

LEHDER Environmental Services

TDG Alert and Changes

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Introduction

Revisions to the Transportation of Dangerous Goods Act, 1992 (TDG Act) came into force on June 16, 2009. Changes to the TDG Act, proposed TDG Regulations amendments and a Transport Canada Alert about the enforcement of TDG Regulations Part 4.15(2) will be discussed in this newsletter.

Consignors of dangerous goods in Canada may have even more extensive responsibilities in the requirement to have security plans, security training and the ability to track dangerous goods during their transport.

Revised TDG Act

The TDG Act remains focused on the prevention of incidents involving dangerous goods in the handling, offering or transportation (includes importation). Recent changes to the TDG Act have expanded the response capability of the Canadian Government in the event of a security incident involving dangerous goods. The TDG Act combined with future amendments to the TDG Regulations will require security plans, security training, tracking dangerous goods and the development of a program to require transportation security clearances.

Specific changes in the TDG Act include:

- A new definition of dangerous goods release;
- Reinforces and strengthens the Emergency Response Assistance Plan Program (ERAP);
- Reconfirms that inspectors are able to inspect anywhere a means of containment that is being manufactured, repaired or tested, unless it is a private dwelling, in which case a warrant is required;
- Modifies the concept of importer to clarify who is the person in Canada responsible for the dangerous goods;
- Changes the name of Permits of Equivalent Level of Safety to Equivalency Certificates and adding the notion of a "Temporary Certificate" to replace the use of Estoppels;
- Increases the Statute of Limitation from 2 years to 5 years.

To view a copy of the revised Transportation of Dangerous Goods Act, 1992 see the following link:

<http://laws.justice.gc.ca/PDF/Statute/T/T-19.01.pdf>

Proposed TDG Amendments

Amendment 8 was published in the Canada Gazette Part 1 on May 2, 2009 for comments and can be viewed at <http://gazette.gc.ca/rp-pr/p1/2009/2009-05-02/pdf/g1-14318.pdf>. Key changes in Amendment 8 are as follows:

- 150 kg Exemption will be modified to limit the possibility of third parties being introduced to dangerous goods without knowing dangerous goods are being offered. Modification to the 1.15 exemption will state that **only** the user, purchaser or retailer transports the dangerous goods, and that the dangerous goods **must** be in a quantity or concentration available to the general public.
- Emergency Response Assistance Plan (ERAP) requirements are changing. Column 7 of Schedule 1 (ERAP Index) and section 7.1 of the TDG Regulations deals with the requirements for an ERAP. The person who offers for transport or imports dangerous goods remains responsible for emergency response assistance. [Another company's / manufacturer's / producer's approved ERAP number can be used on shipping documents, but the ERAP must be appropriate for the dangerous goods shipped, must approve the use of the ERAP number and requires agreement that they will respond to transportation emergencies.] Section 7.1 of the TDG Regulations will be modified to have eleven subsections and is intended to present the requirements in a more progressive and clearer manner.

Proposed Amendment 9 will see the modification of subsections 5.12(1) and 5.12(2) in referencing appropriate UN standardized means of containment, as well as the definitions and references for "ICAO Technical Instructions" and "Supplement to the ICAO Technical Instructions" being updated to the 2009-2010 editions. The proposed amendment can be viewed at:

<http://www.tc.gc.ca/tdg/clear/modifications/amendment9.htm>

Future amendments will be made to adopt a new label/placard for Class 5.2 and a new "Environmentally Hazardous Substance Mark" in replacement for the Marine Pollutant Mark. Also regulations requiring the tracking of dangerous goods during shipping and the requirement for security clearances will be drafted. These proposed changes will be in the near future.

Transport Canada Alert

Transport Canada has issued an Alert on the Enforcement of 4.15(2). This alert may be viewed at <http://www.tc.gc.ca/tdg/publications/alerts/alert415.htm> or can be seen attached to this newsletter. In particular this alert deals with placarding of large means of containments (containers > 450L in size, i.e. Intermediate Bulk containers {IBC}) being placed into a closed trailer.

Transport Canada specifically does not want the use of a Danger placard on the trailer to replace the placards of primary class and UN number for each IBC inside the trailer. Draft regulations are in the process to prohibit the use of a Danger placard in this scenario. Transport Canada is recommending that industry contact their Transport Dangerous Goods Office in your region about the applicable enforcement policy. [In Alberta call 888 463-0521; or Ontario call 416 973-1868.]

Interim Order No: 001 was published in the Canada Gazette Part 1 on Saturday August 8, 2009. Under this order any person who, in the course of the importing, offering for transport, handling or transporting of dangerous goods (other than Class 9) discovers that any of these goods have been lost or stolen or otherwise unlawfully interfered with **must immediately report** that discovery to:

- The local police;
- CANUTEC at 613-996-6666; and
- In the case of goods included in Class 7, the Duty Officer of the Canadian Nuclear Safety Commission at 613-995-0479

When reporting to CANUTEC the following basic information should be provided:

1. Name of the person reporting, employer's name, contact information (e.g., telephone number, cell number, email address)
2. Name and address of the consignor (if different from the person reporting) and the name and address of the consignee.
3. Classification of the dangerous goods (UN, proper shipping name, Class, PG).
4. Quantity of the dangerous goods.
5. Description of the means of containment (e.g., package, drum, cylinder, IBC, etc.).
6. Geographic location where the dangerous goods were lost, stolen or otherwise unlawfully interfered with.
7. The last time the person reporting saw the dangerous goods or was in possession of the dangerous goods.

The Directorate or police may ask for additional information.

What Should I do?

Steps you may take:

- Review the revised TDG Act, 1992 and the proposed amendments to the TDG Regulations for impacts to your facility.
- Review all dangerous goods received handled or shipped at your facility.
- Identify any new/proposed marking or labelling changes [i.e. Class 5.2, Environmentally Hazardous Substances, "Toxic by Inhalation", etc.] for dangerous goods handled at your facility.
- Review placarding requirements for large means of containment when transported in trailers / closed vehicles.
- Review your existing ERAP plans and revise to ensure that it deals with the potential of terrorist activities.
- Modify in-house dangerous goods standard material / chemical / product handling procedures and practices to meet the new requirements.
- Develop / Implement a security clearance procedure.
- Develop / Implement security plan and conduct security training.
- Retrain / Inform employees of the current and future changes to the TDG Regulations including notification requirements for lost or stolen dangerous goods.

LEHDER Environmental Services

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How can LEHDER Assist?

LEHDER personnel can:

- Identify and classify dangerous goods by various modes of transport.
 - Conduct a dangerous goods audit at your facility to identify any potential compliance issues.
 - Develop and conduct a customized training program on TDG Regulations specific to your products and operations. [Including the preparation and delivery of a customized "Train the Trainer" program.]
 - Create TDG Information Sheets for identifying documentation, marking, labelling and placarding requirements by various modes of transport.
 - Create a training matrix / database by job function to assist in tracking training needs.
 - Assist in the preparation or modification of ERAP plans.
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LEHDER Training

LEHDER has current TDG training programs being offered in Edmonton, Alberta; Point Edward, Ontario; and Sudbury, Ontario. See upcoming dates below:

- TDG – Point Edward - September 21
- TDG – Edmonton - September 28
- TDG Train the Trainer – Point Edward - November 3 and 4
- TDG Train the Trainer – Sudbury - November 16 and 17

LEHDER's complete training schedule can be viewed online at www.lehder.com/training

LEHDER offers customized training programs delivered onsite.

Questions?

For further information or questions concerning the transportation of dangerous goods, please contact:

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