

TDGA: Reporting the Theft or Loss of Dangerous Goods



The *Transportation of Dangerous Goods Act* (TDGA) sets requirements for transporting dangerous goods to minimize the risk of a release or spill that could endanger the environment, workers and others. But certain dangerous goods can also pose a threat if they're lost or stolen while in transit, especially if they fall into the hands of criminals or terrorists. So in June 2009, changes to the TDGA took effect that imposed new reporting requirements for certain incidents, including the theft or loss of dangerous goods that have been identified as posing security risks. And in June 2016, the government announced related changes to the *Transportation of Dangerous Goods Regulations* (the Regulations) to implement those reporting requirements. Here's a look at what you need to do to comply with those requirements.

4 KEYS TO COMPLIANCE

Each province and territory has its own version of the TDGA and Regulations that generally adopt and incorporate the federal requirements. Because the theft and loss reporting requirements are still fairly new, the jurisdictions may not have officially adopted them yet, but expect for them to eventually apply across Canada. So here are the four key things you need to know to comply with the theft and loss reporting requirements.

1. When a Report Is Required

The loss or theft of dangerous goods in excess of a quantity or concentration that's specified by regulation during their handling or transporting must be reported. The requirement applies regardless of how the goods are being transported, i.e., by air, rail, ship, etc. For certain dangerous goods, such as sodium chlorate and nitric acid, or certain classes of goods, such as toxic gases and radioactive material, the theft or loss of *any* amount of them must be reported. For others, the quantity lost or stolen must total 450 kg or more to require a report. The report should be made as soon as possible after discovering the loss or theft of the dangerous goods. In addition, if you find the dangerous goods that were lost or stolen, you must report their recovery to the same authorities you reported the original theft or loss.

2. Who's Required to Make the Report

The duty to report applies to any person who had the charge, management or control of the dangerous goods immediately before their loss or theft, such as a driver, a company representative, a shipmaster, a train operator, etc.

3. How and When to Make the Report

A person required to report the loss or theft of dangerous goods must 'as soon as possible' report the loss or theft by telephone to:

- CANUTEC, at 1-888-CANUTEC (1-888-226-8832) or 613-996-6666;
- In the case of dangerous goods included in Class 1, Explosives, or referred to in Sec. 8.16(2)(a), (2)(b)(i) or (c)(i) of the Regulations, a Natural Resources Canada inspector, at 613-995-5555; and
- In the case of dangerous goods included in Class 7, Radioactive Materials, the Canadian Nuclear Safety Commission.

4. What Information to Include in the Report

A loss or theft report must include the following information:

- The name and contact information of the person making the report;
- The names and contact information of the consignor, the consignee and the carrier;
- Whether the dangerous goods were lost or stolen;
- The shipping name or UN number of the lost or stolen dangerous goods;
- The quantity of the lost or stolen dangerous goods;
- A description of the means of containment containing the lost or stolen dangerous goods; and
- The approximate date, time and geographic location of the loss or theft.

Insider Says: The TDGA and Regulations have similar reporting requirements for the unlawful interference with dangerous goods, such as tampering with a valve on a container of a toxic gas.

BOTTOM LINE

In 2009, Transport Canada issued an Interim order requiring reporting of dangerous goods that are lost or stolen or otherwise unlawfully interfered with to reduce potential security threats during the 2010 Vancouver Olympic Games and the 2010 G8 Summit. Although that order is no longer in effect, stakeholders have continued to submit these reports voluntarily. And since 2009, Transport Canada has been receiving about 50 reports per year. So clearly there's a real risk of dangerous goods being stolen or lost while in transport. Therefore, if your company is involved in any aspect of the transport of dangerous goods, you should ensure that you're familiar with the theft and loss reporting requirements and comply with them when necessary.

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Implement Security Plans to Prevent Thefts and Losses of Dangerous Goods

The best way to avoid having to comply with the theft and loss reporting requirements is to prevent dangerous goods from being stolen or lost in the first place. In fact, the amendments to the TDGA include a requirement that no prescribed person may import, offer for transport, handle or transport dangerous goods in a quantity or concentration specified by regulation before the person

has a compliant security plan and has implemented that plan. A security plan should spell out the measures you'll use to prevent the dangerous goods from being unlawfully interfered with or stolen while in transit. However, the Regulations haven't yet been amended to flesh out the security plan requirements. The *OHS Insider* will let you know when the Regulations have been amended to add security plans requirements. [/box]