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Government of Canada introduces legislation to strengthen rail safety and accountability
Changes include minimum insurance requirements, levies for crude oil shippers, and enhanced oversight and information-sharing.

OTTAWA, Feb. 20, 2015 /CNW/ - The Honourable Lisa Raitt, Minister of Transport, today introduced legislation in the House of Commons that will enhance railway safety and make the rail industry and crude oil shippers more accountable to Canadians. The new Safe and Accountable Rail Act proposes amendments to the *Canada Transportation Act* and *Railway Safety Act*. Changes include a new liability and compensation regime for federally regulated railways, including minimum insurance requirements; a compensation fund financed by levies on crude oil shippers; increased information-sharing provisions; and stronger oversight powers for the Minister and Transport Canada inspectors.

The new liability and compensation regime will be consistent with those the Government has introduced for other modes of transport, such as marine tankers and oil pipelines. It is based on the "polluter pays" principle and makes railways and shippers responsible for the cost of accidents, protecting taxpayers and communities by ensuring that adequate resources are available for compensation if an accident were to occur.

Proposed amendments to the *Railway Safety Act* will broaden the powers of the Minister and inspectors to order railway companies and others to take specified measures or stop any activity deemed necessary for safe railway operations. The proposed amendments will also create new regulation-making powers requiring railway companies to share information with municipalities. These changes are part of the Government's commitment to strengthen oversight and increase collaboration between communities and the rail industry, addressing issues raised in the Transportation Safety Board's final report on the Lac-Mégantic derailment as well as concerns of the Federation of Canadian Municipalities.

The Minister also announced the new *Railway Safety Management System (SMS) Regulations, 2015*. SMS Regulations require companies to develop and implement a formal framework that integrates safety into their day-to-day operations. The new regulations will help address recommendations made in the November 2013 Auditor General's report, and will reflect over 10 years of lessons learned in providing oversight of railway safety management systems. The new SMS Regulations will be published in *Canada Gazette*, Part II on February 25, 2015, and will come into effect on April 1, 2015.

Quick Facts

- Proposed amendments to the *Railway Safety Act* provide the Minister with the authority to issue a Ministerial Order requiring a company to take corrective measures if it is believed to be implementing its SMS in a way that could compromise railway safety.
- Federal railway companies must obtain and maintain legislated minimum levels of

insurance based on the type and volume of dangerous goods they carry. Minimum insurance levels will vary from \$25 million for no or low quantities of dangerous goods up to a maximum of \$1 billion for substantial quantities.

- Shippers of crude oil will be required to pay a levy per tonne of crude oil shipped to build up a supplementary fund to pay for damages exceeding a railway's minimum insurance level if an accident involving crude oil occurs.

Quote

"The Government of Canada continues to make the safety and security of Canadians a top priority. This new legislation will improve railway safety and strengthen oversight while protecting taxpayers and making industry more accountable to communities."

The Honourable Lisa Raitt, Minister of Transport

Associated Links

- [News release: Minister Raitt announces steps to further strengthen railway safety](#)
 - [Backgrounder : Government of Canada introduces legislation to strengthen rail safety and accountability](#)
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 - [Backgrounder : Government of Canada enhances railway safety; makes execs accountable, empowers employees to report concerns](#)
 - [News release: Government of Canada acts to better protect communities and taxpayers in the event of rail accidents](#)
 - [Railway Safety Management System Regulations](#)
 - <http://www.tc.gc.ca/media/documents/railsafety/SMS-Regulations.pdf>
- Please contact railsafety@tc.gc.ca to obtain alternative formats of this document.

Backgrounder

Government of Canada enhances railway safety; makes execs accountable, empowers employees to report concerns

The Government is introducing new *Railway Safety Management System (SMS) Regulations* for federally-regulated railways. This responds to recommendations in the Transportation Safety Board's final report on the Lac-Mégantic derailment and in the fall 2013 Auditor General's report on rail safety.

In 2001, SMS Regulations came into force under the Railway Safety Act (RSA). These Regulations require railway companies to implement and maintain a safety management system that integrates safety into their day-to-day operations.

In 2008, the RSA Review Panel and the Standing Committee on Transport, Infrastructure and Communities made several recommendations to improve SMS implementation in the rail industry. On May 1, 2013, the RSA amendments came into force, requiring revisions to the 2001 SMS Regulations.

In August 2014, the Transportation Safety Board released its final report on the Lac-Mégantic derailment. One of the TSB's recommendations was that "Transport Canada must take a more hands-on role when it comes to railways' safety management systems—making sure not just that they exist, but that they are working and that they are effective". The *Railway Safety Management System Regulations, 2015* repeal and replace the 2001 Regulations. They apply to both federally regulated railway companies and local railways

operating on federally regulated track. Changes and new requirements include:

- Federally regulated railway companies and local companies operating on federal main track will have to appoint an executive to be accountable for SMS and responsible for the operations and activities of the company;
- Railway companies must establish policies and procedures so that employees may report safety contraventions and hazards to the company without fear of reprisal;
- Railway companies must apply the principles of fatigue science to their employee scheduling processes;

The *Safety Management System Regulations, 2015* will be published in the *Canada Gazette, Part II*, on February 25, 2015, and will come into force on April 1, 2015.

Backgrounder

Government of Canada introduces legislation to strengthen rail safety and accountability

Greater oversight authorities for Minister and Transport Canada Inspectors

To further address issues raised by the Lac-Mégantic derailment and to respond to recommendations in the Auditor General of Canada's fall 2013 report, the Government is proposing amendments to the *Railway Safety Act* to strengthen oversight, with a focus on communities, accountability, safety management systems and authorities.

Amendments will:

- Give the Minister the power to order corrective measures if she or he believes a company is applying its safety management system in a way that compromises railway safety. This new authority would encourage companies to more effectively manage the risks that exist in railway operations.
- Strengthen the Minister's authority to give orders to take corrective action. The *Railway Safety Act* currently allows the Minister to order railway companies to take corrective actions in the case of an immediate threat to safety. Under the new legislation, the Minister could order any responsible party to take specified corrective action or to stop any activity in the interests of safe railway operations.
- Allow Transport Canada inspectors to issue Notices as well as Notices and Orders to any person responsible for creating a threat to the safety or security of railway operations, as well as in the case of an immediate threat, to order measures to mitigate the threat.

Other changes include:

- New regulation-making powers that can require companies to share information on railway operation safety with municipalities. This reflects the Government's efforts to increase collaboration between communities and the rail industry, and addresses the Federation of Canadian Municipalities' recommendations.
- Amendments that will allow the Canadian Transport Agency to order a railway company to reimburse a province or municipality for costs incurred while responding to an incident demonstrated to have been caused by the company's operations.

Backgrounder

Minister Raitt introduces legislation to strengthen railway safety and accountability

Under the Safe and Accountable Rail Act, the Government of Canada has introduced

amendments to the *Canada Transportation Act* that will protect taxpayers from covering the cost of damages in the event of a major rail accident. The amendments, which fulfill a 2013 Speech from the Throne commitment, will provide for enhanced third-party liability insurance for federally regulated railways, as well as a supplementary compensation fund financed by shippers of crude oil.

Under this new regime:

- The Canadian Transportation Agency (CTA) will assign railways to legislated minimum levels of insurance based on the type and volume of dangerous goods they transport. Railways will have to demonstrate coverage before the CTA would issue the Certificate of Fitness they need to operate. Minimum insurance levels would vary by type and quantity of crude oil or dangerous goods transported. For example, if a railway moves no crude oil, but between 4,000 and 50,000 tonnes of toxic inhalation hazards, it will require \$250 million in insurance:

Table of Minimum Liability Insurance Coverage (volumes expressed in tonnes per year)

Minimum required insurance	Crude oil	Toxic inhalation hazard	All other types of dangerous goods
\$25M	0	0	< 40,000
\$100M	> 0 - < 100,000	> 0 - < 4,000	≥ 40,000
\$250M	100,000 – < 1.5 million	4,000 – < 50,000	–
\$1B	≥ 1.5 million	≥ 50,000	–

These legislated insurance levels are the result of analysis of rail accident cost data and the potential severity of accidents involving certain types of dangerous goods.

- To address concerns that some short line railways may have difficulty absorbing the costs of the minimum insurance requirements, the \$100 million and \$250 million levels will be phased in over time. Initial insurance requirements corresponding to half of the full amount will come into force 12 months after the bill receives Royal Assent. The full levels will be implemented a year later by the Governor in Council. Railways requiring either \$25 million or \$1 billion are not expected to need more time to adjust, so those levels would take effect immediately after the legislation comes into force.
- Railways must maintain their liability insurance coverage and inform the CTA immediately of any operational changes that may affect their coverage. The CTA could apply administrative monetary penalties of up to \$100,000 per violation if railways do not comply.

Amendments will also:

- Create a supplementary shipper-financed fund to be used in the event of a railway accident involving crude oil. Shippers of crude oil would have to pay \$1.65 per tonne of crude oil.

- Hold railways involved in crude oil accidents liable for damages up to the amount of their minimum insurance requirement without needing to prove fault or negligence. This provides greater certainty of compensation to accident victims.
- Continue to cover accidents involving dangerous goods other than crude oil within the fault/negligence-based system, with enhanced coverage for victims through increased insurance levels. Other dangerous goods could be included in the supplementary compensation fund as circumstances and levels of risk evolve.

SOURCE Transport Canada

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