

# TRANSPORTATION



## POLICY BRIEFING • THE HILL TIMES, APRIL 6, 2015

- 20** **TRANSPORT MINISTER LISA RAITT**  
Pilot behaviour seen in Germanwings crash 'would not happen in Canada': Raitt
- 33** **CONSERVATIVE MP LARRY MILLER**  
Miller says House Transport Committee's report will help strengthen transportation safety in Canada
- 34** **LIBERAL MP DAVID MCGUINTY**  
Canadians continue to be deeply concerned about rail safety, and rightly so.
- 22** **LASER STRIKES**  
Transport Canada data indicates rates of laser strikes continue to rise
- NDP MP HOANG MAI** **33**  
Railway safety: a disconcerting lack of regulatory oversight
- LAC-MÉGANTIC** **34**  
Getting the big picture right: regulating rail transportation of crude oil after Lac-Mégantic disaster
- AIR TAXIS** **30**  
Government needs to support smaller airports as TSB investigates air taxis
- RAIL SAFETY** **32**  
Opposition supporting rail safety bill to boost ministerial oversight, shipper liability
- ASIA TRADE** **26**  
Grain competing with other products in western rail as Asian trade prioritized

# TRANSPORTATION POLICY BRIEFING

Q&A LISA RAITT

## Pilot behavior seen in Germanwings crash 'would not happen in Canada': Raitt

By RACHEL AIELLO

Transport Minister Lisa Raitt says she's confident the current annual medical checks for Canadian pilots are enough to ensure the safety of all aboard Canadian commercial airlines and that the series of events that led to the tragic Germanwings crash over the French Alps recently wouldn't happen here.

"I think the gentleman in Germanwings was concerned about whether or not he would lose his licence and he hid so much about his life including his doctor's visits. That would not happen in Canada," Ms. Raitt said.

On March 24, co-pilot Andreas Lubitz deliberately crashed Germanwings flight 9525 into the French Alps, killing all 150 people on board including himself and his co-pilot who he locked out of the cockpit. In the days following the crash, grim details have surfaced about his history of mental illness.

Days later in Ottawa, Ms. Raitt announced new regulations mandating Canadian airlines to have two crewmembers in the cockpit at all times during flight.

She has instructed Transport Canada officials to look into any other possible gaps in regulations, but said she's "content" with the system in place. Currently, under the Aeronautics Act, pilots are expected to disclose their occupation to their doctors and these physicians have an obligation to report to Transport Canada if they have any concerns about a pilot's ability to fly a plane safely. As well, pilots experience random flight checks by the department throughout their careers.

Ms. Raitt, who represents Halton, Ont., sat down with *The*



Transport Minister Lisa Raitt, pictured last week in her Confederation Building office on the Hill with *HT* reporter Rachel Aiello. *The Hill Times* photograph by Jake Wright

*Hill Times* for an interview in her Hill office last Tuesday, to discuss a wide-ranging number of issues in the transportation file, from rail safety and the debate over Bill C-52, to the Canadian Transportation Act review, and the future of grain shipping and port exports. The following has been edited for style.

**What the single biggest challenge in the transportation file currently and how is the government addressing it?**

"So I would say for me, personally, it's about safety but I think equally important, but never trumps safety, is the future of transportation. And we're dealing with it in two ways. On the safety side it really comes from the department and it comes from the government, so the work we've done on rail safety,

the work we've done on marine tanker safety, the work that we're doing on aviation safety, all of those things are really important and there kind of like day-to-day things that you do. Transport Canada has a very involved consultation process and sometimes you just have to give the last push to get it out of the department and get it into operation. So that's kind of where I see my role right now in the department.

"On the future of transportation, I'm very excited about the CTA review, the Canadian Transportation Act review headed by David Emerson, with a really good panel of advisers across the country. They're taking submissions and they're talking about what the future of transportation is. And that's really important because our trade agenda completely depends on us getting goods

to market. So if we're signing all these free trade agreements, we need to make sure the entire supply chain is ready to go and firing and that's what he's doing.

"So for me, day-to-day, it's about safety, but the bigger picture is we have a process in place to talk about what the future looks like and that's the exciting side."

**Bill C-52, the Safe and Accountable Rail Act, is now at committee stage in the House, after two days of debate on Monday and Tuesday. It hasn't moved far since you introduced it in February. Are you confident it will pass before the House adjourns in June? Why is it important that it does?**

"I was very happy yesterday [Monday] that the NDP stood up and said they were going to support. That made it a lot easier for the progress of it. There's going to be a good debate around it, but I do see it passing. I think this is something that we've been working on since the Lac Mégantic tragedy. The committee has been engaged, the committee has both opposition members on it, government members on it, so they've been working together on it. And I think what I'd say about this is, this is really not one of those files that you treat politically. This isn't an ideology. Everyone is on the same side as safety and these are measures that have been asked for by communities and measures that have been asked for by railways as well too, so this makes a lot of sense. There may be criticisms about us not going too far, which is what I'm hearing from the NDP, but it's not criticising what we've done so far, so that's a good piece, so I am op-

timistic that it'll go through and I am grateful for the support of the opposition."

**The new Railway Safety Management System (SMS) regulations came into effect April 1. Critics and the Transportation Safety Board are still calling for more direct oversight, and that there will be more to come in your work with the TSB on this. Are there any new measures you're able to announce yet?**

"I had a meeting yesterday [Monday] with the chair of the Transportation Safety Board Kathy Fox, and I have met with the chair of the safety board previous too, Wendy Tadros. We take the opportunity to go through what they term as their watch list, things that are outstanding from their investigations that they think should be looked at by Transport Canada and we had a really good conversation, and my goal is to go back to the department and get some of those items moving again, to make sure, like I said before, getting them out of the consultation process that is happening, which is valid, and into practical application and that's the goal.

"So I don't have anything to tell you right now, other than the fact that I can illustrate that we do work closely with all parties, meaning the Transportation Safety Board, and Transport Canada officials to move these things along."

**You mention getting things out the door. Can you provide a bit more detail on what these things**

Continued on page 31

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# TRANSPORTATION POLICY BRIEFING

## LASER STRIKES

# Transport Canada data indicates rates of laser strikes continue to rise

The aviation industry is calling on the government to do more, feds say they're open to an awareness campaign

BY RACHEL AIELLO

According to a review by *The Hill Times*, Transport Canada's database of aviation occurrences, laser strikes are on the rise, and the aviation industry is calling for the government to respond to the increase as well as the security threats they pose, with tougher penalties and increased regulation.

Laser strikes are when someone on the ground shines a laser pointer into the flight deck of an aircraft, usually during its take-off, landing or approach. It can impair or damage the vision of the pilots, and cause a distracting glare or temporary flash-blindness. Between 2007 and 2014, Transport Canada's statistics show the number of laser interference incidents occurring was increasing dramatically. In 2007, there were 21 reported incidents, 62 in 2008, 118 in 2009, 182 in 2010, 229 in 2011, 357 in 2012,

461 in 2013, and according to a review by the *Vancouver Sun*, 501 in 2014. This is on average, a 40 per cent increase annually.

The transport department manages a database called the Civil Aviation Daily Occurrence Reporting System, or CADORS. It compiles all reported aircraft incidents, including laser strikes that happen involving Canadian airlines, or over Canadian airspace. According to *The Hill Times* review of 2015 CADORS incidents, there have been nearly 100 so far.

Between Jan. 1 and March 30, there were 99 incidents of laser strikes reported to Transport Canada. The department was unable to confirm the number, because it has yet to validate any of the reports, and the total numbers aren't made official until they have been checked out and logged at the end of each year.

Of the 99 reported laser interferences, 56 were experienced by major Canadian airlines. WestJet reported the most, with 17 so far in 2015, Air Canada reported 16, Jazz reported 12, Sunwing reported three, and Rouge reported two. The other 43 events were divided among 37 smaller airlines, each reporting one or two instances each. Half of them occurred over airspace in the Ontario region, including two in the National Capital Region, 20 in Quebec, 17

in the Pacific region, and 12 in the northern and Prairie region.

The National Airlines Council of Canada (NACC) said the continual increase in the rate of these incidents requires urgent action from the government.

"The concern is we're seeing an increase in the numbers over the last few years... it's a serious issue," NACC Executive Director Marc-André O'Rourke told *The Hill Times*.

"And it's really a concern from the aviation safety perspective." His organization represents Air Canada, Air Transat, WestJet and Jazz, but he said the issue of laser strikes is an industry-wide concern that multiple pilot and aviation associations are paying attention to, including NAV Canada, the Airline Pilots Association International, the Helicopter Association and the Air Transport Association of Canada.

The industry has been "very active" in lobbying the government to make pointing a laser into the cockpit of an aircraft a criminal offence. Currently, it is a federal offence that comes with a \$100,000 maximum fine under the Aeronautics Act and up to five years in jail. But, Mr. O'Rourke said more specific legislation to address the issue of laser interferences is needed, with "more teeth," meaning more severe penalties, in hopes of deterring people who think it's a joke.

As well, the industry is asking to work with Health Canada and Transport Canada to regulate the purchase and possession of lasers over a certain capacity, and to embark on a public education awareness campaign "as soon as possible" to communicate the danger lasers pose to aircrafts, pilots and anybody in the path of the beam.

In an interview, Transport Minister Lisa Raitt (Halton, Ont.) said she'd be "more than happy" to be a part of raising awareness about the issue, but she said the current penalties are sufficient and it's not difficult for police to lay charges using the act in place.

"I launched a public awareness campaign about drones last fall and I think that's been beneficial. I think it is important to let people know out there if they think they're joking around out there with a laser pointer, they can really cause some damage to a pilot and as a result put in peril the passengers on that plane," said Ms. Raitt, adding that it's a "no-brainer" to talk about the dangers associated with it."

When asked why he thought the government would be interested in the public awareness side, but not the legislative changes, Mr. O'Rourke said that it's a good first step, but also said it needs to be looking at the other prongs of the approach too.

"It may be a question of, 'What is the easiest thing to do in the short-term?' But we're still hopeful that they'll turn their attention to having more concrete criminal offences but there is at least some movement."

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*The Hill Times*

## TRANSPORT CANADA DATA

### Number of laser strikes annually

2007: 21 incidents  
2008: 62 incidents  
2009: 118 incidents  
2010: 182 incidents  
2011: 229 incidents  
2012: 357 incidents  
2013: 461 incidents  
2014: 501 incidents  
2015: So far 99\* incidents

### A Breakdown of the 2015 Numbers So Far

There were 32 reported laser interference incidents reported in January 2015, 30 reported in February, and 37 reported by March 30.

### Occurrences by Major Airline:

WestJet: 17  
Air Canada: 16  
Jazz: 12  
Porter: 6  
Sunwing: 3  
Rouge: 2

The other 43 events were divided among 37 smaller airlines, each reporting one or two instance each.

### Laser Strikes by Region:

Ontario Region: 48  
Quebec Region: 20  
Pacific Region: 17  
Prairie and Northern Region: 12  
National Capital Region: 2

Source\*: Unconfirmed by Transport Canada, but according to all reported incidents logged in the CADORS system.

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Ottawa → Québec City	1	482 km	5 h 25 min	4 h 39	\$488	\$55 <sup>1</sup>	\$433
Toronto → Montréal	Up to 18	541 km	4 h 32 min	5 h 30	\$562	\$44 <sup>1</sup>	\$518

<sup>1</sup>Government of Canada employees receive 10% off the best available fare on all trains and classes of service offered by VIA Rail Canada. Available for both business or personal travel. Conditions apply. For more information, contact PWGSC Shared Travel Services.

\*30 minutes was added to the total travel time by car in order to account for traffic and bad weather en route.

\*\*The total cost to the taxpayer of travelling by car is calculated based on the following formula: (Treasury Board kilometeric rate for Ontario of \$0.55/km for car travel by a government official X total distance travelled) = \$ cost of travel by car + (average hourly rate of \$48/h for a government employee, based on a salary of \$100,000 per year including employee benefits X travel time) = \$ total cost to taxpayer

\*\*\*The value of travelling by train is calculated based on the following formula: Cost of travelling by car – cost of travelling by train = taxpayer savings



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# TRANSPORTATION POLICY BRIEFING

## RAIL SAFETY

# Minimizing the risks of transportation of crude oil by rail

Canadians expect their government and the railway industry to minimize the risks posed by the transportation of large volumes of flammable liquids by rail to the greatest extent possible.



KATHY FOX

Canada and the United States have increased their output of oil over the years. In fact, North American crude oil shipments on Canadian Class 1 rail lines increased from 500 carloads five years ago, to about 212,000 carloads in 2014. But as oil production grows, so have the demands on the transportation infrastructure to get the oil to market.

Following the July 2013 accident in Lac-Mégantic, Que., and other fiery derailments, the Transportation Safety Board of Canada (TSB) placed the transportation of flammable liquids by rail on its Watchlist—the list of issues we believe pose the greatest risk to Canadians. While Transport Canada (TC) and the railway industry have taken numerous positive steps towards mitigating risks, recent accidents in Canada and the U.S.

illustrate that action is still needed to make the transportation of flammable liquids even safer.

Many factors influence rail transportation safety and each is equally important.

### Preventing derailments

Preventing train derailments start with route planning and analysis. As such, industry and Transport Canada need to take a close look at the routes on which large quantities of flammable liquids are transported and determine how they can prevent derailments, and how to minimize the consequences of a derailment. This also means a thorough examination of the track infrastructure to plan and execute the necessary repairs and upgrades so that the track can sustain the loads at all times. Re-

garding train operations, railways must adapt the speeds, the length and weight of trains, and locomotive power distribution to the terrain and track conditions along the route so that trains arrive at their destinations safely. They must also remain aware of environmental factors and adjust their operations as required. More frequent inspections and preventive maintenance of rolling stock are required to ensure that brakes, wheels, axles and other components are in working order and will not contribute to a derailment.

### Minimizing the consequences

When a derailment does happen, the industry and Transport Canada must ensure that the negative impacts on people, property and the environment are minimized. This begins with a good understanding of the properties of the dangerous goods and what the negative consequences are if product is released. Accurate product description is critical to product packaging and proper emergency response planning and measures.

The TSB also recommended emergency response assistance plans (ERAPs) for the transportation of large amounts of liquid hydrocarbons. During an accident, the handling of these products requires special resources, supplies and equipment. Approved ERAPs would ensure that first responders have timely access to the required resources and assistance to help mitigate the consequences of an accident.

The last line of defense against a product release during a derailment is the tank car. However, as we have seen in Lac-Mégantic and in the two recent derailments in Gogama, Ont., “legacy” Class 111 tank cars and the newer CPC-1232-compliant tank cars do not provide an adequate level of protection.

Transport Canada has recently announced a proposed standard for a new series of tank car for transporting flammable liquids in response to TSB recommendations. This new standard would require thicker and more impact-resistant steel, thermal protection, full-height head shields, and improved top and bottom fitting protection. While this is promising, the TSB remains concerned about the risks pending full implementation these new standards.

The Lac-Mégantic accident investigation found shortcomings with safety management by the company and with Transport Canada oversight. The TSB has also since placed safety management and oversight on its Watchlist. Proactively identifying and taking measures to minimize the risk of derailments and their consequences are part of effective safety management processes. And Transport Canada must rigorously oversee safety management by companies and intervene to successfully change unsafe operations.

Canadians expect their government and the railway industry to minimize the risks posed by the transportation of large volumes of flammable liquids by rail to the greatest extent possible. A thorough understanding of the characteristics of the goods being transported, in conjunction with knowledge of all of the factors affecting safety—both in preventing accidents and minimizing their impact—will go a long way toward improving transportation safety.

Kathy Fox is chair of the Transportation Safety Board of Canada.  
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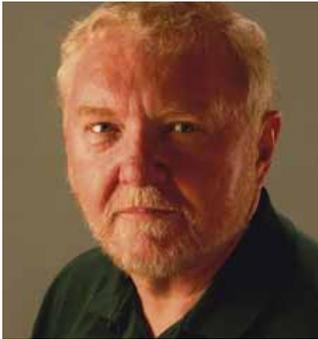
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# Powering Electric Vehicles With Our Low-Carbon Electricity—A Missing Element of Ontario’s Economic Action Plan



**BY DON MACKINNON**  
*President*  
Power Workers' Union

The provincial government has made several announcements about how its strategic plan will create jobs, reduce greenhouse gas (GHG) emissions and grow the economy. However, much more needs to be done to establish direct strategic links among Ontario’s current advantages—its successful nuclear and auto sectors, the province’s vast forestry and agricultural biomass resources, and its valuable existing electricity assets.

Ontario’s nuclear reactor fleet is our province’s electricity workhorse, safely and reliably providing 24/7 base load electricity for more than 45 years. For the last seven years, nuclear power has produced over half of Ontario’s electricity reaching a high of 62 percent last year.

Several economic studies show that additional investments in Ontario’s nuclear fleet will help sustain and grow Canada’s \$6 billion per year nuclear industry, including its 160 plus supply chain companies, 60,000 direct and indirect jobs and hundreds of millions a year in research and development at our province’s universities and colleges.

Annually, Canada’s 19 nuclear reactors, 18 of which are located in Ontario, avoid about 90 million tonnes of GHG emissions, equivalent to taking 81 per cent of Canada’s cars off the road. Studies show that investments in nuclear generation could reduce GHG emissions after 2023 by 108 million tonnes when compared to building more intermittent wind energy backed up by carbon emitting natural gas generation. In addition, base-load nuclear is well suited for overnight, off-peak charging of electric

vehicles (EVs), which could significantly reduce emissions from Ontario’s largest GHG source, transportation.

Converting Ontario’s two mothballed coal stations, Nanticoke and Lambton, to make use of the province’s renewable forest and farm sourced, carbon-neutral, biomass resources would reuse these valuable provincially owned assets. Compared to intermittent wind and solar generation, fuelling these existing assets with a combination of biomass and natural gas would: further reduce GHG emissions; provide reliable electricity to meet peak power demands; and, improve energy security. The supporting biomass fuel supply chain infrastructure is estimated to create about 3,500 jobs and contribute about \$600 million annually to Ontario’s GDP.

Currently, Ontario hosts five major global automotive assemblers and over 700 parts suppliers. An estimated 400,000 direct and indirect jobs as well as research at over 30 publicly funded facilities are supported by this sector. Ontario represents about one sixth of North America’s vehicle production, most of which is exported. The auto industry contributes about \$20 billion a year—more than 4 percent of provincial GDP.

The Ontario government wisely supports refurbishing the province’s nuclear reactors and the export of Canada’s nuclear, technology, advanced innovations and expertise. It has also invested in Ontario’s auto sector and conversion of the Atikokan and Thunder Bay Generating Stations from coal to biomass.

While these initiatives are consistent with Ontario’s strategic plan some significant challenges and untapped opportunities remain.

Ontario’s auto sector continues to face stiff competition from Asia and Europe and a shift in auto production to Mexico and the southern U.S. Recently, Ontario lost a major electric vehicle (EV) opportunity when Toyota stopped producing its RAV 4 EV at its Woodstock plant.

Michigan is now first in vehicle manufacturing among states and provinces, a position Ontario occupied since 2004. They have been investing heavily in advanced vehicle manufacturing since 2008 and this has helped secure the production of GM and Ford EV models.

Quebec plans to invest \$517 million electrifying its transportation system leveraging Hydro Quebec’s (HQ) low-carbon hydropower while creating a manufacturing network. In addition, HQ will be allowed to invest in public transit electrification projects.

Powering “Made-in-Ontario” zero-emission vehicles with our province’s low-carbon nuclear, hydroelectric and biomass generation assets represents significant environmental and economic benefits. Ontario will miss a major opportunity if it fails to develop a strategic plan that links and maximizes these advantages.

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- Investing in a biomass supply chain;
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These investments leverage Ontario’s proven advantages — a \$6 billion a year, 60,000 job nuclear industry; a 400,000-job auto sector; Ontario’s existing electricity assets; our forestry, agriculture and transportation sectors; and low-cost overnight electricity surpluses ideal for charging electric vehicles — they deliver real economic and environmental benefits.

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**FROM THE MEN AND WOMEN WHO HELP KEEP THE LIGHTS ON.**



## TRANSPORTATION POLICY BRIEFING

### ASIA TRADE

# Grain competing with other products in western rail as Asian trade prioritized

There will be a rising demand for goods going to Asia, and Canada is preparing for it with the Asia-Pacific Gateway and Corridor Initiative.

By DENIS CALNAN

As Canada focuses on expanding trade with Asia, putting more of a demand on the country's railway operators, rail industry observers say the sector is changing and opinions are mixed about whether CN and CP should ensure they have "surge capacity," the ability to move an unusually large amount of products.

"Over the winter there were worries about backlogs, not just in grain. But there was a cascading impact that affected a whole host of industries, everyone who was shipping by rail," said Carlo Dade, director of the Centre on Trade and Investment Policy at the Canada West Foundation.

"The ability to move product to market is crucial for Canada and even more crucial for Western Canada, given that we are commodity exporters," he said, highlighting that there is not very much publicly available hard data on service levels in the rail industry.

"The particular problem we face, especially in Western Canada, are surge demands for moving products," said Mr. Dade. "We need a system that can respond dynamically to surges in demand. And that's the real trick with this."

He said all stakeholders in the industry—the rail companies, those who use the services, and government—need to come together and come up with a solution, which is what has happened in the past when there have been challenges in the sector, through various commissions.



As Canada focuses on expanding trade with Asia, putting more of a demand on the country's railway operators, rail industry observers say the sector is changing and opinions are mixed about whether CN and CP should ensure they have 'surge capacity,' the ability to move an unusually large amount of products.

But not all industry observers think that surge capacity is necessary.

"The railways are continuously spending on improving capacity," said Barry Prentice, professor at the I.H. Asper School of Business in the department of supply chain management at the University of Manitoba. But he said capacity only goes so far.

Speaking to the surge in grain in 2014 that led to the federal government passing legislation that forced railways to carry a certain amount of grain per week, Prof. Prentice said "we had a 35 per cent increase above the five-year average of grain production. Now you think about any kind of system—no system is geared to have a 35 per cent excess capacity sitting around in case."

"All the blame was heaped on the railways. Which was very incorrect," said Prof. Prentice.

He said that in dealing with the issue, politics trumped policy: Transport Minister Lisa Raitt (Halton, Ont.) and Agriculture Minister Gerry Ritz (Battlefords-Lloydminster, Sask.) were "desperate to shore up

their political support in the prairies," and "they came up with a bunch of really silly regulations. One of those was to extend the inter-switching limits," which went from 30 km to 160 km, and setting a grain-moving quota for the rail companies.

The expanded inter-switching limits are meant to improve the access that grain shippers have to the lines of competing railway companies.

Prof. Prentice said the policies surrounding rail companies mandated moving of grain don't make sense and the government should step aside and let the market work.

"Why do we have a special case for grain? And why only in Canada? We don't do this in the U.S. and we don't do it for any other commodity. So why is grain different? Except for the politics of it," he said.

The inter-switching limit change is at least in part due to the research of James Nolan, a professor in the department of bioresource policy, business and economics at the University of Saskatchewan, and is

an applied economist working on transportation issues.

"I don't think the railways right now have an enormous capacity problem," although there could be in the future if the prairie provinces follow up on their plans to increase their agricultural output, said Prof. Nolan.

He said rail companies have made short-sighted decisions in abandoning some lines and then wanting them back when there is the potential to make a profit.

Prof. Nolan said he expects that due to the expanded inter-switching limit, and the result of the American company, Burlington Northern (BN), now having access to some of the Canadian market, CN and CP may go to the federal government and ask for more infrastructure money, in an argument for Canadian companies to have an advantage to move Canadian products.

"There's a bit of a nationalism issue that's going to come into here," said Prof. Nolan. "If Burlington Northern starts taking oil or grain or other major bulk traffic from either one of the two Canadian railways, I think there's going to be an easy argument made on Parliament, that in fact the railways need to have some support to make our infrastructure just as good as BNs."

"Will the government buy into this? I think so," he said, noting rail companies are already pushing for it, especially the doubling of tracks.

"What's going to predominately happen, I think, knowing about what I know about how the rail guys think, they're going to double track a whole bunch of this stuff, so they can run high volume trains both ways and not have to worry about switching problems. Like right now, if you've got a single track going for a long way, you've got to move that train to the point where you can get to a siding and then move it off and let the other train go through. They're going to be doing more double tracking [in high volume areas]," said Prof. Nolan.

That will allow for longer trains and fewer interruptions in going from point a to point b.

"The railways are actually laying down track in anticipation of greater loads," said Peter Wallis, president and CEO of the Van Horne Institute, which is affiliated with the University of Calgary and researches public policy in transportation, supply chain and logistics.

Mr. Wallis said there will be a rising demand for goods going to Asia, and Canada is preparing for it with the Asia-Pacific Gateway and Corridor Initiative, which aims to be "the best transportation network facilitating global supply chains between the North American marketplace and the booming economies of Asia," according to the government website.

"We're talking all sorts of products: minerals, coal, wheat, and it goes on, never mind oil and gas," Mr. Wallis said of the future demand of Canadian goods to Asia, much of it to be taken to Vancouver by train.

The federal government has invested over \$1.4-billion in infrastructure projects for the Asia-Pacific Gateway, according to its website.

"A lot of that money went into a new rail bridge across the river and grade separations," said Prof. Prentice. "We are spending on that and there has been a lot of attention placed on Asia, so I don't know if I would say that [capacity in the Vancouver area and throughout the West] is a problem for the railways."

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# TRANSPORTATION

## ENERGY TRANSPORTATION

# Tanker vs. rail: what's the safer method for shipping oil?

The Fraser Institute published a study, entitled 'Energy Transportation and Tanker Safety in Canada,' and said the point of the research is to try to counter the push by the environmental movement to ban tanker traffic on seas.

By DENIS CALNAN

While the Fraser Institute says tanker shipping is the most "cost-effective, efficient, and environmentally friendly way to transport Canada's energy resources," others say that rail is still a better option when shipping on the same continent.

The Fraser Institute published a study, entitled "Energy Transportation and Tanker Safety in Canada," and said the point of the research is to try to counter the push by the environmental movement to ban tanker traffic on seas.

"We try and explain to Canadians, not only the consequences that would happen from policy choices, and how it would affect their lives," and ensure that information is properly disseminated to the Canadian population," said Kenneth Green, senior director at the Centre for Natural Resources studies at the right-leaning think tank.

They gathered data from various international shipping organizations and looked at the "tanker traffic, number of tankers, amount of goods moved and the amount of oil moved, the amount of accidents that happened," said Mr. Green.

"What you see when you look at that data is very much the opposite of what groups like Greenpeace and the environmental movement would have you believe. They would like you to believe that it's a guarantee that if you ship more oil, you get more accidents and more spills and bigger spills," he said.

He said since the mid-1980s, oil movement over the ocean has virtually doubled and oil spills have decreased "by

almost as much as oil has increased," he said.

"I have a lot of admiration for the Fraser Institute, [but] I think this particular study is a bit odd," said James Nolan, a professor in the department of bio-resource policy, business and economics at the University of Saskatchewan.

"In that, the individual who wrote it [Philip John] is very much a maritime proponent and they're not an unbiased individual," said Mr. Nolan.

He admitted that maritime shipping has caught up to rail, and surpassed it in terms of stats.

"They've done a lot of work to make sure they have double-hulled ships, [but] I still think the size of the ship carrying oil [matters], and you've seen some of those big tankers. If any of those hit, then it could be very, very catastrophic."

"It's awful when a rail car derailed and spills oil, but if a ship goes, the potential is huge," he said.

"The current generation of ocean tankers are extremely safe compared to the ones that were out there a few years back, [but] you're dealing with a mode, which travels on a medium—water—which is incredibly volatile and can change in a moment's notice," said Mr. Nolan.

He said he suspects there are many accidents at sea that are not reported, as well.

"I really think that rail historically has been by far the safer mode," said Mr. Nolan, of shipping oil up and down the coasts of North America.

Both men noted, though, that if Canada wants to ship oil to Asia, there is no other choice but by tanker.

Mr. Green said it is difficult to counter the environmentalists' information, because of the imagery of catastrophic spills and the outrage it causes in the public.

"British Columbians put a very, very high price on the preservation of the pristine nature of their coast. It's one of their greatest resources for tourism, for fishing, for native continuity of culture, and things like that," said Mr. Green.

You can argue that you want zero risk, he said, but that would mean a halt to shipping oil to Asia, and that would mean that the value of the product would diminish.

He said the only way to counter environmentalists' imagery of wrecked coasts is with data.

"None of us would want to see another economic collapse," said Mr. Green.

"Some part of the public is still open to absorbing data and making rational decisions," he said.

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## TRANSPORTATION POLICY BRIEFING

### AIR TAXIS

# Government needs to support smaller airports as TSB investigates air taxis

By DENIS CALNAN

As the Transportation Safety Board of Canada investigates systemic problems with air taxi operations, one expert says the problem lies more with the federal government not properly supporting smaller carriers and the airports they service.

According to the government, the air taxi (usually a small, unscheduled aircraft) sector of the Canadian aviation industry has seen 229 deaths over the last 15 years.

The Transportation Safety Board will launch an investigation into “the risks that

persist in air taxi operations across Canada” in May.

One critic said the problem lies in government neglect and that the demands on the small carriers can be unreasonable.

“Transport Canada seems to have been on the warpath,” said Barry Prentice, professor at the I.H. Asper School of Business in the department of supply chain management at the University of Manitoba. He is also a member of the university’s Transport Institute. “Demanding more and more of these guys [small companies that operate air taxis] in terms of records of safety and

everything—it’s hard to say whether their intent is safety or they just want to get rid of them.”

Prof. Prentice said there are many factors that make flying small aircraft into isolated communities more challenging, including the lack of paved runways, lack of a high degree of maintenance, the lack of proper instrumentation and the effect of weather on small aircrafts.

He notes that the pilots of small aircrafts face bigger challenges in rough weather, and compares it to being in a boat on rough seas.

“If you’re out in a row boat on some rough waves, well that can be pretty scary. But if you’re in a big freighter you don’t even know there are waves. And just having mass helps you. Wind and weather, that might be pretty easy to take in a 737, [but] if you’re in a little Cessna, it might be pretty wild,” he said.

Prof. Prentice said he is fine with the safety board studying safety issues, but if the result is more demands on small operators, that would not be acceptable. He said that some of the proposed demands being talked about now may squeeze some operators out of business.

“There’s something called the Advance Warning Systems, it’s for weather, forward looking radar. And on big airplanes they have this. But it’s really expensive technology and the government—Transport Canada—would like all these little aircraft to have it. But it may be worth more than the airplane,” he said.

There’s a lot of resistance from the industry, he said.

“The pressure to get this more advanced technology, you have to wonder, what is their end game?”

If these small companies operating air taxis go under then “you’re not going to see WestJet and Air Canada flying into Baker Lake or all these [isolated] little places.”

He said in isolated corners of the country the small aircrafts are what connect them to the rest of the world and the federal government should do its part to support both the carriers and the airports.

Prof. Prentice said the small aircraft carriers play a vital role in the air industry as well, and that is reason enough to make sure they are not priced out of the market.

“We have to have this very important second tier or third tier air operators. They are the nursery, as it were, for all the big civilian jets that we rely on,” he said.

Government neglect comes into play on the ground, in airports, he said.

“There’s an automatic reporting system for the barometric pressure at the airports. The pilots use that to set their altimeters [a sort of GPS]. Well, all the big airports would be announcing that all the time. Some of these small airports wouldn’t have that.”

“Just the support that you’re getting to fly into these [often isolated] places is not as great because there are few people living there and who’s going to pay for it? You notice that the government kind of washed its hands of looking after the airports,” he said.

Prof. Prentice said that additional challenges come with less support from small airports, because the federal government isn’t properly equipping them.

“They were supposed to take money that they got from the rent from the airports and use that to fix and maintain all the little airports. But if you look at the public accounts, they’re not spending nearly the amount of money they’re getting out of these airport rents for Toronto, Winnipeg, other places, to maintain these other smaller airports,” said Prof. Prentice.

He said it is time for the government to reexamine its policies around ensuring the small airports are properly equipped, “because those little airports are the lifeblood of those communities.”

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## TRANSPORTATION POLICY BRIEFING

Q&amp;A LISA RAITT

# Raitt says her top priorities are safety and future of transportation

Safety comes from the department and the government, says Transport Minister Lisa Raitt.

Continued from page 20

are you're referring to?

"I am going to talk to my officials today, so I guess we'll watch for it. But you can look at the watch list and it's pretty much everything on the watch list is what I'm going to be asking for the department; of where the progress is, what has happened and what to we need to do to finish off and satisfy the Transportation Safety Board."

**Why is the rate of oil being transported by rail cars continuing to increase? And what is Transport Canada doing to help Canadian rail companies meet this demand and address safety?**

"So, as you know, in 2009, zero rail cars of oil moved in Canada and now I think it's about 170,000. [In 2013, there were around 128,000 carloads of crude oil shipped by rail in Canada.] But, shippers choose the mode of transportation they want to use. Shippers want to use pipelines but with capacity issues and distance issues, they then move to utilizing rail and tank cars. After Lac-Mégantic, the realization was the tank car was not appropriate and we've put a lot of energy into moving off the ones that really weren't appropriate for the moving of crude oil, and we've banned those 5,000, but, secondly, develop what the standard should be for new cars being built today and new cars that will be built in a couple of years and that's what we're working on with the United States, the kind of rail car.

"So that's the Transport Canada involvement. The other involvement is operating rules and regulations. One of the things out of Lac-Mégantic again was that for the transportation for dangerous goods that you have to have two operators, you can't have a single operator that you have to lock the train at night, simple things you would think. But, officials hadn't made them mandatory before and our government made them mandatory right now.

"Going forward, our goal is to ensure that there is safe transit of whatever dangerous good is moving on the rails. Operationally, the rail carriers have to move it and they have to comply with their rules and regulations and they have to do things safely. We want communities to have the right information so if there is an accident they can respond quickly, and that was part of the act [debated] yesterday [Monday].

"And then, the last piece is what we did in the act too is the liability, to make sure the polluter pays

and that they're carrying enough insurance, which is a lesson learned from Lac-Mégantic too, so that's where the government comes in. Some of the small short lines that carry dangerous goods are going to find this difficult, in terms of their sustainability, but we recognize and understand that and have decided that we will phase in the insurance requirements. But that being said, they still have to have them because it's important to be safe. And we're also saying that, above the insurance level, a shipper fund is available for cleanup costs and victims' costs and that makes sense too."

**Given the increasing rates of oil-by-rail transportation, and the increasing frequency in which derailments have been happening, is the timeline of retrofitting the current DOT-111's by 2017, and the eventual shifting to the TC-117 tank car by 2025, a fast enough pace to ensure safety on the tracks in the meantime?**

"So the derailments that happened in northern Ontario, we really put the focus on CN and their operation because Transportation Safety Board preliminary findings is that rail infrastructure failure, and that's for Transport Canada to ensure that CN is doing what it should be doing in terms of operating and will continue to do that.

"The second piece is, I think, that the level of rail moving in oil has actually maybe plateaued at this point in time, given what has happened economically in the oil field, in general. So we're seeing a bit of a plateau, but that doesn't mean that's not going to happen, that it's not going to increase again, it's a market issue.

"[We've] got to work with the United States on this because these cars go in and out of the United States a couple of times as they make it to their final destination just by nature of how goods move in the country. So we want to make sure that cars don't have to be stopped at the border, interchange, that kind of thing. It doesn't make any sense from a logistics point of view. And the relationship is very solid between us and the U.S., in terms of the TC-117; they have to go through their process. I fully respect their process, we have to go through ours, while we are aggressive in our timeline, last year we said three years, to go to CPC-1232's we want to maintain that risk-based stance on an aggressive analysis, meaning that you can't overnight snap your fingers and say everyone has to use the TC-117. That actually is not practically possible. But, you can say this is how you phase out the cars to the new standard, and this is how long it's going to take. That question of how long it's going to take is still being discussed with the United States. We want to match up as long as we can, but I am coming to the final piece, because time is running out in terms of being able to get things

into regulation. So again it'll be coming at some point in time in the near future. Best way to say it."

**Are annual medical checks for pilots enough? Following the crash of the Germanwings flight in the French Alps, you said Transport Canada officials are looking into other gaps here in Canada, like what?**

"I think what's really important to note is that we took care of the issues with respect to closing loopholes and helping pilots' health issues a number of years ago. We amended the Aeronautics Act to say that, first of all, a pilot has to tell their physician when they're a pilot and that they have a certificate for flight operations. The doctor has a positive obligation to report to Transport Canada any signs in the individual that may impact their ability to fly safely and that includes optometrists as well, too, so optometrists are included in that section of the act. So those are good things.

"With the awareness of mental health issues in Canada and on society, in general, physicians are really well-placed to find signs of stress, or see signs of mental health issues in their patients, they do it all the time. And you're specifically acutely aware of it when you're dealing with a pilot, because you know that there is a legal obligation on you to report it to Transport Canada, because the pilot has a very important job in terms of the safety of Canadians.

"So I'm very content with the system we have in place. The other thing, I talked to the chief medical officer of Transport Canada, who knew we had one, isn't that surprising? Anyway, I talked to him, Dr. David Salisbury [director of civil aviation medicine at Transport Canada] and he said the other thing we should know is that we have a finite population of pilots in the country and we have doctors who are specialists, if you will, in terms of dealing with pilots. So they understand them. And they know them and they know the kinds of personalities they are and they can look for these matters, and if anyone is in trouble, there are pathways to get treatment and help. We're open on that side to make sure that you can get the treatment and get back to flying.

"I think the gentleman in Germanwings was concerned about whether or not he would lose his licence and he hid so much about his life including his doctor's visits. That would not happen in Canada.

"And some people would argue with me and say well, how do the physicians know about these things? Well, that's their job and they're dedicated professionals, and they take an oath as well too and I know that the front line of medical professionals are excellent and they will ensure that people are flying safe through their reporting obligations. So I'm content with it."

**The aviation industry is calling on Transport Canada to respond to the rising rates of laser strikes over Canadian airspace. It's my understanding so far Transport Canada has indicated you're open to a public awareness campaign, is this a concrete commitment? And why not their other two asks, for the regulation of laser pointers and to make it a criminal offence? With the increase in the events reported, is this an indication that more needs to be done?**

"I know that there was a laser issue that happened at an airport very recently in Canada and the police tweeted out that they're looking for the individual who did it, and they took it very seriously and I re-tweeted it out, I don't know if that's the public awareness campaign they're looking for. That being said, I am more than happy to speak to this issue if I'm asked in the House of Commons, if aviation wants me to do awareness around it, that's fine as well too. I'm happy to do that and we'll set something up.

"We did that with drones. I launched a public awareness campaign about drones last fall and I think that's been beneficial, but the Aeronautics Act says \$100,000 maximum fine and up to five years in prison, or both. So there are penalties and I think it is important to let people know if they think they're joking around out there with a laser pointer, they can really cause some damage to a pilot and, as a result, put in peril the passengers on that plane.

"And if anyone witnesses someone aiming a laser pointer at a plane, individuals should report it to the local police. So, it's not a difficulty for police to lay charges with respect to this. They can find their way through. In terms of amending the Criminal Code, it's something that we'll take under advisement, that's more appropriate for the minister of Justice to talk about those kinds of things. But we've got some good penalties in there and we should discourage it for society as a whole.

"I didn't know they wanted me to do a public awareness campaign, but I'd be happy to do so. That's a no-brainer to talk about the dangers associated with it."

**As the review of the Canada Transportation Act continues, because you won't be extending the minimum shipment volume requirements for grain, does that mean the government has ruled out reforming legislation to include thresholds?**

"We did two things with the Fair Rail for Grain Farmers Act. One we set those thresholds and what we discovered was, under the CTA (Canada Transportation Act), the minister always has the power to intervene in the supply chain if it's in the public interest. And that was the tool we used last year, and we had to set up a special order in council to do it. What we entrenched in the act

though, was the ability to be able to do that without having to go through that whole process.

"So ministers can set what they think should be the carrying of grain for a certain year. Farmers and other shippers have made representations that they think that the government should go farther, and direct the rail to move certain cars in certain directions. That kind of discussion is happening with the CTA review and that's really where they have a better vantage point to see the bigger picture of transportation in Canada and determine if something like that will work.

"So, they've been asked to look at inter-switching, they've been asked to look at the movement of grain, the future of increased commodities, all those kinds of things, to put into the bigger picture of, 'What do we need to do to make sure we're ready?' Because we're signing free-trade agreements, we want increases in both imports and exports, as a result, and we have to make sure that the rail is ready to deal with it and it's not a case of an individual company like CN or CP being in the driver's seat in terms of picking which shipper is going to get to market that day and which shipper is not going to get to market that day.

"So, it's in that context, with that lens, that David Emerson's looking at the big picture. And don't forget though, you've got ports involved here, you've got the other commodities involved here, rail is involved, trucking, to an extent, is involved. So it's a big-picture look at it and that's why we've actually accelerated the CTA review by 18 months to deal with it now. Because we hit this wall, a wall of grain essentially, this huge amount available and it not moving. And it made everyone realize, 'Hmm, we should look at the supply chain in general since we're signing free trade deals.'

"I was really happy to get this going early. The timing is perfect, just perfect so I'm good with that."

**Is there anything else you'd like to mention?**

"You didn't ask about marine, so I'm going to tell you, we can't forget about marine because Canada's trade, international trade doesn't happen without ports. It's as simple as that. We're a bulk-trading nation but we're surrounded by water on all sides, except for what goes into the United States. We have excellent ports they are state of the art. They are professionally managed and they are ready to take the cargo that wants to move to other countries, and I think their future is extremely bright.

"I just met with the port CEOs this morning [Tuesday]. They're having a big roundtable, they rarely get together like this and they're all in one room at the Châteaueau Laurier and they're having discussions about what the future looks like and I think they're an integral part of our supply chain and in fact they are the terminus and they are the beginning because nothing comes into the country and nothing goes out of the country unless its through a port, so they have to operate efficiently as well too, so they're a big piece."

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# TRANSPORTATION POLICY BRIEFING

## RAIL SAFETY

# Opposition parties support feds' rail safety bill to boost ministerial oversight, shipper liability

As the government's railway safety bill heads into committee, Transport minister is optimistic it'll pass by June.

By RACHEL AIELLO

Both the NDP and Liberals have indicated they'll support Bill C-52, the Safe and Accountable Rail Act, considered to be the Conservatives' legislative response to the Lac-Mégantic derailment that killed 47 people in the small Quebec town in July 2013, as the legislation heads into committee for study.

After two days of second reading debate in the House last week, the House Transport, Infrastructure and Communities Committee will begin studying the legislation when MPs return from the two-week April break. The bill moved to committee without a recorded vote, because all parties were in agreement.

During the debate, NDP MP Hoang Mai (Brossard-La Prairie, Que.), his party's transport critic, signalled the official Opposition will be supporting the bill's swift passage through the House, something for which the bill's sponsor, Transport Minister Lisa Raitt (Halton, Ont.), says she is "grateful."

Bill C-52 amends the Canada Transportation Act and the Railway Safety Act, and its passing would fulfill the Conservatives' Throne Speech promise to increase liability insurance and enshrine in law the "polluter pays" regime.

The changes the bill proposes include requiring liable railways to carry enough insurance relative to the volume of dangerous goods they carry, and to guarantee adequate compensation for the affected communities when their company is found at fault for a derailment, spill or other rail accidents.

The range of insurance minimum coverage varies from \$25-million to \$1-billion depending on the quantity; this full amount will be required two years after the bill passes. In the first year, as a transition, rail companies will be required to carry half the amount of insurance.

It also introduces a compensation fund based on a \$1.65-per-barrel oil levy for shippers, with the intention of building a supplementary fund to pay for any damages incurred that exceed what a railway's insurance covers.

Under the Railway Safety Act, the Transportation minister and Transport Canada inspectors will get broader oversight powers to order changes or stop any activities deemed unsafe under the



Transport Minister Lisa Raitt, NDP MP Hoang Mai, Liberal MP David McGuinty, and Green Party Leader Elizabeth May. Both the NDP and Liberals have indicated they'll support Bill C-52, the Safe and Accountable Rail Act, considered to be the Conservatives' legislative response to the Lac-Mégantic derailment that killed 47 people in the small Quebec town in July 2013, as the legislation heads into committee for study. *The Hill Times* photographs by Jake Wright

safety management system. As well, it will implement increased information-sharing requirements for railway companies to share information with municipalities about what goods will be passing through their communities.

"I was very happy yesterday [Monday] that the NDP stood up and said they were going to support. That made it a lot easier for the progress of it. There's going to be a good debate around it but I do see it passing. This is something that we've been working on since the Lac-Mégantic tragedy," Ms. Raitt told *The Hill Times* last week. "I am optimistic that it'll go through and I am grateful for the support of the opposition."

Mr. Mai said the NDP is supporting the bill because it is a "step in the right direction."

The region's constituents and industry representatives that he has spoken to support the bill's new measures, he said in an interview, including the minimum insurance requirements and the creation of a levy to build funds for the victims of any potential future accidents. As well, neighbouring NDP MP Pierre-Luc Dusseault (Sherbrooke, Que.) rose in the House during debate on March 31 and said that he's heard from people in the area that they want the companies responsible for the incidents to be responsible for the costs associated.

Deciding to get onside with the government in pushing this bill forward is significant considering Quebec is a key political base for the NDP, but Mr. Mai said they still have questions for the government about some portions of the bill that they would like to see clarified or amended. For instance, the NDP would like to see the fund all railways shipping dangerous goods pitch into become unlimited. Currently, the cap is set at \$250-million, but Mr. Mai pointed out that the total cost for the Lac-Mégantic disaster was \$400-million.

"They are saying it is a step forward but again there is lots more that we can do," he said.

Mr. Mai also said Bill C-52 responds to the concerns voiced by numerous Quebec mayors around reimbursing municipalities for the first responder expenses they incurred in dealing with a disaster of this kind.

Ms. Raitt said the transportation safety file isn't one that is treated politically.

"This isn't an ideology. Everyone is on the same side as safety and these are measures that have been asked for by communities and measures that have been asked for by railways as well, so this makes a lot of sense. There may be criticisms about us not going too far, which is what I'm hearing from the NDP, but it's not

criticizing what we've done so far, so that's a good piece," she said.

As the House Transport Committee gears up to begin hearing from witnesses on the bill, Mr. Mai, a co-chair, said it will work to balance hearing what the experts have to say with getting the bill through committee and continuing its path to passage before the House rises in June.

At this point, he said no firm time has been carved out to study Bill C-52, nor have they decided on the official witness list, but the NDP has been speaking with experts about next steps. Mr. Mai said those are likely to include seeking clarification from the government on certain parts of the bill and possible amendments to do with the additional regulatory powers, as well as the number of inspectors assigned by Transport Canada to enforce the new rules.

Liberal transportation critic and fellow committee co-chair David McGuinty (Ottawa South, Ont.) was unavailable for comment as he was in Vietnam alongside other MPs for Inter-Parliamentary Union meetings in Hanoi, but his office said they are supporting the bill going forward, and would be considering amendments once they've heard from the experts.

In the House, Liberal MPs made no clear comment on the

merits or downfalls of the bill.

During the two days of debate in the House on March 30 and March 31, urban affairs critic Adam Vaughan (Trinity-Spadina, Ont.) and deputy Liberal House leader Kevin Lamoureux (Winnipeg North, M.B.) instead focused on raising questions over the government's infrastructure spending on rail leveling, and arguing that the increased oil-by-rail traffic could be negated by approving pipelines.

"The amount of oil, gas and other cargo that is transported all over Canada concerns a great number of Canadians. ... Does the member recognize that if we could get that social contract to build pipelines, we could ease the pressure from our rail lines, and all Canadians would benefit by that? Could the member at the very least acknowledge that there is some value to transport some of this product through pipelines?" asked Mr. Lamoureux during an exchange with NDP MP Charlie Angus (Timmins-James Bay, Ont.).

Green Party Leader Elizabeth May (Saanich-Gulf Islands, B.C.) said she "commended the steps that have been taken" during the House debate, but isn't convinced that enough has been done yet.

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## TRANSPORTATION POLICY BRIEFING

## TRANSPORT COMMITTEE

# House Transport Committee's report will help strengthen transportation safety in Canada, says Miller

Another piece of legislation that will be coming before the committee this session is Bill C-52, the Safe and Accountable Rail Act that the minister of Transportation recently brought before the House of Commons.



CONSERVATIVE MP  
LARRY MILLER

Over the past year, the Standing Committee on Transportation, Infrastructure, and Com-

munities has been working hard to complete a comprehensive study of transportation safety in Canada. I would like to take this opportunity to recognize the important work that the committee has conducted in carrying out this study as well as highlight some of the work the committee is looking forward to for the remainder of the current session of Parliament.

Following the tragic accident in Lac-Mégantic in July of 2013, the minister of Transportation appeared before the committee and requested that the committee undertake an in-depth review of the Canadian transportation safety regime with a specific focus on the transportation of dangerous goods and the role of safety management systems across all modes of transportation.

The committee began the study with a review of transportation of dangerous goods and safety management systems in the rail sector and was able to complete an interim report titled Interim Report on Rail Safety Review that I was pleased to table

in the House of Commons in June of 2014. The committee then completed similar reviews in relation to the air, road and marine modes of transportation.

During the study, the committee met with more than 50 different witnesses over the course of 40 meetings including, industry representatives, shippers, regulators, union representatives, academics, representatives of municipal governments, and more. I would like to thank all of the witnesses who took the time to appear before the committee and to offer their important insights on these issues. There was certainly a good balance of opinion on these issues and these opinions are reflected in the final report.

Overall, the committee completed a final report with 10 recommendations that will strengthen transportation safety in Canada. I was pleased to be able to table the final report titled, "Review of the Canadian Transportation Safety Regime: Transportation of Dangerous Goods and Safety Management Systems" in March of 2015. I would like to thank all

members of the committee, all other Members of Parliament, and witnesses who took part in this review. It was certainly a very productive study and I am sure this report will enhance transportation safety in Canada across all modes of transportation.

Most recently, the committee has conducted a study of Bill C-627 which is a private member's bill that has been put forward by Conservative MP Joyce Bateman, MP for Winnipeg South Centre, Man. I am pleased that the committee has worked efficiently to review this important piece of legislation.

Another piece of legislation that will be coming before the committee this session is Bill C-52 the Safe and Accountable Rail Act that the minister of Transportation recently brought before the House of Commons. This legislation will establish minimum insurance levels for railway companies as well as a supplementary, shipper-financed compensation fund to cover damages resulting from railway accidents involving the

transportation of dangerous goods. I would like to note that this was a topic of concern when the committee was conducting its review of the transportation safety regime. In the final report, the committee recommended that Transport Canada implement a comprehensive reform of the liability and compensation regime for rail to ensure that victims and their families obtain the compensation they deserve, that the polluter-pays principle is upheld, and that taxpayers are not forced to pay for compensation, remediation and reconstruction costs in the event of a rail disaster. Therefore, as chair of the committee, I am pleased to see that the minister has introduced this important legislation and I look forward to reviewing Bill C-52 with stakeholders when it is brought before the committee.

I would like to thank you for the opportunity to provide you with an update on some of the recent and future business of the Standing Committee on Transportation, Infrastructure and Communities. I am very pleased with the recent work that the committee has conducted in relation to transportation safety and I look forward to working on future measures to improve the Canadian transportation safety regime.

Conservative MP Larry Miller, who represents Bruce-Grey-Owen Sound, Ont., is chair of the House Committee on Transportation, Infrastructure and Communities. [news@hilltimes.com](mailto:news@hilltimes.com)

## RAILWAY SAFETY

## Railway safety: a disconcerting lack of regulatory oversight

Successive Liberal and Conservative governments have relegated the necessary audits, spot-checks and rigorous enforcements needed to uphold basic safety standards to the back seat, choosing instead to implement a system of self-inspection and self-regulation.



NDP MP HOANG MAI

Ottawa's handling of railway safety over the years can be qualified as simply "disconcerting." The first job of any government is to ensure the safety of its citizens, but successive Liberal and Conservative governments

have relegated the necessary audits, spot-checks and rigorous enforcements needed to uphold basic safety standards to the back seat, choosing instead to implement a system of self-inspection and self-regulation.

It took the death of 47 people and the devastation of the town of Lac-Mégantic on July 6, 2013 for Canadians to realize just how truly broken our system of oversight really is. In its 2014 report into the deadly train derailment, the Transportation Safety Board (TSB) slammed the government for neglecting to enforce its own safety requirements and for failing to ensure safety breaches were fixed.

Measures taken by the government after the tragedy raised even more questions. Last year, Transport Minister Lisa Raitt told companies that they had three years to phase out the older Class 111 tank cars (also known as DOT-111) at the center of the Lac-Mégantic disaster and to replace them with new DOT-111 cars compliant with the CPC-1232 standard.

However, recent derailments in Northern Ontario and in Gogama,

which saw multiple carloads of crude oil explode and spill out into the Mattagami River have shown—a fact the TSB has confirmed—that even the CPC-1232 standard is not safe. Last month, the minister announced new standards (TC-117) for tank cars and gave railway companies until 2025 to upgrade their fleet. That is almost 30 years after the TSB first warned the government that the DOT-111 cars were unsafe and prone to punctures.

And it's not just a question of tank cars—Canadians are worried about the state of our railway infrastructure. According to a preliminary report by the TSB, rail infrastructure failures may have been involved in all three recent train accidents in Northern Ontario. The weight of heavily-loaded crude oil tank cars seem to be causing increased pressure on the tracks, thereby making them more susceptible to failure.

At a time when the number of carloads carrying crude oil is skyrocketing, the NDP has been asking the government to provide the necessary resources

to Transport Canada so that it has the needed number of inspectors and auditors to fulfill its oversight function. Unfortunately, the Conservatives' response so far has been to follow up with more budget cuts.

Indeed, the Rail Safety Directorate, the agency responsible for developing and implementing safety policies, regulations and services, as well as administering Canada's railway legislation, saw its budget shrink by almost 19 per cent from 2010 to 2015.

The NDP has called for more inspections, along with random and periodic checks, but the Conservatives' response so far has been farcical. In 2013, the year of the Lac-Mégantic disaster, there were 116 railway inspectors. For 2015, that number has only risen to 117. That's one additional inspector.

The reality is that this system of self-regulation and self-inspection with minimal governmental oversight clearly does not work. It is the government's duty to make sure that security measures are respected by the rail industry. And it's the government's duty to encourage a culture of safety across all modes

of transportation by doing everything it can to identify the risks that remain and minimize them by upholding the highest standards.

This means the government must immediately implement necessary changes, which include a comprehensive review of existing legislation; it must strengthen regulations; increase inspections of companies and improve audits of safety-management systems.

The NDP has asked the government to establish an independent public inquiry into the transportation of dangerous goods by rail, to address unanswered questions and to better understand the failures leading to the disaster of Lac-Mégantic. We must do everything in our power to ensure that such a tragedy never happens again.

Canadians expect its government to pursue justice, not just for the victims of the Lac-Mégantic disaster, but for the Canadian public as a whole. This can only be done through its dedication to transparency and accountability of its own actions, and by bringing the full extent of the law upon those who violate safety regulations and who put Canadians at risk.

It's time the federal government stops taking a reactionary position to rail safety and steps up to ensure Canadians' safety.

NDP MP Hoang Mai, who represents Brossard-La Prairie, Que., is his party's transport critic.

# TRANSPORTATION POLICY BRIEFING

## RAIL SAFETY

# Make rail safety a priority: McGuinty

Canadians continue to be deeply concerned about rail safety, and rightly so.



LIBERAL MP DAVID MCGUINTY

There is no greater responsibility of a government than to keep its citizens safe. Canadians continue to be deeply concerned about rail safety, and rightly so.

Even after the terrible Lac-Mégantic tragedy, which claimed the lives of 47 Canadians, the government has failed to take adequate steps to improve rail safety. The introduction of Bill C-52, up for debate in the House of Commons this week, is part of an ongoing piecemeal approach to rail safety by the Conservatives.

Bill C-52 amends the Canada Transportation Act to strengthen the liability and compensation regime for federally regulated railway companies by establishing minimum insurance levels for railway companies and a supplementary, shipper-financed com-

pensation fund to cover damages resulting from railway accidents involving the transportation of certain dangerous goods.

Although this bill does not go nearly far enough to protect Canadians, it does contain some measures that the Liberal caucus has been calling for.

The facts are very clear. Transport Canada's rail safety division is understaffed, underfunded and undertrained. It has been a victim of the revolving door of Conservative ministers: five ministers in nine years. At a time when Transport Canada has a lot of catching up to do, its budget was slashed by \$202-million (11 per cent) in the main estimates.

These cuts follow a scathing auditor general report, which noted, among other things, that the government only performed 26 per cent of the planned audits that Transport Canada said was needed to keep rail safe in Canada. At this pace, it will take many years before the department audits all key components of safety management systems.

VIA Rail, for example, which carries 4.5 million passengers a year, had not been audited at all in the three year period covered by the Auditor General's report, and likely not since then. Canadians find this unacceptable.



The facts are very clear, writes Liberal MP David McGuinty. Transport Canada's rail safety division is understaffed, underfunded, and undertrained. It has been a victim of the revolving door of Conservative ministers: five ministers in nine years. At a time when Transport Canada has a lot of catching up to do, its budget was slashed by \$202-million (11 per cent) in the main estimates including today's Transport Minister Lisa Raitt, and former ministers Lawrence Cannon, Chuck Strahl, John Baird, and Denis Lebel. *The Hill Times* photographs by Jake Wright

The report also revealed that the government does not have enough inspectors and system auditors to carry out critical safety functions. When I asked Transport Minister Lisa Raitt in committee in March 2015, the minister reported only hiring one additional inspector, bringing the total to 117 from 116.

Canadians are afraid. In March 2015, a train carrying dangerous goods was on fire for an entire weekend here in Ontario. Thankfully, this accident occurred outside a populated area or the outcome could have been much,

much worse. However, the environmental damage is still being surveyed and may be extensive. This accident was not an isolated incident; in the last two months there have been three serious derailments in Ontario alone.

The Transportation Safety Board said in February that the Conservatives' new rail standards do not go far enough and these recent accidents support this claim. The TSB has also been clear about the immediate need to remove the oldest, least-safe tank cars from service. The government's timelines for the phase-

out of the old, unsafe tank cars are unrealistic and they know it. In fact, almost exactly one year ago, on March 27, 2014, representatives from a major Canadian manufacturer of tank cars came before the Standing Committee on Transport, Infrastructure and Communities and testified that these timelines are unachievable.

Canadians need to understand that governments make choices. It is important for governments to get the big things right; transportation safety is one of those big things.

It's time for the Conservatives to make rail safety a priority in Canada. As I have said in committee many times, to find a government's true priorities you have to follow the money. The numbers are discouraging. The Conservative government spent \$42-million last year on Economic Action Plan advertising, but only \$34-million on rail safety.

The Liberal caucus will continue to pressure the government to make rail safety a priority. Canada was unified by rail and many of us continue to live near the same rail lines that built this country. It is the government's responsibility to ensure the safety of Canadians who live near railway tracks and those who operate the railways.

Liberal MP David McGuinty, who represents Ottawa South, Ont., is his party's critic for Transport, Infrastructure and Communities.  
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## TRANSPORTING CRUDE OIL

# Getting the big picture right: regulating rail transportation of crude oil after the Lac-Mégantic disaster

So why have we heard only about rules and nothing about guiding principles for regulation?



JENNIFER QUAID

This July will mark the second anniversary since the terrible derailment and explosion in the town centre of Lac-Mégantic, Qué. At the time, promises were made to investigate and understand the causes of the event and since then, a number of laudable and long overdue regulatory changes have been adopted in the sincere hope of preventing similar catastrophic events. Without questioning the good intentions be-

hind them, the regulatory responses seem to continue a worrying trend of reactive regulation that lacks a unifying focus. This matters because the plethora of amendments and new rules will not produce the changes we need to address the real problem at the heart of Lac-Mégantic—that transportation of crude oil by rail is a process that requires systemic coordination in order to be done safely. In my view, appropriately addressing what happened in Lac-Mégantic (and in subsequent, thankfully non-fatal derailments earlier this month) requires a mindset anchored in the recognition that railways are complex systems directed at the ultimate purpose of providing an efficient and cost-effective service.

There is nothing particularly surprising in this observation. The Transportation Safety Board's voluminous report which contains a detailed analysis of the 18 principal causes of the disaster explicitly recognizes the interconnectedness of the different parts of a railway system, as well as how these are linked to other constituencies, including governments. The TSB's many

recommendations are clearly a blueprint for addressing these multiple contributing causes in a coherent and comprehensive way. Unfortunately, even a cursory assessment of the regulatory follow up to the TSB report is at best mixed. Some of the specific recommendations, like the requirement to use reinforced tanker cars to transport volatile crude oil, were acted upon fairly quickly, though with long implementation periods. Others, like physical defenses to prevent runaway trains, have yet to be addressed other than to say that the regulator is studying how best to proceed.

While one may argue that the piecemeal approach is practical, given political constraints, it is problematic in that it creates an illusion of progress by generating talk about the numerous (rather small in scale) rule changes, when the larger issues of coordination remain unsolved. The recent derailments in Northern Ontario are an example: the new reinforced tanker cars on the train were insufficient, on their own, to prevent rupture and explosions of the volatile contents. Now everyone

is talking about the importance of track maintenance. There is also an acknowledgement that perhaps the dangerously volatile qualities thought to be limited to Bakken crude apply also to crude from the oil sands. One could add that these derailments did not involve an insufficiently insured railway that was in financial trouble (and for this reason cut corners it should not have).

This focus on incremental rules, without more, is an ineffective way to regulate an industry like rail transport. Not only does it miss the big systemic picture, it is also typically a retrospective exercise, designed to solve the problems of the past. Of course individual rules are ultimately needed to codify norms and set standards. But they need to be part of an architecture that holds them together in a coherent way that is also sufficiently flexible to provide for new circumstances. This kind of durable architecture has to be grounded on a solid foundation in the form of an overarching vision of the ultimate goals of the regulation. It is this overall purpose that enables system-wide expectations, responsi-

bilities and outcomes to be set.

So why have we heard only about rules and nothing about guiding principles for regulation? After all, at one level, the goal of regulation can be stated quite simply—to ensure a safe and efficient railway system in Canada. But here is the catch—no system of regulation can eliminate all risk. This stated goal therefore implies a social and political compromise that few want to make explicit. Any regulation must strike a balance between competing values: safety—especially the protection of workers and communities located close to railways—and economic development of industries and regions that depend on the availability of transport by rail. This is a trade-off that we do not like to contemplate—one that opposes lives and livelihoods. And yet, if we want to live up to the promise of addressing the not only the causes of Lac-Mégantic, but those of the next—as yet unknown—potential disaster, we must have a frank discussion about how far we are prepared to go to further that end, knowing that we can neither foresee every risk of disaster, not even prevent all of those of which we are aware. Only with these outer boundaries set can we begin to talk about what concrete measures are needed to achieve these goals.

Jennifer Quaid is an assistant professor in the Civil Law Section of the Faculty of Law at the University of Ottawa where she teaches criminal law, corporate law and competition law.

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