



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **FOLLOW-UP AUDIT ON THE TRANSPORTATION OF DANGEROUS GOODS**

**Report of the Standing Committee on Public Accounts**

**Kelly Block, Chair**

**DECEMBER 2020  
43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION**

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## **NOTICE TO READER**

### **Reports from committee presented to the House of Commons**

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **THIRD REPORT**

Pursuant to its mandate under Standing Order 108(3)(g) and the motion adopted by the committee on Thursday, October 29, 2020, the committee has studied Report 1, Follow-up Audit on the Transportation of Dangerous Goods, of the 2020 Fall Reports of the Commissioner of the Environment and Sustainable Development and has agreed to report the following:







# FOLLOW-UP AUDIT ON THE TRANSPORTATION OF DANGEROUS GOODS

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## INTRODUCTION

According to the Commissioner of the Environment and Sustainable Development (CESD or the Commissioner), “dangerous goods” are substances that when spilled or released could harm living organisms, property, or the environment, examples of which include “explosives, toxic gases, flammable liquids and solids, infectious substances, radioactive materials, and corrosive chemicals.”<sup>1</sup> Such goods “play a key part in Canada’s economy and society” and “are transported throughout Canada by rail, road, ship, air, and pipeline.”<sup>2</sup>

Dangerous goods also include “the crude oil, petroleum products, natural gas liquids, and natural gas that move through the approximately 72,000 kilometres of federally regulated pipelines throughout Canada,” whose value has been approximately \$100 billion annually.<sup>3</sup>

As the spills and releases of dangerous goods can happen with any mode of transportation, dangerous goods “require special precautions to ensure their safe transportation. Both Transport Canada and the Canada Energy Regulator [CER, formerly the National Energy Board] aim to prevent spills and releases of dangerous goods by monitoring and enforcing industry compliance with legislation and standards.”<sup>4</sup>

Per the provisions of the [Transportation of Dangerous Goods Act, 1992](#) (the Act) and its regulations – which govern dangerous goods shipped by rail, road, ship, and air – Transport Canada’s (the department) responsibilities include

- conducting inspections of facilities and sites that handle, offer for transport, transport, or import dangerous goods;

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1 Office of the Auditor General of Canada (OAG), Commissioner for the Environment and Sustainable Development (CESD), [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.1.

2 Ibid.

3 Ibid., para. 1.2.

4 Ibid., para. 1.3.



- carrying out investigations and enforcement actions to ensure immediate compliance and promote future compliance; and
- approving emergency response assistance plans for companies regulated by the Act.<sup>5</sup>

Under the [Canadian Energy Regulator Act](#) and its regulations – which apply to pipelines that cross provincial, territorial, or national boundaries – CER’s oversight applies to the entire life cycle of a pipeline and its infrastructure, “including planning and application, construction, operation, and decommissioning and abandonment. The regulator performs activities to verify that companies comply with regulatory requirements and meet their pipeline approval conditions.”<sup>6</sup>

In 2011, the Commissioner released an audit that found that Transport Canada:

- had no national risk-based compliance inspection plan;
- failed to consistently follow up to ensure that companies took corrective action on instances of non-compliance;
- lacked clear roles and responsibilities for monitoring compliance with the act and regulations;
- could not report on the rate of regulatory compliance because of the limits of the department’s performance measurement system; and
- did not grant final approval for nearly half of the emergency response assistance plans in place for regulated companies.<sup>7</sup>

In 2015 CESD released an audit that found that the Canada Energy Regulator:

- failed to adequately determine whether companies met pipeline approval conditions;

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5 Ibid., para. 1.4.

6 Ibid., para. 1.5.

7 Ibid., para. 1.7. For additional information, see CESD, [2011 December Report of the Commissioner of the Environment and Sustainable Development, Chapter 1—Transportation of Dangerous Products](#).

- did not systematically verify that companies took corrective actions to return to compliance; and
- had inadequate information management systems to track and document company compliance and the board’s compliance oversight activities.<sup>8</sup>

In the fall of 2020, CESD released a follow-up audit that “focused on the extent to which Transport Canada and the Canada Energy Regulator implemented recommendations from [its] 2011 and 2015 reports regarding these organizations’ compliance and enforcement responsibilities for the safe transportation of dangerous goods. This audit also focused on whether the organizations followed up with companies that had contravened regulations to ensure the companies returned to compliance, among other things.”<sup>9</sup>

On 5 November 2020, the House of Commons Standing Committee on Public Accounts (the Committee) held a hearing on CESD’s 2020 follow-up audit with the following in attendance:

CESD – Andrew Hayes, Deputy Auditor General of Canada and Interim Commissioner of the Environment and Sustainable Development; Francis Michaud, Director; and Kimberley Leach, Principal.

CER – Gitane De Silva, Chief Executive Officer and Sandy Lapointe, Executive Vice-president, Regulatory.

Transport Canada – Michael Keenan, Deputy Minister; Aaron McCrorie, Associate Assistant Deputy Minister, Safety and Security; and Benoit Turcotte, Director General, Transportation of Dangerous Goods.<sup>10</sup>

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8 Ibid., para. 1.8. For additional information, see CESD, [2015 Fall Reports of the Commissioner of the Environment and Sustainable Development, Report 2—Oversight of Federally Regulated Pipelines](#).

9 Ibid., para. 1.11.

10 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#).



## FINDINGS AND RECOMMENDATIONS

### A. Compliance Status

CESD found that “despite having strengthened some policies, procedures, systems, and guidance, Transport Canada had not completed the work needed to address some of the problems identified in [the] 2011 audit. In particular, [the Commissioner] found that the department did not always follow up on violations identified through inspections to ensure they had been addressed.”<sup>11</sup>

Specifically, in 2011, CESD recommended that the department implement a national risk-based inspection plan, which it had done. However, the 2020 follow-up audit found that:

- Transport Canada did not have a complete and accurate picture of the companies it was regulating;
- Information on many of the sites in the national risk-based inspection plan was out of date; and
- There were some problems with the database used to assess the risks of violations identified during an inspection and to inform risk-based planning.<sup>12</sup>

In fact, 29% of the sites included in the national inspection plan for 2018–2019 were “closed, had moved, were duplicates, or may no longer have been handling, offering for transport, transporting, or importing dangerous goods. Therefore, the inspection process was not as efficient as it could have been because inspectors spent time and resources determining whether these sites even existed or still handled dangerous goods, rather than detecting possible violations at active sites.”<sup>13</sup>

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11 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.19.

12 Ibid., paras. 1.24-1.26.

13 Ibid., para. 1.25.

Consequently, CESD recommended that “Transport Canada should improve and update its tools and database to have more complete and accurate information on regulated companies and their compliance status and to better inform risk-based planning.”<sup>14</sup>

In its departmental response, Transport Canada stated its agreement with the recommendation as well as the following:

- The policy approach to creating a registration requirement for transporters of dangerous goods was finalized in summer 2019. The department is developing legislative amendments to the Transportation of Dangerous Goods Act, 1992 and supporting regulations to implement the approach. Concurrently, the Client Identification Database will be developed to allow the public to register with Transport Canada. Full implementation is expected in late 2022;
- By fall 2021, the department will modernize the policy and procedures for the Inspection Prioritization Tool to identify gaps and strengthen business requirements in the Transportation of Dangerous Goods Program’s systems (for example, the Inspection Information System and “Transportation of Dangerous Goods TDG-Core” central database) for risk scoring of regulated sites and facilities, violations, and inspection follow-ups;
- The department will confirm that data quality control processes are in place to support the effective application of tools, guidance materials, and appropriate risk scoring for individual and multiple violations. Managers will ensure that this undertaking, as well as associated inspector training, is complete by fall 2020; and
- The department will further accelerate the work of the Data Quality Working Group to minimize to the extent possible, by fall 2020, the number of closed transportation of dangerous goods and means of containment sites currently in the transportation of dangerous goods databases.<sup>15</sup>

When questioned about this matter at the hearing, Michael Keenan, Deputy Minister, Transport Canada, provided the following:

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14      *Ibid.*, para. 1.27.

15      *Ibid.*



[With] respect to our following up on compliance on the majority but not all of our findings and violations and issues, let me say that we're moving now. The CESD noted a 30% rate of our not following up; we've brought that figure down since the CESD found that. We believe we're almost at zero and we're in the process of putting in place a tool for inspectors in early 2021 that will require that it go to zero, because they won't be able to close a file until they've verified that there is 100% follow-up on compliance.<sup>16</sup>

It is vital that federal organizations take matters of data collection, storage, and use very seriously. Therefore, the Committee recommends:

### **RECOMMENDATION 1 – on database improvement**

**That, by 30 June 2021, Transport Canada provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to improving and updating its tools and database to have more complete and accurate information on regulated companies and their compliance status and to better inform risk-based planning. A second progress report should be presented by 31 December 2021 and a final report should be provided by 31 December 2022.**

## **B. Certifications**

CESD found that Transport Canada did not verify if companies took corrective actions to return to compliance in 18 of 60 (30%) sample violations studied for this audit.<sup>17</sup> The Commissioner also examined 10 cases in which violations required that a follow-up

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16 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:50.

17 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.30.

inspection be conducted within 90 days; it found that in four of these cases, no follow-up had been conducted.<sup>18</sup>

**CASE STUDY: Transport Canada** The Commissioner observed a problem with Transport Canada’s risk-scoring system when it accompanied a departmental inspector at a facility where dangerous goods were being offloaded from railway tank cars. On three rail cars containing corrosives or flammable and combustible liquids, the inspector found a safety violation of the same section of the *Transportation of Dangerous Goods Regulations*:

- On one rail car, the hand brake was not fully applied during unloading.
- On a second rail car, valves were not tightened after unloading was completed.
- On a third rail car, bolts on a cover were not in the correct position to properly secure it.

When the inspector added each of these three violations to the department’s database, the database recorded a risk score for only one of these violations, but not all three, because they fell under the same section of the regulations.

Commissioner for the Environment and Sustainable Development, [Follow-up Audit on the Transportation of Dangerous Goods](#), Exhibit 1.2.

Furthermore, CESD found problems with the department’s verification of containment facilities – that is, those facilities that manufacture, test, or repair containers for the transportation of dangerous goods in Canada. Such facilities must obtain certification from Transport Canada stating that they meet safety requirements; however, the department did not have enough information to know whether any of these facilities continued operating without certification.<sup>19</sup> For example, “of the 2,025 facilities registered with the department, 207 (10%) had expired certificates as of December 2019. The average length of time that these certificates had been expired was more than 2.5 years.”<sup>20</sup>

In fact, CESD found that although Transport Canada had implemented procedures to notify companies of expired certifications, it had not used these procedures consistently.<sup>21</sup> According to the department’s own assessment of risks, facilities

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18 Ibid., para. 1.31.

19 Ibid., para. 1.32.

20 Ibid.

21 Ibid.



operating with expired certification, or with no certification at all, pose a risk that the frequency and severity of incidents may increase.<sup>22</sup>

Consequently, CESD recommended that “Transport Canada should systematically track and document its verification that companies have returned to compliance after violations are found.”<sup>23</sup>

In its departmental response, Transport Canada stated it agreed with the recommendation and that it will “strengthen the application of, and the supporting training on, oversight procedures for follow-up activities conducted by inspectors after they detect non-compliance by regulated entities. Management will ensure that inspectors are aware of updated procedures and are able to apply appropriate quality controls. This is to be completed by spring 2021.”<sup>24</sup>

In response to a question about the department’s approach to improving data quality, Michael Keenan provided the following:

We're building a system where inspectors use hand-held devices to enter data directly. We're putting in more sophisticated digital databases to escape the kinds of problems that the CESD found with some of the data quality.<sup>25</sup>

Therefore, the Committee recommends:

## **RECOMMENDATION 2 – on verifying compliance**

**That Transport Canada provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to tracking and documenting its verification that companies have returned to compliance after violations are found by 30 June 2021 and every six months thereafter until 31 December 2024.**

CESD also recommended that “Transport Canada should ensure that means of containment facilities with expired certificates are not conducting the activities for which the certificates were issued.”<sup>26</sup>

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22 Ibid.

23 Ibid., para. 1.33.

24 Ibid.

25 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:40.

26 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.34.



In its departmental response, Transport Canada stated its agreement with the recommendation as well as committing to the following by the spring of 2021:

- Transport Canada will strengthen its standard operating procedures to ensure that a letter is sent informing a registrant when the registration is about to expire;
- following expiration, a letter is sent indicating the registration has expired and the registrant may no longer conduct such work; and
- in cases where Transport Canada cannot verify whether a registrant has ceased to perform the functions following the expiry of the registration, a registrant will be the subject of an onsite verification under the Transportation of Dangerous Goods Program's National Oversight Plan.<sup>27</sup>

At the hearing, Michael Keenan stated that the department has implemented a “more rigorous oversight process ensuring that facilities do not operate with expired registrations.”<sup>28</sup>

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27 Ibid.

28 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:20.



Therefore, the Committee recommends:

### **RECOMMENDATION 3 – on its certification process**

**That Transport Canada provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to ensuring that containment facilities with expired certificates are not conducting the activities for which the certificates were issued by 30 June 2021 and every six months thereafter until 31 December 2024.**

### **C. Compliance Monitoring**

CESD found that although the department improved its methods to measure company compliance resulting from its own inspections (compared to the 2011 audit), “it still did not have a comprehensive picture of compliance monitoring in Canada.”<sup>29</sup>

For example, the department’s database of the companies it regulates was missing thousands of potential sites; furthermore, it did not routinely collect data from provinces and territories, which share responsibility with Transport Canada for monitoring compliance for the transportation of dangerous goods by road.<sup>30</sup>

In December 2016, the Transportation of Dangerous Goods Regulations were amended to change the types of releases of dangerous goods that have to be reported.<sup>31</sup> In 2017, Transport Canada established a target to decrease the rate of reportable releases of dangerous goods, compared to the previous year, by 2%.<sup>32</sup> CESD acknowledged in this follow-up audit that in light of “the short time elapsed since the legislative change and the creation of this target, the department was still determining how its activities will achieve its target.”<sup>33</sup>

Consequently, CESD recommended that “Transport Canada should strengthen its processes for collecting data from its partners to better identify the national rate of regulatory compliance in the transportation of dangerous goods.”<sup>34</sup>

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29 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.37.

30 Ibid., para. 1.38.

31 Ibid., para. 1.40.

32 Ibid.

33 Ibid.

34 Ibid., para. 1.41.

In its departmental response, Transport Canada stated its agreement with the recommendation and committed to the following:

- By spring 2022, as part of the Transportation of Dangerous Goods Transformation Road Map, the department will implement a data-driven oversight initiative that will include the implementation of the “TDG-Core” central database initiative (revamping of the Inspection Information System, creation of the Client Identification Database, and integration into the Inspection Information System of the Facilities and Design Register database of registered facilities). This initiative will be supported by a renewal of information sharing agreements with provinces, territories, and other appropriate government programs and agencies, such as the Canadian Nuclear Safety Commission and Health Canada; and
- By spring 2021, the department will also further accelerate the quality control activities being conducted by the Data Quality Working Group, with the objective of strengthening transportation of dangerous goods oversight systems and data relevant to transportation of dangerous goods regulatory responsibilities to assess and verify compliance of regulated entities under the *Transportation of Dangerous Goods Act, 1992* and the *Transportation of Dangerous Goods Regulations*.<sup>35</sup>

At the hearing, Michael Keenan supplemented previous comments about improving data quality with the following:

We're working to fix all of that to get a continuous cycle of better data, both from our inspections and other sources, in order to have a risk-based inspection plan. We would then have frictionless inputting of data from front-line inspectors. The other part of the equation is that we've had a more than tripling in the number of front-line inspectors than the [Transportation of Dangerous Goods Regulations] warrants. There's more data, better data, and a better plan.<sup>36</sup>

As stated previously, given the importance of proper data collection, storage, and use, the Committee recommends:

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35 Ibid.

36 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:40.



#### **RECOMMENDATION 4 – on compliance monitoring**

**That, by 30 June 2021, Transport Canada provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to strengthening its processes for collecting data from its partners to better identify the national rate of regulatory compliance in the transportation of dangerous goods.**

#### **D. Emergency Response Assistance Plans**

Transport Canada requires companies to provide an emergency response assistance plan for transporting or importing certain dangerous goods that could pose a high risk to public safety.<sup>37</sup> However, in 2011, CESD found that the department gave only interim approval to about 50% of the emergency response assistance plans submitted by regulated companies; thus, dangerous goods had been shipped for years without the department having completed a detailed verification of these plans. Also, the department’s guidance for staff to review and approve these plans was inadequate.<sup>38</sup>

In the 2020 follow-up audit, the Commissioner found that “the department had clarified requirements for the review and approval of emergency response assistance plans. It had also put in place processes to help staff conduct and document their reviews of companies’ plans. The department also developed

- an assessment framework for emergency response assistance plans
- a new database for applicants to submit their plans and for departmental staff to track existing plans and review and make decisions on the approval of submitted applications.”<sup>39</sup>

In contrast, CESD found that Transport Canada was not meeting its own timelines to finalize its approval of interim plans; in fact, in 2015, the department implemented a policy that certain emergency response assistance plans may have an interim status for no more than three years, based on the initial information submitted.<sup>40</sup> However, as of

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37 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.42.

38 Ibid. Interim approval is defined as “Approval for a specified period that may be granted by Transport Canada before it has completed its investigation of a company’s preparedness to respond to an emergency and when it has no reason to suspect that the plan cannot be implemented or will be ineffective.”

39 Ibid., para. 1.43.

40 Ibid., para. 1.45.

November 2019, of the 194 interim plans, 70 (or 36%) had been interim for over three years.<sup>41</sup>

Moreover, for these 70 interim plans, the department allowed the approval period to be reset one or more times on its three-year timeline standard; e.g., “if in the second year of its interim plan a company submitted new information, such as additional dangerous goods it would be handling, then the department would often provide another full [three] years of interim approval.”<sup>42</sup>

Consequently, CESD recommended that “Transport Canada should finalize its approval of the interim emergency response assistance plans by completing the necessary investigations and by developing national guidance and criteria for assessing firefighting capacity for plans related to flammable liquids. The department should ensure that approvals for all future plans are finalized within its prescribed timelines.”<sup>43</sup>

In its departmental response, Transport Canada stated its agreement with the recommendation and committed to the following:

- By 31 December 2020, develop tools to identify, assign, and track necessary investigations for existing and future emergency response assistance plans;
- By 1 January 2021, determine the necessary firefighting capacity for flammable liquids within an emergency response assistance plan and establish the related assessment criteria and guidelines;
- By 1 January 2021, update policies, procedures, and guidelines related to the assessment of emergency response assistance plans; and
- By 1 December 2021, complete the necessary investigations for emergency response assistance plans that have been interim for 3 or more years.<sup>44</sup>

In response to a question about this matter, Michael Keenan provided the following:

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41     ibid.

42     ibid., para. 1.47.

43     ibid., para. 1.48.

44     ibid.



The report correctly notes that we have had to renew interim plans. There are two reasons. One is that a number of them were outstanding in terms of having a final definition of the standard for firefighting of flammable liquids. We're now bringing that to close. Then number of them required physical inspection.

We had a large backlog of interim plans that hadn't been finalized. We're working that backlog down. We are on our way to get it to zero.<sup>45</sup>

Therefore, the Committee recommends:

### **RECOMMENDATION 5 – on emergency assistance response plans**

**That, by 30 June 2021, Transport Canada provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to A) finalizing its approval of the interim emergency response assistance plans by completing the necessary investigations and by developing national guidance and criteria for assessing firefighting capacity for plans related to flammable liquids; and B) ensuring that approvals for all future plans are finalized within its prescribed timelines. A final report should also be provided by 31 January 2022.**

#### **CASE STUDY: Canada Energy Regulator**

In one case examined by the Commissioner, the pipeline approval condition had four requirements regarding the pipeline's crossing of bodies of water. Two of the requirements were that the company file with the regulator:

- an updated inventory of all water bodies to be crossed, including details on the presence of fish and fish habitat; and
- a discussion of the potential impact to commercial, recreational, and Aboriginal fisheries.

However, the only analysis of the company's filings that were found was an email on file stating that the condition was "acceptable." There was no analysis of why they were considered acceptable or if each requirement was met. The regulator explained to the Commissioner that "the Environmental Technical staff reviewed the filings and acknowledge that the company had met the intent of the condition ... ." Yet, CER could provide no additional documentation in support of its analysis.

Commissioner for the Environment and Sustainable Development, [Follow-up Audit on the Transportation of Dangerous Goods](#), Exhibit 1.4.

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45 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:50.



## E. Pipeline Approval Conditions

Since the 2015 audit, the Canada Energy Regulator has improved its compliance oversight. This was done in part by implementing an information and database management system for compliance oversight activities and improving follow-up to ensure that companies had taken corrective action to address non-compliance.<sup>46</sup>

CER also developed procedures and guidance for staff to use its Operations Regulatory Compliance Application (ORCA) database, including training for its compliance officers and project managers responsible for monitoring whether companies satisfied pipeline approval conditions.<sup>47</sup>

However, the Commissioner observed opportunities for improvement in three areas of ORCA's design, namely:

- The database did not routinely provide the regulator with reminders of due dates by when pipeline approval conditions should be verified or when companies should submit evidence that they took corrective actions; thus, it could be set up to provide automatic reminders for staff to ensure timely follow-up;
- Documentation related to management system audits and enforcement actions such as warning letters were mostly kept outside of the ORCA database, but it could be tracked in ORCA to minimize the risk of regulatory oversight error; and
- In five of the 81 files examined during this audit, a condition or a sub-component of a condition either was not uploaded or was only partially uploaded to the database, because the system allowed only manual input. As manual input increases the risk that such information could be forgotten or not completed as required, this could be automated to remove the possibility of human error.<sup>48</sup>

It should also be noted that although in 2015 the Commissioner found that the regulator “did not systematically track compliance with pipeline approval conditions or adequately

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46 CESD, [Follow-up Audit on the Transportation of Dangerous Goods](#), Report 1 of the 2020 Fall Reports of the Commissioner for the Environment and Sustainable Development, para. 1.51.

47 Ibid., para. 1.56.

48 Ibid., para. 1.57.



document this oversight work, in this 2020 follow-up audit, it noted strong improvements in this area; for example, in all of the 36 cases examined, “the regulator obtained and recorded submissions from the companies to support that they met a pipeline approval condition” and in 94% of these cases, it documented its conclusion as to whether the condition had been implemented to its satisfaction.<sup>49</sup>

However, the database was missing evidence in other areas. For example, CER expects its staff to record their assessments of the documents submitted by companies in support of meeting pipeline approval conditions; it also requires that these assessments explain and provide sufficient justification on how the submissions met or did not meet the requirements of the pipeline approval condition.<sup>50</sup> In 15 of 36 cases studied, there was little or no evidence that the regulator analyzed how the companies’ submissions met or did not meet the condition requirements.<sup>51</sup>

Consequently, CESD recommended that the Canada Energy Regulator “should ensure that it has documented its analysis of companies’ submissions about how pipeline approval conditions have been satisfied.”<sup>52</sup>

In response, CER agreed again with this recommendation and also provided the following:

The Canada Energy Regulator monitors companies’ pipeline approval conditions throughout all phases of the pipeline life cycle. The Canada Energy Regulator is committed to more consistently documenting its analysis on how the company submissions met or did not meet the condition.

By May 2020, the Canada Energy Regulator will review its current procedures and quality controls and develop corrective actions to ensure a consistent approach to the documentation of the analysis of company submissions for pipeline approval conditions.<sup>53</sup>

At the hearing, Gitane De Silva, Chief Executive Officer, Canada Energy Regulator, reiterated its agreement with this recommendation and provided the following:

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49 Ibid., para. 1.58.

50 Ibid., para. 1.59.

51 Ibid.

52 Ibid., para. 1.61.

53 Ibid.



We are taking steps to address the OAG's finding and to implement corrective action by the end of 2020. Specifically, we will ensure that the correct documentation is added by updating the guidance to our staff and the systems that we operate.<sup>54</sup>

The Committee recommends:

#### **RECOMMENDATION 6 – on documenting analysis**

**That, by 30 June 2021, the Canada Energy Regulator provide the House of Commons Standing Committee on Public Accounts with a progress report with regard to documenting its analysis of companies' submissions about how pipeline approval conditions have been verified.**

### **CONCLUSION**

The Committee concludes that although it made improvements since its 2011 audit, Transport Canada must still improve how it meets its responsibilities pertaining to the regulation of the transportation of dangerous goods, as identified in the 2020 follow-up audit of CESD.

Similarly, although the Canada Energy Regulator has made improvements since its 2015 audit, CESD has identified areas for improvement pertaining to database design and the documentation of analysis.

As part of its study, the Committee has made six recommendations in this report to help the Government of Canada improve its oversight of the transportation of dangerous goods for the safety of all Canadians.

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54 House of Commons Standing Committee on Public Accounts, *Evidence*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 5 November 2020, [Meeting No. 5](#), 11:15.



## APPENDIX A – SUMMARY OF RECOMMENDED ACTIONS AND ASSOCIATED DEADLINES

Table 1 – Summary of Recommended Actions and Associated Deadlines

Recommendation	Recommended Action	Deadline
Recommendation 1	Transport Canada should provide the House of Commons Standing Committee on Public Accounts with progress reports with regard to improving and updating its tools and database to have more complete and accurate information on regulated companies and their compliance status and to better inform risk-based planning. A final report should also be provided.	30 June 2021, 31 December 2021, and 31 December 2022
Recommendation 2	Transport Canada should provide the Committee with progress reports with regard to tracking and documenting its verification that companies have returned to compliance after violations are found.	30 June 2021 and every six months thereafter until 31 December 2024
Recommendation 3	Transport Canada should provide the Committee with progress reports with regard to ensuring that containment facilities with expired certificates are not conducting the activities for which the certificates were issued.	30 June 2021 and every six months thereafter until 31 December 2024

<p>Recommendation 4</p>	<p>Transport Canada should provide the Committee with a progress report with regard to strengthening its processes for collecting data from its partners to better identify the national rate of regulatory compliance in the transportation of dangerous goods.</p>	<p>30 June 2021</p>
<p>Recommendation 5</p>	<p>Transport Canada should provide the Committee with a progress report with regard to A) finalizing its approval of the interim emergency response assistance plans by completing the necessary investigations and by developing national guidance and criteria for assessing firefighting capacity for plans related to flammable liquids; and B) ensuring that approvals for all future plans are finalized within its prescribed timelines. A final report should also be provided.</p>	<p>30 June 2021 and 31 January 2022</p>
<p>Recommendation 6</p>	<p>The Canada Energy Regulator should provide the Committee with a progress report with regard to ensuring that it has documented its analysis of companies' submissions about how pipeline approval conditions have been verified.</p>	<p>30 June 2021</p>



## APPENDIX B LIST OF WITNESSES

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The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Canadian Energy Regulator</b> Gitane De Silva, Chief Executive Officer Sandy Lapointe, Executive Vice-President, Regulatory	2020/11/05	05
<b>Department of Transport</b> Michael Keenan, Deputy Minister Aaron McCrorie, Associate Assistant Deputy Minister, Safety and Security Benoit Turcotte, Director General, Transportation of Dangerous Goods	2020/11/05	05
<b>Office of the Auditor General</b> Andrew Hayes, Deputy Auditor General and Interim Commissioner of the Environment and Sustainable Development Francis Michaud, Director Kimberley Leach, Principal	2020/11/05	05



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 5 and 12](#)) is tabled.

Respectfully submitted,

Kelly Block, M.P.  
Chair

