



REASSESSMENT OF THE RESPONSE TO RAIL SAFETY RECOMMENDATION R01-05

Grade crossings regulations

Background

On 23 November 1999, at approximately 1845 eastern standard time (EST), Canadian National (CN) freight train M-321-21-22, travelling westward on the north main track, struck the trailer portion of an abandoned highway tractor-trailer at a farm crossing at Mile 292.59 of CN's Kingston Subdivision, near Bowmanville, Ontario. Both the tractor and the trailer were dragged westward for approximately 2000 feet. Approximately 800 feet west of the crossing, metal parts from the trailer portion became entangled under the wheels of the lead locomotive, resulting in the derailment of both locomotives and the following 10 rail cars. The tractor portion remained connected to the trailer and ignited. The local fire department extinguished the fire. Three of the derailed cars were residue liquefied petroleum gas (LPG) tank cars and five of the derailed cars were loaded with butadiene.

Just before the derailed freight train came to a stop, VIA Rail passenger train No. 68 (VIA 68), travelling eastward on the south main track, struck the tractor portion of the tractor-trailer which was hooked onto the lead freight locomotive, tore it away from the trailer portion, and dragged it eastward for approximately 700 feet. Parts of the tractor became lodged under the wheels of the VIA locomotive causing it and the following five passenger coaches to derail. Minor injuries were sustained by six VIA employees, including four on-train service (OTS) personnel, and five passengers.

The Board concluded its investigation and released report R99T0298 on 19 October 2001.

Board Recommendation R01-05 (October 2001)

The Board recognizes that the Department of Transport has done much work over the past 10 to 13 years to develop new crossings regulations. However, the Board is concerned about the time taken to replace the existing regulations, which are minimal and essentially obsolete. The delay in publishing new regulations is not advancing crossing safety in Canada. The Board therefore recommends that:

the Department of Transport expedite the promulgation of new grade crossing regulations.

TSB Recommendation R01-05

Transport Canada's response to Recommendation R01-05 (January 2002)

TC stated that they agreed with the need for the promulgation of the new grade crossings regulations. TC indicated that they are currently finalizing the new Grade Crossings Regulations and it is expected that the regulations will be published in Part 1 of the *Canada Gazette* in spring 2002.

The proposed Grade Crossings Regulations are intended to set clear safety standards for all grade crossings. The regulations will also clearly define the responsibilities related to grade crossings for railway companies, public road authorities and private road owners.

Board assessment of the response to Recommendation R01-05 (January 2002)

As TC agreed with the Board's recommendation and as they were finalizing new Grade Crossings Regulations, with a clear date established to publish these Regulations, TSB assessed this response as **Satisfactory Intent**.

Transport Canada's response to Recommendation R01-05 (July 2006)

The development of the grade crossings regulations requires extensive consultation and will implicate a significant investment from the grade crossing responsible authorities. In this regard the Department is diligently preparing the Regulatory Impact Statement to assist in the promulgation process of the proposed regulations.

Board reassessment of the response to Recommendation R01-05 (August 2006)

Although the new grade crossings regulations are not in effect, TC is preparing the Regulatory Impact Statement.

The reassessment will remain as **Satisfactory Intent**.

Board reassessment of the response to Recommendation R01-05 (March 2008)

Although TC has indicated that they are expediting the promulgation of the new Grade Crossings Regulations, and in consideration that TC's response of January 2002 indicated that a clear date was established to publish these Regulations, the draft regulations have yet to be published in Part I of the *Canada Gazette*.

Therefore, the Board has reassessed this response as **Unsatisfactory**.

Transport Canada's response to Recommendation R01-05 (January 2010)

A group of TC employees are working on a full time basis on the proposed regulation:

The Regulatory Impact Analysis Statement and revised regulation for publication in the *Canada Gazette* is being developed and it is estimated that they will be finalized following consultations with affected parties on a revised regulation proposal and the cost of its implementation by summer/fall of 2010.

The draft of the proposed regulations and accompanying technical standards manual (RTD10) have been modified to address certain technical issues; account for differences between public road management by provinces and municipalities, and communal road management in aboriginal communities; and primarily to revise the strategy, requirements and phases for implementation of the regulations by railway companies and public road authorities at the approximately 15,000 public road crossings in order to address the significant issues of effectiveness, efficiency and costs of implementing these regulations.

A consultation plan has been established to discuss the revised regulatory proposal and develop the costs of its implementation during the winter and spring of 2010. This plan includes participation from railway industry and its unions, provincial and territorial departments of transportation, national and provincial municipal and aboriginal associations, as well as interested individual communities, and other organizations representing affected groups, such as the Federation of Canadian Agriculture.

Board reassessment of the response to Recommendation R01-05 (September 2010)

TC has described safety action that, if implemented in full, could substantially reduce or eliminate the risks inherent with existing grade crossings regulations. However, TC had expected to publish the draft regulations in the *Canada Gazette* in the spring of 2002. Eight years later, the draft regulations have yet to be published. TC is sampling the crossing assessments and working with the railways in applying RTD10 to crossings on the high-speed passenger corridors and has approved contributions estimated at more than \$1.2M to improvement projects for crossings on that corridor (response to R09-01).

Therefore, the Board reassesses the response to recommendation R01-05 as having **Satisfactory Intent**.

Transport Canada's response to Recommendation R01-05 (October 2011)

Transport Canada has revised the proposed Grade Crossings Regulations and related documents to address stakeholders' concerns from past consultations. The regulations will provide for better standards on high-speed corridors and prevent new crossings from being built where train speeds exceed 128 km/h. In order to obtain the public's and stakeholders' comments on these changes, TC will be conducting a final round of consultations prior to publishing them in the *Canada Gazette*, Part I, in spring 2012.

Transport Canada's response to Recommendation R01-05 (January 2012)

External consultations for the proposed Grade Crossings Regulations (including RTD10) will begin on 30 January 2012 for a 60-day period. Separate meetings with stakeholders are also scheduled for May and June of 2012 at various locations across the country.

Board reassessment of the response to Recommendation R01-05 (February 2012)

TC will be conducting another round of consultations prior to publishing the regulations in the *Canada Gazette*. While a renewed round of consultation is a positive step, TSB is mindful of the

protracted time this project has taken. Almost ten years after the TSB signalled the urgency and TC agreed, the draft regulations have yet to be promulgated.

Therefore, the Board reassesses the response to recommendation R01-05 to remain as having **Satisfactory Intent**.

Transport Canada's response to Recommendation R01-05 (January 2013)

The final round of consultations on the draft regulation was scheduled to be completed in June 2012. However, at the request of stakeholders, TC had to prolong its consultation timelines. TC expects to publish the proposed regulations in Part I of the *Canada Gazette* in April 2013 and in Part II in September 2013.

Board reassessment of the response to Recommendation R01-05 (March 2013)

TC now expects to publish the proposed regulations in Part I of the *Canada Gazette* in April 2013 and in Part II in September 2013. TSB is ever mindful of the protracted time this project has taken. Almost 12 years after the TSB signalled the urgency, and TC agreed, the draft regulations have yet to be promulgated.

Therefore, the Board reassesses the response to Recommendation R01-05 to remain as having **Satisfactory Intent**.

Transport Canada's response to Recommendation R01-05 (February 2014)

The Grade Crossings Regulations were presented to Treasury Board and subsequently published in the *Canada Gazette*, Part I, on 08 February 2014. The pre-publication period will last 90 days.

Board reassessment of the response to Recommendation R01-05 (April 2014)

The promulgation of the Grade Crossings Regulations is an important step in addressing safety at railway crossings. The Board recognizes that the Grade Crossings Regulations are a significant step closer to being finalized. However, as it is not yet known when these regulations will come into force and safety action has not sufficiently progressed to address the deficiency, the Board reassesses the response to Recommendation R01-05 as **Satisfactory Intent**.

Transport Canada's response to Recommendation R01-05 (February 2015)

The *Grade Crossings Regulations* were posted in the *Canada Gazette*, Part II, on 17 December 2014 and came into force on that date.

Board reassessment of the response to Recommendation R01-05 (April 2015)

The *Grade Crossings Regulations* came into force on 17 December 2014. The Grade Crossings Standards, published by the Department of Transport in July 2014 and referenced in the regulations, form an integral part of the new regulatory framework. The new regulations have a full compliance requirement of seven years. However, within two years of the regulations

coming into force, the railways and road authorities must share detailed crossing information to facilitate grade crossings safety assessments. With the promulgation of these regulations and the associated standards, the Board anticipates a substantial reduction in risk at grade crossings.

Therefore, the response to the recommendation is considered to be **Fully Satisfactory**.

Next TSB action

This deficiency file is **Closed**.