



Province of Alberta

RAILWAY (ALBERTA) ACT

RAILWAY REGULATION

Alberta Regulation 177/2002

With amendments up to and including Alberta Regulation 132/2017

Office Consolidation

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(Consolidated up to 132/2017)

ALBERTA REGULATION 177/2002

Railway (Alberta) Act

RAILWAY REGULATION

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Definitions

1(1) In this Regulation,

- (a) “Act” means the *Railway (Alberta) Act*;
- (b) “Railway Administrator” and “Railway Administrator (Alberta)” mean a person designated under section 51 of the Act as the Railway Administrator;
- (c) “railway safety officer (Alberta)” means a person designated as a railway safety officer under section 51 of the Act and includes any person authorized by the Railway Administrator to carry out duties or functions on behalf of or in the place of a railway safety officer.

(2) In this Regulation, a reference to

- (a) a regulation made under an Act of Canada, or
- (b) a rule or standard approved under an Act of Canada

is a reference to the regulation, rule or standard as amended, whether amended before or after the commencement of this Regulation.

Application

1.1 Except to the extent that it is inconsistent with the *Industrial Railway Regulation*, this Regulation applies to industrial railways.

AR 338/2009 s14

Application

1.2 Except to the extent that it is inconsistent with the *Heritage Railway Regulation*, this Regulation applies to heritage railways.

AR 352/2009 s14

Part 1

Approvals for Construction and Operation of Railways

Information to be provided for all approval applications

2 Unless the Railway Administrator otherwise directs, every applicant for an approval under the Act must provide to the Railway Administrator, as part of the application for approval, at least the following information:

- (a) a written statement of the nature of the application for approval;
- (b) evidence satisfactory to the Railway Administrator that the applicant is a corporation entitled to carry on business in Alberta;
- (c) evidence satisfactory to the Railway Administrator that the applicant has or will have, and will maintain, any insurance coverage required by this Regulation;
- (d) details about
 - (i) any contravention by the applicant of railway legislation existing when the application is made, and
 - (ii) any order or direction issued to the applicant, under the Act or an enactment of Canada, that relates to the construction or operation of a railway and that is in effect when the application for approval is made;
- (e) copies of all necessary right-of-way plans, crossing plans, crossing agreements, bridge inspection records and condensed profiles of the railway;
- (f) any other information the applicant considers appropriate in order for the Railway Administrator to make a decision about the application;
- (g) any additional engineering and design plans and specifications demonstrating safety and feasibility to the Rail Administrator's satisfaction.

AR 177/2002 s2;132/2017

Additional information required for construction approvals

3 When an application for approval under the Act is for construction, the applicant must, in addition to the information provided under section 2 of this Regulation and under section 11(4) of the Act, also provide the following information, unless the Railway Administrator otherwise directs:

- (a) full details about the location, nature and extent of the construction proposed;
- (b) the person who will undertake the construction, with details of the professional qualifications of those who will supervise the construction;
- (c) the time frames within which construction will start and be completed;
- (d) if the construction is part of a larger project, an outline of that larger project and how the particular project and the larger project are expected to proceed;
- (e) enactments that require the applicant to obtain an approval, permit or other authorization for the construction, and the status of those applications;
- (f) the ultimate use to which the construction will be put and who will use it;
- (g) sufficient information for the Railway Administrator to be satisfied that railway legislation, other enactments and any applicable bylaws will be complied with;
- (h) the name of
 - (i) the municipal authority, as defined in the *Municipal Government Act*, in which the construction will occur, together with confirmation that all municipal approvals have been or will be obtained and that other municipal bylaw requirements have been met, and
 - (ii) any other authority from which an approval, permit or other authorization is required to be obtained by the applicant.

Additional information required for general operation approvals

4 An applicant for an approval under section 10(1)(b) of the Act to commence or continue the general operation of rolling stock must, in addition to the information required under section 2, also provide the following information, unless the Railway Administrator otherwise directs:

- (a) evidence satisfactory to the Railway Administrator that the applicant has the right to operate rolling stock across and along the right-of-way in respect of which the approval is requested;

- (b) a statutory declaration that all inspection records of track and rolling stock have been transferred to the applicant, together with a copy of all the inspection records;
- (c) a copy of the applicant's
 - (i) general operating rules and instructions;
 - (ii) employee qualification and training rules;
 - (iii) emergency response procedures;
 - (iv) safety management system and plans satisfactory to the Railway Administrator;
 - (v) security management plan satisfactory to the Railway Administrator;
- (d) a business and operations plan showing to the satisfaction of the Railway Administrator how the applicant will meet its obligations under the Act and regulations and how the railway will operate as a going concern.

AR 177/2002 s4;132/2017

Operating approvals

5(1) The Railway Administrator must give written notice to an applicant for an approval under this Part of whether the application is approved or refused.

(2) If the application is approved, the notice must indicate whether the approval is subject to any conditions and must indicate the period for which the approval is granted, which may not be more than 3 years.

(3) If the application is refused, the notice must indicate the applicant's right to have the decision reviewed by the Alberta Transportation Safety Board in accordance with the Act.

AR 177/2002 s5;221/2004

Renewal or new approvals

6(1) A holder of an approval who wishes to obtain a new approval or to renew an approval must apply to the Railway Administrator at least 60 days before an approval expires.

(2) A holder of an approval who wishes to obtain a new approval or renew an approval must submit with the application

- (a) the information required by the Railway Administrator, and

(b) the results of a safety audit satisfactory to the Railway Administrator if the terms of the current approval requires periodic safety audits.

(3) The Railway Administrator must give written notice to the applicant for renewal or for a new approval of whether the application is approved or refused.

(4) If the application is approved, the notice must indicate whether the approval is subject to any conditions and must indicate the period for which the approval is granted, which may not be more than 3 years.

(5) If the application is refused, the notice must indicate the applicant's right to have the decision reviewed by the Alberta Transportation Safety Board in accordance with the Act.

AR 177/2002 s6;221/2004;132/2017

Amendments to approvals requested by operator

7 The holder of an approval may apply to the Railway Administrator for an amendment to the approval by

- (a) describing the amendment requested,
- (b) explaining the reason for the request, and
- (c) providing the Railway Administrator with any information necessary for the Administrator to consider the request.

Railway Administrator amendments

7.1 If the Railway Administrator considers it appropriate to do so, the Railway Administrator may, with the consent of an approval holder, amend an approval with respect to any matter.

AR 132/2017 s5

Notification of decision

8 The Railway Administrator may grant an application under section 7 with or without conditions, or may refuse the application, and must notify the applicant accordingly.

Exemptions

9 The Railway Administrator may, in an approval or by notice in writing, exempt an operator of a railway from all or any of the provisions of a Federal regulation, rule or standard adopted by this Regulation, the *Heritage Railway Regulation* (AR 352/2009) or the

Industrial Railway Regulation (AR 338/2009), with or without conditions, when the Administrator is satisfied that

- (a) the provision is inappropriate, inapplicable or unnecessary in view of the circumstances of the operator or the operation of the railway, and
- (b) an equivalent level of safety can be maintained if the exemption is granted, or that the level of safety is satisfactory in the circumstances.

AR 177/2002 s9;110/2013

Railway Administrator's authority under the Act

10 Nothing in this Part restricts or limits the authority of the Railway Administrator under the Act to require any material that the Railway Administrator considers appropriate in order for the Railway Administrator to decide whether to grant an approval.

“Owner” of land defined

11 For the purpose of section 11(4)(c) of the Act, “owners of land” to whom notice of the proposed construction of track or structural facilities must be given means

- (a) the owner of the fee simple estate in the land adjacent to the track or structural facility to be constructed,
- (b) the person registered or recorded on the title of the adjacent land as having a right or interest in it, and
- (c) any leaseholder or tenant of the landlord, whether recorded on the title of the adjacent land or not.

Certificates to be provided as statutory declarations

12 A certificate

- (a) provided under section 11(4)(b) of the Act that the proposed track or structural facilities meet the requirements of railway legislation, or
- (b) provided under section 11(4)(c) of the Act that the owners of land that is located adjacent to the right-of-way or proposed right-of-way on which the track is to be constructed have been given notice of the proposed construction,

must be given by statutory declaration by an officer of the applicant who is properly authorized to make it.

Snow fences

13(1) For the purposes of section 22 of the Act, the operator of a railway may, on and after November 1 each year and up until the following March 31, enter on any land adjacent to track and erect and maintain snow fences for the purposes of protecting the track from drifting snow.

(2) An operator of a railway who erects a snow fence must remove it on or before April 1 each year.

Part 2
Track Standards, Railway Safety and
Railway Operations

Division 1
Track Safety

14 Repealed AR 110/2013 s4.

Rules Respecting Track Safety

15(1) The *Rules Respecting Track Safety* (TC E-54), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2 is amended

(a) by striking out clause 2.2 and substituting the following:

2.2 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

(b) by adding the following definitions in alphabetical order:

“federally regulated” means Provincially regulated;

“Transport Canada” means the Railway Administrator (Alberta);

“Transport Canada Rail Safety Inspector” means a railway safety officer (Alberta).

(3) Section 4.3 is amended by striking out “minister” and substituting “Railway Administrator”.

AR 177/2002 s15;110/2013;132/2017

Rules for the Control and Prevention of Fires on Railway Rights-of-way

16(1) The *Rules for the Control and Prevention of Fires on Railway Rights-of-Way* (TC E-06), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 1.2 is amended by striking out “subject to the jurisdiction of Transport Canada pursuant to the Railway Safety Act (Canada).”

(3) Section 2 is amended

(a) by striking out clause 2.1 and substituting the following:

2.1 “department” means the Railway Administrator (Alberta);

(b) by adding the following after clause 2.9:

2.10 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

Railway Prevention of Electric Sparks Regulations

17(1) The *Railway Prevention of Electric Sparks Regulations* (SOR/82-1015) under the *Canada Transport Act* (Canada) are declared in force with the variations or modifications prescribed in this section:

(2) Section 2 is amended by striking out the definition of “railway company” and substituting the following:

“railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

Division 2 Rolling Stock Operation and Safety

Railway Locomotive Inspection and Safety Rules

18(1) The *Railway Locomotive Inspection and Safety Rules* (TC O 0-112), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of Transport Canada pursuant to the Railway Safety Act (Canada)”.

(3) Section 3 is amended

(a) by striking out clause 3.13 and substituting the following:

3.13 “Department” and “department’s regional office concerned” means the Railway Administrator (Alberta);

(b) by striking out clause 3.33 and substituting the following:

3.33 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

(c) by striking out clause 3.34 and substituting the following:

3.34 “railway safety inspector” means a railway safety officer (Alberta);

AR 177/2001 s18;110/2013;132/2017

Railway Safety Appliance Standards Regulations

19(1) The *Railway Safety Appliance Standards Regulations* (C.R.C., c 1171, GO 0-10) under the *Canada Transportation Act* (Canada) are declared in force with the variations and modifications prescribed in this section.

(2) The following is added after section 1:

1.1 In this Regulation,

- (a) “Commission” and “Canadian Transport Commission” mean the Railway Administrator (Alberta);
- (b) “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;
- (c) “Railway Transport Committee” and “Secretary of the Railway Transport Committee” means the Railway Administrator (Alberta).

(3) Section 6 is amended by striking out subsections (1) and (2).

(4) Schedule 1 is amended by striking out section 492(3).

AR 177/2002 s19;132/2017

Rules for the Installation, Inspection and Testing of Air Reservoirs

20(1) The *Rules for the Installation, Inspection and Testing of Air Reservoirs* (other than on locomotives) (TC O-10), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada) are declared in force with the variations or modifications prescribed in this section.

(2) Section 2(2.1) is amended by striking out “subject to the jurisdiction of Transport Canada”.

(3) Section 3 is amended

(a) by striking out clause 3.3 and substituting the following:

3.3 “department” means the Railway Administrator (Alberta);

(b) by striking out clause 3.8 and substituting the following:

3.8 “railway company” means the person to whom section 2 of the *Railway (Alberta) Act* applies;

(c) by striking out clause 3.9 and substituting the following:

3.9 “railway safety inspector” means a railway safety officer (Alberta);

Railway Freight Car Inspection and Safety Rules

21(1) The *Railway Freight Car Inspection and Safety Rules*, approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of Transport Canada pursuant to the *Railway Safety Act* (Canada).”

(3) Section 3 is amended

(a) by striking out clause 3.10 and substituting the following:

3.10 “Department” and “Department’s regional office concerned” means the Railway Administrator (Alberta);

- (b) **by striking out clause 3.16 and substituting the following:**

3.16 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

- (c) **by striking out clause 3.17 and substituting the following:**

3.17 “railway safety inspector” means a railway safety officer (Alberta);

- (4) Section 7.1 is amended by striking out “Transportation of Dangerous Goods Act, 1992” and substituting “Dangerous Goods Transportation and Handling Act (Alberta).**

AR 177/2002 s21;132/2017

Railway Passenger Car Inspection and Safety Rules

22(1) The *Railway Passenger Car Inspection and Safety Rules* (TC O-0-26), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of the Railway Safety Act (Canada) as administered by the Department of Transport”.

(3) Section 3 is amended

- (a) **by striking out clause 3.7 and substituting the following:**

3.7 “Department” and “Department’s regional office concerned” means the Railway Administrator (Alberta);

- (b) **by striking out clause 3.16 and substituting the following:**

3.16 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

- (c) **by striking out clause 3.17 and substituting the following:**

3.17 “railway safety inspector” means a railway safety officer (Alberta);

(4) Section 21.4(a) is amended by striking out “Part XIII, of the *On-Board Trains Occupational Safety and Health Regulations*” **and substituting** “Alberta enactments”.

(5) Section 21.5(a) and (b) are amended by striking out “Part XII, of the *On-Board Trains Occupational Safety and Health Regulations*” **and substituting** “Alberta enactments”.

(6) Section 26.1 is amended by striking out “Part III, of the *On-Board Trains Occupational Safety and Health Regulations*” **and substituting** “Alberta enactments”.

AR 177/2001 s22;110/2013

Railway Freight and Passenger Train Brake Rules

23(1) The *Railway Freight and Passenger Train Brake Inspection and Safety Rules* (TC O 0-184), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of Transport Canada pursuant to the *Railway Safety Act*.” **and substituting** “These rules apply to all railway companies.”

(3) Section 3 is amended

(a) by striking out clause 3.15 and substituting the following:

3.15 “Department” means the Railway Administrator (Alberta);

(b) by striking out clause 3.31 and substituting the following:

3.31 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

(c) by striking out clause 3.32 and substituting the following:

3.32 “railway safety inspector” means a railway safety officer (Alberta);

AR 177/2001 s23;110/2013;132/2017

Service Equipment Cars Regulations

24(1) The *Service Equipment Cars Regulations* (SOR/86-922) under the *Canada Transportation Act* are declared in force with the variations or modifications prescribed in this section.

(2) Section 2 is amended by adding the following after the definition of “marshal”:

“railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies.

(3) Section 11(1)(a) is struck out and the following is substituted:

- (a) issuing a train order or a Manual Block System Bulletin in accordance with the railway company's operating rules,

25 Repealed AR 132/2017 s11.

Division 3 Crossings, Operating Rules and Employees

Railway Signal and Traffic Control System Standards

26(1) The *Railway Signal and Traffic Control System Standards* (TC E-17), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 1.1 is amended by striking out “subject to the jurisdiction of the Minister of Transport pursuant to the *Railway Safety Act* (RSA)”.

(3) Section 2 is amended

(a) by adding the following after clause 2.5.1:

2.5.1 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

(b) by adding the following after clause 2.9:

2.10 “Transport Canada” means the Railway Administrator (Alberta).

(4) Section 4.4 is amended by striking out “Minister” **and substituting** “Railway Administrator (Alberta)”.

AR 177/2001 s26;110/2013;132/2017

Railway-Highway Crossing at Grade Regulations

27(1) The *Grade Crossing Regulations* SOR/2014-275 under the *Canada Transportation Act* (Canada) are declared in force with the variations or modifications prescribed in this section.

(2) Section 3 is amended

- (a) **in section (1) by striking out** “of the Agency or in an agreement filed with the Agency under subsection 101(1) of the *Canada Transportation Act*” **and substituting the following:**

“an exemption granted by the Railway Administrator”;

- (b) **in section (2) by striking out** “of the Agency or in an agreement filed with the Agency under subsection 101(1) of the *Canada Transportation Act*” **and substituting the following:**

“an exemption granted by the Railway Administrator”;

- (c) **by striking out subsection (3) and substituting the following:**

(3) Section 98 is amended by striking out “Minister” **and substituting** “Railway Administrator”.

AR 177/2002 s27;132/2017

Grade Crossings Standards

28 The Grade Crossing Standards, under the *Canada Transportation Act* (Canada) are declared in force.

AR 177/2002 s28;132/2017

29 Repealed AR 110/2013 s10.

Canadian Rail Operating Rules

30(1) The *Canadian Rail Operating Rules*, approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force.

(2) The definitions are amended by adding the following after the definition of “CENTRALIZED TRAFFIC CONTROL SYSTEM (CTC)”:

“COMPANY” or “RAILWAY COMPANY” means a person to whom section 2 of the *Railway (Alberta) Act* applies;

AR 177/2002 s30;132/2017

Railway Employee Qualification Standards Regulations

31(1) The *Railway Employee Qualification Standards Regulations* (SOR/87-150) under the *Canada Transportation Act* (Canada) are

declared in force with the variations or modifications prescribed in this section.

(2) Section 2 is amended

(a) by striking out the definition of “Commission” and substituting the following:

“Commission” means the Railway Administrator (Alberta);

(b) by striking out the definition of “Committee” and substituting the following:

“Committee” means the Railway Administrator (Alberta);

(c) by adding the following after the definition of “on-job training instructor”:

“railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies.

(3) Section 3 is amended

(a) in subsection (1) by striking out “operating in Canada under the jurisdiction of the Commission”;

(b) in subsection (2) by striking out “Canada” wherever it occurs and substituting “Alberta”.

(4) Section 19(2) is amended by striking out “the trade unions representing”.

Railway Rules Governing Safety Critical Positions

32(1) The *Railway Rules Governing Safety Critical Positions* (TC O-17A), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 4(c) is amended by striking out “Transport Canada inspectors” and substituting “railway safety officers (Alberta)”.

Railway Medical Rules for Positions Critical to Safe Railway Operations

33(1) The *Railway Medical Rules for Positions Critical to Safe Railway Operations* (TC O-0-68), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are

declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of the Department”.

(3) Section 3 is amended

(a) by striking out clause 3.2 and substituting the following:

3.2 “Department” means the Railway Administrator (Alberta);

(b) by adding the following after clause 3.5:

3.6 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies.

AR 177/2002 s33;132/2017

Railway Passenger Handling Safety Rules

34(1) The *Railway Passenger Handling Safety Rules* (TC O-16), approved by the Minister of Transport (Canada) under the *Railway Safety Act* (Canada), are declared in force with the variations or modifications prescribed in this section.

(2) Section 2.1 is amended by striking out “subject to the jurisdiction of the Department”.

(3) Section 3 is amended

(a) by striking out clause 3.1 and substituting the following:

3.1 “Department” means the Railway Administrator (Alberta);

(a) by striking out clause 3.8 and substituting the following:

3.8 “railway company” means a person to whom section 2 of the *Railway (Alberta) Act* applies.

(4) Section 7.2 is struck out and the following is substituted:

7.2 These Rules do not apply to passenger cars used exclusively in a tourist excursion train service that travels no further than a round trip of 150 miles (240 kilometres), at a speed not exceeding a maximum of 25 mph (40 kph), if the railway company uses these rules as a guide and

- (a) consults with the Department to establish appropriate inspection, safety criteria and speed restrictions for passenger cars used exclusively in tourist excursion trains, and
- (b) files railway schedules with the Department that specify the locations of the service, the round trip mileage, the type of equipment operated, along with the applicable inspection, safety criteria and any other restrictions imposed on the operation of such equipment, 90 days before operation.

Part 3

Accidents and Insurance

Telephone reports

35(1) The following accidents must be reported immediately by telephone to 1-800-272-9600 or (780) 422-9600:

- (a) a main-track train collision;
- (b) a main-track train derailment;
- (c) a highway grade crossing collision;
- (d) an accident involving a trespasser;
- (e) an accident involving an employee;
- (f) an accident involving a passenger;
- (g) a fire or explosion involving railway property;
- (h) a collision between rolling stock and an object;
- (i) a non-main-track collision;
- (j) a non-main-track derailment;
- (k) a collision involving track unit;
- (l) a derailment involving track unit;
- (m) a collision between rolling stock and an abandoned vehicle;
- (n) an incident involving dangerous goods requiring an immediate report under the *Dangerous Goods Transportation and Handling Regulation* (AR 157/97).

(2) A written report of the accident in the form and containing the information required by the Railway Administrator must be submitted to the Railway Administrator within 30 days of the accident occurring.

Written reports

36 A written report on any of the following incidents in the form and containing the information required by the Railway Administrator must be sent to the Railway Administrator within 30 days of the incident occurring:

- (a) rolling stock damaged without derailment or collision;
- (b) runaway rolling stock;
- (c) movement exceeding limits of authority;
- (d) a main-track switch in an abnormal position;
- (e) a signal less restrictive than required;
- (f) an unprotected overlap of authorities.

Insurance required

37(1) The operator of a railway must maintain third party liability insurance coverage of at least \$25 million for each occurrence.

(2) In this section, “third party liability insurance coverage” means financial compensation provided for in a contract entered into between the operator of a railway and an insurer for the following matters arising out of the operation of a railway, including a proposed temporary operation of a railway resulting from unseen or exceptional circumstances:

- (a) third party bodily injury or death, including injury or death to passengers;
- (b) third party property damage, not including damage to cargo;
- (c) named perils pollution.

(3) On application, the Railway Administrator may, with or without conditions,

- (a) waive or modify the third party liability insurance coverage or the amount of coverage required by this section, or

- (b) permit the operator of the railway to self-insure instead of maintaining third party liability insurance coverage if the Railway Administrator is satisfied, after considering the financial capability of the operator, that there are sufficient resources to sustain self insurance.

Report if insurance ceases or changes

38 The operator of a railway must immediately notify the Railway Administrator, in writing, if the operator

- (a) ceases to maintain the insurance coverage required by this Regulation or the insurance the Railway Administrator has otherwise required to be maintained by the operator;
- (b) is notified by its insurer that
 - (i) insurance coverage will be or has been suspended or cancelled, or
 - (ii) insurance coverage is significantly changed so that it will no longer meet the requirements of this Regulation or the requirements of the Railway Administrator.

Part 4 Cessation of Operations

Cessation of rolling stock or track operation - notice required

39 If an operator of a railway intends to cease to operate rolling stock, or to cease to operate a track, the operator must give written notice to the Railway Administrator of the following matters:

- (a) details of the operation that will cease and its location;
- (b) the likely effect of the cessation on shippers on the railway;
- (c) the likely effect on the general public or any portion of the public;
- (d) whether the cessation is permanent or temporary and whether there is any likelihood of another person becoming the operator;
- (e) the reason for the cessation of operation;
- (f) the date the operation is intended to cease, which must be not less than 180 days after the date the notice is received

by the Railway Administrator, unless the Administrator permits a shorter notice period.

Public notice of cessation of operations

40 Unless exempted by the Railway Administrator, the operator of the railway must give public notice of the proposed cessation of operations referred to in section 39 by advertising twice, in each of two successive weeks, in a newspaper circulating in the area in which the railway whose operations will cease is located, and the notice must contain at least the following information:

- (a) a description of the railway concerned;
- (b) a description of the rolling stock that will cease to operate or the track on which operations will cease;
- (c) the date operations will cease, which must be at least 180 days after the date of the final advertisement, or the date the notice of cessation of service is received by the Railway Administrator, whichever is later, or any other lesser period permitted by the Railway Administrator;
- (d) if applicable,
 - (i) an offer of the use of the railway to any person interested in continuing the service, subject to approval first being obtained from the Railway Administrator;
 - (ii) the name and address of the person to whom those interested in operating the line may obtain further information.

Removal of track and structural facilities

41(1) No person may permanently remove any track or structural facility unless

- (a) written notice of the proposed removal is given to the Railway Administrator at least 90 days before the removal is to start, and
- (b) the Railway Administrator gives written authorization for the removal.

(2) The notice of removal given to the Railway Administrator must include

- (a) a description and the location of the track or structural facility to be removed;

- (b) the person who proposes to remove the track or structural facility;
- (c) detailed information about how all the structural facilities and track are to be removed, or if they are not all to be removed, who will be responsible for those remaining;
- (d) any other information or plans that the Railway Administrator requires to ensure the safe and environmentally responsible removal of the track or structural facility, and that railway legislation is complied with.

Part 5 Administrative Penalties

Contents of notice of administrative penalty

42(1) A notice of an administrative penalty imposed under section 41 of the Act must contain the following information:

- (a) the name of the person on whom the administrative penalty is imposed;
- (b) the provision of the railway legislation, operating rule, approval, order or direction by the Alberta Transportation Safety Board or order made or direction given by the Railway Administrator or railway safety officer that the person has failed to comply with;
- (c) a brief description of the nature of the failure to comply identified under clause (b);
- (d) the amount of the administrative penalty imposed;
- (e) whether the penalty is fixed or accumulates for each day or part of a day on which the failure to comply occurs or continues;
- (f) the date the notice of the administrative penalty is issued by the Railway Administrator or railway safety officer;
- (g) the date by which the penalty must be paid, unless the penalty is an accumulating penalty;
- (h) a statement describing the right of the person on whom the administrative penalty is imposed to have the administrative penalty reviewed by the Alberta Transportation Safety Board, the address to which any application for review must be sent, how the application is

to be made and the date by which the application for review must be made.

(2) The form of notice of the administrative penalty, containing at least the information described in subsection (1), must be approved by the Railway Administrator.

AR 177/2002 s42;221/2004

Manner of determining amount of administrative penalty

43(1) The Railway Administrator or railway safety officer is to determine the amount of the administrative penalty imposed on a person after considering the following factors and the considerations described in subsection (2):

- (a) the seriousness of the contravention in terms of the resulting danger or potential danger or degree of risk to the public, workers and property;
- (b) the nature of the railway operation and the danger or potential danger of an accident occurring as a result of the contravention;
- (c) the history of contraventions by the person on whom the administrative penalty is imposed;
- (d) whether the administrative penalty is intended as a warning, a deterrent or punishment.

(2) The Railway Administrator is to be guided by the following considerations:

- (a) the amount of the administrative penalty imposed should reflect the seriousness of the contravention;
- (b) the higher the danger or possibility of an accident or degree of risk to people or property as a result of the contravention, the higher the penalty should be;
- (c) the more times a person has previously been issued an administrative penalty the higher the penalty should be;
- (d) the more the degree of wilfulness or neglect in the contravention, the higher the penalty should be;
- (e) the amount of the penalty may be reduced if:
 - (i) the Railway Administrator was notified of the contravention by the person responsible for the contravention;

- (ii) the person responsible for the contravention made full and frank disclosure;
- (iii) steps have been taken to prevent recurrence of the contravention;
- (iv) a reason for the contravention is provided which justifies a reduced penalty.

Limitation period

44 An administrative penalty must be imposed, if at all, within 6 months of the date the Railway Administrator or railway safety officer, as the case may be, first becomes aware of the contravention.

Part 6

Expiry and Coming into Force

Expiry

45 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on August 31, 2022.

AR 177/2002 s45;131/2012;132/2017

Coming into force

46 This Regulation comes into force on the date the *Railway (Alberta) Act* comes into force.



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