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## **CIRCULAR NO. DG-3**

### Recommended Practices for Handling Rail Incidents Involving Dangerous Goods

Effective: November 30, 2005



**THESE PROCEDURES ARE RECOMMENDED FOR USE ON RAILWAYS OPERATING  
IN CANADA**

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## 1. PURPOSE AND BACKGROUND

The objective of this Circular is to outline the relationship and responsibilities as between Consignors and Railway Companies in the handling of emergency situations involving the transportation of Dangerous Goods by rail in Canada.

This Circular is a result of extensive consultation between the Canadian railway industry and the associations representing the major Dangerous Goods Consignors.

These recommended practices complement the Transportation of Dangerous Goods Regulations in Canada.

## 2. APPLICATION OF THE CIRCULAR

This Circular applies to all Railway Companies that are members of the Railway Association of Canada and concerns all Emergency Incidents and Non Accident Releases.

The geographic scope of the Circular includes all Emergency Incidents occurring in Canada while a Railway Company has charge, management and control of the shipment. The purpose of this Circular is to provide for Emergency Response to an Emergency Incident and except in respect of the costs thereof is not intended nor does it acknowledge any Liability on the part of the Railway Company or the Consignor for or in respect of any Emergency Incident nor does it otherwise Limit the Liability of the Railway Company or the Consignor for an Emergency Incident.

## 3. DEFINITIONS

For the purpose of application of this Circular, the following definitions will apply:

### 3.1 "Consignor" means the person in Canada:

- (1) who has the possession of dangerous goods and who allows or will allow the initial carrier to take possession of the dangerous goods for transport, or
- (2) who imports or who will import the dangerous goods into Canada.

NOTE: Before allowing an initial carrier to take possession of dangerous goods for transport, the Consignor must prepare and give that carrier a shipping document or, if the carrier agrees, an electronic copy of the shipping document.

When dangerous goods are imported into Canada, the Consignor must ensure that the initial carrier has a shipping document or, with the agreement of the carrier, an electronic copy of a shipping document that contains the information required by the Transportation of Dangerous Goods Regulations before the Dangerous Goods are transported in Canada.

The Consignor's name and address, as well as a 24-hour emergency telephone number must be shown on the shipping document. Also, when required, the emergency



assistance plan number (ERAP) and the telephone number to activate the plan must be shown on the shipping document.

3.2 **"Dangerous Goods" or "Hazardous Materials"** means all commodities Listed in any or all of the following:

1. The Canadian Transportation of Dangerous Goods Act and Regulations
2. Title 49 of The United States Code of Federal Regulations
3. The International Maritime Dangerous Goods Code (IMDG)

3.3 **"Emergency Incident"** means an incident resulting in damage to the means of containment and/or involving the release or risk of imminent release of Dangerous Goods shipped by the Consignor while the Railway Company has charge, management and control of the shipment.

3.4 **"Emergency Response"** means, with respect to an Emergency Incident, the Emergency Response to be provided under this Circular by the Railway Company in accordance with Section 6 and by the Consignor in accordance with Section 7, as the case may be.

3.5 **"Emergency Response Personnel"** means Personnel trained in accordance with the Transportation of Dangerous Goods Act and Regulations or the Federal Hazardous Materials Regulations, Title 49, code of Federal Regulations of the United States.

Emergency Response Personnel may be provided by a Railway Company in the form of their own employees or personnel contracted by a railway company through mutual aid plans or from a contractor. Consignor Emergency Response Personnel may be provided by Consignor's employees or personnel contracted by the Consignor through mutual aid plans or from a contractor.

3.6 **"Incident Commander"** means the person responsible for all decisions relating to the management of the incident. The Incident Commander is in charge of the incident site.

3.7 **"Non Accident Release (NAR)"** means a rail car, trailer or container intended for rail transport shipped by the Consignor which has not been involved in a Railway Emergency Incident and which is Leaking or releasing Dangerous Goods while in the charge, management or control of a Railway Company.

3.8 **"Railway Emergency Incident"** means an Emergency Incident, other than a Consignor Emergency Incident, that takes place while the shipment is in the care and custody of a Railway Company.



- 3.9 **"Consignor Emergency Incident"** means an Emergency Incident resulting from:
1. the failure of the Consignor to properly Load the Dangerous Goods into the rail car, container or trailer, or;
  2. the failure of the Consignor to properly secure the rail car, container or trailer for transportation purposes, or;
  3. any incident which results from or is caused or contributed to by the condition (including the design, structure or maintenance) of any car owned or supplied by the Consignor, the character or nature of the dangerous goods or any other action or inaction of the Consignor which causes or contributes to the incident.

#### 4. NOTIFICATION

- 4.1 As per the Transportation of Dangerous Goods Regulations, Consignor's shipping documents shall include a 24 hour Emergency Response telephone number that will be used to notify Consignor in the event of an Emergency Incident.
- 4.2 In the event of an Emergency Incident or a Non Accident Release, the Railway Company will immediately notify the Consignor that:
- a) Consignor's shipment is involved but no assistance is required from Consignor in providing the Emergency Response.
  - b) Consignor's shipment is involved and Consignor's assistance is requested to provide the Emergency Response.

#### 5. COMMUNICATION

- 5.1 If Consignor's assistance is requested for an Emergency Incident which occurred on a Railway Company Line, as indicated in Section 4 above, the Railway Company will communicate with Consignor's transportation emergency response coordinator. The Railway Company will convey the nature of the emergency to the Consignor.
- 5.2 It is understood that in the initial stages of an Emergency Incident the situation may not have been fully assessed and it may not be possible to specify the exact assistance required. The parties are expected to communicate and exercise reasonable assessment of the situation in order to avoid extraordinary costs not required by the nature of the Emergency Incident. Safety is the primary consideration if the Level of response required is not clear.
- 5.3 Initial notification of NARs and any appropriate additional documentation and communication will be provided by the Railway Company to assist the Consignor to determine root cause and prevent recurrence of Non Accident Releases.
- 5.4 Effective ongoing communication between the Railway Company and the Consignor is required during the Emergency Response to maximize effectiveness and efficiency in addressing public / employee, safety and environmental concerns. Communication to



determine timely deployment and mobilization of Emergency Response Personnel and equipment is an important component of the overall communication.

- 5.5 The Consignor shall provide appropriate information and assistance to any railway involved in an Emergency Incident in order to allow the railway to respond appropriately.

## 6. RESPONSE RESOURCES PROVIDED BY RAILWAY COMPANIES

In the event of an Emergency Incident on railway property, the Railway Company involved shall provide Emergency Response and shall do all things necessary to manage the Emergency Incident with the assistance of the Consignor(s) and input from Local authorities and the Consignor(s) as appropriate.

The Railway Company shall provide, as is necessary, appropriate resources, including:

- An Incident Commander;
- Primary public spokesperson;
- A command post;
- on-scene coordinator;
- Specialized knowledge in railway equipment;
- Car re-railing and repair to the track;
- Coordination with the Consignor to handle the products;
- Coordination for product clean up and site remediation activities;
- Local transportation, for essential Emergency Response Personnel, to sites only accessible by rail;
- On site support for essential Emergency Response Personnel at remote incidents as feasible (food, shelter, communications).

Where a Non Accident Release is involved, the Railway Company will, when practical, provide the Consignor with the option of undertaking or overseeing the repairs to the rail car, the containment of the Dangerous Goods, and their clean up.



## 7. RESPONSE RESOURCES PROVIDED BY CONSIGNOR AT THE REQUEST OF A RAILWAY COMPANY

In the event of an Emergency Incident, the Railway Company may request the following from the Consignor with respect to the Consignor's shipment:

- Consignor Emergency Response Personnel to perform temporary repairs or product transfer as necessary;
- Product hazard information to assist in analyzing the incident and planning the response (prior to arrival on site if required);
- A Consignor Emergency Response Personnel contact with the Railway Company Command Post on a 24-hour basis until no Longer required. Contact may be in person, or by telephone, pager, radio, or as mutually agreed to by the Railway Company and the Consignor's emergency response personnel contact;
- Specialized equipment and materials;
- An estimate of the time required to transfer Consignor's substance to another means of containment and/or perform temporary repairs;
- Type and Location of neutralizing agents;
- Instructions regarding the disposition of remaining substance;
- Input to the Railway Company and the authorities regarding the disposition of contaminated substance, soil, water, containers or equipment;
- Assistance in determining disposition of rail cars for cleaning;
- Collaborate with the Railway Company spokesperson regarding communication to the public;
- Advice on other specialized resources.

In respect of the provision of the Consignor Emergency Response Personnel, equipment and material referred to in Section 7, Consignor will use its best efforts to have its Emergency Response Personnel, equipment and material at the scene of the Emergency Incident as soon as possible (within twelve hours) after receipt of a request from a Railway Company, or at a time mutually agreed upon by the Railway Company and the Consignor.



## 8. COMPENSATION FOR EMERGENCY RESPONSE RESOURCES

In general, Railway Companies and Consignors will handle compensation for emergency response as follows:

- a) Compensation for providing an Emergency Response pursuant to this Circular is limited to those reasonable costs and expenses directly incurred by the Railway Company or the Consignor, as the case may be, in providing its Emergency Response to an Emergency Incident.
- b) In the event of a Consignor Emergency Incident, Consignor shall compensate the Railway Company for reasonable costs and expenses directly incurred in responding to the Consignor Emergency Incident, including, but not limited to, equipment costs, salaries, food and lodging, cost of contractors, supplies and transportation.
- c) In the event of a Railway Company Emergency Incident, the Railway Company shall compensate the Consignor for reasonable costs and expenses directly incurred in responding to the Railway Company Emergency Incident, including but not limited to, equipment costs, salaries, food and lodging, cost of contractors, supplies and transportation.
- d) Either the Consignor or the Railway Company, when requesting compensation for responding to an incident from the other shall submit a detailed invoice of its costs and expenses including the number of hours dedicated by employees or equipment to the emergency response tasks and the appropriate hourly rates of pay or of use of each. Compensation shall include actual costs to the party making the claim and include rates of pay plus overheads. Supporting documentation shall be provided upon request and will be subject to audit for a period of two years following the incident.
- e) The Consignor shall assume its own costs and expenses related to responding to the Consignor Emergency Incident and the Railway Company shall assume its own costs and expenses related to responding to a Railway Company Incident.
- f) Notwithstanding the foregoing, a Railway Company and a Consignor may enter into a specific agreement with regard to:
  1. The provision of an Emergency Response by the Consignor, or
  2. mutual compensation for an Emergency response, utilizing the response capability and/or fee structure of the emergency response plans of The Canadian Chemical Producers Association or the LPG Emergency Response Corp. (LPGERC), or
  3. The charging or non-charging of each other as to expenses incurred by either of them while responding to a Consignor Emergency Incident or a Railway Emergency Incident.





- g) For greater certainty, the Limitations contained in Section 8 (a) and (e) are only intended to limit the compensation payable by a Railway Company or a Consignor to the other in respect of the provision of an Emergency Response under this Circular and not otherwise.

## 9. TERMS OF CIRCULAR

The terms of this Circular in whole or in part, may be incorporated into applicable Tariffs or contracts for the movement of dangerous goods.

In the event of a conflict between the provisions of this circular and those of:

- i. a “confidential contract” as contemplated by the Canada Transportation Act and made between the consignor and a railway company, or
- ii. an agreement made between the consignor and a railway company pursuant to Section 8(f) of this circular,

Then those of the confidential contract will prevail over the Section 8(f) agreement as the case may be, and those of the Section 8(f) agreement as the case may be shall govern and prevail over the terms of the circular.