

Minister of Transport



Ministre des Transports

MAYOR'S OFFICE

APR 21 2016

Ottawa, Canada K1A 0N5

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M2016-1053

His Worship John Tory and Councillors
Mayor
City of Toronto
City Hall
100 Queen Street West
Toronto ON M5H 2N2

Dear Mr. Mayor and Councillors:

Thank you for your letter outlining your detailed suggestions on how Transport Canada can take further measures to support safe rail operations.

The government is fully committed to making significant improvements that ensure Canada's railway system remains among the safest in the world. Rail safety is my number one priority as Minister of Transport, and I have heard similar concerns and questions about rail safety from coast to coast. That is why I am pleased that Budget 2016 is providing \$143 million over the next three years to increase inspection capacity and provide first responders with better tools and information to protect communities like yours.

Since my first day as Minister of Transport, I have been struck by the need for more communication between the rail industry, local communities and Transport Canada. In recent months, I have engaged community groups across the country to better understand their concerns. I will continue this engagement in the months to come, and I expect to outline additional efforts to directly engage local communities in addressing their issues of concern.

A lot of progress has been made, but there is still much work to be done. Transport Canada has engaged closely with the Federation of Canadian Municipalities, municipalities and other levels of local government on the implementation of several regulatory measures in response to the tragic train derailment in Lac-Mégantic in July 2013. I would like to point out that a number of concrete steps have been taken to strengthen railway safety and the transportation of dangerous goods since July 2013. An overview of these measures can be found on Transport Canada's website at <http://www.tc.gc.ca/eng/mediaroom/infosheets-menu-7564.html>. I strongly believe that strengthening railway safety is a partnership requiring open lines of communication, and in this regard, I look forward to hearing your views when we meet in person later this month.

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I take note of the points you made in your letter, which I will address below.

Overhauling the Safety Management System Regulations, 2015

As you may be aware, significantly revised Regulations came into force on April 1, 2015, taking into account reports from the Auditor General of Canada and the Transportation Safety Board of Canada, as well as building on more than 10 years of lessons learned in providing regulatory oversight of safety management systems (SMS). These relatively new regulations are much more detailed and prescriptive than the previous version. They require companies to develop and implement an SMS consisting of mutually reinforcing processes designed to integrate safety into all aspects of operations. For example, under the Regulations, a company must include the following documented processes: development of safety policy; identification of safety concerns; implementation and evaluation of risk mitigation; and the creation of annual safety targets. Transport Canada's assessment of compliance and the effectiveness of companies' SMS occurs through multiple oversight activities.

I would like to emphasize that having an SMS does not in any way eliminate or replace the obligation on companies to comply with all regulatory requirements for railway operations. In fact, as a documented framework, an SMS provides an additional layer of safety, the value of which is recognized internationally and by Canadian experts. Apart from Transport Canada's oversight of SMS, the Rail Safety group carries out approximately 33,000 detailed, on-site technical inspections each year. These inspections focus on track quality, rail equipment, communications and signals, operations and bridges. That being said, Transport Canada is committed to continuous improvement, and there is more work to be done. I would be happy to discuss this issue further when we meet. As well, I would like to offer my officials to provide a technical briefing to Toronto City Council on the railway safety oversight regime overall and the SMS Regulations, 2015, and to answer any technical questions you may have.

Accelerate the phase-out of DOT 111

With respect to your request to accelerate the phase-out of DOT-111 tank cars, the current phase-out removes the least crash-resistant DOT-111 tank cars from crude oil service starting on May 1, 2017. Please be assured that officials are currently examining options to further accelerate this phase-out to the extent possible in order to further increase public safety.

Reducing speed in urban areas and examining alternative routes

I agree with the Toronto City Council that pending the development and adoption of new technologies that will help to mitigate the risk of train derailments more effectively in the future, collaboration to manage that risk must occur now. This is why under the Rules Respecting Key Routes and Key Trains, which came into effect on February 19, 2016, and to which you referred in your letter, speed restrictions of 50 miles per hour and 40 miles per hour are in place in urban areas. In addition, municipalities have asked for more information on dangerous goods carried through their communities so they can better prepare an emergency response, and Transport Canada is responding to their requests.

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On the issue of alternative routes, as you are aware, the Canadian railway network does not provide as many route options as other countries, which makes it challenging for railway companies and governments to find alternative railway tracks to transport dangerous goods. As these existing routes pass through Canadian municipalities, Transport Canada is enhancing risk analysis and imposing speed restrictions and inspection criteria for trains and routes used for transporting dangerous goods. At the same time, I committed to examining all of the recommendations of the *Canada Transportation Act* Review and will engage all relevant parties on the way forward.

Transport Canada also increased inspections at trans-loading facilities (where petroleum products are moved from one mode of transport to another, such as from train to truck), in recognition of the increased movement of oil by rail. Should an incident occur, first responders have around-the-clock support from the scientists at Transport Canada's emergency response centre. The department has also directed shippers to develop emergency plans for tank cars carrying crude oil, as well as several other flammable liquids, and these plans are now in place. This is to ensure that the right people, equipment and procedures are in place to respond to an incident involving dangerous goods.

All of these actions are making Canada's railway system safer. The department continues to work with all of its partners, including municipalities, railways and shippers, toward a common goal: one that continues to place the safety of Canadians first.

Revising the current liability/insurance regime

You may also be aware that the *Canada Transportation Act* was recently amended to strengthen the liability and compensation regime for federally regulated railways, including Canadian Pacific Railway. These amendments are expected to come into force on June 18, 2016.

The strengthened regime ensures that polluters, not taxpayers, are responsible for the costs of any future accidents. It clearly defines and shares liability between railways and shippers by establishing (1) risk-based minimum insurance levels for federally regulated freight railways; and (2) a shipper-financed compensation fund that would be accessed in the case of an accident involving crude oil or other designated goods when the costs exceed a railway's insurance level.

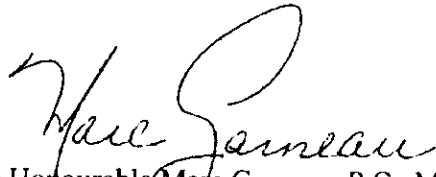
For accidents involving crude oil, railways will be held liable without the need to prove fault or negligence, up to their required insurance level. This will ensure victims of such accidents are compensated in a timely manner, as they will not need to establish fault or negligence to receive compensation.

I should also note that federally regulated railways must inform the Canadian Transportation Agency immediately of any operational changes that may affect their insurance coverage. Failure by railways to comply with their requirements to carry adequate insurance and notify the Agency of changes that could affect their coverage could result in monetary penalties of up to \$100,000 per violation.

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Thank you for taking the time to inform me of your perspectives, and I look forward to our upcoming meeting and a more detailed discussion of these important issues.

Yours sincerely,

A handwritten signature in black ink, reading "Marc Garneau". The signature is fluid and cursive, with a large loop at the end of the last name.

The Honourable Marc Garneau, P.C., M.P.
Minister of Transport

Office of the Minister of
Transport



Cabinet du ministre des
Transports

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Attention: His Worship John Tory & Councillors

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Message: _____

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