

Part 12 Discussion Paper #1: Overarching Approach to Part 12

Issue:

The Transportation of Dangerous Goods Regulations (TDGR), made under the *Transportation of Dangerous Goods Act (TDGA)*, aim to protect and promote the safety of Canadians during the transportation of dangerous goods. While the TDGR apply to all modes of transport, Part 12 of the TDGR contains requirements specific to transportation by air.

Part 12 of the TDGR can be enhanced through amendments that will update, simplify and clarify regulatory requirements. Some of the amendments under consideration would apply globally to Part 12. These overarching proposals are outlined in this paper.

Background:

Part 12 of the TDGR contains requirements for the transportation, offering for transport and handling of dangerous goods by air. This Part distinguishes between: a) international transport, for which the *International Civil Aviation Organization (ICAO) Technical Instructions (TI) for the Safe Transport of Dangerous Goods by Air* must be followed, in addition to certain requirements from other Parts of the TDGR; and b) domestic transport, where regulated stakeholders must follow the ICAO TI except under particular circumstances, where they may opt to apply certain Canadian-specific authorizations. As the sections of Part 12 laying out those specific authorizations are complex, there is an opportunity to simplify the requirements to enhance stakeholders' ability to follow them.

Furthermore, the TDGR currently refer to an older edition of the ICAO TI (2011-2012), as they make use of static, rather than dynamic ("as amended from time to time") referencing. It would be beneficial to stakeholders and Transport Canada alike to have up to date regulatory requirements and better align with the international community by referring to the most current version of the ICAO TI.

Proposals with Regard to the Overarching Approach to Part 12:

1. A More Self-Contained Part within the Transportation of Dangerous Goods Regulations

Currently, most of the requirements for the transportation of dangerous goods by air are contained or referred to in Part 12 of the TDGR, including references to the ICAO TI. Some stakeholders may be of the understanding that they only need to follow Part 12 if their

activities are limited to transportation by air. However, some requirements relevant to the transportation of dangerous goods by air are not, at this time, included or referred to in Part 12; for example Section 1.27 – Operation of a Means of Transport or a Means of Containment Exemption. Therefore, those handling, offering for transport, transporting or importing dangerous goods by air must review the full TDGR to determine the relevant requirements.

Transport Canada proposes to highlight, in Subsection 12.1(1), the Canadian-specific requirements for the transportation of dangerous goods by air found in other Parts of the TDGR that apply in addition to the requirements of the ICAO TI. If this option is implemented, stakeholders will no longer need to read the full TDGR if they are only handling, transporting, or offering for transport dangerous goods by air. They would simply need to follow the sections of the TDGR listed in Subsection 12.1(1), in addition to Part 12 itself. This may help to reduce confusion and duplication of effort.

2. Simplifying Part 12 requirements

To enhance the ability of industry to follow Part 12, Transport Canada is considering amendments to simplify the regulatory text. To clarify and simplify sections 12.4 – 12.17, which contain domestic authorizations for specific situations (e.g. 12.9 Limited Access; 12.12 Aerial Work; 12.13 Measuring Instruments, etc.), Transport Canada is proposing to draft requirements under these parts in full text, without references to the ICAO TI, to the degree possible. The text will borrow concepts from the ICAO TI, but will be written in the style of the TDGR. This will allow for clearer regulatory text and will reduce the need to refer alternately to two different regulatory documents when using these sections.

3. Dynamic (also known as ambulatory) referencing of the ICAO TI

Transport Canada proposes to adopt dynamic referencing of the ICAO TI -- “as amended from time to time” -- or in other words, to have future editions of the ICAO TI automatically incorporated in the TDGR as they come into force.

Dynamic referencing would apply principally to sections 12.1 – 12.3, as Transport Canada is considering writing out in full the authorizations contained in Sections 12.4 – 12.17, with minimal referencing of the ICAO TI. Dynamic referencing will have the advantage of ensuring incorporation of the current edition of the ICAO TI, which a significant portion of those who transport dangerous goods by air already follow (in particular, those involved with international transport). Dynamic referencing of the ICAO TI will require continued engagement on the part

of Transport Canada in the development of new editions, as well as ongoing awareness of changes between editions. As part of a proposal to apply dynamic referencing of the ICAO TI to Part 12, Transport Canada will consider how to enhance communication with those who handle, offer for transport and transport dangerous goods by air to ensure sufficient engagement in the ICAO TI amendment process, and awareness of the outcome of this process.