



Policy on Use of Electronic Devices

Policy H&S 4320

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Policy on the Use of Electronic Devices

Scope

This policy applies to all Canadian Pacific (CP) employees, contractors and other persons authorized to be on CP property in Canada and the U.S.

Purpose

The purpose of this policy is to reduce the risk of injury to employees and the public that may result from inappropriate use of electronic entertainment and communication devices while on duty.

Compliance

Any person who fails to comply with this policy may be subject to investigation and discipline, up to and including suspension or dismissal.

Note: For purposes of investigating accidents, injuries, Cardinal Rule Violations, and suspected violations of this Policy, employees may be asked to provide records showing the date and times of use of personal communication devices in their possession. Failure to provide the requested records will result in the Company drawing an adverse inference (will assume that the employee was using the personal communication device) in violation of this Policy and/or applicable law, regulation or operating rule. For purposes of these investigations, employees who use or carry personal electronic devices during work hours, on Company property and/or in Company vehicles, even when otherwise permitted by this policy, do so with the understanding that they have a reduced expectation of privacy.

Application

A. Use of Personal Entertainment Devices

Use of Personal Entertainment Devices while on duty or on CP property is prohibited, except when used in an office or other similar locations approved by your supervisor or by the person in charge, or when such a device is installed in a company vehicle..

B. Use of Communication Devices

1. When operating a company vehicle

a. Hand Held Communication Devices

Hand held communication devices are prohibited from use while operating a company vehicle while it is in motion on any type of road. The vehicle must be stopped in a safe location before the device can be used.

b. Hands Free Communication Devices

Hands free communication devices are permitted for limited use while operating a *company vehicle* if:

1. It is used solely for company business; and
2. It is safe to do so; and
3. The vehicle being operated is **NOT** on a public roadway in a province, state, or other jurisdiction where such use is in violation of any law or regulation.

Notes: This section on operating a vehicle applies to all employees, contractors and others while on CP property or transporting CP employees.

Vehicle mounted railway radios and GPS units are considered hands free communication devices. However, GPS devices must be programmed only while the vehicle or mobile equipment is completely stopped and in a safe location. Verbal instructions from the device should be used to avoid unnecessary distraction or staring at the screen.

2. Use by Employees Governed By Operating Rules

- a. U.S. *Railroad operating employees* and all other GCOR rules qualified employees must comply with the applicable operating rule and/or Safe Work Procedure when performing any duties governed by those rules.
- b. All Canadian employees performing duties governed by operating rules must comply with CROR General Rule A and applicable System Special Instructions.

3. Use by Employees Not Governed by Operating Rules

- a. When operating, controlling, assisting, or supervising the movement of any *on track equipment* when **NOT** governed by operating rules, the use of company provided communication devices is prohibited except when:
 - all movements of that equipment are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.
- b. When operating, controlling, assisting, or supervising the movement of off-track *mobile equipment*, the use of company provided communication devices is prohibited except when:
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.

- c. When performing *physical work*, as defined by this policy or by local supervision, the use of company provided communication devices is prohibited except when:
- all *physical work* activities are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.

Note: Company provided communication devices do not apply to devices used for, and directly relating to, safe railway operations (e.g. railway radios).

- d. The use of personal communication devices is prohibited at all times except:
- during a recognized break or meal period in a location that is safe to do so;
 - in locations designated by local supervision and/or signage; or
 - for minimal voice communication, unless otherwise prohibited by applicable laws or regulations, local supervision, and/or signage, and only when:
 - all movements of on track or *mobile equipment*, or *physical work* activities are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty; and
 - the device is immediately turned off and returned to storage when call is complete.

Note: When not in use, personal communication devices must be turned off with any ear pieces removed and stored out of sight in a location designated by the supervisor, but at a minimum not on the person.

C. Exceptions

A *communication device* may be used:

- a) At any time to transmit an emergency situation or to advise others of an unsafe condition;
- b) By emergency response personnel when it is safe to do so, but only with the permission of the site supervisor; and after a job briefing has been conducted with other affected employees and contractors.
- c) By CP Police at any time;
- d) Except where otherwise prohibited by law or regulation, by passengers in a company vehicle, on track equipment, or mobile equipment only when they are not assisting the operator and the operator agrees it is safe to do so;
- e) In an office, or similar location approved by your supervisor or the person in charge.

Definitions

Company means Canadian Pacific Railway Company and includes the Soo Line, the Dakota, Minnesota & Eastern, and the Delaware & Hudson Railroad Companies.

Company Vehicle means any owned, leased, rented or private vehicle licensed to operate on public roads when used for company business by any CP employee, contractor or other 3rd party authorized to be on CP property.

Communication Device means any electronic device capable of communicating remotely, through oral communications, text messaging, electronic mail, or electronic transmission of any media. This includes but is not limited to cell phones, walkie-talkies, 2-way radios, PDAs, GPS navigation units, Palm Pilots, Blackberrys, portable computers and similar devices.

Foul of track means placement of an individual in such proximity to railway tracks that the individual could be struck by moving equipment, or in any case within 4 ft. (1.2 metres) of the nearest rail.

Mobile equipment means any self-propelled equipment not operating on-track or licensed to operate on the road, including forklifts, trackmobiles, tractors, cranes, ATVs, Mules, and similar equipment.

On track equipment means any locomotive (with or without cars), occupied rail car, or track unit.

Person means any employee, contractor or other person authorized to be on CP property, operating a CP vehicle, or transporting CP employees in the course of business.

Personal Entertainment Device means any personal radio, TV, DVD player, CD player, game player, computer, I-Pod, MP3 player, or similar electronic video or audio entertainment device which may distract a person from safely performing their work. This definition includes any multi-function devices (such as a cellular telephone, Blackberry, etc.) that are capable of similar entertainment functions.

Physical work, for purposes of this policy, means:

- maintenance or inspection of on or off track equipment;
- maintenance or inspection of track, signals, or structures;
- operating power tools or welders;
- working foul of track; or
- similar work where a distraction can put a person or the public at risk, and includes directing or supervising the safe conduct of such work.

Railroad operating employee means an individual who is:

- engaged in or connected with the movement of a train including a hostler,
- a train employee providing commuter or intercity rail passenger transportation, or
- subject to hours of service governing train service employees.

Roles & Responsibilities

The following roles and responsibilities relating to this policy are outlined below:

All Employees are responsible for:

- Complying with this policy and/or operating rules associated with the use of electronic devices;
- Ensuring that all reasonable effort is taken to work safely;
- Ensuring that at least one person within a work crew has a functional railway provided communication device available for use in an emergency;
- Cautioning other employees observed to be in violation of this policy and/or associated operating rules;
- Promptly reporting any observed violations to their supervisor or RTC;
- Stopping the affected movement or work until the violation is corrected, when it is safe to do so; and
- Reporting incidents and near misses where use of an entertainment or communication device may be a contributing factor.

Supervisors are responsible for:

- Reading, understanding and complying with this policy and associated operating rules;
- Ensuring this policy is communicated and adhered to, within their respective areas of responsibility;
- Ensuring authorized and unauthorized use of electronic devices is discussed in safety meetings and during job briefings;
- Designating appropriate locations for employees to store personal communication devices;
- Designating appropriate locations where personal entertainment and/or communication devices may be safely used by employees
- Communicating this policy and ensuring compliance with contractors, 3rd party operators, and others working within their respective areas of responsibility;
- Conducting observations and proficiency tests to ensure compliance;
- Cautioning, mentoring and/or disciplining employees who fail to comply;
- Investigating incidents, violation reports, and near misses where use of an entertainment or communication device may be causal.

Safety, Environment & Regulatory (SER) is responsible for:

- Maintaining an effective policy and operating rules governing the safe use of entertainment and communication devices on the railway;
- Providing technical expertise, interpretations, and job aids required to support this policy;
- Monitoring related proficiency and incident performance;
- Periodically auditing the effectiveness of this policy

Senior Management is responsible for:

- Ensuring the policy on use of electronic devices is communicated and adhered to, within their respective areas;
- Periodically reviewing policy effectiveness;

Workplace Health and Safety Committees (WHSC) are responsible for:

- Reviewing related safety hazard reports;
- Assisting with related incident investigations;
- Recommending appropriate corrective actions to management;
- Ensuring approved corrective actions are implemented and effective;
- Monitoring local performance through peer observations.

Administration

Policy Name: Policy on Use of Electronic Devices	Policy Number: H&S 4320
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Appendix A Related Documents & Resources

GCOR rules, Safe Work Procedures, interpretation & Q&A

CROR rules, interpretation & Q&A

Policy 6302 - Business Travel – Private Automobile

Policy 6304 - Business Travel – Car Rentals

Vehicle Fleet Policy & Procedures - COR 4135

Policy H&S 4310, Handling Safety Related Documentation

**Signage - Use of Personal Communication Devices
Prohibited or Permitted**

Minimum Safety Requirements for Contractors

Appendix B Policy - Questions and Answers

- Q1. Are there restrictions on my use of these devices if I am a passenger in a company vehicle?
- A1. They may be used provided you are not assisting the operator and he/she agrees it is safe to do so.
- Q2. I operate a hi-rail truck. How am I to properly conduct my business if I cannot use my radio or cell phone, on either the road or track?
- A2. You may use a company provided radio for business purposes at any time it is safe to do so. Prior to using a company cell phone the movement must be stopped and the call made in accordance with this policy. For more specificity, when operating on-track, the Canadian or U.S. operating rules are applicable. When on the road, the restrictions in this Policy and state or provincial highway vehicle laws apply.
- Note:** An employee is not considered to be foul of track when occupying on-track equipment that is operating under valid track authority.
- Q3. Can I use my personal cell phone if I am a conductor on a train?
- A3. You are prohibited from using a personal cell phone while on duty except under the very limited circumstances identified in the Canadian or US operating rules
- Q4. Are company radios considered communication devices?
- A4. The policy does not apply to railway radios used for company business.
- Q5. My duties involve providing look out or flagging protection. Am I affected by this policy?
- A5. In order to perform these tasks, you would be qualified in the operating rules and are engaged in physical work as defined by this policy so you are therefore bound by the requirements contained in the Canadian or US operating rules.
- Q6. Are company provided devices such as the Automated Inventory Reporting (AIR), RCL beltpack units, ES hand held GPS units, track inspection computers (ETI), and similar equipment considered communication devices covered by this policy?
- A6. Railway radios, RCL units, remote switch controllers and the like are required to operate a safe railway and are exempt from the policy. AIR, ETI, and similar devices that are used as recording and tracking devices not directly related to railway operations are considered communication devices covered by the policy and the operating rules.
- Note -** Hand held GPS units when used on the ground by ES employees to locate track defects are exempt. However, use of hand held GPS units are still prohibited when operating a vehicle.
- Q7. Can you describe acceptable hands free devices?
- A7. Phones that have speaker phone capability, headset/microphone attachments, blue-tooth enabled phones, and On-Star type devices are the most common. Built in or dash mounted GPS devices are also considered to be hands free devices.
- Note –** Hands free devices are still a distraction while driving, due to both dialling and the communication concentration required. Caution must always be exercised with any device. It is recommended that speed dialling features be used when possible, and/or scheduled calls be initiated by the other party.
- Q8. Are GPS devices considered communication devices, in a vehicle or on the track?

A8. See the answer and Note in question 6. Except in this situation, GPS devices are treated the same as cell phones and other communication devices. The use of hand held GPS devices are prohibited while operating vehicles. This would include cell phones or Blackberry devices with GPS capability. Portable GPS devices that are mounted in safe location within a vehicle and function in the same manner as an installed unit are acceptable, with the same restrictions.

Note 1 – There are recent studies that indicate use of some types of GPS devices can be more of a distraction than cell phones since they also can take the drivers vision off the road. Extreme caution should be exercised when using any GPS device.

Note 2 – Programming or adjusting any GPS navigation device is prohibited while operating a moving vehicle.

Note 3 – CP currently does not authorize the local purchase or modification of company vehicles to provide for GPS devices.

Q9. Does “installed in a company vehicle” include when a Personal Entertainment Device such as an i-pod that is connected to a vehicle’s power and sound system for purposes of playing music while driving?

A9. These types of device connections are permitted as long as they are playing through the vehicle's sound system and not through personal headsets or ear buds.

Q10. Explain what is meant by a designated location for storing personal cell phones?

A10. Specific acceptable locations are to be designated by the employees' supervisor. For example, employees working in fixed facilities, such as Intermodal or Mechanical, an appropriate and secure location would be the employee's locker. For MOW employees working on track or traveling on the road it may be best kept secure in a truck storage box, glove compartment, lunch box or grip. Train crews and other rules qualified personnel are governed by the revised operating rules. The intent of this policy and rule change is that these personal communication devices are not to be readily accessible while working.

Q11. Can I use my personal cell phone to take calls related to company business or I am I restricted to use of only company provided devices?

A11. There is no distinction made on how a cell phone is used, only whether it is personal or company provided. Any use must be in accordance with the requirements contained in the Canadian or US operating rules or the applicable Core Safety Rules (contained within the Functional Safety Rules and Recommended Practices Manuals) if your are not performing a duty that requires you to be operating rules qualified.

Q12. As a result of this policy, will the company replace my existing company cell phone with one that is hands free?

A12. That depends on the work conducted by each employee and on their manager's expectations. The decision has to be made by your manager whose cost centre will be charged for the cost to upgrade, acquire hands free equipments, or replace your phone.

Q13. I am a conductor who spends considerable time away from my family. Can I leave my personal cellular telephone on to receive incoming calls while on duty?

A13. No, in accordance with the Canadian or US operating rules restrictions, personal cellular phones and other electronic devices must be turned off with any ear pieces removed, stored out of sight in a location not on your person except as otherwise provided for. In the event of an emergency, your family can ensure you are notified through the RTC through use of the 24 hour Emergency Phone Number for the applicable Network Management Centre or Operations Centre as indicated in the Time Table.

Q14. Can I use the car radio while driving?

A14. Yes - Car radios, CD players and similar devices that are permanently installed in a vehicle are not considered personal entertainment devices.

Q15. May an employee in the field use an i-Pod or other device to listen to music while waiting for a work assignment or waiting for a train meet?

A15. No, these rules read in part, "The use of personal entertainment devices is prohibited".

Q16. Can I listen to an i-Pod or radio, or watch a DVD player while I am on lunch break?

A16. A designated lunch room area where no work is being performed should be considered similar to an office environment, and these devices can be used with the supervisor's approval.

Q17. Can Safety Advisors, H&S Safety Reps. or managers use iPods, laptops or Blackberry devices for presenting safety related information?

A17. Yes, as long as they comply with all related provisions of this policy.

Q18. What prompted these restrictions?

A18. On-track restrictions were prompted by the fatal Metrolink train collision in California in 2008, which also resulted in FRA regulations mandating restrictions within the GCOR operating rules. On-roadway and other restrictions were prompted by an unacceptable number of industry vehicle collisions and injuries related to the use of electronic devices. In 2009, MVA reduction targets became a major corporate safety initiative, along with continued reductions in work related injuries

Note: U.S. Railway Operating Employees may also be subject to FRA imposed penalties for operating rule violations.

Q19. If I operate a track unit or assist in the operation of mobile equipment can I use my personal cell phone to call a family member if required?

A19. Only during a recognized break or meal period, and only in a designated safe location, and only for minimal voice communication when the track unit and all related work activities are stopped, and only when the employee is not foul of any track and a job briefing with all involved employees confirms such use will not interfere with any safety related duty, and device is immediately turned off and returned to storage when call is complete.

Q20. If I am working as a ground person assisting in the operation of a mobile crane can I use a company provided cell phone to make a call?

A20. Yes, but only for minimal voice communication when all work activities are stopped, you are not foul of the track, and it is confirmed through a job briefing with all involved that its use will not interfere with any safety related duty and all physical work activities are suspended until advised otherwise and device is immediately turned off and returned to storage when call is complete.

Q21. If I am a passenger in a Track Unit may I use a communication device?

A21. It could still pose a distraction to the operator. You must confirm with the operator that it is safe and he/she agrees to its use.

Q22. Can exemptions for certain situations be made if a risk assessment has been conducted and not significant risks identified?

A22. A risk assessment may be used to identify a need or an opportunity to amend a corporate policy but that change must be reviewed and approved by the Health, Safety, Security and Environmental Committee. Local risk assessments cannot take precedence over corporate policy. Note that this policy already provides for some limited exceptions.

- Q23. Who decides when “it is safe to do so” under the exceptions clauses, the employee or supervisor?
- A23. Everyone at CP has responsibility for their own personal safety, that of their fellow employees, and the public. What is reasonably practicable in any given situation is a decision that the affected employee or operator must make. However, this decision will always be subject to review in the investigation process if there is a resulting safety failure. Instructions on permitted usage provided by a supervisor should be followed unless it is clearly in violation of this policy or operating rules, or it would otherwise create an unsafe condition.

Note 1 – Legal interpretation of “reasonably practicable” in the Canada Labour Code suggests that the risk of an accident or injury must be weighed against the effort, time, and cost of eliminating or avoiding the risk.

Note 2 – ISROP guidance suggests that “reasonable” would be when another experienced operator who recognizes the risks under the same conditions would likely make the same decision.

Note 3 – Examples of what should NOT be considered “reasonable” would be talking on a cell phone while driving in high speed, high density traffic (Calgary Deerfoot, Toronto 401, Minneapolis I-94); driving in snowy, icy conditions, driving in poor visibility conditions; or any other time when increased driver attention and improved response times are required.

Note 4 – When “safe to do so” calls should be kept short with the other participant knowing your circumstances. Conference calls and other scheduled calls while driving should be avoided under all circumstances.

Q24. Do the vehicle restrictions apply while I am commuting to or from work in a company provided vehicle?

A24. Yes, these restrictions apply anytime a company vehicle is being operated for any business related reason.

Q25. Can a supervisor or manager call an engineer’s or track unit operator’s personal cellular telephone while in motion to check if the cellular telephone is off for a proficiency test?

A25. No, it is not permissible for a supervisor or manager to call the personal cellular telephone of the person controlling the movement or track unit while it is in motion for a proficiency test.

Q26. If my train or track unit is in motion and the RTC tells me by radio to call the office by cell phone, is it permitted?

A26. No, that is not permitted in accordance with the operating rules. The railway radio is the primary communication tool that should be used.

Q27. What if my supervisor tells me to make a call by cell phone while I am operating a vehicle?

A27. This is not permitted unless you have a hands free device, or you have complied with all of the Exceptions provided in the Policy, or you have first pulled over safely and parked. In any case your supervisor should not be asking you to schedule a call while it is known you will be driving.

Q28. I am responding to and working at a derailment site and my cell phone is the only immediate method of communications. May I use it or am I in violation of the policy?

A28. Per the Exceptions in the policy, you may use a cell phone in emergency response situations with permission of the site supervisor. If there is no designated supervisor on site as yet and when it is safe to do so, advise your supervisor and/or RTC that you are using the cell phone so they can remain in contact, and conduct a job briefing with any other employees or contractors working in proximity.

- Q29. I have a need to take pictures of an incident or hazardous condition. Can I use the camera on my cell phone?
- A29. Employees governed by operating rules are prohibited from using personal cell phones or similar devices for taking pictures while on duty.

For all other employees when possible or planned, you should use a conventional camera, while following the same cell phone camera steps as below for ensuring safety.

If you must use your cell phone camera, you must in all cases still comply with the requirements in the policy by stopping the movement or work, staying clear of track, and by conducting a job briefing with all involved employees. Subsequent to taking those pictures, you must turn the phone off and return it to its storage location.

Note: All employees are also governed by Policy H&S 4310, Handling Safety Related Documentation. This policy prohibits disclosure or sharing of, among other things, electronic media such as photos to anyone outside of the company, including posting it on the Internet.

- Q30. If I observe use of a communication device that is creating a potentially unsafe situation but which is not prohibited by the rules or policy, what should I do?
- A30. You should immediately rectify the situation if possible and then report it to your supervisor or WHSC in the same manner as any other hazardous condition so that it can be further assessed and/or corrected.
- Q31. If I observe a violation of the policy but do not act on it by cautioning the person and reporting it, what are the consequences?
- A31. You may also be in violation and subject to discipline.
- Q32. Are managers and supervisors required to comply with this policy to the same extent as other employees?
- A32. Yes, all persons on CP property or conducting work for CP are bound by this policy, including both union and management employees. It also extends to contractors, visitors and other persons authorized to be on CP property. For 3rd parties not familiar with CP policies, the requirements of this policy must be covered in a job briefing.

Note: Whenever supervisors who are monitoring, supervising or otherwise interacting with employees governed by operating rules, those supervisors are also covered by those same rules. At all other times supervisors are governed by the policy

- Q33. What should I do if my personal communication device has an “auto-on” feature?
- A33. You should disable or turn off the “auto on” feature before engaging in situations where personal communication devices are required to be turned off.
- Q34. If I must store my personal phone, how can my family reach me in case of a personal emergency?
- A34. You should always leave your family with an emergency number where you can be reached at work. This might be a local facility phone that is monitored, a supervisor’s company cell phone number, or the NMC emergency number. Supervisors should be posting or communicating appropriate emergency phone numbers, along with locations where personal cell phones can be used and/or stored.
- Q35. I have a company provided cell phone that dial into CP’s radio system and function as a radio (known as 10-4 function). When used in this fashion, is this considered a radio or electronic device per policy?
- A35. It is still a communication device as defined by the policy and use must be in compliance with the policy and the operating rules. How a device is used is a not considered in the

definition, similar to cell phone cameras, GPS or other multi-functions available in many phones and other electronic devices.