

Economic Commission for Europe

Inland Transport Committee

Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods

3 March 2017

Bern, 13–17 March 2017

Item 6 of the provisional agenda

Reports of informal working groups

Further information and draft proposal related to paper ECE/TRANS/WP.15/AC.1/2017/14

Transmitted by the European Industrial Gases Association (EIGA)

Introduction

1. Paper ECE/TRANS/WP.15/AC.1/2017/14 explained that a submission to the DOT would be made by the Compressed Gases Association (CGA) in the first quarter of 2017. This would request for suitable amendments to be made to 49 CFR to create in the USA use and freedom of carriage for cylinders conforming to RID/ADR similar to that conferred on DOT cylinders under MLA 299.

2. The key part of the text proposed by CGA for inclusion in the USA regulations is reproduced here.

“Pressure receptacles that are marked with a pi mark in accordance with the European Directive 2010/35/EU on transportable pressure equipment (TPED) and that comply with the requirements of Packing Instruction P200 and 6.2.2 of ADR concerning pressure relief device (PRD) use, test period, filling ratios, test pressure, maximum working pressure, and material compatibility for the lading contained or gas being filled, are authorized as follows:

(i) Filled pressure receptacles imported for intermediate storage, transport to point of use, discharge, and export without further filling;

(ii) Pressure receptacles imported for the purpose of filling, intermediate storage, and export;”

A copy of the complete CGA submission is shown on pages 3 to 6 of this paper.

Comments on the CGA proposal

3. The Contracting Parties which have signed MLA 299 have all incorporated the European Directive 2010/35/EU into their national law, so restricting the application of these provisions to pressure receptacles complying with this Directive does cover countries which find a need to import gases in DOT cylinders. Pi-marked pressure receptacles have been entering the EU market for more than 10 years so there is a sufficient supply for this small volume trade with the USA.

4. The proposal covers pressure receptacles imported for the purpose of filling and exporting. This is not a feature of MLA 299 since in the opinion of EIGA exporting of filled DOT pressure receptacles is a matter for IMDG or the ICAO Technical Instructions. If EIGA members needed to fill DOT pressure receptacles it would obtain approval from the maritime

or aeronautical competent authority for the export journey and the land part of that journey would be covered by 1.1.4.2 of RID/ADR/ADN. EIGA would welcome comments on this if our understanding is incorrect.

5. The process of establishing this amendment as USA federal law will take some time, but EIGA asks the Joint Meeting to consider how the principles of MLA 299 might be incorporated into the RID/ADR/ADN. A draft proposal is given below to facilitate this discussion.

Draft Proposal

6. EIGA Suggests that the most appropriate place for this text is in section 1.1.4 – *Applicability of other regulations* of RID/ADR/ADN as follows.

1.1.4.6 (Reserved) (ADR only)

1.1.4.7 Notwithstanding 6.2.3.4, 6.2.3.5, 6.2.3.6, 6.2.3.7, 6.2.3.8 and 6.2.3.9 [of ADR (*ADN only*)] gases and liquids listed in the tables of 4.1.4.1 P200 [of ADR or RID (*ADN only*)] imported in accordance with 1.1.4.2 in refillable pressure receptacles approved by the United States of America Department of Transportation may be carried from the location of the temporary storage to the end-user under the following conditions:

a) When imported from a non-ADR contracting party/non-RID member state/non-ADN contracting party, the conformity of the pressure receptacles to this sub-section shall be verified and recorded by the consignor. The verification record shall be kept for five years to allow for inspection by the competent authority and shall include the identification of the pressure receptacles, the name of the person making the verification and the date.

b) The pressure receptacles shall be marked and labeled in accordance with Chapter 5.2.

c) All relevant requirements [of ADR or RID (*ADN only*)] with regard to filling ratios and periodic testing frequency shall be fulfilled.

d) When the pressure receptacles are empty or when the end-user has no further use for the gas or liquid, the pressure receptacles shall not be refilled and shall be returned to the country from which they were imported.

e) The consignor for the ADR/RID/ADN journey shall include the following entry in the transport document:

“Carriage in accordance with 1.1.4.7”.



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February 21, 2017

Mr. Shane Kelley
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Pipeline and Hazardous Materials Safety Administration
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Dear Mr. Kelley:

The Compressed Gas Association (CGA), founded in 1913, is dedicated to the development and promotion of safety standards and safe practices in the industrial, medical, and food gases industry. CGA represents more than 120 member companies in all facets of the industry – manufacturers, distributors, suppliers, and transporters of gases, cryogenic liquids, and related products and services. Through a committee system, CGA develops technical specifications, safety standards, and training and educational materials, and works with government agencies to formulate responsible regulations and standards and to promote compliance with these regulations and standards.

The purpose of this letter is to request a rulemaking change to the U.S. Department of Transportation (DOT) Hazardous Materials Regulations (HMR). To that end, CGA offers the following information in accordance with Title 49 of the U.S. *Code of Federal Regulations* (49 CFR) §106.100(a) for a petition for rulemaking:

(1) A summary of proposed action and explanation of its purpose:

CGA is proposing to revise 49 CFR §171.23 as well as 49 CFR §173.302 and 173.304 to permit the import of filled pi marked foreign pressure receptacles for intermediate storage, transport to point of use, discharge, and export without further filling as well as the import of certain pi marked foreign pressure receptacles for the purpose of filling, intermediate storage, and export. The practice of import and export of pi marked foreign pressure receptacles has been allowed through special permits for many years. This practice has been shown to have no negative effect on public safety. Incorporating this practice through the proposed regulatory changes will reduce burden on both the companies importing and exporting these pressure receptacles and DOT by eliminating the need for special permits.

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(2) Language proposed:

CGA is proposing a revision to 49 CFR §171.23(a) and the addition of a new paragraph, 49 CFR §171.23(a)(3), pertaining to cylinders and pressure receptacles and re-numbering of subparagraphs §171.23(a)(3), §171.23(a)(4), and §171.23(a)(5). CGA is proposing that this new language be written as follows:

(a) *Conditions and requirements for cylinders and pressure receptacles* —

(1) Except as provided in this paragraph, a filled cylinder (pressure receptacle) manufactured to other than a DOT specification or a UN standard in accordance with part 178 of this subchapter, or a DOT exemption or special permit cylinder or a cylinder used as a fire extinguisher in conformance with §173.309(a) of this subchapter, may not be transported to, from, or within the United States.

(2) Cylinders (including UN pressure receptacles) transported to, from, or within the United States must conform to the applicable requirements of this subchapter. Unless otherwise excepted in this subchapter, a cylinder must not be transported unless—

(i) The cylinder is manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in paragraphs (a)(3), (a)(4) or (a)(5) of this section;

(ii) The cylinder is equipped with a pressure relief device in accordance with §173.301(f) of this subchapter and conforms to the applicable requirements in part §173 of this subchapter for the hazardous material involved;

(iii) The openings on an aluminum cylinder in oxygen service conform to the requirements of this paragraph, except when the cylinder is used for aircraft parts or used aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations. An aluminum DOT specification cylinder must have an opening configured with straight (parallel) threads. A UN pressure receptacle may have straight (parallel) or tapered threads provided the UN pressure receptacle is marked with the thread type, e.g. “17E, 25E, 18P, or 25P” and fitted with the properly marked valve; and

(iv) A UN pressure receptacle is marked with “USA” as a country of approval in conformance with §§178.69 and 178.70 of this subchapter.

(3) Pressure receptacles that are marked with a pi mark in accordance with the European Directive 2010/35/EU on transportable pressure equipment (TPED) and that comply with the requirements of Packing Instruction P200 and 6.2.2 of ADR concerning pressure relief device (PRD) use, test period, filling ratios, test pressure, maximum working pressure, and material compatibility for the lading contained or gas being filled, are authorized as follows:

(i) Filled pressure receptacles imported for intermediate storage, transport to point of use, discharge, and export without further filling;

(ii) Pressure receptacles imported for the purpose of filling, intermediate storage, and export;

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(4) Importation of cylinders for discharge within a single port area: Except as provided in §171.23(a)(3), a cylinder manufactured to other than a DOT specification or UN standard in accordance with part 178 of this subchapter and certified as being in conformance with the transportation regulations of another country may be authorized, upon written request to and approval by the Associate Administrator, for transportation within a single port area, provided

(Subsequent subchapters should be renumbered accordingly).

CGA is also proposing a revision to 49 CFR §173.302 as follows:

(a) General requirements. (1) Except as provided in §171.23(a)(3) of this subchapter, a A cylinder filled with a non-liquefied compressed gas (except gas in solution) must be offered for transportation in accordance with the requirements of this section and §173.301. In addition, a DOT specification cylinder must meet the requirements in §§173.301a, 173.302a and 173.305, as applicable. UN pressure receptacles must meet the requirements in §§173.301b and 173.302b, as applicable. Where more than one section applies to a cylinder, the most restrictive requirements must be followed.

CGA is also proposing a revision to 49 CFR 173.304(a)(1) as follows:

(a) General requirements. Except as provided in §171.23(a)(3) of this subchapter, a A cylinder filled with a liquefied compressed gas (except gas in solution) must be offered for transportation in accordance with the requirements of this section and the general requirements in §173.301. In addition, a DOT specification cylinder must meet the requirement in §§173.301a, 173.304a, and 173.305, as applicable. UN pressure receptacles must be shipped in accordance with the requirements in §173.301b and §173.304b, as applicable.

(3) CGA's interest in proposed action:

CGA's interest is to reduce the burden on both our members and DOT by incorporating practices that have been allowed for many years through special permits and have been shown to have no negative impacts on public safety. These proposed regulatory changes along with changes being considered to the European Agreement concerning the International Carriage of Dangerous Good by Road (ADR) will streamline and improve the efficiency of the supply chain.

(4) Supporting information and arguments

CGA offers the following comments in support of this petition request:

These shipping practices have been allowed for many years through special permits and have been shown to have no negative impacts on public safety.

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- (5) The impact of this proposed action is not expected to have a negative economic impact upon implementation as the revisions requested codify special permits and make the existing system streamlined, efficient, and easier to manage. Therefore:
- a. There will be no economic impact to society in general or any particular, identifiable groups within society in general. The benefits are a safer, more efficient supply chain for the compressed gases industry.
 - b. This proposed action will have no direct effects on states, on the relationship between the federal government and the states, and on the distribution of power and responsibilities among the various levels of government.
 - c. There will be no regulatory burden on small businesses, small organizations, small governmental jurisdictions, and Indian tribes.
 - d. The additional recordkeeping requirements will be no greater than those required today by DOT. In fact, there will be a reduction in special permits.
 - e. By adopting this proposal, there will be no effect on the quality of the natural and social environments.

Please contact me with any questions you may have or for any assistance CGA can provide to achieve the approval of this request. Please give notice, by return e-mail, when this request has been assigned a docket number.

Respectfully,



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