Veolia North America - Industrial Business Regulatory Update - March 2019

ENVIRONMENTAL UPDATES

A. EPA: Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a); Final Rule

B. EPA: Methylene Chloride; Commercial Paint and Coating Removal Training, Certification, and Limited Access Program; Advanced Notice of Proposed Rulemaking

TRANSPORTATION UPDATES

C. FMCSA: Commercial Driver's License Upgrade From Class B to Class A; Final Rule

D. FMCSA: Commercial Driver's License Standards, Requirements and Penalties; Regulatory Guidance

E. FMCSA: Qualification of Drivers; Employment Application; Advanced Notice of Proposed Rulemaking

F. PHMSA: Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018); Interim Final Rule

G. Transport Canada: Consultation on the International Harmonization Updates to the Transportation of Dangerous Goods Regulations

HEALTH & SAFETY UPDATES

No Health and Safety Updates for March 2019

MISCELLANEOUS UPDATES

No Miscellaneous Updates for March 2019

A. EPA: Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a); Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: March 27, 2019
Effective Date: May 28, 2019

Summary

On March 27, 2019, the Environmental Protection Agency (EPA) published Final Rule (84 FR 11420-11436) which prohibits methylene chloride from being used as an ingredient in paint and coating removal products used by consumers.

Methylene chloride, also known as dichloromethane, is a volatile chemical currently used in paint and coating removal products. EPA, under TSCA section 6(a), has determined that the use of methylene chloride in consumer paint and coating removal presents an unreasonable risk of injury to health due to acute human lethality. As a result, EPA is prohibiting the manufacture, import, processing, and distribution in commerce of methylene chloride for consumer paint and coating removal. This includes distribution to and by retailers, requiring downstream notification of prohibitions and requiring recordkeeping.

EPA previously proposed a determination of unreasonable risk from the use of methylene chloride in commercial paint and coating removal, however, EPA did not finalize that determination in this rule. EPA will address commercial paint and coating removal in the future after soliciting comments through an advanced notice of proposed rulemaking that was published in FR 84 (11466-11473) also on March 27, 2019. EPA is requesting comments related to potential training, certification, and limited access program.

New Definitions

The following definitions were included in this final rule.

Consumer paint and coating removal means paint and coating removal performed by any person who uses a paint and coating removal product for any personal use without receiving remuneration or other form of payment.

Distribute in commerce has the same meaning as in section 3 of the Act, except that the term does not include retailers for the purpose of downstream notifications.

Paint and coating removal means application of a chemical or use of another method to remove, loosen, or deteriorate any paint, varnish, lacquer, graffiti, surface protectants, or other coating from substrate, including objects, vehicles, architectural features, or structures.

Retailer means a person who distributes in commerce or makes available a chemical substance or mixture to consumer end users, including e-commerce internet sales or distribution. Any distributor with at least one consumer end user customer is considered a retailer. A person who

distributes in commerce or makes available a chemical substance or industrial end users or solely to commercial or industrial businesses is not considered a retailer.

Consumer Paint and Coating Removal

This final rule prohibits the following after November 22, 2019:

1. All persons are prohibited from manufacturing, processing, and distributing in commerce methylene chloride for consumer paint and coating removal.
2. All persons are prohibited from distributing in commerce methylene chloride, including any methylene chloride containing products, for paint and coating removal to retailers.
3. All retailers are prohibited from distributing in commerce methylene chloride, including any methylene chloride containing products, for paint and coating removal.

Downstream Notification

The following notifications are required to be inserted in the Safety Data Sheet for any methylene chloride that is manufactured, processed or distributed in commerce for use after August 28, 2019.

1. SDS Section 1.(c): "This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(13)) for consumer paint or coating removal."
2. SDS Section 15: "This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(13)) for consumer paint or coating removal."

Recordkeeping

The following records must be kept for three years from the date of shipment by anyone who manufactures, processes, or distributes in commerce any methylene chloride after August 26, 2019.

1. The name, address, contact, and telephone number of companies to whom methylene chloride was shipped.
2. A copy of the notification (SDS) provided with each shipment.
3. The amount of methylene chloride shipped.

Reference/Link

Docket No. EPA-HQ-OPPT-2016-0231; FR Vol. 84, No. 59, 3/27/19, 11420-11436

The link below will allow you to view/print this final rule.

https://www.govinfo.gov/content/pkg/FR-2019-01-29/pdf/2019-00254.pdf

B. EPA: Methylene Chloride; Commercial Paint and Coating Removal Training, Certification, and Limited Access Program; Advanced Notice of Proposed Rulemaking

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: March 27, 2019
Comments Due Date: May 28, 2019

Summary

On March 27, 2019, the Environmental Protection Agency (EPA) published Advanced Notice of Proposed Rulemaking (84 FR 11466-11473) which solicits public input on training, certification, and limited access requirements to address any unreasonable risks associated with the use of commercial paint astrippers containing methylene chloride.

EPA is considering creating regulations that would limit access to methylene chloride for commercial paint and coating removal (paint strippers) to only those individuals who have certified they are able to work safely with the materials. To gather additional information, EPA is requesting public comment on the following key areas:

1. Is a training, certification, and limited access program an appropriate method for reducing any unreasonable risks that EPA could potentially find to be presented by commercial paint and coating removal with methylene chloride?
2. Would such a program address any such unreasonable risks such that those risks are no longer unreasonable?
3. What metrics should EPA consider using as part of measuring the effectiveness of training, certification, and limited access program for methylene chloride for commercial paint and coating removal? What types of measurements or indicators could EPA use to evaluate how a training, certification, and limited access program addresses any unreasonable risk?
4. Would a training certification, and limited access program allows some commercial paint and coating removal with methylene chloride to continue? Would the program create barriers to use such that most commercial operations would choose not to use methylene chloride for paint and coating removal in favor of less restrictive alternatives?
5. Do commercial users of methylene chloride for purposes other than paint and coating removal have experience with work practices, controls, training, or other topics that EPA should consider?
6. Should EPA consider requirements other than a training, certification, and limited access program for commercial uses of methylene chloride in paint and coating removal?

Reference/Link

Docket No. EPA-HQ-OPPT-2018-0844; FR Vol. 84, No. 59, 3/27/19, 11466-11473

The link below will allow you to view/print this advanced notice of proposed rulemaking.

https://www.govinfo.gov/content/pkg/FR-2019-01-29/pdf/2019-00254.pdf

C. FMCSA: Commercial Driver's License Upgrade From Class B to Class A; Final Rule

Agency

Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: March 6, 2019
Effective Date: May 6, 2019
Compliance Date: February 7, 2020
Petitions for Reconsideration of this final rule must be submitted to the FMCSA by April 5, 2019

Summary

FMCSA is amending the entry-level driver training (ELDT) regulations published on December 8, 2016, titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" by adopting a new Class A theory instruction upgrade curriculum to reduce the training time and costs incurred by Class B commercial driver's license (CDL) holders upgrading to a Class A CDL.

This final rule does not adopt any changes to behind-the-wheel (BTW) training requirements set forth in the ELDT final rule.

This change is considered to be a deregulatory action as defined by Executive Order (E.O.) 13771, "Reducing Regulation and Controlling Regulatory Costs." FMCSA believes that this change in the Class A theory training requirements for Class B CDL holders upgrading to a Class A CDL maintains the same level of safety established by the ELDT final rule. The 2016 ELDT final rule required the same level of theory training for individuals obtaining a CDL for the first time as those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA believes that this approach imposes an unnecessary regulatory burden because due to prior training or experience in the CMV industry, Class B CDL holders do not require the same level of theory training as individuals who have never held a CDL. Therefore, FMCSA is adopting the following change: Class B CDL holders upgrading to a Class A CDL are not required to complete eight instructional units currently included in Section A.1.5, “Non-Driving Activities,” of the Theory Instruction portion of the Class A CDL standard training curriculum as set forth in Appendix A to 49 CFR part 380. The theory instructional units that are no longer be required for Class B CDL holders upgrading to a Class A CDL are: Handling and Documenting Cargo, Environmental Compliance Issues, Post-Crash Procedures, External Communications, Whistleblower/Coercion, Trip Planning, Drugs/Alcohol, and Medical Requirements. These units will remain required elements of the theory instruction standard curriculum for any individual obtaining a Class A CDL who does not already hold a Class B CDL.

The Class A behind the wheel range and public road curriculum remains unchanged for all driver-trainees, including those who hold a Class B CDL.

This final rule sets forth the minimum theory training requirements for Class B CDL holders to upgrading to a Class A CDL. Training providers and States may wish to impose more extensive theory training requirements for Class B CDL holders if they so choose.

Reference/Link

Docket No. FMCSA-2017-0371; FR Vol. 84, No. 44, 3/6/19, 8029-8042

The link below will allow you to view/print this final rule.

https://www.govinfo.gov/content/pkg/FR-2019-03-06/pdf/2019-04044.pdf

D. FMCSA: Commercial Driver’s License Standards, Requirements and Penalties; Regulatory Guidance

Agency

Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date - March 8, 2019
Effective Date - March 7, 2019
Comments must be submitted by May 7, 2019

Summary

FMCSA is announcing that revisions have been made to certain regulatory guidance currently contained in the Federal Motor Carrier Safety Regulations concerning the “Commercial Driver's License Standards; Requirements and Penalties” and “State Compliance with Commercial Driver's License Program” rules. Through this publication, FMCSA is seeking comment specifically on the deletion of 47 FMCSA guidance statements because: The rule is clear and further guidance is not needed; the deleted guidance was unclear; the deleted guidance is duplicative of other guidance statements; or the guidance is obsolete due to rulemakings completed since the guidance was issued. In addition, other guidance statements were revised for clarity and reorganized so that like content is grouped together. While this guidance is effective immediately, FMCSA is also seeking

comments on the revisions to this guidance regarding commercial driver's license standards, requirements, and penalties and may issue additional changes if comments demonstrate a need. It is noted, however, that the Commercial Driver's License (CDL) regulations are not amended.

Reference/Link

Docket No. FMCSA-2016-0429; FR Vol. 84, No. 46, 3/8/19, 8464-8474

The link below will allow you to view/print this regulatory guidance.

https://www.govinfo.gov/content/pkg/FR-2019-03-08/pdf/2019-04180.pdf

E. FMCSA: Qualification of Drivers; Employment Application; Advanced Notice of Proposed Rulemaking

Agency

Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: March 8, 2019
Comments Due: May 7, 2019

Summary

FMCSA is considering changes to the requirement to have prospective drivers complete an employment application. FMCSA requests public comment on the value of and need for this requirement. Comment also is sought on ways the requirement for an employment application could be changed to reduce the associated paperwork burdens for drivers and motor carriers, including but not limited to the complete elimination of the requirement.

Although the Agency is seeking comment on whether to revise or eliminate §391.21 and its requirement for an employment application with specific information, FMCSA emphasizes that it is not seeking comment on whether to eliminate the underlying notification and investigation requirements associated with the employment process that are required by parts 383 and 391. Because the underlying notification and investigation requirements are beyond the scope of this rulemaking, some of the burden for complying with them that was previously accounted for in the Driver Qualification Files information collection for §391.21 might be accounted for in other information collections.

Current FMCSA Employment Application Requirements

§391.21 provides that an individual may not drive a CMV unless he or she has completed and furnished the motor carrier that employs him or her with an application for employment that includes certain information prescribed by FMCSA. FMCSA does not require that a specific form or format be used for the application. Rather, the motor carrier is to provide the application form to the driver. FMCSA requires, however, that the application contain the following information:

1. The name and address of the employing motor carrier;

2. The applicant's name, address, date of birth, and social security number;

3. The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

4. The date on which the application is submitted;

5. The issuing State, number, and expiration date of each unexpired CMV operator's license or permit that has been issued to the applicant;

6. The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment that he or she has operated;

7. A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;

8. A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;

9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;

10. A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, the dates he or she was employed by that employer, the reason for leaving the employ of that employer, whether the applicant was subject to the FMCSRs while employed by that previous employer, and whether the job was designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing requirements as required by 49 CFR part 40;

11. For those drivers applying to operate a CMV as defined by part 383, a list of the names and addresses of the applicant's employers during the 7-year period preceding the 3 years contained in paragraph 10 for which the applicant was an operator of a CMV, together with the dates of employment and the reasons for leaving such employment; and

12. A certification and signature line.

Before the application is submitted, the motor carrier must inform the applicant how the employment information covering the past 3 years will be used. Additionally, the employer must notify the driver in writing of certain due process rights regarding the information received as a result of the inquiries to the prior employers.

Comment Request

The Agency seeks comments and data from the public in response to this ANPRM. FMCSA requests that commenters address their comments specifically to the questions below, and that commenters number their comments to correspond to each question.

1. How would the elimination of 49 CFR 391.21, which includes the requirement to have prospective drivers complete an employment application, impact a motor carrier's ability to hire safe drivers?

2. If the requirement in 49 CFR 391.21 for an employment application is not eliminated in its entirety, what elements should be retained to determine the safety performance history of the driver?

3. In the ordinary course of business, would a motor carrier require a prospective driver to prepare an employment application? If so, what (if any) information currently required by 40 CFR 391.21 would a motor carrier not require a prospective driver to include on the employment application?

4. Is there information required by §391.21 that a motor carrier or safety official could reasonably find in the motor carrier's personnel or other files, on government databases, or from other sources that would make the employment application duplicative of that information? If so, what is the information and what are the sources?

5. Knowing there are notification and investigation requirements that would not be removed by changing or eliminating the requirement for an employment application, for example, §§383.35, 391.23, and 391.53, how would an employer and driver demonstrate compliance with each requirement in the absence of an employment application for both CDL and non-CDL CMV drivers?

6. Is the requirement in §391.21(b)(11) that drivers provide their employment history operating a CMV that requires a CDL during the prior 10 years when applying to operate such a CMV necessary, obtainable, or burdensome?

7. Are there less burdensome alternatives to an employment application that could provide the necessary 10 years of driver employment history operating a CMV that requires a CDL?

8. Are there alternative methodologies to the 2016 Supporting Statement's methodology referenced above that would provide a superior estimate of the number of job openings and employment applications submitted to motor carriers?

9. Is the assumption used in the 2016 Supporting Statement that a job opening will result in a motor carrier receiving five employment applications on average reasonable? If not, what would be a better estimate and why? Please provide data if possible.

10. The 2016 Supporting Statement describes the data sources and methodology on page 5 used to estimate the turnover rate for CMV operators. Do they result in a reasonable estimate of the 63 percent turnover rate?

11. Are there any specific impacts of the proposed changes on small motor carriers that the Agency should consider?

Reference/Link

FR Vol. 84, No. 46, 3/8/19, 8497-8501

The link below will allow you to view/print this final rule.

https://www.federalregister.gov/documents/2019/03/08/2019-04188/qualification-of-drivers-employment-application

F. PHMSA: Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018); Interim Final Rule

Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dates

Effective Date: March 6, 2019
Comment Date: May 6, 2019

Summary

PHMSA issues this interim final rule (IFR) to revise the Hazardous Materials Regulations for lithium cells and batteries transported by aircraft. This IFR prohibits the transport of lithium ion cells and batteries as cargo on passenger aircraft; requires lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge aboard cargo-only aircraft when not packed with or contained in equipment; and limits the use of alternative provisions for small lithium cell or battery shipments to one package per consignment. This IFR does not restrict passengers or crew members from bringing personal items or electronic devices containing lithium cells or batteries aboard aircraft, or restrict cargo-only aircraft from transporting lithium ion cells or batteries at a state of charge exceeding 30 percent when packed with or contained in equipment or devices.

Reference/Link

Docket No. PHMSA-2016-0014 (HM-2224I); FR Vol. 84, No. 44, 3/6/19, 8006-8028

The link below will allow you to view/print this final rule.

https://www.federalregister.gov/documents/2019/03/06/2019-03812/hazardous-materials-enhanced-safety-provisions-for-lithium-batteries-transported-by-aircraft-faa

G. Transport Canada: Consultation on the International Harmonization Updates to the Transportation of Dangerous Goods Regulations

Agency

Transport Canada (TC)

Dates

Comments Due: May 27, 2019

Summary

Transport Canada is currently consulting on proposed amendments to the Transportation of Dangerous Goods Regulations (TDGR). Transport Canada regularly updates the Canadian regulations to harmonize, where possible, with the United Nations Model Regulations on the Transport of Dangerous Goods (UN Recommendations), International Civil Aviation Organization Technical Instructions (ICAO TI), International Maritime Dangerous Goods Code (IMDG Code) and Title 49 of the Code of Federal Regulations of the United States (49 CFR). Harmonization helps to ensure consistency between the different modes of transport, facilitate international trade of dangerous goods and reduce regulatory burden on consignors and carriers who deal with dangerous goods in Canada.

Requirements for Shipping Papers

Proper Shipping Name; Qualifying Words

The Transport of Dangerous Goods Regulations (TDGR) currently authorizes a shipping name to be supplemented by adding qualifying words such as the words, “SOLUTION”, “MIXTURE” and “WASTE”. To improve hazard communication and align more closely with international regulations, TC is proposing to add “MOLTEN”, “STABILIZED” and “TEMPERATURE CONTROLLED” to the list of those permitted in Part 1.

Shipping Papers - Dangerous Goods Description

TC is proposing several changes to Part 3 (Documentation) to clarify requirements and align with the UN Recommendations.

1. Part 3.5(1)(c) include text to clarify that no additional information may be interspersed within the dangerous goods description unless otherwise specified in the regulations;

2. Add a reference in 3.5(1)(c)(ii) to direct the reader to the shipping name information in Part 1 when filling out a shipping document; and
3. Added instructions in 3.5(1)(c)(ii) related to including the word “HOT” in the shipping description.

Requirements for Dangerous Goods Safety Marks

TC is proposing to add requirements to Part 4 (Dangerous Good Safety Marks) to provide clarity and further align with requirements in the 20th edition of the UN Recommendations.

Borders on Labels and Placards

TC is proposing to clarify the requirements related to borders or labels and placards by adding the option of displaying labels and placards with a dotted or solid outer border line.

Location of Line Inside the Edge of Labels

A label must have a line that runs parallel to the edge of the label. TC is proposing a slight modification to the requirement for the distance of the line from the edge of the label by indicating that the line may be approximately 5 mm from the edge of the label.

Size of Labels

The TDGR require each side of a label to be 100 mm long. Labels can be reduced in size to a minimum of 30 mm if the means of containment is of irregular shape or it too small to display a full size 100 mm label. TC is proposing to amend the working in the TDGR to remove the concept of irregular shape, since it is the available space on the means of containment that must be considered. This would align with the UN Recommendations and US 49 CFR which allow the dimensions of a label to be reduced “if the size of the package so requires”.

TC is also proposing to allow the reduction of labels so that they can all be displayed on the same viewing plane of the means of containment. The reduction would be limited to a minimum of 30 mm x 30 mm or, in the case of a cylinder, the size limits set out for cylinder labels. This would increase safety by improving communication of hazards and reduce administrative burden by eliminating the need to apply for an equivalency certificate in order to display smaller labels on one viewing plane.

Labels on Cylinders

TDGR require a label to be displayed either on the side or on or near the shoulder of the cylinder. Since the shoulder often cannot accommodate a full size label, reduced labels are typically used on the shoulder. There has been a difference in interpretation regarding whether or not a reduced label is allowed on the shoulder of a cylinder if a full size label could be displayed on the side of the cylinder.

TC is proposing to amend the requirements to allow a reduced label to be displayed on the shoulder of a cylinder even if a full size label would fit on the side of the cylinder. This would clarify the requirements and reduce administrative burden by eliminating the need to apply for an equivalency certificate to display a reduced label on the shoulder of a cylinder. This would align with the uN Recommendations and allow for compliance with the US requirements.

With respect to the size of labels on cylinders, TC is considering allowing the display of labels in accordance with ISO 7225:2005. Two options are being considered and TC would like feedback on their impacts, whether positive or negative:

1. Align with the UN Recommendations by allowing labels on any type of cylinder to be reduced in size in accordance with ISO 7225:2005.
2. Align with the US 49 CFR by allowing labels to be reduced in size in accordance with ISO 7225:2005 only for non-refillable UN pressure receptacles. Labels on other cylinders containing Class 2, Gases would need to comply with the 30 mm size limit that is currently in the regulations, but the option of marking in accordance with CGA C-7 could also be included for these cylinders.

Display of UN Numbers on a Means of Containment

The TDGR do not currently include requirements for the size of UN numbers that must be displayed on a small means of containment. TC proposed to add minimum size requirements for UN numbers on a small means of containment to align with both the UN Recommendations and the US 49 CFR.

The TDGR currently includes a minimum size requirement of 65 mm for UN numbers displayed on a large means of containment, but they do not address a situation where an intermediate bulk container (IBC) is marked with labels instead of placards. The TDGR allow labels, the UN number and shipping name to be displayed on an IBC with a capacity of up to 3000 L but they do not provide instruction on the size of the UN number. This creates confusion for the people who are required to mark these means of containment.

Both the UN Recommendations and the US 49 CFR include a minimum size requirement of 12 mm for a UN number on an IBC with labels. TC proposes to introduce a minimum size of 12 mm for a UN number on an IBC with labels to align with the requirements in the UN Recommendations and the US 49 CFR.

Overpack Markings

The TDR currently only require the following safety marks to be displayed on an overpack: UN number, shipping name and labels for each class of dangerous goods within the overpack. In addition to these requirements, the UN Recommendations and the US 49 CFR also require the display of other marks and labels representative of the dangerous goods such as the marine pollutant mark or lithium battery mark.

To align the TDGR with the UN and US requirements, TC is proposing to amend section 4.10.1 of the TDGR to require that all dangerous goods safety marks representative of the dangerous goods inside the overpack be displayed on the overpack. This would include display of the marine pollutant mark and the lithium battery mark as well as other dangerous goods safety marks that TC is proposing to add in this amendment, such as orientation arrows. Section 4.10.1 would still include the exception that the markings are not required on the overpack if they can be seen through the overpack.

Display of Subsidiary Class Placards

Section 4.15.1 of the TDGR requires subsidiary class placards to be displayed on large means of containment if the dangerous goods require an emergency response assistance plan (ERAP) and have subsidiary classes of Class 1, Class 4.3 or Class 6.1. It also requires the Class 8, Corrosives, placard for UN2977, RADIOACTIVE MATERIAL, URANIUM HEXAFLOURIDE, FISSILE or UN2978, RADIOACTIVE MATERIAL, URANIUM HEXAFLOURIDE, non-fissile or fissile excepted, when these dangerous goods require and ERAP. In a recent amendment to the TDGR, the entries for UN2977 and UN2978 were updated to include subsidiary Class 6.1, Toxic Substances, in addition to subsidiary Class 8, to align with the 19th edition of the UN Recommendations. To reflect the updated classification of these dangerous goods, section 4.15.1 would be revised to refer to the Class 6.1 placard as well as the Class 8 placard for their subsidiary classes.

Orientation Arrows

The UN Recommendations and the US 49 CFR require the display of orientation arrows on means of containment that contain liquid dangerous goods. These arrows indicate which way up the means of containment should be handled to minimize the chance of a release of dangerous goods. The TDGR currently do not have requirements to display orientation arrows. TC is proposing to add a new section to Part 4 (Dangerous Goods Safety Marks) applicable to liquid dangerous goods to increase safety and align with international requirements.

UN Numbers, Shipping Names and Related Provisions

New UN Numbers

New entries for UN3535, TOXIC SOLID, FLAMMABLE, INORGANIC, N.O.S., and UN3536, LITHIUM BATTERIES INSTALLED IN CARGO TRANSPORT UNIT, would be added to the TDGR to align with the 20th edition of the UN Recommendations. A new special provision applicable to UN3536 would be added to reflect new UN special provision 389. TC also proposes to add a definition to the TDGR for “cargo transport unit” since the term is not currently in the TDGR but would be introduced through the addition of UN3536. “Cargo transport unit” would be defined as having the same meaning as in the UN Recommendations.

Changes to Shipping Names

- The shipping name in the TDGR for UN1057 currently contains the requirement that lighters or lighter refills must be capable of passing the tests specified in the Lighters Regulations. This condition would be removed from the shipping name as it is not included in the name listed in the UN Recommendations.

- The word “STABILIZED” would be added at the end of the shipping name for UN3302, 2-DIMETHYLAMIONOETHYL ACRYLATE, to reflect its properties. Special provision 155, which sets out specific requirements for the transport of temperature-controlled substances and for chemically stabilized polymerizing substances, would now apply to these dangerous goods.

Packing Groups

There are a number of dangerous goods that are included in packing groups in the TDGR but that no longer have packing groups in the UN Recommendations or in the US 49 CFR. This causes confusion and problems, especially for shipments between Canada and the US, since packing groups must be indicated on shipping documents. Under the TDGR, packing groups must be included on the shipping document for these dangerous goods, but they must not under the 49 CFR.

To align with the 20th Edition of the UN Recommendations and with the US 49 CFR, Part 2 (Classification) and Schedule 1 of the TDGR would be amended to remove the packing groups for the following dangerous goods:
- Class 1, Explosives (UN0004 to UN0150)
- UN1327, BHUSA, HAY or STRAW, regulated only when transported by vessel (not regulated in the US)
- Class 5.2, Organic Peroxides (UN3101 to UN3120)
- Self-reactive liquids and solids in Class 4.1 (UN3221 to UN3240)
- UN3316, CHEMICAL KIT or FIRST AID KIT

Amendments to Special Provisions and New Special Provisions

Special Provision 16 - Technical Names

For dangerous goods that are subject to special provision 16, the technical name of at least one of the most dangerous substances that contributes to the hazard of the mixture is required to be shown on the shipping document and, in certain cases, on the small means of containment. As there may be more than one substance that contributes to the hazard of the dangerous goods, and considering the complexity of the names, this special provision would be modified to specify that a maximum of two of the most dangerous substances can be shown. This amendment would align with the UN Recommendations.

Special Provision 34 - Exemption for Lithium Cells and Batteries

Special provision 34, which provides exemption for the transport of lithium cells and batteries by road, rail and vessel (on a domestic voyage), would be revised to reflect changes to UN special provision 188. Clarity would be provided by specifying that the cells and batteries must be protected against contact with electrically conductive materials. A new requirement would be added for overpacks containing lithium cells and batteries for which the lithium battery mark must be displayed. The lithium battery mark would need to be reproduced on the outside of an overpack if it is not clearly visible through the overpack. The overpack would also have to be marked with the word “OVERPACK” in letters at least 12 mm high.

Requirements would be further clarified by adding an explanation that in this special provision “equipment” means apparatus for which the lithium cells or batteries will provide electrical power for its operation.

In addition, the provision that allowed the marking of a means of containment with the words “lithium metal”, “lithium métal”, “lithium ion” or “lithium ionique” instead of with the lithium battery mark, would be repealed as this option was only permitted until the end of 2018. This provision is now redundant.

Special Provision 39 - Exemption for Wet Batteries

Special provision 39 provides an exemption for UN2800, BATTERIES, WET, NON-SPILLABLE, but excludes batteries intended for disposal, thus making them fully regulated under the TDGR. This special provision would be amended to align with special provision 238 in the UN Recommendations by allowing the exemption to apply to batteries that are intended for disposal.

Special Provision 41 - Packing Instruction for Oxygen Generators

Special provision 41 includes requirements from UN packing instruction P500 for the transport of oxygen generators. The current text of the special provision does not quite reflect the intent of P500. To align with the UN instruction, special provision 41 would be revised to say that if an oxygen generator is to be activated during transport, the oxygen generator must be transported in a means of containment that is inside another means of containment so that it will not ignite other oxygen generators or the means of containment and the outside temperature of the outer means of containment does not exceed 100°C. The special provision currently requires an oxygen generator to be transported in a means of containment that is inside another means of containment as a precaution, even if it is not intended to be activated during transport.

Special Provision 56 – Exemption for Solids containing flammable liquids

TC is proposing to allow the use of flexible intermediate bulk containers (FIBC), such as 13H3 and 13H4, for the transportation of dangerous goods assigned to UN3175, SOLIDS CONTAINING FLAMMABLE LIQUID, N.O.S.

Currently, special provision 56 requires that selection of the means of containment for the transportation of UN3175 meets the National Standard of Canada CAN/CGSB-43.146-2002 “Design, Manufacture and Use of Intermediate Bulk Containers for the Transportation of Dangerous Goods” requirements. Under this standard, the use of FIBC is not permitted.

However, TC has issued equivalency certificates (EC) authorizing the use of FIBC which ensured an equivalent level of safety. As such, TC is proposing to modify special provision 56 to allow the transportation of these dangerous goods in FIBC under the following conditions:

- there is no free liquid visible at the time the dangerous goods are loaded, or at the time the FIBC and transport unit are closed; and
- when transported on board an open vehicle, the FIBC are water-tight and constructed so that neither rain nor road spray can come into contact with the dangerous goods.

This proposed amendment would provide more alternatives for industry to transport UN3175 while maintaining safety.

Special Provision 65 – Chemical Kit or First Aid Kit

Special provision 65 provides instruction on which packing group should be assigned to a chemical kit or a first aid kit that contains dangerous goods. To align with special provision 251 in the UN Recommendations, text would be added to special provision 65 to specify that if a kit contains only dangerous goods to which no packing group is assigned, then no packing group should be indicated on the dangerous goods transport document.

The 20th edition of the UN Recommendations introduced an amendment to permit chemical kits and first aid kits to contain substances that may be shipped as excepted quantities. In the previous edition of the UN Recommendations, the dangerous goods in chemical kits and first aid kits were restricted to those permitted in limited quantities. TC proposes to make the same amendment in special provision 65. This would allow for some substances in Class 6.1, Toxic Substances, PG I, and Class 3, Flammable Liquids, PG I, to be shipped in chemical kits and first aid kits, in addition to those already permitted that meet the allowance for limited quantities.

Special Provision 105 - Classification of 1.4S Explosives

Special provision 105 requires that for the assignment of 1.4S classification to certain explosives, the Test series 6 (d) of Part I of the Manual of Tests and Criteria must be passed. The 20th edition of the UN Recommendations includes changes that apply special provision 347 to four additional Class 1.4 dangerous goods whose classification is normally package dependant or that are generic entries, since generic entries usually warrant more systematic testing. To align with the UN Recommendations, the

TDGR would be amended to apply special provision 105 to the following UN entries: UN0349 ARTICLES, EXPLOSIVES, N.O.S., UN0367 FUZES, DETONATING, UN0384 COMPONENTS, EXPLOSIVE TRAIN, N.O.S., and UN0481 SUBSTANCES, EXPLOSIVE, N.O.S.

Special Provision 137 - Damaged or Defective Lithium Batteries

Changes to special provision 376 in the 20th edition of the UN Recommendations introduced transportation provisions for damaged and defective cells and batteries that are liable to rapidly disassemble, dangerously react, or produce a flame, a dangerous evolution of heat, or dangerous emissions under normal conditions of transport. The transport of these damaged batteries is currently forbidden under special provision 137 in the TDGR. TC is not proposing to incorporate these UN changes into the TDGR as the risks posed by transporting these dangerous goods is high. If there is a need to transport them, an application for an equivalency certificate can be submitted and TC can evaluate the situation on a case by case basis.

Under special provision 137 the words "Damaged/Defective Lithium Ion Batteries", "piles au lithium ionique endommagées/défectueuses", "Damaged/Defective Lithium Metal Batteries" or "piles au lithium métal endommagées/défectueuses" must be displayed on an outer means of containment or an overpack. The UN simplified this text in the 20th edition of the UN Recommendations by changing it to “DAMAGED/DEFECTIVE”. TC proposes to align with the UN by requiring the words “damaged/defective” or “endommagées/défectueuses”. Removing the reference to lithium batteries would not decrease communication of the hazards because the Class 9, Lithium Batteries label or the lithium battery mark is already required on the means of containment.

Special Provisions 141 and 153 – Limited Quantities

TC is proposing to allow the transportation of larger quantities of dangerous goods that are assigned to UN3269, POLYESTER RESIN KIT, liquid base material; UN3316, CHEMICAL KIT or FIRST AID KIT; and UN3527, POLYESTER RESIN KIT, solid base material.

Currently, special provisions 141 and 153 restrict the quantities of dangerous goods contained in these kits to very small amounts (called excepted quantities), ranging from 1 to 30 ml or g. Consequently, dangerous goods in quantities more than the excepted quantities cannot be transported as UN3269, UN3316 or UN3527. The quantity restriction does not align with the UN Recommendations.

This amendment aims to eliminate unnecessary costs by aligning with the UN Recommendations. Kits prepared in compliance with international recommendation would also be in compliance in Canada.

Special Provision 167 – Dangerous Goods in Apparatus or Machinery

Special provision 167 sets out requirements for the transport of dangerous goods in apparatus or machinery. The intent of the provision would remain the same, but it would be modified to provide clarity. The amendment would clarify that if a machinery or apparatus contains more than one item of dangerous goods, the items must be enclosed to prevent them from reacting dangerously with one another during transport. Currently, the text states that “the items must not be capable of reacting dangerously with one another”. This statement is ambiguous and could easily be misinterpreted. The modification would reflect a change made to special provision 301 in the 20th edition of the UN Recommendations.

New Special Provision – Lithium Batteries in Cargo transport Units

A new special provision would be added to the TDGR to reflect the addition of special provision 389 in the 20th edition of the UN Recommendations. This special provision would apply to the new UN number UN3536, LITHIUM BATTERIES INSTALLED IN CARGO TRANSPORT UNIT. It would include requirements to prevent short circuits, accidental operation, overcharge and over discharge between batteries. It would provide an exemption from labelling and marking requirements on the batteries inside the cargo transport unit and would set out placarding requirements for the cargo transport unit.

New Special Provision - Classification of Hybrid Batteries

The 20th Edition of the UN Recommendations introduced a new special provision (387) applicable to UN3090, LITHIUM METAL BATTERIES, UN3091, LITHIUM METAL BATTERIES CONTAINED IN EQUIPMENT or LITHIUM METAL BATTERIES PACKED WITH EQUIPMENT, UN3480, LITHIUM ION

BATTERIES, and UN3481, LITHIUM ION BATTERIES CONTAINED IN EQUIPMENT or LITHIUM ION BATTERIES PACKED WITH EQUIPMENT. UN special provision 387 sets out the requirements for the classification of hybrid lithium batteries that contain both primary lithium metal cells and rechargeable lithium ion cells. In previous editions of the UN Recommendations, hybrid batteries could not be assigned to a specific UN entry, which created confusion for classification. Under this new special provision, hybrid lithium batteries that meet the testing requirements of the Manual of Tests and Criteria are to be assigned to UN3091 or UN3091 as appropriate. In addition, the total lithium content of all lithium metal cells shall not exceed 1.5 g, and the total capacity of all lithium ion cells contained in the battery shall not exceed 10 Wh. To align with the UN Recommendations, TC is proposing to add a new special provision that reflects UN special provision 387 and is applicable to UN3090, UN3091, UN3480 and UN3481.

Change to the List of Marine Pollutants

Dangerous goods that are considered marine pollutants under the IMDG Code are identified in Schedule 3 of the TDGR. Based on test data, the most recent edition of the IMDG Code (Amendment 39-18) was updated to indicate that 1-dodecene is not a marine pollutant. To maintain alignment with the IMDG Code for marine pollutants, TC proposes to amend the entry in Schedule 3 for “Dodecene” by adding “(except 1-dodecene)”. The requirements specific to marine pollutants would therefore not apply to 1-dodecene.

Changes due to the Updated TP 14850 Standard for Small Containers

Transport Canada Standard, TP 14850, Small Containers for Transport of Dangerous Goods, Classes 3, 4, 5, 6.1, 8 and 9, a Transport Canada Standard, was recently updated to incorporate packing instructions and some other requirements found in the 20th edition of the UN Recommendations. It also contains revisions specific to Canadian requirements. Publication of the new standard is anticipated for early 2019. TC proposes to update the TDGR to reference the most recent version of this standard. As a result, the requirements in the revised standard would need to be met. In addition, several changes would need to be made to the TDGR as a result of the revised content of the standard.

Updated Reference to the Standard

The Table of Safety Standards and Safety Requirement Documents in the TDGR would be updated to reference the latest edition and the new title of the standard.

Table - Title in Section 1.3.1 Table of Safety Standards and Safety Requirement Documents

Current Title	New Title
Transport Canada Standard TP14850E, “Small Containers for Transport of Dangerous Goods, Classes 3, 4, 5, 6.1, 8 and 9, a Transport Canada Standard”, 2nd Edition, October 2010, published by the Department of Transport	Transport Canada Standard TP 14850E, “Design, manufacture and use of UN Standardized drums, jerricans, boxes, bags, combination packaging, composite packaging and other packagings for the transport of dangerous goods, classes 3, 4, 5, 6.1, 8, and 9.”, 3rd Edition, [new date], published by the Department of Transport

Packing Instructions

The standard was revised to update existing packing instructions to align with the 20th edition of the UN Recommendations and to add packing requirements that align with several UN packing instructions (P005 for engines and machinery and P908, P909, LP904 and P910, for lithium ion and lithium metal batteries and lithium ion and lithium metal batteries packed in or with equipment). Because these packing instructions have been incorporated into the standard, the reference to the UN packing instructions for the packaging requirements are no longer needed in the special provisions in the TDGR. Requirements to meet these UN packing instructions would be removed from special provisions 123, 137 and 138. The Standard now includes the UN packaging code for 4N boxes and the associated construction requirements for Type 4N boxes, in alignment with the UN Recommendations.

Marking of Salvage Containers

The UN Recommendations require salvage containers to be marked with “SALVAGE”. To align with the UN, the standard has been revised to include this requirement.

Dangerous Goods List

The Dangerous Goods List in Appendix A of the standard has been updated to reflect new entries that were added in the 20th edition of the UN Recommendations.

Batteries in Large Means of Containment

Currently, under the TDGR, batteries packaged in non-standardized containers that exceed 450 L in volume must be transported in accordance with equivalency certificates, rather than specific requirements set out in the TDGR or the standard. TC proposes to amend section 5.14 Large Means of Containment to make reference to the TP 14850 Standard. As a result, consignors transporting batteries in non-standardized means of containment exceeding 450 L would be able to make use of packing instruction P801 under TP14850 which applies to non-standardized containers such as crates and pallets, and is not restricted to volumes under 450 L. This change would reduce the administrative burden of having to apply for equivalency certificates, without jeopardizing safety.

Reconditioning of Drums

The TDGR currently contain requirements for the reconditioning of steel or plastic drums used for transporting dangerous goods that are liquid (in Class 3, 4, 5, 6.1, 8 or 9) before reuse. These requirements have been included in the new TP 14850. The requirements have not changed but, as a result of their inclusion in the standard, they are no longer needed in the TDGR and section 5.12(2) would be repealed.

Proposal to Modernize Part 4 (Dangerous Goods Safety Marks)

The desire by industry to have more consistent marking requirements between Canada and other countries has been expressed in different forms. In light of a steady growth in cross-border and multimodal transportation (road, rail, sea and air) of dangerous goods, having uniform regulations that contributes to worldwide harmonization would reduce costs for businesses and facilitate the work of enforcement personnel. Therefore, TC would like to modernize the TDGR in order to make the regulations more relevant, agile and efficient. The ultimate goal is to eliminate unnecessary costs, increase competitiveness, strengthen enforcement and, as always, maintain or improve safety. As the first step towards modernization, TC is proposing to revise a few of the labelling and placarding requirements set out in Part 4 of the TDGR. Specifically, TC is considering revising: 1) text displayed on labels and placards and 2) the display of dangerous goods markings for oxidizing gases. TC is seeking feedback on the benefits and possible negative impacts these proposals could have on the industry.

<u>Text Displayed on Labels and Placards</u>
The UN Recommendations and the 49 CFR allow the display of text on labels and placards to emphasize dangerous goods hazards. Under the 49 CFR, the text displayed on markings must be in English. However, text in a language other than English is permitted, provided text in English is also displayed. In Canada, wording on labels and placards is, with a few exceptions, not permitted. In general, under the TDGR, labels or placards with text are not allowed on consignments of dangerous goods to be transported within Canada. This results in additional costs and compliance burden for businesses. For example, an international consignment transported by vessel displaying placards for Class 4.1, marked with text and in accordance with the IMDG Code would not be allowed to be reshipped within Canada. Thus, the consignment would be held at the port until the consignor or carrier replaces the placards with those required under the TDGR (with no text).

Transport Canada is exploring the following options:

- Option 1. Allow the display of labels and placards that include text. Allowing text would result in alignment with the UN Recommendations and US 49 CFR.

  Because of Canada’s two official languages, TC would consider options for the text, such as:
  - English and French;
  - English or French;
  - English or French and a language other than English or French; or
  - English and French and a language other than English or French.

- Option 2. Replace current TDGR labels and placards with those that display text. Requiring text on labels and placards would result in partial alignment with the UN Recommendations and the US 49 CFR.

  Because of Canada's two official languages, TC would consider options for the text:
  - English and French; or
  - English or French.

- Option 3. "Status Quo": Text displayed on labels and placards is not permitted. This would result in partial alignment with the UN Recommendations and the US 49 CFR.

Display of Dangerous Goods Marking for Oxidizing Gases

Under the TDGR, for dangerous goods UN1072, UN1073, UN3156 and UN3157 which have primary Class 2.2, Non-flammable and non-toxic gases and subsidiary Class 5.1, the oxidizing gas label/placard must be displayed instead of the primary Class 2.2 and subsidiary Class 5.1 labels/placards.

In the US, for a small means of containment that contains any of the above dangerous goods, consignors and carriers have the choice to display either the oxygen gas label or labels for Division 2.2 (Non-flammable gas) and Division 5.1 (Oxidizer).

In the US, for a large means of containment that contains any of the above dangerous goods, consignors and carriers have the choice to display: the oxygen gas placard; the non-flammable gas placard; or the Non-flammable gas and Oxidizer placards.

The UN Recommendations have not adopted the oxidizing gas nor the oxygen gas labels and placards; thus, the display of Class 2.2 and Class 5.1 labels/placards is required.

In Canada, consignments that contain UN1072, UN1073, UN3156, or UN3157 must display the oxidizing gas label or placard. This can result in additional costs and compliance burden for consignors and carriers who transport internationally. For example, a means of containment containing UN1072 transported by air from Mexico and thus displaying placards for both Class 2.2 and Class 5.1 (in accordance with ICAO TIs) could not be reshipped within Canada until the Class 2.2 and Class 5.1 placards are removed and replaced with the oxidizing gases placard.

Transport Canada is exploring the following options:

- Option 1. Continue to require the oxidizing gases label/placard and allow the display of the oxygen gas label/placard in accordance with the US 49 CFR. This would result in compliance with the 49 CFR but would not be in alignment with the UN Recommendations.

- Option 2. Allow the option of displaying either labels/placards for Class 2.2 and Class 5.1 or the oxidizing gases label/placard in accordance with the TDGR and allow either labels/placards for Class 2.2 and Class 5.1 or the "oxygen" labels/placards in accordance with the US 49 CFR;
  - Note: TC is not proposing an option that would allow displaying only the Class 2.2 placard on a large means of containment, as permitted under the 49 CFR. Displaying the Class 2.2 placard alone would not communicate adequately the oxidizing hazard posed by these dangerous goods, thus compromising safety.

- Option 3. "Status Quo": Display the oxidizing gas label and placard instead of the Class 2.2 and Class 5.1 labels and placards. This would not be in alignment with either the US 49 CFR or the UN Recommendations.

Alignment with the United States Hazardous Materials Regulations

TC and the US Department of Transportation established an ongoing regulatory partnership through the United States-Canada Regulatory Cooperation Council (RCC), whose mandate is to promote economic growth and benefits to consumers and businesses through increased regulatory transparency and coordination. The goal of this partnership is to increase regulatory cooperation and alignment between the two countries. To that effect, TC and the US Department of Transportation have developed a work plan to enhance cooperation to improve regulatory reciprocity and promote safe and efficient cross-border transportation of hazardous materials.

Reciprocity for Transportation by Road and Rail

Transportation between Canada and the US

Under the TDGR, dangerous goods may be transported into or through Canada by road or rail in accordance with the classification, marking, labelling, placarding and documentation requirements of 49 CFR or a special permit issued under the 49 CFR instead of the requirements of the TDGR.

The US allows the transport of dangerous goods into or through the US from Canada or from the US into Canada in accordance with the TDGR or an equivalency certificate issued under the TDGR. While Canada provides reciprocity when dangerous goods are transported from the US, it does not allow dangerous goods to be transported from Canada to the US in accordance with the US regulations. Thus, under the TDGR, a shipment coming from the US that is rejected in Canada or an emptied MOC that is to be returned to the US cannot be transported in accordance with US regulations or a US special permit. Also, a shipment originating in Canada cannot be transported to the US in accordance with the 49CFR.

TC is proposing to amend the TDGR to allow a shipment of dangerous goods to be returned to the US, or a shipment originating in Canada to be transported to the US, in accordance with the classification, marking, labelling, placarding and documentation requirements of 49 CFR or a special permit issued under the 49 CFR.

Reshipping within Canada

Currently, under the TDGR, US placards may be displayed on a large means of containment transported by road or rail from the US into Canada only up to the first destination in Canada. Any reshipping activities, such as distribution, require placards that comply with Part 4 (Dangerous Goods Safety marks) the TDGR. This means that two sets of placards may be required for shipments that carry on past the first destination.

As part of the RCC initiative, TC is proposing to allow US placards to continue to be displayed when dangerous goods are reshipped by road or rail. This would reduce burden for shippers and consignors as they would no longer need to replace the placards on means of containment.

Punctuation Marks and Capitalization

To ensure that people are aware of the hazards when certain dangerous goods are transported, the TDGR and international regulations require specific words to be included on a shipping document or a means of containment. For example, “toxic – inhalation hazard” or “toxic by inhalation” must be included on the shipping document when dangerous goods that are toxic due to inhalation are transported.

Sometimes there is a difference in the spelling or punctuation required under the Canadian TDGR and the US 49 CFR. In other cases, one regulation presents the required wording in uppercase letters while the other regulation presents it in lowercase letters. These variations create confusion and challenges for consignors and shippers who transport dangerous goods between Canada and the US.

To facilitate the transport of dangerous goods between Canada and the US, TC is proposing to introduce a provision that would allow the use or absence of punctuation marks within text required by the regulations. It would also allow the use of either uppercase or lowercase letters. TC does not feel that the use of upper or lower case letters (“RESIDUE” vs “Residue”) or the addition of a hyphen between two words (“not-odorized” vs “not odorized”) negatively impacts the ability to communicate the hazard(s).

The provision in section 1.3 of the TDGR that allows shipping names to be written in either upper or lowercase letters would remain, as would the requirement that, if the shipping name in Schedule 1 includes descriptive text, the descriptive text must be written in lowercase letters and the shipping name in uppercase letters.

Exemptions

Water Pump System Tanks

Canada is proposing to harmonize with the US by introducing an exemption for pressurized tanks used in water pump systems. The US exemption allows water pump system tanks to be filled to 276 KPa with compressed air or nitrogen be transported to installation sites without having to meet the marking and specification packaging requirements. A number of conditions need to be met in order to use the exemption.

The conditions include:
- The tank being made of steel with heads welded concave to pressure,
- Pneumatic testing to 100 psig with the test pressure marked on the tank,
- Maximum wall stress requirements,
- Burst pressure at least 6 times the charge pressure, and
- A requirement that the tank be packed in strong outer packaging for transport.

The proposed TDGR exemption would reflect the US exemption but would apply to UN1002, AIR, COMPRESSED, Class 2.2, UN1066, NITROGEN, COMPRESSED, Class 2.2, and UN1046, HELIUM, COMPRESSED, Class 2.2, because TC currently issues equivalency certificates which provide the same exemption for water pump system tanks that contain these three compressed gases. The exemption would also include an additional condition to conduct leak tests when the tanks contain compressed helium.

TC currently issues equivalency certificates to provide an exemption for composite water pump system tanks and for tanks with a diameter as large as 26 inches (instead of the 24 inch limit in the US exemption). To reduce administrative burden, TC proposes to remove the need to apply for these equivalency certificates by allowing the exemption to be used for tanks with a diameter up to 26 in and for tanks made out of composite materials. The burst pressure condition in the exemption would be adjusted to 15 times the charge pressure for composite tanks.

Small Quantities for Highway

TC is currently analysing the Small Quantities Exemption under the 49 CFR. The US exempts small quantities of authorized dangerous goods from most of the regulations when transported within the US by highway or rail.

Some of the conditions required to use this exemption include: rigorous packaging tests (five different 1.8m altitude dropping tests and a stacking test), marking on the outer packaging “This package conforms to 49 CFR 173.4 for domestic highway or rail transport rail”, and a 29 kg maximum weight of the outer means of containment.

Presently, under the TDGR, the transportation of certain dangerous goods in very small amounts cannot benefit from any exemption. Their transportation requires full compliance with the regulations. Adopting the Small Quantities Exemption would mean that these dangerous goods could be transported under relaxed requirements. Some examples of dangerous goods include: UN3469 PAINT, FLAMMABLE, CORROSIVE (Class 3, Packing Group I), UN3098 OXIDIZING LIQUID, CORROSIVE, N.O.S. (Class 5.1, Packing Group I), and UN3111 ORGANIC PEROXIDE TYPE B, LIQUID, TEMPERATURE CONTROLLED (Class 5.2, Packing Group II).

Before TC considers adopting this exemption, input from affected parties is required to gain a better understanding of the current needs in Canada and evaluate the impacts. TC strongly encourages feedback and data on the following questions:
- Do you find that the exemptions under limited quantities or excepted quantities are too restrictive?
- How would you benefit from the “Small Quantities Exemption”?
- Would you have any safety concerns if the “Small Quantities Exemption” were adopted?
- From an enforcement perspective, would you find it difficult to enforce the transportation of dangerous goods under this exemption?

Proposal to Modernize Part 4 (Dangerous Goods Safety Marks)

While the proposal to allow US placards to be used for reshipping would address the majority of the issues, having a more uniform marking system with the US would be beneficial. Thus, to promote and support RCC’s work plan and advance TC’s modernization initiative, TC is exploring options for aligning more closely with the US labelling and placarding requirements. Therefore, TC is proposing to revise the labelling and placarding requirements for: Toxic substances of Class 2.3 and Class 6.1; and the display of labels and placards on an empty means of containment.

TC is requesting feedback on the benefits and possible negative impacts these proposals could have on your respective sector and encourages industry to share your opinions and your own proposals to modernize the labelling and placarding requirements.

Toxic Substances of Class 2.3 and Class 6.1

Under the TDGR, labels and placards for dangerous goods in Class 2.3, Toxic gases and Class 6.1 Toxic substances display a skull and crossbones in the top corner and the class number in the bottom corner, aligning with the UN Recommendations. In addition, the TDGR require the display of the words "INHALATION HAZARD" on the means of containment for toxic substances of Class 2.3 and Class 6.1 that are toxic by inhalation (TIH).

Under the 49 CFR, TIH substances must display and additional symbol, a black diamond illustrated in the top corner of a label or placard. The words "INHALATION HAZARD" are also required.

Under the TDGR, labels and placards for TIH substances do not have any additional symbol that identifies exclusively TIH substances. Canada does not allow US labels and placards for Class 2.3 and Class 6.1. Thus, consignments that come from the US containing these dangerous goods must display labels and placards as required under the TDGR. The US allows the display of labels and placards for TIH substances in accordance with the TDGR for shipments to or from Canada, provided the US placards are also displayed. The UN Recommendations have not adopted the black diamond symbol for TIH substances.

Due to the difference in labelling and placarding requirements for Class 2.3 and Class 6.1 between Canada and the U.S., consignors and carriers who transport these dangerous goods from Canada to the US and vice versa must have two sets of placards in order to comply with both the TDGR and the 49 CFR, adding costs and compliance burden.

Transport Canada is exploring the following options:

- Option 1. Allow the display of labels and placards for Class 2.3 and Class 6.1 in accordance with the US 49 CFR. This approach would result in compliance with the UN Recommendations and the US 49 CFR and allow for multiple options to communicate the same hazards.

- Option 2. Replace current TDGR labels and placards with those under the 49 CFR. This would result in compliance with the 49 CFR but would not be in alignment with the UN Recommendations.

- Option 3. "Status quo": Maintain the requirements for labels and placards for Class 2.3 and Class 6.1. This would result in partial alignment with the UN Recommendations and the US 49 CFR.

Labels and Placards on an Empty Means of Containment
A means of containment is "empty" when it has not been used and is intended to contain dangerous goods, or one that has previously contained dangerous goods but has been cleaned, purged of vapours, or refilled with a non-dangerous good to eliminate any hazardous substance. Under the TDGR, the display of dangerous goods safety marks on an empty means of containment is not permitted. In accordance with the US 49 CFR, markings on an empty means of containment may be displayed provided any marking indicating the presence of dangerous goods is covered or the means of containment is transported inside a closed vehicle.

For a means of containment that is empty but marked, and intended to be loaded or reloaded, the removal of markings adds costs and creates compliance burden. For example, racks containing lithium batteries are required to display hazard labels. In the US, these placards may remain on the empty racks for shipment back to the battery supplier, provided they are transported inside a closed vehicle or the placards are not visible during transportation. However, under the TDGR, once the batteries have been unloaded from the racks, the placards must be removed.

TC is exploring the following options:

- Option 1. Allow the display of markings on an empty means of containment provided any marking indicating the presence of dangerous goods is covered or the means of containment is transported inside a closed vehicle. This approach would result incompliance with the US 49 CFR.

- "Status Quo": Prohibit the display of markings on empty means of containments. This would result in misalignment with the US 49 CFR.

Reference/Link

The link below will allow you to view/print this final rule.

http://www.tc.gc.ca/en/transport-canada/corporate/consultations/consultation-international-harmonization-updates-transportation-dangerous-goods-regulations.html?mc_cid=e3fb333819&mc_eid=f4d8a3c680