

Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals

Sub-Committee of Experts on the Transport of Dangerous Goods

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Item 2 (b) of the provisional agenda

Recommendations made by the Sub-Committee on its forty-third, forty-fourth and forty-fifth sessions and pending issues: listing, classification and packing

Proposed amendments to the Model Regulations and Guiding Principles – Comments on ST/SG/AC.10/C.3/2014/74

Transmitted by the expert from Canada

Purpose

1. To raise issues and challenges with proposal ST/SG/AC.10/C.3/2014/74 and to present an alternative proposal.

Discussion

2. The proposed approach and text presented in ST/SG/AC.10/C.3/2014/74 seeks to allow a consignor, when additional test data provided by experts (e.g. national authorities, industry stakeholders) show that a substance possesses one or more additional hazards not identified in the list, to use the same specific UN number and name but to reflect the additional hazard(s) in the various hazard communication elements required by the Model Regulations provided that the additional hazard(s) would not justify more stringent transport conditions other than those related to hazard communication.

3. The proposed approach is problematic since it does not account for hazard communication issues or enforcement issues.

4. The alternative proposed approach in this paper communicates the Canadian classification scheme, which differs slightly from the Guiding Principles, and addresses the issue identified in proposal ST/SG/AC.10/C.3/2014/74 in Canada.

5. The alternative approach presented below also mirrors the approach used for mixtures in the Model Regulations (see 2.2.2.5 (d)).

Hazard Communication

6. Allowing the use of the same specific UN number and name for known products but adding additional hazard communication symbols not associated with the product and that are not listed in the UN list of dangerous goods may lead to issues in handling. Individuals handling these products become familiar with the communicated hazards associated with a given dangerous goods. Adding additional hazard communication symbols to communicate the additional risks while retaining the specific shipping name risks may confuse dangerous goods shippers and / or may result in dangerous goods shippers ignoring the additional hazard communication symbols since they may be seen as errors.

7. In Canada, shippers and consignors are required to classify dangerous goods as per Part 2 of the Transportation of Dangerous Goods Regulations (TDGR). Under the TDGR, it is required to determine if the substance meets the criteria for inclusion in one or more of the nine (9) classes of dangerous goods before referring to the dangerous goods list to assign the most appropriate shipping name. If the substance is listed by name in the dangerous goods list but the class(es) assigned to the shipping name do not match the classification of the substance, then a generic entry is used to identify the dangerous goods. This would preclude using a specific shipping name that does not reflect all the hazards of the dangerous goods.

Enforcement Issues

8. Adopting the approach presented in ST/SG/AC.10/C.3/2014/74 may also lead to significant enforcement issues when dangerous goods are shipped across borders. When an additional hazard communication symbol is added to a product shipped under a specific name not associated with that hazard, the shipment would most often be found non-compliant in another jurisdiction. Adopting the approach in ST/SG/AC.10/C.3/2014/74 may lead to significant enforcement actions brought against shipments crossing borders.

Emergency Response

9. The addition of hazard communication symbols while retaining the UN No. and proper shipping name would also present issues in emergency response. In North America, the Emergency Response Guidebook is published bi-annually and contains key information for emergency responders when responding to dangerous goods incidents organised by UN number and name. When additional hazards are identified for a dangerous good, the emergency response protocol needs to account for these to prevent unintended consequences and to maintain public safety. The proposal presented in ST/SG/AC.10/C.3/2014/74 would complicate emergency response and may lead to instances where the emergency response is inadequate or inappropriate. Accepting proposal ST/SG/AC.10/C.3/2014/74 would lead to missing information needed for emergency response or confusion between accepted emergency response practices for a given proper shipping name and the hazard communication present on the means of containment, especially for trans-border shipments where the competent authority approvals for additional hazards are not known.

Alternative proposed text for the UN Model Regulations

10. Add the following sentences in 2.0.0:

A consignor who is aware, on the basis of test data, that a substance listed by name in column 2 of the Dangerous Goods List in Chapter 3.2 meets classification criteria for a hazard class or division that is not identified in the list should consign the substance:

- Under the most appropriate generic or N.O.S. entry reflecting all hazards.

11. Modify 2.0.2.2 to read:

Dangerous goods commonly carried are listed in the Dangerous Goods List in Chapter 3.2. Where an article or substance is specifically listed by name, it shall be identified in transport by the proper shipping name in the Dangerous Goods List, unless it meets the criteria of a new or a different class than what is listed in the List.

If the article or substance meets the criteria for inclusion in class(es) different from what it is assigned, then the most appropriate shipping name, such as a generic entry, must be used.

12. Include the following sentence in 2.0.2.2:

The substances listed by name in column 2 of the Dangerous Goods List in Chapter 3.2 shall be transported according to their classification in the list or under the conditions specified in 2.0.0.

Proposed text for the Guiding Principles

13. Add the following text to the Guiding Principles:

“In principle, substances listed by name in column 2 of the Dangerous Goods List should be transported according to the classification indicated in the list. It may happen that new or additional test data provided by experts (e.g. national authorities, industry stakeholders) show that a substance possesses one or more additional hazards not identified in the list. In such a case, a consignor who is aware of this or these additional hazards identified on the basis of test data should:

- Use the most appropriate generic or N.O.S. entry to ensure that all hazards are communicated in transport; and,
 - Take steps to inform the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods with the view to amending the current classification of the substance so that the proper shipping name will reflect the additional hazards in the future.”
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