

TSB says CN Rail failed to report hundreds of derailments, collisions

Authorities first noticed discrepancies in 2005

By John Nicol, Dave Seglins, [CBC News](#) Last Updated: Dec 09, 2013 5:21 PM ET

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A continuing CBC News investigation into rail safety has found that Canada's largest freight carrier CN Rail did not report to authorities more than 1,800 derailments and accidents, including 44 on key rail arteries.

This came to light in 2005 when the Transportation Safety Board's director of rail investigations says he became suspicious of a dramatic difference between CN's accident numbers compared to other operators.

"All of a sudden there became a wide discrepancy in the [derailment] numbers [compared with CN's competitors]," recalls Ian Naish, who left the TSB in 2009. "You say 'Well, OK, what's going on here?'"

The safety watchdog agency took an unprecedented step and issued a statutory summons in June, 2006 to CN Rail requiring it to turn over its complete safety records. The TSB found unreported over a six-year period:

- 1,700 non-main-track derailments.
- 44 main-track derailments.
- One main-track collision.
- 64 non-main-track collisions.
- One fire/explosion.
- One crossing accident.
- 32 other accidents.

CN spokesman Mark Hallman told CBC News that the company's failure stemmed from a disagreement over the types of minor accidents it must self-report to the TSB.

“At no time did CN attempt to hide or under-report accidents,” Hallman said. “Following a series of discussions, CN and the TSB reached agreement on an interpretation for reportable equipment and track damage.”

An ‘artificial’ increase: CN

The first TSB discussions on CN’s reporting took place in September 2005. Naish told CBC News he “was not happy at all with someone from industry telling me what should be reported and what should not be reported.”

The TSB sent a strongly worded letter in April, 2006, laying out the importance of including all CN accident occurrences in the national rail safety database for trend analysis to prevent major accidents.

“We need to have insights into circumstances where something has gone wrong, even if there has been no substantial damage, injury or loss of life, so that trends can be detected and appropriate safety action considered,” wrote TSB’s David Kinsman on April 20, 2006.

Ed Harris, CN’s executive vice-president of operation, responded by saying the TSB’s reporting criterion was subjective — it didn’t demand all derailments be reported, only those that “sustain damage that affects safe operation.” He encouraged the TSB to begin work revising its reporting regulations.

CN insisted it reported its derailments and collisions the same way since the early 1990s, and to re-report subject to TSB demands would lead to an increase in their accident numbers.

“This would put us in a position of having to defend to the media and public, an artificial increase in reportable accidents solely based on a perceived need and interpretation change by the TSB,” added Harris.

- [MAP | 44 train derailments on main tracks not reported by CN](#)
- [Read CN's response & TSB's response at the bottom of this article](#)

The summons, issued a month later, elicited numbers that even surprised Naish, who feels that all of them should have been reported in the first place.

While many of the unreported accidents were inside rail yards and were minor, some involved damaged rail cars, locomotives and track, including a 2005 derailment of a car on a main track near Fort Langley, B.C. that broke 11 rails and a damaged a switch. In 2002, seven cars derailed at a Toronto-area CN yard destroying a rail switch and damaging 110 metres of rail.

‘Numbers matter’: Chow

The TSB entered the new CN data into its internal database but never publicly revealed, nor sanctioned CN, for its years of under-reporting.

“If there’s no consequence from hiding the truth, why wouldn’t companies continue to hide?” Olivia Chow, federal NDP transport critic told CBC News after reviewing CN’s records.

“I think we need to know, from 2007 on, to now, are there other accidents, especially derailments that Canadians need to know about,” Chow said questioning the continuing drop in all kinds of derailments in the TSB’s current data, which relies on ‘self-reporting’ by rail companies.

Naish, who now works as a consultant, believes that CN’s system of bonuses and rewards could influence the reporting of lower accident rates.

“I think the rewards system is ‘the less accidents you report, the better’,” said Naish, but that’s “not the way it should be in an optimal safety culture.”

Amin Mawani, an associate professor at York University’s Schulich School of Business, reviewed public documents detailing CN’s bonus structure.

“Senior management has clear incentives to reduce actual safety violations,” said Mawani. “In the short run, there may be some incentive to under-report safety violations with the hope that such problems can be fixed before customers and shareholders find out.”

CN, however, said its bonus system “rewards the right behaviours.”

“CN believes remuneration should take into account the achievements of safety-related objectives, so long as it is coupled with a system that protects data integrity,” wrote Hallman in an email.

Though the TSB said the company is now compliant, Naish questions whether CN today is properly reporting all accidents.

TSB spokeswoman Rox-Anne D’Aoust said the agency takes reporting requirements and the need for accurate data seriously.

D’Aoust said they will review “occurrence trends from month to month and a statistical comparison of CN data with previous years and across the industry.”

“In light of the recent public and media questions, we will take a closer look at the data to determine if there is anything unusual and whether any followup is necessary,” said D’Aoust.

U.S. discrepancies

CN also came under scrutiny in the U.S. for its compliance with regulators.

In 2009, a Federal Railroad Administration inspector named Timothy McQuaid noticed an increase in mechanically-caused derailments by CN trains. He sent a team to examine cars after CN's carmen had done their inspections, and his team found a consistent failure by CN to correctly identify and repair defects.

According to an FRA press release announcing an award McQuaid would win for his work on this file, CN dismissed the findings as "minor."

However, McQuaid did an extensive audit to prove the scope of CN's non-compliance, which eventually led CN to acknowledge "the seriousness of its shortcomings," said the FRA at its award ceremony. In 2010 the FRA imposed a two-year compliance agreement on CN to improve mechanical inspections, by adequately trained and resourced personnel, with a focus on safety.

Auditors at the U.S. Surface Transportation Board (STB) also called upon the railway to explain irregularities in the number of reported track delays and road blockages in the Chicago area. CN identified 14 delays, but auditors found more than 1,400 in a two-month period in 2010.

CN said it was due to different reporting interpretations. The STB decided to keep close tabs on CN for five years, and because of continued concerns with CN's reporting, added a year.