
From:**Sent:** September 15, 2018 11:51 AM**To:** RegulatoryReviews / ExamensReglementaires <RegulatoryReviews-ExamensReglementaires@tbs-sct.gc.ca>**Cc:****Subject:** The Treasury Board of Canada Secretariat' Consultation on Regulatory Review - Request for Stakeholder Comments

Dear Ms. Sansoucy;

Shell Canada Limited and its affiliates with operations in Canada ("Shell") are pleased to have the opportunity to submit feedback on the Treasury Board of Canada Secretariat' consultation on Regulatory Review - Request for Stakeholder Comments issued on August 14, 2018. Shell is fully committed and supports Transport Canada to ensure the safety of the public, first responders, and the environment when handling and transporting dangerous goods. We place high importance in the safe handling of our products through all stages of product life cycle and we strive for best practices and continuous improvement for our transportation of dangerous goods activities. Please see our detailed comments targeted on transportation and infrastructure.

- In your view, are there existing regulatory requirements or practices that impede economic

development, competitiveness, or growth within your area? What are their impacts? How should the Government address these irritants?

- TDG Reporting Requirements – the reportable volume of Class 3 is currently any quantity. This reportable quantity has produced confusion and inconsistencies throughout industry and provincial transportation agencies on how to effectively implement the requirement. In theory, any quantity is not realistic or practical especially volumes under 10 liters or contained in secondary containment would not result in situations where reporting is required. The impact is under and over reported incidents among industry. For example, when a spill occurs at a loading rack where the rack is closed to address the spill which is contained in secondary containment system to prevent environmental impacts, some people would report it and others would not due to the varied interpretations of what is considered potential or actual public safety issue. Any quantity is also not harmonized with Environment Canada or provincial environmental agencies resulting in issues with ineffective application between TDG and environmental reporting requirements. The request would be to change the reportable quantity back to original quantity to be more fit-for-purpose and provide consistent application.
- Clarification on the applicability of TDG regulations (Part 1.5). Currently, the regulations state in Subsection 1.5 “dangerous goods handled” which includes any dangerous goods that are not offered into transport, storage of a freight container, transport vehicle, or package containing a hazardous material at an offeror facility prior to a carrier taking possession, and vehicle movements within boundaries of a facility for the purposes of storage is in scope. The request would be to clarify the scope to only include hazardous materials offered into transport. 49 CFR has a good definition of “Functions not subject to the requirements” Section 171.1 (d). This ensures there is no confusion and overlap between normal facility operations and transportation activities resulting in clear boundaries defined. An example of overlap would be if a hazardous material containing tote was damaged by a warehouse forklift during normal facility activities (not offered for transport), the incident potentially falls under the scope of TDG Part 8 reporting if it meets the reportable quantities, but it is a non-related TDG incident.
- Inconsistency of interpretation and application of the TDG regulations by provincial and federal inspectors. In some cases, the interpretations do not align with the regulations or the inspector does not have enough field experience to link to applicable section in the regulations causing industry and inspectors to spend needless time clarifying the cited non-compliance feasibility. Permits that are issued by the province for Dangerous Goods variances need to be recognized by the federal government in all jurisdictions. The request would be for established training programs and communications among agencies on consistent application of the TDG requirements. It would be recommended to implement an easily accessed appeal process for obtaining clarification and interpretation of the regulations to streamline the inspection process.
- Clarification on the responsibilities of an “offer of transport” and “consignor” if

different parties are involved. This has caused logistical issues with the effective management of customer pick ups where another party arranges their own carrier to collect the product. The Offer only has control within their facility, but consignor has operational control when it leaves the boundaries of the facility during actual transportation activity. As it stands, both parties are held accountable for complying to all parts TDG requirements. Clarification is needed to make this grey area more defined for these common practices within industry to be fit for purpose and to identify the right accountable parties who have control over dangerous goods in the various stages.

- Hazardous waste and TDG – there have been cases where the regulatory agencies were not harmonized or aligned with the changes to TDG regulations – e.g. misalignment between TDG requirement and current provincial hazardous waste manifests (i.e. sequence of TDG description) causes confusion and risk of non-compliance and it has resulted in shippers producing extra shipping documentation to support the provincial issued waste manifests. A solution would be to implement an exception for waste manifests until the provincial environmental agencies update their documents to meet compliance requirements. Another issue is proposed changes to classifications may have consequences on the hazardous waste facilities disposal and recycling options. A case being with non-regulated Produced Water added into a cargo tank which has not been purged or cleaned of residual petroleum product. The recommendation for Transport Canada is to work directly with environmental regulatory bodies to resolve alignment issues before proposed or changes occur in regulations to support fit-for-purpose requirements to avoid duplication, confusion or inconsistencies among industry.
 - There are many studies on crude classification such as H₂S and vapor pressure which does not address the root cause of the Lac-Mégantic incident or can be validated by any available incident statistics or other related data that support classification changes would effectively address the perceived risk of crude. The resources spend in this area potentially be reallocated elsewhere to be beneficial for Canadians. There has been too much resources allocated from Transport Canada and industry to address crude classification to date but there has not been an assessment completed to determine if classification changes would be fit-for-purpose solution to address the risk. It is recommended to step back to look for more economical and practical solutions to prevent incidents from occurring instead of focusing on sampling and testing methodology.
- Are there existing or emerging technologies, processes, or products in your firm or sector facing barriers because of federal regulations? What changes or tools should the Government consider to facilitate the development, integration, or approval of these technologies, processes, or products for Canadians?
 - There is much emphasis on enforcement from Transport Canada and provincial transportation regulatory bodies. It is recommended to have a balance of enforcement and proactive initiatives such government workshops engaging industry to work on

solutions to address gaps and safety concerns, and performance improvement programs to support companies to close identified gaps. A change in focus to less policing and more interactive engagement to find solutions to address risk would be more effective to mitigate risks and ensure compliance.

- Currently, TDG emerging issues and regulatory changes are happening at a greater frequency and volume requiring increase level of resources on industry to advocate and implement regulatory changes. This results in inefficiencies to properly assess the changes to either advocate or implement the regulatory requirement. The current state is not economically feasible or sustainable. It is recommended for Transport Canada to prioritize with the input from industry to identify the top risk areas and implement emerging issues and regulatory changes in a phased approach based on identified priorities allowing enough time for industry to respond or develop effective implementation plans.
- The corrective actions and regulatory changes including emerging regulatory changes to mitigate risks for crude products has not addressed the root causes identified in the incident investigation of Lac-Mantic. There is more focus on the classification and rail car tank changes. Some of these regulatory changes and proposed changes have not been thoroughly risk and impact assessed, and not enough engagement of all impacted stakeholders were thoroughly investigated to ensure corrective actions address the root cause and are fit for purpose. The case being changes to the retrofitting schedule was not harmonized with US schedule or a large invested amount of time spend on determining H2S criteria where incident statistics did not indicate or support that H2S levels were an issue in transportation activities. The recommendation is to focus regulatory efforts on the root causes identified in the investigation report.

Please do not hesitate to contact me if you would like further information or clarification regarding our feedback. Thank you again for this opportunity.

Kind Regards,

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