



OTIF/RID/CE/GTP/2017/10

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RID: 8th Session of the RID Committee of Experts' standing working group
(Utrecht, 20 to 24 November 2017)

Subject: Introduction of the requirement for tank-wagon operators and entities in charge of maintenance (ECM) to appoint a dangerous goods safety adviser

Proposal submitted by the European Association of Dangerous Goods Safety Advisers (EASA)

Preliminary remark

1. With reference to the report of the 6th session of the standing working group (Berne, 23 and 24 May 2016) (OTIF/RID/CE/GTP/2016-A, paragraph 28) and the report of the RID/ADR/ADN Joint Meeting (Geneva, 19 – 23 September 2016) (OTIF/RID/RC/2016-B, paragraph 28), EASA submits the following proposal.

Introduction

2. According to 1.4.3.5, tank-wagon operators have five obligations and according to 1.4.3.8, entities in charge of maintenance (ECM) have three. According to 1.8.3.1, tank-wagon operators and entities in charge of maintenance (ECM) are not required to appoint a dangerous goods safety adviser. EASA sees no reason for this exemption.

Explanation

3. Serious accidents involving tank-wagons that have occurred recently as a result of faulty maintenance have shown that it is also necessary to monitor compliance with the provisions among tank-wagon operators and entities in charge of maintenance (ECM). As these types of undertakings are not currently required to appoint a safety adviser, there is no systematic monitoring by experts in these undertakings of compliance with the obligations under 1.4.3.5 and 1.4.3.8.

Proposal

3. Amend 1.8.3.1 to read as follows (new text in bold):

“1.8.3.1 Each undertaking, the activities of which include the carriage, or the related packing, loading, filling or unloading of dangerous goods by rail, **or the operation of a tank-wagon or of an entity in charge of maintenance (ECM)**, shall appoint one or more safety advisers for the carriage of dangerous goods, responsible for helping to prevent the risks inherent in such activities with regard to persons, property and the environment.”

Justification

Obligations of a tank-wagon operator according to 1.4.3.5

4. Among other things, 1.4.3.5 requires the following:

- “(a) ensure compliance with the requirements for construction, equipment, tests and marking;
- (b) have an exceptional check made when the safety of the shell or its equipment is liable to be impaired by a repair, an alteration or an accident.”

5. RID does not describe in more detail the activities, organisational measures and structures to comply with these obligations.

6. Nothing is said about the arrangements for ensuring that the check to ensure compliance with the requirements for construction, equipment, tests and marking is carried out, or which (monitoring) measures are necessary to carry out exceptional checks when the safety of the shell or its equipment is liable to be impaired.

7. In order to ensure that the condition of the tank-wagon complies with RID, the organisation responsible for maintaining dangerous goods tank-wagons must ensure that the condition of the tank-wagon continues to be checked and documented, for example if there is a change of user or when it is cleaned or repaired following damage.

8. If the relevant measures are not commissioned by the operator/keeper himself or are not carried out by their own personnel, it must be ensured by means of contractual agreements with third parties that they are carried out.

9. This management function includes supervision/coordination of the performing bodies in order to ensure that tank-wagons are in a safe condition for the railway system and to ensure, within their area of responsibility, ongoing safe operation.

10. It is precisely this obligation, which requires the structured and orderly organisation of the maintenance obligation/responsibility, that demonstrates the need for in-depth, dangerous goods-specific knowledge and makes it necessary, worthwhile, and thus vital, to include dangerous goods safety advisers in these maintenance, monitoring and documentation processes.

11. The dangerous goods safety adviser becomes involved by carrying out his task, which is legally enshrined in 1.8.3.3:

“monitoring compliance with the requirements governing the carriage of dangerous goods” and “advising his undertaking on the carriage of dangerous goods”.

ECM's obligation to appoint a dangerous goods safety adviser

12. At first glance, for those subject to the law (the users), the situation is ambiguous following the recent inclusion in RID of ECMs as duty bearers in accordance with 1.4.3.8.
13. In particular, positing the responsibility for maintenance by the ECM seems to create some problems, as according to the rules as they stand, it is currently **both the operator/keeper and the ECM** that may be responsible for organising continuous, orderly maintenance.
14. Moreover, the information in footnote 13 ("*The tank-wagon operator may transfer the organisation of inspections according to Chapter 6.8 to an entity in charge of maintenance (ECM)*") does not indicate that the tank-wagon operator is relieved of the supervising/monitoring responsibility and that the ECM alone has this responsibility.
15. As the obligation to maintain wagons for the carriage of dangerous goods (and thus also tank-wagons) is also dealt with in the context of railway legislation, and as it is the ECM that has this obligation, based on the above it would appear justifiable to require that ECMs also appoint a dangerous goods safety adviser.

Outlook

16. If RID were to be amended as proposed in paragraph 3, EASA intends to submit a similar proposal to the Joint Meeting to include tank-container or portable tank operators in RID/ADR/ADN 1.8.3.1.
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