LIBRARY of PARLIAMENT
BIBLIOTHÈQUE du PARLEMENT

LEGISLATIVE SUMMARY

Bill S-4:
Safer Railways Act

Publication No. 41-1-S4-E
1 November 2011

Kristen Courtney
Dean Ruffilli

Industry, Infrastructure and Resources Division
Parliamentary Information and Research Service

Legislative Summary of Bill S-4

HTML and PDF versions of this publication are available on IntraParl (the parliamentary intranet) and on the Parliament of Canada website.

In the electronic versions, a number of the endnote entries contain hyperlinks to referenced resources.

Ce document est également publié en français.

Library of Parliament ***Legislative Summaries*** summarize government bills currently before Parliament and provide background about them in an objective and impartial manner. They are prepared by the Parliamentary Information and Research Service, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations. Legislative Summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Publication No. 41-1-S4-E
Ottawa, Canada, Library of Parliament (2011)

CONTENTS

LEGISLATIVE SUMMARY OF BILL S-4: SAFER RAILWAYS ACT*

1 BACKGROUND

On 6 October 2011, Bill S-4, An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act (short title: Safer Railways Act) was introduced in the Senate by the Leader of the Government in the Senate, the Honourable Marjory LeBreton. Bill S-4 is virtually identical to Bill C-33, which was introduced in the House of Commons during the 3rd Session of the 40th Parliament. Bill C-33 was studied by the House of Commons Standing Committee on Transport, Infrastructure and Communities and was reported back to the House of Commons with amendments on 11 March 2011. It died on the *Order Paper* when the general election was called on 26 March 2011.

The text of Bill S-4 incorporates the amendments adopted by the Standing Committee and otherwise differs from Bill C-33 only in the addition of one new paragraph and in some minor wording changes included for clarification.

The *Railway Safety Act* was implemented in 1989. It sets out a regulatory framework to address, for railways under federal jurisdiction, matters of safety, security and environmental impact. Transport Canada notes in the backgrounder attached to its news release on Bill S-4 that the Canadian rail industry has changed significantly since the Act was amended in 1999: operations have become increasingly complex, and traffic is growing rapidly.[1]

The department points out that, in February 2007, the Minister of Transport, Infrastructure and Communities launched a full review of the operation and efficiency of the *Railway Safety Act* through an independent advisory panel. According to the department, the findings indicated that although the *Railway Safety Act* is fundamentally sound and efforts have been made to improve rail safety, more needs to be done. The advisory panel's final report, *Stronger Ties: A Shared Commitment to Railway Safety*, published in November 2007, included 56 recommendations for the improvement of rail safety, some of which require legislative changes to the *Railway Safety Act*.[2]

A study of rail safety was also carried out by the Standing Committee on Transport, Infrastructure and Communities, which issued its own report in May 2008.[3] It included 14 additional recommendations, many building on the recommendations from the *Railway Safety Act* review.

In a backgrounder on Bill S-4, the department notes: "The Government of Canada agrees with the findings of both reports, and is implementing the recommendations and amending the *Railway Safety Act* to further improve rail safety in Canada."[4]

The department also points out that it has established a framework to respond to the recommendations of both the advisory panel and the Standing Committee that do not involve legislative amendments. The department notes that this framework includes

the Advisory Council on Railway Safety, and the Transport Canada–industry–union steering committee and working groups, which it says have developed action plans to implement the recommendations.

1.1 HIGHLIGHTS

The highlights of the bill are that it:

- establishes, directly in the *Railway Safety Act*, jurisdiction over the application of the Act to federally regulated railways, rather than making reference to Part III (railway transportation) of the *Canada Transportation Act*, as is currently the case;
- introduces a number of definitions in the Act that are crucial to understanding the application of certain new amendments, including those pertaining to railway rules, the level of railway safety and human fatigue science;
- clarifies the authority and responsibilities of the Minister of Transport with respect to railway matters, including safety and security;
- expands the application of the provisions regarding rules in the *Railway Safety Act* so that they apply not only to companies operating federally regulated railways, as is currently the case, but also to local railway companies operating railway equipment on such railways;
- improves the oversight capacity of the Department of Transport by requiring a railway operating certificate (ROC) in order for a person to operate or maintain a federally regulated railway and also to operate railway equipment on such a railway;
- implements non-punitive confidential reporting to the Transportation Safety Board or Transport Canada by railway company employees;
- provides for regulation-making powers for the establishment by railway companies of safety management systems that include, among other things, the identification of an executive who is legally responsible for safety, and whistle-blower protection for employees of railway companies who raise safety concerns;
- generally strengthens regulation-making authorities throughout the Act; and
- strengthens the department’s enforcement powers by introducing administrative monetary penalties and by increasing judicial penalties.

2 DESCRIPTION AND ANALYSIS

A number of amendments to the *Railway Safety Act* that appear in Bill S-4 modify the English or French versions of the Act only, presumably to ensure consistency between the two languages. No mention is made of those amendments in the following description and analysis.

2.1 Application of the Act, and Objectives, Interpretation and Coordination Agreements

2.1.1 Application of the Act (Clause 2)

Section 2(2) of the *Railway Safety Act* currently provides that the Act applies in respect of transport by railway, to which Part III of the *Canada Transportation Act* applies. Section 88 of the latter states that Part III applies to all persons, railway companies and railways within the legislative authority of Parliament.

Clause 2 replaces the current section 2(2) of the *Railway Safety Act* with new sections 2(2) and 2(3). Instead of referring to the *Canada Transportation Act*, new section 2(2) establishes jurisdiction directly in the *Railway Safety Act*. It expressly provides that the Act applies in respect of railways within the legislative authority of Parliament.

New section 2(3) excepts from the application of the Act those railways referred to in (a) section 16 of the *Harbour Commissions Act* (railways within the boundaries of a harbour on lands owned by or within the jurisdiction of a harbour commission); and (b) section 29 of the *Canada Marine Act* (railways on lands a port authority manages, holds or occupies), except to the extent provided by regulations made under section 29(2) of that Act (which permits the Governor in Council to make regulations applying any provision of the *Railway Safety Act* and its regulations to such a railway).

2.1.2 Objectives (Clause 3)

The objectives of the *Railway Safety Act* are set out in section 3 of the Act. Clause 3 amends section 3 to add the words “and security” each time the objectives refer to safety. In addition, one of the current objectives is to “recognize the responsibility of *railway companies* in ensuring the safety of their operations” [authors’ emphasis] That objective is changed to “recognize the responsibility of *companies* to demonstrate, by using safety management systems and other means at their disposal, that they continuously manage risks related to safety matters” [authors’ emphasis] The significance of the use of the broader term “companies” in the provision, instead of “railway companies,” becomes apparent in clause 4(2), where a new definition for the term “company” is added, along with a number of other terms, for the purposes of the Act.

Clause 3 also adds a new section, 3.1, setting out the Minister of Transport’s responsibilities with regard to railway safety. According to this section, the Minister is responsible for the development and regulation of matters to which the Act applies, including safety and security, and for the supervision of all matters connected with railways. In the discharge of those responsibilities, the Minister may:

- promote railway safety and security by any appropriate means;
- provide facilities and services for the collection, publication or dissemination of information;

- undertake, or cooperate in, projects, technical research, study or investigation;
- inspect, examine and report on activities related to railway matters; and
- undertake other activities that he or she considers appropriate or as directed by the Governor in Council.

2.1.3 INTERPRETATION (CLAUSE 4)

Clause 4(2) of the bill introduces new definitions in section 4 of the Act for the terms "company," "local railway company," "railway" and "railway company." As will be seen, these definitions are important to understanding many of the amendments to the Act.

At present, the *Railway Safety Act* is linked in two sections to the *Canada Transportation Act*. Section 2(2) provides that the *Railway Safety Act* "applies in respect of transport by railways to which Part III of the *Canada Transportation Act* applies," and section 4(2) states that "[u]nless otherwise provided, words and expressions used in this Act have the same meaning as in Part III of the *Canada Transportation Act*."

Although the term "railway company" is found in the *Railway Safety Act*, no definition of the term is provided in the Act itself. Therefore, one must look to the definition of the term contained in Part III (railway transportation) of the *Canada Transportation Act*. The latter generally defines a "railway company" in section 87, for the purposes of Part III, to be a company that holds a certificate of fitness issued under section 92 of that Act. The Canadian Transportation Agency, an independent agency at arm's length from the Transport ministry, issues a certificate of fitness when it is satisfied that a company proposing to construct or operate a railway under federal jurisdiction has adequate liability insurance coverage. The effect of this is that the application of the *Railway Safety Act* is currently limited to railway companies holding a certificate of fitness issued by the Canadian Transportation Agency.

Clauses 4(2) and 4(3) of the bill simplify the above by repealing section 4(2) of the Act, and copying the definition of a "railway" verbatim from section 87 of the *Canada Transportation Act*, adding it to section 4 of the *Railway Safety Act* as follows:

> "railway" means a railway within the legislative authority of Parliament and includes:
>
> (*a*) branches, extensions, sidings, railway bridges, tunnels, stations, depots, wharfs, rolling stock, equipment, stores or other things connected with the railway; and
>
> (*b*) communications or signalling systems and related facilities and equipment used for railway purposes.

Clause 4(2) also adds to section 4 a definition of a "railway company" as a company that constructs, operates or maintains a federally regulated railway (with the effect that the application of the *Railway Safety Act* to a railway company is no longer contingent on the company's holding a certificate of fitness).

The bill also defines a "company" as a "railway company" or a "local railway company," the latter being a person, other than a railway company or an agent of a railway company, that operates railway equipment on a federally regulated railway.

When studying Bill C-33 during the 40th Parliament, the House of Commons Standing Committee on Transport, Infrastructure and Communities recommended that clause 4 be amended to add two other new definitions. Clause 4(2) of Bill S-4 takes this proposed amendment into account by adding to section 4 of the *Railway Safety Act* definitions of "highest level of safety" (meaning the lowest acceptable level of risk as demonstrated by a risk management analysis) and "fatigue science" (meaning a scientifically based, data-driven and systematic method used to measure and manage human fatigue).

Clause 4(3) repeals section 4(2), mentioned earlier, which provided that if the *Railway Safety Act* does not contain a definition of a term, then the definition set out in Part III (railway transportation) of the *Canada Transportation Act* is to be used. This means that a reference is no longer necessary as the new definitions are incorporated into the *Railway Safety Act* itself.

Section 4(5) concerns the filing or sending of notices or documents under the *Railway Safety Act*. Currently, a notice or document must be sent to an individual by personal service or registered mail to the person's latest known address. Clause 4(4) adds fax transmissions or any electronic or other means approved in writing by the Minister as acceptable methods of service. In the case of a corporation, a notice or other document must be sent either by fax or other approved electronic means, or by registered mail to the corporation's head office or any other office designated by the Minister.

2.1.4 Inconsistencies with Operating Agreements (Clause 5)

Clause 5 adds a new section, 4.1, to the *Railway Safety Act* to provide that the Act and all regulations, rules, certificates, orders, exemptions and emergency directives under the Act prevail over the provisions of any agreement or order allowing a company to operate equipment on a railway if there is any inconsistency between them.

2.1.5 Coordination Agreements (Clauses 6, 39, 40, 41 and 42)

Section 6 of the *Railway Safety Act* currently authorizes the Minister to enter into agreements with the Canadian Transportation Agency providing for, among other things, the coordination of the activities of the Department of Transport and the Canadian Transportation Agency relating to the construction, alteration, operation or maintenance of railway works and equipment. In consultation with the Agency, the Minister must take any necessary action to ensure that the terms of the agreement are disclosed to any railway company or other person likely to be affected by it. Clause 6 adds another matter that may be the subject of such an agreement – the coordination of the activities of the Department and the Agency in determining whether a person is constructing, operating or maintaining a railway.

At present, some provinces have entered into agreements or memoranda of understanding with Transport Canada, in particular to obtain inspection and other services under their safety framework from railway safety inspectors designated under the *Railway Safety Act*. The legislative authority for such agreements was found not in the *Railway Safety Act* itself, but instead in section 157.1 of Part III of the *Canada Transportation Act*. Such agreements fall under the heading "Agreements to apply transportation law to provincial railways." The bill moves the railway safety aspect of such agreements to the *Railway Safety Act* itself.

Clause 6 adds new section 6.1(1) to permit the Minister of Transport to enter into an agreement with a provincial transport minister to provide for the administration, in relation to provincially operated railways, of any law respecting (a) railway safety and security and the safety aspects of railway crossings; or (b) matters relating to the protection of the environment to which the *Railway Safety Act* applies.

New section 6.1(2) provides the Minister of Transport with the authority, previously found in section 157.1 of the *Canada Transportation Act*, to designate any body established under a federal statute, or any person or class of persons employed in the federal public administration, to administer the law in accordance with the agreement. Likewise, as under section 157.1(3) of the *Canada Transportation Act*, new section 6.1(3) empowers the designated body, person or class of persons to perform any duty and exercise any power necessary for the enforcement of the law.

As well, clause 6 of the bill adds section 6.2 to the Act to permit the Minister to enter into an agreement with a provincial authority to authorize the latter to regulate the matters referred to in new section 6.1(1) in relation to a federally regulated railway in the same manner and to the same extent as it may regulate a railway within the authority's jurisdiction (i.e., a provincially regulated railway). The legal basis for such an agreement with respect to railway safety matters is currently found in section 158 of the *Canada Transportation Act*.

Accordingly, clauses 39 and 40 of the bill make consequential amendments to sections 157.1 and 158 of the *Canada Transportation Act* respectively to delete railway safety from the matters that agreements under those provisions can cover.

As well, clause 41 is a transitional provision that provides that an agreement currently entered into or a designation currently made under section 157.1 of the *Canada Transportation Act* continues in force in respect of any matter referred to in new section 6.1 of the *Railway Safety Act* until it is replaced by an agreement entered into under new section 6.1.

Clause 42, too, is a transitional provision (which was not present in Bill C-33) that provides that an agreement previously entered into under section 158 of the *Canada Transportation Act* continues in force in respect of any matter referred to in new section 6.2 of the *Railway Safety Act* until it is replaced by an agreement entered into under the new section.

2.2 Amendments to Part I of the Act – Construction or Alteration of Railway Works

2.2.1 Engineering Standards and Principles (Clauses 7 and 8)

Section 7(2) of the *Railway Safety Act* empowers the Minister to require, by order, a federally regulated railway company to formulate or revise engineering standards regarding prescribed matters and to file them with the Minister for approval. Section 7(2.1) also requires a railway company to seek the Minister's approval of any engineering standards in respect of prescribed matters that it proposes to formulate or revise on its own initiative.

Section 7(3) provides that sections 19(4) to 19(11) (concerning the filing of rules by a railway company as ordered by the Minister) also apply to engineering standards referred to in sections 7(2) and 7(2.1), with such modifications that the circumstances require, and without regard to the references to relevant associations or organizations.

Clause 7(2) of the bill amends section 7(3) to provide that new section 19 (concerning rules) and regulations made under new section 20.2 (concerning the process for the formulation or revision of rules applicable to "companies" as now defined in the Act) apply in relation to engineering standards referred to in sections 7(2) and 7(2.1), with any modifications that the circumstances require and without regard to any obligation to consult.

Section 11 of the Act currently states that various aspects of railway work, including design, construction, evaluation and alteration, must be done in accordance with sound engineering principles. Clause 8 of the bill adds the maintenance of railway works to the above list. In the course of its review of Bill C-33 during the 40th Parliament, the Standing Committee on Transport, Infrastructure and Communities amended clause 8 of the bill to specify in section 11(1) of the *Railway Safety Act* that the list of railway work that must comply with engineering principles is not exhaustive. In addition, the Standing Committee added new section 11(2), which provides that all engineering work relating to railway works must be approved by a professional engineer.

2.3 Amendments to Part II of the Act – Operation and Maintenance of Railway Works and Equipment

2.3.1 Prohibitions – Railway Operating Certificate (Clauses 10, 11, 43 and 44)

Clause 10 adds new section 17.1 to the *Railway Safety Act*. Section 17.1(1) prohibits a person from operating or maintaining a federally regulated railway, or operating railway equipment on such a railway, without a ROC. This is a new requirement introduced into the Act. According to new section 17.1(2), the above prohibition does not apply to a person exempted under new section 17.9(1)(*c*) of the Act, which provides authority for regulations exempting any class of persons from the application of that section.

Clause 11 includes two versions of section 17.2, which are being proclaimed in force one after the other. Clause 11(1) adds sections 17.2 and 17.3 to the Act. New section 17.2 prohibits a railway company from operating or maintaining a federally regulated railway, including any railway work or railway equipment, and a local railway company from operating railway equipment on such a railway, otherwise than in accordance with the regulations and with the rules made in respect of the company under sections 19 or 20, except to the extent that the company is exempt from their application under section 22 or section 22.1.

New section 17.3 generally prohibits a person responsible for the maintenance of a crossing from maintaining it otherwise than in accordance with the regulations made under section 18. An exception is provided where the person is exempted under section 22 or 22.1 from the application of those regulations (in relation to the maintenance of that crossing).

Clause 11(2) replaces proposed section 17.2 with another provision prohibiting a railway company from operating or maintaining a federally regulated railway, including any railway work or railway equipment, and a local railway company from operating railway equipment on such a railway, except in accordance with a ROC *and* – except to the extent that the company is exempt from their application under section 22 or 22.1 – with the regulations and with the rules made under sections 19 and 20 that apply to the company. In other words, the main difference between section 17.2 as proposed in clause 11(1) and as proposed in clause 11(2) is that, in the latter case, there is also a requirement for a ROC.

Clauses 43 and 44 provide for transitional provisions relating to new sections 17.1 and 17.2. According to clause 43, for a period ending two years after the day on which clause 10 (enacting new section 17.1) comes into force, new section 17.1 (requiring a ROC) does not apply to a company that was operating a federally regulated railway on that day or was operating railway equipment on such a railway on that day.

Similarly, clause 44 provides for a transitional provision relating to the replacement provision for new section 17.2. For a period ending two years after the day on which the replacement provision (clause 11(2)) comes into force, the requirement to comply with a ROC imposed by that provision does not apply to a company that has no ROC and was operating or maintaining a federally regulated railway on that day or was operating railway equipment on such a railway on that day.

In other words, the effect of new section 17.2 and the transitional provision is to require railway companies to conduct their operations in accordance with the rules and regulations (with this taking effect as soon as clause 11(1) is proclaimed in force). As it may take some time for the Department to develop the regulations necessary to implement a ROC system, it is possible that clause 11(2) will not be proclaimed in force at the same time as the other provisions in the bill. However, once clause 11(2) is proclaimed in force, then the second section 17.2 will replace the first one, and railway companies will be subject to the additional requirement of complying with a ROC. However, even after clause 11(2) comes into force, there is a two-year grace period to allow already operating railway companies time to obtain a ROC.

2.3.2 Railway Operating Certificate (Clause 12)

Clause 12 adds new sections 17.4 to 17.9, concerning ROCs, to the Act.

2.3.2.1 Issuance

New section 17.4(1) requires the Minister to issue a ROC authorizing a person to operate and maintain a (federally regulated) railway, or to operate railway equipment on such a railway, if the Minister is satisfied that the prescribed conditions for obtaining one have been met. A ROC may contain any terms and conditions that the Minister considers appropriate (new section 17.4(2)). The Minister may, on application by a "company" (defined as either a federally regulated railway company or a "local railway company," meaning a person other than a "railway company" or an agent of a railway company that operates railway equipment on a federally regulated railway) vary the

terms and conditions of the company's ROC (new section 17.4(3)). A decision by the Minister on whether to issue or vary a ROC must be made as expeditiously as possible and within 120 days after receipt of the application unless the applicant agrees otherwise (new section 17.4(4)).

2.3.2.2 Suspension or Cancellation

The Minister may suspend or cancel a company's ROC if the company has (a) ceased to meet any of the prescribed conditions for obtaining the certificate; (b) contravened any provision of the Act or the regulations or any rule, order, standard or emergency directive made under the Act; or (c) requested its suspension or cancellation (new section 17.4(5)).

2.3.2.3 Request for Review

Proposed section 17.5(1) requires the Minister to notify the affected person or company of any decision made under sections 17.4(1), (3) or (5). According to new section 17.5(2), the notice of decision must specify the grounds of the Minister's decision, along with the address at which, and the date by which, the person may file a request for a review of the decision. (This date must be no more than 30 days after the notice is sent.) Proposed section 17.5(3) stipulates that the effective date of a decision is the day on which the notice is received by the person or company unless the notice specifies a later date.

A person or a company affected by a decision of the Minister may file with the Transportation Appeal Tribunal of Canada a written request for a review of the decision (new section 17.6(1)). This request must be made on or before the date specified in the notice under new section 17.5 or within any further time that the Tribunal on application allows. A request for review of a decision under section 17.4(5) does not operate as a stay of the decision (new section 17.6(2)).

On application in writing by the party affected by a decision made under section 17.4(5), after giving any notice to the Minister that is, in the member's opinion, necessary, and after considering any representations made by the parties, a member of the Tribunal assigned for the purpose may grant a stay of the decision until the review is completed, if he or she is of the view that granting a stay would not constitute a threat to railway safety (new section 17.6(3)).

2.3.2.4 Review Procedure

On receipt of a request for review, the Tribunal must set a time and place for the review and must notify, in writing, the Minister and the person who filed the request (new section 17.7(1)). The member of the Tribunal assigned to conduct the review must provide the Minister and the person who filed the request with an opportunity consistent with procedural fairness and natural justice to present evidence and make representations (new section 17.7(2)). The member may confirm the Minister's decision or refer the matter back to the Minister for reconsideration (new section 17.7(3)). If a decision concerning a suspension or cancellation of a company's ROC by the Minister is referred back to the Minister, the Minister's decision remains in effect until the

reconsideration is concluded. However, after considering representations made by the parties, the member may grant a stay of the decision until the reconsideration is concluded, if he or she is satisfied that granting a stay would not constitute a threat to railway safety (new section 17.7(4)).

2.3.2.5 Right of Appeal

Within 30 days after a determination under new section 17.7(3) by a member of the Tribunal, the person or company affected may appeal it to the Tribunal (new section 17.8(1)). A request for an appeal of a decision concerning a suspension or cancellation of a company's ROC by the Minister does not operate as a stay of the decision (new section 17.8(2)). On written application by the person or company affected by such a decision, after giving any notice to the Minister that is, in the member's opinion, necessary, and after considering any representations made by the parties, a member of the Tribunal may grant a stay of the decision until the appeal is completed, if he or she is satisfied that granting a stay would not constitute a threat to railway safety (new section 17.8(3)).

A person or company that does not appear at a review hearing cannot appeal a determination, unless sufficient reason is established to justify the absence (new section 17.8(4)). The appeal panel of the Tribunal may dismiss the appeal or refer the matter back to the Minister for reconsideration (new section 17.8(5)). If a decision concerning a suspension or cancellation of a company's ROC by the Minister is referred back to the Minister for reconsideration, the Minister's decision remains in effect until the reconsideration is concluded. However, the appeal panel, after hearing any representations made by the parties, may grant a stay of the decision until a reconsideration is concluded, if it is satisfied that granting a stay would not constitute a threat to railway safety (new section 17.8(6)).

2.3.2.6 Regulations

New section 17.9(1) authorizes the Governor in Council to make regulations (a) respecting conditions to be met for the issuance of ROCs; (b) respecting the form and content of applications for ROCs and the process for obtaining a certificate or a variation of one; and (c) exempting any class of persons from the requirement under new section 17.1 of obtaining an ROC in order to operate or maintain a federally regulated railway, or to operate railway equipment on a railway. A regulation pursuant to the above may be general or applicable to a group or class of persons or companies (new section 17.9(2)).

2.3.3 Regulations Respecting the Operation and Maintenance of Railway Works, etc. (Clause 13)

Sections 18(1) and 18(2.1) empower the Governor in Council to make regulations regarding, among other things:

- the operation or maintenance of "line works" as defined in the Act;
- the design, construction, alteration, operation and maintenance of railway equipment;

- various matters relating to the training and working conditions of railway employees, to the extent that they pertain to safe railway operations; and
- the security of railway transportation.

In addition, section 18(2) authorizes the Governor in Council to make regulations respecting crossing works.

Clause 13 expands the power of the Governor in Council to make regulations in section 18(1) to include regulations respecting the prevention and control of fires on railway works. It also adds a new section, 18(2.2), to provide that a regulation made under section 18 may be general or applicable to a group or class of persons or companies.

2.3.4 RULES (CLAUSES 14 AND 45)

Part II of the *Railway Safety Act*, entitled *Operation and Maintenance of Railway Works and Equipment*, currently contains the following regulatory mechanisms: regulations, as referred to above (section 18); rules developed by a railway company on its own initiative (section 20); rules developed by a railway company pursuant to a ministerial order (section 19(1)); and rules established by the Minister (section 19(7)).[5]

The steps involved when a railway company proposes rules on its own initiative are set out in section 20. Generally, a railway can seek the Minister's approval for rules that it proposes to formulate or revise respecting any of the matters referred to in sections 18(1) and 18(2.1) (employee training and licensing, hours of work and rest periods, the security of railway transportation, etc.).

In addition, the Minister of Transport may order a railway company to formulate rules regarding any of those same matters or to revise its rules respecting the matter, and within a specified period, to file the formulated or revised rules with the Minister for approval (section 19(1)).

The Minister may also, himself or herself, establish rules in respect of a railway company if (a) the railway company fails to file rules where, pursuant to section 19(1), it has been ordered to do so by the Minister; or (b) if the Minister rejects the rules filed by the railway company (section 19(7)). All rules, except those formulated by the Minister himself or herself, involve a ministerial approval process and all require consultation with relevant associations and organizations, including unions.

In establishing government-mandated or railway-initiated rules applicable to a particular railway company, the Minister must, to the extent that it is reasonable and practicable to do so, ensure that the rules are uniform with rules dealing with like matters and applying to other railway companies (section 21).

Both the Governor in Council and the Minister of Transport can allow exemptions from rules. Under section 22(1), the Governor in Council may, *by order*, exempt a railway company, specified railway equipment or a railway work from the application of specified regulations made under sections 18(1) or 18(2.1) or of rules in force under sections 19

or 20. There is no procedure for applying for such an exemption and no criteria binding the Governor in Council regarding it, in contrast with the ministerial power to exempt, which can only be exercised if, "in the opinion of the Minister, the exemption is in the public interest and is not likely to threaten safe railway operations" (section 22(7)). Under section 22(2), the Minister may, *by notice*, on such terms and conditions specified in the notice, make the exemption. Under sections 22(4) and 22(5), a railway company may apply to the Minister for the exemption, but only if it has first consulted with any affected associations or organizations.

In addition, there is currently a right to an automatic temporary exemption for testing relating to rail transportation unless there are objections, in which case the Minister must make a decision as to whether the exemption threatens safety (section 22.1). These provisions are amended by the bill, as will be explained below.

If the Governor in Council makes regulations respecting any of the matters referred to in sections 18(1) or 18(2.1) that are inconsistent with rules approved in relation to a particular company by the Minister under sections 19 or 20, those rules are revoked to the extent of the inconsistency (section 18(3)).

The current provisions concerning rules apply to "railway companies." As previously noted, that term is not currently defined in the *Railway Safety Act*, and so by virtue of section 4(4) of that Act, one must look to Part III (railway transportation) of the *Canada Transportation Act*, where the term is generally defined to mean a company holding a certificate of fitness issued by the Canadian Transportation Agency. The Agency issues a certificate of fitness when it is satisfied that a company proposing to construct or operate a railway under federal jurisdiction has adequate liability insurance. Also, as previously noted, Bill S-4 proposes to include a definition of a "railway company" for purposes of the *Railway Safety Act* within the Act itself. It defines a "railway company" as a person that constructs, operates or maintains a "railway," meaning a railway within the legislative authority of Parliament. As well, reference was made earlier to definitions now being introduced into the Act for a "company," meaning a "railway company" or a "local railway company."

The Advisory Panel for the *Railway Safety Act* Review noted that, currently, many provincial railways use federal railway tracks owned by CN or CP. By contractual agreement with the owners of the track, the provincial railway is obliged to follow federal operating rules while running on federal track. However, if the rules are violated, Transport Canada does not take direct enforcement action against the provincial railway, as it does not currently have authority to do so. This is because the provisions of the Act governing operating rules apply only to "railway companies," and the definition of a "railway company" is limited to railways under federal jurisdiction. Instead, the department brings any enforcement action against the track owners (that is, CN or CP), holding them responsible for the actions of the local railway company using their track. The Advisory Panel noted: "This awkward enforcement practice does not provide for optimum accountability and transparency and may become more problematic if additional enforcement powers, such as administrative monetary penalties, are added to the *Railway Safety Act*."[6]

Accordingly, clause 14(1) replaces current sections 19 to 22.1 of the *Railway Safety Act* with new sections 19 to 22.1. These new provisions generally mirror the current provisions governing operating rules, but they now apply to "companies" (defined to include local railway companies that operate equipment on federally regulated railways) as opposed to "railway companies" alone (limited to those under federal jurisdiction). As well, a couple of new provisions are being added.

In the case of federally regulated railway companies, the new provisions governing operating rules maintain the current requirement for consultation with relevant associations or organizations (including unions) likely to be affected by the implementation of the rules. However, the new provisions require, in the case of rules being formulated or revised for a local railway company operating railway equipment on a federal railway, that the railway company on whose track the local railway company operates also be consulted.

Sections 20.1 and 20.2 in clause 14(1) are new. Section 20.1 permits a third party to act for and on behalf of a "company" in all matters pertaining to the formulation or revision of rules or standards in new sections 7, 19 and 20.

Section 20.2(1) enables the Governor in Council to make regulations regarding the process for formulating or revising rules applicable to "companies" (as now defined in the Act) and for the amendment of their terms and conditions. According to section 20.2(2), such regulations may be general or applicable to a group or class of companies.

Clause 14(1) also makes certain changes to section 22.1, which concerns a railway company that proposes to conduct testing relating to railway transportation, or that requires an immediate exemption of short duration from the application of specified standards, regulations and rules under the Act. Currently, the exemption is for any period the company considers necessary. This is changed to a period of up to six months.

In addition, under this provision a local railway company must now file a notice with the Minister and with the railway company on whose track the company is operating equipment and that is likely to be affected by the exemption. Federally regulated companies were already required to file a notice with the Minister and with each relevant association or organization likely to be affected by the exemption. Each of the relevant parties may object by filing its objection with the Minister and the company within 14 days after the notice is filed.

According to new section 22.1(4), the Minister may:

- within 21 days after the filing of an objection, confirm the objection if he or she decides that the exemption threatens safety (new section 22.1(4)(*a*));
- within 21 days after the filing of an objection or within 35 days after receiving notice, impose terms and conditions on the exemption that the Minister considers appropriate, if he or she is of the opinion that the exemption without terms and conditions is not in the public interest or is likely to threaten safety (new section 22.1(4)(*b*)); or

- within 35 days after receiving the notice, deny the exemption if the Minister is of the opinion that the exemption is not in the public interest or is likely to threaten safety (new section 22.1(4)(*c*)).

Proposed section 22.1(5) provides that an exemption is effective if:

- the company receives a response from the Minister and each of those associations and organizations or the railway company, as the case may be, indicating that they do not object to the exemption;
- no objections are confirmed by the Minister under new section 22.1(4)(*a*);
- the Minister, instead of making or confirming an objection, imposes terms and conditions under new section 22.1(4)(*b*) and the company complies with the terms and conditions; or
- the Minister does not deny the exemption under new section 22.1(4)(*c*).

According to clause 45(2), on the day on which the first regulations made under new section 20.2 come into force, clauses 14(2) to 14(5) will replace some of the provisions in new sections 19 to 22.1 that clause 14(1) enacts. The purpose of the subsequent replacement of affected provisions is generally to ensure compliance with the relevant regulations regarding rules once they are in force but to impose statutory requirements regarding rules in the meantime. The affected provisions are noted below.

New sections 19(2) and 19(3) concern a company formulating rules as ordered by the Minister. New section 19(2) concerns consultations with the relevant parties, and new section 19(3) requires companies to, by notice filed with the rules, identify the relevant parties consulted and attach a copy of any objection made on the grounds of safety. Clause 14(2) replaces those provisions with another provision (new section 19(2)), which requires a company to comply with the regulations made under new section 20.2 in the formulation and filing of its rules.

New sections 19(4) to 19(4.2) concern procedures to be followed when a company files rules with the Minister when required to do so by order of the Minister. As in the case of new sections 19(2) and 19(3), new sections 19(4) to 19(4.2) are to be replaced by new provisions to ensure compliance with regulations made under new section 20.2 (clause 14(3)).

New section 19(8)(*a*) prohibits the Minister from establishing rules applying to a company unless the Minister has, among other things, given to that company, during a period of 60 days, a reasonable opportunity for consultation with the Minister. Clause 14(4) amends the provision to also give the opportunity to consult with the Minister to each person that the company would be required to consult concerning rules formulated following an order made by the Minister under new section 19.1.

New sections 20(2) and 20(3) concern the procedure to be followed when a company files with the Minister for approval rules that it proposes to formulate or revise on its own initiative. Clause 14(5) replaces those provisions with a new provision, section 20(2), which requires a company to comply with the regulations made under new section 20.2 in the formulation and revision of its rules.

2.3.5 Repeal of Section 23 (Clause 15)

Clause 15 repeals current section 23 of the *Railway Safety Act* regarding (a) the operation and maintenance of railway works and railway equipment in accordance with the regulations made under section 18 or the rules in force under sections 19 or 20; and (b) the maintenance of crossing works in accordance with the regulations made under section 18. These matters are covered elsewhere in the bill.

2.4 Amendments to Part III of the Act – Non-railway Operations Affecting Railway Safety

2.4.1 Regulations (Clause 16)

Section 24(1) currently enables the Governor in Council to make regulations regarding the matters specified in the section including, in paragraph (*f*), regulations for restricting or preventing access to the land on which a line of railway is situated by persons (other than servants or agents of the railway company concerned), vehicles, or animals, where their presence on that land would constitute a threat to safe railway operations. This provision is amended by clause 16 of the bill to except from its application, in addition to employees or agents of the railway company concerned, employees or agents of the local railway company authorized to operate railway equipment on the railway.

2.5 Amendments to Part IV of the Act – Administration and Enforcement

2.5.1 Railway Safety Inspectors and Screening Officers (Clauses 19 and 20)

Section 27(1) empowers the Minister to designate qualified persons as railway safety inspectors or screening officers for purposes of the Act. Currently, in the case of a railway safety inspector, the Minister must *designate* the matters in respect of which the person may exercise the powers of a railway safety inspector. Clause 19 amends the section to provide that the Minister must *determine* the matters in respect of which, *and the restrictions or conditions under which*, the person may exercise the powers of a railway safety inspector or a screening officer.

Clause 19 also adds a new section 27(1.1) to provide that, when carrying out powers and duties under the Act, a person designated as a railway safety inspector or a screening officer under section 27(1) is considered to be acting for and on behalf of the Minister.

Section 28(1), concerning a railway safety inspector's powers, makes reference in paragraph (*a*) to the inspector's having the power to enter a place (other than a private dwelling-place) where activities are carried on that relate to "the operation of a railway, including railway equipment." Clause 20 amends that provision to refer to a place (other than a private dwelling-place) where activities are carried on that relate to "the operation *or maintenance* of a railway, or the operation of railway equipment" [authors' emphasis].

2.5.2 Railway Safety Inspectors' Orders Concerning Use of Railway Works or Equipment (Clause 21)

Clause 21(3) amends sections 31(1) and 31(3) (regarding the inspector's sending notice forbidding or restricting the operation of unsafe railway works or equipment) to refer to notice being sent to a "company" as opposed to a "railway company," as is currently the case. In other words, the provision now also covers local railway companies that operate railway equipment on federally regulated railways.

Similarly, clause 21(4) amends sections 31(6) and 31(7) (regarding orders concerning the use or railway works or equipment) to make reference to a notice being sent to a "company" as opposed to a "railway company," as is currently the case.

2.5.3 Ministerial Orders (Clause 24)

Sections 32 to 32.5 concern ministerial orders regarding unauthorized or improperly maintained railway works.

Section 32(3.1) currently authorizes the Minister, if he or she is of the opinion that a safety management system established by a *railway company* has deficiencies that risk compromising railway safety, to order the company to take the necessary corrective measures. Clause 24 changes the reference to a "railway company" to a "company" so that the provision also covers local railway companies that operate railway equipment on federal railways.

2.5.4 Emergency Directives (Clause 27)

Section 33 concerning emergency directives currently applies only to railway companies under federal jurisdiction. Clause 27 of the bill amends section 33 of the Act so that the references in the section to "railway company" are changed to "company," to now capture both railway companies under federal jurisdiction and local railway companies operating railway equipment on federal railways.

2.5.5 Other Information Requirements (Clause 30)

Clause 30 adds new section 36 to the *Railway Safety Act*, enabling the Minister to order that a "company" (as now defined in the Act) provide, within the specified period, information that he or she considers necessary for compliance with the Act and the regulations, rules, orders, standards and emergency directives made under the Act.

Clause 30 also amends current section 37 regarding regulation-making powers of the Governor in Council concerning the maintenance of safety records of railway companies. Section 37 becomes section 37(1) and any references to a "railway company" are changed to a "company." In addition, clause 30 adds section 37(2) to provide that a regulation made pursuant to section 37 may be general or applicable to a group of companies.

2.5.6 Administrative Monetary Penalties (Clause 31)

Clause 31 adds new sections 40.1 to 40.22 regarding administrative monetary penalties to the Act.

2.5.6.1 Designation of Provisions

New section 40.1 enables the Governor in Council to, by regulation, (a) designate as a provision the contravention of which may be proceeded with as a violation in accordance with new sections 40.13 to 40.22, any provision of the Act or regulations or any rule, standard, order or emergency directive made under the Act; and (b) prescribe the maximum amount payable for each violation – $50,000 in the case of an individual, and $250,000 in the case of a corporation.

2.5.6.2 Designation as Enforcement Officers

New section 40.11(1) authorizes the Minister to designate persons or classes of persons as enforcement officers. Designated enforcement officers must receive an authorization in prescribed form and must, on demand, present it to any person from whom he or she requests information in the course of his or her duties (new section 40.11(2)).

2.5.6.3 Powers of Enforcement Officers

For purposes of determining whether a violation referred to in new section 40.13 has occurred, an enforcement officer may enter any place, other than a private dwelling-place, where activities are carried on that relate to the construction or operation of a railway or the operation of railway equipment (new section 40.11(3)). In such a case, the enforcement officer may require any person to produce for examination all or part of any document or electronically stored data that the enforcement officer believes contains relevant information (new section 40.11(4)).

2.5.6.4 Violations

The Minister may establish the form and content of notices of violation (new section 40.12).

Every person who contravenes a provision designated under new section 40.1 commits a violation and is liable to a penalty not exceeding the maximum amount prescribed in that provision (new section 40.13). A violation that is committed or continued on more than one day constitutes a separate violation for each day (new section 40.13(2)). If a contravention of a provision designated under new section 40.1 may be proceeded with as a violation or an offence, proceeding with it in one manner precludes proceeding in the other (new section 40.13(3)). A violation is not an offence, and accordingly section 126 of the *Criminal Code* (regarding disobeying a federal statute without lawful excuse) does not apply (new section 40.13(4)).

When an enforcement officer believes on reasonable grounds that a person has committed a violation, he or she may serve on the person a notice of violation that sets out the penalty and particulars concerning the time for and manner of paying the penalty and the procedure for requesting a review (new section 40.14).

If a person served with a notice of violation pays the amount specified in the notice, the Minister must accept that amount as complete satisfaction of the penalty, and no further proceedings under the *Railway Safety Act* can be taken (new section 40.15).

2.5.6.5 Review

A person served with a notice of violation that wishes to have the facts of the alleged contravention or the amount of the penalty reviewed must, on or before the date specified in the notice, or within such further time that the Transportation Appeal Tribunal of Canada on application may allow, file a written request with the Tribunal for a review (new section 40.16(1)). On receipt of such a request, the Tribunal must appoint a time and place for the review and notify the Minister and the party involved (new section 40.16(2)). The member of the Tribunal assigned to conduct the review must provide the Minister and the person that filed the request with an opportunity to present evidence and make representations (new section 40.16(3)). The burden of proof is on the Minister to establish that a person committed a violation (new section 40.16(4)). A person alleged to have committed a violation is not required to give evidence (new section 40.16(5)).

A person that fails to pay the penalty specified in a notice of violation within the specified time, and that does not file a request for a review, is deemed to have committed the contravention alleged in the notice (new section 40.17).

At the conclusion of a review, the member of the Tribunal who conducted it must, without delay, inform the Minister and the person alleged to have committed a violation that (a) the person has not committed a violation, in which case, subject to new section 40.19, no further proceedings under the Act may be taken against the person; or (b) the person has committed a violation and, subject to any regulations made under section 40.1, of the amount that must be paid to the Tribunal by the person and the time within which it must be paid (new section 40.18).

2.5.6.6 Appeal

Within 30 days after a determination is made under new section 40.18, the Minister or a person to whom it applies may appeal to the Tribunal (new section 40.19(1)). A party that does not appear at a review hearing is not entitled to appeal a determination, unless they establish that there was sufficient reason to justify their absence (new section 40.19(2)). The appeal panel may either dismiss the appeal or allow it and, in allowing it, may substitute its decision (new section 40.19(3)). If the appeal panel finds that a person has committed a violation, the panel must without delay inform the person and the Minister of the finding and, subject to any regulations made pursuant to section 40.1, of the amount determined by the panel to be paid to the Tribunal by the person in respect of the violation (new section 40.19(4)).

2.5.6.7 Certificates

The Minister may obtain from the Tribunal or the member of the Tribunal (as the case may be) a certificate in the form established by the Governor in Council setting out the amount of the penalty required to be paid by a person who fails, within the time

required, (a) to pay the amount of the penalty set out in a notice of violation or to file a request for a review under new section 40.16; (b) to pay an amount determined under new section 40.18(*b*) or file an appeal under new section 40.19; or (c) to pay an amount determined under new section 40.19(4).

A certificate issued under new section 40.2 must be registered in a superior court and, when so registered, has the same effect, and proceedings may be taken in connection with it, as if it were a judgment obtained by the federal Crown against the person named in the certificate for a debt of the amount set out in the certificate (new section 40.21(1)). All reasonable costs and charges occurring as a result of the registration of the certificate are recoverable as if they had been certified and the certificate had been registered under the above provision (new section 40.21(2)). An amount received by the Minister or the Tribunal under new section 40.21 is deemed to be public money within the meaning of the *Financial Administration Act* (new section 40.21(3)).

2.5.6.8 Time Limit for Proceedings

Proceedings in respect of a violation must be instituted within 12 months of the time when the subject matter of the proceedings arose (new section 40.22).

2.5.7 Offences (Clause 32)

2.5.7.1 Contravention of a Provision of the Act

Clause 32(1) amends section 41(1) of the Act, which sets out the penalties on conviction on indictment and on summary conviction for a person who contravenes a provision of the Act. Clause 32 increases those penalties as follows. In the case of a corporation found guilty of an offence on indictment, the maximum monetary penalty is increased from $200,000 to $1,000,000 and, in the case of an individual, is increased from $10,000 to $50,000. In the case of a corporation found guilty of an offence on summary conviction, the maximum fine is increased from $100,000 to $500,000 and, in the case of an individual, from $5,000 to $25,000.

2.5.7.2 Contravention of Regulations, Orders, etc.

Section 41(2) makes it a summary conviction offence to contravene specified regulations, orders, rules, etc., under the *Railway Safety Act*. Clause 32(2) adds to that list the contravention of a ROC issued under new section 17.4, and the contravention of an order made under new section 36 (regarding the Minister's power to require information).

Clause 32(3) increases the maximum monetary penalty set out in section 41(2.1) for persons who contravene section 41(2). In the case of a corporation, the maximum monetary penalty (on summary conviction) is increased from $100,000 to $1,000,000 and, in the case of an individual, from $5,000 to $50,000.

2.6 Amendments to Part V of the Act – Miscellaneous Provisions

2.6.1 Statutory Instruments (Clause 35)

Section 46 sets out a list of orders, emergency directives, etc., that are not considered to be statutory instruments for purposes of the *Statutory Instruments Act*. Clause 35 adds to that list ROCs issued under new section 17.4, notices of decision under new section 17.5, and orders made under new section 36.

2.6.2 General Regulations (Clause 37)

Clause 37 replaces the current section 47.1 of the *Railway Safety Act* with new sections 47.1 and 47.2.

Current section 47.1(1) empowers the Governor in Council to make regulations respecting the development and implementation of safety management systems by railway companies, including the criteria to which such systems must conform. The bill replaces this provision with much more detailed regulation-making powers respecting safety management systems. New section 47.1(1) enables the Governor in Council to make regulations respecting safety management systems, including:

- the establishment by "companies" (as now defined in the Act) of safety management systems that include:
  - the identification of an executive who is (a) responsible for operations and activities of a "company" and (b) accountable for the extent to which the requirements of the safety management system have been met;
  - the implementation of the remedial action required to maintain the highest level of safety;
  - the continuous monitoring and regular assessment of the level of safety achieved;
  - in the case of a federally regulated railway company, the implementation of non-punitive internal reporting by employees of contraventions of the *Railway Safety Act* or of any regulations, rules, orders, etc., under the Act, or of other safety concerns;
  - the implementation of non-punitive confidential reporting to the Transportation Safety Board or Transport Canada by railway company employees; and
  - in the case of a federally regulated railway company, the involvement of employees and their collective bargaining agents in the ongoing operation of the safety management system;
- the development and implementation of safety management systems by "companies," including the involvement of employees and their collective bargaining agents in the case of federally regulated railway companies;
- the criteria to which safety management systems must conform; and
- the establishment of a safety management system, including the principle of fatigue science applicable to scheduling.

Currently, section 47.1(2) authorizes the Governor in Council to make regulations respecting the release of pollutants into the environment from the operation of railway equipment. The bill replaces this provision with new section 47.1(2), which empowers the Governor in Council to make regulations respecting the release of pollutants into the environment from the operation of railway equipment by a railway company. These regulations include such matters as keeping records and filing them with the Minister and the form and content of labels to be affixed to railway equipment.

Proposed sections 47.1(3) and 47.1(4) are new. New section 47.1(3) enables the Governor in Council to make regulations requiring a railway company to file with the Minister environmental management plans and compliance audits with respect to those plans. According to new section 47.1(4), regulations made under new section 47.1 may be general or applicable to a group or class of companies.

Proposed section 47.2, also new, empowers the Minister to make regulations prescribing any fees or charges, or determining the manner of calculating any fees or charges to be paid (a) for services or the use of facilities by the Minister in the administration of the Act; and (b) in relation to the filing of documents and the making of applications for and the issuance of certificates, exemptions, licences or approvals under the Act (new section 47.2(1)).

The federal and provincial Crowns and the entities named in Schedules II (departmental corporations) and III (Crown corporations) to the *Financial Administration Act* are not liable to pay fees or charges (new section 47.2(2)).

As in the case of regulations made under new section 47.1, regulations made under new section 47.2 may be general or applicable to a group or class of companies (new section 47.2(3)).

During consideration of Bill C-33 in the 40th Parliament, the Standing Committee on Transport, Infrastructure and Communities amended clause 37 of that bill to add a new section 47.3 to the Act. Clause 37 of Bill S-4 incorporates the Standing Committee's amendments from the previous Parliament. New section 47.3(1) gives the appropriate House of Commons committee the power to review any regulations made under the *Railway Safety Act* either on its own initiative or on receiving a complaint regarding railway safety, while section 47.3(2) gives similar powers to the appropriate Senate committee. These two new sections also give the appropriate committees of the House and the Senate the power to hold public hearings and table their reports in the respective chamber.

2.6.3 Review of the Act (Clause 38)

Clause 38 replaces the current section 51, which provided for a previous review of the Act, with a new section 51. New section 51(1) requires the Minister, no later than five years after the day on which the provision comes into force, to appoint one or more persons to carry out a comprehensive review of the operation of the Act. According to new section 51(2), the Minister must report on the review to each House of Parliament within 30 sitting days after the Minister receives the review.

2.7 COMING INTO FORCE (CLAUSE 45)

With the exception of clauses 7(2) and 14(2) to 14(5), to which reference was previously made, the provisions of the bill come into force on a date to be fixed by order of the Governor in Council (clause 45(1)). Clauses 7(2) and 14(2) to 14(5) come into force on the day on which the first regulations made under new section 20.2 (empowering the Governor in Council to make regulations respecting the process for the formulation or revision of rules applicable to "companies" and for the amendment of their terms and conditions), as enacted by clause 14(1), come into force.

NOTES

* This legislative summary is based on *Legislative Summary of Bill C-33: Safer Railways Act*, prepared on 27 April 2011 by David Johansen and Ardiana Hallaci, both formerly of the Library of Parliament.

1. Transport Canada, "The *Railway Safety Act*," Backgrounder, 7 October 2011.
2. Transport Canada, "Stronger Ties: A Shared Commitment to Railway Safety – Report of the Advisory Panel," *Railway Safety Act Review*, November 2007.
3. House of Commons, Standing Committee on Transport, Infrastructure and Communities, *Report of the Standing Committee on Transport, Infrastructure and Communities on Rail Safety in Canada*, 2nd Session, 39th Parliament, May 2008.
4. Transport Canada (2011).
5. The regulatory mechanisms are explained in detail in Deana Silverstone, *The Legislative and Institutional Framework for Railway Safety in Canada*, Research study prepared for the Advisory Panel for the *Railway Safety Act* Review, 11 July 2007.
6. Transport Canada (2007), p. 47.