

NORTHERN TERRITORY OF AUSTRALIA
DANGEROUS GOODS (ROAD AND RAIL TRANSPORT) REGULATIONS

Regulations 2004, No. 27

TABLE OF PROVISIONS

Regulation

PART 1 – PRELIMINARY

Division 1 – Introductory

- 1.1 Citation
- 1.2 Commencement
- 1.3 Main objects of Regulations

Division 2 – Interpretation

- 1.4 Definitions – the dictionary
- 1.5 References to codes, standards and rules
- 1.6 Inconsistency between Regulations and codes etc.
- 1.7 References to determinations, exemptions, approvals and licences
- 1.8 References to variation of administrative determinations etc.

Division 3 – Application of Regulations

- 1.9 Dangerous situations
- 1.10 Transport of small quantities
- 1.11 Short trips after import

Division 4 – Application of other laws to Regulations

- 1.12 Application of Criminal Code
- 1.13 – 1.15 [Reserved]

Division 5 – Approved forms

- 1.16 Approval and use of forms
- 1.17 Requirements for approved forms

Division 6 – Determinations

- 1.18 Determinations – dangerous goods
- 1.19 Administrative determinations
- 1.20 Conditions of administrative determinations
- 1.21 Register of determinations
- 1.22 Records of determinations
- 1.23 References to Panel
- 1.24 Effect of Panel decisions about draft determinations
- 1.25 Effect of Panel decisions about revoking or varying determinations
- 1.26 Inconsistent determinations

Division 7 – Provisions about offences generally

- 1.27 Deciding whether someone reasonably ought to have known or suspected
- 1.28 Penalties

Division 8 – Other matters

- 1.29 Duty to find out whether goods are dangerous goods
- 1.30 Declaration of non-participating jurisdictions
- 1.31 Competent Authority and authorised officers to act as soon as practicable
- 1.32 Identification cards

PART 2 – KEY CONCEPTS

Division 1 – Kinds of goods

- 2.1 Goods too dangerous to be transported
- 2.2 Dangerous goods
- 2.3 Classes of dangerous goods
- 2.4 Subsidiary Risk
- 2.5 Packing Groups
- 2.6 Incompatible goods etc.

Division 2 – Packages, packaging and loads

- 2.7 Packages and packaging
- 2.8 Capacity
- 2.9 What is a load of goods
- 2.10 Aggregate quantity
- 2.11 Packaged dangerous goods
- 2.12 Dangerous goods in bulk
- 2.13 Placard loads
- 2.14 Unit loads

Division 3 – Kinds of containers

- 2.15 Freight containers
- 2.16 IBCs
- 2.17 Bulk containers

Division 4 – Persons with special duties

- 2.18 Vehicle owners
- 2.19 Consignors
- 2.20 Packers
- 2.21 Loaders
- 2.22 Prime contractors

PART 3 – PACKAGING

Division 1 – Packaging duties

- 3.1 Suitability of packaging
- 3.2 Marking packaging
- 3.3 Consignor's duties
- 3.4 Packer's duties
- 3.5 Loader's duties
- 3.6 Prime contractor's duty
- 3.7 Driver's duty

Division 2 – Approval of packaging design types

- 3.8 Approvals
- 3.9 Recognised testing facilities
- 3.10 Test certificates

Division 3 – Competent Authority's performance testing powers

- 3.11 Requiring production of packaging for testing
- 3.12 Requiring evidence of performance tests

PART 4 – DANGEROUS GOODS IN BULK

Division 1 – Restrictions on transport of dangerous goods in bulk

- 4.1 Consignor's duties
- 4.2 Prime contractor's duties
- 4.3 Driver's duty

Division 2 – Bulk containers

- 4.4 Consignor's duties
- 4.5 Prime contractor's duties
- 4.6 Driver's duties

Division 3 – Tanks

- 4.7 Manufacturer's duties
- 4.8 Compliance plates
- 4.9 Owner's duties for certain vehicles
- 4.10 Consignor's duties
- 4.11 Loader's duty
- 4.12 Prime contractor's duties
- 4.13 Driver's duties

Division 4 – Foreign approved tanks

- 4.14 Consignor's duties
- 4.15 Prime contractor's duties

Division 5 – IBCs

- 4.16 Manufacturer's duties
- 4.17 IBC markings
- 4.18 Consignor's duties
- 4.19 Loader's duties
- 4.20 Prime contractor's duties
- 4.21 Driver's duties

Division 6 – Foreign approved IBCs

- 4.22 Consignor's duties
- 4.23 Prime contractor's duties

Division 7 – Approval of tank and IBC designs

- 4.24 Applications for approval
- 4.25 Approvals – tank designs
- 4.26 Approvals – IBC designs

Division 8 – Determinations

- 4.27 Determinations – foreign approved tanks and IBCs

PART 5 – FREIGHT CONTAINERS

- 5.1 Consignor's duties
- 5.2 Loader's duty

- 5.3 Prime contractor's duties
- 5.4 Driver's duty

PART 6 – UNIT LOADS

- 6.1 Consignor's duties
- 6.2 Loader's duties
- 6.3 Prime contractor's duties
- 6.4 Driver's duties
- 6.5 Approvals – unit loads

PART 7 – MARKING AND PLACARDING

Division 1 – Marking packages and unit loads

- 7.1 Application of Division
- 7.2 Meaning of "appropriately marked"
- 7.3 Consignor's duties
- 7.4 Packer's duties
- 7.5 Prime contractor's duties

Division 2 – Placarding

- 7.6 Meaning of "appropriately placarded" etc.
- 7.7 Consignor's duties
- 7.8 Loader's duties
- 7.9 Prime contractor's duties
- 7.10 Driver's duties

PART 8 – VEHICLES

Division 1 – Safety standards

- 8.1 Owner's duty
- 8.2 Consignor's duty
- 8.3 Prime contractor's duty
- 8.4 Driver's duty

Division 2 – Vehicle insurance

- 8.5 Owner's duty
- 8.6 Prime contractor's duty
- 8.7 Requiring evidence of insurance etc.

PART 9 – SEGREGATION AND STOWAGE

Division 1 – Application of Part

9.1 Application

Division 2 – Segregation of incompatible goods

- 9.2 Loads on combination road vehicles
- 9.3 Exception for certain goods for driver's personal use
- 9.4 Consignor's duties
- 9.5 Loader's duties
- 9.6 Prime contractor's duties
- 9.7 Driver's duties
- 9.8 Approvals – segregation

Division 3 – Stowage

- 9.9 Consignor's duty
- 9.10 Loader's duty
- 9.11 Prime contractor's duty
- 9.12 Driver's duty

PART 10 – TRANSFER OF DANGEROUS GOODS IN BULK

Division 1 – Filling ratio and ullage

- 10.1 Transferor's duties
- 10.2 Prime contractor's duty
- 10.3 Driver's duty

Division 2 – Transfer

- 10.4 Application
- 10.5 Transferor's duties – general
- 10.6 Transferor's duties – hose assemblies
- 10.7 Occupier's duties
- 10.8 Prime contractor's duties
- 10.9 Approvals – transfers of dangerous goods

PART 11 – DOCUMENTS

Division 1 – Shipping documentation

- 11.1 False or misleading information
- 11.2 Consignor's duties
- 11.3 Prime contractor's duty
- 11.4 Driver's duties

Division 2 – Emergency information

- 11.5 Meaning of "required emergency information"
- 11.6 Consignor's duty
- 11.7 Prime contractor's duties
- 11.8 Driver's duties
- 11.9 Approvals – emergency information

PART 12 – PERSONAL PROTECTIVE AND SAFETY EQUIPMENT

- 12.1 Owner's duties
- 12.2 Prime contractor's duties
- 12.3 Driver's duties

PART 13 – PROCEDURES DURING TRANSPORT

Division 1 – Immobilised and stopped vehicles

- 13.1 Driver's duty
- 13.2 Prime contractor's duties
- 13.3 Powers of authorised officers

Division 2 – Drivers' duties

- 13.4 Driving
- 13.5 Parking
- 13.6 Control of ignition sources

Division 3 – Routes, areas, vehicles and times

- 13.7 Determinations – routes, areas, vehicles and times
- 13.8 Prime contractor's duty
- 13.9 Driver's duty

PART 14 – EMERGENCIES

Division 1 – Emergencies generally

- 14.1 Driver's duties
- 14.2 Prime contractor's duties – contaminated food and food packaging
- 14.3 Prime contractors and drivers to inform Competent Authority

Division 2 – Emergencies involving placard loads

- 14.4 Telephone advisory service – bulk transport
- 14.5 Emergency plans
- 14.6 Consignor's duties – information and resources
- 14.7 Prime contractor's duties – information and resources

PART 15 – MUTUAL RECOGNITION

Division 1 – Registers of determinations, exemptions, approvals and licences

- 15.1 Registers
- 15.2 Registers may be kept by computer
- 15.3 Inspection of registers

Division 2 – Competent Authorities Panel

- 15.4 Membership and function of Panel
- 15.5 Panel meetings
- 15.6 Decisions of Panel

Division 3 – Recommendations by Competent Authority and corresponding Competent Authorities

- 15.7 Recommendations by Competent Authority
- 15.8 Recommendations by corresponding Competent Authorities

Division 4 – Mutual recognition of determinations, exemptions, approvals and licences

- 15.9 Corresponding determinations
- 15.10 Corresponding exemptions
- 15.11 Corresponding approvals
- 15.12 Corresponding licences

PART 16 – EXEMPTIONS

Division 1 – General

- 16.1 Applications for exemptions
- 16.2 Register of exemptions
- 16.3 Records of exemptions

Division 2 – Reference of matters to Panel

- 16.4 References to Panel
- 16.5 Effect of Panel decisions about applications
- 16.6 Effect of Panel decisions about cancelling or varying exemptions

PART 17 – ADMINISTRATIVE DETERMINATIONS AND APPROVALS

Division 1 – General

- 17.1 Applications
- 17.2 Form of administrative determinations and approvals
- 17.3 When administrative determinations and approvals not to be made etc.
- 17.4 Reasons for refusal of applications
- 17.5 Periods and conditions
- 17.6 Replacement administrative determinations and approvals
- 17.7 Failure to comply with conditions
- 17.8 Grounds for cancelling administrative determinations and approvals
- 17.9 Grounds for varying administrative determinations and approvals

Division 2 – Register of approvals

- 17.10 Register
- 17.11 Records of approvals

Division 3 – Reference of approval matters to Panel

- 17.12 References to Panel
- 17.13 Effect of Panel decisions about applications
- 17.14 Effect of Panel decisions about cancelling or varying approvals

PART 18 – LICENCES

Division 1 – Preliminary

- 18.1 Application of Part
- 18.2 Part additional to other laws

Division 2 – Principal duties under Part

- 18.3 Prime contractor's duties
- 18.4 Driver's duties
- 18.5 Consignor's duty

Division 3 – Bulk driver licences

- 18.6 Meaning of "licence" and "licensee" in Division
- 18.7 Required driving licence evidence
- 18.8 Required competency evidence
- 18.9 Required medical fitness evidence
- 18.10 Applications for licences
- 18.11 Grant of licences

- 18.12 Applications for renewal of licences
- 18.13 Renewal of licences
- 18.14 Licence periods
- 18.15 Licence conditions
- 18.16 Additional condition
- 18.17 Grounds for cancelling, suspending or varying licences

Division 4 – Bulk vehicle licences

- 18.18 Meaning of "licence" and "licensee" in Division
- 18.19 Applications for licences
- 18.20 Additional information and inspections
- 18.21 Grant of licences
- 18.22 Applications for renewal of licences
- 18.23 Renewal of licences
- 18.24 Licence periods
- 18.25 Licence conditions
- 18.26 Disposal of licensed vehicles
- 18.27 Grounds for cancelling, suspending or varying licences
- 18.28 Licence labels

Division 5 – Carriage and production of bulk driver licences

- 18.29 Meaning of "licence" and "licensee" in Division
- 18.30 Licences to be carried
- 18.31 Licences to be produced for inspection

Division 6 – Licences generally

- 18.32 Meaning of "licence" and "licensee" in Division
- 18.33 Replacement licences and licence labels
- 18.34 Failure to comply with licence conditions
- 18.35 Surrender of licences
- 18.36 Registers of licences
- 18.37 Records of licences
- 18.38 Change of information given in licence applications
- 18.39 Production of licences to Competent Authority
- 18.40 Seizure of licences etc
- 18.41 Return of licences

PART 19 – CANCELLATION, SUSPENSION AND VARIATION

- 19.1 Meaning of "licence" and "licensee" in Part
- 19.2 Cancellation, suspension and variation in dangerous situations
- 19.3 Cancellation and suspension giving effect to court orders
- 19.4 Variation of administrative determinations and approvals on application

- 19.5 Cancellation, suspension and variation in other circumstances
- 19.6 When cancellation, suspension and variation take effect
- 19.7 When licences taken to be suspended

PART 20 – INSTRUCTION AND TRAINING

- 20.1 Instruction and training
- 20.2 Approvals – tests and training courses for drivers

PART 21 – INFRINGEMENT NOTICES

- 21.1 Offences, penalties and time for payment
- 21.2 Contents of infringement notices
- 21.3 Additional information in infringement notices
- 21.4 Reminder notices
- 21.5 Additional information in reminder notices
- 21.6 Withdrawal of infringement notices
- 21.7 Effect of Part

PART 22 – RECONSIDERATION AND REVIEW OF DECISIONS

- 22.1 Application of Part
- 22.2 Who may apply for reconsideration of decisions
- 22.3 Applications for reconsideration
- 22.4 Competent Authority to reconsider decisions
- 22.5 Review of certain decisions

PART 23 – FEES

- 23.1 Prescribed fees

PART 24 – TRANSITIONAL PROVISIONS

- 24.1 Lawful conduct under previous law
- 24.2 Continuing effect of certain determinations
- 24.3 Continuing effect of corresponding determinations
- 24.4 Continuing effect of certain exemptions
- 24.5 Continuing effect of corresponding exemptions
- 24.6 Continuing effect of certain approvals
- 24.7 Continuing effect of corresponding approvals

- 24.8 Continuing effect of certain licences
- 24.9 Continuing effect of corresponding licences

SCHEDULE 1

SCHEDULE 2



NORTHERN TERRITORY OF AUSTRALIA

Regulations 2004, No. 27*

Regulations under the *Dangerous Goods (Road and Rail Transport) Act*

I, EDWARD JOSEPH EGAN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Dangerous Goods (Road and Rail Transport) Act*.

Dated 5 August 2004.

E. J. EGAN
Administrator

By His Honour's Command

CLARE MARTIN
Chief Minister acting for and on behalf of the
Minister for Employment, Education and Training

* Notified in the *Northern Territory Government Gazette* on 18 August 2004.

**DANGEROUS GOODS (ROAD AND RAIL
TRANSPORT) REGULATIONS**

PART 1 – PRELIMINARY

Division 1 – Introductory

1.1 Citation

These Regulations may be cited as the Dangerous Goods (Road and Rail Transport) Regulations.

1.2 Commencement

These Regulations come into operation on the date, or respective dates fixed, by the Administrator by notice in the *Gazette*.

1.3 Main objects of Regulations

The main objects of these Regulations are –

- (a) to reduce as far as practicable the risks of personal injury, property damage and environmental harm arising from the transport of dangerous goods by road;
- (b) to give effect to the standards, requirements and procedures of the ADG Code so far as they apply to the transport of dangerous goods by road; and
- (c) to promote consistency between the standards, requirements and procedures applying to the transport of dangerous goods by road and by other modes of transport.

Division 2 – Interpretation

1.4 Definitions – the dictionary

(1) The dictionary in Schedule 2 defines particular words and expressions.

(2) A relevant definition found elsewhere in these Regulations is indicated by a signpost definition in the dictionary.

[Note – A signpost definition of a word or expression is included only if the definition is used outside the regulation defining the word or expression.]

(3) A definition outside these Regulations that applies particularly to these Regulations is also indicated by a signpost definition in the dictionary.

Dangerous Goods (Road and Rail Transport) Regulations

[Example –

The signpost definition

"converter dolly" see clause 10.6 in the Schedule to the Road Transport Reform (Heavy Vehicles Standards) Regulations;

indicates that the expression "converter dolly" is defined in clause 10.6 in the Schedule to those Regulations.]

(4) A definition in or applying to these Regulations applies to words and expressions used in these Regulations unless the contrary intention appears.

(5) A definition in or applying to these Regulations applies to the entire Regulations unless the contrary intention appears.

1.5 References to codes, standards and rules

(1) In these Regulations, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.

(2) In these Regulations, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.

(3) In this regulation –

"instrument" means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road, and includes a provision of an instrument.

[Note – See section 50 of the Act, which deals with notification in the Government Gazette of where an instrument may be obtained or inspected.]

1.6 Inconsistency between Regulations and codes etc.

(1) If an instrument is applied or adopted by, or is incorporated in, these Regulations and the instrument is inconsistent with these Regulations, the Regulations prevail to the extent of the inconsistency.

(2) In this regulation –

"instrument" means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or to transport by road.

1.7 References to determinations, exemptions, approvals and licences

In these Regulations, a reference to –

- (a) a determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
- (b) a corresponding determination, exemption, approval, bulk driver licence or bulk vehicle licence,

includes a reference to the determination, exemption, approval or licence as varied.

1.8 References to variation of administrative determinations etc.

In these Regulations, a reference to the variation of –

- (a) an administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence; or
- (b) a corresponding administrative determination, exemption, approval, bulk driver licence or bulk vehicle licence,

includes a reference to a variation by addition, omission or substitution.

[Example –

The addition of a new condition to an existing administrative determination.]

Division 3 – Application of Regulations

[Note – The Defence Act 1903 of the Commonwealth deals with the immunity of defence personnel from certain State and Territory laws.]

1.9 Dangerous situations

These Regulations do not apply to the transport of dangerous goods by an authorised officer, or an officer of an emergency service, to the extent necessary to avert, eliminate or minimise a dangerous situation.

1.10 Transport of small quantities

(1) These Regulations do not apply to the transport by a person of a load of dangerous goods if –

- (a) the goods are packaged dangerous goods;
- (b) the goods are not, and do not include, designated dangerous goods;

Dangerous Goods (Road and Rail Transport) Regulations

- (c) the aggregate quantity of the dangerous goods in the load is less than 25% of a placard load; and
- (d) the goods are not being transported by the person in the course of a business of transporting goods by road.

(2) In this regulation –

"designated dangerous goods" means dangerous goods of Class 1 (except of Class 1.4S), Class 6.2 or Class 7.

1.11 Short trips after import

Regulations 3.1 to 3.4, and Divisions 5, 6 and 7 of Part 4, do not apply to the transport of dangerous goods by road if –

- (a) the goods have been imported into Australia;
- (b) the goods are being transported in a closed freight container;
- (c) the goods are not leaking from the container;
- (d) the goods are being transported directly to a destination that is not more than 50 kilometres by road from the place of import; and
- (e) the container is placarded in accordance with the IATA Regulations, ICAO Rules or IMDG Code.

Division 4 – Application of other laws to Regulations

1.12 Application of Criminal Code

Chapter 2 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth (except Part 2.5) applies to an offence against these Regulations as if the Chapter were in operation in this jurisdiction.

[Note – Chapter 2 of the Criminal Code codifies the general principles of criminal responsibility. Part 2.5 of the Criminal Code provides for the imposition of criminal liability on bodies corporate. It is not appropriate to apply Part 2.5 to the Regulations because section 42 of the Act deals with the matter in a different way.]

1.13 – 1.15 [Reserved]

Division 5 – Approved forms

1.16 Approval and use of forms

(1) The Competent Authority may approve a form for a provision or purpose of these Regulations.

Dangerous Goods (Road and Rail Transport) Regulations

- (2) The form must be used for the provision or purpose.

1.17 Requirements for approved forms

(1) Each approved form must have a heading that includes the name of these Regulations and briefly indicates the purpose of the form.

(2) Each kind of approved form must be numbered using a system that gives forms of that kind a unique number.

(3) Each version of a kind of approved form must be numbered consecutively using a system that gives the version a unique number.

Division 6 – Determinations

1.18 Determinations – dangerous goods

The Competent Authority may determine that –

- (a) goods are dangerous goods;
- (b) goods are not dangerous goods;
- (c) goods are dangerous goods of a particular Class;
- (d) goods are dangerous goods with a particular Subsidiary Risk;
- (e) goods are dangerous goods of a particular Packing Group;
- (f) goods are incompatible with particular dangerous goods;
- (g) goods are too dangerous to be transported;
- (h) goods are too dangerous to be transported in bulk; or
- (i) goods are too dangerous to be transported on the same combination road vehicle as other goods.

1.19 Administrative determinations

A determination is an administrative determination if the determination –

- (a) is made on the application of a person; and
- (b) applies only to the person.

[Notes –

1. Part 17 contains provisions dealing with administrative determinations, including applications for administrative determinations and their cancellation and variation.

2. For additional provisions about cancelling and varying administrative determinations, see Part 19.]

1.20 Conditions of administrative determinations

An administrative determination may be subject to any condition necessary for the safe transport of dangerous goods by road.

1.21 Register of determinations

- (1) The Competent Authority must keep a register of determinations.
- (2) The register may have separate divisions for different kinds of determinations.
- (3) The Competent Authority must record in the register –
 - (a) each determination made under these Regulations that is not an administrative determination; and
 - (b) each determination made by a corresponding Competent Authority that would be a corresponding determination if it were recorded in the register.
- (4) The Competent Authority must note in the register –
 - (a) the revocation of a determination made under these Regulations; and
 - (b) a decision of the Panel reversing a decision that a corresponding determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

1.22 Records of determinations

The record of a determination in the register must include –

- (a) the provisions of the determination; or
- (b) the following information:
 - (i) the title of the Government Gazette of the participating jurisdiction where the determination was notified or published and the date of notification or publication;
 - (ii) the provisions of these Regulations, and of the ADG Code, to which the determination relates;
 - (iii) the dangerous goods, equipment, packaging, vehicle or other thing to which the determination relates.

1.23 References to Panel

- (1) This regulation does not apply to an administrative determination.
- (2) The Competent Authority must refer a draft determination to the Panel if the Authority considers that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.
- (3) The Competent Authority must refer to the Panel a determination having effect in this jurisdiction, and one or more other participating jurisdictions, if –
 - (a) the Authority considers that the determination should be revoked or varied; or
 - (b) a corresponding Competent Authority recommends to the Authority in writing that the determination should be revoked or varied.

1.24 Effect of Panel decisions about draft determinations

- (1) This regulation applies if –
 - (a) a draft determination is referred to the Panel under regulation 1.23(2); and
 - (b) the Panel decides that –
 - (i) the draft determination should be made, what the provisions of the determination should be, and that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) the determination should not have effect in this participating jurisdiction.
- (2) The Competent Authority must have regard to the Panel's decision.

1.25 Effect of Panel decisions about revoking or varying determinations

- (1) This regulation applies if –
 - (a) a determination is referred to the Panel under regulation 1.23(3); and
 - (b) the Panel decides that the determination –
 - (i) should, or should not, be revoked; or

Dangerous Goods (Road and Rail Transport) Regulations

- (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to the Panel's decision.

1.26 Inconsistent determinations

- (1) This regulation applies if –
- (a) the Panel decides that a determination (the "national determination") should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; and
 - (b) the national determination is inconsistent with a determination (the "local determination") that only has effect in this jurisdiction.
- (2) The national determination prevails over the local determination to the extent of the inconsistency.

Division 7 – Provisions about offences generally

1.27 Deciding whether someone reasonably ought to have known or suspected

If, in a prosecution for an offence against these Regulations, it is material to prove that someone reasonably ought to have known or suspected something, the issue is to be decided having regard to –

- (a) the person's abilities, experience, qualifications and training; and
- (b) the circumstances of the alleged offence.

1.28 Penalties

- (1) This regulation applies to a provision prescribing a penalty for an offence.
- (2) The penalty is the maximum fine for an individual who is found guilty of the offence.
- (3) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the penalty.

Division 8 – Other matters

1.29 Duty to find out whether goods are dangerous goods

- (1) This regulation applies if –
 - (a) a person manufactures goods in Australia or imports goods into Australia;
 - (b) the goods are not dangerous goods under regulation 2.2(1)(a), (b), (c) or (d); and
 - (c) the goods are not goods to which a determination under regulation 1.18(b) applies,

but –

- (d) the person suspects, or reasonably ought to suspect, that the goods satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.

(2) The person must not consign or transport the goods by road unless the person finds out whether the goods satisfy the tests and criteria.

Penalty: \$3 000.

1.30 Declaration of non-participating jurisdictions

A State or the Northern Territory is not a participating jurisdiction if –

- (a) the Ministerial Council decides that the law of the State or Territory does not include provisions having the same, or substantially the same, effect as the Act and these Regulations; and
- (b) the Commonwealth Minister, by notice in the Commonwealth of Australia Gazette, declares that the State or Territory is not a participating jurisdiction.

1.31 Competent Authority and authorised officers to act as soon as practicable

If –

- (a) the Competent Authority or an authorised officer is required to do something under these Regulations; and
- (b) no time limit is fixed within which the thing must be done,

the Authority or officer must do it as soon as practicable.

1.32 Identification cards

The identification card of an authorised officer must contain –

- (a) a recent photograph of the officer;
- (b) the name of the officer;
- (c) the date of issue of the card;
- (d) a date of expiry for the card; and
- (e) the name of the Competent Authority.

PART 2 – KEY CONCEPTS

Division 1 – Kinds of goods

2.1 Goods too dangerous to be transported

Goods are too dangerous to be transported if they are –

- (a) mentioned in Appendix 5 to the ADG Code; or
- (b) determined under regulation 1.18(g) to be too dangerous to be transported.

[Note – Section 36 of the Act provides that a person must not transport by road goods that the regulations identify as being too dangerous to be transported.]

2.2 Dangerous goods

- (1) Goods are dangerous goods if they –
 - (a) are named in a specific entry in column 2 in Appendix 2 to the ADG Code, but not in a generic entry or in an entry where the letters "N.O.S" are shown as part of the proper shipping name for the goods;
 - (b) satisfy the criteria in column 2 or 9 in the Appendix;
 - (c) satisfy the criteria in a Special Provision of the ADG Code that is applied by column 7 in the Appendix;
 - (d) are determined under regulation 1.18(a) to be dangerous goods; or
 - (e) satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods.

Dangerous Goods (Road and Rail Transport) Regulations

(2) However, goods are not dangerous goods if they are determined under regulation 1.18(b) not to be dangerous goods.

2.3 Classes of dangerous goods

- (1) In these Regulations, a reference to –
 - (a) a Class of dangerous goods is a reference to the Class to which the goods are assigned under subregulation (2); and
 - (b) a Class by number, or number and letter, is a reference to the number, or number and letter, of the Class to which the goods are assigned.
- (2) Dangerous goods are assigned to a Class if the goods –
 - (a) are assigned to the Class in column 3 in Appendix 2 to the ADG Code;
 - (b) are assigned to the Class in a Special Provision of the ADG Code applying to the goods;
 - (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment to the Class;
 - (d) are determined under regulation 1.18(c) to be dangerous goods of the Class; or
 - (e) satisfy the UN dangerous goods tests and criteria for assignment to the Class.

2.4 Subsidiary Risk

- (1) In these Regulations, a reference to –
 - (a) dangerous goods with a Subsidiary Risk is a reference to the dangerous goods assigned the Subsidiary Risk under subregulation (2); and
 - (b) a Subsidiary Risk by number is a reference to the number of the Subsidiary Risk with which the dangerous goods are assigned.
- (2) Dangerous goods are assigned a Subsidiary Risk if the goods –
 - (a) are assigned the Subsidiary Risk in column 4 in Appendix 2 to the ADG Code;
 - (b) are assigned the Subsidiary Risk in a Special Provision of the ADG Code applying to the goods;

Dangerous Goods (Road and Rail Transport) Regulations

- (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment of the Subsidiary Risk;
- (d) are determined under regulation 1.18(d) to be dangerous goods assigned the Subsidiary Risk; or
- (e) satisfy the UN dangerous goods tests and criteria for assignment to the Subsidiary Risk.

2.5 Packing Groups

- (1) In these Regulations, a reference to –
 - (a) a Packing Group of dangerous goods is a reference to the Packing Group to which the goods are assigned under subregulation (2); and
 - (b) a Packing Group by number is a reference to the number of the Packing Group to which the goods are assigned.
- (2) Dangerous goods (except dangerous goods of Class 1, 2 or 7) are assigned to a Packing Group if the goods –
 - (a) are assigned to the Packing Group in column 5 in Appendix 2 to the ADG Code;
 - (b) are assigned to the Packing Group in a Special Provision of the Code applying to the goods;
 - (c) satisfy the criteria in column 9 in Appendix 2 to the ADG Code for assignment to the Packing Group;
 - (d) are determined under regulation 1.18(e) to be assigned to the Packing Group; or
 - (e) satisfy the UN dangerous goods tests and criteria for assignment to the Packing Group.

2.6 Incompatible goods etc.

- (1) Dangerous or other goods are incompatible with dangerous goods if –
 - (a) under the ADG Code, the goods are incompatible with the dangerous goods;
 - (b) the goods are determined under regulation 1.18(f) to be incompatible with the dangerous goods; or

Dangerous Goods (Road and Rail Transport) Regulations

- (c) when the goods are mixed, or otherwise brought into contact, with the dangerous goods, the goods are likely to interact with the dangerous goods and increase risk because of the interaction.
- (2) However, goods are not to be regarded as incompatible with dangerous goods in a proceeding in which incompatibility is an issue if –
 - (a) the goods are incompatible with the dangerous goods only because of regulation (1)(a) or (b); and
 - (b) it is established in the proceeding that, when the goods are mixed, or otherwise brought into contact with the dangerous goods, the goods are not likely to interact with the dangerous goods and increase risk because of the interaction.
- (3) A container is incompatible with dangerous goods if the container is constructed of material that, when the goods are brought into contact with the container, is likely to interact with the goods and increase risk because of the interaction.

[Example of increased risk because of interaction –

Substantial structural weakening of the container.]

- (4) Transfer equipment for use in the transport of dangerous goods is incompatible with the goods if the equipment is constructed of material that, when the goods are brought into contact with the equipment, is likely to interact with the goods and increase risk because of the interaction.

[Example of increased risk because of interaction –

Failure of the transfer equipment resulting in leakage of dangerous goods.]

Division 2 – Packages, packaging and loads

2.7 Packages and packaging

- (1) A package of dangerous goods or other goods is the complete product of the packing of the goods for transport by road, and consists of the goods and their packaging.
- (2) The packaging of the goods is the container in which the goods are received or held for transport by road and includes anything that enables the container to receive or hold the goods or to be closed.

2.8 Capacity

The capacity of a container is the total internal volume of the container at a temperature of 15° Celsius expressed in litres or cubic metres.

2.9 What is a load of goods

All the goods in or on a vehicle are taken to be a single load.

2.10 Aggregate quantity

The aggregate quantity of dangerous goods in a load is the total of –

- (a) the number of kilograms of solid dangerous goods and aerosols in the load;
- (b) the number of litres or kilograms, whichever is used in the shipping documentation for the load to describe the goods, of liquid dangerous goods in the load (except dangerous goods of Class 2); and
- (c) the total capacity in litres of containers in the load containing dangerous goods of Class 2 (except aerosols).

2.11 Packaged dangerous goods

Dangerous goods are packaged dangerous goods if –

- (a) they are dangerous goods of Class 2 in a container with a capacity of not more than 500 litres; or
- (b) they are dangerous goods of another Class in –
 - (i) a container with a capacity of not more than 450 litres; and
 - (ii) a container with a net mass of not more than 400 kilograms.

2.12 Dangerous goods in bulk

Dangerous goods in bulk are dangerous goods that are not packaged dangerous goods.

2.13 Placard loads

(1) A load of dangerous goods is a placard load if the load contains dangerous goods in bulk.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A load of dangerous goods is also a placard load if the load does not contain dangerous goods in bulk, or is not a consumer commodity load, but –

- (a) the load contains dangerous goods of Class 6.2;
- (b) for another load containing dangerous goods of Class 2.1 (except aerosols) or Class 2.3 or dangerous goods of Packing Group I – the aggregate quantity of dangerous goods in the load is at least 250; or
- (c) for any other load – the aggregate quantity of dangerous goods in the load is at least 1 000.

2.14 Unit loads

Dangerous goods are in a unit load if the goods are packaged dangerous goods and are –

- (a) wrapped in plastics, and strapped or otherwise secured to a pallet or other base and to each other, for transport;
- (b) placed together in a protective outer container (except a freight container) for transport; or
- (c) secured together in a sling for transport.

Division 3 – Kinds of containers

2.15 Freight containers

A freight container is a re-useable container of the kind mentioned in Australian/New Zealand Standard AS/NZS 3711 that is designed for repeated use for the transport of goods by one or more modes of transport.

2.16 IBCs

An IBC (or intermediate bulk container) is a rigid or flexible portable packaging for the transport of dangerous goods that –

- (a) has a capacity of not more than –
 - (i) for solids of Packing Group I packed in a composite, fibreboard, flexible, wooden, or rigid plastics container – 1 500 litres;
 - (ii) for solids of Packing Group I packed in a metal container – 3 000 litres; and
 - (iii) for solids or liquids of Packing Groups II and III – 3 000 litres;

Dangerous Goods (Road and Rail Transport) Regulations

- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in usual handling and transport.

2.17 Bulk containers

(1) A bulk container is an IBC or another container capable of transporting dangerous goods in bulk.

- (2) However, a tank that is part of a vehicle is not a bulk container.

Division 4 – Persons with special duties

2.18 Vehicle owners

A person is an owner of a vehicle if the person –

- (a) is the sole owner, a joint owner or a part owner of the vehicle; or
- (b) has possession or use of the vehicle under a credit, hire-purchase, lease or other agreement, except an agreement requiring the vehicle to be registered in the name of someone else.

2.19 Consignors

(1) A person consigns dangerous or other goods for transport by road, and is the consignor of the goods, if –

- (a) subregulation (2) applies to the person;
- (b) subregulation (2) does not apply to the person or anyone else, but subregulation (3) applies to the person; or
- (c) subregulations (2) and (3) do not apply to the person or anyone else, but subregulation (4) applies to the person.

(2) This subregulation applies to a person who, with the person's authority, is named or otherwise identified as the consignor of the goods in shipping documentation for the transport of the goods by road.

- (3) This subregulation applies to a person who –
 - (a) engages a prime contractor, either directly or through an agent or other intermediary, to transport the goods by road;
 - (b) has possession of, or control over, the goods immediately before the goods are transported by road; or

Dangerous Goods (Road and Rail Transport) Regulations

- (c) loads a vehicle with the goods, for transport by road, at a place –
 - (i) where dangerous goods in bulk are stored; and
 - (ii) that is unattended (except by the driver of the vehicle) during loading.
- (4) This subregulation applies to a person if –
 - (a) the goods are imported into Australia; and
 - (b) the person is the importer of the goods.

2.20 Packers

A person packs dangerous or other goods for transport by road, and is a packer of the goods, if the person –

- (a) puts the goods in a packaging;
- (b) assembles the goods as packaged goods in an outer packaging or unit load for transport by road;
- (c) supervises an activity mentioned in paragraph (a) or (b); or
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c).

2.21 Loaders

A person loads dangerous or other goods for transport by road, and is a loader of the goods, if the person –

- (a) loads a vehicle with the goods for transport by road;
- (b) loads a bulk container, freight container, or tank that is part of a vehicle, with the goods for transport by road;
- (c) loads a vehicle with a freight container containing the goods for transport by road;
- (d) supervises an activity mentioned in paragraph (a), (b) or (c); or
- (e) manages or controls an activity mentioned in paragraph (a), (b), (c) or (d).

2.22 Prime contractors

A person is the prime contractor for the transport of dangerous or other goods by road if the person, in conducting a business for or involving the

Dangerous Goods (Road and Rail Transport) Regulations

transport of dangerous goods by road, undertakes to be responsible, or is responsible, for the transport of the goods by road.

PART 3 – PACKAGING

Division 1 – Packaging duties

3.1 Suitability of packaging

For this Division, packaging is unsuitable for the transport by road of dangerous goods if –

- (a) the packaging is not approved packaging; or
- (b) the packaging does not comply with Chapter 3 of the ADG Code.

3.2 Marking packaging

(1) A person must not mark packaging used, or intended to be used, to transport dangerous goods by road with performance and specification markings required under Division 3.5 of the ADG Code unless the packaging is approved packaging.

Penalty: \$3 000.

- (2) An offence against subregulation (1) is a regulatory offence.

3.3 Consignor's duties

A person must not consign packaged dangerous goods for transport by road in packaging if the person knows, or reasonably ought to know, that the packaging –

- (a) is unsuitable for the transport of the goods by road; or
- (b) is not used in accordance with Chapter 3 of the ADG Code.

Penalty: \$1 500.

3.4 Packer's duties

A person must not pack dangerous goods for transport by road in packaging if the person knows, or reasonably ought to know, that the packaging –

- (a) is unsuitable for the transport of the goods by road; or
- (b) is not used in accordance with Chapter 3 of the ADG Code.

Penalty: \$1 500.

3.5 Loader's duties

A person must not load packaged dangerous goods for transport by road in packaging if the person knows, or reasonably ought to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$1 500.

3.6 Prime contractor's duty

A prime contractor must not transport packaged dangerous goods by road in packaging if the prime contractor knows, or reasonably ought to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$1 000.

3.7 Driver's duty

A person must not drive a vehicle transporting packaged dangerous goods by road in packaging if the person knows, or reasonably ought to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$1 000.

Division 2 – Approval of packaging design types

3.8 Approvals

(1) The Competent Authority may, on application made in accordance with regulation 17.1, approve a packaging design type for use in the transport of dangerous goods by road if –

- (a) the applicant has carried out the tests required under Chapter 3 of the ADG Code; and
- (b) the Authority considers that a packaging of that design type would be safe for use in the transport of the goods by road.

(2) The approval of a packaging design type may be subject to any condition necessary for the safe transport of dangerous goods by road in packaging of that design type.

3.9 Recognised testing facilities

The following testing facilities are recognised testing facilities for a packaging design type:

- (a) a testing facility registered by NATA to conduct performance tests under Chapter 3 of the ADG Code for the packaging design type;
- (b) if NATA has not registered a testing facility to conduct performance tests of that kind – a testing facility in Australia capable of conducting the tests;
- (c) a facility in a foreign country approved by a public authority of the country to conduct performance tests of that kind.

3.10 Test certificates

(1) A recognised testing facility may certify in writing that a packaging design type has passed particular performance tests for particular dangerous goods.

(2) If a performance test is conducted by a testing facility registered by NATA, any test certificate must –

- (a) contain the details required under Division 3.7 of the ADG Code; and
- (b) be in the appropriate form used by NATA registered testing facilities.

(3) If a performance test is conducted in Australia by a recognised testing facility that is not registered by NATA –

- (a) the test must be observed by or for the Competent Authority; and
- (b) any test certificate must contain the details required under Division 3.7 of the ADG Code.

Division 3 – Competent Authority's performance testing powers

3.11 Requiring production of packaging for testing

(1) This regulation applies to a person who –

(a) is –

- (i) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by road; or

Dangerous Goods (Road and Rail Transport) Regulations

- (ii) the consignor or prime contractor for the transport of packaged dangerous goods by road; and
- (b) has possession of, or control over, packaging of a design type used, or intended to be used, to transport dangerous goods by road.
- (2) The Competent Authority may, by written notice, require the person to produce packaging manufactured or used by the person for performance testing.
- (3) The person must produce the packaging to the Competent Authority, or someone nominated in the notice, within 14 days after the day when the notice is given to the person, unless the person, under an agreement with someone else, delivers the packaging to the other person before the end of that period.

Penalty: \$1 500.

- (4) An offence against subregulation (3) is a regulatory offence.

3.12 Requiring evidence of performance tests

- (1) This regulation applies to a person who is –
 - (a) a manufacturer of packaging used, or intended to be used, to transport dangerous goods by road; or
 - (b) the consignor of packaged dangerous goods for the transport by road.
- (2) The Competent Authority may, by written notice, require the person to produce written evidence that a packaging design type manufactured or used by the person has passed performance tests required under Chapter 3 of the ADG Code.
- (3) The person must produce the evidence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$1 500.

- (4) A test certificate under regulation 3.10 is evidence for this regulation.
- (5) An offence against subregulation (3) is a regulatory offence.

PART 4 – DANGEROUS GOODS IN BULK

Division 1 – Restrictions on transport of dangerous goods in bulk

4.1 Consignor's duties

(1) A person must not consign dangerous goods for transport by road in bulk if –

- (a) Chapter 4 of the ADG Code provides that the goods must not be transported by road in bulk; or
- (b) the goods are determined under regulation 1.18(h) to be too dangerous to be transported in bulk.

Penalty: \$3 000.

(2) A person who consigns dangerous goods for transport by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$3 000.

(3) An offence against this regulation is a regulatory offence.

4.2 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods by road in bulk if –

- (a) Chapter 4 of the ADG Code provides that the goods must not be transported by road in bulk; or
- (b) the goods are determined under regulation 1.18(h) to be too dangerous to be transported in bulk.

Penalty: \$3 000.

(2) A prime contractor who transports dangerous goods by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$3 000.

(3) An offence against this regulation is a regulatory offence.

4.3 Driver's duty

(1) A person who drives a vehicle transporting dangerous goods by road in bulk must comply with Chapter 4 of the ADG Code.

Penalty: \$1 500.

Dangerous Goods (Road and Rail Transport) Regulations

- (2) An offence against subregulation (1) is a regulatory offence.

Division 2 – Bulk containers

4.4 Consignor's duties

(1) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by the person if –

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

(2) A person must not consign dangerous goods in bulk for transport by road in a bulk container provided by someone else if the person knows, or reasonably ought to know, that –

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

(3) A person must not consign dangerous goods for transport by road in a bulk container if the person knows, or reasonably ought to know, that the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3 000.

- (4) An offence against subregulation (1) is a regulatory offence.

4.5 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by the prime contractor if –

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A prime contractor must not transport dangerous goods in bulk by road in a bulk container provided by someone else if the prime contractor knows, or reasonably ought to know, that –

- (a) the material of which the container is constructed is incompatible with the dangerous goods; or
- (b) the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

(3) A prime contractor must not transport dangerous goods by road in a bulk container if the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3 000.

(4) An offence against subregulation (1) is a regulatory offence.

4.6 Driver's duties

(1) A person must not drive a vehicle transporting dangerous goods in bulk by road in a bulk container if the person knows, or reasonably ought to know, that the container is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

(2) A person must not drive a vehicle transporting dangerous goods by road in a bulk container if the person knows, or reasonably ought to know, that the attachment system does not comply with, or is not used in accordance with, Chapters 4 and 5 of the ADG Code.

Penalty: \$3 000.

Division 3 – Tanks

4.7 Manufacturer's duties

(1) A person must not manufacture a tank designed to transport dangerous goods in bulk by road other than in accordance with a design that is approved under regulation 4.25.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A person who manufactures a tank designed to transport dangerous goods in bulk by road must attach a compliance plate to the tank in accordance with Chapter 4 of the ADG Code.

Penalty: \$3 000.

(3) An offence against this regulation is a regulatory offence.

4.8 Compliance plates

(1) A person must not attach a compliance plate, or something that purports to be a compliance plate, to a tank unless the tank is an approved tank.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

4.9 Owner's duties for certain vehicles

(1) The owner of a vehicle of which a tank forms part, or to which a tank is attached, must not use the vehicle, or permit the vehicle to be used, to transport dangerous goods in bulk in the form of a liquid or gas by road, unless the tank –

- (a) is an approved tank;
- (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
- (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

4.10 Consignor's duties

(1) A person must not consign dangerous goods in bulk for transport by road in a tank provided by the person unless the tank –

- (a) is an approved tank;
- (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
- (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A person must not consign dangerous goods in bulk for transport by road in a tank provided by someone else if the person knows, or reasonably ought to know, that the tank –

- (a) is not an approved tank;
- (b) has not been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; or
- (c) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3 000.

(3) An offence against subregulation (1) is a regulatory offence.

4.11 Loader's duty

A person must not load dangerous goods in bulk for transport by road in a tank if the person knows, or reasonably ought to know, that the tank –

- (a) is not an approved tank; or
- (b) is used other than in accordance with Chapter 4 of the ADG Code.

Penalty: \$1 500.

4.12 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods in bulk by road in a tank provided by the prime contractor unless the tank –

- (a) is an approved tank;
- (b) has been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; and
- (c) is used in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3 000.

(2) A prime contractor must not transport dangerous goods in bulk by road in a tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the tank –

- (a) is not an approved tank;
- (b) has not been maintained, tested and inspected in accordance with Chapter 4 of the ADG Code; or

Dangerous Goods (Road and Rail Transport) Regulations

- (c) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$3 000.

(3) A prime contractor must not transport dangerous goods in bulk by road in a tank forming part of a vehicle if –

- (a) the material of which the tank is constructed is incompatible with the dangerous goods; or
- (b) the tank is damaged or defective to the extent that it is not safe to use to transport the goods by road.

Penalty: \$3 000.

- (4) An offence against subregulation (1) or (3) is a regulatory offence.

4.13 Driver's duties

A person must not drive a vehicle transporting dangerous goods in bulk by road in a tank if the person knows, or reasonably ought to know, that the tank –

- (a) is not an approved tank; or
- (b) is used other than in accordance with the approval conditions (if any) specified on the tank's compliance plate.

Penalty: \$1 500.

Division 4 – Foreign approved tanks

4.14 Consignor's duties

(1) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by the person if the transport of the goods by road in the tank is prohibited by a determination under regulation 4.27(1).

Penalty: \$3 000.

(2) A person must not consign dangerous goods in bulk for transport by road in a foreign approved tank provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under regulation 4.27(1).

Penalty: \$3 000.

- (3) An offence against subregulation (1) is a regulatory offence.

4.15 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by the prime contractor if the transport of the goods by road in the tank is prohibited by a determination under regulation 4.27(1).

Penalty: \$3 000.

(2) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved tank provided by someone else if the prime contractor knows, or reasonably ought to know, that the transport of the goods by road in the tank is prohibited by a determination under regulation 4.27(1).

Penalty: \$3 000.

(3) An offence against subregulation (1) is a regulatory offence.

Division 5 – IBCs

4.16 Manufacturer's duties

(1) A person must not manufacture an IBC other than in accordance with a design that is approved under regulation 4.26.

Penalty: \$3 000.

(2) A person who manufactures an IBC must mark the IBC with an IBC marking in accordance with the IBC Supplement.

Penalty: \$3 000.

(3) An offence against this regulation is a regulatory offence.

4.17 IBC markings

(1) A person must not mark an IBC with an IBC marking, or something that purports to be an IBC marking, unless the IBC is an approved IBC.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

4.18 Consignor's duties

(1) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by the person unless the IBC –

(a) is an approved IBC; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) is used in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3 000.

(2) A person must not consign dangerous goods in bulk for transport by road in an IBC provided by someone else if the person knows, or reasonably ought to know, that the IBC –

- (a) is not an approved IBC; or
- (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3 000.

- (3) An offence against subregulation (1) is a regulatory offence.

4.19 Loader's duties

A person must not load dangerous goods in bulk for transport by road in an IBC if the person knows, or reasonably ought to know, that the IBC –

- (a) is not an approved IBC; or
- (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$1 500.

4.20 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by the prime contractor unless the IBC –

- (a) is an approved IBC; and
- (b) is used in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3 000.

(2) A prime contractor must not transport dangerous goods in bulk by road in an IBC provided by someone else if the prime contractor knows, or reasonably ought to know, that the IBC –

- (a) is not an approved IBC; or

Dangerous Goods (Road and Rail Transport) Regulations

- (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$3 000.

- (3) An offence against subregulation (1) is a regulatory offence.

4.21 Driver's duties

A person must not drive a vehicle transporting dangerous goods in bulk by road in an IBC if the person knows, or reasonably ought to know, that the IBC –

- (a) is not an approved IBC; or
- (b) is used other than in accordance with Chapter 4 of the ADG Code and the IBC Supplement.

Penalty: \$1 500.

Division 6 – Foreign approved IBCs

4.22 Consignor's duties

(1) A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by the person if the transport of the goods by road in the IBC is prohibited by a determination under regulation 4.27(2).

Penalty: \$3 000.

(2) A person must not consign dangerous goods in bulk for transport by road in a foreign approved IBC provided by someone else if the person knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under regulation 4.27(2).

Penalty: \$3 000.

- (3) An offence against subregulation (1) is a regulatory offence.

4.23 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC provided by the prime contractor if the transport of the goods by road in the IBC is prohibited by a determination under regulation 4.27(2).

Penalty: \$3 000.

(2) A prime contractor must not transport dangerous goods in bulk by road in a foreign approved IBC provided by someone else if the prime contractor

Dangerous Goods (Road and Rail Transport) Regulations

knows, or reasonably ought to know, that the transport of the goods by road in the IBC is prohibited by a determination under regulation 4.27(2).

Penalty: \$3 000.

- (3) An offence against subregulation (1) is a regulatory offence.

Division 7 – Approval of tank and IBC designs

4.24 Applications for approval

An application for approval of a design for a tank or IBC for use in the transport of dangerous goods in bulk by road must –

- (a) for a tank – include the information required under Chapter 4 of the ADG Code;
- (b) for an IBC – include the information required under the IBC Supplement; and
- (c) if a fee is prescribed for the application – be accompanied by the prescribed fee.

4.25 Approvals – tank designs

(1) The Competent Authority may, on application made in accordance with regulations 4.24 and 17.1, approve a design for a tank for use in the transport of dangerous goods in bulk of a particular type by road if –

- (a) the design complies with Chapter 4 of the ADG Code; or
- (b) the design does not comply with the Chapter, but the Authority considers that the risk involved in using the tank is not greater than the risk involved in using a tank complying with the Chapter.

(2) The approval of the design may be subject to any condition about the construction, use or maintenance of a tank manufactured in accordance with the design necessary for the safe use of the tank.

(3) In this regulation, a reference to the design of a tank includes a reference to the design of –

- (a) the attachment system to any vehicle of which the tank is intended to form a part or to which it is intended to be attached; and
- (b) the stability characteristics, and other attributes, of the vehicle affecting the suitability of a tank manufactured in accordance with the design to transport the dangerous goods.

4.26 Approvals – IBC designs

(1) The Competent Authority may, on application made in accordance with regulations 4.24 and 17.1, approve a design for an IBC for use in the transport of dangerous goods in bulk of a particular type by road if the Authority considers that the design complies with the IBC Supplement.

(2) The approval of the design may be subject to any condition about the construction, use or maintenance of an IBC manufactured in accordance with the design necessary for the safe use of the IBC.

Division 8 – Determinations

4.27 Determinations – foreign approved tanks and IBCs

(1) The Competent Authority may determine the dangerous goods in bulk that must not be transported by road in a foreign approved tank.

(2) The Competent Authority may determine the dangerous goods in bulk that must not be transported by road in a foreign approved IBC.

PART 5 – FREIGHT CONTAINERS

5.1 Consignor's duties

(1) A person must not consign dangerous goods for transport by road in a freight container provided by the person unless the container complies with Chapter 5 of the ADG Code.

Penalty: \$1 500.

(2) A person must not consign dangerous goods for transport by road in a freight container that is not provided by the person if the person knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADG Code.

Penalty: \$1 500.

(3) A person must not consign dangerous goods for transport by road in a freight container if the person knows, or reasonably ought to know, that the attachment system –

- (a) does not comply with Chapter 5 of the ADG Code; or
- (b) is used other than in accordance with the Chapter.

Penalty: \$1 500.

(4) An offence against subregulation (1) is a regulatory offence.

5.2 Loader's duty

A person must not load dangerous goods for transport by road in a freight container if the person knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADG Code.

Penalty: \$1 500.

5.3 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods by road in a freight container provided by the prime contractor unless the container complies with Chapter 5 of the ADG Code.

Penalty: \$3 000.

(2) A prime contractor must not transport dangerous goods by road in a freight container that is not provided by the prime contractor if the prime contractor knows, or reasonably ought to know, that the container does not comply with Chapter 5 of the ADG Code.

Penalty: \$3 000.

(3) A prime contractor must not transport dangerous goods by road in a freight container unless the attachment system –

- (a) complies with Chapter 5 of the ADG Code; and
- (b) is used in accordance with the Chapter.

Penalty: \$3 000.

(4) An offence against subregulation (1) or (3) is a regulatory offence.

5.4 Driver's duty

(1) A person must not drive a vehicle transporting dangerous goods by road in a freight container unless the container is attached to the vehicle in accordance with Chapter 5 of the ADG Code.

Penalty: \$1 500.

(2) An offence against subregulation (1) is a regulatory offence.

PART 6 – UNIT LOADS

6.1 Consignor's duties

(1) A person must not consign packaged dangerous goods for transport by road in a unit load unless –

- (a) the packages can safely be transported by road in the unit load;
- (b) if Chapter 6 of the ADG Code requires the Competent Authority's approval for the transport by road of the unit load – the unit load is prepared in accordance with a method approved under regulation 6.5(1); and
- (c) the unit load otherwise complies with the Chapter.

Penalty: \$1 500.

(2) An offence against subregulation (1) is a regulatory offence.

6.2 Loader's duties

A person must not load packaged dangerous goods for transport by road in a unit load if the person knows, or reasonably ought to know, that –

- (a) the packages cannot safely be transported by road in the unit load;
- (b) if Chapter 6 of the ADG Code requires the Competent Authority's approval for the transport by road of the unit load – the unit load is not prepared in accordance with a method approved under regulation 6.5(1); or
- (c) the unit load does not otherwise comply with the Chapter.

Penalty: \$1 500.

6.3 Prime contractor's duties

A prime contractor must not transport packaged dangerous goods by road in a unit load if the prime contractor knows, or reasonably ought to know, that –

- (a) the packages cannot safely be transported by road in the unit load;
or
- (b) the unit load does not comply with Chapter 6 of the ADG Code.

Penalty: \$1 500.

6.4 Driver's duties

A person must not drive a vehicle transporting packaged dangerous goods by road in a unit load if the person knows, or reasonably ought to know, that –

- (a) the packages cannot safely be transported by road in the unit load;
or
- (b) the unit load does not comply with Chapter 6 of the ADG Code.

Penalty: \$1 500.

6.5 Approvals – unit loads

(1) The Competent Authority may, on application made in accordance with regulation 17.1, approve a method of preparing a unit load of dangerous goods for transport by road that does not comply with Chapter 6 of the ADG Code if the Authority considers that the risk involved in using the method is not greater than the risk involved in using a method complying with the Chapter.

(2) The approval of a method of preparing a unit load of dangerous goods for transport by road may be subject to any condition necessary for the safe transport of the dangerous goods using the method.

PART 7 – MARKING AND PLACARDING

Division 1 – Marking packages and unit loads

7.1 Application of Division

This Division does not apply to the transport of dangerous goods by road if –

- (a) the goods have been imported into, or are to be exported from, Australia;
- (b) the goods are being transported in a closed freight container;
- (c) the goods are not leaking from the container;
- (d) the goods are being transported directly –
 - (i) for imported goods – from the place of import; or
 - (ii) for goods for export – to the place of export; and
- (e) the container is placarded in accordance with the IATA Regulations, ICAO Rules or IMDG Code.

7.2 Meaning of "appropriately marked"

For this Division, a package or unit load is appropriately marked if the package or unit load is marked in accordance with Chapter 7 of the ADG Code.

7.3 Consignor's duties

(1) A person must not consign dangerous goods for transport by road in a package or unit load unless the package or unit load is appropriately marked.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(2) A person must not consign dangerous goods for transport by road in a package or unit load if a marking on the package or unit load about its contents is false or misleading in a material particular.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(3) A person must not consign goods for transport by road in a package or unit load that does not contain dangerous goods but is marked as if it contained dangerous goods.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(4) An offence against this regulation is a regulatory offence.

7.4 Packer's duties

(1) A person must not pack dangerous goods for transport by road in a package or unit load if the person knows, or reasonably ought to know, that the packaging will not be appropriately marked when the goods are transported.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(2) A person who packs dangerous goods for transport by road must not mark a package or unit load with a marking about its contents that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Penalty: For a package – \$500.

For a unit load – \$1 500.

Dangerous Goods (Road and Rail Transport) Regulations

(3) A person who packs goods for transport by road must not mark a package or unit load that the person knows, or reasonably ought to know, does not contain dangerous goods as if it contained dangerous goods.

Penalty: For a package – \$500.

For a unit load – \$1 500.

7.5 Prime contractor's duties

(1) A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, that –

(a) the goods are dangerous goods; and

(b) the package or unit load is not appropriately marked.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(2) A prime contractor must not transport dangerous goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, that a marking on the package or unit load about its contents is false or misleading in a material particular.

Penalty: For a package – \$500.

For a unit load – \$1 500.

(3) A prime contractor must not transport goods by road in a package or unit load if the prime contractor knows, or reasonably ought to know, that the package or unit load does not contain dangerous goods but is marked as if it contained dangerous goods.

Penalty: For a package – \$500.

For a unit load – \$1 500.

Division 2 – Placarding

7.6 Meaning of "appropriately placarded" etc.

(1) For this Division –

(a) a person placards a load of goods if the person placards a bulk or freight container in which, or a vehicle in or on which, the goods are being, or are to be, transported by road; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the placarding of a load of goods includes the placarding of a bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road.

(2) For this Division, a placard load of dangerous goods is appropriately placarded if the bulk or freight container in which, and the vehicle in or on which, the goods are being, or are to be, transported by road are placarded in accordance with Chapter 7 of the ADG Code.

7.7 Consignor's duties

(1) A person must not consign a placard load of dangerous goods for transport by road unless the load is appropriately placarded.

Penalty: \$3 000.

(2) A person must not consign a placard load of dangerous goods for transport by road if the placarding of the load is false or misleading in a material particular.

Penalty: \$3 000.

(3) A person must not consign goods for transport by road in a load that does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: \$3 000.

7.8 Loader's duties

(1) A person who loads dangerous goods for transport by road must appropriately placard the load if the person knows, or reasonably ought to know, that the goods are a placard load.

Penalty: \$3 000.

(2) A person who loads a placard load of dangerous goods for transport by road must not placard the load with placarding that the person knows, or reasonably ought to know, is false or misleading in a material particular.

Penalty: \$3 000.

(3) A person who loads goods for transport by road must not placard the load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods.

Penalty: \$3 000.

7.9 Prime contractor's duties

(1) A prime contractor must not transport dangerous goods by road if the prime contractor knows, or reasonably ought to know, that –

- (a) the goods are a placard load; and
- (b) the load is not appropriately placarded.

Penalty: \$3 000.

(2) A prime contractor must not transport a placard load of dangerous goods by road if the prime contractor knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular.

Penalty: \$3 000.

(3) A prime contractor must not transport goods by road in a load if the prime contractor knows, or reasonably ought to know, that the load does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: \$3 000.

7.10 Driver's duties

(1) A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, that –

- (a) the goods are a placard load; and
- (b) the load is not appropriately placarded.

Penalty: \$3 000.

(2) A person must not drive a vehicle transporting a placard load of dangerous goods by road if the person knows, or reasonably ought to know, that the placarding of the load is false or misleading in a material particular.

Penalty: \$3 000.

(3) A person must not drive a vehicle transporting goods by road in a load if the person knows, or reasonably ought to know, that the load does not contain dangerous goods but is placarded as if it were a placard load.

Penalty: \$3 000.

PART 8 – VEHICLES

Division 1 – Safety standards

8.1 Owner's duty

(1) The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods by road unless the vehicle and its equipment comply with Chapter 8 of the ADG Code.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

8.2 Consignor's duty

A person must not consign dangerous goods for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapter 8 of the ADG Code.

Penalty: \$3 000.

8.3 Prime contractor's duty

(1) A prime contractor must not use a vehicle to transport dangerous goods by road unless the vehicle and its equipment comply with Chapter 8 of the ADG Code.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

8.4 Driver's duty

A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, that the vehicle or its equipment does not comply with Chapter 8 of the ADG Code.

Penalty: \$3 000.

Division 2 – Vehicle insurance

8.5 Owner's duty

(1) The owner of a vehicle must not use the vehicle, or permit it to be used, to transport a placard load of dangerous goods by road unless the vehicle is insured, or the owner is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

- (2) An offence against subregulation (1) is a regulatory offence.

8.6 Prime contractor's duty

(1) A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless the vehicle is insured, or the prime contractor is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.

Penalty: \$3 000.

- (2) An offence against subregulation (1) is a regulatory offence.

8.7 Requiring evidence of insurance etc.

(1) This regulation applies to a person who is –

- (a) the owner of a vehicle used to transport placard loads of dangerous goods by road; or
- (b) a prime contractor responsible for the condition of the vehicle.

(2) The Competent Authority may, by written notice, require the person to produce written evidence that the vehicle is insured, or the person is otherwise indemnified, in accordance with Chapter 8 of the ADG Code.

(3) The person must produce the evidence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$1 000.

- (4) An offence against subregulation (3) is a regulatory offence.

PART 9 – SEGREGATION AND STOWAGE

Division 1 – Application of Part

9.1 Application

(1) This Part applies to dangerous goods if the goods are being, or are to be, transported by road in a placard load.

(2) This Part also applies to dangerous goods of Class 2.3, 6 or 8 if the goods are being, or are to be, transported by road in a load with food or food packaging.

Division 2 – Segregation of incompatible goods

9.2 Loads on combination road vehicles

(1) If dangerous and incompatible goods are transported on separate vehicles forming part of a combination road vehicle, the goods are taken to be segregated in accordance with Chapter 9 of the ADG Code.

(2) However, the goods are not taken to be segregated in accordance with Chapter 9 if, under the Chapter or a determination under regulation 1.18(i), the goods are too dangerous to be transported on the same combination road vehicle as other goods transported on the vehicle.

9.3 Exception for certain goods for driver's personal use

(1) Despite regulations 9.4, 9.5, 9.6 and 9.7, permitted goods may be transported on a vehicle with incompatible goods if the permitted goods are in the vehicle's cabin for the driver's personal use.

(2) In this regulation –

"permitted goods" means –

- (a) a fire-risk substance; or
- (b) food or food packaging.

9.4 Consignor's duties

A person must not consign dangerous goods for transport on a vehicle if the person knows, or reasonably ought to know, that –

- (a) the vehicle will also be transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with –
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3 000.

9.5 Loader's duties

A person must not load dangerous goods for transport on a vehicle or in a freight container if the person knows, or reasonably ought to know, that –

- (a) the vehicle or container will also be transporting incompatible goods; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with –
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3 000.

9.6 Prime contractor's duties

- (1) A prime contractor must not use a vehicle to transport dangerous goods if –
 - (a) the vehicle is also transporting incompatible goods; and
 - (b) the dangerous goods are not be segregated from the incompatible goods in accordance with –
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$3 000.

- (2) An offence against subregulation (1) is a regulatory offence.

9.7 Driver's duties

A person must not drive a vehicle transporting dangerous goods if the person knows, or reasonably ought to know, that –

- (a) the vehicle is also transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with –
 - (i) Chapter 9 of the ADG Code; or
 - (ii) an approval under regulation 9.8.

Penalty: \$1 000.

9.8 Approvals – segregation

(1) The Competent Authority may, on application made in accordance with regulation 17.1, approve a segregation device, or a method of segregation, not complying with Chapter 9 of the ADG Code for transporting dangerous and incompatible goods by road, if the Authority considers that –

Dangerous Goods (Road and Rail Transport) Regulations

- (a) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with the Chapter; and
- (b) the risk involved in using the device or method to transport the goods by road is not greater than the risk involved in using a device or method complying with the Chapter to transport the goods by road.

(2) The approval of a device or method may be subject to any condition necessary for the safe transport of dangerous goods using the device or method.

Division 3 – Stowage

9.9 Consignor's duty

A person must not consign dangerous goods for transport by road on a vehicle if the person knows, or reasonably ought to know, that the goods are not stowed in accordance with Chapter 9 of the ADG Code.

Penalty: \$1 500.

9.10 Loader's duty

A person must not load dangerous goods on a vehicle for transport by road if the person knows, or reasonably ought to know, that the goods are not stowed in accordance with Chapter 9 of the ADG Code.

Penalty: \$1 500.

9.11 Prime contractor's duty

A prime contractor must not transport dangerous goods by road on a vehicle if the prime contractor knows, or reasonably ought to know, that the goods are not stowed on the vehicle in accordance with Chapter 9 of the ADG Code.

Penalty: \$1 500.

9.12 Driver's duty

A person must not drive a vehicle transporting dangerous goods by road if the person knows, or reasonably ought to know, that the goods are not stowed on the vehicle in accordance with Chapter 9 of the ADG Code.

Penalty: \$1 000.

PART 10 – TRANSFER OF DANGEROUS GOODS IN BULK

Division 1 – Filling ratio and ullage

10.1 Transferor's duties

(1) This regulation applies to a transfer of dangerous goods if the transfer is made –

- (a) in the transport of the goods by road in bulk; and
- (b) to or from a tank, or bulk container, on a vehicle.

(2) A person who transfers dangerous goods must ensure, as far as practicable, that –

- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid – the quantity of the goods in the tank or container to which the goods are transferred does not exceed the maximum permitted filling ratio under Chapter 10 of the ADG Code; and
- (b) in any other case – the ullage in the tank or container complies with the Chapter.

Penalty: \$1 500.

(3) An offence against subregulation (2) is a regulatory offence.

10.2 Prime contractor's duty

A prime contractor must not use a vehicle to transport dangerous goods by road in a tank or bulk container if the prime contractor knows, or reasonably ought to know, that –

- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid – the quantity of goods in the tank or container exceeds the maximum permitted filling ratio under Chapter 10 of the ADG Code; or
- (b) in any other case – the ullage in the tank or container does not comply with the Chapter.

Penalty: \$1 500.

10.3 Driver's duty

A person must not drive a vehicle transporting dangerous goods by road in a tank or bulk container if the person knows, or reasonably ought to know, that –

- (a) for Class 2 dangerous goods not in the form of a refrigerated liquid – the quantity of goods in the tank or container exceeds the maximum permitted filling ratio under Chapter 10 of the ADG Code; or
- (b) in any other case – the ullage in the tank or container does not comply with the Chapter.

Penalty: \$1 500.

Division 2 – Transfer

10.4 Application

This Division applies to a transfer of dangerous goods if the transfer is made –

- (a) in the transport of the goods by road in bulk; and
- (b) to or from a tank, or bulk container, on a vehicle.

10.5 Transferor's duties – general

(1) A person who transfers dangerous goods must, as far as practicable, ensure that the goods are transferred –

- (a) if Chapter 10 of the ADG Code applies to the transfer – in accordance with the Chapter;
- (b) if the transfer of the goods is approved under regulation 10.9 – in accordance with the approval; and
- (c) in every case – in a way that averts, eliminates or minimises risk.

Penalty: \$1 500.

(2) A person must not transfer dangerous goods if the person knows, or reasonably ought to know, that –

- (a) the material of which the tank or container to which the goods are transferred, or the transfer equipment, is constructed is incompatible with the dangerous goods; or

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the tank or container contains incompatible goods.

Penalty: \$1 500.

(3) If dangerous goods leak, spill or accidentally escape during the transfer of the goods, the person transferring the goods –

- (a) must immediately stop transferring the goods;
- (b) must take all practicable steps to avert, eliminate or minimise risk; and
- (c) must not start transferring the goods again until the conditions causing the leak, spill or escape have been rectified.

Penalty: \$1 500.

- (4) An offence against subregulation (1) or (3) is a regulatory offence.

10.6 Transferor's duties – hose assemblies

(1) A person who uses a hose assembly to transfer dangerous goods must comply with Chapter 10 of the ADG Code.

Penalty: \$3 000.

(2) A person must not use a hose assembly to transfer dangerous goods if the hose assembly is damaged or defective to the extent that use of the hose assembly to transfer the goods involves a greater risk than the risk involved in using a hose assembly that is not damaged or defective.

Penalty: \$3 000.

(3) A person must not transfer dangerous goods if the person knows, or reasonably ought to know, that a hose assembly used in the transfer –

- (a) has not been maintained in accordance with Chapter 10 of the ADG Code;
- (b) was not inspected or tested at the intervals, or in the way, required under the Chapter; or
- (c) did not satisfy a test under the Chapter.

Penalty: \$1 500.

- (4) An offence against subregulation (1) or (2) is a regulatory offence.

10.7 Occupier's duties

(1) The occupier of premises where dangerous goods are transferred must, as far as practicable, ensure that the goods are transferred –

- (a) if Chapter 10 of the ADG Code applies to the transfer – in accordance with the Chapter;
- (b) if the transfer of the goods is approved under regulation 10.9 – in accordance with the approval; and
- (c) in every case – in a way that averts, eliminates or minimises risk.

Penalty: \$3 000.

(2) The occupier of premises where dangerous goods are transferred must ensure that a hose assembly on the premises that is used, or intended to be used, for the transfer (other than a hose assembly brought onto the premises on the vehicle involved in the transfer) –

- (a) is maintained in accordance with Chapter 10 of the ADG Code;
- (b) is inspected and tested at the intervals, and in the way, required under the Chapter; and
- (c) satisfies each test under the Chapter.

Penalty: \$1 500.

(3) The occupier must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Penalty: \$500.

- (4) An offence against this regulation is a regulatory offence.

10.8 Prime contractor's duties

(1) A prime contractor must, as far as practicable, ensure that dangerous goods being transferred to or from a tank, or bulk container, on a vehicle used by the prime contractor are transferred –

- (a) if Chapter 10 of the ADG Code applies to the transfer – in accordance with the Chapter;
- (b) if the transfer of the goods is approved under regulation 10.9 – in accordance with the approval; and

Dangerous Goods (Road and Rail Transport) Regulations

- (c) in every case – in a way that averts, eliminates or minimises risk.

Penalty: \$3 000.

(2) A prime contractor must not use a vehicle to transport dangerous goods by road unless each hose assembly on the vehicle that is used, or intended to be used, for the transfer of dangerous goods –

- (a) has been maintained in accordance with Chapter 10 of the ADG Code;
- (b) was inspected and tested at the intervals, and in the way, required under the Chapter; and
- (c) satisfied each test.

Penalty: \$1 500.

(3) The prime contractor must keep accurate records of all maintenance work, and each inspection and test, carried out on the hose assembly.

Penalty: \$500.

- (4) An offence against this regulation is a regulatory offence.

10.9 Approvals – transfers of dangerous goods

(1) The Competent Authority may, on application made in accordance with regulation 17.1, approve the transfer of dangerous goods otherwise than in accordance with Chapter 10 of the ADG Code if the Authority considers that the risk involved in the transfer of the goods is not greater than the risk involved in the transfer of the goods in accordance with the Chapter.

(2) The approval of a transfer of dangerous goods may be subject to any condition necessary for the safe transfer of the goods.

PART 11 – DOCUMENTS

Division 1 – Shipping documentation

11.1 False or misleading information

A person must not include information in shipping documentation for the transport of dangerous goods by road that the person knows is false or misleading in a material particular.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

[Example of false information in shipping documentation –

A person named as consignor of the dangerous goods if the person is not the consignor of the goods.]

11.2 Consignor's duties

(1) A person must not consign dangerous goods for transport by road on a vehicle unless the prime contractor or driver of the vehicle has shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1 000.

(2) A person must not consign dangerous goods for transport by road if the person knows, or reasonably ought to know, that the goods will be divided into, and transported in, separate loads, unless subregulation (3) is complied with for each load.

Penalty: \$1 000.

(3) This subregulation is complied with for a load if the prime contractor, or the driver of the vehicle transporting the load, has been given separate shipping documentation, complying with Chapter 11 of the ADG Code, for the load.

(4) An offence against subregulation (1) is a regulatory offence.

11.3 Prime contractor's duty

(1) The prime contractor must ensure that a person does not drive a vehicle used by the prime contractor to transport dangerous goods by road unless the person has been given shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1 500.

(2) An offence against subregulation (1) is a regulatory offence.

11.4 Driver's duties

(1) The driver of a vehicle transporting dangerous goods by road must carry shipping documentation, complying with Chapter 11 of the ADG Code, for the goods.

Penalty: \$1 000.

Dangerous Goods (Road and Rail Transport) Regulations

(2) The driver of a vehicle transporting dangerous goods by road must carry the shipping documentation for the goods –

- (a) if the goods are a placard load – in an emergency information holder complying with Chapter 11 of the ADG Code; and
- (b) if the goods are not a placard load – in an emergency information holder complying with the Chapter or elsewhere in the vehicle's cabin in a conspicuous location.

Penalty: \$500.

(3) The driver of a vehicle transporting dangerous goods by road must produce the shipping documentation for the goods for inspection by an authorised officer, or an officer of an emergency service, if the officer asks the driver to produce the documentation for inspection.

Penalty: \$1 000.

(4) An offence against this regulation is a regulatory offence.

Division 2 – Emergency information

11.5 Meaning of "required emergency information"

In this Division –

"required emergency information" means –

- (a) emergency information complying with Chapter 11 of the ADG Code; or
- (b) emergency information that is approved under regulation 11.9.

11.6 Consignor's duty

A person must not consign a placard load of dangerous goods for transport by road on a vehicle if the person knows, or reasonably ought to know, that the required emergency information is not on the vehicle.

Penalty: \$1 000.

11.7 Prime contractor's duties

(1) A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless –

- (a) the vehicle is equipped with an emergency information holder complying with Chapter 11 of the ADG Code; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the required emergency information is in the holder.

Penalty: \$1 500.

- (2) An offence against subregulation (1) is a regulatory offence.

11.8 Driver's duties

(1) A person must not drive a vehicle transporting a placard load of dangerous goods by road unless –

- (a) the vehicle is equipped with an emergency information holder complying with Chapter 11 of the ADG Code; and
- (b) the required emergency information is in the holder.

Penalty: \$1 000.

(2) The driver of a vehicle transporting a placard load of dangerous goods by road must ensure that the vehicle's emergency information holder contains only –

- (a) the required emergency information; and
- (b) the shipping documentation for the goods.

Penalty: \$500.

(3) The driver of a vehicle transporting a placard load of dangerous goods by road must produce the required emergency information for inspection by an authorised officer, or an officer of an emergency service, if the officer asks the driver to produce the information for inspection.

Penalty: \$1 000.

- (4) An offence against this regulation is a regulatory offence.

11.9 Approvals – emergency information

The Competent Authority may, on application made in accordance with regulation 17.1 or on the Authority's own initiative, approve emergency information that does not comply with Chapter 11 of the ADG Code if the Authority considers that use of the information would be as accurate, and at least as convenient and efficient, as information complying with the Chapter.

PART 12 – PERSONAL PROTECTIVE AND SAFETY EQUIPMENT

12.1 Owner's duties

(1) The owner of a vehicle must not use the vehicle, or allow the vehicle to be used, to transport a placard load of dangerous goods by road unless the vehicle is equipped with –

- (a) fire extinguishers and portable warning devices complying with Chapter 12 of the ADG Code; and
- (b) any other equipment required under the Chapter.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

12.2 Prime contractor's duties

(1) A prime contractor must not use a vehicle to transport a placard load of dangerous goods by road unless –

- (a) the driver of the vehicle is provided with personal protective equipment of a type, quality and quantity reasonably necessary for the personal safety of the driver, both during the normal course of transport and in a dangerous situation;
- (b) the vehicle is equipped with safety equipment of a type, quality and quantity reasonably necessary to allow the goods to be transported safely on the vehicle and the vehicle to operate safely, both in the normal course of transport and in a dangerous situation;
- (c) the vehicle is equipped with –
 - (i) fire extinguishers that are stowed, and have been inspected and tested, in accordance with Chapter 12 of the ADG Code;
 - (ii) portable warning devices complying with the Chapter; and
 - (iii) any other equipment required under the Chapter; and
- (d) each item of equipment mentioned in paragraphs (a) to (c) is in good repair and proper working order.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

12.3 Driver's duties

(1) A person must not drive a vehicle transporting a placard load of dangerous goods by road unless the vehicle is equipped with –

- (a) fire extinguishers and portable warning devices complying with Chapter 12 of the ADG Code; and
- (b) any other equipment required under the Chapter.

Penalty: \$1 000.

(2) A person must not drive a vehicle transporting a placard load of dangerous goods by road if the person knows, or reasonably ought to know, that the equipment for the vehicle mentioned in subregulation (1) –

- (a) is not stowed in accordance with Chapter 12 of the ADG Code; or
- (b) has not been inspected or tested in accordance with the Chapter.

Penalty: \$1 000.

(3) An offence against subregulation (1) is a regulatory offence.

PART 13 – PROCEDURES DURING TRANSPORT

Division 1 – Immobilised and stopped vehicles

13.1 Driver's duty

(1) This regulation applies if a vehicle transporting a placard load of dangerous goods by road –

- (a) is broken down or otherwise immobilised, or has stopped, on a road; and
- (b) is a traffic hazard.

(2) The driver must alert other road users of the hazard in accordance with Chapter 13 of the ADG Code.

Penalty: \$500.

(3) An offence against subregulation (2) is a regulatory offence.

13.2 Prime contractor's duties

(1) If a vehicle transporting a placard load of dangerous goods by road is broken down or otherwise immobilised on a road, the prime contractor must, as soon as practicable, ensure that the vehicle is –

Dangerous Goods (Road and Rail Transport) Regulations

- (a) repaired so that it can be driven safely off the road; or
- (b) towed to a place where it can be repaired.

Penalty: \$1 500.

- (2) The prime contractor must –
 - (a) remove the dangerous goods from the vehicle before the vehicle is repaired or towed; and
 - (b) transport the dangerous goods from the place of the breakdown, if the risk involved in complying with paragraphs (a) and (b) is not greater than the risk involved in not complying with the paragraphs.

Penalty: \$1 500.

- (3) An offence against subregulation (2) is a regulatory offence.

13.3 Powers of authorised officers

(1) This regulation applies to a vehicle transporting a placard load of dangerous goods that is broken down or otherwise immobilised on a road.

(2) An authorised officer may give directions to a person who is involved in the transport of the dangerous goods about how –

- (a) repair work is to be carried out on the vehicle;
- (b) the vehicle is to be towed off the road;
- (c) the dangerous goods are to be removed from the vehicle; or
- (d) the dangerous goods are to be dealt with after their removal from the vehicle.

(3) The person must comply with the direction, unless the person has a reasonable excuse for not complying with it.

Penalty: \$1 500.

- (4) An offence against subregulation (3) is a regulatory offence.

Division 2 – Drivers' duties

13.4 Driving

(1) The driver of a vehicle transporting a placard load of dangerous goods by road must not allow anyone else to ride in the vehicle other than in accordance with Chapter 13 of the ADG Code.

Penalty: \$500.

(2) An offence against subregulation (1) is a regulatory offence.

13.5 Parking

(1) The driver of a vehicle transporting a placard load of dangerous goods by road must not park the vehicle, or leave the vehicle standing, in any place (whether public or private) unless the person complies with Chapter 13 of the ADG Code.

Penalty: \$1 000.

(2) An offence against subregulation (1) is a regulatory offence.

13.6 Control of ignition sources

(1) This regulation applies to a vehicle transporting dangerous goods by road, in bulk –

- (a) of Class 2.1, 3, 4 or 5; or
- (b) with a Subsidiary Risk of 2.1, 3, 4 or 5.

(2) The driver of the vehicle must not –

- (a) have matches or a cigarette lighter in his or her possession in the vehicle; or
- (b) smoke in the vehicle.

Penalty: \$3 000.

(3) The driver must also do everything practicable to ensure that anyone else in the vehicle does not –

- (a) have matches or a cigarette lighter in his or her possession; or
- (b) smoke.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

- (4) An offence against subregulation (2) or (3) is a regulatory offence.

Division 3 – Routes, areas, vehicles and times

13.7 Determinations – routes, areas, vehicles and times

The Competent Authority may determine –

- (a) that particular dangerous goods may only be transported by road on a particular route, or in or through a particular area;
- (b) that only a particular vehicle, or kind of vehicle, may transport particular dangerous goods by road;
- (c) that particular dangerous goods may only be transported by road at a particular time; and
- (d) that unodourised LP Gas may only be transported by road on a particular route, or in or through a particular area.

13.8 Prime contractor's duty

(1) A prime contractor must not use a vehicle to transport goods along a route, or in or through an area, contrary to a determination under regulation 13.7.

Penalty: \$1 500.

- (2) An offence against subregulation (1) is a regulatory offence.

13.9 Driver's duty

(1) A person must not drive a vehicle transporting goods by road along a route, or in or through an area, contrary to a determination under regulation 13.7.

Penalty: \$1 500.

- (2) An offence against subregulation (1) is a regulatory offence.

PART 14 – EMERGENCIES

Division 1 – Emergencies generally

14.1 Driver's duties

(1) This regulation applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.

Dangerous Goods (Road and Rail Transport) Regulations

- (2) The driver of the vehicle must –
- (a) notify the police or fire service of the incident as soon as practicable;
 - (b) notify the prime contractor of the incident as soon as practicable; and
 - (c) provide the reasonable assistance required by an authorised officer, or an officer of an emergency service, to deal with the situation.

Penalty: \$1 000.

- (3) An offence against subregulation (2) is a regulatory offence.

14.2 Prime contractor's duties – contaminated food and food packaging

(1) This regulation applies if an incident involving food or food packaging, and a vehicle transporting dangerous goods by road, results in the leakage, spillage or accidental escape of the dangerous goods, contamination of the food or food packaging, or a fire or explosion.

(2) The food or food packaging must not be transported from the site of the incident, unless the Competent Authority gives written permission to the prime contractor to transport the food or food packaging from the site.

Penalty: \$3 000.

(3) If the Competent Authority gives the permission, the prime contractor must deal with the food or food packaging in accordance with the permission.

Penalty: \$3 000.

- (4) A permission under subregulation (2) must –
- (a) be in writing;
 - (b) state the name of the person to whom it is given;
 - (c) identify the relevant incident; and
 - (d) identify the food or food packaging to which it relates.
- (5) An offence against subregulation (2) or (3) is a regulatory offence.

14.3 Prime contractors and drivers to inform Competent Authority

(1) This regulation applies if a vehicle transporting dangerous goods by road is involved in an incident resulting in a dangerous situation.

Dangerous Goods (Road and Rail Transport) Regulations

(2) The prime contractor and the driver of the vehicle must each comply with subregulations (3) to (5).

Penalty: \$1 500.

(3) As soon as practicable after the incident, the person must tell the Competent Authority about the incident, and provide details of –

- (a) where the incident happened;
- (b) the time and date of the incident;
- (c) the nature of the incident; and
- (d) the dangerous goods being transported when the incident happened.

(4) Not later than 21 days after the day when the incident happens, the person must give the Competent Authority a written report about the incident.

(5) The report must provide details of –

- (a) where the incident happened;
- (b) the time and date of the incident;
- (c) the nature of the incident;
- (d) what the person believes to be the likely cause of the incident;
- (e) the dangerous goods being transported when the incident happened;
- (f) the measures taken to control any leak, spill or accidental escape of dangerous goods, and any fire or explosion, arising out of the incident; and
- (g) the measures taken after the incident in relation to the dangerous goods involved in the incident.

(6) An offence against subregulation (2) is a regulatory offence.

Division 2 – Emergencies involving placard loads

14.4 Telephone advisory service – bulk transport

(1) A prime contractor must not transport dangerous goods in bulk by road unless a telephone advisory service is available during the journey.

Penalty: \$3 000.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A person must not consign dangerous goods in bulk for transport by road unless a telephone advisory service is available during the journey.

Penalty: \$3 000.

(3) A telephone advisory service may be provided by the prime contractor or consignor, or someone else for the prime contractor or consignor.

(4) An offence against subregulation (1) or (2) is a regulatory offence.

(5) In this regulation –

"journey" means the transport by road of dangerous goods from where the goods are consigned to where the goods are delivered to the consignee;

"telephone advisory service", for the transport of dangerous goods, means a service providing access by telephone to persons competent to give advice about –

- (a) the construction and properties of the containers in which the dangerous goods are being transported;
- (b) the use of equipment on vehicles on which the dangerous goods are being transported;
- (c) the properties of the dangerous goods;
- (d) methods of safely handling the dangerous goods; and
- (e) methods of safely containing and controlling the dangerous goods in a dangerous situation.

14.5 Emergency plans

(1) A prime contractor must not transport a placard load of dangerous goods by road unless the prime contractor has an emergency plan for the transport of the goods.

Penalty: \$3 000.

(2) A person must not consign a placard load of dangerous goods for transport by road unless the person has an emergency plan for the transport of the goods.

Penalty: \$3 000.

(3) An offence against subregulation (1) or (2) is a regulatory offence.

(4) In this regulation –

"emergency plan", for the transport of a placard load of dangerous goods by road, means a written plan, for dealing with any dangerous situation arising from the transport of the goods, that is prepared having regard to any guidelines approved by the Ministerial Council.

14.6 Consignor's duties – information and resources

(1) This regulation applies if a vehicle transporting a placard load of dangerous goods by road is involved in an incident resulting in a dangerous situation.

(2) As soon as practicable after being asked by an authorised officer or an officer of an emergency service, the consignor of the goods must –

- (a) give the officer the information that the officer requires about –
 - (i) the properties of the dangerous goods being transported;
 - (ii) safe methods of handling the goods; and
 - (iii) safe methods of containing and controlling the goods in a dangerous situation; and
- (b) provide the equipment and other resources necessary –
 - (i) to control the dangerous situation; and
 - (ii) to contain, control, recover and dispose of dangerous goods that have leaked, spilled or accidentally escaped.

Penalty: \$1 500.

(3) If the prime contractor and the consignor of the goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the prime contractor gives the information or provides the resources.

(4) An offence against subregulation (2) is a regulatory offence.

14.7 Prime contractor's duties – information and resources

(1) This regulation applies if a vehicle transporting a placard load of dangerous goods by road is involved in an incident resulting in a dangerous situation.

Dangerous Goods (Road and Rail Transport) Regulations

(2) As soon as practicable after being asked by an authorised officer or an officer of an emergency service, the prime contractor must –

- (a) give the officer the information that the officer requires about –
 - (i) the vehicle's construction and properties; and
 - (ii) the vehicle's equipment, except any bulk container for which the prime contractor is not responsible; and
- (b) provide the equipment and other resources necessary –
 - (i) to control the dangerous situation; and
 - (ii) to recover a vehicle involved in the situation or its equipment.

Penalty: \$1 500.

(3) If the prime contractor and the consignor of the goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor gives the information or provides the resources.

(4) An offence against subregulation (2) is a regulatory offence.

PART 15 – MUTUAL RECOGNITION

Division 1 – Registers of determinations, exemptions, approvals and licences

15.1 Registers

Each of the following registers is a register for these Regulations:

- (a) the register of determinations kept under regulation 1.21;
- (b) the register of exemptions kept under regulation 16.2;
- (c) the register of approvals kept under regulation 17.10;
- (d) the register of bulk driver licences kept under regulation 18.36(1);
- (e) the register of bulk vehicle licences kept under regulation 18.36(2).

15.2 Registers may be kept by computer

(1) A register, or part of a register, under these Regulations may be kept by computer.

(2) An entry made by computer for a register is taken to be a record made in the register.

15.3 Inspection of registers

(1) The Competent Authority must ensure that each register is available for inspection by corresponding Competent Authorities and the public.

(2) The Competent Authority is taken to comply with subregulation (1) by ensuring that there is reasonable access to –

- (a) copies of information in a register; or
- (b) a computer terminal to inspect a register.

Division 2 – Competent Authorities Panel

15.4 Membership and function of Panel

(1) The Competent Authorities Panel (the "Panel") consists of the following members:

- (a) the Competent Authority;
- (b) the Competent Authority or Authorities of each other participating jurisdiction;
- (c) any authority of another participating jurisdiction who performs functions and exercises powers under a law of the other jurisdiction about the transport of dangerous goods.

(2) The function of the Panel is to decide matters referred to the Panel by a person mentioned in subregulation (1) (a "Panel member").

15.5 Panel meetings

(1) The Panel may hold a meeting to decide a matter referred to the Panel.

(2) The Panel may invite a person to be present at a meeting of the Panel to advise or inform, or make a submission to, the Panel.

15.6 Decisions of Panel

(1) A Panel member has a single vote on a decision to be made by the Panel.

(2) A matter that is referred to a meeting of the Panel must be decided by a majority of votes.

(3) However, if there are 2 or more Panel members representing a participating jurisdiction, the members jointly have a single vote on a decision to be made by the Panel.

Dangerous Goods (Road and Rail Transport) Regulations

(4) A decision is a valid decision of the Panel, even though it is not made at a meeting of the Panel, if each member of the Panel agrees in writing to the proposed decision.

(5) However, if there are 2 or more Panel members representing a participating jurisdiction, it is sufficient if one or more of those members agree.

(6) The Competent Authority must keep a record of each decision made by the Panel.

[Note – Section 33B of the Acts Interpretation Act 1901 (Cwlth) allows the Panel to permit its members to participate in a meeting by telephone, closed circuit television or any other means of communication.]

Division 3 – Recommendations by Competent Authority and corresponding Competent Authorities

15.7 Recommendations by Competent Authority

(1) This regulation applies if the Competent Authority considers that a ground exists for a corresponding Competent Authority to do any of the following (the "proposed action"):

- (a) revoke or vary a corresponding determination that is not a corresponding administrative determination;
- (b) cancel or vary a corresponding administrative determination;
- (c) cancel or vary a corresponding approval or exemption;
- (d) cancel, suspend or vary a corresponding bulk driver or vehicle licence.

(2) The Competent Authority may recommend, in writing, that the corresponding Competent Authority take the proposed action.

(3) The Competent Authority must provide written reasons to the corresponding Competent Authority for the recommendation.

15.8 Recommendations by corresponding Competent Authorities

(1) This regulation applies if a corresponding Competent Authority recommends in writing to the Competent Authority that the Authority do any of the following:

- (a) revoke or vary a determination that is not an administrative determination;
- (b) cancel or vary an administrative determination;

Dangerous Goods (Road and Rail Transport) Regulations

- (c) cancel or vary an approval or exemption;
- (d) cancel, suspend or vary a bulk driver or vehicle licence.
- (2) The Competent Authority must –
 - (a) if the recommendation is about a determination (except an administrative determination), exemption or approval that has effect in one or more other participating jurisdictions – refer the recommendation to the Panel; and
 - (b) in any other case – have regard to the recommendation.

Division 4 – Mutual recognition of determinations, exemptions, approvals and licences

15.9 Corresponding determinations

- (1) This regulation applies to a determination made by a corresponding Competent Authority for another participating jurisdiction if –
 - (a) the determination is made under a provision of the law of the other jurisdiction corresponding to a provision (the "relevant provision") of either of the following regulations:
 - (i) regulation 1.18 (Determinations – dangerous goods)
 - (ii) regulation 4.27 (Determinations – foreign approved tanks and IBCs);
 - (iii) regulation 13.7 (Determinations – routes, areas, vehicles and times);
 - (b) the determination is in force in the other jurisdiction; and
 - (c) either of the following subparagraphs applies:
 - (i) the Panel has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, the determination is recorded in the register kept under regulation 1.21, and the Panel has not reversed the decision;
 - (ii) the determination was made on the application of a person and applies only to the person.
- (2) Except for circumstances that do not exist in this jurisdiction, the determination has effect in this jurisdiction as if it were a determination made by the Competent Authority under the relevant provision.

15.10 Corresponding exemptions

(1) This regulation applies to an exemption granted by a corresponding Competent Authority for another participating jurisdiction if –

- (a) the exemption is granted for a provision of the law of the other jurisdiction corresponding to a provision (the "relevant provision") of these Regulations;
- (b) the exemption is in force in the other jurisdiction; and
- (c) the Panel has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.

(2) Except for circumstances that do not exist in this jurisdiction, the exemption has effect in this jurisdiction as if it were an exemption granted by the Competent Authority for the relevant provision.

15.11 Corresponding approvals

(1) This regulation applies to an approval given by a corresponding Competent Authority for another participating jurisdiction if –

- (a) the approval is given under a provision of the law of the other jurisdiction corresponding to a provision (the "relevant provision") of any of the following regulations:
 - (i) regulation 3.8 (Approvals – packaging design types);
 - (ii) regulation 4.25 (Approvals – tank designs);
 - (iii) regulation 4.26 (Approvals – IBC designs);
 - (iv) regulation 6.5 (Approvals – unit loads);
 - (v) regulation 9.8 (Approvals – segregation);
 - (vi) regulation 10.9 (Approvals – transfer of dangerous goods);
 - (vii) regulation 11.9 (Approvals – emergency information);
 - (viii) regulation 20.2 (Approvals – tests and training courses for drivers);
- (b) the approval is in force in the other jurisdiction; and
- (c) the Panel has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction, and has not reversed the decision.

Dangerous Goods (Road and Rail Transport) Regulations

(2) Except for circumstances that do not exist in this jurisdiction, the approval has effect in this jurisdiction as if it were an approval given by the Competent Authority under the relevant provision.

15.12 Corresponding licences

(1) This regulation applies to a licence granted by a corresponding Competent Authority for another participating jurisdiction if –

- (a) the licence is a licence granted under a provision of the law of the other jurisdiction corresponding to either of the following regulations (the "relevant provision"):
 - (i) regulation 18.11 (which is about bulk driver licences);
 - (ii) regulation 18.21 (which is about bulk vehicle licences); and
- (b) the licence is in force in the other jurisdiction.

(2) Except for circumstances that do not exist in this jurisdiction, the licence has effect in this jurisdiction as if it were a licence granted by the Competent Authority under the relevant provision.

PART 16 – EXEMPTIONS

Division 1 – General

16.1 Applications for exemptions

- (1) An application for an exemption must –
 - (a) be made in writing to the Competent Authority;
 - (b) be signed and dated by or for the applicant;
 - (c) state the applicant's name and address;
 - (d) state the name of the person to whom, or the name, or a description, of the class of people to which, the application relates;
 - (e) specify the provisions of these Regulations, and of the ADG Code, to which the application relates;
 - (f) specify the dangerous goods to which the application relates;
 - (g) state why, in the applicant's opinion, compliance with the provisions is not reasonably practicable;

Dangerous Goods (Road and Rail Transport) Regulations

- (h) state why, in the applicant's opinion, the exemption is not likely to involve a greater risk than the risk involved in complying with the provisions;
- (i) if the application relates to a vehicle, equipment, packaging or other thing – describe the thing;
- (j) state the period for which the exemption is sought; and
- (k) state the geographical area within which the exemption is sought.

(2) The Competent Authority may, by written notice, require the applicant to give to the Authority any additional information necessary for a proper consideration of the application.

16.2 Register of exemptions

- (1) The Competent Authority must keep a register of exemptions.
- (2) The register may have separate divisions for different kinds of exemptions.
- (3) The Competent Authority must record in the register –
 - (a) each exemption granted under the Act; and
 - (b) each exemption granted by a corresponding Competent Authority that would be a corresponding exemption if it were recorded in the register.
- (4) The Competent Authority must note in the register –
 - (a) the cancellation or variation of an exemption made under the Act; and
 - (b) a decision of the Panel reversing a decision that a corresponding exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

16.3 Records of exemptions

The record of an exemption in the register must include –

- (a) the provisions of the exemption; or
- (b) the following information:
 - (i) if the exemption was notified in the Government Gazette of a participating jurisdiction (including this jurisdiction) – the title of the Gazette and the date of notification;

Dangerous Goods (Road and Rail Transport) Regulations

- (ii) the name of the person to whom, or the name, or a description, of the class of people to which, the exemption applies;
- (iii) the date when the exemption was granted;
- (iv) the provisions of these Regulations, and of the ADG Code, to which the exemption relates;
- (v) the period for which the exemption is in force;
- (vi) the dangerous goods, equipment, packaging, vehicle or other thing to which the exemption relates.

Division 2 – Reference of matters to Panel

16.4 References to Panel

(1) The Competent Authority must refer an application for an exemption to the Panel if the Authority considers that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

(2) The Competent Authority must refer to the Panel an exemption having effect in this jurisdiction, and one or more other participating jurisdictions, if –

- (a) the Authority considers that the exemption should be cancelled or varied; or
- (b) a corresponding Competent Authority recommends to the Authority in writing that the exemption should be cancelled or varied.

16.5 Effect of Panel decisions about applications

- (1) This regulation applies if –
 - (a) an application for an exemption is referred to the Panel under regulation 16.4(1); and
 - (b) the Panel decides –
 - (i) that the exemption should be granted, what the provisions of the exemption should be, and that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) that the exemption should not have effect in this jurisdiction.

- (2) The Competent Authority must have regard to the Panel's decision.

16.6 Effect of Panel decisions about cancelling or varying exemptions

- (1) This regulation applies if –
- (a) an exemption is referred to the Panel under regulation 16.4(2); and
 - (b) the Panel decides that the exemption –
 - (i) should, or should not, be cancelled;
 - (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and should have effect as varied in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (iii) should not be varied.
- (2) The Competent Authority must have regard to the Panel's decision.

PART 17 – ADMINISTRATIVE DETERMINATIONS AND APPROVALS

[Notes – For provisions about determinations generally, see Part 1.2, Division 6. For additional provisions about cancellation and variation of administrative determinations and approvals, see Part 19.]

Division 1 – General

17.1 Applications

(1) An application for an administrative determination or approval, or for variation of an administrative determination or approval, must be made to the Competent Authority in writing.

(2) However, an application for an approval, or variation of an approval, under regulation 10.9 may be made orally.

(3) An application for variation of an administrative determination or written approval must have the determination or approval with it.

(4) The Competent Authority may, by written notice, require an applicant to give to the Authority any additional information necessary for a proper consideration of the application.

[Note – Regulation 10.9 deals with applications for the transfer of dangerous goods otherwise than in accordance with Chapter 10 of the ADG Code.]

17.2 Form of administrative determinations and approvals

(1) An administrative determination, or an approval made on written application, must be in writing.

(2) However, an approval made on oral application under regulation 10.9 may be given orally.

17.3 When administrative determinations and approvals not to be made etc.

The Competent Authority must not make an administrative determination on the application of, or give an approval under these Regulations to, a person who is prohibited by a court order from involvement in the transport of dangerous goods by road.

[Note – For court orders, see section 45 of the Act.]

17.4 Reasons for refusal of applications

(1) This regulation applies if the Competent Authority refuses an application to –

- (a) make or vary an administrative determination; or
- (b) grant or vary an approval under these Regulations.

(2) The Competent Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

(3) However, if the Competent Authority refuses an oral application to vary an approval given under regulation 10.9, the Authority may inform the applicant orally.

17.5 Periods and conditions

(1) An administrative determination is made, and a written approval under these Regulations is given, for the period stated in the determination or approval.

(2) However, if an approval under regulation 10.9 is given orally, the Competent Authority may tell the applicant orally of the period for which the approval is given when the Authority gives the approval.

(3) A condition to which an administrative determination, or a written approval, is subject must be stated in the determination or approval.

(4) However, if an approval under regulation 10.9 is given orally, the Competent Authority may tell the applicant orally of any condition when the Authority gives the approval.

17.6 Replacement administrative determinations and approvals

The Competent Authority must issue to a person to whom an administrative determination applies, or an approval is given, a replacement determination or approval if –

- (a) the determination or approval is varied; or
- (b) the Authority is satisfied that the determination or approval has been defaced, destroyed, lost or stolen.

17.7 Failure to comply with conditions

(1) A person to whom an administrative determination applies, or an approval is given, must not contravene a condition of the determination or approval.

Penalty: \$1 500.

- (2) An offence against subregulation (1) is a regulatory offence.

17.8 Grounds for cancelling administrative determinations and approvals

(1) An administrative determination or approval may be cancelled if the application for the determination or approval –

- (a) did not comply with these Regulations; or
- (b) was false or misleading in a material respect.

(2) An administrative determination or approval may be cancelled if –

- (a) a relevant change has happened since the determination was made or the approval was given; and
- (b) if the change had happened earlier –
 - (i) the determination would not have been made; or
 - (ii) the approval would not have been given.

(3) An administrative determination or approval may also be cancelled if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, because the person has contravened –

Dangerous Goods (Road and Rail Transport) Regulations

- (a) a provision of the Act or these Regulations; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In subregulation (2) –

"relevant change" means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

17.9 Grounds for varying administrative determinations and approvals

(1) An administrative determination or approval may be varied if the application for the determination or approval –

- (a) did not comply with these Regulations; or
- (b) was false or misleading in a material respect.

(2) An administrative determination or approval may be varied if –

- (a) a relevant change has happened since the determination was made or the approval was given; and
- (b) if the change had happened earlier –
 - (i) the determination would have been made in the way in which it is proposed to be varied; or
 - (ii) the approval would have been given in the way in which it is proposed to be varied.

(3) An administrative determination or approval may also be varied if the person on whose application the determination was made, or to whom the approval was given, is unsuitable to continue to be a person to whom the determination applies, or the approval was given, without variation because the person has contravened –

- (a) a provision of the Act or these Regulations; or
 - (b) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in paragraph (a).
- (4) In subregulation (2) –

"relevant change" means a change about something that the Competent Authority may or must consider in deciding whether to make the determination or give the approval.

Division 2 – Register of approvals

17.10 Register

- (1) The Competent Authority must keep a register of approvals.
- (2) The register may have separate divisions for different kinds of approvals.
- (3) The Competent Authority must record in the register –
 - (a) each approval given in writing under these Regulations; and
 - (b) each approval given in writing by a corresponding Competent Authority that would be a corresponding approval if it were recorded in the register.
- (4) The Competent Authority must note in the register –
 - (a) the cancellation or variation of a written approval; and
 - (b) a decision of the Panel reversing a decision that a corresponding approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

17.11 Records of approvals

The record of an approval in the register must include –

- (a) the provisions of the approval; or
- (b) the following information:
 - (i) the name of the person to whom the approval was given;
 - (ii) the date when the approval was given;
 - (iii) the provisions of these Regulations, and of the ADG Code, to which the approval relates;
 - (iv) the period for which the approval is in force;
 - (v) the dangerous goods, equipment, packaging, vehicle or other thing to which the approval relates.

Division 3 – Reference of approval matters to Panel

17.12 References to Panel

(1) The Competent Authority must refer an application for an approval to the Panel if the Authority considers that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction.

(2) The Competent Authority must refer to the Panel an approval having effect in this jurisdiction, and one or more other participating jurisdictions, if –

- (a) the Authority considers that the approval should be cancelled or varied; or
- (b) a corresponding Competent Authority recommends to the Authority in writing that the approval should be cancelled or varied.

17.13 Effect of Panel decisions about applications

(1) This regulation applies if –

- (a) an application for an approval is referred to the Panel under regulation 17.12(1); and
- (b) the Panel decides –
 - (i) that the approval should be given, what the provisions of the approval should be, and that the approval should have effect in all participating jurisdictions or participating jurisdictions including this jurisdiction; or
 - (ii) that the approval should not have effect in this jurisdiction.

(2) The Competent Authority must have regard to the Panel's decision.

17.14 Effect of Panel decisions about cancelling or varying approvals

(1) This applies if –

- (a) an approval is referred to the Panel under regulation 17.12(2); and
- (b) the Panel decides that the approval –
 - (i) should, or should not, be cancelled;
 - (ii) should be varied (whether or not the Panel's decision is the same as the variation proposed by the Authority), and

Dangerous Goods (Road and Rail Transport) Regulations

should have effect as varied in all participating jurisdictions or in participating jurisdictions including this jurisdiction; or

(iii) should not be varied.

(2) The Competent Authority must have regard to the Panel's decision.

PART 18 – LICENCES

Division 1 – Preliminary

18.1 Application of Part

This Part does not apply to the transport by road of dangerous goods in bulk on a vehicle if –

- (a) the goods are transported in an IBC;
- (b) the IBC is not filled or emptied on the vehicle; and
- (c) the total capacity of IBCs on the vehicle is not more than 3 000 litres.

18.2 Part additional to other laws

This Part is in addition to any other law in force in this jurisdiction about –

- (a) the licensing of drivers;
- (b) the employment or engaging of drivers;
- (c) the registration of vehicles; or
- (d) the transport of goods by road.

Division 2 – Principal duties under Part

18.3 Prime contractor's duties

(1) If a prime contractor uses a vehicle to transport dangerous goods by road in bulk (other than as the driver of the vehicle), the vehicle must be licensed under this Part to transport the goods.

(2) If a prime contractor employs, engages or permits another person to drive a vehicle transporting dangerous goods by road in bulk, the other person must be licensed under this Part to drive the vehicle.

[Note – The offence provisions to which this regulation relates are sections 35(1) and (2) of the Act.]

18.4 Driver's duties

(1) If a person drives a vehicle transporting dangerous goods by road in bulk, the vehicle must be licensed under this Part to transport the goods.

(2) If a person drives a vehicle transporting dangerous goods by road in bulk, the person must be licensed under this Part to drive the vehicle.

[Note – The offence provisions to which this regulation relates are sections 35(3) and (5) of the Act.]

18.5 Consignor's duty

A person must not consign dangerous goods in bulk for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle is not licensed under this Part to transport the goods.

Penalty: \$3 000.

Division 3 – Bulk driver licences

18.6 Meaning of "licence" and "licensee" in Division

In this Division –

"licence" means a bulk driver licence;

"licensee" means the holder of a licence.

18.7 Required driving licence evidence

(1) The following documents are required as driving licence evidence for an application for grant or renewal of a licence:

- (a) a copy of the applicant's driving licence;
- (b) either –
 - (i) the documents mentioned in subregulation (2); or
 - (ii) the authorisation mentioned in subregulation (3).
- (2) For subregulation (1)(b)(i), the following documents are required:
 - (a) a current certified extract of entries about the applicant in the driving licences register kept by the licensing authority of each jurisdiction where the applicant is licensed to drive;

Dangerous Goods (Road and Rail Transport) Regulations

- (b) a copy of the records of any conviction of the applicant for a driving offence certified by the appropriate authority of the jurisdiction where the applicant was convicted.
- (3) For subregulation (1)(b)(ii), authorisation by the applicant is required for the Competent Authority to have access to –
 - (a) entries in the driving licences register about the applicant; and
 - (b) records of any conviction of the applicant for a driving offence.
- (4) For subregulation (2)(a), a current certified extract is an extract certified by the licensing authority not more than 6 months before the day when the application is made.

18.8 Required competency evidence

- (1) A document mentioned in subregulation (2) is required as competency evidence for an application for grant or renewal of a licence.
- (2) The document must be either –
 - (a) a test or training certificate issued to the applicant; or
 - (b) other written evidence that the applicant passed an approved test or completed an approved training course,

not more than 6 months before the day when the application is made.

18.9 Required medical fitness evidence

- (1) The certificate mentioned in subregulation (2) is required as medical fitness evidence for an application for grant or renewal of a licence.
- (2) The certificate must be –
 - (a) about the fitness of the applicant to drive a vehicle; and
 - (b) issued by a registered medical practitioner who, not more than 6 months before the day when the application is made, examined and passed the applicant in accordance with the required standard.
- (3) For subregulation (2), the required standard is the Medical Examinations of Commercial Vehicle Drivers published by the Federal Office of Road Safety and the National Road Transport Commission.

18.10 Applications for licences

(1) A person who is not already the holder of a licence or a corresponding bulk driver licence may apply to the Competent Authority for a licence.

- (2) The application must be accompanied by –
 - (a) the driving licence evidence required by regulation 18.7;
 - (b) the competency evidence required by regulation 18.8;
 - (c) the medical fitness evidence required by regulation 18.9;
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) if a fee is prescribed for the application – the prescribed fee.

18.11 Grant of licences

- (1) The Competent Authority must grant a licence if –
 - (a) an application is made to the Authority for the licence;
 - (b) the application is accompanied by the documents required by regulation 18.10 and otherwise complies with the regulation; and
 - (c) the applicant is at least 21 years old.
- (2) However, the Competent Authority must not grant the licence if –
 - (a) in the 5 years before the day when the application is made –
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (ii) the applicant's driving licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

[Note – For court orders, see section 45 of the Act.]

(3) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

18.12 Applications for renewal of licences

(1) A person who holds a licence may apply to the Competent Authority for renewal of the licence.

- (2) The application must be accompanied by –
 - (a) the driving licence evidence required by regulation 18.7;
 - (b) the competency evidence required by regulation 18.8;
 - (c) the medical fitness evidence required by regulation 18.9;
 - (d) 2 recent passport-size photographs of the applicant; and
 - (e) if a fee is prescribed for the application – the prescribed fee.

18.13 Renewal of licences

- (1) The Competent Authority must renew a licence if –
 - (a) an application is made to the Authority for renewal of the licence; and
 - (b) the application is accompanied by the documents required by regulation 18.12 and otherwise complies with the regulation.
- (2) However, the Competent Authority must not renew the licence if –
 - (a) while the licence was in force –
 - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (ii) the applicant's driving licence was cancelled on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods in bulk; or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

(3) If the Competent Authority refuses to renew a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

18.14 Licence periods

(1) A licence is granted for the period of not longer than 3 years stated in the licence.

Dangerous Goods (Road and Rail Transport) Regulations

(2) A licence takes effect on the day when the licence is granted.

(3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

18.15 Licence conditions

(1) The Competent Authority may grant or renew a licence subject to conditions mentioned in subregulations (3) and (4).

(2) A condition to which the licence is subject must be stated in the licence.

(3) The licence may be subject to conditions about –

(a) the dangerous goods that may or may not be transported in or on a vehicle driven by the licensee;

(b) the containers that may or may not be used to transport dangerous goods in or on a vehicle driven by the licensee;

(c) the vehicles that may be driven by the licensee in transporting dangerous goods;

(d) the areas where the licensee may or may not drive a vehicle transporting dangerous goods or particular dangerous goods;

(e) the supervision of the licensee when driving a vehicle transporting dangerous goods; and

(f) the medical examinations required to be undergone by the licensee in accordance with the standard mentioned in regulation 18.9(3).

(4) The licence may also be subject to any other condition necessary for the safe transport by road of dangerous goods in bulk.

18.16 Additional condition

It is a condition of a licence that the Competent Authority may, by written notice given to a licensee at least 2 months before an anniversary of the day when the licence was granted, require the licensee to produce to the Authority the medical fitness evidence that would be required by regulation 18.9 if the licensee were to apply for renewal of the licence on the anniversary.

18.17 Grounds for cancelling, suspending or varying licences

(1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal –

(a) did not comply with these Regulations; or

Dangerous Goods (Road and Rail Transport) Regulations

(b) was false or misleading in a material respect.

(2) A licence may also be cancelled or varied if the licensee is unsuitable to continue to be the driver of a vehicle transporting dangerous goods in bulk because –

(a) the licensee has contravened –

(i) a provision of the Act or these Regulations; or

(ii) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in subparagraph (i);

(b) the licensee has been found guilty by a court in Australia of an offence;

(c) the licensee's driving licence is cancelled; or

(d) the licensee is suffering from a medical condition, or has a physical or mental disability.

Division 4 – Bulk vehicle licences

18.18 Meaning of "licence" and "licensee" in Division

In this Division –

"licence" means a bulk vehicle licence;

"licensee" means the holder of a licence;

"vehicle" does not include a prime mover or converter dolly.

18.19 Applications for licences

(1) A person may apply to the Competent Authority for a licence for a vehicle –

(a) used, or intended to be used, in transporting dangerous goods by road in bulk; and

(b) for which the person does not hold a licence.

(2) The application must include the following information:

(a) the registration number, make and type of the vehicle;

(b) the type of dangerous goods intended to be transported in or on the vehicle;

Dangerous Goods (Road and Rail Transport) Regulations

- (c) if the applicant holds a licence for another vehicle – the number of the licence.
- (3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.
- (4) An application may be made for 2 or more vehicles in the same form.

18.20 Additional information and inspections

- (1) The Competent Authority may, by written notice, require an applicant for a licence, or for renewal of a licence, for a vehicle –
 - (a) to give to the Authority, or to someone nominated by the Authority, any additional information necessary for a proper consideration of the application; and
 - (b) to make the vehicle available for inspection by the Authority, or by someone nominated by the Authority, at a stated place and time.
- (2) A person who inspects a vehicle for the Competent Authority must give a report of the inspection to the Authority as soon as practicable after the inspection.
- (3) The Competent Authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

18.21 Grant of licences

- (1) Subject to subregulation (4), the Competent Authority must grant a licence for a vehicle if –
 - (a) an application is made to the Authority for the licence;
 - (b) the application complies with regulation 18.19;
 - (c) the applicant has complied with any requirement made under regulation 18.20 in relation to the application; and
 - (d) the vehicle is suitable to transport by road in bulk each type of dangerous goods intended to be transported in or on the vehicle.
- (2) Without limiting subregulation (1)(d), a vehicle to which this subregulation applies is suitable only if –
 - (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the vehicle complies with the requirements of Chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.
- (3) Subregulation (2) applies to a vehicle –
 - (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
 - (b) of which a tank forms part, or to which a tank is attached or intended to be attached.
- (4) However, the Competent Authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

[Note – For court orders, see section 45 of the Act.]

(5) The Competent Authority may issue a single licence to an applicant for a licence for more than one vehicle.

(6) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

18.22 Applications for renewal of licences

(1) A person who holds a licence for a vehicle may apply to the Competent Authority for renewal of the licence.

(2) The application must include the information required under regulation 18.19(2) for an application for the grant of a licence for the vehicle.

(3) If a fee is prescribed for the application, the application must be accompanied by the prescribed fee.

18.23 Renewal of licences

(1) Subject to subregulation (4), the Competent Authority must renew a licence for a vehicle if –

- (a) an application is made to the Authority for renewal of the licence;
- (b) the application complies with regulation 18.22;
- (c) the applicant has complied with any requirement made under regulation 18.20 in relation to the application; and
- (d) the vehicle is suitable to transport by road each type of dangerous goods in bulk intended to be transported in or on the vehicle.

Dangerous Goods (Road and Rail Transport) Regulations

(2) Without limiting subregulation (1)(d), a vehicle to which this subregulation applies is suitable only if –

- (a) the tank forming part of, or attached or intended to be attached to, the vehicle is an approved tank; and
- (b) the vehicle complies with the requirements of Chapter 4 of the ADG Code applying to a vehicle for use in transporting by road dangerous goods in the form of liquid or gas.

(3) Subregulation (2) applies to a vehicle –

- (a) intended for use in the transport by road of dangerous goods in bulk in the form of liquid or gas; and
- (b) of which a tank forms a part, or to which a tank is attached or intended to be attached.

(4) However, the Competent Authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.

(5) The Competent Authority may issue a single licence to an applicant for a licence for more than one vehicle.

(6) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

18.24 Licence periods

(1) A licence is granted for the period of not longer than 3 years stated in the licence.

(2) A licence takes effect on the day when the licence is granted.

(3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.

18.25 Licence conditions

(1) The Competent Authority may grant or renew a licence subject to conditions mentioned in subregulations (3) and (4).

(2) A condition to which the licence is subject must be stated in the licence.

Dangerous Goods (Road and Rail Transport) Regulations

- (3) The licence may be subject to conditions about –
 - (a) the dangerous goods that may or may not be transported in or on the vehicle;
 - (b) the areas where the vehicle may or may not be used to transport dangerous goods or particular dangerous goods; and
 - (c) the inspections of the vehicle (if any) that are required.
- (4) The licence may also be subject to any other condition necessary for the safe transport by road of dangerous goods in bulk.

18.26 Disposal of licensed vehicles

(1) As soon as practicable after selling or otherwise disposing of a licensed vehicle (the "disposed vehicle"), the licensee must give notice of the disposal to the Competent Authority with the licence attached.

Penalty: \$500.

- (2) The Competent Authority must –
 - (a) if the licence for the disposed vehicle also relates to another vehicle –
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the licensee; and
 - (b) if paragraph (a) does not apply – revoke the licence.
- (3) An offence against subregulation (1) is a regulatory offence.

18.27 Grounds for cancelling, suspending or varying licences

(1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal –

- (a) did not comply with these Regulations; or
- (b) was false or misleading in a material respect.

(2) A licence for a vehicle may also be cancelled, suspended or varied if the vehicle does not comply with the Act or these Regulations.

18.28 Licence labels

(1) The Competent Authority must issue to the holder of a licence a licence label for each vehicle to which the licence relates.

(2) A person must not drive a vehicle transporting dangerous goods in bulk by road unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.

Penalty: \$500.

(3) A prime contractor must not transport dangerous goods in bulk by road in a vehicle unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.

Penalty: \$500.

(4) A licence label must be capable of being securely attached to the vehicle.

(5) An offence against subregulation (2) or (3) is a regulatory offence.

Division 5 – Carriage and production of bulk driver licences

18.29 Meaning of "licence" and "licensee" in Division

In this Division –

"licence" means a bulk driver licence;

"licensee" means the holder of a licence.

18.30 Licences to be carried

(1) A licensee must carry his or her licence at all times when driving a vehicle transporting dangerous goods in bulk by road.

Penalty: \$500.

(2) An offence against subregulation (1) is a regulatory offence.

18.31 Licences to be produced for inspection

(1) The driver of a vehicle transporting dangerous goods in bulk by road must produce his or her licence for inspection by an authorised officer, if the officer asks the driver to produce the licence for inspection.

Penalty: \$500.

(2) An offence against subregulation (1) is a regulatory offence.

Division 6 – Licences generally

18.32 Meaning of "licence" and "licensee" in Division

In this Division –

"licence" means a bulk driver or bulk vehicle licence;

"licensee" means the holder of a licence.

18.33 Replacement licences and licence labels

(1) The Competent Authority may issue a replacement licence to a licensee if –

- (a) the licence is renewed;
- (b) the licence is varied; or
- (c) a period of suspension of the licence ends.

(2) The Competent Authority must issue a replacement licence or licence label to a licensee if the Authority is satisfied that the licence or label has been defaced, destroyed, lost or stolen.

18.34 Failure to comply with licence conditions

(1) A licensee must not contravene a condition of his or her licence.

Penalty: \$3 000.

(2) An offence against subregulation (1) is a regulatory offence.

18.35 Surrender of licences

(1) A licensee may surrender his or her licence by giving notice of surrender to the Competent Authority and returning the licence to the Authority.

(2) A licence ceases to be in force on its surrender.

18.36 Registers of licences

(1) The Competent Authority must keep a register of bulk driver licences.

(2) The Competent Authority must keep a register of bulk vehicle licences.

(3) A register may have separate divisions for different kinds of licences.

Dangerous Goods (Road and Rail Transport) Regulations

(4) The Competent Authority must record each licence granted under these Regulations in the appropriate register.

(5) The Competent Authority must note in the register the cancellation, surrender, suspension or variation of a licence.

18.37 Records of licences

The record of a licence in the register must include the following information:

- (a) the name of the licensee;
- (b) the date when the licence was granted or renewed;
- (c) the period for which the licence was granted or renewed;
- (d) for a bulk driver licence – the licensee's date of birth;
- (e) for a bulk vehicle licence – the registration number, make and type of each vehicle to which the licence relates;
- (f) any condition to which the licence is subject.

18.38 Change of information given in licence applications

(1) This regulation applies if a licensee becomes aware that information given by the licensee to the Competent Authority in, or in relation to, an application for the grant or renewal of a licence is or has become incorrect in a material respect.

(2) Within 14 days after becoming aware of the matter, the licensee must inform the Competent Authority about the matter and give the correct information to the Authority.

Penalty: \$500.

(3) An offence against subregulation (2) is a regulatory offence.

18.39 Production of licences to Competent Authority

(1) The Competent Authority may, by written notice, require a person to whom a licence has been granted to produce the licence to the Authority.

(2) The person must produce the licence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$500.

(3) An offence against subregulation (2) is a regulatory offence.

18.40 Seizure of licences etc.

(1) An authorised officer to whom a licence is produced for inspection may seize the licence if the officer reasonably believes –

- (a) the licence has been cancelled or suspended;
- (b) the licence period has ended;
- (c) the licence has been varied and the variation is not recorded on the licence; or
- (d) the person who produces the licence is not the licensee.

(2) An authorised officer to whom a document that appears to be a licence is produced for inspection may seize the document if the officer reasonably believes that the document is not a licence.

(3) An authorised officer must give a seized licence or document to the Competent Authority.

18.41 Return of licences

(1) This regulation applies if a licence is produced to the Competent Authority or given to the Authority by an authorised officer.

(2) If the licence has not been cancelled and is not suspended, the Competent Authority must return the licence after inspecting it.

(3) If the licence has been suspended, the suspension has ended and a replacement licence is not issued, the Competent Authority must return the licence to the licensee.

(4) If the licence has been varied, the variation is recorded on the licence and a replacement licence is not issued, the Competent Authority must return the licence to the licensee.

(5) However, if the licence period has ended, the Competent Authority is not required to return the licence to the licensee.

PART 19 – CANCELLATION, SUSPENSION AND VARIATION

19.1 Meaning of "licence" and "licensee" in Part

In this Part –

"licence" means a bulk driver or bulk vehicle licence;

"licensee" means the holder of a licence.

19.2 Cancellation, suspension and variation in dangerous situations

(1) This regulation applies if the Competent Authority reasonably believes that –

- (a) a ground exists to –
 - (i) cancel or vary an administrative determination or approval;
or
 - (ii) cancel, suspend or vary a licence; and
- (b) it is necessary to take action mentioned in paragraph (a) to avoid, eliminate or minimise a dangerous situation.

(2) The Competent Authority must –

- (a) cancel or vary the determination or approval; or
- (b) cancel, suspend or vary the licence.

19.3 Cancellation and suspension giving effect to court orders

The Competent Authority must cancel an administrative determination, or cancel or suspend a licence, if the person to whom the determination applies, or the licensee, is prohibited by a court order from involvement in the transport of dangerous goods by road.

19.4 Variation of administrative determinations and approvals on application

(1) This regulation applies if –

- (a) an application is made to vary an administrative determination, approval or licence;
- (b) for an administrative determination or approval – the application is made in accordance with regulation 17.1 by the person to whom the determination applies or the approval is given; and
- (c) for a licence – the application is made by the licensee and has the licence with it.

(2) The Competent Authority may vary the determination, approval or licence in accordance with the application.

19.5 Cancellation, suspension and variation in other circumstances

- (1) This regulation applies if –
 - (a) the Competent Authority considers that a ground exists to do any of the following (the "proposed action"):
 - (i) cancel an administrative determination or approval;
 - (ii) cancel or suspend a licence;
 - (iii) vary an administrative determination, approval or licence;
and
 - (b) regulations 19.2, 19.3 and 19.4 do not apply to the proposed action.
- (2) The Competent Authority must give to the person to whom the determination applies or the approval was given, or the licensee, a written notice that –
 - (a) states the proposed action;
 - (b) if the proposed action is to vary the determination, approval or licence – states the proposed variation;
 - (c) if the proposed action is to suspend the licence – states a proposed suspension period of not longer than 12 months;
 - (d) states the ground for the proposed action;
 - (e) outlines the facts and other circumstances forming the basis for the ground; and
 - (f) invites the person to state in writing, within a stated time of at least 28 days after the day when the notice is given to the person, why the proposed action should not be taken.
- (3) If, after considering any written statement made within the stated time, the Competent Authority reasonably believes that a ground exists to take the proposed action, the Authority may –
 - (a) if the proposed action is to cancel the determination or approval – cancel or vary the determination or approval;
 - (b) if the proposed action is to cancel the licence – cancel or vary the licence or suspend it for not longer than 12 months;
 - (c) if the proposed action is to suspend the licence for a stated period – suspend the licence for not longer than the stated period; or

Dangerous Goods (Road and Rail Transport) Regulations

- (d) if the proposed action is to vary the determination, approval or licence in a stated way – vary the determination, approval or licence in that way.

(4) However, the Competent Authority may cancel or vary an oral approval given under regulation 10.9 by informing the person to whom the approval was given orally of the cancellation or variation and of the reasons for the cancellation or variation.

19.6 When cancellation, suspension and variation take effect

(1) The cancellation, suspension or variation of an administrative determination, approval (except an oral approval given under regulation 10.9) or licence by the Competent Authority takes effect on –

- (a) the day when the person to whom the determination applies or the approval was given, or the licensee, is given written notice by the authority of the cancellation, suspension or variation and of the reasons for the cancellation, suspension or variation; or

- (b) a later day stated in the notice.

(2) The cancellation or variation of an oral approval given under regulation 10.9 by the Competent Authority takes effect on –

- (a) the day when the person to whom the approval was given is informed orally, or given written notice, by the Authority of the cancellation or variation and of the reasons for the cancellation or variation; or

- (b) a later day of effect of which the person is informed orally or in the notice.

19.7 When licences taken to be suspended

(1) A person's bulk driver licence is taken to be suspended if the person's driving licence is not in force.

(2) A person's bulk vehicle licence for a vehicle is taken to be suspended in relation to the vehicle if the vehicle is not registered.

PART 20 – INSTRUCTION AND TRAINING

20.1 Instruction and training

(1) This regulation applies to any task involved in the transport of dangerous goods by road, including, for example –

- (a) packing dangerous goods or marking packaged dangerous goods and unit loads;
- (b) consigning dangerous goods;
- (c) loading dangerous goods into or onto a vehicle, or into a container to be put in or on a vehicle;
- (d) unloading dangerous goods;
- (e) placarding containers and vehicles in or on which dangerous goods are transported;
- (f) preparing shipping documentation;
- (g) maintaining vehicles and equipment used in the transport of dangerous goods;
- (h) driving a vehicle transporting dangerous goods;
- (i) being the consignee of dangerous goods; and
- (j) following the appropriate procedures in accordance with these Regulations in a dangerous situation.

(2) A person who is responsible for management or control of the task must not employ, engage or permit someone else to perform the task unless the other person –

- (a) has received, or is receiving, appropriate instruction and training to ensure that he or she is able to perform the task safely and in accordance with these Regulations; and
- (b) is appropriately supervised in performing the task to ensure that he or she is able to perform the task safely and in accordance with these Regulations.

Penalty: \$3 000.

20.2 Approvals – tests and training courses for drivers

(1) The Competent Authority may, on application made in accordance with regulation 17.1, approve –

- (a) a test of competence for drivers of vehicles transporting dangerous goods in bulk by road; or
- (b) a training course for drivers of vehicles transporting dangerous goods in bulk by road.

(2) The Competent Authority may approve a test of competence only if the Authority considers that a person who passes the test, or completes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in accordance with these Regulations.

PART 21 – INFRINGEMENT NOTICES

[Note – For other provisions about infringement notices, see section 38 of the Act.]

21.1 Offences, penalties and time for payment

(1) If an authorised officer reasonably believes that a person has committed an offence created by a provision mentioned in column 1 of Schedule 1, the officer may serve an infringement notice on the person for the offence.

(2) The penalty payable under the infringement notice by the person for the offence is specified –

- (a) for a penalty payable by an individual – in column 2 of Schedule 1 for the offence; and
- (b) for a penalty payable by a body corporate – in column 3 of Schedule 1 for the offence.

(3) The time within which the penalty must be paid is –

- (a) 28 days after the day when the notice is served on the person;
- (b) if a reminder notice is given to the person – 28 days after the reminder notice is served on the person; or
- (c) a longer time that may be allowed in writing by the authorised officer.

21.2 Contents of infringement notices

An infringement notice served by an authorised officer on a person for an offence must –

- (a) be identified by a unique number;
- (b) specify the date of service of the notice;
- (c) specify the full name, or surname and initials, and address of the person;
- (d) give brief details of the offence, including –
 - (i) the date and approximate time of the offence;
 - (ii) where the offence happened; and
 - (iii) the provision of these Regulations contravened;
- (e) specify the penalty for the offence payable under the notice;
- (f) specify the place where, and any method by which, the penalty may be paid;
- (g) specify the Competent Authority's name and address;
- (h) contain the additional information required by regulation 21.3; and
- (i) be signed by the authorised officer.

21.3 Additional information in infringement notices

The infringement notice must inform the person that –

- (a) the person may pay the penalty specified in the notice –
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice;
- (b) if the person pays the penalty within 28 days after the day when the notice is served on the person or any longer time allowed in writing by the authorised officer, the person will not be prosecuted in court for the offence, unless the notice is withdrawn;
- (c) if the person does not pay the penalty within that time, the person may be prosecuted in court for the offence;

Dangerous Goods (Road and Rail Transport) Regulations

- (d) if the person wishes a court to decide whether he or she is guilty of the offence, the person must notify the Competent Authority accordingly in writing within 28 days after the day when the notice is served on the person;
- (e) if the person notifies the Competent Authority in writing of that wish within the 28 days –
 - (i) the infringement notice may be withdrawn; and
 - (ii) he or she may be prosecuted in court for the offence; and
- (f) if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes.

21.4 Reminder notices

(1) If an infringement notice is served by an authorised officer on a person for an offence and the penalty specified in the notice is not paid within 28 days after the day when the notice is served on the person, the officer may give a reminder notice to the person.

- (2) The reminder notice must –
 - (a) include the information mentioned in regulation 21.2(a) to (h);
 - (b) contain the additional information required by regulation 21.5; and
 - (c) be signed by the authorised officer.

21.5 Additional information in reminder notices

- (1) The reminder notice must inform the person that –
 - (a) the time for payment of the penalty specified in the infringement notice has been extended;
 - (b) the person may pay the penalty specified in the infringement notice –
 - (i) by posting or delivering the payment to the place of payment specified in the notice; or
 - (ii) in any other way specified in the notice;
 - (c) if the person pays the penalty within 28 days after the day when the reminder notice is served on the person or any longer time allowed in writing by the authorised officer, the person will not be

Dangerous Goods (Road and Rail Transport) Regulations

prosecuted in court for the offence, unless the infringement notice is withdrawn;

- (d) if the person does not pay the penalty within that time, the person may be prosecuted in court for the offence;
- (e) if the person wishes a court to decide whether he or she is guilty of the offence, the person must notify the Competent Authority in writing within 28 days after the day when the reminder notice is given to the person;
- (f) if the person notifies the Competent Authority in writing of that wish within the 28 days –
 - (i) the infringement notice may be withdrawn; and
 - (ii) he or she may be prosecuted in court for the offence; and
- (g) if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes.

21.6 Withdrawal of infringement notices

(1) A notice withdrawing an infringement notice served on a person for an offence must –

- (a) include the following information:
 - (i) the full name, or surname and initials, and address of the person;
 - (ii) the number of the notice;
 - (iii) the date of service of the notice;
- (b) state that the notice is withdrawn; and
- (c) if an authorised officer intends to bring a prosecution against the person in a court for the offence – state that a prosecution may be brought against the person in a court for the offence.

(2) If the person has already paid the penalty specified in the notice, the Competent Authority must refund it.

[Note – Section 38(3) of the Act permits an infringement notice to be withdrawn.]

21.7 Effect of Part

- (1) This Part does not –
 - (a) require an infringement notice to be served on a person for an offence;
 - (b) affect the liability of a person to be prosecuted for an offence if an infringement notice is not served on the person for the offence;
 - (c) prevent the service of 2 or more infringement notices on a person for an offence;
 - (d) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice for the offence; or
 - (e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.
- (2) However, if the person on whom an infringement notice is served for an offence pays the penalty specified in the notice –
 - (a) any liability of the person for the offence is discharged;
 - (b) the person may not be prosecuted in a court for the offence; and
 - (c) the person is not taken to have been convicted of the offence.

PART 22 – RECONSIDERATION AND REVIEW OF DECISIONS

22.1 Application of Part

This Part applies to the following decisions made by the Competent Authority:

- (a) a decision under regulation 1.18 about an administrative determination;
- (b) a decision under regulation 3.8, 4.25 or 4.26;
- (c) a decision under regulation 4.27 about an administrative determination;
- (d) a decision under regulation 6.5, 9.8, 10.9 or 11.9;
- (e) a decision under regulation 13.7 about an administrative determination;

- (f) a decision under regulation 18.11, 18.13, 18.21, 18.23, 18.33, 19.2, 19.4, 19.5 or 20.2.

22.2 Who may apply for reconsideration of decisions

(1) A person whose interests are affected by a decision may apply in writing to the Competent Authority for reconsideration of the decision.

(2) However, a person whose interests are affected by a decision under regulation 10.9 that is given orally may apply to the Competent Authority orally for reconsideration of the decision.

22.3 Applications for reconsideration

(1) An application must be made within –

- (a) 28 days after the day when the person was informed of the decision by the Competent Authority; or
- (b) a longer period allowed by the Authority, either before or after the end of the 28 days.

(2) The application must set out the grounds on which reconsideration of the decision is sought.

(3) However, if an application is made orally for reconsideration of a decision under regulation 10.9, the applicant must tell the Competent Authority of the grounds on which reconsideration of the decision is sought when the application is made.

22.4 Competent Authority to reconsider decisions

(1) Within 28 days after receiving the application, the Competent Authority must reconsider the decision, and confirm, revoke or vary the decision.

(2) The Competent Authority must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.

(3) However, the Competent Authority may tell an applicant mentioned in regulation 22.3(3) of the result of the reconsideration and of the reasons for the result.

22.5 Review of certain decisions

Application may be made for review of a decision if –

- (a) the decision has been reconsidered under regulation 22.4; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) the person who applied for reconsideration of the decision was not an applicant mentioned in regulation 22.3(3).

[Note – For the review of decisions, see also section 5 of the Act.]

PART 23 – FEES

23.1 Prescribed fees

The fees payable under these Regulations are prescribed in the following table:

Column 1 – Provision for which fee prescribed	Column 2 – Fee
Regulation 4.24(c)	–
Regulation 18.10(2)(e)	–
Regulation 18.12(2)(e)	–
Regulation 18.19(3)	\$75
Regulation 18.22(3)	–

[Note – A fee prescribed in this table may differ from the fee prescribed under a corresponding provision if the cost of providing the service to which that fee relates is different in the other participating jurisdiction.]

PART 24 – TRANSITIONAL PROVISIONS

24.1 Lawful conduct under previous law

A person does not commit an offence against these Regulations if, within the period of 6 months after the commencement of this regulation, the person transports dangerous goods by road in accordance with the law about the transport of dangerous goods by road that was in force in this jurisdiction immediately before the commencement.

24.2 Continuing effect of certain determinations

(1) This regulation applies to a determination (however described) if the determination –

- (a) was made under a law about the transport of dangerous goods by road;
- (b) was in force in this jurisdiction immediately before the commencement of this regulation; and

Dangerous Goods (Road and Rail Transport) Regulations

- (c) is a determination about something that may be determined under a provision (the "relevant provision") of any of the following regulations:
 - (i) regulation 1.18 (Determinations – dangerous goods);
 - (ii) regulation 4.27 (Determinations – foreign approved tanks and IBCs);
 - (iii) regulation 13.7 (Determinations – routes, areas, vehicles and times).

(2) The determination has effect for these Regulations as if it were a determination made by the Competent Authority under the relevant provision.

(3) Without limiting subregulation (2), the Competent Authority may record the determination in the register of determinations kept under regulation 1.21.

(4) Subregulation (3) does not apply to a determination if the determination was made on the application of a person and applies only to the person.

24.3 Continuing effect of corresponding determinations

(1) This regulation applies to a determination (however described) if the determination –

- (a) was made under a law of another participating jurisdiction about the transport of dangerous goods by road;
- (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
- (c) is a determination about something that may be determined under a provision of the law of the other jurisdiction (the "corresponding provision") corresponding to a provision of a regulation mentioned in regulation 24.2(1)(c).

(2) Except for circumstances that do not exist in this jurisdiction, the determination has effect for these Regulations as if it were a determination made by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.

24.4 Continuing effect of certain exemptions

(1) This regulation applies to an exemption (however described) if the exemption –

- (a) was granted under a law about the transport of dangerous goods by road;
- (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
- (c) is an exemption from compliance with a provision of that law corresponding to a provision (the "relevant provision") of these Regulations.

(2) The exemption has effect for these Regulations as if it were an exemption granted by the Competent Authority from compliance with the relevant provision.

(3) Without limiting subregulation (2), the Competent Authority may record the exemption in the register of exemptions kept under regulation 16.2.

24.5 Continuing effect of corresponding exemptions

(1) This regulation applies to an exemption (however described) if the exemption –

- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road;
- (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
- (c) is an exemption from compliance with a provision of the law of the other jurisdiction (the "corresponding provision") corresponding to a provision of these Regulations.

(2) Except for circumstances that do not exist in this jurisdiction, the exemption has effect for these Regulations as if it were an exemption granted by the corresponding Competent Authority for the other jurisdiction from compliance with the corresponding provision.

24.6 Continuing effect of certain approvals

(1) This regulation applies to an approval (however described) if the approval –

- (a) was given under a law about the transport of dangerous goods by road;

Dangerous Goods (Road and Rail Transport) Regulations

- (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
- (c) is an approval of something that may be approved under a provision (the "relevant provision") of any of the following regulations:
 - (i) regulation 3.8 (Approvals – packaging design types);
 - (ii) regulation 4.25 (Approvals – tank designs);
 - (iii) regulation 4.26 (Approvals – IBC designs);
 - (iv) regulation 6.5 (Approvals – unit loads);
 - (v) regulation 9.8 (Approvals – segregation);
 - (vi) regulation 10.9 (Approvals – transfer of dangerous goods);
 - (vii) regulation 11.9 (Approvals – emergency information);
 - (viii) regulation 20.2 (Approvals – tests and training courses for drivers).

(2) The approval has effect for these Regulations as if it were an approval given by the Competent Authority under the relevant provision.

(3) Without limiting subregulation (2), the Competent Authority may record the approval in the register of approvals kept under regulation 17.10.

24.7 Continuing effect of corresponding approvals

- (1) This regulation applies to an approval (however described) if the approval –
- (a) was given under a law of another participating jurisdiction about the transport of dangerous goods by road;
 - (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
 - (c) is an approval of something that may be approved under a provision of the law of the other jurisdiction (the "corresponding provision") corresponding to a provision of a regulation mentioned in regulation 24.6(1)(c).

(2) Except for circumstances that do not exist in this jurisdiction, the approval has effect for these Regulations as if it were an approval given by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.

24.8 Continuing effect of certain licences

(1) This regulation applies to a licence (however described) if the licence –

- (a) was granted under a law about the transport of dangerous goods by road;
- (b) was in force in this jurisdiction immediately before the commencement of this regulation; and
- (c) is a licence that may be granted under a provision of that law corresponding to either of the following regulations (the "relevant provision"):
 - (i) regulation 18.11 (which is about bulk driver licences);
 - (ii) regulation 18.21 (which is about bulk vehicle licences).

(2) The licence has effect for these Regulations as if it were a licence granted by the Competent Authority under the relevant provision.

(3) Without limiting subregulation (2), the Competent Authority may record the licence in the relevant register of licences kept under regulation 18.36.

24.9 Continuing effect of corresponding licences

(1) This regulation applies to a licence (however described) if the licence –

- (a) was granted under a law of another participating jurisdiction about the transport of dangerous goods by road;
- (b) was in force in the other jurisdiction immediately before the commencement of this regulation; and
- (c) is a licence that may be granted under a provision of the law of the other jurisdiction (the "corresponding provision") corresponding to a provision of a regulation mentioned in regulation 24.8(1)(c).

(2) Except for circumstances that do not exist in this jurisdiction, the licence has effect for these Regulations as if it were a licence granted by the corresponding Competent Authority for the other jurisdiction under the corresponding provision.

SCHEDULE 1

Regulation 21.1(1) and (2)

INFRINGEMENT NOTICE OFFENCES AND PENALTIES

Column 1 – Provision	Column 2 – Penalty – individuals	Column 3 – Penalty – Corporations
Regulation 3.2	\$600	\$3 000
Regulation 3.12(3)	\$300	\$1 500
Regulation 4.1	\$600	\$3 000
Regulation 4.2	\$600	\$3 000
Regulation 4.3	\$300	–
Regulation 4.7(2)	\$600	\$3 000
Regulation 4.8	\$600	\$3 000
Regulation 4.10(1)	\$600	\$3 000
Regulation 4.14(1)	\$600	\$3 000
Regulation 4.16(2)	\$600	\$3 000
Regulation 4.17	\$600	\$3 000
Regulation 4.18(1)	\$600	\$3 000
Regulation 5.1(1)	\$300	\$1 500
Regulation 5.3(3)	\$600	\$3 000
Regulation 5.4	\$300	\$1 500
Regulation 7.7(1)	\$600	\$3 000
Regulation 8.3	\$600	\$3 000
Regulation 8.5	\$600	\$3 000
Regulation 8.7(3)	\$200	\$1 000
Regulation 10.7(2)	\$300	\$1 500
Regulation 10.8(2)	\$300	\$1 500
Regulation 11.3	\$300	\$1 500

Dangerous Goods (Road and Rail Transport) Regulations

Regulation 11.4(1)	\$200	–
Regulation 11.4(2)	\$100	–
Regulation 11.7	\$300	\$1 500
Regulation 11.8(1)	\$200	–
Regulation 11.8(2)	\$100	–
Regulation 11.8(3)	\$200	–
Regulation 12.1	\$600	\$3 000
Regulation 12.3(1)	\$200	\$1 000
Regulation 13.1(2)	\$100	–
Regulation 13.4	\$100	–
Regulation 13.5	\$200	–
Regulation 13.6(2) or (3)	\$600	–
Regulation 13.8	\$300	\$1 500
Regulation 13.9	\$300	\$1 500
Regulation 18.28(2)	\$100	–
Regulation 18.28(3)	\$100	\$500
Regulation 18.30	\$100	–
Regulation 18.31	\$100	–
Regulation 19.39(2)	\$100	\$500

SCHEDULE 2

Regulation 1.4

DICTIONARY

"Act" means the *Dangerous Goods (Road and Rail Transport) Act*;

"ADG Code" means the sixth edition of the Australian Code for the Transport of Dangerous Goods by Road and Rail;

"administrative determination" see regulation 1.19;

"ADR approved" means approved in accordance with the European Agreement Concerning the International Carriage of Dangerous Goods by Road published by the Inland Transport Committee of the Economic Commission for Europe;

"aggregate quantity" see regulation 2.10;

"another participating jurisdiction" means a participating jurisdiction except this jurisdiction;

"appropriately marked" see regulation 7.2;

"appropriately placarded" see regulation 7.6(2);

"approval", for a provision of these Regulations, means an approval by the Competent Authority that is in force under the provision;

"approved IBC" means –

- (a) an IBC of a design that is approved under regulation 4.26; or
- (b) a foreign approved IBC;

"approved packaging" means –

- (a) packaging of a design type that is approved under regulation 3.8; or
- (b) foreign approved packaging;

"approved tank" means –

- (a) a tank of a design that is approved under regulation 4.25; or
- (b) a foreign approved tank;

"approved test" means a test that is approved under regulation 20.2(1)(a);

Dangerous Goods (Road and Rail Transport) Regulations

"approved training course" means a training course that is approved under regulation 20.2(1)(b);

"attachment system" –

- (a) means a system for attaching a bulk container to a vehicle; and
- (b) includes all the components of the system;

"authorised officer" see section 6 of the Act;

"bulk container" see regulation 2.17;

"bulk container" or "storage container" and includes –

- (a) if there are 2 or more hoses connected together – the connections between the hoses;
- (b) the attachment connecting the hose or hoses to the tank; and
- (c) anything else (except the vehicle, bulk container or storage container) attached to the hose or hoses;

"bulk driver licence" means a licence that is in force under Part 18, Division 3;

"bulk vehicle licence" means a licence that is in force under Part 18, Division 4;

"capacity" see regulation 2.8;

"Class", for dangerous goods, see regulation 2.3;

"Code" means the ADG Code;

"combination road vehicle" means a group of vehicles consisting of –

- (a) a prime mover and 2 or more trailers; or
- (b) a rigid vehicle and one or more trailers;

"Commonwealth Minister" means the Minister for the time being administering legislation relating to the transport of dangerous goods;

"Competent Authority" see section 6 of the Act;

"compliance plate", for a tank, means a compliance plate complying with Chapter 4 of the ADG Code;

Dangerous Goods (Road and Rail Transport) Regulations

- "consigns" and "consignor" see regulation 2.19;
- "consumer commodity load" see Division 1.1 of the ADG Code;
- "converter dolly" see clause 10.6 in the Schedule to the Road Transport Reform (Heavy Vehicles Standards) Regulations;
- "corresponding", for a provision of the Act or these Regulations, means the provision of the law in force in another participating jurisdiction corresponding to the provision;
- "corresponding administrative determination" means a corresponding determination made on the application of a person and applying only to he person;
- "corresponding approval" means an approval given by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.11;
- "corresponding bulk driver licence" means a licence granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.12 as a bulk driver licence;
- "corresponding bulk vehicle licence" means a licence granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.12 as a bulk vehicle licence;
- "corresponding Competent Authority" means a person appointed under a provision of a law of another participating jurisdiction corresponding to section 13(1) of the Act;
- "corresponding determination" means a determination made by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.9;
- "corresponding exemption" means an exemption granted by a corresponding Competent Authority having effect in this jurisdiction under regulation 15.10;
- "dangerous goods" see regulation 2.2;
- "dangerous goods in bulk" see regulation 2.12;
- "dangerous situation" see section 6 of the Act;
- "determination", for a provision of these Regulations, means a determination made by the Competent Authority that is in force under the provision;

Dangerous Goods (Road and Rail Transport) Regulations

"driving licence" means a licence (including a probationary and a conditional licence but not including a provisional or learner licence) issued under a State or Territory law authorising the licensee to drive a vehicle;

"emergency service" means –

- (a) an ambulance, fire, police or other emergency service of a participating jurisdiction; or
- (b) a unit of the Defence Force corresponding to a service mentioned in paragraph (a);

"exemption" means an exemption in force under section 32 of the Act;

"filling ratio" means the ratio of the mass of liquefied gas in a tank or cylinder to the mass of water that the tank or cylinder will hold at a temperature of 15° Celsius;

"fire-risk substance" means a readily ignitable solid substance (examples are hay, sawdust, waste paper, and wood chips);

"food" includes –

- (a) a substance prepared or intended for human or animal consumption; and
- (b) a substance (except dangerous goods) intended to be an ingredient of food;

"food container" means a container designed or intended to contain food;

"food packaging" means –

- (a) a food container;
- (b) any other container that actually contains food; or
- (c) material designed or intended to be used in a food container;

"foreign approved IBC" means an IBC that is –

- (a) manufactured outside Australia; and
- (b) ADR, IMO or RID approved;

"foreign approved packaging" means a packaging that is –

- (a) manufactured outside Australia; and

Dangerous Goods (Road and Rail Transport) Regulations

- (b) marked with performance and specification markings complying with Chapter 3 of the ADG Code;

"foreign approved tank" means a tank that is –

- (a) manufactured outside Australia; and
- (b) ADR, IMO or RID approved;

"freight container" see regulation 2.15;

"hose assembly" means a hose, or hoses connected together, for use in the transfer of dangerous goods to or from a tank on a vehicle;

"IATA Regulations" means the Dangerous Goods Regulations published by the International Air Transport Association;

"IBC" see regulation 2.16;

"IBC marking", for an IBC, means a marking complying with the IBC Supplement;

"IBC Supplement" means the Specifications for Intermediate Bulk Containers for the Transport of Dangerous Goods published as a supplement to the ADG Code;

"ICAO Rules" means the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organisation;

"IMDG Code" means the International Maritime Dangerous Goods Code published by the International Maritime Organisation;

"IMO approved" means approved by or for the International Maritime Organisation;

"incompatible" see regulation 2.6;

"infringement notice" means a notice served under regulation 21.1(1);

"involvement in the transport of dangerous goods by road" see section 6 of the Act;

"licence" –

- (a) for Part 18, Division 3 – see regulation 18.6;
- (b) for Part 18, Division 4 – see regulation 18.18;
- (c) for Part 18, Division 5 – see regulation 18.29;

Dangerous Goods (Road and Rail Transport) Regulations

(d) for Part 18, Division 6 – see regulation 18.32; and

(e) for Part 19 – see regulation 19.1;

"licence label" means a licence label issued under regulation 18.28;

"licensed vehicle" means a vehicle for which a bulk vehicle licence is in force;

"licensee" –

(a) for Part 18, Division 3 – see regulation 18.6;

(b) for Part 18, Division 4 – see regulation 18.18;

(c) for Part 18, Division 5 – see regulation 18.29;

(d) for Part 18, Division 6 – see regulation 18.32; and

(e) for Part 19 – see regulation 19.1;

"loads" and "loader" see regulation 2.21;

"Ministerial Council" means the Ministerial Council for Road Transport established by Part VI of the Heavy Vehicles Agreement set out in Schedule 1 to the *National Road Transport Commission Act 1991* of the Commonwealth;

"NATA" means the National Association of Testing Authorities, Australia;

"offence" see section 6 of the Act;

"outer packaging" see Division 1.1 of the ADG Code;

"owner" see regulation 2.18;

"package" see regulation 2.7(1);

"packaged dangerous goods" see regulation 2.11;

"packaging" see regulation 2.7(2);

"Packing Group" see regulation 2.5;

"packs" and "packer" see regulation 2.20;

"Panel" see regulation 15.4(1);

"Panel member" see regulation 15.4(2);

Dangerous Goods (Road and Rail Transport) Regulations

"participating jurisdiction" means –

- (a) this jurisdiction; or
- (b) a State or the Northern Territory, unless the State or Territory is declared under regulation 1.30 not to be a participating jurisdiction;

"performance test", for a packaging design type for use in the transport of dangerous goods by road, means a test complying with Chapter 3 of the ADG Code;

"personal injury" includes death;

"placard load" see regulation 2.13;

"premises" see section 6 of the Act;

"prescribed fee", for a provision mentioned in column 2 of the table in regulation 23.1, means the fee prescribed in the table for the provision;

"prime contractor" see regulation 2.22;

"prime mover" means a vehicle that is designed to tow a trailer;

"recognised testing facility" see regulation 3.9;

"register" see regulation 15.1;

"registered" means –

- (a) for a medical practitioner – a medical practitioner registered under State or Territory law; and
- (b) for a vehicle – a vehicle registered under State or Territory law;

"reminder notice" means a notice given under regulation 21.4(1);

"required emergency information" see regulation 11.5;

"RID approved" means approved in accordance with the International Regulations Concerning the Carriage of Dangerous Goods by Rail published by the Inland Transport Committee of the Economic Commission for Europe;

"rigid vehicle" means a vehicle the load carrying area of which is fixed to the vehicle's chassis or frame;

Dangerous Goods (Road and Rail Transport) Regulations

"risk" means risk of personal injury, property damage or harm to the environment;

"semi-trailer" means a trailer having –

- (a) one axle group, or a single axle, towards the rear of the trailer; and
- (b) a means of attachment to a prime mover that, once attached, results in some of the load being imposed on the prime mover;

"Subsidiary Risk" see regulation 2.4;

"tank" –

- (a) means a container, except an IBC, that is used, or designed to be used, to transport dangerous goods in bulk in the form of a liquid or gas; and
- (b) includes fittings, closures, and any other equipment, forming part of the container;

"test or training certificate" means a certificate –

- (a) issued by a person who conducted an approved test or training course; and
- (b) stating that a person named in the certificate passed the test or completed the course;

"this jurisdiction" means the Territory;

"trailer" means a vehicle that is designed to be towed, or is towed, by another vehicle but does not include a vehicle propelled by a motor that forms part of the vehicle;

"transport" see section 6 of the Act;

"UN dangerous goods tests and criteria" means the tests and criteria specified in –

- (a) the UN Recommendations; or
- (b) the UN Recommendations, Manual of Tests and Criteria;

"unit load" see regulation 2.14;

Dangerous Goods (Road and Rail Transport) Regulations

"UN Recommendations" means the ninth revised edition of the Recommendations on the Transport of Dangerous Goods published by the United Nations;

"UN Recommendations, Manual of Tests and Criteria" means the second revised edition of the Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria published by the United Nations;

"vehicle" includes a combination road vehicle.
