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# Standing Committee on Public Accounts

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Chair: Mrs. Kelly Block





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• (1105)

[English]

**The Chair (Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC)):** I call the meeting to order. Good morning, colleagues.

I want to specifically welcome Mr. Bachrach and Ms. Kusie to our committee. We look forward to having them participate this morning.

Welcome to meeting number 30 of the Standing Committee on Public Accounts. The committee is meeting in public today and is being televised.

Pursuant to Standing Order 108(3)(g), the committee is meeting today to study report 5, “Follow-up Audit on Rail Safety—Transport Canada”, of the 2021 reports 1 to 5 of the Auditor General of Canada.

Today's meeting is taking place in a hybrid format, pursuant to the House order of January 25, 2021. Therefore, members may be attending in person in the room or remotely by using the Zoom application. It is my understanding that everybody is attending remotely today.

Interpretation services are available for this meeting. You have the choice, at the bottom of your screen, of either “Floor”, “English” or “French”. Before speaking, click on the microphone icon to activate your own mike. When you are done speaking, please put your mike on mute to minimize any interference. When speaking, please speak slowly and clearly. Unless there are exceptional circumstances, the use of headsets with a boom microphone is mandatory for everyone participating remotely.

Should any technical challenges arise, please advise the chair. Also note that we may need to suspend for a few minutes, as we want to ensure that all members are able to participate fully.

I'd now like to welcome the witnesses who are joining us today. From the Office of the Auditor General, we have Karen Hogan, Auditor General of Canada; Dawn Campbell, principal; and Isabelle Marsolais, director. From the Department of Transport, we have Michael Keenan, deputy minister; Aaron McCrorie, associate assistant deputy minister, safety and security; and Michael DeJong, director general of rail safety.

With that, I would like to turn the floor over to Ms. Hogan for five minutes.

**Ms. Karen Hogan (Auditor General of Canada, Office of the Auditor General):** Madam Chair, thank you for this opportunity to discuss the results of our recent follow-up audit of Transport

Canada's oversight of rail safety. Joining me today are Dawn Campbell, the principal responsible for the audit, and Isabelle Marsolais, who was part of the audit team.

In this audit, we examined whether Transport Canada implemented selected recommendations from our 2013 audit on the oversight of rail safety. Overall, we found that eight years later, the department had yet to fully address our recommendations, and that in fact there was still much to do to improve the oversight of rail safety in Canada.

Rail accidents can have serious consequences, including devastating loss of life and environmental damage. To mitigate safety threats, Transport Canada undertakes oversight activities that include inspections, audits of safety management systems and data analysis. We want to focus today on two fundamental gaps in the department's oversight activities that require immediate attention.

Our first concern is that Transport Canada was not assessing the effectiveness of railway companies' safety management systems. These systems are formal frameworks to proactively integrate safety into day-to-day railway operations. In-depth, systematic assessments of these systems are called audits. They are meant to verify whether the systems meet regulatory requirements and integrate safety into daily railway operations. Over the past 14 years, several reports have recommended that Transport Canada undertake such assessments. I am referring here to three reports from the Standing Committee on Transport, Infrastructure and Communities, a number of other reports from experts in the field, and my office's 2013 audit.

We found that although the scope of Transport Canada's audits of safety management systems had included assessing regulatory compliance, the department had not considered whether the systems were effective in improving safety in daily operations. Unless the department makes these assessments and follows up in a timely way, it cannot know whether these systems are having an impact on rail safety.

[Translation]

Our second concern is that Transport Canada was unable to show whether its oversight activities have improved rail safety overall. The department has made important improvements to the way it plans and prioritizes its activities and follows up on railway companies' plans and actions to address deficiencies. However, it did not measure the overall effectiveness of its rail safety oversight activities. When people and time are dedicated to overseeing rail safety, I believe it is reasonable to expect that the department measure if the time and effort invested are making a difference and to adjust its oversight approach as needed.

I encourage Transport Canada to consider what other programs and jurisdictions are doing on this front, both in Canada and in other countries. The Canada Energy Regulator, for example, has established indicators that measure components of effectiveness. In the United Kingdom, the Office of Rail and Road has developed tools to assess railway companies' ability to manage health and safety risks. The resulting information is used to make year-over-year progress comparisons. Furthermore, in the United States, the Office of Transit Safety and Oversight has committed to monitoring the effectiveness of state safety agencies.

We made 6 recommendations to Transport Canada, and the department has agreed with all of them. I can't underscore enough the importance of taking action on these long-standing issues.

Madam Chair, this concludes my opening remarks. We would be pleased to answer the committee's questions.

Thank you.

• (1110)

[English]

**The Chair:** Thank you very much, Ms. Hogan.

We will now go to Mr. Keenan for five minutes.

**Mr. Michael Keenan (Deputy Minister, Department of Transport):** Thank you, Madam Chair, and thank you for the invitation to appear before the Standing Committee on Public Accounts. It's good to see you, again, Madam Chair, and it's good to see some familiar faces from the Standing Committee on Transport, Infrastructure and Communities here today.

Aaron, Michael and I are looking forward to the questions and the discussion.

[Translation]

Transport Canada is responsible for promoting safe, secure, efficient and environmentally responsible transportation. Among these activities, safety is our top priority.

In this context, I would like to thank the Auditor General for the incredibly important work done on rail safety, from the original audit in 2013 to the follow-up audit in 2021. Both audits challenged us, and guided us, to do better in our commitment to being a world-class regulator, and to improve the safety of Canada's railway network.

The Auditor General's initial audit in 2013 was carried out in the context of a terrible tragedy. The June 2013 train derailment at

Lac-Mégantic devastated a community, and cost 47 lives. It exposed major gaps in rail safety, and led to a fundamental transformation of our oversight regime.

[English]

As part of this transformation, Transport Canada introduced a whole suite of stronger rules and regulations. Some examples would be the requirement for emergency response assistance plans when railways carry dangerous goods; new requirements for thicker steel and better crash protection on tank cars carrying flammable liquids; a new requirement for administrative monetary penalties to help immediately discipline small contraventions of safety practices before they lead to larger problems; and the "Rules Respecting Key Trains and Key Routes", which set out strict requirements for the transportation of dangerous goods by rail.

In addition to these rules and many others, the department dramatically increased surveillance. We went from 107 rail safety inspectors across Canada in 2013 to 155 today.

Equipped with more results from more inspections, Transport Canada has systemically developed a risk-based approach to its oversight rule. As noted in the Auditor General's follow-up audit, our inspections for oversight activities—which used to be done, essentially, randomly—are now specifically targeting areas of greater risk based on the information that we're collecting and the data that we're collecting on risk.

This new risk-based approach to oversight is driving a better approach to identifying problems and taking action, including SMS audits, inspections, and new regulations and rules to identify problems. One example would be that last November we approved the new "Duty and Rest Period Rules for Railway Operating Employees", which gets at some of the human factors behind accidents and aligns the rules to modern fatigue science.

In the last year, based on audits and analyses from inspections, we put in new rules for trains carrying dangerous goods to reduce the risk of derailments.

As you look across all of these, you will see that we have a pattern of stronger rules, more oversight, and better risk-based oversight systems, and these are leading to better safety outcomes.

However, we have a lot more to do. The Auditor General has been very helpful in the challenges and with guidance in taking further steps. For example, in this follow-up audit, the Auditor General found that we need to measure the effectiveness of our oversight activities, including the effectiveness of our safety management systems. Therefore, we built stronger systems. We've been targeting risk, and now we're drilling down to track the effectiveness of individual measures.

Transport Canada is working on this recommendation and the other recommendations in the audit, and has put in place a plan of action to address these. In the course of this year, we will begin to establish the indicators of effectiveness and we will be tracking those based on the emerging practices that we're beginning to see in other jurisdictions, which were well-noted by the Auditor General.

Madam Chair and members of the committee, I will stop here because I don't want to take up too much time. I will allow us to get on to questions and discussion.

Thank you very much.

• (1115)

**The Chair:** Thank you very much, Mr. Keenan.

We will now go to our rounds of questioning from members. We will start with a six-minute round.

Ms. Kusie, you have six minutes.

[Translation]

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** Thank you very much, Madam Chair.

I thank the entire team. It's always a pleasure to be among my friends here at the Standing Committee on Transport, Infrastructure and Communities. It's always nice to see representatives from Transport Canada as well. So thank you very much for the invitation.

[English]

Madam Auditor General, I will start with you, please.

We had the pleasure of having a bit of a conversation during the transport committee meeting. I wanted to highlight two things today. The first is on the main theme of our conversation last time, which was safety.

At the transport committee, Madam Auditor General, I asked you, "From your findings, Auditor General, are you concerned for the safety of Canadians based upon the actions that have not been taken by Transport Canada?"

From the transcripts in front of me, Madam Auditor General, I can see that you responded:

Every mode of transportation has its inherent issues, so I guess, overall, I would highlight that, yes, I am concerned. Until we can demonstrate that the activities that Transport Canada is doing in coordination with railway companies and other important parties are actually having a difference, we should be concerned.

I wanted to start off by highlighting that your concern for the safety of Canadians remains, based upon the testimony you gave at the transport committee, but upon further discussion and testimony at the transport committee, it came out that you were happy to see

progress within the department, and I heard you talk about progress prior to the committee, which is always a good thing.

Of course, in business school we learn about this concept of *kaizen*, the Japanese concept of constant improvement, and we hope for this as well, but the truth of the matter is that it's the government that has the authority to place upon industry the requirements to produce the data and to take the steps to ensure that Canadians are safe.

Now I will move on to that area of responsibility for which industry must be held accountable by Transport Canada.

In your report you mentioned that Transport Canada collected more information from railway companies but that the information was sometimes late, incomplete, or of varying quality. Madam Auditor General, in your audit you also mention that Transport Canada doesn't set time frames for companies to correct safety deficiencies.

If that is the case, how does Transport Canada ensure that railways are compliant and eventually correct these safety deficiencies?

**Ms. Karen Hogan:** Thank you for the very comprehensive question. I'll try to summarize it all well.

We did see progress since our last audit, as you correctly noted. There was an increase in inspections, better follow-up on corrective measures, and a risk-based approach to determining the audits of safety management systems. As I mentioned in my opening remarks, the department just needs to continue going further. Increasing all of that activity is great; however, you need to now decide whether or not those activities were inspecting the right things, whether they are the right things, and whether or not all of the increase is actually having an impact on improving rail safety.

I do believe—and I stand by my statements—that we should be concerned about the safety of Canadians until we know that the safety management systems that are creating that culture of safety are effective and that the oversight activities of Transport Canada are also contributing to that effective increase in safety.

• (1120)

**Mrs. Stephanie Kusie:** Thank you very much, Madam Auditor General.

I'm hearing you say there are still some safety deficiencies that are outlying. Can you address what those might be, please?

**Ms. Karen Hogan:** I think that's probably a question better asked to the department about where they're seeing deficiencies, but one of the items you mentioned earlier was setting standards on follow-ups. While they are doing follow-up and making sure corrective actions are taken, they're not really setting a timeline. It is left to the inspector to go back at some point in time. More regular, focused review or follow-up would keep the pressure on railway companies to increase and enhance safety.

Most of the activities about oversight are making sure that railway companies are complying with the requirements, but compliance isn't enough. You have to make sure there's actually an improvement in safety. It's hard to pinpoint, because I think every area might have a different deficiency, depending on things identified in inspections and so on.

It's hard for me to give you a list, but it's about making a more timely follow-up on deficiencies that have been identified.

**Mrs. Stephanie Kusie:** Following on that, in the audit you did find that Transport Canada did not assess the effectiveness of the railway safety management system, only compliance. This goes back to my second theme, which is the authority of government to ensure that industry is complying, and for the better.

In your opinion, how would that impact measuring rail safety deficiencies?

**Ms. Karen Hogan:** I want to make sure I understand the question.

What kind of measures could they look at to measure an increase in safety?

**Mrs. Stephanie Kusie:** That's correct.

**Ms. Karen Hogan:** I think the department has put some measures in place, but they're not reporting against certain measures, so actually doing that reporting would be one thing. There could also be correlations between the results of compliance trends that they would see in their inspections against fatality or accident trends, so they could see if there is a correlation between those two. There are many ways that effectiveness of oversight could be measured. It's a matter of defining them, though, that Transport Canada needs to figure out, and then measure them consistently year over year to be able to see trends.

**The Chair:** Thank you very much, Ms. Kusie and Ms. Hogan.

We will now go to Mr. Blois for six minutes.

**Mr. Kody Blois (Kings—Hants, Lib.):** Thank you, Madam Chair.

I would like to thank all the witnesses for their testimony and their work here today.

Mr. Keenan, in the Auditor General's report at 5.22, a point is made around guidance to railway companies in terms of the information you're seeking. I think one of the positives from the report and the work that the AG has done is that the department has done a better job of working with railway companies to get relevant information, but it does appear there needs to be some work in giving some guidance about what that information pertains to.

How did Transport Canada go about finding that information? Was it simply some type of correspondence saying we're looking for the following points?

**Mr. Michael Keenan:** Madam Chair, the member puts out a really key question that's at the heart of the continuous improvement, the Japanese management system that the previous member described.

Back in 2015, we started establishing a regulation requiring information. The Auditor General has properly noted some inconsis-

tencies in the quality, the format and the timeliness of that information. We need to tighten up on that. We're doing that as a follow-up to the Auditor General's recommendations.

In terms of the specifics we're requiring, I'm going to turn that over to Mr. DeJong in a second to get into it. Before that, I want to make an observation. In essence, in the last few years we've gone through several rounds of digging deeper and getting better information and data and using that to target our inspections, our SMS requirements and audits—

• (1125)

**Mr. Kody Blois:** Mr. Keenan, my apologies. I only have six minutes and I have lots I would like to ask.

**Mr. Michael Keenan:** Certainly. I apologize. I'm going on too long.

**Mr. Kody Blois:** Detail is great, but we only have so much time on this committee.

What I'm hearing is that there was an enhanced request for information. I see in the report that the department has committed to standardizing the request for different companies to try to have it in a more standardized way, so I appreciate that.

I want to go to paragraph 5.23. You were starting to segue into this, which is you are collecting the data. The Auditor General's report seems to suggest that the data that was being collected is not correlating into how the department is choosing to go about its inspections on various different railway areas. How does the department determine where it does its inspections?

I heard you mention something about high travel areas and the amount of traffic on the rails, or perhaps riskier areas where there is hazardous material.

How does Transport Canada go about assessing where they inspect?

**Mr. Michael Keenan:** There are two things, and I'll be quick.

I think the Auditor General has been balanced in her assessment. She has made the point that we've made progress and improved our risk-based planning for oversight in particular, which is in paragraph 5.20, while pointing out the areas where we have gaps and need to make improvements.

We collect a lot of information through the inspection activities and through the SMS. There is a data-driven risk assessment process that then guides two things.

One is where we target further oversight or where we target regulations. I'll give you an example. In our SMS audits, we've seen some issues around employee training. As we've investigated some incidents, we've discovered problems resulting from inconsistent employee training. We've had multiple points of evidence from our inspections, our audits and even our incidents that say there's an issue with employee training. We've taken that to do two things.

In the follow-up to this report, I look at indicators on employee training on our SMS audits, but we're also in the process of revising and updating our regulations and standards on employee training, because we think we've identified an area where we can—

**Mr. Kody Blois:** Mr. Keenan, I apologize, but I have to keep moving on, so I'd ask you to be more brisk if you could.

**Mr. Michael Keenan:** I will. I apologize again.

**Mr. Kody Blois:** Quickly, because I have about a minute and a half, I want to go to the Auditor General.

Is it fair to say that the department is looking at standardization in terms of the time for corrective action but that not all railway companies are created equal, so we should probably create a standard but have some flexibility because each situation is going to be different? Is it easy to create just one standard, or should we try to create an average standard and then have some flexibility depending on the circumstances?

**Ms. Karen Hogan:** I don't believe that safety is one size fits all, especially when it comes to railways. You need to consider the terrain, the rail traffic, whether it's in a residential area or not. There are so many factors. You do need to have certain standards, but I think you've described it well. You need flexibility or a recognition of the different risks and different considerations in different areas.

Having at least a minimum standard with follow-up done on a systematic and regular basis is better than having no standard.

**Mr. Kody Blois:** I have about 15 seconds, so I'm going to table this question for you.

You mention in paragraphs 5.21 and 5.48 the idea of trying to measure whether or not Transport Canada's regulations are effective in leading to better safety. You mention that it's complex. If you get the chance in future questions, I'd like you to dig deeper. You do mention that it's difficult, but don't we need to look at it over time to understand whether or not this is actually meeting the outcomes?

I know I'm running out of time. I wish I had more than six minutes. Thanks.

• (1130)

**The Chair:** Thank you very much, Mr. Blois.

We will now go to Mr. Blanchette-Joncas for six minutes.

[*Translation*]

**Mr. Maxime Blanchette-Joncas (Rimouski-Neigette—Témiscouata—Les Basques, BQ):** Thank you, Madam Chair.

I want to begin by acknowledging all of the witnesses here today.

My first question is for Ms. Hogan.

Ms. Hogan, it is a pleasure to see you again today.

There are precisely 75 railway companies in Canada. Their role under the Railway Safety Act is to ensure the safety of their own operations. Yet, as we read your report, we find that the railroads are not able to fulfill their responsibilities and ensure that the railroads are safer. While Transport Canada has stated that there is more monitoring activity, it cannot demonstrate whether there is an improvement in rail safety.

You are certainly getting to know me, Ms. Hogan. I made it a point to review the history of the Railway Safety Act. I found that the Railway Safety Management System Regulations were not cre-

ated several years ago, but in 2001. So since 2001, railroads have been responsible for implementing their own systems of field audits by federal inspectors.

During the preparation of your report, did you obtain any data that might have shown a correlation between the changes made by the various governments, this deregulation, frankly, and the disastrous rail safety situation that we currently have?

**Ms. Karen Hogan:** You are correct that railroads are responsible for their own safety. However, I would like to mention that safety is really a partnership issue. The railroads are partly responsible, but Transport Canada also plays a very important oversight role. It sets the regulations and does more monitoring of the railroads. Their combined roles work well to improve safety.

As part of our audit, we did not examine whether there was a correlation between the regulatory changes and the current situation. Instead, we looked at Transport Canada's operations. When time, effort and energy are invested, it is very reasonable to expect that the investment will pay off. This final step is extremely important in determining whether the efforts are in the right place, adequately targeted at risk, and effective.

**Mr. Maxime Blanchette-Joncas:** Thanks for the clarifications, Ms. Hogan.

I tried to review the history, to understand when the situation had changed. From my observations, it is really since the change in 2001, in terms of regulation, that there has been a decrease in audits. That change in policy has created some consequences that we can see today.

In reading your report, I note that Transport Canada does not provide enough detailed guidance to the railroads at this time. In addition, Transport Canada's senior management has been provided with incomplete information regarding the results of monitoring activities, when they would normally make informed decisions.

I would like your opinion on the following reasoning. The railroads, although it is their responsibility, are unable to maintain the entire infrastructure. Transport Canada, on the other hand, only manages to make minimal improvements, as you have pointed out. Faced with this state of affairs, even if we draw up a new action plan and you produce a new report in a few years, it will not be enough. What would it take to really change the situation, in your opinion?

**Ms. Karen Hogan:** You raised a few points.

I'll start with your question about the data that Transport Canada receives from the rail companies. We found that the department took the appropriate steps to gather more information. The next step is to provide more guidance to rail companies so that Transport Canada can collect the data in a timely and consistent manner and obtain all the information needed to make the right decisions about locations that require inspection and about safety management systems that require verification. I often raise the issue of data quality. We need to make sure that the department is receiving good data and then using the data appropriately. This would improve Transport Canada's approach to inspections and audits, since it could better target the risks.

The department should also properly use the results of audits on safety management systems in order to make more informed decisions regarding inspections. Transport Canada has the necessary tools, but must learn to use them more appropriately to improve the effectiveness of its oversight.

● (1135)

**Mr. Maxime Blanchette-Joncas:** I completely agree with you, Ms. Hogan. The department has the necessary tools. In addition, your office prepared an audit report in 2013 and submitted recommendations to the department, which the department accepted. Unfortunately, the recommendations haven't been implemented.

Even though reports are prepared every five years, it seems that nothing happens in the meantime. Unfortunately, human tragedies occur. There were 47 deaths in Lac-Mégantic. I'm thinking in particular about my colleague, Mr. Berthold, who must live with the consequences on a daily basis alongside the people in his constituency.

There's a game plan, but it isn't adhered to. We keep coming back to it every year. What more can we do right now?

**Ms. Karen Hogan:** Rail safety is important to our office and to the office of the commissioner of the environment and sustainable development. As you know, in October, the interim commissioner also tabled a report on the transportation of dangerous goods. Our office will continue to follow up.

That said, I encourage the Standing Committee on Transport, Infrastructure and Communities and the Standing Committee on Public Accounts to follow up on the reports and recommendations that fall within their purview. In June 2014, the Standing Committee on Public Accounts submitted a recommendation to Transport Canada. Increased monitoring by everyone would improve safety.

[English]

**The Chair:** Thank you very much.

We will move on to Mr. Bachrach for six minutes.

**Mr. Taylor Bachrach (Skeena—Bulkley Valley, NDP):** Thank you, Madam Chair.

I had a chance to ask some questions of Ms. Hogan at a previous meeting of the transport committee, so I'll be directing my questions today to Mr. Keenan.

My first question is around the pattern we are seeing. At a recent committee meeting, we were looking at an audit of pandemic pre-

paredness, and what we saw was that an audit that was done several years ago pointed out a bunch of shortcomings and made a bunch of recommendations. The agency, PHAC, agreed with all the recommendations and committed to implementing them. Years went by. There was a follow-up audit. The recommendations weren't implemented.

Here we see a major disaster affecting a community in a profound way, because 47 people died. We see an audit that made a number of recommendations. I think the whole country was looking to the federal government to do everything in its power to correct the deficiencies that allowed that disaster to occur. Years go by, eight years. We have a follow-up audit, and the recommendations weren't implemented.

Mr. Keenan, I'm wondering if the Canadian public should be satisfied with that response and in general with this pattern of not implementing the recommendations that are made by the Office of the Auditor General.

**Mr. Michael Keenan:** Thank you for the question.

I think that in this case there is a very clear pattern of significant and major improvements in the rail safety system and the oversight. Those significant improvements have actually been noted by the Auditor General in the follow-up audit.

The Auditor General also pointed out where there is more work to do, and we agree with that.

As a world-class regulator, we're always committed to keep driving towards zero on this, so in terms of the improvements and the actions taken in response to the 2013 audit, I would point out that there has been a dramatic increase in the number of inspections.

In terms of the recommendation to better focus oversight on high risk, we actually went from a random inspection system to a risk-based one, based on data and analysis of risks.

In terms of strengthening the safety management system, we completely overhauled the regulations for safety management systems, and we went from doing four audits of SMS programs per year to 25.

In a systemic way, from the oversight to the safety standards, there has been a significant improvement in the rail safety system. Outside observers have noted this significant improvement. For example, as the independent Railway Safety Act Review Panel reported in 2018, "The safety of the rail system has improved in the last 5 to 10 years.... Due to a sustained focus on inspections, compliance and enforcement, as well as technological improvements and investments in rail infrastructure"—

● (1140)

**Mr. Taylor Bachrach:** Mr. Keenan, just on account of time, I'm going to have to move on to my next question.



I acknowledge that progress has been made, and the Auditor General pointed that out in her audit. The question was about the fact that there were things the Auditor General pointed out that weren't done. I think the Canadian public would expect that all recommendations would be implemented, especially over an eight-year period.

I'd like to move on to the safety management systems themselves. This was a large part of the audit. I've been speaking with the rail companies. This is an issue that is of serious concern, not only for the community I live in but for communities up and down the railroad in northwestern British Columbia.

Maybe I'll start with a question around response plans, because I think that when we think of safety management systems, we mostly think about preventive measures—behaviours and actions that prevent bad things from happening. My understanding—and you can correct me if I'm wrong—is that safety management systems also include response plans in the case that things do go wrong.

Of particular interest, given the increase in dangerous goods being transported through our region, is the risk of something similar to Lac-Mégantic happening in one of our rail yards, where we have multiple cars of extremely volatile products like liquid propane parked on the tracks.

When I was speaking with the rail companies, they told me that first of all they rely on first responders, mostly volunteer fire fighters in small communities, to respond to these events. They provide training, but they only work on scenarios involving single-car events.

In your view, given Lac-Mégantic, given these multi-car events that have tragic consequences, should the safety management systems have response plans for events involving multiple cars? In your experience and based on your knowledge, is that a risk that communities should be concerned about when it comes to products like liquid propane, and is the current approach that the rail companies are taking adequate?

**Mr. Michael Keenan:** Thank you for the question. There are a lot of questions there.

I'll do two really quickly, and then I'll turn the third one over to my colleague Mr. DeJong.

On the first one, Transport Canada took significant action on all of the recommendations in the 2013 report, and I am happy to elaborate later.

On the second one, the rail safety system is vastly improved today relative to what we had before the Lac-Mégantic tragedy, so the risk profile is completely different and much lower today.

On your third question, with respect to scenarios and response plans as they fit into SMS, I'm going to turn it over to Michael.

**The Chair:** That will have to be a very short answer.

**Mr. Michael DeJong (Director General, Rail Safety, Department of Transport):** Thank you for the question.

I would simply point out that with respect to our oversight regime in that northern B.C. corridor, we're taking a number of active measures to address the risks that have been identified, includ-

ing front-ending a number of our inspections in that area, as well as noting to the company that their corridor falls under the definition of “key trains and key routes”, which involves reduced speed limits as well as requirements for increased track inspections.

**The Chair:** Thank you very much.

We will now go to our next round of questioning. It's a five-minute round. We will be starting with Mr. Berthold for five minutes.

[*Translation*]

**Mr. Luc Berthold (Mégantic—L'Érable, CPC):** Thank you, Madam Chair.

Ms. Hogan and Mr. Keenan, I'm pleased that you and your colleagues are here today.

I think that it's important to set the record straight.

Recently, I heard the Parliamentary Secretary to the Minister of Transport speak about the 2013 audit. You also referred to this audit in your opening remarks, Mr. Keenan. You said that the Auditor General's initial audit in 2013 was carried out in the context of a terrible tragedy. Unfortunately, you and the parliamentary secretary are totally wrong.

The 2013 audit states as follows: “Our report is not an inquiry into this tragic event or an investigation of how it happened or of other subsequent rail accidents.” The audit work was completed on June 28, 2013, prior to the tragedy on July 6, 2013. I find it inconceivable that the 2013 tragedy would be used in a presentation such as yours. All the recommendations made by the Auditor General at that time concerned events that occurred before the 2013 tragedy.

I want you to explain why you referred to the 2013 tragedy in order to talk about the audit in your opening remarks, when that audit specifically states that the report doesn't address the tragedy at all.

• (1145)

[*English*]

**Mr. Michael Keenan:** Thank you for the question.

I apologize if I actually created a false impression on the relationship between the Auditor General's report and the terrible tragedy of Lac-Mégantic. The fundamental reality is that it was a terrible tragedy, and it showed, dramatically, weaknesses in the rail safety system. There has been a tremendous amount of work over the years to strengthen the rail safety system in an effort to ensure that such a terrible tragedy doesn't happen again. There is a causal relationship. I may not have described the timing exactly right in my opening remarks, and for that I apologize.

It is our assessment that there were serious problems in the rail safety system that we've been working years to improve upon. Searching for risk factors and using a data-driven system to find risk factors to preclude the possibility of such a tragedy happening again is a top priority for Transport Canada.

[Translation]

**Mr. Luc Berthold:** Thank you, Mr. Keenan.

It would be important for the briefing notes that Transport Canada provides to the Parliamentary Secretary to set the record straight, so that people stop linking the 2013 study to the tragedy. The study was done before the tragedy occurred. It doesn't make sense to link the two and pretend that the 2013 recommendations were in response to the tragedy, because they were not, and the study explicitly states that. It's important to get the facts straight. There is the pre-tragedy and the post-tragedy. We would have expected that after the tragedy, the recommendations of the 2013 audit would have been followed and the process would have been accelerated.

I would like to come back to the following response by Transport Canada to one of the recommendations of the 2013 audit: "By spring 2014, Transport Canada will develop a follow-up procedure and provide all inspectors with training on the procedure to enhance the consistency of follow-up activity."

"Consistency" means that the same follow-up and the same category of information applies to all regions. One of the findings of your last report, Ms. Hogan, is that there is still no consistency between the various follow-ups.

**Ms. Karen Hogan:** Is the question for me?

**Mr. Luc Berthold:** Yes.

**Ms. Karen Hogan:** In terms of consistency, you've articulated well the finding we made in the audit. Consistency is great. We always have to adjust based on risk, but we need to make sure that monitoring and inspection are done consistently so that nothing is missed.

**Mr. Luc Berthold:** Mr. Keenan, as I mentioned, there is the pre-tragedy and the post-tragedy. We would have expected Transport Canada to give priority to that kind of recommendation. Why is the Auditor General still making the same recommendation in 2021?

[English]

**Mr. Michael Keenan:** I think we're—

**The Chair:** Give a very short answer, Mr. Keenan.

**Mr. Michael Keenan:** I think you're seeing that the follow-up audit recognized the progress that Transport Canada had made and asked us to take further steps in building a risk-based oversight program. We're doing a better job of aligning our resources and our actions to safety outcomes, and we are executing those follow-up recommendations as we speak.

**The Chair:** Thank you very much.

We will now go to Ms. Yip for five minutes.

**Ms. Jean Yip (Scarborough—Agincourt, Lib.):** Thank you, Madam Chair.

Thank you, Ms. Hogan and your team, for doing a follow-up report. Follow-ups are so important to ensure that we do not have further or future tragedies occur, hopefully.

My first question is to Mr. Keenan. It was touched upon, but I'd like to hear a bit of a clearer answer.

Why was there too large a focus on regulatory compliance rather than the effectiveness of the safety management system?

● (1150)

**Mr. Michael Keenan:** The question really relates to a strategy of systemically strengthening the regulatory and the oversight system.

The first step we took was to overhaul the rules for SMS in 2015, and then the second step was to ensure and put in place more standards for what had to be in a safety management system that is more likely to relate to better outcomes. The second step was ensuring compliance to these higher standards by auditing all of them.

The third step is using the data from the SMS audits and the data from other sources to begin to get a better sense of which particular elements relate and what effect they have on safety outcomes.

We've done the first two, and we're now working on the third. The follow-up report from the Auditor General has given us some good guidance, and in the process of that report, there have been some very robust discussions between Transport officials and AG officials in terms of how to take that next step, recognizing it's a very difficult one to do, and even around the world, I would classify it as an emerging practice.

**Ms. Jean Yip:** Thank you.

Ms. Hogan, are you satisfied by the response given by the department to your report, or do you feel that we will be seeing more reports, hopefully not in another eight years.

**Ms. Karen Hogan:** As I mentioned in my opening remarks, I am very concerned about the length of time that's lapsed since our first audit, but I do acknowledge that some action was taken. It's just that Transport now needs to go that step further.

Measuring effectiveness, as I also mentioned in my opening remarks, is something that is being done, but the deputy minister of Transport is correct that it's an emerging thing. It is a commitment, however, that was made by Transport Canada over many years. I am always concerned when we have these long-standing issues that aren't addressed, and they seem to be a lot of what we're finding lately. That long-term thinking is not always valued as much as it needs to be, but the action plan that has been put forward appears reasonable within its time frame.

I know that both the commissioner of the environment and sustainable development and I will be watching what Transport Canada does, because we have had two audits now in the span of a year that cover safety in Transport and we're going to want to make sure that action is taken.

**Ms. Jean Yip:** That's good to hear.

Mr. Keenan, in the OAG recommendations, it is mentioned that Transport Canada should improve data management for its safety management system audits by adhering to its documentation standards.

In your action plan, there was a review of sample audit files from across headquarters and the regions for compliance with documentation standards. It was completed in April 2021. What was the result of the audit of these sample files?

**Mr. Michael Keenan:** I would say—I'm going to give a quick general response and then turn it to Michael—that the kinds of issues the AG found with respect to the data and the documentation are core issues we need to resolve, and we're working as quickly as we can to resolve them in order to make sure that we can fully leverage the data and put digital analysis tools on it. If it's not properly formatted, if it's not consistent, then our attempts to bring in advanced analytics to identify safety risks is frustrated, so we're highly motivated to fix these issues.

In terms of the steps we're taking, I'll turn to Michael to elaborate.

**The Chair:** Again I'm sorry. Make it a very brief answer.

**Mr. Michael DeJong:** Thanks for the question.

Essentially, the sample showed that we are collecting a wealth of information from railway companies, including information on operating characteristics, traffic patterns, tonnage and previous incidents. As the deputy minister mentioned, however, to use all of this data to drive our risk-based approach, we need it to be formatted in a way that allows Transport Canada to collate and analyze it quickly so that it can help support our risk-based planning.

• (1155)

**The Chair:** Thank you very much.

We'll now move on to our next round of questioning. It's a two-and-a-half-minute round, starting with Mr. Blanchette-Joncas.

[*Translation*]

**Mr. Maxime Blanchette-Joncas:** Thank you, Madam Chair.

My questions are for the Transport Canada officials.

I've reviewed the recommendation in paragraph 5.45. The audit revealed that Transport Canada's current oversight planning process does not necessarily take into account the findings of departmental audits of railways' safety management systems.

Mr. Keenan, if there's a breach in the railway safety management system, what will you do? Will you verify that steps have been taken to remedy it? Will the company be held accountable? Will it be reprimanded?

[*English*]

**Mr. Michael Keenan:** Thank you for a very insightful question.

I think the Auditor General's assessment of our challenge here is fair. We were not systematically pulling information from our SMS audits to shape our risk-based oversight. We were doing it in some cases, but not all, and most importantly, we didn't have a documented system that the AG could find to show that we were doing it. We are building this in, and we believe that it will be a significant improvement towards having a more robust risk-based oversight system. We're taking the steps now to build it in.

I would add, if I may go back to the Auditor General's remark about the time, that sometimes in the past we may have taken a bit

longer than we should have to execute some recommendations. We are really trying to time-bind our follow-up actions. There are a series of material improvements, which we shall have done by the end of 2021, to respond to the recommendations coming from this audit, and this is one of them.

[*Translation*]

**Mr. Maxime Blanchette-Joncas:** Thank you for clarifying things, Mr. Keenan.

You mentioned earlier that in 2001, changes to the Railway Safety Act put the onus on railway companies to develop their own safety management systems and to balance their financial interests with the risks to public safety.

Are you currently satisfied with the Railway Safety Act?

We can see that there are some things that we are missing, as far as safety is concerned.

[*English*]

**Mr. Michael Keenan:** I think I'll answer that in two parts, if I may.

I think the law creating this stronger responsibility for safety management systems is essential to having better safety outcomes, because it creates the—

**The Chair:** Thank you.

I'm sorry. We are well over time for this questioner. Perhaps you can address this matter in your next round of questioning, Mr. Blanchette-Joncas.

We will now move on to Mr. Bachrach for two and a half minutes.

**Mr. Taylor Bachrach:** Thank you, Madam Chair. I'd like to pick up where I left off with Mr. DeJong.

We were talking about specific types of events involving multiple railcars. I was somewhat surprised to hear from CN that they rely so heavily on local first responders and that in providing training for local first responders—these are volunteer fire departments—they only train them for incidents involving single cars of liquid propane.

In the view of Transport Canada, is that adequate preparedness for an event? Should they be preparing local first responders for an event involving multiple railcars?

**Mr. Michael DeJong:** Thank you for the question.

I'll answer it in a couple of parts. One is with respect to the support that Transport Canada provides, and second is the requirements of the “key train and key routes” that CN must fulfill in this corridor because it is identified as a key route.

Transport Canada supports first responders, for example, with around-the-clock support through our operation centre, referred to as CANUTECH. There are also a series of guidelines and training that we provide to first responders.

With respect to the key trains and key routes rule, under that rule, for routes that are designated key routes, such as the one in this context, CN is responsible for conducting a risk assessment that accounts for the training of local fire departments as part of their risk assessments as well as for implementing remedial measures to address potential risks identified through that process.

• (1200)

**Mr. Taylor Bachrach:** But right now, they're only training first responders for single-railcar events. Is that adequate?

**Mr. Michael DeJong:** Again, I would fall back on the requirements of the key trains and key risk rule.

In order to determine whether it's adequate, CN is responsible for conducting a risk assessment to determine whether or not their current training measures are appropriate to the level of risk on that corridor, and then adapting their training regime to match the level of risk.

**Mr. Taylor Bachrach:** To get this straight, the rail company determines the level of risk and what the training and response requirements are in case they have a major incident. In this case, they've decided that the risk of a multi-car incident is low, so they only train first responders on events involving single railcars.

Given what we saw at Lac-Mégantic—I'm not an expert—I think if a car of liquid propane explodes and it's connected to a train of other cars of liquid propane, the chance of a multi-car event isn't zero.

My question is, at what point does Transport Canada step in to say that what we're doing to ensure the safety of communities is inadequate and we need better?

**The Chair:** I'm sorry; we don't have time for an answer to that question, given that it's a very short round.

I will now move on to Mr. Berthold for five minutes.

**Mr. Luc Berthold:** I'd be happy to hear the answer to the question from Mr. Bachrach.

**Mr. Michael Keenan:** I'll say one thing on that, because it's a really good question.

What I think Mr. DeJong was saying a minute ago was that under the new stronger regulations on key trains and key routes, CN is legally obliged to perform a new risk assessment and submit it to Transport Canada. They are performing that risk assessment now, and it is through that risk assessment, and our review of that risk assessment, that we get to the underlying facts that drive the answer to your question.

[*Translation*]

**Mr. Luc Berthold:** Thank you very much.

Mr. Keenan, I looked at the number of accidents recorded in the Auditor General's report. Of course, it talks about the ones that happened in 2019, and there have been improvements since then. Re-

gardless, you can see the numbers: the number of collisions, derailments and crossing accidents, for example.

Is there any way to know the magnitude or significance of these collisions? Is Transport Canada able to determine whether these were serious or minor accidents?

How can we determine where the real risks are in rail transportation? There may be minor accidents, but they are still accounted for. An accident is considered serious once the damage caused is more than \$10,000. However, that amount is quickly reached. A train that derailed in the middle of a field will cause damage in excess of \$10,000, but the safety risks will not be the same as in other situations.

Do you have access to this data?

[*English*]

**Mr. Michael Keenan:** In answer to that very good question—and it's one that we spend a lot of time drilling down on—it features in the current work we're doing establishing indicators of effectiveness of SMS systems.

There are a couple of principles that guide us in that, and the first is that we look at incidents in terms of how grave they are. The number one indicator is the risk to the health and safety of Canadians, not the economic cost of the accident. That's very much secondary, if not hardly even considered. It's the risk to the health and safety of Canadians, the risk of disrupting communities and the risk to the environment. Those are the factors that we consider.

I'll give you an example. With regard to uncontrolled movements, we have put in a significant number of stronger regulations on uncontrolled movements. We analyze them carefully. It's a key factor in our risk-based oversight.

I would say that we are not satisfied. There are still too many uncontrolled movements, and we are continuing to drive on the SMS and on the regulatory standards. We've made changes within the last year. We—

[*Translation*]

**Mr. Luc Berthold:** Do you have access to enough information? We hear that in other countries, much more data is available to assess risks and see the results of the measures put in place. Is that the case? Do you agree with that statement?

• (1205)

[*English*]

**Mr. Michael Keenan:** Again, that's a great question. In fact, the improvements we're making, literally month by month and year by year, are pulling in more information to assess risk and identify risk. We're actually putting in regulatory standards to collect more information. One of them is the stricter standards on the rail information that companies have to supply. The second one is the regulations we put in place last year for locomotive video and voice recorders to create access to a new class of information to understand what was happening in the cab just before an incident in order to identify factors, human factors or potentially distraction factors, and improve safety systems.

We're always looking for more data, to answer the member's question, and we're bringing it in. We're also getting it formatted and structured so that we can apply advanced digital analytic tools. There are a few examples of where we're starting to do that in, I would say, a basic manner, and we want to go to a more advanced manner, including putting predictive analytics on the data we're collecting.

[*Translation*]

**Mr. Luc Berthold:** Mr. Keenan, would it be possible provide the committee with all the data available? I'm not talking about the multi-year numbers, but the various data you have in hand to assess the risk of collisions and accidents. In the Auditor General's report, these figures are quite summary. I'd like to have a complete picture.

[*English*]

**Mr. Michael Keenan:** We'd be happy to.

**The Chair:** Thank you, Mr. Berthold. I'm sure Mr. Keenan will send the information you've requested.

We will now move to Mr. Longfield for five minutes.

**Mr. Lloyd Longfield (Guelph, Lib.):** Thank you, Madam Chair.

Mr. Keenan, I'd like to continue on from some of my colleague Mr. Berthold's questions about data. Before I do that, though, in 2018 we did the Railway Safety Act review. I can remember the discussions in the House. I participated in the debates. One thing that was being debated was the use of video recorders within the cabs. You mentioned it briefly in your answer there.

There was significant investment allocated toward level crossings and track maintenance. I think 60 locomotives were added to help with grain movement out west. A lot of people were added in terms of the number of engineers operating vehicles on tracks. A number of investments could have increased the risk profile if we didn't keep up with infrastructure improvements, such as video recorders and gauging of tracks.

When you're doing your risk analysis, are you using the investments as one of the drivers of risk as well, in terms of the number of cars on the tracks and the amount of vehicle movement happening?

**Mr. Michael Keenan:** It's a great question. We certainly are taking into account all of those factors, I would say, and are looking across....

I'll give you an example. We saw a that pattern of main track derailments was sneaking up, and we were very concerned. We pulled all the data we could and started doing data analytics on it. I don't want to oversell it. It was basically detailed Excel spreadsheets looking for trends and variances, etc. We found a pattern related to ambient temperature on the day of the accident and whether or not the track was signalled—i.e., it had a system to automatically identify broken rail and speed. We put in place the higher-risk key train rule last year to get at that.

Infrastructure is a big part of it. I would say the data we're seeing and the analyses we're seeing are taking us to a broader dimension that is getting more into human factors. It's not traditionally been part of the rail safety system, where we've focused on the rolling stock and the track and the procedures, but, for example, we've

changed the work/rest rules for fatigue. I think we're broadening out the number of things we look at. As data comes in, we're finding factors that we may not have been looking at in the past that we see as being significant in outcomes.

That's why LVVR, locomotive voice and video recorders, are so important. We think there are some subtle human factors that we can understand by analyzing the patterns related to cab activity before incidents.

• (1210)

**Mr. Lloyd Longfield:** Fatigue science and duty rest rules are absolutely needed for the safety of the operators, given how incredibly dangerous the equipment they're operating can be when they're not operating effectively.

I also want to touch on some of the data coming out of your reports—the fatalities resulting from railway operations dropping by 27% and the number of accidents decreasing by 12%. Do you have a comment to make on the goals? Are you achieving goals? Are you reporting results against goals? Is reducing fatalities by 27% on target, or were you hoping for better? Where are we at on the analysis going forward?

**Mr. Michael Keenan:** Madam Chair, the member has cut to the fundamental objective, which is to get the fundamentally important things like accidents and deaths down.

We see it heading in the right direction. Accidents and deaths are down while the number of trains and the revenue ton-miles are up. The accident rate is down, certainly—

**Mr. Lloyd Longfield:** That's as volume is increasing.

**Mr. Michael Keenan:** It's as volume is increasing. I don't think we have any—

**Mr. Lloyd Longfield:** I just want to—

**Mr. Michael Keenan:** I'll say one thing. Our goal is zero, and we're going to keep doing stuff to get as close as we can.

**Mr. Lloyd Longfield:** Thank you.

In Guelph we have the Guelph Junction Railway. It's one of three federally regulated railways in Canada. They've just done significant track work on gauging. The neighbours weren't happy with all of the construction. We've also closed one of the level crossings in Guelph, where the visibility sight lines for vehicle traffic weren't safe enough.

There are actually investments going forward that might help you with those targets. We see them in our communities. I wanted to thank you for that.

**Mr. Michael Keenan:** Thank you.

I would just say, Madam Chair, that the member has identified a key issue, which is the level crossings. The safety result depends on our rules and the railways' operations, but what the landowners and others are doing around those crossings is a key area of focus going forward.

**The Chair:** Thank you very much.

We will now move into our next round of questioning, which is another six-minute round, starting with Mr. Berthold.

[*Translation*]

**Mr. Luc Berthold:** Thank you very much, Madam Chair.

Mr. Keenan, given that we've been talking a lot about the Lac-Mégantic tragedy, I'd like you to update the committee on the status of the Lac-Mégantic bypass. The minister has confirmed that there are plans to complete the work by 2023.

Are you still optimistic about that?

**Mr. Michael Keenan:** We are working very hard on the rail bypass project, in close co-operation with CP.

[*English*]

In one way it took a little bit of time when CP bought CMQR. In another way we're very pleased because they are a large outfit that has the ability to marshal massive resources in building. We're working through details very intensely with CP. We believe we're establishing a very clear path forward to get this done around the target timeline. In terms of the details of next steps, I think there are a couple of small things we want to absolutely finalize with the operator.

We are working really hard to be able to share more information on the timing of next steps. In terms of completing the *voie de contournement*, I can tell you it is a top priority on the part of Transport Canada to get that done.

**Mr. Luc Berthold:** That's good to hear, Mr. Keenan.

There's a part of the work that is left to do under the Government of Canada.

[*Translation*]

Among other things, I'm thinking of the land acquisition process.

In this regard, is all the work that the Government of Canada is responsible for under way? Are things going well or not?

• (1215)

**Mr. Michael Keenan:** Land acquisition is always a sensitive issue in a project like this, but we have done a lot of preparatory work for the next step, which is land acquisition. We will soon be ready to contact the owners of the land involved in the project.

**Mr. Luc Berthold:** You may recall that I was a member of the Standing Committee on Transport, Infrastructure and Communities when it met in Lac-Mégantic, where we met with stakeholders. At the time, there was talk of setting up an institute to train people in rail safety. This project has been presented several times and rejected by Transport Canada. Today, we are still talking about training first responders and the people involved.

Why did this project not receive approval from Transport Canada to build on the lessons learned from what we experienced in Lac-Mégantic and prevent similar tragedies from happening again?

[*English*]

**Mr. Michael Keenan:** Madam Chair, the member has asked a good question. We continue to look at areas of action and investment to strengthen training, performance and safety results.

I have to confess that I can't remember all the details of that proposal because it was in circulation a couple of years ago, so I don't have at my fingertips specific information that I can share at this time, but I'd be happy to provide it.

**Mr. Luc Berthold:** I will be happy to send you the proposal just as you will send us some statistics.

**Mr. Michael Keenan:** Sure. I remember the proposal. I just can't remember all the details. Thank you for offering to resend it.

**Mr. Luc Berthold:** That's great, because I think training is one matter of importance when we have a tragedy. Waiting until the next tragedy before acting is just bad. We can do something right now, and I hope that we can do it working together, because we all want a better rail safety system in Canada and for it to be at the highest level.

[*Translation*]

**Mr. Michael Keenan:** I completely agree.

**Mr. Luc Berthold:** Mr. Keenan, the Auditor General invited you to look at what other countries are doing to improve rail safety in Canada.

Did you contact the Auditor General to find out exactly what she wanted you to see outside? Do you intend to do that?

**Mr. Michael Keenan:** Yes. Officials from Transport Canada and the Office of the Auditor General have had some interesting conversations about best practices to guide our efforts to put in place a system to measure the effectiveness of rail safety management systems.

[*English*]

Mike, I'll turn it to you. Could you elaborate on that? You're the one who had those conversations.

**The Chair:** Mr. Berthold, you have 10 seconds left.

**Mr. Michael DeJong:** Very quickly, we've actually done follow-up with our U.S. counterparts as well as with our U.K. and European Union counterparts to look into potential indicators for how we can improve our measurements of the oversight regime, including by potentially leveraging some best practices from the U.S. as well as our Canadian Energy Regulator in terms of potential performance indicators.

**The Chair:** Thank you very much.

We will now go to Mr. Sorbara for six minutes.

**Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.):** Thank you, Chair.

Good morning, everyone, and thank you for your testimony.

The issue of rail safety is of paramount importance in the area that I live in and represent. The City of Vaughan is home to CN's largest rail yard in the country, the MacMillan yard, and Canada Pacific's, CP's, busiest intermodal facility in the country is located on the west side of my riding. I have a rail line going over the main artery of a regional road here along Highway 7 and another bridge going over a very densely populated area with many seniors, Woodbridge Avenue, here in the heart of the riding.

To add to that matter, I grew up in northern British Columbia and Prince Rupert, and they have a very busy rail facility there, and the coal port and the grain elevator. Obviously that's been my exposure to rail and rail safety. It's of paramount importance and always on my mind for my residents first and foremost.

I just want to pull up the report, and I want to go to the AG. I've read very intently paragraphs 5.56 and 5.57, in which the Auditor General speaks to the 66 inspections conducted between September 2018 and August 2020 that required a railway to take follow-up action. It seems that our railway operators have quite effectively followed up on those inspections.

Can you comment on that, Auditor General, please?

• (1220)

**Ms. Karen Hogan:** I might ask Dawn Campbell to add a bit more detail if you'd like some more specifics, but our findings were that in the 66 inspections we looked at, the department had confirmed that the railway company had taken action in 92% of the files that we reviewed. Then there were some plans to address outstanding issues in the 8% of the files that remained, which is about five of those files.

I don't know, Dawn, if you wanted to provide a little bit more colour to the findings there.

**Ms. Dawn Campbell (Principal, Office of the Auditor General):** I think that's been summarized quite well, so I have nothing to add at this point.

**Mr. Francesco Sorbara:** In the transportation of dangerous goods, if I can ask, I know MP Bachrach is the former mayor of Smithers, if I remember correctly, in the area of country where I spent the first 20 years of my life in. We know the transportation of dangerous goods is obviously something we think about, but, Auditor General, in your view, how much progress have we made? I know this is a big-picture question. I believe that in the Skeena—Bulkley Valley riding, the number of incidents is actually very low and that there has been no release of dangerous goods at all in the last, say, 10 to 15 years.

Auditor General, and even to the Transportation Safety Board, how much progress have we made in ensuring safety in the transportation of dangerous goods and their release subsequently if an incident happens? How confident can we be in the processes in place?

**Ms. Karen Hogan:** I can't really speak to the specifics of a riding, but I can talk to you a little bit about the overall findings in the most recent report that the commissioner of the environment and sustainable development tabled back in October. His findings were quite similar to the ones of the follow-up audit that we're looking at

now, which is that steps had been taken by Transport Canada, but they just hadn't gone far enough.

I think one of the most important items that remained outstanding from the dangerous goods follow-up was that a standard for flammable liquids had not yet been established. Now, that was at the time of our audit. There was supposed to be a deadline in early 2021, but at the time of our audit, that had not yet been established. I think we're seeing very similar findings in both follow-up audits, so they're recognizing progress, but there are really important steps still outstanding.

**Mr. Francesco Sorbara:** Is there any follow-up from Transport Canada on that?

**Mr. Michael Keenan:** I agree with the Auditor General's take that there's been significant progress in terms of dangerous goods and there are some areas outstanding that we are driving to address.

There are two parts to that. One of it is there's some similarity to the observations on this audit in that there is a.... We had to do a better job systemically of connecting the risk information from our inspections to our follow-ups on dangerous goods inspections, and on that one, we went from 30 inspectors to 90 and we had to do more to make it more risk-based.

In terms of the specific item the Auditor General raised, I'm going to turn it over to Mike. I know we're following up on that, but could you or Aaron remind the committee members of the timetable on that?.

• (1225)

**Mr. Aaron McCrorie (Associate Assistant Deputy Minister, Safety and Security, Department of Transport):** Maybe I can take that.

In terms of a specific recommendation around a new fuel standard, I'm not familiar with that recommendation from the CESD audit.

As the deputy had noted, there were recommendations around updating our tools and database to have more complete information and accurate tracking documentation to verify that companies have returned to compliance and ensure that the containment facilities where certificates have expired are doing those activities. That last one, for example, is now closed. We've closed that recommendation—

**Mr. Michael Keenan:** Sorry; it's actually the standards for flammable liquids on ERAPs. That was outstanding for years. The standard has now been established, and we're now in the process of communicating that and implementing it. I don't think we've communicated it out yet, but we're in the process of doing it this year.

**The Chair:** Thank you very much.

We will now move to Mr. Blanchette-Joncas for six minutes.

[Translation]

**Mr. Maxime Blanchette-Joncas:** Thank you, Madam Chair.

My question is for Mr. Keenan.

Earlier, you mentioned the responsibility of the railroads for railway safety management systems. What does that responsibility look like? Can they be fined? Can the responsibility for managing their own rail safety management system be taken away from them?

**Mr. Michael Keenan:** Thank you for the question.

Railway companies have more than one obligation in that regard. First, they must develop rail safety management system according to the 2015 rules. Second, they have an obligation to implement all plans included in their rail safety management system.

[English]

With the new SMS regulations that were put in place in 2015, there are multiple points of accountability, and if a company fails to deliver on that accountability, as conditions warrant and as facts warrant, there is an ability to go from inspections and oversight to an enforcement process that could result, for example, in administrative monetary penalties.

[Translation]

**Mr. Maxime Blanchette-Joncas:** Mr. Keenan, could your department send me a list of the responsibilities that have been placed on railways since 2015, as well as a list of actions taken by your department?

I'm trying to understand the situation.

In 2001, Transport Canada decided to establish the Railway Safety Management System Regulations, which require federally regulated railways to have their own fail safety management systems. This is called deregulation.

In 2015, after observing deficiencies, the department decided to repeal the Railway Safety Management System Regulations and replace them with new regulations that give Transport Canada an oversight role to assess the effectiveness of railway safety management systems.

However, the Auditor General's report tells us that Transport Canada is unable to measure the effectiveness of railways' rail safety management systems.

In reading the Auditor General's report, I note that you are unable to ensure that the regulations developed by your department are producing concrete results.

[English]

**Mr. Michael Keenan:** There are two parts to answer that question. The first is that the regulations in 2015 established a modern standard for what has to be in a safety management system, with significant detail that maps to the best knowledge of the day in terms of safety outcomes. It's the accountability and responsibility of the operator to build that system and to document it to Transport Canada.

We first and foremost assess the compliance with the regulations. That was the primary focus of the dramatic increase in audits of SMS plans, and that assures a higher level of safety performance overall. A second aspect is an analytical question of actually taking different elements of the SMS plan and SMS performance and analytically establishing a quantitative relationship between that spe-

cific thing and a broader safety outcome, and that's the work we are doing now. The accountability of the companies is there, the improved safety performance is there, and we're now working to go to the next level of analytically tying specific elements of the safety system to outcomes.

That's a complicated piece of work, and it's an emerging piece of regulatory safety oversight on which we're consulting with the leaders in this practice around the world to ensure that we have a world-class framework and approach for doing that.

• (1230)

[Translation]

**Mr. Maxime Blanchette-Joncas:** Mr. Keenan, I don't find this very complicated. In 2015, you created a framework, a new regulation, and the Auditor General is telling you today that your department is unable to measure the effectiveness of this regulation, in other words, the effectiveness of the rail safety management systems of railway companies.

[English]

**Mr. Michael Keenan:** There are two parts. We've established the regulations and we've done audits to ensure compliance. We're using the data from that activity to improve effectiveness.

There is a broader question, which is mapping the safety outcome. The safety management system is built on the principle that the operator has a key role and that their management is a key factor in safety outcomes, along with the regulations and standards of Transport Canada and the oversight of Transport Canada and the work of communities at grade crossings, and employees. There are many players and there are many factors in the safety outcome.

The work the Auditor General has asked us to do is to start to isolate those factors and to identify in some analytical and, if possible, quantitative manner how each specific factor of each element of the SMS and the other elements of the safety system contribute to improving performance to have lower accidents with higher volumes.

We are in the process of doing that. The fact that it is ongoing does not undermine the fact that the operators are accountable to a much more exacting standard in their safety management systems, and have been since 2015, and they're being rigorously audited on it. When they're coming up short, they are subject to enforcement measures from Transport Canada.

**The Chair:** Thank you very much, Mr. Blanchette-Joncas.

We will now go on to Mr. Bachrach for six minutes.

**Mr. Taylor Bachrach:** Thank you, Madam Chair.

Mr. Keenan, picking up on the key trains and key routes aspect and the situation in northwest B.C. in particular, I understand from your previous comments that CN is doing a risk assessment but has not yet completed it and that Transport Canada has established standards for flammable liquids but has not yet communicated those to the rail company.



The challenge I have is that the trains are rolling. If I walk out the door of my office right now and look down the street, I can see them. They've been rolling for some time. In 2019, the first liquid propane terminal in Prince Rupert began operation. The second terminal began operation just recently.

Should these steps not have been taken before those trains rolled? Are our communities at higher risk until those steps are completed, until the risk assessment is completed by CN and Transport Canada has a chance to check it out? Why are we doing these things retroactively, after the trains are already rolling?

**Mr. Michael Keenan:** There are two parts to that.

The first is that trains have been rolling to Prince Rupert with flammable liquids for many years. There has been a systemic increase in standards around key trains, which are trains carrying dangerous goods. There's been a systemic increase in standards for high-risk key trains. The kind of trains you're talking about qualify.

As part of those higher standards, when there is a change in operating, including greater volumes, there's a requirement to update the risk standard. There have been risk assessments, standards and measures put in place for years. Now there's a regulatory requirement for CN to provide an updated risk assessment and for Transport Canada to assess that, but that's not the first step in the safety process. There have been many steps before that.

• (1235)

**Mr. Taylor Bachrach:** How I look at it is that the reason the increased standards are being put in place is that there's increased risk, and Transport Canada knew there was going to be increased risk because these projects were on the books for some number of years. Why not require the rail company to do the risk assessment prior to the volumes increasing on the rails?

We're doing the assessment process while the trains are rolling. Why not do it beforehand?

**Mr. Michael Keenan:** To go back to my previous answer, there have been multiple risk assessments and multiple actions taken to strengthen the safety standard around key trains and key routes, including high-risk key trains like the ones you're describing. We're not just starting. There have been major changes and major strengthenings of the systems and risk assessments related to that. As traffic patterns change, there's an ongoing requirement for new risk assessments. It's not a one-off; there's a stream of these. There is one that CN is due to get to us, I think, this month.

Mike, could you elaborate on the timing of the next risk assessment?

**Mr. Michael DeJong:** Thank you for the question.

We actually evaluate the situations every three years. It's on a cyclical basis. The deadline for the risk assessment is later this May. That will inform Transport Canada on how CN has identified and accounted for the risks and what remedial measures are in place.

Even from a proactive perspective, under those key trains and key roads rules there are reduced speed limits imposed on trains travelling through this area, as well as the requirements for increased track inspections in order to mitigate risks.

**Mr. Taylor Bachrach:** I'm going to move along to my next question.

Ms. Hogan, earlier Mr. Keenan said that "Transport Canada took significant action on all of the recommendations" in the Auditor General's 2013 report. Is that consistent with what you found?

**Ms. Karen Hogan:** I don't know if I would use the same qualifier. I think "significant" is a word that everyone measures in a different way. We definitely saw that they took action. There was an increase in the number of inspections. There was more rigorous follow-up on corrective actions, as we talked about earlier. In our sample, in 92% of the case files we looked at there was a follow-up on corrective actions, and they had been taken.

We saw an increase in risk-based planning about oversight activities. What's missing now is making those linkages of collecting data and using that data to inform future risk-based information. More importantly, what we think is one of the key fundamental gaps... There are actually two. One is measuring the effectiveness of the safety management systems of the rail companies. Then it's to make sure of the overall effectiveness of all of this increase in activity and to make sure it's directed in the right places and having an impact on rail safety overall.

**Mr. Taylor Bachrach:** Thank you.

I'll go back to Mr. Keenan.

Mr. Keenan, this question also relates to the timing of Transport Canada's interventions. In February 2019, as we all know, CP had a grain train parked on a hill near Field, B.C., without the handbrakes applied. It took off, and the incident killed three men. Two years later, in February 2021—just a few months ago—essentially the same incident happened. CP parked another grain train in the same location, and Transport Canada found that there was an immediate threat of another fatal accident. When it was asked, CP said that it didn't apply the handbrakes because the regulations don't require it to. Then, after that second incident, Transport Canada stepped in with a special order and essentially said that you're not allowed to park trains unattended, I believe, in that geographical area.

Now, why didn't Transport Canada step in after the first incident in February 2019 and put that protective order in place?

**The Chair:** I'm sorry. We are well over time by almost a minute. I will have to move on—

**Mr. Taylor Bachrach:** Thanks, Madam Chair. Sorry for going over.

**The Chair:** —to our next round of questions, which is a five-minute round.

Mr. Lawrence is next.

**Mr. Philip Lawrence (Northumberland—Peterborough South, CPC):** My question is almost the same as Mr. Bachrach's, so I'll give a small preamble, but you can probably answer, Mr. Keenan, the question from Mr. Bachrach and answer mine.

• (1240)

[*Translation*]

Because of the importance of this issue for Quebec, I'll try to ask my question in French. I apologize in advance to the interpreters.

Due process is absolutely important, but so is using common sense, as Mr. Bachrach says. For example, should you wait until the risk assessment process is complete to intervene, or should you act immediately and provide the first available information to avoid multi-car accidents?

**Mr. Michael Keenan:** Thank you for the question.

My answer will be threefold.

First, the rail tragedy in Field, British Columbia, is still under investigation by the RCMP.

[*English*]

Immediately after the Field incident, there was a train with a crew nearby and with the emergency brakes on, and it started to roll. Transport Canada, within a very short period of time—I can't remember, but Mike could say; it was probably like hours and days—put in place an additional requirement on the train securement rules, essentially requiring.... It added a very clear standard for handbrakes on unattended trains at grade, even if they are unpowered.

I think the member is right. There was an incident recently of a train in a similar area that didn't have the handbrakes applied. It turns out that the principle of the rule that we put in place immediately after Field was clear: If the train is unattended, you have to put on the handbrakes according to a formula based on the number of cars and the grade. That wasn't done.

There was, I would say, a difference of perspective as to whether or not the train was unattended. The clarification of the rules was not to say that unattended trains have to be secured; that was established across Canada in a very unambiguous way immediately after Field. Rather, it was a clarification that in Transport Canada's view, these conditions make for an unattended train, and in those conditions, you have to put on the handbrakes according to the formula.

Mike, do you want to elaborate on that? This is a specific incident that we've taken quite seriously and that I know you've been following closely.

**Mr. Michael DeJong:** Absolutely. The deputy minister is correct. Immediately after the initial incident, Transport Canada took action with the requirements for the application of handbrakes on mountain grades. However, after the subsequent incident, there was an order issued immediately to ensure that unattended trains would be properly secured.

To add further layers of protection on this, two additional ministerial orders were issued. One was with respect to requiring railways to prevent the accidental release of air brakes, and the second was an order to improve the performance standards for roll-away

protection. These measures are intended to prevent these very serious incidents from recurring.

I would also note that inspection activities are happening with respect to the Laggan subdivision, and an investigation is under way.

**Mr. Philip Lawrence:** Thank you for that.

I'm going to make a brief comment and then I'll give the floor to Mr. Berthold.

I'm concerned. The Auditor General talked about this on a bigger scale. The world is going faster. I don't know that we have enough time anymore for analysis paralysis. Technology is changing quickly; we need to shift quickly and respond quickly. The regulatory response—I get it—is important, but we need to accelerate.

That's my comment.

Mr. Berthold, the floor is yours, my friend.

**The Chair:** Mr. Berthold, you have 30 seconds.

[*Translation*]

**Mr. Luc Berthold:** Thank you very much, Madam Chair.

[*English*]

I will ask my colleagues to give me 30 seconds more, if they agree, because I have a very important question that comes out of the comments from the Auditor General just minutes ago.

[*Translation*]

Mr. Keenan, the Auditor General gave us a bit of a lecture, probably without realizing it, when she suggested that parliamentary committees should follow up on their own recommendations to Transport Canada over the years. I do see in the Auditor General's report that various committee reports have made several recommendations, one of which called for a review of the Railway Safety Act by 2018. Now you're planning it for next year.

Would it be possible for you to review all of these reports and inform the committee of the progress of each of the recommendations made to you by parliamentarians since 2013? That way, we would know what you've done to address the recommendations of parliamentarians.

I'm not asking you to provide me with these details today. I'd like to receive them in the next 20 or 30 days.

• (1245)

**Mr. Michael Keenan:** Yes, we'd be pleased to provide this information to the committee.

**Mr. Luc Berthold:** Thank you.

[*English*]

**The Chair:** Thank you very much.

We will now move on to Mr. Fergus for five minutes.

[Translation]

**Mr. Greg Fergus (Hull—Aylmer, Lib.):** Thank you very much, Madam Chair.

I would like to come back to a question that was asked by my colleague Mr. Blois at the start of the meeting. First, though, I have a comment on what Mr. Berthold said.

When the Standing Committee on Public Accounts receives a very positive report from the Auditor General because the department has acted on past recommendations, we make very positive comments. Our meeting last Tuesday is a good example. However, when the Auditor General presents a report indicating that past recommendations have not been implemented, we get a little more difficult. I find that to be the case today.

Mr. Blois asked a question to which he was unable to get an answer. It concerned paragraphs 5.21 and 5.48 of the report, in which it was noted that Transport Canada needs to more effectively evaluate whether its oversight activities are leading to better rail safety outcomes.

Mr. Keenan, you acknowledged that the concept of safety involves many factors. We agree on that. Nevertheless, I would like to know how much work is planned to ensure that the measures in place improve the safety of our rail system. What safety standards will you look at to assess whether there has been an improvement?

[English]

**Mr. Michael Keenan:** There are several parts to the question from the honourable member.

I don't want to overly interpret the Auditor General, but she's recognized the progress we have made and pointed out the significant gaps and things we have to do.

On the question of the activities that lead to better security outcomes, we have made a lot of progress and done a lot of work to use information and data from multiple sources to guide actions, including oversight, including regulatory standards and inspections and audits to improve security outcomes, and we think we've made progress there.

About 10 minutes ago the Auditor General, I think, clearly and articulately stated the challenge before us and where we have more work to do, based on her recommendations of mapping and figuring out in an analytical way the relationship among specific aspects of the SMS program and safety outcomes, but, more importantly, everything we're doing. It goes back to this point that where we're being criticized and challenged, we're also being guided in key steps we can take to create a higher-performing safety system, and we are committed to deliver actions that follow up and respond to her recommendations in a timely manner.

We have shared details of the action plan with the committee. We're trying to establish clear time bounds for specific activities. We believe by the end of 2021, we will have made some significant progress. We will not be done, because the challenge the Auditor General has put before us will take us a while to meet completely, but we think we can make significant progress in beginning to assess effectiveness, even by the end of this coming year.

• (1250)

[Translation]

**Mr. Greg Fergus:** Given what you're already planning to do this year, when do you think you'll be finished implementing this set of recommendations from the Auditor General? Will it be 2022 or 2023? Can you give us a date?

[English]

**Mr. Michael Keenan:** That's a very good question that brings some transparency to this commitment of time.

To answer the member's question, I'll turn to Mr. DeJong to describe very briefly what we are committing to do this year versus next year.

**The Chair:** May we have a very brief response?

[Translation]

**Mr. Greg Fergus:** As the chair pointed out, I don't have a lot of time left, so can you just tell me when you think you'll have implemented all of the Auditor General's recommendations? For example, do you think it will be done by 2022, 2023 or 2024?

[English]

**Mr. Michael Keenan:** We will have significant steps taken later this year. For example, we're going to—

**Mr. Greg Fergus:** Yes, but what's the final date you think you would have most of these things done? I'm just looking for a date, if I could.

**Mr. Michael Keenan:** Mike, I think 2023 is fair. Is that fair?

**Mr. Michael DeJong:** Yes.

It's 2023 for the full evaluation and October 2021 for the performance indicators.

[Translation]

**Mr. Greg Fergus:** Thank you.

[English]

**The Chair:** Thank you very much, Mr. Fergus.

We will now go to the last round of questioning, a two-and-a-half minute round, starting with Mr. Blanchette-Joncas.

[Translation]

**Mr. Maxime Blanchette-Joncas:** Thank you, Madam Chair.

My question is for Ms. Hogan.

Ms. Hogan, I believe I understood from your speech that there's an urgent need for action to implement the recommendations that are critical to ensuring rail safety.

However, I'm a little hung up on one of the six recommendations, the one about consultations to improve the 2015 regulations to strengthen rail safety management systems. The department responded that these consultations would not take place until April 2022, more than a year after your report.

Are you satisfied with that timeline?

**Ms. Karen Hogan:** I acknowledge that any action may take time to implement and complete. There are also capacity issues in all departments.

All in all, I think this is a reasonable time frame. I'd still like to see action taken sooner, but at the end of the day, the goal is for action. I would encourage the department to try to move the work forward to get ahead of these dates. At least dates have been announced and we can follow up on this.

**Mr. Maxime Blanchette-Joncas:** Thank you.

Mr. Keenan, is there any particular reason why it takes more than a year to launch consultations on an issue as important as people's safety?

[English]

**Mr. Michael Keenan:** I would say only that we recognize the need to move faster on this. We had some analytical homework to do to identify the best path forward, and we're consulting with leading organizations. We anticipate making significant progress, including consulting on this, over the next year.

[Translation]

**Mr. Maxime Blanchette-Joncas:** What accounts for this, Mr. Keenan? Is it a lack of resources?

I know it takes preparation to do consultations, but I have this image in my mind that the house is on fire, but you're telling me you're going to put it out in a month or a few months, that it's no more important than that. You acknowledge the consultations, but you're putting them off to a year from now.

[English]

**Mr. Michael Keenan:** In some ways we have started the consultations already, but I'll turn it over to Mr. DeJong to elaborate.

**The Chair:** Give a very brief answer, please.

**Mr. Michael DeJong:** Thank you for the question.

Much of our regulatory development work will be informed by the findings of our effectiveness audits on SMS, which will be launched in September 2021. We'll be able to use those results to help drive our regulatory action in this space.

• (1255)

**The Chair:** Thank you.

We will now go to Mr. Bachrach for two and a half minutes.

**Mr. Taylor Bachrach:** Madam Chair, I would like to return to the event in Field in 2019.

If I understood Mr. Keenan's comments correctly, following that event Transport Canada put in place a regulatory requirement that hand brakes be applied on trains left unattended on certain grades. Two years later, another train was left without the hand brakes ap-

plied. Transport Canada found that there was an "immediate threat" of another fatal accident.

In your comments you suggested that there was a misinterpretation of Transport Canada's regulations by the rail company. What was that misinterpretation? Also, who is at fault when it comes to the event in 2021?

**Mr. Michael Keenan:** It's a very good question.

Madam Chair, I apologize. We're going to have to apply some discretion to our answer here. The reason for doing so is that the question is with respect to an incident that's currently under assessment and potentially investigation.

If I may, I'm going to turn to Mr. DeJong to share what information he can about this incident to elaborate on the difference between 2019 and the 2021.

**Mr. Michael DeJong:** Thank you for the question.

One of the ministerial orders issued after this incident involved requiring railways to work on a clear definition with respect to "attended" versus "unattended" trains. It's anticipated, as railways work with government to deliver on a clear definition, that this will help to ensure a consistent implementation of the rules with respect to preventing incidents involving uncontrolled movements.

**Mr. Taylor Bachrach:** Okay.

This is frustrating, because it seems as though lives are at stake. People are getting on board these trains under conditions that are clearly unsafe, and it's difficult to get answers to these simple questions.

How, after an event that killed three men, was another event that was at high risk of fatal accident allowed to occur two years later?

It sounded from your previous comments as though you were indicating that the order that was put in place around applying hand brakes was not clear enough and that the rail company misunderstood or misinterpreted it and so didn't apply the hand brakes and almost caused another fatal accident.

Does the responsibility lie with Transport Canada to put clear regulations in place that the rail companies understand, or does the responsibility lie with the rail company to follow the law?

**The Chair:** Make a very brief answer.

**Mr. Michael Keenan:** There are two things on this.

The Field incident was a terrible tragedy, and it pointed out and revealed a risk. We took immediate action and put a very clear and very strong rule in place.

The second incident resulted in our providing additional rules that I think make absolutely clear the scope of the application of the "train securement on grade" rules. This second one is an example of an identified risk resulting in proactive action, whether through enforcement or through rules, to ensure that the risk does not turn into an accident.

The third point is that I would contest the characterization that it's unsafe, because the actual facts and the statistics and the evidence point to the fact that the rail system is getting safer over time. The number of accidents and the number of deaths are going down, while the volume, the number of trains on the tracks, is going up. As a result, there's a reduction in the rate of accidents and there's a reduction in the risk.

**The Chair:** Thank you very much, Mr. Keenan. We will have to end there. We are well over time.

Colleagues, I want to thank you for the very tough but fair questions that you've asked here today.

Thank you, witnesses, for joining us. We certainly do appreciate hearing your testimony.

Just to remind you, colleagues, Tuesday's meeting will be on report number 9, on the Investing in Canada plan.

Is the committee in agreement to adjourn the meeting? Thank you very much.

We are adjourned.

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