CERTIFICATE OF INSURANCE

INSURANCE COVERING RAILWAY THIRD PARTY LIABILITY
FOR FREIGHT AND PASSENGER OPERATIONS

Certificate issued to the Canadian Transportation Agency, Ottawa, Ontario, K1A 0N9

**Sections 1 to 10 to be completed by the agent/broker**

## Name and address of insured

Provide legal name(s) and address of the insured railway company

## Type of railway operation





## Name and address of insurance agent/broker

## Name and address of other insured(s)

Provide legal name(s) and address of any additional parties insured under the policies listed below.

## Type of insurance

The policies listed below are of the following form type:





## Insurer(s) affording coverage

The insurer(s) listed below has (have) issued the policy (policies) of insurance listed below to the insured named above for the policy period indicated (please use a separate sheet if necessary):

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Insurers | Participation | Policy numbers | Effective date | Expiry date | Limits of liability | Deductible |
| Per-occurrence | Aggregate |
| *Name* | *Percent* | *Number* | *Date* | *Date* | *Amount* | *Amount* | *Amount* |
| *Name* | *Percent* | *Number* | *Date* | *Date* | *Amount* | *Amount* | *Amount* |
| *Name* | *Percent* | *Number* | *Date* | *Date* | *Amount* | *Amount* | *Amount* |
| *Name* | *Percent* | *Number* | *Date* | *Date* | *Amount* | *Amount* | *Amount* |
| *Name* | *Percent* | *Number* | *Date* | *Date* | *Amount* | *Amount* | *Amount* |

## Self-insured retention

Provide the amount of self-insured retention that has been agreed to by the insured for the policies listed in this certificate. *Amount of self-insured retention*

## Assessment of insurers

Provide the financial strength ratings of the insurer(s) listed above.

## Coverage

The policies listed in this certificate:

|  |  |  |
| --- | --- | --- |
|  | Yes | No |
| a) insure the railway operations in Canada of the insured; |  |  |
| b) provide liability insurance covering the following risks that may arise out of the insured's operation:1. third-party bodily injury or death, including injury or death to passengers;
2. third-party property damage, excluding damage to goods carried on a shipper’s behalf;
3. risks that are associated with a leak, pollution or contamination.
 |  |  |
|  |  |
|  |  |
| c) have built-in reinstatement features, which may allow all or any portion of the aggregate policy limits to be reinstated in the event that they are or may be impaired due to occurrences which have been reported to the insurers; |  |  |
| d) If claims-made policies – have extended-reporting coverage and pre-determined continuity and retroactive dates. If yes, please indicate extended time period covered: *Period covered* |  |  |
| e) Written confirmation has been received from the insurer(s) that the insurer(s) shall provide the Canadian Transportation Agency with no less than 30 days' prior written notification of cancellation, expiration or material alteration of the insurance coverages certified herein, including but not limited to:1. if the insured's liability insurance coverage has been cancelled or is intended to be cancelled; or,
2. if the insured's coverage has been altered or is intended to be altered.
 |  |  |
|  |  |
|  |  |

## Agent/Broker confirmation

I am the *select either agent or broker*, and as such have knowledge of all matters declared herein. I confirm that, at the moment of signing this certificate, to the best of my knowledge and belief, the information given in sections 1 to 9 is true, accurate and complete. More specifically, I confirm that the policy(ies) of insurance listed above is(are) issued to the insured named above, for the policy period and provide the coverage indicated.

 Name of authorized agent or broker: *Enter the name*

Title: *Enter the title*

Signature:

Date signed: *dd/mm/yyyy*

## Certification of the insured

**Section 11 to be completed by the named insured**

I am an authorized officer of the insured and as such have knowledge of all matters declared herein. I certify that, at the moment of signing this certification, to the best of my knowledge and belief, the information given in this certificate, including the following, is true, accurate and complete:

1. the nature and extent of, and the risks associated with the insured’s operation have been fully disclosed to the insurer(s) as part of the overall assessment of the risks/exposures and to ensure the liability program provides coverage for any third party liability that the insured may incur as a result of its railway operations. This includes, but is not limited to, the type and volume of the historical and forecast rail traffic and other risks involved in the operation as those are reported in whichever of the following is applicable in the circumstances:

i. Application to Obtain or Vary a Certificate of Fitness for Railway Freight Operations in Canada;
ii. Annual Certificate of Compliance for Railway Freight Operations in Canada;

1. the per-occurrence minimum insurance coverage, as required by the *Canada Transportation Act* (CTA) to be in place at all times continues to be fully available under the terms of the policy(ies) referred to herein, irrespective of the amount and effect on the aggregate limits of coverage for the current policy period from claims made or pending claims;
2. any incidents in the past year that could give rise to claims, as well as any occurrences or claims during the policy period that could erode the policy limits have been reported to the insurer(s);

**If the operation involves the carriage of crude oil:**

1. the insurance policy(ies) included in this certificate provide coverage for the losses, damages, costs and expenses described in subsection 92(1.1) of the *Canada Transportation Act* (CTA) in the amount of the minimum liability insurance coverage that the company is required to maintain for the operation of the railway under paragraph 93.1(1)(b) (per Schedule IV of the CTA). Further, the insurance policy(ies) recognize the Insurer's or Insurers' obligations in respect of the railway company's liability pursuant to Part III, Division VI.2 of the CTA, including that liability under subsection 152.7(1) of the CTA does not depend on proof of fault or negligence (subsection 152.8 of the CTA) and, where more than one railway is involved, on a joint and several liability basis (subsection 152.7(2) of the CTA) (clarification in Note 2 at the end);

[ ] certification from each of the Insurers of the above statement has been obtained and attached;

**OR**,

1. if certification from each of the Insurers has not been obtained

[ ] a corporate officer of the insured who is authorized to bind the certificate of fitness holder confirms, to the best of his/her knowledge and belief, that the above statement at 11d) to be true, and that, in the event that the insurer does not provide such coverage, that the insured has the financial capacity to sustain the full amount of insurance set out in Schedule IV of the *Canada Transportation Act* (CTA) as self insurance and that such amount will be made available to fulfill the railway company's liability under Part III, Division VI.2 of the CTA.

Name: *Enter the name*

Title: *Enter the title*

Signature:

Date signed: *dd/mm/yyyy*

*Be prepared to provide evidence of these assurances.*

Name of insured’s authorized person: *Enter the name*

Title: *Enter the title*

Signature:

Date signed: *dd/mm/yyyy*

## Filing directions and confidentiality

When completed this form is to be submitted electronically by the insured to: determinations@otc-cta.gc.ca

Please ensure any confidential information is clearly labelled in your submission.   Third-party confidential information, as described in section 20 of the *Access to Information Act*, will not be disclosed publicly unless you provide consent or otherwise in accordance with the law.

### **Important notes**

**NOTE 1:** Under section 173(1) of the CTA, no person shall knowingly make any false or misleading statement or knowingly provide false or misleading information to the Canadian Transportation Agency (Agency) or the Minister of Transport or to any person acting on behalf of the Agency or the Minister in connection with any matter under the CTA. Pursuant to section 174 of the CTA, every person who contravenes a provision of this Act or a regulation or order made under this Act, other than an order made under section 47, is guilty of an offence punishable on summary conviction and liable to a fine.

**NOTE 2:** Liability and coverage in case of railway accidents involving designated goods, i.e. crude oil:

1. A railway company that operates a railway that is involved in a railway accident, as defined in section 152.5 of the CTA, is liable for the following losses, damages, costs and expenses up to the amount of the minimum liability insurance coverage that the company is required to maintain for the operation of the railway under subparagraph 93.1(1)(b) of the CTA, unless the company is liable for a greater amount under any other Act;
	* all actual loss or damage incurred by any person, other than by a railway company that is also liable, as a result of the railway accident or as a result of any action or measures taken in relation to the accident. “Actual loss or damage” includes loss of income, including future income, and, with respect to any Aboriginal peoples of Canada, loss of hunting, fishing and gathering opportunities. "Actual loss or damage" does not include:
		+ any loss or damage incurred by a person who operates a railway that is not within the legislative authority of Parliament and who is involved in the railway accident, in respect of the portion of the operation that does not relate to a passenger rail service;
		+ any loss of or damage to goods being carried by the railway company or by the person referred to in the previous paragraph; or,
		+ any loss of income that is recoverable under subsection 42(3) of the Fisheries Act.
		+ the costs and expenses reasonably incurred by Her Majesty in right of Canada or a province or any other person in taking any action or measures in relation to the railway accident; and,
		+ all loss of non-use value relating to a public resource that is affected by the railway accident or as a result of any action or measures taken in relation to the accident.
2. A railway company’s liability related to railway accidents involving the carriage of designated goods (i.e., crude oil) does not depend on proof of fault or negligence.
3. If more than one railway company is liable, the companies are jointly and severally liable, each up to the amount of the minimum liability insurance coverage that applies to it.
4. A railway company is not liable if it establishes that the railway accident resulted from an act of war, hostilities, civil war or insurrection; or, any other defense that might be set out in regulations.
5. The limit of liability, as set out in 1 above, does not apply if it is proven that the railway accident resulted from any act or omission of the railway company that was committed either with intent to cause the accident or recklessly and with the knowledge that the accident would probably result.
6. Coverage must be such that it can satisfy claims instituted within a period of three years beginning on the day on which the losses, damages, costs and expenses were incurred, but not after a period of six years beginning on the day on which the railway accident occurred.