

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

14 March 2016

Bern, 14–18 March 2016

Item 9 of the provisional agenda

Any other business

Comments on 2016/8 (EIGA) - Carriage of pressure receptacles approved by the Department of Transportation of the United States of America (DOT)

Transmitted by the Government of the United States

Background

During the present meeting delegates will have had an opportunity to consider a working document from EIGA (2016/8) regarding enhanced recognition of carriage of pressure receptacles. As is evidenced by the interest expressed by EIGA as well as other industry stakeholders including the Compressed Gas Association (CGA)¹ in North America, there is significant interest within the industry in both regions in working towards enhanced reciprocity to facilitate the import and export of gases while maintaining the high standard of safety afforded by each region's technical competence, approval mechanisms and oversight.

While both the United States Hazardous Materials Regulations (U.S. HMR; 49 CFR Parts 100-180) and the ADR provide for limited recognition of pressure receptacles conforming to the relevant standards of other competent authorities, experience has demonstrated that the current level of recognition is insufficient to meet current global supply chain needs. This has led to the issuance of special permits within the United States as well as the issuance of a key multilateral agreement (M237) subscribed to by a number of contracting parties to the ADR.

The United States has actively participated in relevant informal discussions held both within this forum as well as within the UN Sub-Committee of Experts on the Transport of Dangerous Goods, and welcomes the opportunity to work towards a more robust level of reciprocal recognition. Accomplishing such a mutually beneficial objective would facilitate the safe and efficient import and export of gases, as well as lower the administrative burden for competent authorities by reducing the need for the continued issuance of special permits or multilateral agreements.

It is envisioned that efforts to enhance reciprocity rather than focus on particular receptacle specifications could instead rely on recognition of the appropriate national or regional

¹ See UN/SCETDG/48/INF.31 submitted to the 48th Session of the UN Sub-Committee of Experts on the Transport of Dangerous Goods

standards that govern transport and ensure safety and conformity within each State or region. To facilitate moving forward with achievable results, such recognition could be initially limited to import/export (i.e. not address use of the pressure receptacles within a single region). Additional efforts could be the subject of future work based if there is an interest to engage in such work.

With respect to next steps on the U.S. side, as noted by EIGA in 2016/8 an interested party may submit a "petition for rulemaking" requesting consideration of an amendment to the U.S. HMR. Such petitions are considered by the Associate Administrator for the DOT's Pipeline and Hazardous Materials Safety Administration's Office of Hazardous Materials Safety - the competent authority responsible for issuing the U.S. HMR. This is followed by an initial analysis which will result in either acceptance or denial of the petition. Acceptance of a petition does not guarantee a specific outcome, however it indicates the agency has determined that the petition has demonstrated sufficient merit to initiate formal rulemaking proceedings in accordance with standardized requirements that apply to all U.S. Federal agencies (see https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf for a guide to the rulemaking process prepared by the U.S. Office of the Federal Register).

While no specific timeframe is allotted for a rulemaking action that amends the provisions of the U.S. HMR, as an example harmonization rulemakings that incorporate within the U.S. HMR revisions to international standards such as the UN Recommendations on the Transport of Dangerous Goods normally take approximately two years. This includes review and internal/interagency coordination, publication of a notice seeking comment from the public on the proposed revisions, and publication of a final rule addressing comments received and codifying the necessary amendments.

Next Steps

The United States looks forward to continued efforts on both sides of the globe to facilitate the safe and efficient transport of gases and welcomes feedback from delegates of the Joint Meeting on progressing this effort.
