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Major Railway Accidents Involving Crude Oil: Driving Access to Justice through Partnerships with the Railway Industry

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Fund for Railway Accidents Involving Designated Goods (Rail Fund)



Presentation outline

1. What is the Rail Fund
2. Canada's Rail Liability and Compensation Regime
3. Preparedness Protocols
4. Outreach

What is the Rail Fund?

We compensate anyone affected by major rail accidents involving crude oil.



Canadians can access compensation from us for damages that exceed the liability limit of the railway company involved in the accident.

- This limit depends on the amount of crude oil that the company carries.



Accident in Lag-Mégantic, Québec (2013)
Source: Transportation Safety Board, Report R13D0054



Our independent Administrators

Mark A.M. Gauthier
Administrator

Steve D. Anderson
Deputy Administrator





Our team



Chantal
Guénette
Director



Matt Henrie
**Policy
Analyst**



Elena Merritt
**Legal
Counsel**



Derek Pace
**Legal
Counsel**



Lise
Guindon
**Executive
Assistant**



Jannie Bédard
Guillemette
**Communications
Manager**

We have about 30 employees, consultants, and students who are here to help!

When a major rail accident involving crude oil happens, we will work in partnership with our claims assessment firm.

Canada's compensation regime

Polluter pays principle

1

A railway company involved in a major rail accident is responsible for damages and losses.

- Fault or negligence doesn't have to be proven.

Compensation is available for anyone affected

2

First, compensation will be provided from the railway company involved. We then help victims, responders, and anyone else affected get compensation.

The source of our funds

We collect levies from crude oil shippers.

The railway companies must pay the levy for each tonne of crude oil that they ship by rail.

Once the levy is collected, it is paid into the Rail Fund and remains there until needed.

The Rail Fund also continues to grow due to interest.

Examples of the per-tonne levy

2016-2017: \$1.69 / tonne

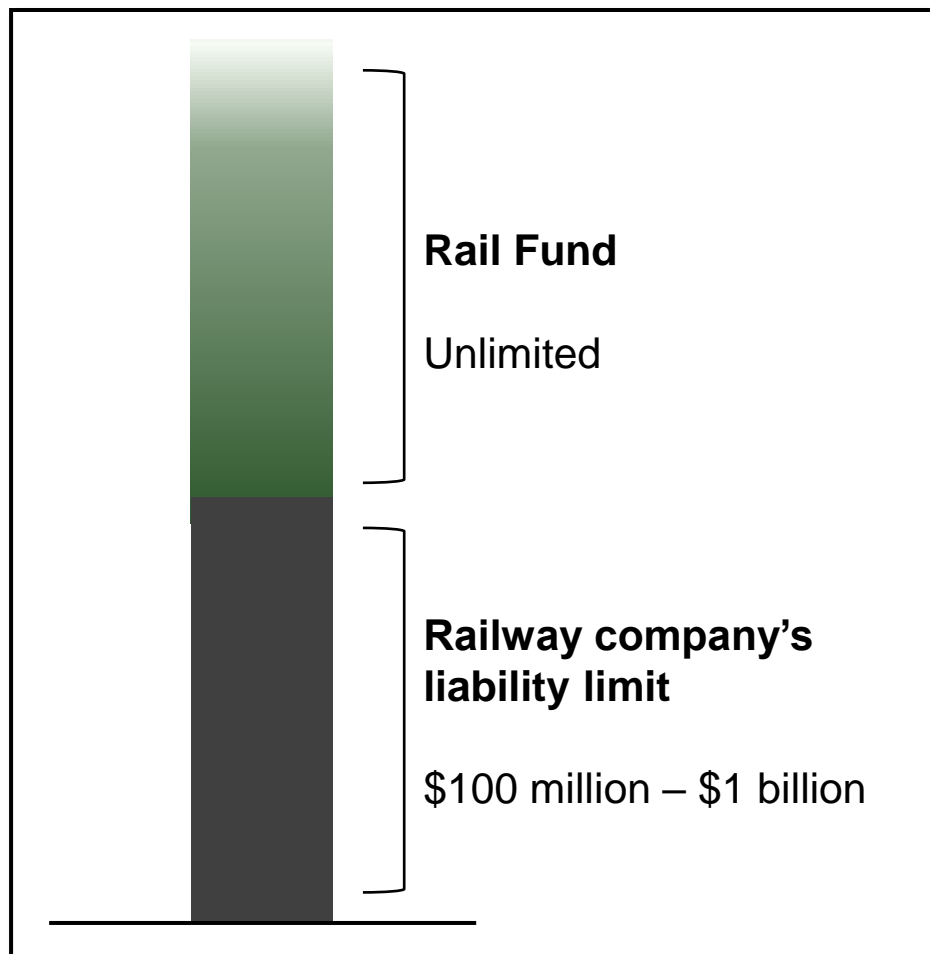
2022-2023: \$1.86 / tonne

2024-2025: \$2.07 / tonne

The levy is adjusted annually based on inflation and the Consumer Price Index.



When does the Rail Fund start accepting and paying claims?



The railway company pays claims until it reaches its liability limit.

Then, Canadians can access compensation from the Rail Fund, once it is activated.

- There is no limit to how much compensation we can provide.
- If our balance is exhausted, the Minister of Finance can:
 - Provide additional money from Canada's Consolidated Revenue Fund
 - Direct payment of an additional levy



Insurance Requirements Based on Goods Transported

Level 1	\$25 Million/occurrence	Level < Levels 2 to 4
Level 2	\$100 Million/occurrence	< 4,000 tonnes of TIH and < 100,000 tonnes of crude oil or > 40,000 tonnes of other dangerous goods
Level 3	\$250 Million/occurrence	> 4,000 tonnes of TIH but < 50,000 tonnes or > 100,000 tonnes of crude oil but < 1.5 million tonnes
Level 4	\$1 Billion/occurrence	> 50,000 tonnes of TIH or > 1.5 million tonnes of crude oil

Eligibility criteria

- 1 The accident is on a federally regulated railway
- 2 Crude oil is involved
- 3 The railway company pays first
- 4 Claims are submitted on time
 - 3 years submission deadline



Canada's Rail Network, 2020
Source: Transport Canada

Our position in the Emergency Management Continuum

- First, compensation provided by the railway company involved up to its liability limit.
- Once activated, the Rail Fund starts accepting claims.
 - We pay all remaining eligible claims.



- We monitor all rail accidents involving crude oil in Canada.
- We are negotiating with railway companies to formalize the transition process of claims and have signed several agreements.

Who can submit a claim?

Any person in Canada that has suffered damages.

Individuals

First responders and
clean-up organizations

Corporations and
businesses



All levels of government

Indigenous peoples

Landowners

Non-profit corporations

What types of damages are covered?



Accident in Emo, Ontario (2020)
Source: Transportation Safety Board, Report R20W0031



Personal injury or death



Emergency response costs



Clean-up costs



Environmental reinstatement

What types of damages are covered?



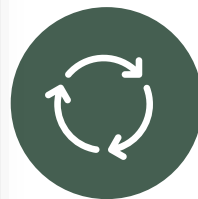
Accident in Guernsey, Saskatchewan (2020)
Source: Transportation Safety Board, Rail Safety Advisory 617-03/20



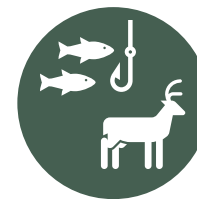
Property damage



Economic loss



Loss of subsistence
living and cultural
losses



Loss of hunting,
fishing and gathering
opportunities for
Indigenous peoples



Loss of non-use value
to a public resource

➤ We cover **all damages** resulting from a major accident involving crude oil

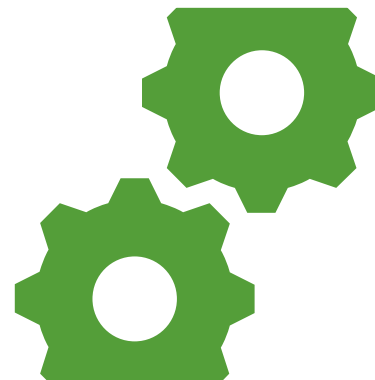
Readiness Plan



**Claims
management and
assessment**



**Activation
management
protocols**



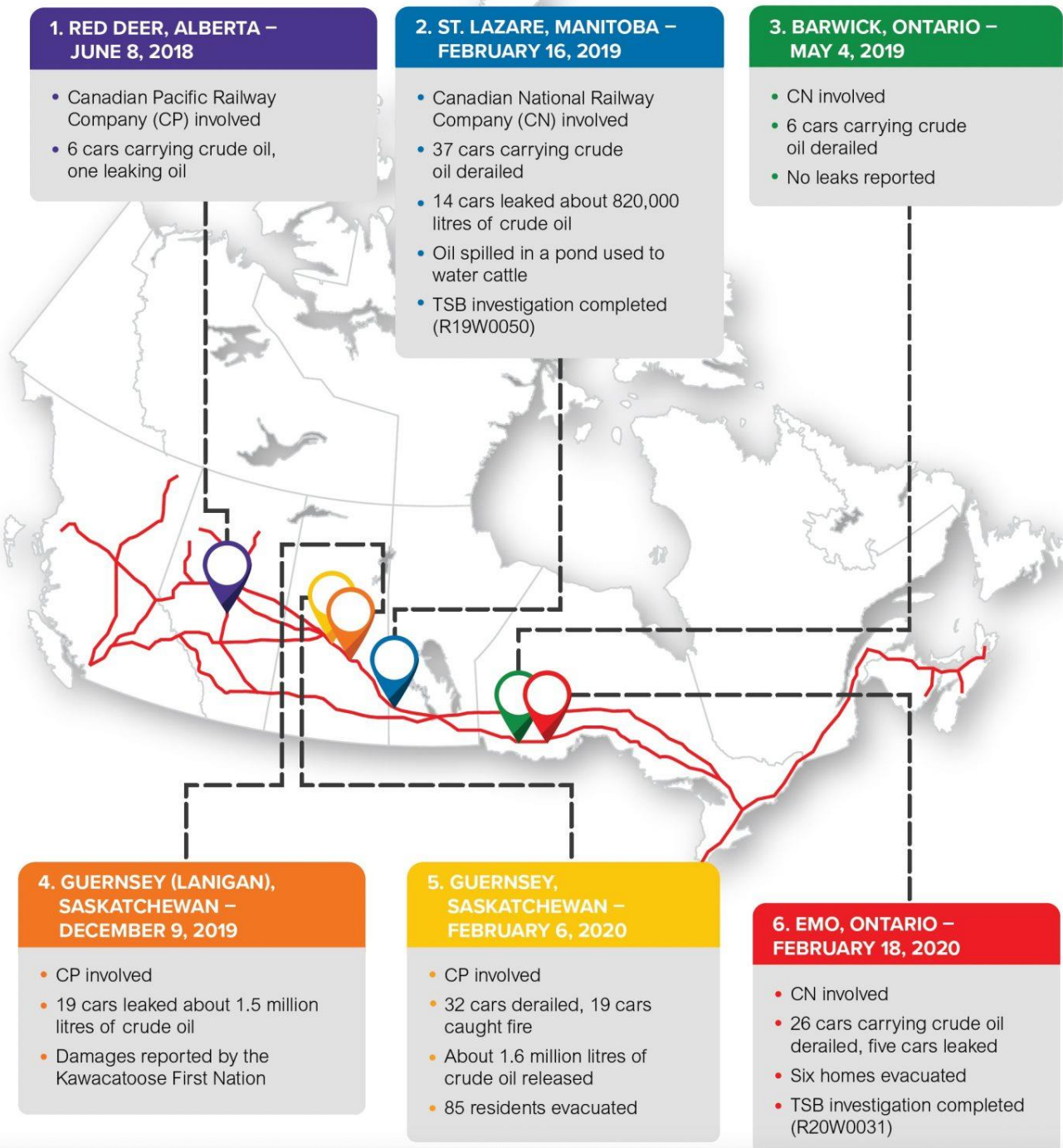
**Transition of
claims**



**Legal
preparedness**



Accident monitoring





Our outreach



- Conferences and trade shows:
 - Building relationships with the rail industry and potential claimants
- Railway companies:
 - Mutual preparedness for claims management
- Federal, provincial, and municipal governments:
 - Emergency response coordination
 - Learning from elected officials of Lac-Mégantic
- Indigenous communities:
 - Cultural sensitivity and reconciliation



Our relationships with shortline railways

Even if a shortline does not carry crude oil, it could be involved in a railway accident involving crude oil with another railway.

We have signed an agreement with the Railway Association of Canada to cover the transition process of claims for certain shortline railway companies.

This agreement is open to any shortline that would like to participate.



Find out more about us here



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Thank you!

