



# RAC Dangerous Goods Committee Meeting 2024-01

April 17, 2024

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Canada moves by rail.



Railway Association  
of Canada



## **Competition Law Compliance Policy**

### **STATEMENT**

The RAC is committed to compliance with all **competition laws** applicable in Canada, including Canada's *Competition Act*.

Under the leadership of its Board of Directors, the RAC carries out its activities in strict compliance with all **competition laws**, provides guidance to its committees and its employees on how to comply with these laws, and promotes with them the importance and value to the RAC of complying with them.

The RAC Corporate Secretary ensures that RAC, its committees and its staff are familiar and comply with this policy.

### **COMPETITION LAW**

**Competition laws** are designed to maintain and encourage competition in the marketplace. Non-compliance with the **competition laws** relating to improper coordination among competitors could constitute a criminal offence to which significant fines and prison terms can be attached, and for which significant damages can be awarded in private lawsuits, including large class actions.

RAC is a forum for railway members to exchange information and views on the railway sector. Particularly because RAC is an association that represents most of the players in the rail sector in Canada, including many that compete with one another, any activity it conducts must be in strict accordance with the **competition laws**, and avoid even the perception of possible improper conduct.

### **PROHIBITED ACTIVITIES**

Due to the presence of multiple competing entities in RAC, any activity, including discussions or agreements that relate, directly or indirectly, to the following "**Prohibited Topics**" are strictly prohibited:

- ☐ Prices (rates) charged to shippers for services provided by members of the RAC
- ☐ Prices (costs) paid to suppliers for services provided to members of the RAC
- ☐ Any other conditions associated with services provided to shippers or received from suppliers of RAC members, including discounts, rebates, etc. and level of service provisions
- ☐ Customer or territory allocation
- ☐ Limitation of supply of services provided by RAC members to their customers

### **GUIDANCE**

Any activity, including discussions or agreements that could even remotely be construed as relating to the above Prohibited Topics, cannot take place at the RAC or any of its committees or any meeting organized or attended by RAC staff, or otherwise among RAC members.

To ensure compliance with these rules, when meeting, members of a RAC committee or of the Board of Directors must:

- ☐ Have a pre-set agenda and take minutes, recording resolutions adopted and summarizing the essentials of conversations that took place.
- ☐ Limit themselves to issues identified on the agenda, except if circumstances call for other issues to be addressed, in which case careful notes of the additional issues discussed must be recorded.
- ☐ If any participant believes that Prohibited Topics have been raised or discussed, they must advise all participants of their concern and any discussion relating to that issue be ceased immediately pending legal advice.
- ☐ Require legal advice if any issue to be discussed might cause the members to believe that **competition laws** could be infringed.
- ☐ Suspend or even postpone to a later date discussions on such issues if legal advice cannot be sought in a timely manner.

Staff of the RAC shall in their duties ensure the confidentiality of information brought to their attention by members, avoid conflict of interest or situations that would discredit the RAC, unless doing so could violate the **competition laws**.

Updated May 3, 2021

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**RAC DANGEROUS GOODS COMMITTEE MEETING 2024-01****April 17, 2024; 13:00 (ET)****MICROSOFT TEAMS MEETING**  
**[CLICK HERE TO JOIN THE MEETING](#)****AGENDA**

	<b>SCHEDULE</b>	<b>DISCUSSION LEADER</b>	<b>TIME</b>
1.	Welcome, Call to Order and Roll Call	Darlene Nagy (Chair)	13:00
	1.1 Competition Law Compliance Policy – Forward Statement	Scott Croome	13:05
2.	Approval of Meeting Minutes (October 3, 2023)	Darlene Nagy	13:10» <b>D</b>
3.	MOU on Movement of CCPX911	Scott Croome	13:15
4.	TDGR Update	Darlene / Megan/Scott	13:30
5.	RAC DG Team Update	Scott Croome	13:40
6.	General Discussion	All	13:55
7.	Miscellaneous / Adjournment	Darlene Nagy	14:00
<b>D</b> »	<b>Decision Required</b> <i>Supporting material</i>		

**RAC DANGEROUS GOODS COMMITTEE MEETING  
DRAFT MINUTES 23-02  
Virtual Meeting  
October 3, 2023; 11:00 HOURS (ET)**

**In Attendance**

Darlene Nagy, CPKC - Chair  
Anthony Ippolito, CN – Vice Chair  
Norm Adams, GWCI  
Brianna Bowman, RAC  
Simon Chapman, Metrolinx  
Jean-Pierre Couture, RAC  
Scott Croome, RAC  
Jim Kozey, CPKC  
Curtis Myson, RAC  
Megan Schumacher, CPKC

**Regrets**

Nick Hodge, GWCI  
Guy Langis, ONR  
Mahboubeh Nikeghabal, CN  
Nicolas Panetta, VIA  
Steven Santelli, CN

**1. Welcome, Call to Order – Darlene Nagy**

Darlene Nagy noted that the required quorum was achieved and called the meeting to order in accordance with the Railway Association of Canada (RAC) bylaws. Scott Croome read Agenda item 1.1 Competition Law Compliance Policy – Forward statement.

**2. Approval of Meeting Minutes (May 16, 2023) – Darlene Nagy**

The minutes of the May 16<sup>th</sup> meeting were approved. It was moved by Jim Kozey and seconded by Anthony Ippolito.

The Committee reviewed the list of action items from the last meeting which are located on the last page of these minutes. Darlene noted that all action items have been completed except for the MOU Movement of CCPX911.

**3. MOU Movement of CCPX911 – Scott Croome**

Scott Croome stated that the RAC has a call next week to finish working on sections 4 & 6 (training and ownership). Once that is complete the MOU will go to legal council for approval. The MOU should be completed in the next 4-6 weeks, ahead of the completion of the car.

**4. TDGR Update – Darlene Nagy****Canada: TDG Regulations, Standards, Other Initiatives**

- The Regulations Amending the Transportation of Dangerous Goods Regulations (Miscellaneous Program) were published in Part II of the Canada Gazette on July 5, 2023.

These amendments include typographical and punctuation errors, formatting, and numbering changes, as well as minor inconsistencies between the English and French versions of the TDGR. The objectives of these regulatory amendments are to:

- **Notice – Publication of updated Transport Canada standard Containers for the Transport of Dangerous Goods by Rail TP 14877 (January 2018)**

Transport Canada has engaged the CGSB to carry out the process to revert the TP14877 Transport Canada standard back to a CGSB National Standard of Canada. Still awaiting incorporation into the CGSB Standard.

- **Consultation on RDIMS-#18040250-v8-CANADIAN UPDATE-PRELIMINARY CONSULTATION DOCUMENT- 2021 (002) to the Transportation of Dangerous Goods Regulations**

Transport Canada is currently consulting on proposed amendments to the Transportation of Dangerous Goods Regulations (TDGR) to harmonize, where possible, with the most recent changes in the UN Recommendations (20th Revised Edition), ICAO TI (2019-2020) and IMDG Code (2018). Canada Gazette, Part I was published November 26, 2022. The RAC TDG Committee commented regarding the number of changes made to CGI which does not result in harmonization and due to the complexity and length of the amendment and the number of comments the RAC requested that Transport Canada republish the amendment in Canada Gazette Part I again for comment. No movement on this one yet.

- **Registration Database – Previously Client Information Database (CID) Consultation**

Proposed Scope: Applies to a person who imports, offers for transport, handles or transports dangerous goods at a permanent site that they own or operate located in Canada. Regulatory changes in the TDG Regulations, with publication in Canada Gazette II → 2023 still pending;

- CID launch → 2023 still pending.

- **CGSB Committee Standard 192.3 TDG Training Competencies**

In 2017 the CGSB established a standards committee to develop a new standard for Competency-based training and assessment for the transportation of dangerous goods. The standard will be incorporated by reference into the TDG Regulations and was published in part I of the Canadian Gazette in December 2021. Draft Guidance material was provided to Industry. Publication in Canadian Gazette II – still pending.

- **Initial Consultation Part 6 Training**

In May of 2020 Transport Canada shared a working document for a rewrite of Part 6 of the TDGR which includes the proposed draft provisions for the incorporation by reference of the proposed standard CGSB-192.3, Transportation of Dangerous Goods Training, Assessment and Competency to the TDG Regulations. RAC comments were submitted May 14, 2020. Was published in part I of the Canadian Gazette in December 2021.

- The comments analysis from the June 2023 informal consultation showed that most stakeholders are not in agreement with the assumptions used to calculate the revised costs of the proposal. Based on what Transport Canada heard through the latest informal consultation, new recommendations to the CBA assumptions were made. With the adjustment of the CBA assumptions, the new net cost of the proposed Regulations is estimated at approximately \$400M as opposed to the \$17M that was anticipated.
- Transport Canada shared that based on the difference between the CBA assumptions, the reality stemming from consultations, as well as the administrative burden reduction initiative and the current economic situation, options were presented to the Transportation of Dangerous Goods (TDG) Program Business Committee (PBC), which vetted and approved the

recommendation to review the proposal and to go back to a publication on Part I of the *Canada Gazette*.

- **Reverse Logistics**

In 2014, there was a change to the TDGR which removed the ability of a consignor to rely on the classification that was determined by a previous consignor or the manufacturer. This is now inconsistent with the United States (U.S.) hazardous materials regulations (49 Code of Federal Regulations (CFR), section 171.2) where there is an allowance to rely on information provided by previous offeror or prior carrier. The RAC commented to CG1 published November 26, 2022, and presented to the TDG GPAC sub-committee on Policy and Regulatory Affairs in May 2023. No feedback yet.

- **AMPS – Administrative Monetary Penalties**

With the tabling of Bill C-33 – which would introduce the legislative amendments necessary to introduce an AMP regime and CA framework under the Transportation of Dangerous Goods Act, 1992 (TDGA) the TDG Program is now seeking industry's feedback regarding the details of its proposed AMP and CA policies. Amps Notice of Violations (NoV) and will publish the details of any violations on the Canada.ca website. Details would be listed under the Administrative Enforcement Action Summaries which would include name of the person (individual or organization), nature of the violations, amount of the penalty and Status of each NoV. Publications will be present for up to 5 years after they are paid.

- **TDG has also provided a list of new projects that are still in the scoping stage. The items of most interest to this committee are:**

- Hydrogen transport by rail – assessment of Canadian standards, fire performance
- Analysis of Fire Effects on Tank Cars (AFFTAC) studies – internal evaluation of recent software updates and comparisons to TC models
- Hard coupling of rail cars – assessment of current requirements/speed limits

### **United States: Rulemaking**

- **HM-219D NPRM Published:** Adopt Petitions and Regulatory Update. Published March 3, 2023. Comment period closes May 2, 2023. HMTA proposes amendments to the Hazardous Materials Regulations (HMR) to update, clarify, improve the safety of, or streamline various regulatory requirements. Specifically, this rulemaking responds to 18 petitions for rulemaking submitted by the regulated community between May 2018 and October 2020 that requests PHMTA address a variety of provisions, including but not limited to those addressing packaging, hazard communication, and the incorporation by reference of certain documents.
- **HM-263 NPRM:** Real-Time Train Consist Information published June 27, 2023, requiring all railways transporting hazardous materials to generate in electronic form train consist information, maintain that information off-the-train, update that information in real-time and provide that information in real-time, and provide that information to authorized “emergency response personnel” in advance of their arrival to an accident or incident. This includes Class I, II and III railways. Comments were due Aug 28, 2023, but were moved to October 27, 2023.
- **HM-265A ANPRM:** Modal HM Regulation Update published July 5, 2023, to solicit stakeholder input on initiatives PHMTA is considering that may modernize its Hazardous

Materials Regulations (HMR: 49 CFR parts 171-180) in order to improve hazardous material transportation efficiency, improve transparency and stakeholder engagement, and better accommodate technological innovations-all while maintaining or improving public safety and environmental impacts. This ANPRM has identified over 40 topics for consideration in the Hazardous Materials Regulations. Comments due Dec 4, 2023

**5. RAC DG Team Report – Scott Croome**

Scott Croome provided an update on what the Dangerous Goods Team (DGT) has been working on. Of note:

- The two RAC Railway Emergency Responses Courses both sold out and were a huge success (June 17-23 and September 11-15).
- There is ongoing training and inspection services to member plants.
- There has been no movement on the ERP project.
- Jean-Pierre Couture said TRANSCAER activities are picking up.

**6. General Discussion - All**

Anthony Ippolito noted that on September 30, 2023, Environment Canada issued a 60-Day Consultation in Canada Gazette 1 on the cross-border movement of waste. Comments are due on Wednesday November 29, 2023. The committee will set up a call to review and provide comments.

CPKC/CN/RAC will be attending the following 3 meetings in November:

- MacTDG -November 28<sup>th</sup>
- Subcommittee meeting – November 29<sup>th</sup>
- GPAC – November 30<sup>th</sup>

Anthony Ippolito mentioned that CN has recently built two derailment sites, one in Chicago and one in Winnipeg. The site in Winnipeg has 10 cars with locomotives plus a campus building and a school. Come spring it will have live fire for training. CN has already run a few pilot courses and will be opening it up for anyone wanting to do training there as well. Contact Anthony Ippolito if you would like to schedule training.

**7. Miscellaneous / Adjournment – Darlene Nagy**

A Doodle Poll will be sent to the Committee members for dates for the beginning of April.

A motion to close the meeting was put forward by Anthony Ippolito and seconded by Jim Kozey.

The meeting adjourned at 11:41 AM ET.

Action Items	Lead	Status
1. Megan Schumacher and Darlene Nagy to compare, review and submit the 3 equivalency certificates.	Megan Schumacher / Darlene Nagy	Completed
2. MOU on the no change of movement of the CCPX911 railcar in Canada transit or spotting requires sign off from CP and CN.	CP/CN	Ongoing
3. Darlene Nagy to schedule a meeting with the Dangerous Good Committee to meet to decide on a proposed option to discuss with Monica Blaney.	Darlene Nagy	Completed
4. Darlene Nagy, Scott Croome, Jim Kozey and Anthony Ippolito will discuss with Monica Blaney what the definition of a railway site is.	Darlene Nagy / Scott Croome / Jim Kozey / Anthony Ippolito	Completed
5. Anthony Ippolito to review the Ask Rail and SERTC letter.	Anthony Ippolito	Completed
6. Anthony Ippolito to call Andy Elkins to discuss Canadian support for Ask Rail.	Anthony Ippolito	Completed
7. Provide comments on the 60-day consultation of cross-border movement of waste.	Anthony Ippolito/Darlene Nagy	
8. Remove Steven Santelli (CN) from committee	Brianna Bowman	Completed





**Dangerous Goods Committee**

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**The Railway Association of Canada  
Dangerous Goods Committee  
Terms of Reference**

**Name**

The organization shall be known as the RAC Dangerous Goods Committee (DG Committee).

**General Mandate**

The general mandate for this Committee is to provide the members of the RAC with a forum for the identification and assessment of industry issues directly related to train operations involving the transport of dangerous goods (TDG); to monitor and advise on proposed changes to existing regulations (including US / cross border regulations); to evaluate the impact of such changes on the industry; to oversee the development of necessary rule-makings or associated revisions to referenced standards under the Transportation of Dangerous Goods Act; to identify and recommend opportunities for operational improvements within the industry; The Committee will provide reports and/or recommendations to the SOMC on matters within the scope of its mandate. The Committee will serve as a focal point for sharing of ideas, technology and new initiatives that provide positive improvements in operational practices within the industry. Finally, The Committee will provide direction to the RAC Dangerous Goods Team.

**Committee Responsibilities & Guidelines**

- Manage rules and regulations under their mandate including new rules or revisions to existing rules related to the transportation of dangerous goods in train operations.
- Monitor, assess and report findings and recommendations to the SOMC on issues emanating from within the committee's mandate.
- Research and report on issues assigned to the committee by the SOMC.
- Provide direction and guidance to the RAC Dangerous Goods Team.
- Ensure that its mandate provides value-added benefit to the Railway Association of Canada and the member Railways via the work undertaken by the Committee.
- Ensure that regulators overseeing the transport of dangerous goods by railways and other agencies with an interest in TDG represent railway perspective by working within the MACTDG (Multi Association Committee for TDG) and the GPAC (General Policy Advisory Council).
- Review, assess, develop and implement appropriate broad industry strategies that promote the reputation of RAC members. These could include industry best practices and guidelines, training packages, presentations, and other activities.
- Liaise as required with other organizations and associations involved in the promotion of operational efficiency in the industry, including AAR, CIAC and others.

## **Officers**

There shall be a Chair and Vice-Chair, elected by its membership. Their terms of office shall normally be 2 years. The positions can alternate or new officers elected after each 2 year term.

At the beginning of each regular meeting the Chair will appoint a Secretary from the membership in attendance.

An officer from the RAC will be appointed to the Committee as a member and will assist in the management of the Committee.

## **Duties of Officers**

The Chair shall be responsible for the general supervision of the affairs of the Committee, preside at meetings and be empowered to call special meetings as conditions warrant. The Chair will act as Committee spokesperson to the SOMC, or may delegate said activities. The Vice-Chair shall perform duties of the Chair whenever the Chair is unable to perform the duties of his/her office.

The Secretary will record the events of the proceedings including but not limited to discussion topics, resolutions, action items and responsibilities. The Secretary will draft minutes of the meeting and forward them to the Chair for approval/distribution within 30 calendar days

## **Membership**

Membership is open to the RAC and RAC member companies. Persons shall be nominated by their respective companies and shall serve until the person notifies the Chair of his/her resignation. Membership will be of special interest to those with responsibilities in the dangerous goods function of corporate operations, regulatory affairs, maintenance and risk management.

A member who is unable to attend a meeting should/may send a representative who shall be counted in determining a quorum and be permitted to vote in place of the regular member.

Decisions will be made on a consensus basis with recommendations being made to the SOMC that reflect this consensus. Non-consensus will be addressed by SOMC.

## **Meetings**

The Dangerous Goods Committee shall meet on an as needed basis or on a schedule to be determined by the Committee. Special meetings may be called in response to significant developments.

Meetings may be held by telephone or video conference at the discretion of the members.

## **Quorum**

A quorum shall consist of the Chair (or Vice-Chair) and RAC member. The Vice-Chair will be recognized as a member when not acting as Chair.



## **Reporting Authority**

The Committee will provide reports and recommendations to the Safety & Operations Management Committee (SOMC).