measures to mitigate rest disruptions; and, a</p>

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		<p>process to manage any inadequacies in accommodations.</p> <p>The prescriptive measures, combined with the new fatigue management plans, will foster a culture where appropriate measures are taken to ensure operating employees have proper rest between shifts.</p>
5.	That the Government of Canada establish a fund to support feasibility studies on developing and relocating rail lines from urban areas.	<p>The Government acknowledges the recommendation.</p> <p>Transport Canada encourages communities to work together with companies to determine the feasibility of projects that relocate rail lines from urban areas and that increase rail safety.</p>
6.	That the Government of Canada consider establishing a fund to support priority projects to develop and relocate rail lines from urban areas.	<p>The Government acknowledges the recommendation.</p> <p>Transport Canada encourages communities to work together with companies to determine the feasibility of projects that relocate rail lines from urban areas and that increase rail safety.</p>
7.	That Transport Canada commit to fully and expeditiously implementing the recommendations of the Auditor General of Canada in the <i>Follow-up Audit on the Transportation of Dangerous Goods</i> .	<p>The Government supports the recommendation and action is ongoing.</p> <p>Transport Canada committed to fully and expeditiously implement the recommendations of the Auditor General of Canada in the <i>Follow-up Audit on the Transportation of Dangerous Goods</i>.</p> <p>A <i>Management Action Plan</i> was developed to guide its work from 2021 until 2023. As of July 2022, three out of five recommendations have been fully implemented and work continues to implement the remaining two, for which several key achievements have been made thus far:</p> <ul style="list-style-type: none"> • Tools and databases have been developed and improved to have complete and accurate information on regulated companies and their compliance status and removed closed sites (13,000+) from the databases (Expected completion March 31, 2023). • Procedures and processes have been improved for assessing compliance of Means of Containment facilities with monthly email renewal and expiry notices, and on-site verification where applicable (Completed April 30, 2021). • Legislative and Regulatory amendments are being developed to introduce registration requirements for those handling, offering for transport, or transporting dangerous goods (Expected completion March 31, 2023 – Pre-publication in <i>Canada Gazette</i>, Part I on June 25, 2022). • A tracking system has been implemented that ensures conditions for approving the interim emergency response assistance plans (ERAPs) are met and that they do not stay “interim” for longer than absolutely necessary and identified interim ERAPs by the Commissioner of the Environment and Sustainable Development (CESD) have been updated and reviewed (Completed June 30, 2022). • Data-sharing agreements have been concluded with every province. Only two territories have yet to sign

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		<p>their agreements, both of which are under their review (Expected completion March 31, 2023).</p>
8.	<p>That Transport Canada undertake a comprehensive review of Safety Management Systems (SMS) in the rail sector to assess its effectiveness in improving safety standards.</p>	<p>The Government supports the recommendation and action is complete.</p> <p>Since the coming into force of the strengthened <i>Railway Safety Management System Regulations, 2015</i>, Transport Canada has undertaken a comprehensive approach to oversight of the regulations and has continuously built its capacity to determine effectiveness of company safety management systems (SMS) in improving safety.</p> <p>In 2021, Transport Canada established a framework to conduct effectiveness audits of company SMS, which includes indicators to help auditors and inspectors assess effectiveness (e.g., quality of training programs, effectiveness of hazard reporting).</p> <p>Building on this progress, Transport Canada launched, and has now finalized two, effectiveness audits of company SMS in 2021-22. These audits covered, amongst other things, whether the SMS contained processes:</p> <ul style="list-style-type: none"> • with respect to a safety policy; • for accountability; • for ensuring compliance with regulations, rules and other instruments; • for identifying safety concerns; • for risk assessment; • for implementing and evaluating remedial action; and, • for continual improvement of the SMS. <p>This effectiveness assessment process is now integrated into the Department's risk-based rail safety oversight planning process, and effectiveness audits are prioritized to focus on areas of greatest risk.</p> <p>In addition to this work, Transport Canada is also working to review the <i>Railway Safety Management System Regulations, 2015</i>. Part of this review includes requirements related to risk assessments and addressing hazards. This in line with the recommendations made by the Auditor General and the Transportation Safety Board. To this end, an external consultation was launched on August 25, 2022, with an update on this consultation to be provided by October 31, 2022.</p>
9.	<p>That Transport Canada develop comprehensive indicators, as suggested by the Auditor General of Canada's report to measure the effectiveness of its rail safety oversight activities and compliance rates amongst operators, that these indicators be used to perform annual assessments of rail safety improvements and that the outcome be reported annually.</p>	<p>The Government supports the recommendation and action is complete.</p> <p>Transport Canada (TC) developed a two-stage approach to measure the effectiveness of its rail safety oversight activities, as recommended by the Auditor General.</p> <p>First, TC has developed, and continues to refine, comprehensive indicators to measure the effectiveness of its rail safety oversight activities, and compliance rates amongst companies, which are used in the development of the Department's annual oversight plan. TC established a framework to conduct effectiveness audits of railway safety management systems, which includes indicators to help</p>

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	<p>auditors and inspectors assess effectiveness (e.g., quality of training programs, effectiveness of hazard reporting). These indicators are modeled on those used by the International Civil Aviation Organization and adapted for Rail Safety.</p> <p>Second, TC is conducting an evaluation to assess the impact of oversight activities on rail safety compliance, which will be completed by December 2022. As part of the Government's commitment to increase transparency and provide more information to Canadians, the Department posts enforcement actions (https://tc.canada.ca/en/rail-transportation/enforcement-action-measures-mitigate-threats-rail-safety) taken under <i>the Railway Safety Act</i> and annual summaries of the rail safety oversight program delivery (https://tc.canada.ca/en/corporate-services/transparency/2021-2022/rail-safety-oversight-program-description-delivery-fiscal-year-2021-2022), including the number of inspections conducted, on its website.</p>
<p>10. That Transport Canada commit to consistent follow-up interventions following rail safety compliance violations to ensure operators have achieved compliance.</p>	<p>The Government supports the recommendation and action is complete.</p> <p>The <i>Railway Safety Act</i> provides a variety of tools to address non-compliance which allow railway safety inspectors to apply a graduated approach to enforcement by selecting the most appropriate measure, which may start with a letter of non-compliance, and progress to an administrative monetary penalty or prosecution.</p> <p>Further, Transport Canada has implemented the recommendation by the Auditor General, in their 2021 <i>Follow-up Audit on Rail Safety</i>, based on best practices, including other modes of transportation, to outline the Department's new standards on time frames to assess whether companies have corrected the deficiencies identified in inspections and audits of safety management systems (SMS).</p> <p>Transport Canada allows up to 45 days for the rail industry to provide a corrective action plan in response to an inspection, and up to 60 days to provide a corrective action plan in response to an audit finding. These time frames may vary in length depending on the area of non-compliance.</p> <p>Transport Canada also developed guidelines on SMS audits which include the requirements for follow-up for non-compliance and deficiencies, on-site or remotely, including for timeframes to assess whether companies have corrected deficiencies. Benchmarks have been identified for inspections, and for companies to respond to an audit report with a corrective action plan, which align with best practices in other modes. Additionally, companies are required to immediately address non-compliances and deficiencies that involve a threat to safety.</p> <p>By leveraging best practices across all modes of transportation to develop new guidelines with identifiable benchmarks and requirements, the Department has effectively incorporated suitable interventions to ensure operators have achieved compliance.</p>

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11.	That Transport Canada reform Safety Management System regulations to ensure that rail companies are sufficiently conducting risk assessments and addressing hazards.	<p>The Government supports the recommendation and action is ongoing.</p> <p>Transport Canada is assessing how it conducts the oversight of companies' SMS to ensure that companies are sufficiently conducting risk assessments and addressing hazards.</p> <p>Further to the recommendations made by the Auditor General, which Transport Canada committed to addressing as part of its response to the Transportation Safety Board's recommendations following the Field derailment, Transport Canada is also working to review the <i>Railway Safety Management System Regulations, 2015</i>. Part of this review includes requirements related to risk assessments and addressing hazards. As part of the Department's response, an external consultation was launched on August 25, 2022. A report on this consultation will be provided by October 31, 2022.</p>
12.	That Transport Canada review the regulations to limit the length of trains to address safety and crossing-blockage concerns.	<p>The Government acknowledges this recommendation and it has been addressed through other means.</p> <p>In November 2014, Transport Canada established the Grade Crossings Regulations (the Regulations), which prescribe safety requirements for crossings on federally regulated track. The Grade Crossings Regulations address all safety elements of rail crossings regardless of the length of the train.</p> <p>With respect to crossing-blockage concerns, the regulations prohibit a train from stopping on public grade crossings for more than five minutes when pedestrians or vehicles are waiting to cross. Furthermore for any type of train, immediate measures must be taken to clear grade crossings for emergency vehicles.</p> <p>Transport Canada conducts oversight of the Regulations and follows-up on complaints from the public regarding blocked crossings. If non-compliance is found, the Department will take appropriate enforcement action, which may include issuing an administrative monetary penalty.</p> <p>The Regulations also provide a process for municipalities that have concerns for safety, due to recurring blocked crossings, to collaborate with the railway company to resolve the safety issue. If the safety issue is not resolved within 90 days, the road authority is to notify the Minister of Transport and the Department, who, upon further assessment, and if required, has the authority to take measures to address a threat to safety.</p>
13.	That Transport Canada significantly increase the number of unannounced on-site inspections to determine the safety of railway tracks, including rail company operations, and that such inspections be conducted by inspectors who are specialized in rail transportation.	<p>The Government supports the recommendation and action is complete.</p> <p>Transport Canada conducts announced and unannounced on-site inspections to determine compliance with regulatory requirements and to determine the safety of railway infrastructure and operations as well as the effectiveness of SMS. It is important to note that, in some instances, the company must be notified to ensure trains will not be operating while an inspection is taking place, to ensure the</p>

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		<p>safety of inspectors and company personnel.</p> <p>In 2021, Transport Canada increased unannounced on-site inspections to 4,258, up from 3,986 in 2020, and increased announced on-site inspections to 4,767, up from 4,097 in 2020. The Department continues to make improvements to its rail safety oversight regime to determine the safety of railway tracks and operations.</p> <p>Inspectors are highly qualified and experienced in their respective fields, including railway equipment, operations, bridges, tracks, SMS, crossings, and signals. Approximately 150 designated inspectors utilize a risk-based approach to carry out 35,000 oversight activities each year, including inspections and audits.</p> <p>Rail safety oversight personnel, with rail industry experience and regulatory oversight knowledge play an important role in the planning of oversight activities, including the identification of unannounced inspections.</p>
14.	That Transport Canada require rail operators to report all rail accidents and incidents identified by inspectors and company officials and that this information be made publicly available.	<p>The Government acknowledges this recommendation and it has been addressed through other means.</p> <p>Under the <i>Railway Safety Act</i>, Transport Canada railway safety inspectors have regulatory tools to address non-compliance and safety threats identified during and inspection. The Department publishes enforcement actions and measures taken to mitigate threats to rail safety on its web site.</p> <p>Under the <i>Transportation Safety Board Regulations</i>, companies are required to report certain accidents and incidents to the Transportation Safety Board of Canada (TSB). The TSB also has the mandate to investigate railway occurrences.</p> <p>Investigation reports are published on the TSB website (https://www.tsb.gc.ca/eng/rapports-reports/rail/index.html) once the investigation has been completed. The TSB also provides both data and statistics (https://www.bst-tsb.gc.ca/eng/stats/rail/index.html) on railway occurrences.</p>
15.	That the Government of Canada ensure Transport Canada has adequate resources for monitoring rail safety compliance, including hiring more rail inspectors.	<p>The Government supports the recommendation and action is ongoing.</p> <p>The Government is committed to protecting all Canadians who live and work along rail lines by putting in place the necessary measures to reduce the risk of serious accidents.</p> <p>In keeping with this commitment, Transport Canada has invested in rail safety and transportation of dangerous goods. Since 2013, the Department increased the total number of rail safety oversight personnel by 40 percent (%).</p> <p>Using these resources, the Department conducts more than 35,000 rail safety oversight activities each year, including inspections and audits. These inspections utilize a risk-based approach and are carried out by a highly qualified team, specialized in railway equipment, operations, bridges, tracks, SMS, crossings, and signals.</p>
16.	That the government launch an independent public inquiry into the	<p>The Government acknowledges this recommendation and it</p>

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<p>Lac-Mégantic tragedy in order to investigate the incident and make recommendations to prevent a similar incident from happening again.</p>	<p>has been addressed through other means.</p> <p>The safety of all Canadians is the Government’s top priority. Transport Canada has taken and continues to take significant measures to strengthen rail safety.</p> <p>Following the Lac-Mégantic tragedy, the TSB, an independent agency, conducted a thorough investigation and issued a comprehensive report into the causes and contributing factors.</p> <p>Transport Canada took significant measures to implement the five recommendations contained within the report and enhance railway safety and the safe transportation of dangerous goods, including:</p> <ul style="list-style-type: none"> • introduced <i>Emergency Response Assistance Plans</i> when railways carry dangerous goods (2014); • installed new requirements for thicker steel on tank cars carrying flammable liquids (2015); • introduced administrative monetary penalties to help incentivize better safety performance (2014); • strengthened requirements for securement of unattended trains (2015); • strengthened regulations for railway safety management systems (2015); • introduced the <i>Rules Respecting Key Trains and Key Routes</i> which set out reduced train speeds and stronger requirements for track inspections and risk assessments (2016); • installed a liability and compensation regime that requires companies to have a minimum level of insurance based on the type of dangerous goods (2016); • registered the <i>Locomotive Voice and Video Recorder Regulations</i> (2020) and approved the <i>Duty and Rest Period Rules for Railway Operating Employees</i> (2020), which help address human factors-related risks linked with derailments; • amended to the <i>Rules Respecting Track Safety</i> with stronger requirements for training and increased inspection frequencies (2021); and, • amended the <i>Canadian Rail Operating Rules and Railway Locomotive Inspection and Safety Rules</i> to prevent uncontrolled movements (2022). <p>As an independent agency created by an Act of Parliament (the <i>Canadian Transportation Accident Investigation and Safety Board Act</i>), the TSB works under its mandate to advance safety of all federally regulated modes of transportation. Their scope of responsibility includes conducting independent investigations into selected transportation occurrences to deduce findings regarding causes and contributing factors. As noted, the TSB conducted a thorough investigation into the Lac-Mégantic tragedy and issued a comprehensive report, which is available publicly on the TSB website (https://www.tsb.gc.ca/eng/enquetes-investigations/rail/2013/r13d0054/r13d0054.html).</p>
<p>17. That Transport Canada commit to building the Lac-Mégantic bypass as soon as possible and be transparent</p>	<p>The Government supports the recommendation and action is ongoing.</p>

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	<p>about its progress and completion timeline through consultation with Lac-Mégantic residents, landowners, and elected officials.</p>	<p>The Minister of Transport's 2021 Mandate Letter outlines the commitment to continue to work with the community and stakeholders toward the rapid completion of the Lac-Mégantic bypass. Budget 2022 provided \$237.2 million over five years to Transport Canada to complete the project as soon as possible.</p> <p>Transport Canada carried out various activities to inform mayors, municipalities, affected landowners, Indigenous communities, as well as the general public, about the various stages of the project and to answer questions, such as:</p> <ul style="list-style-type: none"> • holding in-person and virtual information and consultation sessions; • soliciting comments in writing; • opening an office in Lac-Mégantic to meet the affected landowners in person and answer questions; and, • establishing a “Comité de concertation” with the three mayors of the affected municipalities. <p>Landowners regularly receive updates in writing to inform them about the next steps of the project and provide them with all necessary information regarding the acquisition of their lands.</p> <p>The main tools to inform the affected communities are the web page (https://tc.canada.ca/en/rail-transportation/lac-megantic-rail-bypass) dedicated to the project, which also includes a question-and-answer section, the Transport Canada newsletter (which is published and sent by mail regularly to the citizens of Lac-Mégantic, Nantes, and Frontenac), and the various mobilization activities in the field.</p> <p>Approval is required from the Canadian Transportation Agency (the Agency) if a federally regulated railway company is proposing to construct a railway line, such as the Lac-Mégantic bypass project.</p> <p>Additional information on the Agency's process can be found on its website (https://otc-cta.gc.ca/).</p>
18.	<p>That Transport Canada consider opting for a lower maximum speed on the Lac-Mégantic bypass than that proposed by Canadian Pacific and that this evidence-based approach be shared with the residents of Lac-Mégantic.</p>	<p>The Government acknowledges this recommendation and notes that factors, such as speed, have been considered in the planning process.</p> <p>As required by the <i>Railway Safety Act</i>, the Lac-Mégantic bypass is being built in accordance with sound engineering principles and engineering work must be approved by professional engineers. The track is currently designed to Class 3 standards, for which the maximum allowable speed is 40 miles per hour (mph). Under the <i>Rules Respecting Track Safety</i>, there are five classes of tracks. With the required safety levels being met, a railway company can operate up to the speed of that class (e.g., Class 3 – 40mph).</p> <p>Once the bypass is constructed, Transport Canada will conduct inspections to ensure that the trains are operating at the appropriate speeds and that the track is maintained in accordance with the <i>Rules Respecting Track Safety</i>. Additionally, companies must carry out risk assessments to begin operating on the new track as well as with any changes to operations that may affect safety under the <i>Railway Safety Management System Regulations, 2015</i>.</p>

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		<p>At every stage of the project, Transport Canada has communicated with mayors, municipalities, affected landowners, Indigenous communities, as well as the general public to keep them informed of progress and to answer questions and concerns. This includes hosting an Open House in Lac-Mégantic on June 14, 2022, at which railway safety inspectors answered resident's questions on safety and oversight of companies.</p>
19.	<p>That Transport Canada develop legislative and/or regulatory structures to require rail companies operating in Canada to provide, in a timely manner, detailed information sharing on the passage of dangerous goods with appropriate municipal officials and emergency services, beyond the current requirements under the Transportation of Dangerous Goods Act.</p>	<p>The Government acknowledges this recommendation and related action is ongoing.</p> <p>The Government has taken many measures to ensure companies provide detailed information to communities and first responders on the dangerous goods being transported.</p> <p>In developing these measures, Transport Canada consulted and worked collaboratively with the Federation of Canadian Municipalities, the Canadian Federation of Fire Chiefs, as well as companies to identify the type, frequency and format of information needed.</p> <p>Resulting from these consultations, in April 2016, Transport Canada issued <i>Protective Direction No. 36</i>, requiring that companies report dangerous goods information to communities and first responders to better enable them to conduct risk assessments, undertake effective emergency planning activities and train their first responders.</p> <p><i>Protective Direction No. 36</i> also requires companies to provide communities and first responders with a top ten list of dangerous goods transported through the area that can be made public.</p> <p>In response to needs identified by communities and first responders, companies developed 'AskRail', an online safety tool providing emergency responders immediate access to accurate and timely data about railcar contents.</p> <p>Transport Canada will continue work with communities to ensure they have the information they need to enable informed decision-making in the event of a rail emergency. Furthermore, Transport Canada will continue to promote funding available to local and Indigenous communities and organizations through the Community Participation Funding Program - Rail Safety Component (CPFP-RS) which provides support for communities to engage with the department on the development and improvement of rail safety.</p>
20.	<p>That the Government of Canada amend Section 44 and 44.1 of the <i>Railway Safety Act</i> to remove the potential conflict of interest from the jurisdiction of private railway police in investigations involving their companies.</p>	<p>The Government acknowledges the recommendation but additional time for analysis and to determine a way forward is required.</p> <p>Transport Canada is committed to reviewing the recommendation pertaining to the jurisdiction of private railway police in investigations involving their companies, as well as the potential implications on sections 44 and 44.1 of the <i>Railway Safety Act</i>.</p> <p>Transport Canada will initiate this work by identifying and</p>

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	<p>engaging with experts in police governance and accountability who have the knowledge and expertise to contribute to the analysis. Transport Canada anticipates identifying initial findings and results by winter 2024 which will provide a basis for determining next steps.</p> <p>The <i>Railway Safety Act</i> has been reviewed four times since coming into force in 1989 and was most recently reviewed in 2017-18 by an independent panel.</p>
21.	<p>That Transport Canada increase non-compliance enforcement by imposing fines on railway operators that commit safety violations and by using an escalation in the case of continued violations, up to and including revoking licenses.</p> <p>The Government acknowledges this recommendation and related action is ongoing.</p> <p>The <i>Railway Safety Act</i> provides a variety of tools to address non-compliance which allow railway safety inspectors to apply a graduated approach to enforcement by selecting the most appropriate measure, which may start with a letter of non-compliance, and progress to an administrative monetary penalty or prosecution.</p> <p>The assessment of an enforcement response is based on various factors such as compliance history, the gravity of the non-compliance itself, effectiveness of the enforcement measure and public interest.</p> <p>Where there is potential for serious or irreversible harm, the enforcement measure could be swift and decisive and may immediately escalate to the full extent of available enforcement responses, including the suspension or cancellation of a company's Railway Operating Certificates.</p> <p>Since the introduction of administrative monetary penalties in 2014, Transport Canada has enforced compliance with regulatory requirements by issuing 90 monetary fines to 12 companies, totaling more than \$4,400,000. For example, a recent monetary penalty in the amount of \$258,000 was issued to a company for blocked crossing violations.</p>
22.	<p>That the Government of Canada enshrine adequate whistleblowing protections into legislation to ensure rail company employees can report safety concerns without intimidation or retribution.</p> <p>The Government supports the recommendation and action is complete.</p> <p>The Government has enshrined whistleblowing protections to ensure company employees can report safety concerns without intimidation or retribution.</p> <p>Section 24(1) of the <i>Railway Safety Management System Regulations, 2015</i> requires companies to have a procedure for enabling its employees to report to the company, without fear of reprisal, a contravention of the <i>Railway Safety Act</i> (the Act) or of any regulations, rules, certificates, orders, or emergency directives made under the Act in relation to safety, or a safety hazard.</p> <p>The Transportation Safety Board of Canada (TSB) also administers a program called SECURITAS that enables anyone with an interest in rail safety to submit a confidential report of any concerns they may have about safety in rail transportation. The TSB will not take any action that might reveal the reporter's identity.</p> <p>Transport Canada has assessed this requirement for</p>

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		compliance and are auditing to ensure that the process in place is effective.
23.	That Transport Canada mandate appropriate standards for emergency response training along rail routes and that this training includes emergency responses to derailments and dangerous goods fires.	<p>The Government acknowledges this recommendation and related action is ongoing.</p> <p>Transport Canada recognizes the importance of ensuring that first responders have access to training and resources to prepare them to respond to incidents involving dangerous goods and has standards for emergency response training along rail routes, guided by recommendations from the Transportation Safety Board of Canada and the Emergency Response Task Force (ERTF).</p> <p>The Department has available training and resources, including:</p> <ul style="list-style-type: none"> • a national bilingual training curriculum (<i>Canadian Emergency Response to Flammable Liquid Incidents in Transport</i>); • the <i>Competency Guidelines for Responders to Incidents of Flammable Liquids in Transport, High-Hazard Flammable Trains</i>; • access to the Canadian Transport Emergency Centre (CANUTEC) 24 hours a day, seven days a week; and, • the <i>Emergency Response Guidebook</i>, available free of charge to first responders and municipalities. <p>Furthermore, CANUTEC participates in close to 400 emergency incident simulations annually at the request of local emergency services, ranging from a single first responder placing one phone call, to inter-agency national-scale field scenarios. Over the last five years, CANUTEC has conducted over 1,800 simulations.</p>
24.	That, as recommended by the Commissioner of the Environment and Sustainable Development in 2020, Transport Canada work to finalize timely approval to emergency response assistance plans for the transportation of dangerous goods.	<p>The Government supports the recommendation and action is complete.</p> <p>Transport Canada has taken action to finalize timely approvals for emergency response assistance plans (ERAP) for the transportation of dangerous goods, as recommended by the Commissioner of the Environment and Sustainable Development in 2020.</p> <p>Transport Canada has:</p> <ul style="list-style-type: none"> • implemented a software-based system to track ERAP processing; • developed new guidance material and training for Remedial Measures Specialists to assess ERAP applications; • developed remote inspection procedures to facilitate assessment of ERAP applications; • developed firefighting requirements for flammable liquids within an ERAP; • reduced circumstances under which interim ERAPs are required; and, • updated and reviewed all interim ERAPs. <p>Transport Canada will continue to improve its processes and monitor the status of interim approvals so that applications can continue to be assessed and approved within prescribed</p>

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		timelines.
25.	That, as recommended by the Commissioner of the Environment and Sustainable Development in 2020, Transport Canada improve its data collection to provide more complete information on railway companies and their compliance status.	<p>The Government supports the recommendation and action is complete.</p> <p>Transport Canada has improved data collection to provide more complete information on companies and their compliance status.</p> <p>As recommended by Commissioner of the Environment and Sustainable Development, the Department has implemented a data-driven oversight initiative that included development of a comprehensive database of regulated facilities and oversight activities conducted. This initiative is supported through a renewal of information sharing agreements with provinces, territories, the Canadian Nuclear Safety Commission and Health Canada. Transport Canada has also strengthened its transportation of dangerous goods oversight systems to verify compliance with the <i>Transportation of Dangerous Goods Act, 1992</i>. In addition, on June 25, 2022, Transport Canada has published in the <i>Canada Gazette, Part I</i>, the <i>Regulations Amending the Transportation of Dangerous Goods Regulations</i> (Registration database), which will require:</p> <ul style="list-style-type: none"> • that persons who import, offer for transport, handle or transport dangerous goods be registered in a new registration database when applicable; and • that all registered persons provide administrative information and information concerning the dangerous goods and operations being conducted at their respective transportation of dangerous goods (TDG) Site. <p>Additionally, as recommended by the Office of the Auditor General of Canada, Transport Canada has updated guidance to railway companies to ensure their submissions, as required by the <i>Transportation Information Regulations</i> are complete, reliable, and timely.</p> <p>Together, these initiatives will provide Transport Canada with information necessary to effectively plan and undertake effective risk-based oversight of railways.</p>
26.	That Transport Canada undertake public regional risk assessments to assess the impact of increased rail activity on communities, First Nations and the environment in regions that have seen significant increase in the transportation of dangerous goods.	<p>The Government acknowledges the recommendation and work is underway</p> <p>In August 2021, the Government announced \$100 million over five years to improve railway oversight, support the safe transportation of dangerous goods, and enhance community and Indigenous engagement to demonstrate the Government's commitment to do more in engaging Canadians.</p> <p>Transport Canada has established a regulatory framework to ensure companies are continuously assessing and mitigating risks.</p> <p>The <i>Rules Respecting Key Trains and Key Routes</i>, registered in 2016, strengthen rail safety by reducing the risks of rail accidents involving dangerous goods. In addition to imposing speed limitations and increased inspection frequencies, the rules require companies to conduct risk assessments based on 28 risk factors and establish mitigation measures. The rules</p>

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	<p>also provide a process for companies to incorporate input from municipalities and other levels of local government into their risk assessments.</p> <p>This requirement is complemented by the <i>Railway Safety Management System Regulations, 2015</i>, which require that companies have a systematic process to identify risks in all their operations, outline how these risks will be remediated, and to evaluate the effectiveness of remedial actions. An increase in the quantity of dangerous goods being transported automatically triggers a requirement for a company to conduct a risk assessment.</p> <p>Going forward, in the context of ongoing work to review the <i>Railway Safety Management System Regulations, 2015</i>, the department will assess how the risk assessment requirements of the regulations can be strengthened.</p>
27.	<p>That Transport Canada mandate maximum response times as part of rail companies' Emergency Response Assistance Plans for the transportation of dangerous goods.</p> <p>The Government acknowledges this recommendation and related action is ongoing.</p> <p>Transport Canada included maximum response times as part of companies' ERAP for the transportation of dangerous goods.</p> <p>Transport Canada published a <i>Guide to apply for approval of an emergency response assistance plan</i>. The document establishes response time as the entire time it takes for the industry emergency response resources to get to the site of an incident from the time they start to mobilize. The Guide also established best practices for estimated response time for technical advisors and team leaders, to be less than six hours; and, a response team and equipment, to be less than 12 hours.</p> <p>The ERAP application requires stakeholders to provide the estimated time they expect it will take their response personnel and equipment to arrive at the site of a release or anticipated release. Despite these estimates, these resources are expected to show up as soon as possible given the site location, weather conditions, or any other unforeseen circumstances.</p>
28.	<p>That Transport Canada examine ways to reduce the burden on municipalities and volunteer fire departments for emergency responses to train accidents.</p> <p>The Government supports this recommendation and action is ongoing.</p> <p>Transport Canada recognizes the importance of ensuring that first responders have access to training and resources to prepare them to respond to incidents involving dangerous goods. The Department has made available training and resources, including:</p> <ul style="list-style-type: none"> • a national bilingual training curriculum (<i>Canadian Emergency Response to Flammable Liquid Incidents in Transport</i>); • <i>Competency Guidelines for Responders to Incidents of Flammable Liquids in Transport, High-Hazard Flammable Trains</i>; • access to the Canadian Transport Emergency Centre (CANUTEC) 24 hours a day, seven days a week; • the <i>Emergency Response Guidebook</i>, available free of charge to first responders and municipalities; • safety awareness kits for communities/municipalities and for first responders; and,

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	<ul style="list-style-type: none"> the deployment of Remedial Measures Specialists (RMS) to provide advice and guidance to first responders. RMS are chemists and process expertise in incidents involving dangerous goods. <p>Companies also have an important role to play in emergency response. CN and CP have networks of emergency response equipment stationed across Canada which can be rapidly deployed to an emergency situation, in addition to the Transport Canada available resources mentioned above.</p> <p>Additionally, understanding that responding to emergencies can be a financial burden, the <i>Railway Safety Act</i> provides that provincial and municipal governments can apply to the Canadian Transportation Agency to recover costs incurred in responding to fires resulting from railway operations.</p>
<p>29. That rail companies work to improve their relationships with municipalities, Indigenous communities, and neighbouring properties affected by railway operations, including residents affected by railway operations, establishing forums for dialogue and community engagement concerning rail activity.</p>	<p>The Government supports the recommendation and is committed to enhancing meaningful engagement.</p> <p>Transport Canada encourages companies to improve relationships with those interested and impacted by rail operations and safety, including municipalities and Indigenous communities.</p> <p>Transport Canada continues to take action to address the concerns of communities who live and work near rail lines. Examples of initiatives the Department is currently undertaking towards enhanced engagement include:</p> <ul style="list-style-type: none"> studying this recommendation in the context of the ongoing review of the <i>Railway Safety Management System Regulations, 2015</i>; supporting the <i>Proximity Guidelines</i>, developed between the Railway Association of Canada and the Federation of Canadian Municipalities; providing dedicated funding, for Transport Canada to meaningfully engage with local and Indigenous communities through Transport Canada's Community Participation Funding Program-Rail Safety Component; and, holding bi-annual sessions with industry and Provinces/Territories to discuss issues concerning the transportation of dangerous goods. <p>More broadly, Transport Canada will continue to prioritize its focus on enriching the relationship between companies and communities with the goal of building a more efficient, resilient, and safe transportation system that benefits all Canadians.</p>
<p>30. The Committee recommends that:</p> <p>(1) the Canada Transportation Agency (CTA) shall respond to complaints (noise, vibration, odour, etc.) with actionable and enforceable recommendations within four months of receiving a formal notice of complaint(s) from a local government and/or adjacent properties effected by railway</p>	<p>The Government acknowledges this recommendation and it has been addressed through other means.</p> <p>(1) The <i>Canada Transportation Act</i> (the <i>Act</i>) provides the Canadian Transportation Agency (the Agency) with powers to address noise and vibration complaints (the <i>Act</i> does not cover complaints regarding odour). The Agency attempts to resolve all disputes informally as a first step. The vast majority of rail disputes are resolved informally.</p>

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<p>operations;</p> <p>(2) based on complaints received from neighbouring properties affected by railway operations, as per the above noted, limit hours of railway operations to exclude the resting hours between 23:00 and 06:00;</p> <p>(3) upon completion of a CTA mediation process, the CTA provide a full report that includes recommendations within six months to all participants; and,</p> <p>(4) the Ministry of Transport evaluate the capacity and delegated authority of the CTA.</p>	<p>(2) Under the <i>Act</i>, a railway company shall cause only such noise and vibration as is reasonable, taking into account:</p> <ul style="list-style-type: none"> • level of service obligations, if applicable; • operational requirements; and, • the area where the construction or operation takes place. <p>The Agency addresses each complaint filed with it on a case-by-case basis – according to the merits of the complaint and are not bound by its past decisions.</p> <p>(3) When resolving a dispute informally through mediation, parties agree to the terms and conditions of settlement in order to successfully resolve a complaint. The <i>Act</i> provides for the confidentiality of the mediation process. This confidentiality requirement exists in order to protect the integrity of the mediation process, as well as certain information which either or both parties do not wish to disclose. In general, only parties to the dispute have access to the settlement agreement, its terms and conditions, including any other actions required to fulfill the agreement.</p> <p>(4) The Agency is an independent, quasi-judicial tribunal, and economic regulator of federally regulated modes of transportation (air, rail, and marine). The Agency operates at arms-length and is responsible for administering certain acts (such as its enabling legislation under the <i>Act</i>) and regulations, and for implementing government-wide regulatory initiatives. As a federal agency with appropriations that are approved by Parliament, the Agency’s capacity requirements are considered on an ongoing basis to ensure that it is able to effectively deliver on its mandate.</p>
<p>31. That Transport Canada continue to fully phase out the use of DOT-111 tank cars for the transportation of all forms of dangerous goods and, if possible, look at ways to expedite the process.</p>	<p>The Government supports the recommendation and action is complete.</p> <p>Transport Canada continues to fully phase out the use of DOT-111 tank cars for the transportation of all forms of dangerous goods and has expedited the process.</p> <p>Transport Canada has implemented measures to improve rail safety, including the introduction of more crash-resistant tank car standards for the transport of flammable liquids, and a phase-out schedule for existing Class 111 tank cars.</p> <p>Transport Canada issued <i>Protective Direction No. 38</i> in July 2016, and <i>Protective Direction No. 39</i> in August 2018, to accelerate the phase-out of all Class 111 tank cars and unjacketed CPC-1232 tank cars (a model of Class 111 tank cars) used to transport crude and oil condensate. Class 111 tank cars were removed from crude oil transport 18 months early, and from condensate transport six years early. Class 111 cars will be further phased-out from ethanol transport on April 30, 2023, and from all other flammable liquid transport on April 30, 2025.</p> <p>The Canadian Class 117 tank car fleet will continue to grow</p>

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		<p>toward the April 30, 2025, deadline, at which point all tank cars in Canada used to transport flammable liquids will meet the new, more robust, crash-resistant standard.</p> <p>Transport Canada continues to monitor the tank car marketplace to ensure compliance with the phase out schedule. To improve oversight, the Department has tripled the number of Transportation of Dangerous Goods inspectors and increased the number of rail inspections by 75%.</p>
32.	<p>That Transport Canada move urgently to address the recommendations of the Transportation Safety Board in light of their investigation into the 2019 derailment near Field, British Columbia.</p>	<p>The Government supports the recommendation and action is ongoing.</p> <p>Transport Canada is taking immediate action to improve rail safety, directly aligned with the Transportation Safety Board of Canada's (TSB) recommendations regarding the 2019 derailment in Field, British Columbia.</p> <p>On July 25, 2022, a Ministerial Order was issued to reduce the risk posed to train operations in cold weather, requiring companies to revise the <i>Railway Freight and Passenger Train Brake Inspection and Safety Rules</i>.</p> <p>The revisions, divided in two phases, will strengthen regular air brake inspection requirements, require a winter operating plan for equipment, and establish test standards and periodic maintenance requirements of air brake cylinders. Phase I must be submitted by November 30, 2022, and the Phase II by May 31, 2023.</p> <p>In alignment with the TSB's recommendation to install automatic parking brakes on all freight cars, Transport Canada will launch a working group with railway companies to consider the design and safety parameters of automatic parking brakes in September 2022. Transport Canada will also conduct testing of automatic braking technology under real world operating conditions to verify safety and performance.</p> <p>Furthermore, consistent with the TSB's recommendations, the department will undertake targeted audits of CP's safety management systems. In parallel, the Department will conduct oversight of CP's occupational health and safety committees. These measures will enable Transport Canada to monitor whether the company is effectively identifying and addressing hazards.</p> <p>Finally, as previously announced, Transport Canada is also working to review the <i>Railway Safety Management System Regulations, 2015</i>. Part of this review includes requirements related to risk assessments and addressing hazards. To this end, an external consultation was launched on August 25, 2022, with a report to be provided by October 31, 2022.</p>
33.	<p>That Transport Canada ensure CN and CP Rail address infrastructure deficiencies at rural crossings.</p>	<p>The Government supports the recommendation and action is ongoing.</p> <p>Safety at grade crossings is a shared responsibility between the owner of the road and the owner of the rail line. Under the Grade Crossings Regulations, both parties have roles and</p>

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	<p>responsibilities to ensure safety at rural crossings (e.g., proper road signs, clear visibility of oncoming trains, warning systems). The regulations were introduced by Transport Canada in 2014, thereby clarifying roles and responsibilities and improving crossing safety by providing comprehensive safety standards for crossing surface, signage sightlines, and warning systems.</p> <p>The <i>Grade Crossings Regulations</i> use a phased-in approach providing flexibility. In November 2021, changes were made to the regulations' compliance deadlines. The compliance timelines were modified in a manner that prioritizes grade crossings by levels of risk:</p> <ul style="list-style-type: none"> - November 28, 2022 for high-priority grade crossings; and, - November 28, 2024 for all other grade crossings <p>Transport Canada conducts oversight to verify that companies and road authorities, who share responsibility for crossing safety, are compliant with regulatory requirements.</p> <p>Understanding that assistance may be needed to improve crossing safety, the infrastructure component of Transport Canada's Rail Safety Improvement Program (https://tc.canada.ca/en/programs/funding-programs/rail-safety-improvement-program) provides funding to road authorities and companies to undertake crossing improvement projects, including both federally and provincially regulated crossings located in rural areas.</p> <p>Depending on the agreement private crossing owners may have with the railway company, or the one filed with the Canadian Transportation Agency, the cost might be shared between the road authority/private road owner and the railway. Generally, this information is outlined in the rail crossing agreement. The Agency can assist with disputes related to costs, contractual agreements, or for any rail-related dispute.</p>