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Item 6 (b) of the provisional agenda

Proposals for amendments to annexes A and B of ADR:

Miscellaneous proposals

Special provision 664

Transmitted by the Government of Switzerland¹

Summary

- Executive summary:** The remark required in the transport document pursuant to the last sentence of subparagraph (e) of special provision 664 is necessary only when there is an additive, and it is incorrect when the additive device does not comply with special provision 664 but falls under transitional measure 1.6.3.44.
- Action to be taken:** Replace the last sentence of subparagraph (e) of special provision 664 with “In this case, the remark ‘additive device’ should be added in the transport document”, and add to transitional measure 1.6.3.44: “The following remark should be added to section 11 of the certificate of approval shown in 9.1.3.5: ‘Tank-vehicle with additive device in accordance with transitional measure 1.6.3.44’.”
- Background documents:** ECE/TRANS/WP.15/AC.1/2015/8, ECE/TRANS/WP.15/230.

¹ In accordance with the draft programme of work of the Inland Transport Committee for 2016-2017 (ECE/TRANS/WP.15/2015/19 (9.2)).



Introduction

1. At the ninety-ninth session of the Working Party (November 2015), during the discussion of document ECE/TRANS/WP.15/2015/8, on information needed for tank-vehicles with an additive device, the representative of Switzerland said that he would prepare a document taking account of the comments made (report ECE/TRANS/WP.15/230, para. 54).

2. The purpose of this proposal is to permit the effective implementation of special provision 664 and transitional measure 1.6.3.44. If the transitional measure cannot be implemented then there is no *raison d'être* for special provision 664. The enforcement authorities need to be informed that there is a non-compliant additive device, if the transitional measure is to be implemented as needed in the countries where the vehicle is to be used. Given that non-compliant devices can be of various types in each country, then to the extent that they do not comply with special provision 664, the enforcement authorities in the countries the tank-vehicle is to pass through need to be correctly informed of that non-compliance. This will enable them to take whatever measures they deem necessary, whether denial of a permit or granting of ad hoc approval if they consider the device meets the expected safety standard. Otherwise it is not possible to ascertain which cases comply with special provision 664 and which do not, and that calls in question the entire purpose of the special provision.

3. It is not possible to tell from the information currently required under special provision 664 whether the additive device installed complies with special provision 664 or not. Moreover, the wording required under subparagraph (e) of special provision 664, "Carriage in accordance with special provision 664", is incorrect in the case of additive devices covered by transitional measure 1.6.3.44. That, too, would be corrected by this proposal.

4. At the November session of WP.15, some delegations asked that it be borne in mind that, before special provision 664 entered into force, national legislation in some countries already required a remark under item 11 in the approval certificate.

5. From discussions with specialists in this field, it seems that what is needed is a formula for a remark under item 11 of the approval certificate at 9.1.3.5 that will not entail changes to item 11 remarks that already existed under previous national legislation. In addition, in order to minimize unnecessary bureaucracy, the new remark should be inserted in the certificate shown in 9.1.3.5 only in the event that the device, though not meeting the requirements of special provision 664, can nevertheless be used safely, having been approved in the country of approval. Lastly, the new remark is required only for additive devices on tank-vehicles that were in service before 1 July 2015 and do not comply with the requirements of special provision 664. It should not, however, appear on approval certificates for tank-vehicles that were in service before 1 July 2015 and complied with the requirements of special provision 664.

6. In the course of the discussions it was also reported that, since special provision 664 did not exist before 1 January 2015, the remark required in the approval certificate under national law before the entry into force of special provision 664 made no distinction between tank-vehicles whose additive device complied with special provision 664 and those that did not. In the absence of any clarification along the lines proposed here, that would mean that those countries would need to amend the remark on every one of the certificates where it appeared in order to distinguish between compliant and non-compliant additive devices. Aside from the fact that if this remark is inserted in ADR it will be identical for every country and therefore easy to interpret, the fact that it will not replace but supplement pre-existing text means that it will not conflict with pre-existing remarks. It has the advantage of applying only to additive

devices that do not comply with special provision 664. Those countries with an existing remark for additive devices that already comply with special provision 664 will have no need to amend the certificates for those devices or to add the remark prescribed in ADR. The remark proposed here will need to be added only to the approval certificates for non-compliant additive devices.

7. The remark proposed here should be added to item 11 on the approval certificate at 9.1.3.5. As explained above, the remark is not intended to replace existing remarks in item 11 on the approval certificate at 9.1.3.5, made under national legislation or praxis. Existing remarks can stay and the proposed text will supplement the required information to enable the enforcement authorities in the countries where the tank-vehicle is to be used to decide what steps to take to legalize their use in their countries. The new remark should be added to whatever may have appeared in item 11 before the entry into force of special provision 664.

8. For the reasons already given in document ECE/TRANS/WP.15/2015/8, the proposal made here is for a modification to the remark on the transport document required in special provision 664, subparagraph (e), to ensure that:

- On the one hand it is clear that the remark to be made in the transport document is required only when an additive is being carried. The text currently requires this remark whether or not an additive is being carried. Adding the words “In this case” at the start of the last sentence of subparagraph (e) of special provision 664 resolves this; and
- On the other hand, the remark is correct in every case, i.e., both where the additive device complies with special provision 664 and where it does not. The remark currently required states that carriage is in accordance with special provision 664, which, if 1.6.3.44 applies, cannot be so by definition.

As well as in the approval certificate, it is proposed that the requirement for a remark in the approval certificate under 9.1.3.5 should be noted also in the “Guidelines for completing the certificate of approval according to 9.1.3 of ADR”.

Proposal

9. Replace the last sentence of subparagraph (e) of special provision 664 with “In this case, the remark ‘additive device’ should be added to the transport document.”

10. Add to 1.6.3.44 “the following should be added to section 11 of the certificate of approval shown in 9.1.3.5: ‘Tank-vehicle with additive device in accordance with transitional measure 1.6.3.44’”.

Add the following to section 11 of the “Guidelines for completing the certificate of approval according to 9.1.3 of ADR” (http://www.unece.org/trans/danger/publi/adr/adr_guidelines.html):

“Where a tank-vehicle is equipped with an additive device that does not comply with the requirements of special provision 664, the following remark should be made: ‘Tank-vehicle with additive device in accordance with transitional measure 1.6.3.44’.”