



Council on Safe Transportation of Hazardous Articles

April 16, 2018

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RE: Transport - Canada, Dangerous Goods Client Identification Database

Per your recent publication of information regarding the proposed Dangerous Goods Client Identification Database (CID) we would like to provide the following comments/or questions on behalf of our membership.

The Council on Safe Transportation of Hazardous Articles (COSTHA), founded in 1972, is a not-for-profit industry association devoted to promoting regulatory compliance and safety in the international and domestic transportation of dangerous goods. COSTHA represents over 170 member companies, including shippers, carriers by highway, air, and sea, container manufacturers, chemical manufacturers, pharmaceutical companies, personal care and other consumer product manufacturers, electronics manufacturers, automobile and automobile component manufacturers, and trainers, as well as other businesses and associations involved in all aspects of transportation of dangerous goods, hazardous substances, and hazardous wastes.

As global shippers and carriers and as further outlined below, COSTHA members expressed concern about potentially voiding the current exemption in 49 USC 5108 so that Canadian companies would now be required to register in the US. Additionally, members are concerned with the lack of clarity surrounding the scope of applicability, the mode of transport, and the "frequency, volume and/or quantity of data" sought, the administrative burden it might entail, as well as the use of that data which could contain commercially sensitive and proprietary information. Finally, members also expressed serious concerns that Canada's effort could lead other countries to follow suit, creating a heavy administrative burden and patchwork of differing reporting obligations for our global members.

Council on Safe Transportation of Hazardous Articles

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Scope of Import, Handles, Offers and Transport

The scope of activities intended to capture “who” needs to register needs further clarification. For example, “handles” could literally apply to anyone who touches a package containing dangerous goods. Further, customs clearance can be a rather complex process, and identifying who is the importer for a given transaction can shift drastically. The “importer of record” is a term of art and can apply in certain situations to the seller, the buyer, the customs broker, or the transporter. Moreover, given the recent rise of cross-border and domestic business to consumer shipments, many of which include regulated material, COSTHA questions whether it is realistic to expect individual purchasers or casual importers of the items in Canada to register. Finally, we would point out that a simple supply chain transaction involving a buyer, seller, customs clearance agent and transporter (or transporters) could result in multiple parties reporting the same information about the same shipment. We would point out that this is unnecessarily duplicative and fail to see how Transport Canada would derive any benefit from such duplicative information.

Collection of volumetric data – Frequency, Volume and / or Quantity and Mode of Transport

It is not an industry practice to track this type of data and many companies, such as carriers, have no way of collecting, compiling or forecasting this information. For example, with LTL carrier operations this would change on a daily basis.

In today’s supply chain, with complex distribution and redistribution of packaged products there is a fluid stream of information that is not identified by DG class or UN number. Some distributors ship literally millions of skus, some of which are regulated.

Other companies note that this would be a large undertaking and would involve several employee’s days of work and that the data would only be current at that specific point in time.

Members also raise concerns about the proprietary nature of this type of data and the security of the information.

Tracking of shipments by UN number or hazard class is not a normal business reporting function and is not undertaken by most businesses.

Members report that they do not have employees dedicated to collecting data and/ or reporting on the classes, UN number, frequency, volume and/or quantity of dangerous goods handled / offered for transport / transported /imported.

This function is not necessary to operations. It would be time consuming and expensive and would not enhance the safety of operations nor the safety of the industry as a whole.

Regarding “Mode of Transport,” multi-modal transportation networks are prevalent throughout Canada and can involve a single operator, for example, picking up a reportable shipment by truck, transporting it back to a station for sort, transport by a different truck to the airport, flying the shipment to a destination market, trucking it to a regional sort center, then using a different truck for last mile delivery. COSTHA is concerned that given the complex nature of multi-modal transport, carriers would be required to identify shipments by the various “legs” in the transportation supply chain. In addition to the points above the difficulty in tracking the

frequency, volume and/or quantity, mode of transport adds another layer of complexity for multi-modal operators.

Summary: The proposed registration process will not enhance safety, would be very problematic, time consuming and expensive to report. The information will be outdated as soon as it is submitted, and we fail to see any benefit that would result from the collection of this type of data.

For comparison with the proposed process, we have provided the materials required to be registered in the United States under Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations §107.601 49 CFR:

The United States Pipeline and Hazardous Materials Safety Administration (PHMSA).

§107.601 Applicability.

(a) The registration and fee requirements of this subpart apply to any person who offers for transportation, or transports, in foreign, interstate or intrastate commerce—

- (1) A highway route-controlled quantity of a Class 7 (radioactive) material, as defined in §173.403 of this chapter;
- (2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material (see §173.50 of this chapter) in a motor vehicle, rail car or freight container;
- (3) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., “material poisonous by inhalation,” as defined in §171.8 of this chapter, that meets the criteria for “hazard zone A,” as specified in §173.116(a) or §173.133(a) of this chapter);
- (4) A shipment of a quantity of hazardous materials in a bulk packaging (see §171.8 of this chapter) having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;
- (5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class, under the provisions of subpart F of part 172 of this chapter; or
- (6) Except as provided in paragraph (b) of this section, a quantity of hazardous material that requires placarding, under provisions of subpart F of part 172 of this chapter.

(b) Paragraph (a)(6) of this section does not apply to those activities of a farmer, as defined in §171.8 of this chapter, that are in direct support of the farmer's farming operations.

(c) In this subpart, the term “shipment” means the offering or loading of hazardous material at one loading facility using one transport vehicle, or the transport of that transport vehicle.

[65 FR 7309, Feb. 14, 2000, as amended at 67 FR 61011, Sept. 27, 2002]

Registration Overview | PHMSA

The annual fee for small businesses and not-for-profit organizations for registration year 2017-2018 and the following years will remain at \$250, (plus a \$25 processing fee for each registration form), and \$2,575 (plus a \$25 processing fee for each registration form) for all other registrants. Feb 27, 2018

<https://www.phmsa.dot.gov/registration/registration-overview>

Many of our members are registered with the US DOT PHMSA and note that there is not a requirement for volumetric data or UN number. Registrations are required for only high hazard materials and loads that require placards.

This system has been in place since 1992 and it is not assumed that if this proposal was initiated today that industry would be willing to register. There are also some restrictions in place about how the registration fees may be spent and how much money may be accumulated.

Additionally, we would like to direct Transport Canada to the following in 49 USC 5108, which sets out the registration requirement and states the following:

"(a)(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer."

Further, the instructions for the Hazmat Registration form list the following exemption from registration on page 2:

"A person that offers hazardous materials for transportation to the United States (U.S.) solely from locations outside of the U.S., when that person: (i) is domiciled outside the U.S., in a country that does not impose registration or a fee on U.S. companies for offering hazardous materials into that country, and (ii) does not transport hazardous materials to, within, or from the United States in the types and quantities that require registration."

Thus, if all you do is ship hazmat into the U.S. from a country that does not require registration of U.S. companies offering hazmat into their country, and you are not a carrier, you are exempt from registering with PHMSA. If Transport Canada starts requiring U.S. shippers to register for shipping hazmat into Canada, then PHMSA will require Canadian shippers to register as hazmat shippers in the U.S. as well. It will end the reciprocal exemption that exists now.

Member Questions:

- 1) What is the intended use for the data?

Members report that they submit data to various Canadian government agencies and question if it would be better to use existing data rather than create a new redundant database.

For example:

The Follow-up Audit of Transportation of Dangerous Goods November 2014 indicates the TDG Inspection Information System (IIS) database contains 23,000 sites that handle dangerous goods.


Other registrations mentioned include the following:

- The Ministry of Environment and Climate Change Hazardous Waste Information Network (HWIN) system
 - CANUTEC
 - ERAPs
 - E2, AER, AEP registries
 - Canada Border Services Agency-Partners in Protection/Trusted Trader Program data
- 2) How would this apply to retail distribution centers by private and contract carriers and or e-commerce shipments?
 - 3) COSTHA would also like to know if this proposal aligns with the Canadian Guidelines on International Regulatory Obligations and Cooperation?
 - 4) What benefits will Registered Members gain from this?
 - 5) Efficient and effective communication adds value but how will TC account for changes in product lines, acquisitions, mergers, etc. i.e.:
 - a. will this be an annual requirement to register?
 - b. will companies be expected to update data as it changes?
 - 6) How will any funds collected be used?
 - 7) How does TC plan on capturing “unknown” stakeholders and registering them?
 - 8) Why are Importers included in this program? Registration should only apply to those who offer for transport, handle or transport. Importers of Record may never actually take physical possession of dangerous goods so collecting data from them is simply redundant.
 - 9) How will TC keep data scrubbed to avoid disclosing information on specific companies when sharing with the public?

International Harmonization

The proposed requirements for TDG specific activities has the potential to set an unrealistic precedent and disrupt harmonization efforts. Certain COSTHA members have operations in over 220 countries and territories with hundreds of thousands in the work force. One can imagine the difficulties if individual, country specific dangerous goods reporting requirements became the norm. Administrative costs would skyrocket. COSTHA remains concerned the precedent the CID proposal might set.

Sincerely,

A handwritten signature in black ink that reads "Lara M. Currie". The signature is written in a cursive style with a large initial 'L' and 'C'.

Lara Mehr Currie
Administrator