

Have the lessons of Lac-Mégantic been learned?

Bruce Campbell

July 6, 2020 is the seventh anniversary of the Lac-Mégantic oil train disaster, which killed 47 people and orphaned 26 children, spilled an unprecedented six million litres of explosive Bakken shale oil, and incinerated the centre of this Québec town.

It was the worst rail accident since Confederation. The people of Lac-Mégantic were victims of a safety regulatory regime that failed catastrophically.

Seven years after this tragedy what has been learned? Is the transportation of oil by rail safer? Are the tracks sound and well-maintained? Are the tank cars sufficiently crash resistant? Has the government's safety oversight system improved? Have the railways become more attentive to safety especially when it conflicts with costs?

In the wake of the disaster, a rebalancing of the relationship between regulator and regulated industry was needed—to shift from a collaborative-deferential-partnership relationship to one of appropriate tension, where the different roles and priorities of regulator and regulated industry are clearly acknowledged.

This has not happened. The railways' ability to delay, dilute, block, reverse proposed regulations that collide with costs is undiminished. In the months following the tragedy, lobbying intensity soared with precisely this purpose.

The government responded to the disaster with a flurry of safety measures: ministerial orders, legislative changes etc. How effective have these been?

The centrepiece the safety regulatory regime is Safety management systems [SMS]. They are generally understood to be a [“formalized framework for integrating safety into the daily operations”](#) of an organization including the necessary organizational structures, accountabilities, policies and procedure Government establishes the rules companies must follow to ensure they are implementing prescribed risk assessments, staff work-rest rules; track maintenance standards, whistleblower protections, among others.

SMS was introduced almost two decades ago as an added safety layer to direct on-site inspection-based oversight. It soon became a substitute— in effect, company self-regulation. Inspections dwindled and oversight increasingly became a paper exercise—reviewing company books.

To this day there remain huge discrepancies between recommendations made by multiple investigations—[Transportation Safety Board \[TSB\]](#), [parliamentary committees](#), [legislative reviews](#); [Auditor General reports](#)—calling for major reform of the system; and Transport Canada's tepid response.

Auditor General Reports have concluded SMS contains serious flaws. Safety Management Systems have been on the [TSB's Watch list](#) since the list was created in 2010, as "among those issues posing the greatest risk to Canada's transportation system."

The railways are still refusing to implement fatigue management practices in accordance with sound science. Their mandated whistleblower protection provisions are not being used by workers for fear of recriminations. Their risk management practices are inadequate and hidden from public scrutiny.

Since Lac-Mégantic there have been [seven major derailments of trains carrying dangerous goods](#), recently near Guernsey Saskatchewan [December 2019 and February 2020] which together spilled 3.1 million litres of diluted bitumen, from the most crash-resistant model tank cars. All were due to broken rails or other track infrastructure problems. [A TSB March 2020 Advisory](#) noted Transport Canada's *Track Safety Rules* which companies use in their risk assessments, were set in 2012. These rules did not take account of the huge increase in oil by rail traffic since then. They have still not been updated.

[A CBC investigation](#) obtained hundreds of Transport Canada inspection reports documenting of track safety problems along that 183 km section of CP's Saskatchewan line over a four-year period. At no point did it order the company to stop running these mega trains. During this time, CP registered [a seven-fold increase](#) in oil train traffic along this route.

Have the railways found alternative routes for transporting dangerous goods around heavily populated areas? It was recommended long ago by the [inquiry](#) into 1979 Mississauga CP derailment which forced the evacuation of 200,000 people. Municipalities have called repeatedly for trains to be rerouted, as has the Transportation Safety Board.

There has been zero progress in this regard. For cost-efficiency reasons, railways have been unwilling to interchange cargo with other companies whose tracks circumvent urban areas. They interchange regularly, but only when it suits their economic interests. And Transport Canada has been unwilling to mandate rerouting. Rerouting may be the single most important measure to reduce the risk of dangerous goods disasters.

Remote-control satellite-based systems for monitoring and controlling train movements [Positive Train Control] and electro-pneumatic braking systems [ECP] are technological innovations which should have been implemented years ago. The former is almost completely in place in the US, though the Trump administration rolled back regulations requiring these advanced braking systems. In Canada, there has been no concrete action by the railways, and no mandate from Transport Canada to require these safety enhancing technologies despite a recommendation from a National Research Council report over seven years ago.

Another essential safety component requires companies to implement fatigue management practices in accordance with the latest scientific evidence. Since 1994, the Transportation Safety Board has [identified](#) sleep-related fatigue as a contributing or risk factor in at least

31 rail accidents. Despite the latest fatigue management regulations introduced in 2015, the railways continue to stonewall.

Thus, the answer to the question: have the lessons of Lac-Mégantic been learned? Not by a longshot! Perhaps more cynically we should ask, what lessons have been learned— by the regulator; by industry?

The lessons learned from Lac-Mégantic by industry can be found in industry calculations: probability of major accident– **low**; cost of implementing important safety measures– **high**; cost of potential lawsuits– **manageable**.

What has been the price for political leaders and senior bureaucrats? No accountability from politicians other than the transport minister at the time being shuffled off to another portfolio. There were reports of resignations, retirements and relocations of several senior officials within the department— all hidden from public view.

What have been the legal consequences? No politician or senior official has been charged. Civil suits were settled behind closed doors. A Commission of Inquiry was never authorized.

Oil trains—although volumes somewhat reduced during the pandemic— continue to roll through towns and cities across Canada. The window is still open for history to repeat itself. We should not have to wait for another disaster to rediscover that the lessons of Lac-Mégantic have not been learned.

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