



Province of Alberta

DANGEROUS GOODS TRANSPORTATION AND HANDLING ACT

Revised Statutes of Alberta 2000
Chapter D-4

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Office Consolidation

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Dangerous Goods Transportation and Handling Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Dangerous Goods Transportation and Handling Act		
Dangerous Goods Transportation and Handling	157/97	141/99, 206/2001, 220/2001, 105/2005, 280/2006, 68/2008, 211/2011

DANGEROUS GOODS TRANSPORTATION AND HANDLING ACT

Chapter D-4

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Schedule

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) repealed 2010 c4 s2;
- (a.1) “Board” means the Alberta Transportation Safety Board constituted by section 22 of the *Traffic Safety Act*;
- (a.2) “compliance mark” means a symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of those things, that is or is to be affixed or displayed on a means of containment used or intended to be used in offering for transport, handling or transporting dangerous goods to indicate compliance with a safety standard that applies under the regulations;
- (b) “Crown” means the Crown in right of Alberta;
- (c) “dangerous goods” means a product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (c.1) “dangerous goods mark” means a symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of those things, that is or is to be affixed or displayed, to indicate the presence or nature of danger, on

- dangerous goods or on a means of containment or means of transport used in offering for transport, handling or transporting dangerous goods;
- (c.2) “Director” means the Director of the Dangerous Goods and Rail Safety Branch of Alberta Transportation;
- (d) “emergency response assistance plan” means a plan under section 21;
- (e) “federal Act” means the *Transportation of Dangerous Goods Act, 1992* (Canada);
- (f) “handling” means the loading, unloading, packing or unpacking of dangerous goods in or on a means of containment for the purposes of, in the course of or following transportation in or by a means of transport, and includes their storage in the course of such transportation;
- (g) “highway” means a highway as defined in the *Traffic Safety Act*;
- (h) “inspector” means a person or a member of a class of persons designated as an inspector under section 6(1);
- (i) “means of containment” means a container or packaging, or any part of a means of transport, that is or can be used to contain dangerous goods;
- (j) “means of transport” means
- (i) an item of rolling stock within the meaning of the *Railway (Alberta) Act*, or
 - (ii) a vehicle within the meaning of the *Traffic Safety Act*;
- (k) “Minister” means the member of the Executive Council determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (l) “offence” means an offence against this Act;
- (m) “prescribed” means prescribed or otherwise provided for by the regulations or, where so indicated, by the regulations under the federal Act;
- (n) “public safety” means the safety of human life, human health, property or the environment;

- (n.1) “release” means
- (i) a discharge, emission, explosion, outgassing or other escape of dangerous goods, or of any component or compound evolving from dangerous goods, from a means of containment being used to handle or transport the dangerous goods, or
 - (ii) an emission, from a means of containment being used to handle or transport dangerous goods, of ionizing radiation that exceeds a level or limit established under the *Nuclear Safety and Control Act* (Canada);
- (o) “safety mark” means a dangerous goods mark or a compliance mark, or both, as the case may be;
- (p) “safety requirements” means the requirements prescribed under section 31(1)(j);
- (q) “safety standards” means the standards prescribed under section 31(1)(k) or under the federal Act regulating the design, construction, equipping, functioning or performance of means of containment or facilities used or intended to be used in handling, offering for transport or transporting dangerous goods;
- (q.1) “security requirements” means requirements prescribed under section 31(1)(u.2);
- (r) “shipping record” means a record, including an electronic one, that relates to dangerous goods being handled, offered for transport or transported and that describes or contains information about the goods;
- (s) “standardized means of containment” means a means of containment for which there is a safety standard;
- (s.1) “terrorist activity” means terrorist activity within the meaning of the *Criminal Code* (Canada);
- (t) “this Act” includes the regulations.

RSA 2000 cD-4 s1;RSA 2000 cR-4 s59;
RSA 2000 cT-6 s196;2002 c32 s4;2010 c4 s2

Application to Alberta Crown

2 Unless otherwise specified, this Act binds the Crown.

1998 cD-3.5 s2

Prevalence over other legislation

3 In case of conflict with any other Act, except the *Alberta Bill of Rights*, the *Alberta Human Rights Act*, the *Financial Administration Act* or the *Freedom of Information and Protection of Privacy Act*, or with any regulations under any other Act, this Act prevails over that Act or those regulations unless the contrary is expressly declared in this Act or in another Act.

RSA 2000 cD-4 s3;2009 c26 s33;2010 c4 s3

Intergovernmental agreements

4 Subject to the *Government Organization Act*, the Minister may enter into an agreement with the government of Canada or of a province or territory with respect to the administration and enforcement of all or any of the provisions of this Act or the federal Act and the regulations under that Act, or both, including provision for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising from the agreement.

1998 cD-3.5 s4

Exemption by permit

5(1) The Minister may issue a permit authorizing the conducting of an activity that would otherwise be contrary to this Act, if the Minister is satisfied that

- (a) the manner in which the authorized activity will be conducted provides a level of safety at least equivalent to that provided by full compliance with this Act, other than with this section, or
- (b) the authorized activity is necessary to deal with an emergency in which there is a danger to public safety.

(2) A permit issued under subsection (1)(b) may initially be given orally but must, as soon as possible afterwards, be issued in writing and in accordance with the prescribed requirements.

(3) A permit given or issued under this section must specify

- (a) the activity authorized by the permit,
- (b) the dangerous goods that are the subject of that activity,
- (c) the means of containment to be used in conducting the activity, and
- (d) all the persons who are permitted to conduct the activity.

- (4) The permit may establish terms and conditions governing the authorized activity, non-compliance with any of which by any person invalidates the permit.
- (5) The Minister may revoke a permit issued under subsection (1)(a) only
- (a) if the Minister is not satisfied that the manner of conducting the authorized activity reaches the level of safety described in subsection (1)(a),
 - (b) if this Act or the federal Act or the regulations under that Act, as the case may be, have been amended or reinterpreted since the issue of the permit so as to allow the activity regardless of the permit,
 - (c) for non-compliance with any of the terms and conditions of the permit, or
 - (d) if the Minister considers that public safety or other exigencies necessitate the revocation.

1998 cD-3.5 s5

Inspectors - designation, jurisdiction and certificate of designation

6(1) The Minister may designate as inspectors persons or classes of persons whom the Minister considers qualified to act as inspectors

- (a) for the purposes of this Act generally or of any of its specific provisions, and
- (b) either generally or as to specific classes of dangerous goods, places, facilities or means of containment or of transport.

(2) The Minister shall provide each inspector with a certificate of designation as an inspector in the prescribed form showing the purposes, classes of dangerous goods, places, facilities and means of containment and of transport, so far as applicable, for which the inspector is designated.

(3) Notwithstanding anything in this Act, an inspector is not authorized to act outside the restrictions in authority, if any, established in respect of that inspector under this section.

1998 cD-3.5 s6

Powers of inspectors - generally

7(1) For the purpose of ensuring compliance with this Act, an inspector may

- (a) subject to section 8, at any reasonable time, stop, enter and inspect any means of transport and enter and inspect any facility if the inspector believes on reasonable grounds that on or in the means of transport or facility there are
 - (i) dangerous goods being handled, offered for transport or transported,
 - (ii) standardized means of containment,
 - (ii.1) any means of containment being manufactured, modified, repaired or tested on which a compliance mark is or will be affixed or displayed,
 - (iii) books, shipping records, emergency response assistance plans, prescribed security plans or other documents that contain any information relevant to the administration or enforcement of this Act, or
 - (iv) computer systems, data processing systems or any other electronic devices or media that may be used to examine any information that is contained in or available to them, being information that is relevant to the administration or enforcement of this Act,
- (b) open and inspect, or request the opening and inspection of, any means of containment if the inspector believes on reasonable grounds that it is being used to handle or transport dangerous goods or to contain dangerous goods offered for transport,
- (c) for the purpose of analysis, take a reasonable quantity of anything the inspector believes on reasonable grounds to be dangerous goods, and
- (d) examine and make copies of any information contained in any books, shipping records, emergency response assistance plans, prescribed security plans or other documents, or in any computer systems, data processing systems or any other electronic devices or media, that the inspector believes on reasonable grounds contain any information relevant to the administration or enforcement of this Act.

(2) On entering any place or inspecting any thing, an inspector shall show to the person in charge of the place or thing the certificate of designation issued under section 6, if the person requests proof of the inspector's designation.

RSA 2000 cD-4 s7;2010 c4 s4

Need for warrant to enter dwelling

8(1) An inspector may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant.

(2) A justice may at any time sign and issue a warrant authorizing the inspector named in the warrant to enter a dwelling place subject to any conditions specified in the warrant where, on an ex parte application, the justice is satisfied by information on oath that

- (a) the conditions for entry described in section 7 exist in relation to the dwelling place,
- (b) the inspector has the requisite authorization to act under section 6, and
- (c) entry has been refused or there are reasonable grounds for believing that entry will be refused.

(3) The inspector who executes the warrant shall not use force unless the inspector is, or is accompanied by, a peace officer and the use of force has been specifically authorized in the warrant.

1998 cD-3.5 s8

Detention of goods, etc., and other measures

9(1) Where an inspector believes on reasonable grounds that any dangerous goods are being handled, offered for transport or transported in a manner that does not comply with this Act, the inspector may detain the dangerous goods until satisfied that they will be handled, offered for transport or transported in compliance with this Act.

(2) Where an inspector believes on reasonable grounds that any standardized means of containment is being sold, offered for sale, delivered, distributed or used in a manner that does not comply with this Act, the inspector may detain the means of containment until satisfied that it will be used in compliance with this Act.

(3) The inspector may take any other measures necessary to remedy the non-compliance referred to in subsection (1) or (2), or direct any person who owns or has the charge, management or

control of the dangerous goods or means of containment to take the necessary measures.

RSA 2000 cD-4 s9;2010 c4 s5

Certificate of inspection

10(1) Where an inspector opens anything for inspection, or takes a sample of anything that is sealed or closed up, the inspector shall provide the person who has the charge, management or control of the thing with a certificate in the prescribed form as proof that it was opened for that purpose.

(2) The person to whom, or for whose benefit, the certificate is provided is not liable, in any civil proceedings or in respect of any provincial offence, in respect of any act or omission of the inspector in the course of the inspection or taking of the sample, but is not otherwise exempt from compliance with this Act.

1998 cD-3.5 s10

Obstruction of inspectors

11 When an inspector is exercising powers or carrying out duties under this Act, a person shall not

- (a) fail to comply with any reasonable request of the inspector,
- (b) knowingly make a false or misleading statement either orally or in writing to the inspector,
- (c) except with the authorization of the inspector, remove, alter or interfere in any way with anything detained or removed by or under the direction of the inspector, or
- (d) otherwise obstruct or hinder the inspector.

1998 cD-3.5 s11

Actual or imminent release - inspector's powers

12(1) An inspector may take any measure referred to in subsection (2) where the inspector believes on reasonable grounds that it is necessary

- (a) to prevent an imminent release of dangerous goods from a means of containment being used to handle or transport the dangerous goods, or
- (b) to reduce any danger to public safety resulting from a release.

- (2) The measures referred to in subsection (1) are
- (a) to remove or to direct a person described in subsection (3) to remove the dangerous goods or means of containment to an appropriate place,
 - (b) to direct a person described in subsection (3) to do anything else to prevent the release or to reduce any resulting danger, or to direct the person to refrain from doing anything that may impede the prevention of the release or the reduction of danger, or
 - (c) to take any other measure described in section 7.
- (3) A direction may be issued under subsection (2) to
- (a) any person who owns or has the charge, management or control of the dangerous goods or means of containment when or after the release occurs or becomes imminent,
 - (b) any person who is responding to the occurrence or imminence of the release in accordance with an emergency response assistance plan approved under section 21, or
 - (c) any person who causes or contributes to the occurrence or imminence of the release.

RSA 2000 cD-4 s12;2010 c4 s6

Actual or imminent release - duties

13(1) Where a release of dangerous goods in excess of a prescribed quantity or concentration occurs or is imminent from a means of containment being used to handle or transport dangerous goods, any person who at the time has the charge, management or control of the means of containment shall make a report of the occurrence or imminence of the release in the prescribed manner and containing the prescribed information to a prescribed person.

(2) A person who is required by subsection (1) to make a report shall, as soon as possible in the circumstances, take all reasonable emergency measures to reduce or eliminate any danger to public safety that results or that may reasonably be expected to result from the release.

(3) A report under subsection (1) need not be made in such circumstances as are prescribed.

RSA 2000 cD-4 s13;2010 c4 s7

Liability where compliance with direction, etc.

14 Notwithstanding any other law, a person who is directed or required by or under section 9(3) or 12(2) to do or to refrain from doing anything is not liable in any civil proceedings nor guilty in respect of any provincial offence, in respect of any act or omission in the course of complying with the direction or requirement or doing any reasonable thing incidental to it, unless it is additionally shown that the act or omission was motivated by bad faith.

1998 cD-3.5 s14

Recovery of costs and expenses

15(1) The Crown may recover costs and expenses reasonably incurred while taking any measures under section 9 or 12.

(2) The costs and expenses may be recovered on a joint and several basis from any persons who, through their fault or negligence or that of others for whom they are by law responsible, caused or contributed to the circumstances necessitating the measures.

(3) Proceedings in respect of a claim under this section may be instituted no later than 2 years after the cause of action arose.

1998 cD-3.5 s15

Public inquiry in case of release

16(1) Where a release of dangerous goods from a means of containment being used to handle or transport dangerous goods has resulted in death of or injury to any person, danger to health or public safety or damage to any property or to the environment, the Minister may direct that a public inquiry be conducted in a manner indicated in the direction and may appoint any person the Minister considers qualified to conduct the inquiry.

(2) A person appointed under subsection (1) has, for the purposes of the inquiry, all the powers, duties and immunities of a commissioner appointed under the *Public Inquiries Act*.

RSA 2000 cD-4 s16;2010 c4 s7

Local authority bylaws

17(1) Subject to the regulations, a local authority within the meaning of the *Municipal Government Act* or a Metis settlement may make bylaws with respect to highways under its direction, control and management

- (a) designating the route and time of travel of vehicles transporting dangerous goods,
- (b) prohibiting the carriage of dangerous goods on those highways specified in the bylaw, and
- (c) specifying restrictions or conditions to ensure the safe transportation in or by a means of transport, safe storage and controls necessary for public safety.

(2) A bylaw under subsection (1), including any amendment made to that bylaw, does not come into force until it is approved by the Minister, and the bylaw ceases to have force 5 years after its commencement or after the effective date of a renewal of approval under this subsection, as the case may be, unless that approval has previously been renewed by the Minister.

1998 cD-3.5 s17

Stop orders

18 The Minister may order a person engaged in handling, offering for transport or transporting dangerous goods or supplying standardized means of containment to cease that activity or to conduct other activities to reduce or eliminate any danger to public safety if satisfied that the order is necessary to deal with an emergency that involves danger to the environment or to public safety and cannot be effectively dealt with under any other provision of this Act.

RSA 2000 cD-4 s18;2010 c4 s8

Prohibitions as to handling, offering or transporting goods

19 A person shall not handle, offer for transport or transport any dangerous goods unless

- (a) the person complies with all applicable safety requirements and security requirements,
- (b) the goods are accompanied with all applicable documents prescribed under section 31(1)(l),
- (b.1) a means of containment that is prescribed to be required or permitted for the goods is used, and
- (c) the means of containment and of transport comply with all applicable safety standards and display all applicable safety marks.

RSA 2000 cD-4 s19;2010 c4 s9

Design, etc., of means of containment

19.1 A person shall not design, manufacture, modify, repair, test or equip a means of containment used or intended to be used in offering for transport, handling or transporting dangerous goods unless the person complies with all the applicable safety requirements.

2010 c4 s10

Prohibitions as to affixation and display of marks

20(1) A person shall not affix or display on a means of containment a compliance mark, or another mark that is likely to be mistaken for a compliance mark, that relates to the manufacture, modification, repair or testing of the means of containment, unless the manufacture, modification, repair or testing was done in compliance with all safety requirements and safety standards applicable to that compliance mark.

(2) A person shall not affix or display on dangerous goods, on a means of containment or on a means of transport a dangerous goods mark or another mark that is likely to be mistaken for a dangerous goods mark, if the mark is misleading as to the presence or nature of any danger.

RSA 2000 cD-4 s20;2010 c4 s10

Improper means of containment

20.1 A person shall not sell, offer for sale, deliver, distribute or use a means of containment unless it displays all applicable safety marks in accordance with the regulations.

2010 c4 s10

Supply records and notices

20.2(1) A manufacturer of means of containment shall keep records of the persons to whom the manufacturer supplies it.

(2) If the Minister believes on reasonable grounds that any means of containment is unsafe, as supplied by the manufacturer, for handling or transporting dangerous goods, the Minister may direct the manufacturer to issue a notice of defective construction or recall to the person to whom it was supplied.

(3) The Minister may direct a person who repaired or tested a means of containment to issue a notice of defective repair or defective testing, as the case may be, to the person for whom it was repaired or tested, or to publish the notice in a manner such that the notice is likely to come to that person's attention, if the Minister

believes on reasonable grounds that the person who repaired or tested the means of containment failed to comply with an applicable safety requirement or safety standard.

(4) A person to whom a direction is issued under this section shall comply with it.

2010 c4 s10

Emergency response assistance plans

21(1) Before offering for transport any prescribed quantity or concentration of dangerous goods, a person shall have an emergency response assistance plan that is approved under this section and that outlines what is to be done if there is an accident in transporting the dangerous goods.

(2) The Minister may approve the plan, either indefinitely or for a specified period, if the Minister believes on reasonable grounds that it is capable of being implemented and will be effective in responding to any accident in transporting the dangerous goods.

(3) The Minister may approve the plan pending an investigation of the matters to be considered under subsection (2) if the Minister has no reason to suspect that the plan is incapable of being implemented or will be ineffective.

(4) The Minister may revoke the approval if the Minister

- (a) has requested changes to the plan that are believed on reasonable grounds to be needed to make it effective and the changes have been refused or have not been made, or
- (b) believes on reasonable grounds that the plan is no longer capable of being implemented.

RSA 2000 cD-4 s21;2010 c4 s11

Security plans

21.1(1) A prescribed person shall not handle, offer for transport or transport dangerous goods that are in a prescribed quantity or concentration or within a prescribed range of quantities or concentrations before the person has undergone the prescribed security training, has a prescribed security plan that meets the requirements of subsection (2) and has implemented that plan.

(2) The security plan must, in accordance with the prescribed criteria, set out measures to prevent the dangerous goods from being stolen or otherwise unlawfully interfered with in the course of the handling, offering for transport or transporting.

2010 c4 s12

Requirement for financial responsibility

22(1) A person shall not handle, offer for transport or transport dangerous goods unless the person is financially responsible to the extent and in the manner prescribed.

(2) A person who handles, offers for transport or transports dangerous goods shall provide the prescribed proof of financial responsibility to an inspector who requests the proof.

(3) This section does not apply to the Crown.

RSA 2000 cD-4 s22;2010 c4 s13

Time limit for prosecution

23 A prosecution under this Act may not be instituted more than 2 years after the later of

- (a) the day the offence is alleged to have been committed or, in the case of an offence of a continuing nature, the day when the last occurrence of the alleged offence is alleged to have happened, and
- (b) the day on which evidence of the alleged offence first came to the attention of the Director.

RSA 2000 cD-4 s23;2010 c4 s14

Defence

24 Except where section 14 applies, it is a defence to a charge under any provision of this Act for the accused to establish that the accused took all reasonable measures to comply with that provision or with this Act generally.

1998 cD-3.5 s24

Vicarious liability of employers and principals

25 In any prosecution of an employer or of a principal for an offence, it is sufficient proof of the offence if it is proved to the satisfaction of the court trying the case that

- (a) the provision was contravened by an employee or agent of the accused while acting in the course of his or her employment or agency functions, and
- (b) the accused consented to or knew or should fairly be regarded as having consented to or having known about the circumstances giving rise to that contravention,

whether or not the employee or agent has been prosecuted for the contravention.

1998 cD-3.5 s25

Liability of corporation officers, directors and agents

26 Where it is proved to the satisfaction of the court trying a case that a corporation has contravened any provision of this Act, whether or not it has been prosecuted for the contravention, an officer with executive authority or a director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the contravention by the corporation is also a party to and guilty of the offence relating to the contravention and is separately liable to the penalty provided for the offence.

1998 cD-3.5 s26

Evidence - effect of certificate, report, etc.

27(1) In any prosecution for an offence, a certificate, report or other document, appearing to have been signed by the Minister or by an inspector, is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, is proof of the matters asserted in it.

(2) In any prosecution for an offence, a copy made by an inspector under section 7 and appearing to have been certified under the inspector's signature as a true copy is admissible in evidence without proof of the signature or official character of the person appearing to have signed it and, in the absence of evidence to the contrary, has the same probative force as the original would have if it were proved in the ordinary way.

(3) No certificate, report or copy shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced at least 7 days' notice of that intention together with a duplicate of the certificate, report or copy.

1998 cD-3.5 s27

Onus of proof as to safety marks and shipping records

28 In any prosecution for an offence, evidence that a means of containment or of transport bore a safety mark or was accompanied with a shipping record is, in the absence of evidence to the contrary, proof of the information shown or indicated by the safety mark or contained in the shipping record.

1998 cD-3.5 s28

Power of court to make orders on conviction

29(1) Where a person is convicted of an offence, the court may make an order having any or all of the following effects:

- (a) prohibiting the person for a period of not more than one year from engaging in any activity regulated under this Act;
- (b) requiring the person to provide compensation, whether monetary or otherwise, for any remedial action taken or damage suffered by another person arising out of the commission of the offence;
- (c) requiring the person to do anything that will assist in repairing any damage to the environment arising out of the commission of the offence;
- (d) requiring the person to conduct programs of technical research and investigation into the development and improvement of safety marks, safety requirements and safety standards, or to pay an amount in the prescribed manner to be used to conduct the research.

(2) The court may make the order in addition to any other punishment imposed on the person and shall have regard to the nature and duration of the offence and the circumstances surrounding its commission.

(3) The total value of what the person may be required to do under subsection (1)(b) to (d) in relation to a single offence must not exceed \$1 000 000 or, in the case of an offence referred to in section 30(2), \$1 000 000 for the first calendar day, and the prescribed amount for each calendar day after the first one on which the offence is held to have continued.

(4) If the person contravenes the order, the person is guilty of an offence and liable to a fine not exceeding \$50 000 for a first offence and not exceeding \$100 000 for each subsequent offence.

1998 cD-3.5 s29

Penalties

30(1) Subject to subsection (2) and section 29(4), a person who contravenes a provision of this Act is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$50 000 or to imprisonment for a term not exceeding 2 years, or to both the fine and imprisonment, and
- (b) for a subsequent offence, to a fine of not more than \$100 000 or to imprisonment for a term not exceeding 2 years, or to both the fine and imprisonment.

(2) Subject to subsection (3), where an offence of a continuing nature continued beyond a single calendar day, the person who committed the offence is additionally liable to the applicable penalty under subsection (1) or section 29(4) for each calendar day after the first one on which the offence is held to have continued.

(3) No one is liable to any additional term of imprisonment solely as a result of the application of subsection (2).

1998 cD-3.5 s30

Administrative penalties

30.1(1) Where the Director is of the opinion that a person has contravened this Act, the Director may, subject to the regulations, order that person to pay to the Government an administrative penalty in the amount, not exceeding \$10 000, set out in the order.

(2) Notwithstanding subsection (1), where the Director considers that a contravention of a continuing nature continued beyond a single calendar day, the person held to have committed it is additionally liable to the applicable penalty under subsection (1) for each calendar day after the first one on which the contravention is so held to have continued.

(3) The Director shall, forthwith after making an order under subsection (1), serve the order by registered post on the person required to pay the administrative penalty.

(4) A person on whom an administrative penalty is imposed under this section and who ultimately pays it or wins an appeal under section 30.2 is not liable to be charged under this Act with an offence in respect of the same contravention, and a person who is charged with an offence against this Act may not be charged an administrative penalty under this section arising out of the same contravention.

- (5) Where a person does not pay an administrative penalty in accordance with an order under subsection (1), the Government may recover the amount owing in respect of the penalty by an action in debt.
- (6) An order under subsection (1) may not be made more than one year after the later of
- (a) the day the contravention is held by the Director to have occurred or, in the case of a contravention held to be of a continuing nature, the day when the last occurrence of it is alleged to have happened, and
 - (b) the day on which evidence of the contravention held to have occurred first came to the attention of the Director.

2010 c4 s15

Appeal of administrative penalty order to Board

30.2(1) A person charged an administrative penalty under section 30.1(1) may appeal that charge to the Board within 30 days after the date of the service of the Director's order by filing with the Secretary of the Board a notice of appeal accompanied with the prescribed fee, if any.

(2) In determining an appeal under subsection (1), the Board may make an order confirming, varying or rescinding the Director's order.

(3) An appeal under this section does not, except as otherwise directed by the Board, operate as a stay of the Director's order.

(4) The provisions of the *Traffic Safety Act* and the regulations under it relative to an appeal to the Board under section 41(1) of that Act, including the fees payable in respect of an appeal, apply with respect to an appeal under this section and, in particular, the Board has the powers and the duties in respect of the appeal under this section that it has under that Act in respect of an appeal under that section 41.

2010 c4 s15

Privative clause

30.3 An order of the Board under section 30.2 is final.

2010 c4 s15

Regulations

31(1) The Lieutenant Governor in Council may make regulations generally for carrying out the purposes and provisions of this Act, including regulations

- (a) prescribing products, substances and organisms for the purposes of section 1(c);
- (b) establishing divisions, subdivisions and groups of dangerous goods and of the classes of dangerous goods;
- (c) specifying, for each product, substance and organism prescribed under clause (a), the class and, if applicable, the division, subdivision or group into which it falls;
- (d) determining or providing for the manner of determining the class and, if applicable, the division, subdivision or group into which any dangerous goods not prescribed under clause (a) fall;
- (e) exempting from the application of the whole or any specified portion of this Act the handling, offering for transport or transporting of dangerous goods in any quantities or concentrations, in any circumstances, at any premises, facilities or other places, for any purposes or in any means of containment that are specified in the regulations;
- (f) providing for the manner of identifying any quantities or concentrations of dangerous goods exempted under clause (e);
- (g) exempting the Crown from any specified provision of the regulations;
- (h) declaring that another Act or regulations under it prevail over the regulations, for the purposes of section 3;
- (i) requiring that safety marks be displayed
 - (i) on dangerous goods or on the means of containment or of transport used in handling, offering for transport or transporting dangerous goods, or at facilities used in those activities, and
 - (ii) to show the presence and the nature of the danger or to indicate compliance with the applicable safety standards for the goods, means of containment or of transport or facilities,

and respecting the manner in which they are to be displayed;

- (j) establishing requirements of general or particular application for handling, offering for transport or transporting dangerous goods, for reporting those activities, and for training persons engaged in those activities;
- (k) establishing standards of general or particular application regulating the matters specified in section 1(q);
- (l) establishing shipping records and other documents that must be used in handling, offering for transport or transporting dangerous goods, the information that must be included in those documents and the persons by whom and the manner in which they must be used and kept;
- (m) prescribing forms for the purposes of this Act;
- (n) fixing the form, amount, nature, class, terms and conditions of insurance or bonds that must be provided and carried by persons handling, offering for transport or transporting dangerous goods;
- (o) specifying circumstances in which the handling, offering for transport or transporting of dangerous goods is prohibited;
- (p) specifying dangerous goods that must not be handled, offered for transport or transported in any circumstances;
- (q) governing the route and time of travel of vehicles transporting dangerous goods on highways;
- (r) respecting the qualification, training and examination of inspectors and the manner in which inspectors must carry out their duties under this Act;
- (s) respecting the manner of applying for, issuing and revoking permits under section 5 or approvals of emergency response assistance plans under section 21;
- (t) providing for the appeal or review of a refusal to issue a permit or approval referred to in clause (s) or a revocation of it;
- (u) providing for the notification of persons directed or ordered to do anything under section 9, 12 or 18, for the

effect, duration and appeal or review of those directions or orders of and for any other incidental matters;

- (u.1) authorizing the Minister to require persons engaged in handling, offering for transport or transporting dangerous goods to take measures to secure their operations against the threat of terrorist activity, including without limitation the filing with the Minister of plans to ensure the security of their operations;
- (u.2) prescribing requirements respecting security training, including its content and its implementation, and measures to support the enforcement of section 21.1(2);
- (u.3) respecting administrative penalties;
- (v) prescribing any matter or thing that by this statute may or is to be prescribed by the regulations.

(2) Any regulation made under subsection (1) may adopt by reference, in whole or in part and with any changes that the Lieutenant Governor in Council considers necessary, any code or standard, or any regulation made under an Act of the Parliament of Canada, and may require compliance with any code, standard or regulation that is so adopted.

RSA 2000 cD-4 s31;2002 c32 s4;2010 c4 s16

32 Repealed 2010 c4 s17.

Schedule (Section 1(c))

Class 1 -- Explosives, including explosives within the meaning of the *Explosives Act* (Canada)

Class 2 -- Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure

Class 3 -- Flammable and combustible liquids

Class 4 -- Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases

Class 5 -- Oxidizing substances; organic peroxides

Class 6 -- Poisonous (toxic) and infectious substances

Class 7 -- Nuclear substances within the meaning of the
Nuclear Safety and Control Act (Canada) that are
radioactive

Class 8 -- Corrosives

Class 9 -- Miscellaneous products, substances or organisms
considered by the Governor in Council under the
federal Act to be dangerous to life, health, property
or the environment when handled, offered for
transport or transported and prescribed under the
federal Act to be included in this class

RSA 2000 cD-4 Sched.;2010 c4 s18



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