



WHAT WE HEARD REPORT

Let's Talk: Safety Management Systems in the Rail Industry

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BACKGROUND

The *Railway Safety Management Systems Regulations, 2015* were created in response to a number of reports and recommendations that highlighted gaps in an earlier version of the regulations created in 2001. The purpose was to enhance the quality of safety management systems (SMS) by improving how:

- the systems were used by the rail industry; and
- Transport Canada (TC) oversees rail safety.

Since 2015, TC has conducted over 150 safety management system audits of rail companies, including 12 of the national freight railways. As part of these audits, we established a baseline for every federally regulated railway in Canada that will be used to measure whether compliance is improving.

Although there has been notable progress in safety management system implementation and oversight, there is still room for improvement. The *2018 Railway Safety Act Review* highlighted the progress made by industry and TC; however, the review also recommended that the department strengthen safety management systems to ensure a greater focus on effectiveness and safety outcomes

Other reports, such as the 2021 Auditor General's Follow-up Audit on Rail Safety and the 2022 report from the House of Commons Standing Committee on Transport, Infrastructure and Communities, highlighted areas of suggested improvement, including:

- assessing the effectiveness of railway companies' safety management system processes; and
- establishing stronger requirements to make sure that rail companies are conducting risk assessments and addressing hazards.

PUBLIC CONSULTATION

The purpose of TC's recent consultation on safety management systems in the rail industry was to get feedback from stakeholders on the strengths and weaknesses of the current system. Information gathered will help focus future work on the review of the regulations. The 30-day consultation was held between August 25 and September 26, 2022, on the Let's Talk Transportation website.

Five questions were put forward to gather feedback and help facilitate the discussion:

1. What are the most effective elements of the current regulations? What areas should be improved or are lacking?
2. Is the current scope adequate? Does it reflect the differences between the various type of operations?
3. Should the railway SMS regulations include additional management-based requirements (possibly as additional processes)? If so, which ones?
4. Is the current approach to determine under which circumstances a company must conduct a risk assessment adequate?
5. Should there be additional requirements surrounding effectiveness?

SUMMARY OF STAKEHOLDER COMMENTS

Through the ten submissions the department received, stakeholders expressed views on various aspects of the regulations. Overall, there is agreement that safety management systems are fundamental for a company to maintain a high level of safety and have continuous improvement. In addition, stakeholders recognize that much work has been done since 2001, and that it is important to take stock of where we are.

The following themes were discussed in more detail in the submissions:

Scope of the regulations

Comments show that the scope of the regulations is adequate and strikes the right balance of requirements for large and small railway companies, establishing clear expectations for companies to:

- ensure safe operations;
- document their SMS;
- report hazards; and
- ensure accountability of an executive.

However, it was noted that there were opportunities for improvement on how the regulation addresses some of the differences for various types of operations. For example, in cases where a company with limited operations meets the same applicability criteria than a large Class I company, instances where Local Railway

Companies have very limited operation on main track, or when a parent company is required to maintain specific SMSs for several companies it owns.

It was highlighted that the processes for accountability and index helped keeping railway companies up to date on their obligations and on the rules and regulations in force.

Risk Assessments

Although there is general agreement that risk assessments are an essential part of the SMS process, opinions differ as to what, if anything, needs to be looked at in more depth.

- Some stakeholders advised that TC should develop and implement a national risk assessment process that provides a strategic overview of risks to rail safety, reflecting national data trends that are more difficult to see by a railway.
- Other stakeholders indicated that the current approach is sufficient, highlighting that there are extensive standards and best practices available as resources for companies to define and implement risk assessment processes.
- Other areas put forward for improvement were:
 - More frequent risk assessments and for a broader range of changes that affect safety, including those that are minor;
 - Employees affected by the risks should not only be consulted, but be required to collaborate in the risk assessment;
 - Broader requirements for remedial measures, as well as defined timelines for their implementation and evaluation;
 - A periodic review of the risk assessment process.

Effectiveness and Safety Culture

Effectiveness was a recurring theme amongst stakeholders. There is a general consensus that it is a challenge to measure effectiveness, and that there must be a clear understanding of what will be measured and how. Many stakeholders indicated willingness to work together to establish clear and consistent base level expectations for measuring effectiveness.

The following points were also raised:

- Compliance with SMS requirements, administratively, may not be an indicator of safety performance or safety culture.
- The measurement method should remain flexible so that it can be revised as part of an SMS's continuous improvement process.
- Companies should be required to have up to date action plans that ensures that their safety management system is effective.
- Measuring the effectiveness of the overall safety oversight regime is fundamental. A risk-based approach should be used, with risk management tools and practices that quantify and measure the effectiveness of organizations' management of safety and reductions in risk. It could also be demonstrated by comparison of safety performance, with Key Performance Indicators.

Prescriptive Requirements and Clarity

The notion of prescriptive versus performance-based was raised, along with the issue of clarity.

- Some stakeholders indicated that safety management system requirements should not be overly prescriptive. Instead, they should outline the requirements to be met while leaving flexibility to the railways to determine how they will address the requirements. They should also allow flexibility for companies to tailor their safety management system to their size and scope of operations.
- At the same time, there should be more clarity in some elements such as what constitutes a safety concern, to ensure regulated parties understand the expectations.

Oversight and Enforcement

Some companies indicated that there needs to be consistency in how safety management system audits and enforcement are conducted, regionally and nationally in order for companies to align with the expectations of the regulator. To that end, a national audit program would be preferable to decentralization.

Some stakeholders indicated that there should be greater consequences for companies when they do not follow the regulations and also when the safety management system is not effective.

Finally, it has been raised that the combination of TC audits and the requirements of the *Process for Continual Improvement of the Safety Management System* do not allow sufficient time for companies to implement and evaluate corrective action before new audits are undertaken.

Additional Processes

The Let's Talk questions put forward the option of adding processes to the regulations to touch on a broader range of situations.

- While acknowledging these were important issues, stakeholders did not feel that adding management-based requirements such as bridge safety and adapting to climate change would be required, indicating that any hazards and risk management related to these, from an operational perspective, are already within the scope of SMS.
- It was raised that other jurisdictions have additional requirements that could be explored. For example: Australia, which has requirements pertaining to maintaining a safety culture, using safety performance measures to determine effectiveness, emergency management, and consulting with external stakeholders; and the United Kingdom, which provides a [Railway Management Maturity Model](#) to assist in evaluating the effectiveness of SMS.

Other Areas for Consideration

- Consideration must be given to avoid unnecessary overlap with other legislative requirements, such as those already present in the *Canada Labour Code*.
- There is still work to do towards effectively identifying hazards and mitigating risks, as well as managing safety risks.
- SMS should be direct, concise and effective, removing as many redundancies as possible.
- A revised regulation should incorporate consideration of human and organisational factors. These include the interactions between system components and humans, considering their influence on behaviors, at individual, situational, group, organisational or cultural levels. Additionally,

consideration of behavior, workload, and mental fatigue should be integrated into occurrence investigations, analyses and risk assessments.

- The range of subjects requiring analysis should be broader and include elements such as distractions in the workplace, near-misses, and inaccurately classified safety concerns or hazards.
- There should be increased requirements and responsibility for rail companies to collaborate and share safety management system information with municipalities. This should ensure that municipalities are aware of the risks of goods moving within their boundaries and know how to plan for emergency response to derailments, specifically those involving dangerous goods.

NEXT STEPS

Transport Canada will continue to analyse the comments from this consultation which will inform our assessment of future options, which could take the form of updated tools and guidance, or regulatory changes.

TC also acknowledges that sufficient time is needed for meaningful collaborative work with industry and other stakeholders on this important file. As work proceeds, TC will continue to engage with stakeholders on specific topics.

In addition to targeted engagement activities, another round of broad consultations is planned to take place once options are developed.

RELATED LINKS

[Let's Talk: Safety Management Systems in the Rail Industry](#)

[Discussion Paper: Review of the Railway Safety Management Systems Regulations, 2015](#)

[Railway Safety Act](#)

[Railway Safety Management System Regulations, 2015](#)