



Council on Safe Transportation of Hazardous Articles

September 5, 2019

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Mr. Brennen Young
Director, Policy and Strategic Planning
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Treasury Board of Canada Secretariat
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RE: REGULATORY MODERNIZATION — REQUEST FOR STAKEHOLDER COMMENTS (ROUND 2)

Dear Mr. Young,

The Council on the Safe Transportation of Hazardous Articles (COSTHA) appreciates the opportunity to comment on the regulatory modernization consultation.

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 members, companies which include shippers, carriers by highway, air, and sea, container manufacturers, chemical manufacturers, pharmaceutical companies, electronics manufacturers, personal care and other consumer product 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.

COSTHA would once again like to contribute to the modernization of the constantly evolving environment of the Canadian regulatory system, as well as to the improvement of its performance. To that effect, COSTHA submits comments intended “to make the Canadian regulatory system more agile, transparent and responsive, so that businesses across the country can explore and act on new opportunities”.

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COSTHA's comments focus on Transport Canada's *Transportation of Dangerous Goods Regulations* (TDGR) and include comments on two of the areas included in the second round of reviews, more specifically "clean technologies" and "international standards".

INTERNATIONAL STANDARDS

It is suggested Transport Canada establish an amendment schedule in order to be able to harmonize the TDGR on a regular basis with the international regulations on the transportation of dangerous goods, such as the United Nations (UN) Recommendations on the TDG, the International Civil Aviation Organization (ICAO) Technical Instructions, the International Maritime Dangerous Goods (IMDG) Code. These international regulations are amended every two years, while Transport Canada cannot stay current due to the lengthy regulatory process in Canada.

If a schedule could be established, it would be less burdensome for Canadian industry, which currently has to wait at least two to five years to see new provisions make their way into the TDGR. Some of the international modal regulations are dynamically referenced in the TDGR but can be used only if part of the transport is done by the mode they cover.

International harmonization could be further achieved with the adoption of an exception to the regulations for the transport of used medical devices such as the one found in 2.6.3.2.3.9 of the UN Recommendations and in § 173.134(b)(12)(ii) of 49 CFR. Medical devices (potentially contaminated with or containing infectious substances) which are offered for transport or transported for the purposes of disinfection, cleaning, sterilization, repair or equipment evaluation only become not subject to the provisions of the regulations if packed according to the exception in packagings designed and constructed so as not to leak under normal conditions of transport. The packagings used shall be able to withstand a drop of 1.2 meter, and packages shall be marked "USED MEDICAL DEVICE".

To facilitate cross-border shipping with the United States (US), COSTHA also recommends allowing additional harmonization with the Hazardous Materials Regulations (HMR or 49 CFR) of the US Department of Transport (DOT). One example would be allowing the use of worded dangerous goods safety marks (hazard class labels and placards), such as Class 8 labels displaying the word "Corrosive" and Class 3 labels the word "Flammable". This change would not reduce safety, nor impair hazard communication. Another example is the exception for display packs mentioned during the previous round of consultation and reiterated below.

COSTHA recommended that Transport Canada consider adding an exception like the one found in § 173.156(c) of 49 CFR to allow the use of display packs with a maximum gross mass not exceeding 550 kg within the TDGR. Many consumer products are classified as dangerous goods, but are eligible for transport by road as a limited quantities due to the limited amount of material contained in the consumer packaging when the gross mass of the outer means of containment does not exceed 30 kg (see TDGR, Section 1.17 – Limited Quantity Exemption).

Many retail locations are now foregoing traditional product displays and introducing “display packs” of consumer products. Such display packs are pre-built before distribution, are “opened” on site and placed directly on the store floor. One of the main advantages of using the US exception is a reduction of the amount of packaging used (lower costs and better sustainability). Based on the US experience, use of “display packs” indicates safety is not affected. Transport Canada has issued equivalency certificates to authorize the shipping of display packs in Canada. A reduction in the required number of equivalency certificates by TC would reduce the administrative burden to both government and industry.

It is also suggested that Transport Canada attend the RID/ADR/ADR Joint Meeting that takes place twice a year, and whose task is mainly to “*ensure that the dangerous goods provisions for European land transport (RID – Regulation concerning the International Carriage of Dangerous goods by Rail, ADR – European Agreement concerning the International Carriage of Dangerous Goods by Road and ADN – European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway) are harmonised as closely as possible in order to simplify and promote multimodal transport.*” Such a participation would allow Canada to contribute to discussions on TDG and be proactive in the harmonization of regulations on both sides of the ocean. COSTHA believes it would be a good idea for all countries in North America to reinforce their presence in such UN committees.

Please note that the *ADR – European Agreement concerning the International Carriage of Dangerous Goods by Road* will change its name with the 2021 edition and become the *Agreement concerning the International Carriage of Dangerous Goods by Road*, to better represent the growing number of Contracting Parties to the Agreement that are not part of the European Union (EU). Currently there are 50 countries are contracting parties to the ADR.

CLEAN TECHNOLOGY

COSTHA believes that Transport Canada should take a leadership position in establishing guidelines for the use of drones in the transportation of dangerous goods nationally and internationally. TC should work with ICAO in this area to help accelerate the development of provisions to include in the various regulations. The transport of lithium batteries by drones, safe packaging for such transport as well as safe and compliant packaging for diagnostic specimens and CO₂ gas cartridges, are all things that could be considered by TC.

Lastly, COSTHA recommends again that “autonomous vehicles” be included in a future review of the Transportation of Dangerous Goods Regulations, as the science has not yet been perfected regarding communication/operation of these vehicles, accidents/incidents, acceptance checks of dangerous goods, loading & segregation of dangerous goods, security, acts of terrorism, as well as emergency response issues.

COSTHA thanks the Treasury Board of Canada Secretariat for this opportunity, for reviewing stakeholders' comments and for making propositions to Transport Canada to contribute to the modernization of the Canadian regulatory system.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Prescott', with a stylized flourish at the end.

Julie Prescott
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