

Tracking Federal Regulatory Initiatives

Regulatory Affairs

VOL. 4, No. 12

April 17, 1998

Circulate to:	HIGHLIGHTS
1.	<p>Proposed Regulations</p> <p>Changes to Dockside Monitoring Program proposed 1-2</p> <p>Technical amendments proposed for NCC Traffic and Property Regulations . 2</p> <p>Transportation of Dangerous Goods changes proposed, to update a number of standards, including improving crashworthiness of tank cars 2-6</p>
2.	
3.	
4.	
5.	

Proposed Regulations	Statutory Authority
for Pre-Publication in Part I, Canada Gazette	

<p>Fishery (General) Regulations, amendment</p> <p>These Regulations implement changes to the Department of Fisheries and Oceans' (DFO) Dockside Monitoring Program (DMP) by amending the provisions in the Regulations dealing with observers.</p> <p>Fishers contract with companies known as Dockside Monitoring Companies (DMC) to provide the third party verification. Observers, individuals designated pursuant to the Regulations to monitor the landing of fish, are employed by the DMCs to provide this service. The DMCs were requested to work to the standards for conducting dockside monitoring established by the Department.</p> <p>These amendments give the Department more control over DMCs by requiring them to be designated as observers. In order to be designated, a DMC must be capable of collecting and compiling accurate fish landings information. A DMC must also have a quality control program to ensure the data it collects is accurate and a training and supervision plan for its employee/observers.</p>	<p><i>Fisheries Act</i>, section 43</p> <p>Published in Canada Gazette April 11, 1998</p>
---	---

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

The DMC must also disclose any conflict of interest it, its directors, shareholders and employees may have and how it is to be resolved. This designation may be revoked if the DMC fails to comply with the program They submitted or if information is falsified.

The provisions regarding individual observers have also been amended. Registered fishers and fishers certified pursuant to the *Professional Fish Harvesters Act* of Newfoundland, not just licence holders, are now barred from being observers.

In recognition of the fact that observers in the DMP may have to carry out their duties at a place other than at a wharf, the duties of such observers are now to be carried out a fish landing station, which includes any place, premises, vessel or vehicle used to receive landed fish.

The grounds for revoking an individual's designation have also been added and include: no longer complying with the eligibility criteria; monitoring the catch of fishers who are not at arm's length from the observer; failing to perform their duty; or falsifying information.

These amendments introduce prohibitions against the falsifying of information for the purpose of obtaining a designation or falsifying any fish landings information.

Contact: Max Stanfield, Resource Management, Department of Fisheries and Oceans, 200 Kent Street, Ottawa, Ontario, K1A 0E6. Tel: 613-990-0128.

National Capital Commission Traffic and Property Regulations, amendment

The amendments make a number of corrections recommended by the Standing Joint Committee for the Scrutiny of Regulations.

More specifically:

- with respect to the definition of "commercial vehicle" in section 2, the Committee noted that the English and French versions are not the same. The proposed amendments to that section corrects this.
- section 37 of the Regulations suggests that the National Capital Commission (NCC) might give its "specific approval" to a person to pollute any stream or body of water on NCC property. As there are no circumstances in which the NCC would permit pollution on its property, these amendments propose to remove the words "pollute or" from section 37. In addition, the words "specific approval" in that section would be replaced by the words "written approval".
- the Committee noted that section 40 does not contain standard drafting language for penalty provisions, but does contain wording suggesting a presumption of guilt. The proposed amendments would modify the section to reflect current drafting practice and remove the words "is guilty of an offence and".

Contact: Karen McNeil, Legal Counsel, National Capital Commission, 202-40 Elgin Street, Ottawa, Ontario, K1P 1C7. Tel: 613-239-5477; Fax: 613-239-5404.

Transportation of Dangerous Goods Regulations (No. 23), amendment

This amendment schedule would amend references in the Regulations to a number of standards that have been revised.

More specifically, the standards that have been revised are:

- Canadian Standards Association (CSA) National Standard of Canada CAN/CSA-B339-96, Cylinders, Spheres and Tubes for the Transportation of Dangerous Goods, dated July 1996, and cited as CSA-B339;

National Capital Act, section 20

Published in Canada
Gazette April 11, 1998

Transportation of Dangerous Goods Act, 1992, section 30(1)

Published in Canada
Gazette April 11, 1998

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

- CSA-B340-97, Selection and Use of Cylinders, Spheres, Tubes and Other Containers for the Transportation of Dangerous Goods, Class 2, dated July 1997, and cited as CSA-B340;
- Canadian General Standards Board (CGSB) National Standard of Canada CAN/CGSB-43.150-97, Performance Packagings for the Transportation of Dangerous Goods, dated December 1997, and cited as CGSB-43.150;
- National Standard of Canada CAN/CGSB-43.146-94, Intermediate Bulk Containers for the Transportation of Dangerous Goods, dated December 1994, amendment No. 2, dated June 1997, and cited as CGSB-43.146;
- National Standard of Canada CAN/CGSB-43.151-97, Packing of Explosives (Class 1) for Transportation, dated December 1997, and cited as CGSB-43.151; and
- National Standard of Canada CAN/CGSB-43.147-97, Construction and Maintenance of Tank Car Tanks and Selection and Use of Tank Car Tanks, Portable Tanks and Rail Cars for the Transportation of Dangerous Goods by Rail, dated August 1997, and cited as CGSB-43.147.

CSA-B339 and CSA-B340 deal with the manufacture and use of cylinders for the transportation of gases. Both standards were amended to update references to the Compressed Gas Association (CGA) publications, the *Transportation of Dangerous Goods Act, 1992*, the American Society for Testing and Materials standards, and other published standards. References to dangerous goods shipping names and product identification numbers (PINs) were aligned with the current Regulations. The requirement for valve protection for cylinders in transport was clarified. New requirements for transporting cylinders that are due for requalification were introduced. Authorization for the continued use of TC-4LM vacuum-insulated cylinders for liquid refrigerated carbon dioxide and liquid refrigerated nitrous oxide services were added (this was previously allowed under permit for equivalent level of safety). Authorization for the continued use of TC-39M non-refillable cylinders for methylene propadiene, stabilized services was also added (previously allowed under permit). Other changes were of a housekeeping or an editorial nature.

Notwithstanding clause 4.3.1 of CSA-B340, the TDG Regulations were amended so that section 9.1.1.1 of CGA Publication S-1.1, which deals with replacement requirements for pressure relief valves, is not mandatory. In doing so, current North American regulatory requirements are maintained.

National Standard of Canada CGSB-43.150 deals with the design and manufacture of United Nations (UN) specification non-bulk packagings with a capacity of 450 litres or less. New sections 12 to 18 were added to the standard to establish requirements for the use of UN packagings for class 3, 4, 5, 6.1, 8 and 9 dangerous goods. Section 7.6.2 of the standard places a limit of five years on the reuse of plastic drums and jerricans. However, they may be reused for up to 10 years if: the container has been dedicated for use with a specific product; and the user has a documented procedure for demonstrating that the container continues to meet the performance requirements after five years, including an inspection of the container prior to each use after five years.

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

CGSB Provisional Standard 43-GP-152MP, Packing for Transportation of Dangerous Goods in Prescribed Packagings, dated September 1985, which deals with construction standards for packagings and the construction standards themselves found in Schedule XIV, has been replaced with CGSB-43.150 UN performance based standards. Other revisions align the standard with the tenth revised edition of the UN Recommendations for the Transportation of Dangerous Goods (UN Recommendations).

National Standard of Canada CGSB-43.146 deals with the design, manufacture and use of UN specification intermediate bulk containers (IBCs) for the transportation of class 3, 4, 5, 6.1, 8 or 9 dangerous goods by road, rail and domestic marine. The amended standard limits the 30-month periodic leak test and inspection requirement to only large IBCs (over 450 litres capacity) used to transport liquids. The five year limit on the use of plastic IBCs is reinstated and applies to all large plastic IBCs used to transport liquids of class 3, 4, 5, 6.1, or 8 dangerous goods. Lastly, a ten-year limit on the use of plastic IBCs applies to any small plastic IBC as well as to any IBC that is used to transport class 9 dangerous goods if: the container has been dedicated for use with a specific product; and the user has a documented procedure for demonstrating that the container continues to meet the performance requirements after five years, including an inspection of the container prior to each use.

National Standard of Canada CGSB-43.151 has been amended to incorporate the tenth revised edition of the UN Recommendations, incorporating the latest UN Packing Methods for packing of explosives for international and domestic transport. The amendment aligns the TDG Regulations with the UN Recommendations, facilitating international consignments of some explosives. Construction standards and their associated use, which were previously in CGSB-43.151, have been removed. Explosives may continue to be transported in accordance with National Standard of Canada CGSB-43.151-M90, Packing of Explosives, Class 1, for Transportation, dated December 1990, until January 1, 1999. The transition period facilitates the change from Transport Canada packing methods to UN packing methods. Requirements in the revised CGSB-43.151 for the periodic leak test and inspection of intermediate bulk containers (IBCs) used to transport slurry explosives do not apply until January 1, 1999. Also, for a few products, there is no longer a requirement for Natural Resources Canada's approval to transport them in highway tanks. Lastly, there are a few variations between the amended CGSB-43.151 and the current domestic requirements, generally with respect to inner packaging and inner lining.

National Standard of Canada CGSB-43.147 deals with conditions for shipping dangerous goods in bulk by rail. The standard has been amended to primarily reflect recent Title 49 of the Code of Federal Regulations of the United States (49 CFR) crashworthiness protection requirements (HM-175A), quality assurance performance and inspection provisions (HM-201), and pressure relief device stipulations (HM-216) for rail tank car tanks (hereafter referred to as "tank cars"). The amendments are intended to improve the crashworthiness of tank cars, to increase the likelihood of detecting tank car defects, and to reduce non-accidental releases of products through pressure relief devices. The changes harmonize Canadian and American tank car requirements.

Principal safety improvements or crashworthiness protection requirements include:

- bottom appurtenance protection requirements;

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

- expanding tank head puncture-resistance (head protection) on tank cars transporting class 2 materials, tank cars transporting halogenated organic compounds, and tank cars constructed from aluminum or nickel plate used to transport dangerous goods;
- expanding thermal protection requirements for tank cars transporting class 2 materials as well as allowing analysis instead of testing to be performed to verify compliance with thermal protection requirements;
- prohibiting the use of self-energized manways located below the tank liquid level;
- phasing out “grandfathering” provisions, that have allowed the continued use of tank cars that do not conform to standards (for example, type 105 tank cars, without head protection, that were built before September 1, 1981, with a capacity of less than 18 000 US gal.);
- protective coatings requirements on existing insulated tank cars when a repair to the tank car requires the complete removal of the jacket;
- requirements for more robust tank cars used for specific halogenated organic compounds;
- special requirements for materials having a primary or secondary class 2.1, that is, gauging devices equipped with excess flow valves;
- scheduling of modifications and progress reporting; i.e., 50 percent of the affected fleet to conform with the changes within the first half of the implementation period, and before July 1 of each year, each owner shall submit to the Director a progress report on the modifications.

New quality assurance, performance and inspection requirements include:

- quality assurance program for each tank car facility that manufactures, repairs, inspects, tests, qualifies, or maintains tank cars to ensure that tank cars conform to the standard; or that alters the certificate of construction of the tank car; or ensures the continuing qualification of cars by performing prescribed functions;
- performance standards for tank head puncture resistance and thermal protection systems;
- requirements to perform a minimum visual inspection of a tank car containing dangerous goods prior to being offered for transportation;
- periodic inspection and test protocol includes:
 - conditions and frequency of inspection and tests for tank cars, for example, standardize test intervals at ten years;
 - structural integrity inspections and tests using nondestructive testing (NDT) such as dye penetrant, magnetic particle, ultrasonic, radiographic testing methods, and
 - optically-aided visual inspection instead of hydrostatic pressure tests for fusion welded tank cars;
 - thickness measurements;
 - specifying allowable shell thickness reductions;
 - complete visual examination of tank cars to determine that the tank cars are in proper condition and safe prior to their use;
 - safety system, lining and coating, leakage inspections and tests;
 - use of alternative inspection and test procedures based on damage-tolerance fatigue evaluations.

Proposed Regulations

for Pre-Publication in Part I, Canada Gazette

Statutory Authority

Pressure relief device requirements include:

- expanding the start-to-discharge pressure setting from a single value to a range of settings that are more directly related to product requirements;
- increasing the burst pressure of the rupture disc on non-reclosing pressure relief devices to 33 percent of the tank burst pressure; and
- setting the minimum start-to-discharge pressure to 75 psig.

Most of the changes to tank cars mirror recent 49 CFR requirements for the selection, use and requalification of tank cars. The standard's committee was aware of the increasing north-south movement of these cars and the need for consistency with the United States Regulations and the Association of American Railroads interchange rules.

Contact: Kim O'Grady, Chief, Risk Evaluation Division, Transport Dangerous Goods Directorate, Transport Canada, Ottawa, Ontario, K1A 0N5. Tel: 613-990-1145.

Regulatory Affairs

ISSN 1201-0715

© 1998 J-K Carruthers Ltd.



9 771201 071007

Editor: Mary Ferguson

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher.

Please send any questions or comments c/o the Editor, J-K Carruthers Ltd., R.R. #1, Perth, Ontario, K7H 3C3, Telephone (613) 267-3890, Fax (613) 267-6727. Visit our Web Pages at www.carruthers.com.