Railway Association of Canada Association des chemins de fer du Canada

Submission to Environment and Climate Change Canada, and the Department of Finance Canada

Bill C-74 – An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures

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Subject: The draft legislative proposals relating to the *Greenhouse Gas Pollution Pricing Act*

The Railway Association of Canada (RAC) is pleased to provide the following submission on behalf of its freight and passenger railway members. Canada's railway industry remains committed to supporting the Government of Canada in its efforts to fulfill its climate change objectives. With clear policy direction established in the Pan-Canadian Framework on Clean Growth and Climate Change, and Minister Garneau's strategic plan for the future of transportation in Canada - Transportation 2030[1,2] railways are prepared to reduce transportation-related emissions in Canada by increasing the amount of goods and people moved by rail.

In fact, if just 10 per cent of truck traffic was transferred to rail, Canada could reduce transportation-related emissions by 3.7 megatonnes (Mt) of CO2 equivalent (CO_2e)[3]. Additional benefits include reduced congestion, improved transportation safety and less wear and tear on the country's road and highway system. Rail is generally four times more fuel efficient than truck, and three times more fuel efficient than the average car. Furthermore, one tonne of freight can travel more than 200 kilometers on a single litre of fuel, while rail continues to be three times more efficient than a compressed natural gas-powered truck.

With its long-standing commitment to using fuel wisely and reducing its emissions[4], Canada's freight rail industry has reduced its emissions by more than a third since 1990 while increasing its workload by 80 per cent over the same period. Very few segments of the Canadian economy can reduce emissions while increasing their productivity at a rate similar to the railway industry, which we believe positions it to be part of Canada's climate change solution.

While the potential for the industry to support government objectives remains solid, the approach to pricing carbon and its implications to railways remains a concern. Consisting of approximately 44,000 route kilometers across 9 provinces and 1 territory, the Canadian freight railway network is operated by two Class I railways, CN and CP, and roughly 60 shortline railways. In addition to the movement of goods, over 80 million people choose to leave their cars at home and use a commuter rail or inter-city service to travel to and from work each day or for leisure.

Several of our federally regulated railway members are already exposed to multiple carbon pricing policies including the existing fiscal instruments in British Columbia and Alberta, and the market-based approaches applied in Ontario and Quebec. These companies are required to meet multiple and often overlapping carbon pricing requirements to ensure that a stable fuel supply chain is in place to service

[1] The Pan-Canadian Framework on Clean Growth and Climate Change, 2016. p.17
[2] Speaking notes for The Honourable Marc Garneau, Minister of Transport - Transportation 2030. Available at: http://news.gc.ca/web/article-en.do?nid=1146789
[3] For additional information about this estimate, contact the RAC directly.
[4] The RAC and its members work voluntarily with the Federal Minister of Transport to reduce locomotive emissions: https://www.railcan.ca/wp-content/uploads/2016/10/TC_RAC_MOU_2011-2015_EN.pdf

freight and passenger customer demands. The introduction of the *Greenhouse Gas Pollution Pricing Act* and supporting regulations will potentially introduce another layer of complexity in a convoluted and already administrative-heavy carbon pricing environment.

Fuel used to power locomotives is not static and railways are often obliged to purchase fuel from one province as a means to servicing customers in another province. For example, when a fuel supply chain cannot meet the demand required to service railway customers in a province, a railway may import fuel from another province or the United States to meet the demand and fulfill its obligations to service its customers in concert with Canada's National Transportation Policy under the *Canada Transportation Act*.

Our estimates indicate that in 2015 freight railways paid $55 million (M) in carbon costs (excluding the federal excise gasoline tax), which is expected to rise to $394 M by 2022. Cumulatively the compliance costs from 2015 to 2022 for freight railways are forecast to be $1.6 B[5].

Our specific comments with respect to the draft legislative proposals are below.

<u>Comments on the draft legislative proposals</u>

1.   Reinvesting carbon pricing revenues into low-carbon transportation options
While the legislative proposal is not intended to establish a policy for how carbon pricing revenues should be allocated in Canada, we believe that the revenues generated from the legislative proposal's requirements should be reinvested into rail infrastructure projects for prospective rail customers.

As previously noted, the railway sector's exceptional fuel economy and long-term commitment to reducing emissions positions it as a critical partner in supporting the Government's commitments to reduce GHGs. The Government of Québec has recognized the significant greenhouse gas (GHG) savings that rail can deliver and has assured that revenues generated from its cap and trade system are made available to prospective railway customers[6]. Recent projects sponsored by the Government include investments into railway track, transload facilities and reload centres. No other programs exist at the federal or provincial level.

From 2011 to 2015, Quebec has awarded $30.4 M to rail and intermodal infrastructure projects (for customers not railways), resulting in reductions of approximately 210,000 tonnes of CO_{2e} per year. This works out to a cost per tonne reduction of $14 over a 10-year project period. If Canada was to replicate this model and allocate $165 M over five years to support new rail and intermodal infrastructure projects across the country, this program could reduce emissions by approximately 5.8 Mt of CO_2e over five years.

We are asking for the creation of similar programs across Canada and believe that the Federal Government can play a pivotal role in demonstrating the leadership required to ensure that goods and people move by the lowest emitting mode of transportation where feasible.

2.   Timing of the Greenhouse Gas Pollution Pricing Act
The legislative proposal aims to ensure that all jurisdictions have a carbon pricing system in effect by January 1st, 2019. The railway industry would like assurance that the resulting carbon pricing systems (either provincial or federal backstop) are not treated as temporary measures. Railway companies require an accurate understanding of their fuel costs to understand operational expenses and establish rates with their customers either under a tariff or long-term contract.

5 For additional information about this estimate, contact the RAC directly.
6 Through the PREGTI program (formerly PARAGES).

In the event that the subject legislative proposal's requirements come into effect, and then change shortly thereafter through the introduction of a new provincial pricing initiative, railways will be faced with the challenge of reviewing their arrangements with their customers in order to comply with new carbon pricing requirements. As a derived-demand industry, pricing stability is critical for ensuring that railways can provide a service that maintains their competitiveness and enables economic opportunity for their customers.

As a result, the RAC recommends that the federal government should require relevant provinces to disclose their intentions to accept the *Greenhouse Gas Pollution Pricing Act* or disclose their intentions before the legislation becomes law.

3. Transparency of fuel charges throughout the supply chain

Existing carbon pricing structures vary in terms of providing direction to fuel suppliers to disclose compliance costs to large purchasers of fuel such as railway companies. For example, British Columbia's carbon tax provides a transparent framework that ensures all parties of the fuel supply chain – from producers to distributors to users – understand what the costs of carbon pricing are. However, the market-based frameworks that exist in Ontario and Quebec do not include the provisions necessary for fuel suppliers to disclose the price of carbon to railway companies at the point of sale.

As the government prepares to launch the proposed legislative proposal in 2019, the RAC believes that the appropriate provisions need to be in place to ensure that carbon pricing is transparent so that railways can understand the costs passed on to them by fuel suppliers.

4. Recognition of renewable diesel and the need for improved transparency

The General Rules of Application item 8(6) provides a quantification methodology for light fuel oil that makes an explicit reference to biodiesel, such as Fatty Acid Methyl Ester (or FAME) and not renewable diesel, such as Hydrotreated Vegetable Oil (HVO) and HVO-type Neste Renewable Diesel. The RAC believes that biodiesel and renewable diesel should be treated the same given that the carbon in both fuels is biogenic and production emissions are similar for both fuels. The percentage of renewable diesel in fuel should be eligible to use as element B of the formula referenced in this section so that remitters of the carbon price do not overpay.

The RAC expects an implementation problem with the calculation of the quantity of fuel as laid out in item 8(6) by registered carriers because the legislative proposal does not require fuel suppliers to disclose renewable or biodiesel blend rates. The Renewable Fuel Regulations only require disclosure of biodiesel blends such as FAME, in excess of 5 per cent, which is insufficient to support this legislative proposal:

- Registered carriers need to know the blend rates of all biodiesel and renewable diesel in the fuel they purchase to calculate payment, and not pay the carbon price for the renewable diesel component. Blend rates are generally not disclosed by fuel suppliers except where required by the Renewable Fuel Regulation.
- Following on the point made in the above paragraph, renewable diesel should be treated the same as biodiesel, and disclosure requirements must be expanded to cover both types of fuel.

The RAC recommends that a legislative requirement be added to the proposed legislation to ensure that fuel suppliers disclose all fuel blends, in order for registered carriers to not overpay nor default their respective warranties with Original Equipment Manufacturers.

Furthermore, the existing Renewable Fuel Standard requires a 2 per cent blend, therefore blends between 2 and 5 per cent should not be required to pay a carbon price on the renewable component. The RAC requests further transparency on why a carbon price would need to be paid on a portion of the renewable diesel content.

5. How the fuel surcharge will apply to fuel imported from provinces where carbon pricing already exists
The legislative proposal indicates that fuel imported into a province where the legislation applies is subject to a fuel charge. Furthermore, the proposal allows registered carriers to apply for a rebate when they export a portion of fuel originally purchased within a province where the legislative proposal applies (e.g. Saskatchewan) into another province where carbon pricing already exists (e.g. British Columbia, Alberta, Ontario or Quebec).

While the RAC and its members appreciate the effort made to recognize that fuel used for railway operations is fluid and can move in accordance with the demands of railway customers, it is not clear how the fuel charge (or a corresponding rebate) will apply when a railway imports fuel (for its operations) from a province where carbon pricing already exists into a province where the legislative proposal will apply.

The RAC is concerned that a railway company may be obliged to pay a carbon price in two jurisdictions for the same shipment of fuel, and recommends that the legislative proposal includes the appropriate provisions to protect railway companies from overpayment.

Closing
The RAC believes that additional consultation is required with its members to ensure that the potential implications from the proposed legislative proposal and corresponding regulations to the railway sector are understood.

If there are any questions or comments with respect to this submission, please contact Michael Gullo, Director, Policy, Economic and Environmental Affairs for the Railway Association of Canada at mgullo@railcan.ca or 613 564 8103.

Regards,

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