



Introduction

On behalf of the members of the Forest Products Association of Canada (FPAC), and the more than 230,000 employees and 200 rural communities they support, thank you for the opportunity to offer our views on the review of Railway Third Party Liability Insurance Coverage Regulations.

The forest industry is one of the largest customers of freight rail services in Canada. In 2011, the overall rail network carried 282M tonnes of freight. Of this, about 30M tonnes (or 11% of the total) were forest products. In terms of tonnage carried, forest products were the 2nd most important commodity products carried by rail next to coal (source: Statistics Canada). In 2012, both CN and CP's total rail freight revenues from Forest products was \$1.5 billion (source: CN and CP annual reports).

The input costs of freight for the forest sector is considerable and any decisions impacting either service or cost are of concern to our members. Therefore we hope that the outcomes of your deliberations on this matter will recognize the market power of the major carriers on our members and any policy decisions will not erode the legislative protection of shippers in this imbalanced market relationship.

Key Principles and Recommendations

Recognizing that this consultation is focused on insurance coverage requirements that railway companies must satisfy to obtain certain approvals from the Agency, FPAC would like to outline a number of broad principles to aid the Agency in considering the appropriate policies and regulations with respect to liability insurance coverage.

1. Ensure safety is the first priority

Any policy or regulation must be designed in such a way that continues to incent all participants in the rail transportation business to maintain safety first and continue to encourage best practices by all participants (e.g. Chemistry Industry's TransCAER program). The offloading of the responsibility for liability coverage to the shipper for goods in transit would not be in keeping with this principle; and would run the risk of creating a "**moral hazard**" (e.g. tendency to take risks because the costs that could result will not be felt by the responsible party) and the risk of rail accidents could actually increase.

2. Be risk based

All policies and regulations should recognize the actual risks of various commodities and encourage best practices to apportion costs relevant to the risk profiles of those different commodities.

3. Compensation for Damage and Polluter Pay

Regulations and policies must recognize the principle that railway companies are accountable for compensating for damages caused by their operations to people and property and to the polluter-pay principle for damages to the environment.

With these three broad principals in mind we would offer two additional recommendations with respect to implementation of any regulatory changes:

1. That all liability insurance coverage be transparent and independently verifiable
2. Any policy or regulatory change not undermine the common carrier obligation of the railways

While advocating these broad principles and recommendations for implementation, the Forest Products Association of Canada is conscious of the Agency's need to balance risk and economic efficiency. We believe that the appropriate allocation of responsibility to carriers and shippers (i.e. loading and unloading at facilities) will insure all players in the transportation system take responsibility for safety while insuring economic efficiency.

Looking Forward

A safe and efficient and effective railway transportation system is important for all Canadians and particularly important for the jobs and economic opportunity of our resource sector. In order to be able to take full advantage of the governments trade agenda we need to get our products from the loading dock to our customers economically and efficiently without compromising on safety.

FPAC looks forward to continuing its ongoing dialogue with the Government on this and other freight related transportation issues, including any future consideration of the apportionment of costs and applicable responsibility for safety within the supply chain.

If you have any questions concerning this submission, or if you require any clarification of anything within this submission, please do not hesitate to contact us.



David Lindsay
President & CEO