

Fund for Railway Accidents Involving Designated Goods



2016
2017

**The Administrator's
Annual Report**

Canada 

Cover Image: "Train cars with puffy white clouds" by Charles Knowles

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Fund for Railway Accidents Involving Designated Goods

The Administrator's Annual Report

2016 - 2017

Canada[!]

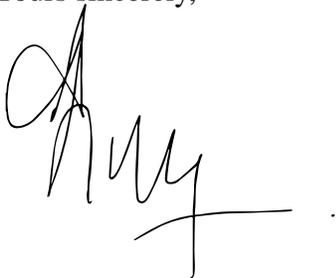
The Honourable Marc Garneau, P.C., M.P.
Minister of Transport
Ottawa, Ontario
K1A 0N5

Dear Minister:

Pursuant to Section 155.93 of the *Canada Transportation Act*, I have the honour of presenting to you the Annual Report for the Fund for Railway Accidents Involving Designated Goods to be laid before each House of Parliament.

The report covers the fiscal year ending March 31, 2017.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anne Legars', with a horizontal line extending to the right.

Anne Legars, LL.M., CAE
Administrator of the
Fund for Railway Accidents Involving Designated Goods

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The Fund for Railway Accidents Involving Designated Goods (“Fund” or “Rail Fund”) is a specified purpose account in the accounts of Canada, established under section 153.4 of the *Canada Transportation Act*. It provides compensation to the victims of rail accidents for damages caused by crude oil when such damages exceed the railway’s limit of liability and insurance. The Fund is financed through a levy paid by crude oil shippers. This levy is collected by the federally regulated railway companies that carry the crude oil. The compensation regime is based on the fundamental principle that railways of federal jurisdiction are strictly liable for damages caused by crude oil carried with or on their assets, up to the amount of the minimum liability insurance coverage that the company is required to maintain.

The Rail Fund is therefore a fund of last resort, which should come into play in large accidents only, as a second tier of indemnification funded by crude oil shippers. There is no limit on claims to the Fund. Should the amount available with the Fund be insufficient to pay all the claims, the Consolidated Revenue Fund would act as a backstop and would be reimbursed over time, with interest, through levies.

This is the first annual report on the operations of the Fund, and it covers the fiscal year ending March 31, 2017.

1 ACTIVITY REPORT

The Fund’s fiscal year 2016-2017 was marked by the following events:

- The entry into force, on June 18, 2016, of the statutory provisions providing for the Fund;
- The entry into force, on June 18, 2016, of the levy on shipments of crude oil by rail, set at \$1.67 per tonne for the fiscal year 2016-2017;
- The first remittance of the levy to the Fund on July 30, 2016 for the June 18-30 period; subsequent remittances were done on a quarterly basis, i.e., October 30, 2016 and January 30, 2017;
- The appointment of an Administrator on August 23, 2016, for an interim mandate ending May 9, 2017, under the Governor in Council new interim appointment process;
- The indexation of the levy on April 1, 2017, set at \$1.69 per tonne.

The Administrator is responsible for:

- Establishing and paying out claims (sections 154.6 and 155 of the Act);
- Ensuring records and systems are properly maintained (section 155.92 of the Act);
- Submitting an annual report to the Minister of Transport for tabling in Parliament (section 155.93 of the Act).

The present report is therefore structured along these core elements of the Administrator’s mandate.

READINESS FOR THE ASSESSMENT AND PAYMENT OF CLAIMS

There has not been a railway accident involving crude oil, since June 18, 2016, that could have triggered the involvement of the Fund. However, the Administrator must ensure that the Fund is ready to deal with claims, should an accident of sufficient significance arise. To this end, the Administrator has:

- **Established an office for the Fund.** This office is situated at 180 Kent Street, Suite 830, Ottawa, Ontario, and is shared with the Ship-source Oil Pollution Fund (“Ship Fund”), which has been in existence since 1989. The Ship Fund shares some of its human and materiel resources with the Rail Fund. However, the latter has its own identity, i.e., its own phone line, letterhead, email addresses and website; its own contracts and service providers; its own file management system, and its own dedicated signage.
- **Started the development of a draft claims manual drawing from the Lac-Mégantic experience.** The statutory provisions governing the Fund were developed in response to the Lac-Mégantic tragedy, which generated over 4,300 claims. The process, timeline and output of the settlement of these Lac-Mégantic claims provide the benchmark against which the efficiency of the Fund process will eventually be evaluated. The Administrator has therefore studied how the Lac-Mégantic claims were managed and assessed, and has initiated discussions with the Controller appointed by the Court to assess and pay the claims out of the Lac-Mégantic settlement fund. Further to these discussions and building on experience and lessons learned from the Lac-Mégantic claims management experience, the Office of the Administrator is developing with the Controller a draft Claims Manual for the Fund based on the new statutory provisions on railway liability. This draft will be ready for circulation and comments from key stakeholders in the summer of 2017. This document will be a template, which will be tailored if and when an accident involving the Fund eventually occurs.

ASSURANCE THAT RECORDS AND SYSTEMS ARE PROPERLY MAINTAINED

To this end, the Administrator has taken the following measures:

- **Professional advice and expertise in administration and finance and clarification of outstanding administrative and financial issues.** The Administrator has retained the professional services of consultants to ensure that the new Fund was launched based on proper processes. A number of meetings with Transport Canada and with the consultants were organized by the Administrator at the beginning of her mandate to clarify and document a number of administrative and financial topics.
- **Filing and archiving systems.** The Office of the Administrator has developed and implemented a Records Classification Standards Guide and a Records Retention and Disposition Schedule.
- **Memorandum of Understanding (MOU) between Transport Canada and the Fund.** Under this MOU, Transport Canada provides a number of services to the Fund, most notably accountancy services and the processing of payments made by the Fund. This MOU provides for the remuneration of these services; it also clarifies the delineation of responsibilities between the Fund and Transport Canada.

- **MOU between the Fund and the Ship-source Oil Pollution Fund (Ship Fund) on the sharing of staff and resources.** As the Rail Fund is being hosted in the premises rented by the Ship Fund and operated in part by staff hired by the Ship Fund, the two funds have signed a MOU which itemizes the resources shared and the financial conditions under which they are shared. Under this MOU, the Ship Fund bills the Rail Fund at the end of the fiscal year for the use of its staff, premises and other shared resources. One of the key elements of the calculation is the proportion of staff time spent on each fund over the relevant fiscal year. In order to be able to establish this proportion, the Administrator of the Ship Fund has implemented time sheets for staff to report the time spent on the Rail Fund.

ANNUAL REPORT TO THE MINISTER OF TRANSPORT, FOR TABLING IN PARLIAMENT, AND OUTREACH

The Act provides that the Administrator's annual report shall present each year the Administrator's activities in that year to the Minister, and that it reports on the financial matters itemized under paragraph 155.93(2) of the Act. This financial reporting is done under part 2 of this annual report.

It is, however, understood that reaching out is an integral part of the Fund's mandate, and that it goes beyond the issuance of the annual report. To that end, the Fund has launched its website and started to build its lists and categories of stakeholders, and the Administrator is planning outreach activities for the upcoming fiscal year.

2 FINANCIAL REPORT

During the fiscal year, the Fund collected \$8,355,632 in levies. Accrued interest on the balance of the Fund (described in section 153.5 of the Act) has not yet been calculated, nor credited to the Fund due to a delay in the signing of an agreement between Transport Canada and the Department of Finance.

The Fund's expenses rose to \$72,071 during that period, including fees paid to the Administrator of \$11,550. These expenses are linked to the establishment and start-up of the Fund, described in the first part of the report. A significant part of these expenses (\$32,531) represents the share of the Fund in the use of office space, personnel and shared services with the Ship Fund.

At the end of the fiscal year, the Fund had an accumulated surplus of \$8,283,561.

The Auditor's Report is included in the attached Financial Statements. The Fund has not yet been billed for the preparation of the report but the cost should be less than \$9,000 (plus taxes), according to the Service Agreement concluded in the fall of 2016.

**FUND FOR RAILWAY ACCIDENTS
INVOLVING DESIGNATED GOODS**

FINANCIAL STATEMENTS

MARCH 31, 2017

**FUND FOR RAILWAY ACCIDENTS
INVOLVING DESIGNATED GOODS**

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INDEPENDENT AUDITOR'S REPORT

To the Administrator of
The Fund for Railway Accidents involving Designated Goods

We have audited the accompanying financial statements of the Fund for Railway Accidents involving Designated Goods, which comprise the statement of financial position as at March 31, 2017, the statements of operations, change in net financial assets and cash flows for the initial year then ended, as well as a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Marcil Lavallée

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Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Fund for Railway Accidents involving Designated Goods as at March 31, 2017, as well as the results of its operations, its change in net financial assets and its cash flows for the initial year then ended in accordance with Public Sector Accounting Standards.

Budget

As explained in Note 7 to the financial statements, budget figures are not disclosed in the financial statements, although it is required according to Public Sector Accounting Standards.



Marcil L. Javallic

Chartered Professional Accountants, Licensed Public Accountants

Ottawa, Ontario
May 31, 2017

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS
STATEMENT OF FINANCIAL POSITION
MARCH 31, 2017

3

2017

FINANCIAL ASSETS

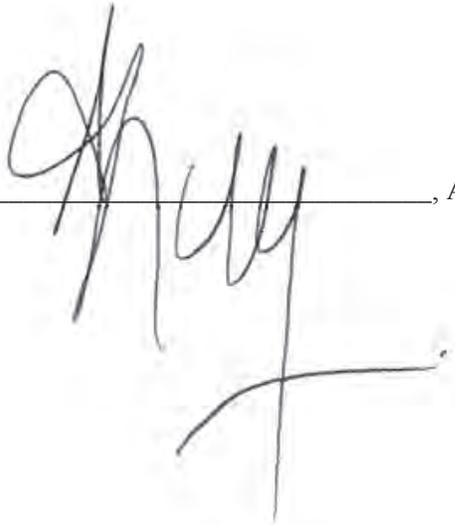
Balance of the account with Receiver General for Canada (Note 3)	\$	4,953,529
Accounts receivable		3,370,300
TOTAL FINANCIAL ASSETS		8,323,829

LIABILITIES

Accounts payable and accrued liabilities		7,737
Due to the Ship-source Oil Pollution Fund		32,531
TOTAL LIABILITIES		40,268

NET FINANCIAL ASSETS 8,283,561

ACCUMULATED SURPLUS \$ 8,283,561


_____, Administrator

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

STATEMENT OF OPERATIONS

FOR THE INITIAL YEAR ENDED MARCH 31, 2017

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	2017
REVENUE	
Levy	\$ 8,355,632
	8,355,632
OPERATING EXPENSES	
Administrative services, salaries and office expenses	26,842
Rent	11,838
Administrator's fees	11,550
Consulting fees	21,751
Travel	90
	72,071
EXCESS OF REVENUE OVER EXPENSES	8,283,561
ACCUMULATED SURPLUS, BEGINNING OF YEAR	-
ACCUMULATED SURPLUS, END OF YEAR	\$ 8,283,561

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS
STATEMENT OF CHANGE IN NET FINANCIAL ASSETS
FOR THE INITIAL YEAR ENDED MARCH 31, 2017 **5**

	2017
OPERATING SURPLUS	\$ 8,283,561
NET FINANCIAL ASSETS, BEGINNING OF YEAR	-
NET FINANCIAL ASSETS, END OF YEAR	\$ 8,283,561

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

STATEMENT OF CASH FLOWS

FOR THE INITIAL YEAR ENDED MARCH 31, 2017

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	2017
OPERATING TRANSACTIONS	
Excess of revenue over expenses	\$ 8,283,561
	<u>8,283,561</u>
Net change in non-cash working capital items:	
Account receivable	(3,370,300)
Accounts payable and accrued liabilities	7,737
Due to the Ship-source Oil Pollution Fund	32,531
	<u>4,953,529</u>
INCREASE IN BALANCE OF ACCOUNT WITH RECEIVER GENERAL FOR CANADA	4,953,529
BALANCE, BEGINNING OF YEAR	-
BALANCE, END OF YEAR	\$ 4,953,529

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2017

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1. GOVERNING STATUTES AND PURPOSE OF THE ORGANIZATION

The Fund for Railway Accidents involving Designated Goods (the Fund) was created on June 18, 2016 under the Safe and Accountable Rail Act (the Act). The Act amends the Canada Transportation Act.

2. SIGNIFICANT ACCOUNTING POLICIES

Basis of accounting

The financial statements are prepared in accordance with Treasury Board accounting policies which are consistent with Public Sector Accounting Standards.

Accounting estimates

The preparation of financial statements in accordance with Treasury Board Secretariat accounting policies, which are consistent with Public Sector Accounting Standards requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses for the periods covered. The primary estimate relate to the valuation of provision for claims under review when such claims are received. Actual amounts could differ from the estimates.

Revenue recognition

The levy income is recognized when earned.

3. BALANCE OF THE ACCOUNT WITH RECEIVER GENERAL FOR CANADA

The cash balance of the Fund is held within the Consolidated Specified Purpose Accounts of the Government of Canada. Public Works and Government Services Canada acts as the custodian of this cash balance and Transport Canada records the various transactions on behalf of the Fund. Once the agreement will be signed between Transport Canada and Department of Finance, Interest will be credited to the account in accordance with the provisions of the MLA at a rate based on a 5-year Government of Canada bond interest rate. The agreement should be signed during the fiscal year 2017-2018.

4. FINANCIAL INSTRUMENT

Credit risk

Credit risk is the risk that one party to a financial instrument will cause a financial loss for the other party by failing to discharge an obligation. The Fund's main credit risks relate to its accounts receivable.

The Fund continuously reviews the financial situation of its clients and establishes allowances for doubtful accounts while keeping in mind the specific credit risk of clients, their historic tendencies and economic situation. 100% of the accounts receivable is to be received from two railway companies. The Fund considers that no risk arises from that situation.

FUND FOR RAILWAY ACCIDENTS INVOLVING DESIGNATED GOODS

NOTES TO THE FINANCIAL STATEMENTS

MARCH 31, 2017

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5. RELATED PARTY TRANSACTIONS

The Fund is related, as a component of the accounting framework of the Government of Canada, to all Government of Canada departments, agencies and Crown Corporations.

During the year, the Fund paid to the Ship-Source Oil Pollution Fund an amount of \$32,531 (2016 : - \$) for its share of the following operating expenses:

	2017
Rent	\$ 11,838
Administrative services, salaries and office expenses	20,693
	\$ 32,531

6. CONTINGENCIES

In the normal course of its operations, the Fund may receive information about incidents that have occurred but for which no claims have been received. It is not possible for the Fund to determine the likelihood of a claim for any of these reported incidents. The Fund is also not able to assess the financial value of any such claims should they materialize. No provision related to these incidents is recognized in the financial statements. A provision is recognized when a claim is effectively received.

As of April 1, 2017, the Minister of Transport has the statutory power to impose a levy of \$1.69 for the fiscal year 2017-2018 (2016-2017: \$1.67) per metric tonne of crude oil carried by a federally regulated railway in Canada. The levy is indexed annually to Inflation and Consumer Price Index.

7. BUDGET

The Fund for Railway Accidents involving Designated Goods does not prepare an annual budget due to the nature of its operations.

