

South Australia

Dangerous Substances (Dangerous Goods Transport) Regulations 2008

under the *Dangerous Substances Act 1979*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Dangerous Substances (Dangerous Goods Transport) Regulations 2008*.

3—Scope of Act and regulations

- (1) For the purposes of Part 4 of the Act and these regulations, the following will not be regarded as dangerous goods that are being transported in or on a vehicle:
 - (a) dangerous goods that are in the vehicle's fuel tank;
 - (b) dangerous goods that are in an appliance or plant that is necessary for the vehicle's operation and forms part of the vehicle;
 - (c) dangerous goods that comprise portable fire fighting equipment or other portable safety equipment and are part of the safety equipment of the vehicle.
- (2) Part 4 of the Act and these regulations do not apply to the transport of the following dangerous goods except when they are being transported with other dangerous goods:
 - (a) dangerous goods of UN Class 1 (explosives);
 - (b) dangerous goods of UN Division 6.2 (infectious substances);
 - (c) dangerous goods of UN Class 7 (radioactive material);
 - (d) explosives within the meaning of the *Explosives Act 1936* and substances declared to be explosives by proclamation under section 5 of that Act.

Note—

Security sensitive ammonium nitrate has been declared to be an explosive by proclamation (see Gazette 25.1.2006 p 348).

- (3) Part 4 of the Act and these regulations do not apply to—
 - (a) goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code if a determination under regulation 155 that the goods are not dangerous goods is in effect; and
 - (b) goods if they are described as not subject to the ADG Code in a Special Provision applied to the goods by column 6 of the Dangerous Goods List and any criteria set out in that description as the basis for the goods not being subject to the code are satisfied.
- (4) Part 4 of the Act and these regulations do not apply to the transport of a load of dangerous goods in or on a vehicle if the aggregate quantity of dangerous goods in the load is less than the quantity for which an inner package is required by the ADG Code to be marked with a proper shipping name or the technical name of the goods (see section 5.2.1.8 of the ADG Code).

- (5) Part 4 of the Act and these regulations do not apply to the transport of a load of dangerous goods in or on a vehicle if each of the following is satisfied:
- (a) the load does not include dangerous goods of UN Class 1 (explosives), disregarding any track signals carried in a unit of rolling stock for the safety of persons working in rail transport and any dangerous goods of UN Division 1.4S other than detonators, shaped charges and detonating cord;
 - (b) if the load includes dangerous goods of UN Division 2.1 (other than aerosols), UN Division 2.3 or Packing Group I—the aggregate quantity of dangerous goods in the load is less than 62.5;
 - (c) the load does not include dangerous goods of Category A of UN Division 6.2 (infectious substances) or UN Class 7 (radioactive material);
 - (d) the load does not include dangerous goods in a receptacle with a capacity of more than 500 litres;
 - (e) the load does not include more than 500 kilograms of dangerous goods in a receptacle;
 - (f) the aggregate quantity of the dangerous goods in the load is less than 250;
 - (g) the goods are packed in packaging that is suitable for their transport, and in accordance with any relevant provisions of Part 4 (or, if applicable, Chapter 3.4) of the ADG Code, as required by Part 5;
 - (h) the goods are not being transported in the course of a business of transporting goods by road;
 - (i) in relation to transport by rail—the goods are not being transported on a passenger train.
- (6) Part 4 of the Act and these regulations do not apply to the transport of dangerous goods by or at the direction of—
- (a) an authorised officer who is exercising a power under the Act; or
 - (b) an emergency services officer who is acting to reduce, eliminate or avert risk of personal injury, property damage or environmental harm from dangerous goods in a dangerous situation.

Part 2—Interpretation

Division 1—General

4—Interpretation

- (1) For the purposes of these regulations, unless the contrary intention appears—

Act means the *Dangerous Substances Act 1979*;

ADG Code means the 7th edition (2007) of the *Australian Code for the Transport of Dangerous Goods by Road and Rail* published by the Commonwealth of Australia (ISBN 1 921168 57 9);

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—the aggregate quantity of dangerous goods in a load is the total of—

- (a) the number of kilograms of—
 - (i) solid dangerous goods; and
 - (ii) articles (including aerosols),
in the load; and
- (b) the number of litres or kilograms, whichever is used in the transport documentation for the load to describe the goods, of liquid dangerous goods in the load; and
- (c) the total capacity in litres of receptacles in the load containing dangerous goods of UN Class 2 (other than aerosols);

ambulance officer means a person employed as an ambulance officer, or engaged as a volunteer ambulance officer, with an organisation that provides ambulance services;

appropriately marked and labelled—see regulation 74;

appropriately placarded—see regulation 78;

approval—see regulation 157;

approved packaging means—

- (a) packaging of a design that is approved under regulation 157(3); or
- (b) foreign approved packaging;

approved tank means—

- (a) a tank of a design that is approved under regulation 157(3); or
- (b) a foreign approved tank;

approved test means a test that is approved under regulation 157(1);

approved training course means a training course that is approved under regulation 157(1);

Australian Transport Council has the same meaning as in the *National Transport Commission Act 2003* of the Commonwealth;

bulk container means a container (with or without a liner or coating) that has a capacity of 1.0 m³ or more and is intended for the transport of solid dangerous goods that are in direct contact with the container, but does not include—

- (a) a large packaging that complies with the requirements of Chapter 6.6 of the ADG Code; or
- (b) an IBC; or
- (c) a tank; or
- (d) a tank vehicle; or
- (e) any other packaging that complies with the requirements of Chapter 6.1 or 6.3 of the ADG Code;

bulk transfer of dangerous goods means the transfer by gravity, pump or pressure differential of liquid, solid or gaseous dangerous goods by the use of pipework or hose;

CAP means the Competent Authorities Panel comprised of the Competent Authority and the corresponding authorities and acting under rules established by the participating jurisdictions through the National Transport Commission;

capacity means the total internal volume of a packaging at a temperature of 15° Celsius, expressed in litres or cubic metres;

compliance plate means a plate that must be attached to an MEGC, portable tank or tank vehicle under Part 6 of the ADG Code;

consignor—a person is the consignor of goods that are transported if—

- (a) the person is, with the person's authority, named or otherwise identified in transport documentation as the consignor of the goods; or
- (b) the person engages a prime contractor or rail operator, either directly or through an agent or other intermediary, to transport the goods; or
- (c) the person has possession of, or control over, the goods immediately before the goods are transported; or
- (d) the person loads a vehicle with the goods, for transport, at a place—
 - (i) where dangerous goods are awaiting collection; and
 - (ii) that is unattended (except by the driver) during loading; or
- (e) in the case of goods transported following their import into Australia—the person is the importer of the goods;

contravene includes fail to comply;

converter dolly has the same meaning as in the *Road Traffic (Vehicle Standards) Rules 1999*;

corresponding approval means an approval to which regulation 158 applies;

corresponding authority means the authority in another participating jurisdiction, or if there are separate authorities in that jurisdiction in relation to road transport and to rail transport, the authority in relation to road transport or rail transport, as the case requires, whose functions most nearly correspond to those of the Competent Authority;

corresponding dangerous goods driver licence means a licence granted under a provision of the law of another State or a Territory of the Commonwealth corresponding to regulation 20 and to which regulation 41 applies;

corresponding dangerous goods vehicle licence means a licence granted under a provision of the law of another State or a Territory of the Commonwealth corresponding to regulation 26 and to which regulation 41 applies;

corresponding determination means a determination to which regulation 156 applies;

corresponding exemption means an exemption to which regulation 169 applies;

corresponding law means a law of another State or a Territory of the Commonwealth corresponding, or substantially corresponding, to Part 4 of the Act and these regulations;

dangerous goods—see regulation 11;

dangerous goods driver licence means a licence that is in force under Part 3 Division 2;

Dangerous Goods List means the list set out in section 3.2.3 of the ADG Code;

dangerous goods vehicle licence means a licence that is in force under Part 3 Division 3;

demountable tank means a tank, other than a portable tank, that is designed to be carried on a vehicle but that does not form part of and is not permanently attached to the vehicle and is designed to be removable;

determination—see regulation 155;

driver licence means a licence (including a probationary and a conditional licence but not including a provisional or learner's licence or permit) issued under the *Motor Vehicles Act 1959* or a law of another State or a Territory of the Commonwealth that corresponds to that Act authorising the driver to drive a road vehicle;

emergency services officer means—

- (a) an officer or employee of South Australian Metropolitan Fire Service, South Australian Country Fire Service or South Australian State Emergency Service; or
- (b) an ambulance officer;

equipment in relation to a vehicle includes a device for segregating dangerous goods from incompatible goods;

exemption means an exemption granted under section 36 of the Act;

fire service means the South Australian Metropolitan Fire Service or the South Australian Country Fire Service;

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 packaging means—

- (a) a receptacle that contains, or is designed or intended to contain, food; or
- (b) material designed or intended to be used in a receptacle that is designed or intended to contain food;

foreign approved, in relation to packaging, means packaging that has the markings required by Part 6 of the ADG Code for packaging of its type, in confirmation that the packaging is ADR, ICAO, IMO, RID or UN approved;

Note—

Types of foreign approved packaging include, but are not limited to, bulk containers, IBCs, large packagings, MEGCs, portable tanks, pressure drums and tubes that are ADR, ICAO, IMO, RID or UN approved.

freight container means a re-useable container of the kind mentioned in *AS/NZS 3711* that is designed for repeated use for the transport of goods by 1 or more modes of transport;

goods means substances or articles;

goods too dangerous to transport—see regulation 12;

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, a portable tank or a storage receptacle and includes—

- (a) if there are 2 or more hoses connected together—the connections between the hoses; and
- (b) the attachment connecting the hose or hoses to the tank; and
- (c) anything else (except the vehicle, tank or receptacle) attached to the hose or hoses;

IBC (intermediate bulk container) means a rigid or flexible portable packaging for the transport of dangerous goods that complies with the specifications in Chapter 6.5 of the ADG Code and 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; and
 - (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; and
- (b) is designed for mechanical handling,

but does not include rigid or flexible portable packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code;

ICAO approved means approved in accordance with the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* published by the International Civil Aviation Organisation;

IMO approved means approved in accordance with the *International Maritime Dangerous Goods Code* published by the International Maritime Organisation;

incompatible—see regulation 16;

inner packaging, in relation to goods for which outer packaging is required if the goods are to be transported, means any packaging that is, or that is to be, contained or protected by outer packaging;

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

large packaging means outer packaging that—

- (a) is designed for mechanical handling; and
- (b) has a capacity of not more than 3 m³; and
- (c) is intended to contain articles or inner packaging with—

- (i) a net mass of more than 400 kilograms; or
- (ii) capacities totalling more than 450 litres;

licence label means a dangerous goods vehicle licence label issued under regulation 43;

load—a person loads goods on to a vehicle for transport if the person—

- (a) places or secures unpackaged articles or 1 or more packages of goods in or on the vehicle (but not by placing or securing a package in further packaging already on the vehicle); or
- (b) supervises an activity mentioned in paragraph (a); or
- (c) manages or controls an activity mentioned in paragraph (a) or (b);

load—

- (a) all the goods transported in a transport unit on a unit of rolling stock being operated or used on rails constitute a load; and
- (b) all the goods transported in or on a vehicle (other than a vehicle that is a unit of rolling stock being operated or used on rails or a transport unit on such a unit of rolling stock) constitute a load,

and, for those purposes, goods transported in or on all trailers attached to a vehicle (including a vehicle that is a transport unit on a unit of rolling stock) will be regarded as being transported in or on the vehicle;

MEGC (multiple-element gas container) means a multimodal assembly of cylinders, tubes and bundles of cylinders that are interconnected by a manifold and assembled within a framework for the transport of gases in the cylinders and tubes, together with service equipment and structural equipment necessary for the transport of gases in the cylinders and tubes;

multimodal means applicable to, or suitable for use on, more than 1 mode of transport;

NATA means the National Association of Testing Authorities Australia;

outer packaging means external packaging (including absorbent materials, cushioning and any other components) necessary for the purposes of transport to contain and protect—

- (a) articles; or
- (b) receptacles in composite packaging within the meaning of section 1.2.1.1 of the ADG Code; or
- (c) inner packaging in combination packaging within the meaning of section 1.2.1.1 of the ADG Code;

overpack means packaging (other than large packaging) used to hold and consolidate packages of goods into a single unit for easier handling and stowage;

Examples—

A pallet, together with strapping or shrink wrapping, designed to hold packages; a box or crate into which packages are placed.

owner—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;

pack—a person packs goods for transport if the person—

- (a) puts the goods in a packaging (even if that packaging is already in or on a vehicle); or
- (b) assembles, places or secures packages in packaging designed to hold, enclose or otherwise contain more than 1 package (even if that packaging is already in or on a vehicle); or
- (c) supervises an activity mentioned in paragraph (a) or (b); or
- (d) manages or controls an activity mentioned in paragraph (a), (b) or (c);

package—a package of dangerous goods or other goods is the complete product of the packing of the goods for transport, and consists of the goods and their packaging;

packaging—the packaging of the goods is anything that contains, holds, protects or encloses the goods, whether directly or indirectly, to enable them to be received or held for transport or to be transported; the term includes inner packaging, outer packaging, overpacks, large packaging, IBCs, MEGCs, tanks (including the tanks on tank vehicles), bulk and freight containers, drums, barrels, jerry cans, boxes and bags;

Packing Group—see regulation 15;

participating jurisdiction means this State or another State or a Territory of the Commonwealth that has a corresponding law;

placard load means a load of dangerous goods that—

- (a) contains dangerous goods in a receptacle with a capacity of more than 500 litres; or
- (b) contains more than 500 kilograms of dangerous goods in a receptacle; or
- (c) contains an aggregate quantity of dangerous goods of 250 or more and those goods include—
 - (i) dangerous goods of UN Division 2.1 that are not aerosols; or
 - (ii) dangerous goods of UN Division 2.3; or
 - (iii) dangerous goods of Packing Group I; or
- (d) contains dangerous goods of Category A of UN Division 6.2; or
- (e) contains an aggregate quantity of dangerous goods of UN Division 6.2 (other than Category A) of 10 or more; or
- (f) contains an aggregate quantity of dangerous goods of 1 000 or more,

but does not include a retail distribution load;

portable tank means a multimodal tank that—

- (a) is designed primarily to be loaded on to a vehicle or ship; and

- (b) has a capacity of more than 450 litres; and
- (c) is equipped with skids, mountings, stabilisers and accessories to facilitate mechanical handling; and
- (d) is capable of being loaded and unloaded without removing its service equipment or structural equipment; and
- (e) is capable of being lifted when full;

pressure drum means a welded transportable pressure receptacle of a water capacity of more than 150 litres but not more than 1 000 litres;

prime contractor—a person is a prime contractor in relation to goods transported by road vehicle if the person, in conducting a business of or involving the transport of dangerous goods, undertakes to be responsible, or is responsible, for the transport of the goods by road vehicle;

prime mover means a road vehicle that is designed to tow a trailer but does not include a vehicle that has a load carrying capacity without a trailer;

rail operator—a person is a rail operator in relation to goods transported by rail if the person undertakes to be responsible, or is responsible, for—

- (a) the transport of the goods by rail; or
- (b) the condition of a unit of rolling stock transporting the goods;

receptacle, in relation to a substance or article, means a container that is—

- (a) for receiving and holding the substance or article (including anything that enables the container to be closed); and
- (b) in contact with the substance or article;

registered medical practitioner means a medical practitioner registered under the *Medical Practice Act 2004*;

registered vehicle means a vehicle registered under the *Motor Vehicles Act 1959* or a law of the Commonwealth or of another State or a Territory of the Commonwealth dealing with the registration of motor vehicles;

retail distribution load has the same meaning as in the ADG Code;

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;

road includes a road-related area within the meaning of the *Road Traffic Act 1961* (but the meaning of road in these regulations is not limited to the meaning of road in that Act);

road vehicle means any vehicle other than a unit of rolling stock being operated or used on rails;

service equipment, in relation to an MEGC or tank, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1 of the ADG Code, as the case requires;

Special Provision—Column 6 of the Dangerous Goods List specifies whether a Special Provision applies to dangerous goods, and Chapter 3.3 of the ADG Code lists the Special Provisions that apply;

structural equipment, in relation to an MEGC or tank, has the meaning given in section 6.7.2.1, 6.7.3.1, 6.7.4.1 or 6.7.5.1 of the ADG Code, as the case requires;

Subsidiary Risk—see regulation 14;

tank means a receptacle for receiving and holding dangerous goods, together with any service equipment or structural equipment that enables the receptacle to transport those goods, but does not include—

- (a) a receptacle for receiving and holding dangerous goods of UN Class 2 with a capacity of 450 litres or less; or
- (b) packaging that complies with the requirements of Chapter 6.1, 6.3 or 6.6 of the ADG Code; or
- (c) an IBC; or
- (d) an MEGC; or
- (e) a cylinder; or
- (f) a pressure drum; or
- (g) a tube; or
- (h) a bulk container that complies with the requirements of Chapter 6.8 of the ADG Code;

tank vehicle means a road vehicle or unit of rolling stock—

- (a) of which a tank forms part; or
- (b) to which a tank (other than a portable tank) is attached;

trailer means a road vehicle that is designed to be towed, or is towed, by another road vehicle but does not include a road vehicle propelled by a motor that forms part of the vehicle;

train means 2 or more units of rolling stock that are coupled together, at least 1 unit of which is a locomotive or self propelled unit;

transport documentation means a manifest of goods being, or to be, transported in or on a vehicle;

transport unit means—

- (a) a vehicle; or
- (b) a portable tank; or
- (c) a bulk container; or
- (d) a freight container;

tube means a seamless transportable pressure receptacle of a water capacity of more than 150 litres but not more than 3 000 litres;

UN approved means approved in accordance with the *United Nations Model Regulations for the Transport of Dangerous Goods* published by the United Nations;

UN Class of dangerous goods means the Class to which dangerous goods belong in accordance with regulation 13;

UN Division of dangerous goods means the Division to which dangerous goods of a particular UN Class belong in accordance with regulation 13;

unit of rolling stock means a vehicle designed to run on rails; the term includes a vehicle that is designed to operate or be used on a road or on rails but only while it is being operated or used on rails.

Examples—

A rail wagon; a rail tank wagon; a locomotive; a guard's van; a crew or passenger carriage; a track maintenance vehicle.

- (2) For the purposes of these regulations, a packaging will be taken to contain dangerous goods if it has contained dangerous goods, the dangerous goods have been unpacked from the packaging and the packaging is not free from dangerous goods.
- (3) For the purposes of the definition of *unit load* in the Act, unit load has the same meaning as overpack.

5—Reference to ADG Code extends to special provisions

- (1) For the purposes of these regulations, a reference to a particular Part, Chapter or section of the ADG Code is to be read as if it incorporated and were subject to the Special Provisions referenced in the Dangerous Goods List.
- (2) Consequently, for example—
 - (a) in Part 6, a requirement for a package of dangerous goods to be marked and labelled in accordance with Chapter 5.2 of the ADG Code is subject to any applicable Special Provision referenced in the Dangerous Goods List, and includes a requirement that the package be marked and labelled in accordance with any additional requirement specified in such a Special Provision (for example, SP No 29); and
 - (b) in Part 9, a requirement for dangerous goods and their packaging to be stowed, loaded and restrained in accordance with Chapter 8.1 of the ADG Code is subject to any applicable Special Provision referenced in the Dangerous Goods List, and includes a requirement that the goods and their packaging be stowed, loaded and restrained in accordance with any additional requirement specified in such a Special Provision (for example, SP No 132); and
 - (c) in Part 12, a requirement for transport documentation to comply with Chapter 11.1 of the ADG Code is subject to any applicable Special Provision referenced in the Dangerous Goods List, and includes a requirement that the documentation comply with any additional requirement specified in such a Special Provision (for example, SP No 274 and SP No 297).

Note—

See also regulation 51.

6—References in the ADG Code to regulations

For the purposes of these regulations, a reference in the ADG Code to a numbered regulation is to be taken to be a reference to the provision in these regulations that corresponds to the provision of that number in Schedule 2 of the *National Transport Commission (Model Legislation—Transport of Dangerous Goods by Road or Rail) Regulations 2007* of the Commonwealth.

7—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 (including the instrument as amended from time to time if that is how it is applied, adopted or incorporated).
- (2) In these regulations, unless the contrary intention appears, a reference to an instrument (other than the ADG Code) is a reference to the instrument as amended from time to time.
- (3) In this regulation—

instrument means a code, standard, rule or other document (whether made in or outside Australia), and includes a provision of an instrument.

8—References to licences, determinations, approvals and exemptions

In these regulations, a reference to—

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

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

9—References to variation of licences, determinations, approvals and exemptions

In these regulations, a reference to the variation of—

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

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

10—Inconsistency between regulations and codes etc

If all or part of a code, standard, rule or other document (whether made in or outside Australia) is applied or adopted by, or is incorporated in, these regulations and the code, standard, rule or other document or the relevant part of the code, standard, rule or other document is inconsistent with these regulations, these regulations prevail to the extent of the inconsistency.

Division 2—Key concepts

11—Dangerous goods

Goods are *dangerous goods* if—

- (a) the goods satisfy the criteria set out, or referred to, in Part 2 of the ADG Code for classifying goods as dangerous goods; or

- (b) a determination under regulation 155 that the goods are dangerous goods is in effect.

12—Goods too dangerous to transport

- (1) Dangerous goods are *too dangerous to transport* if they are—
 - (a) goods for which a determination under regulation 155 that the goods are too dangerous to be transported is in effect; or
 - (b) goods named or described in Appendix A to the ADG Code; or
 - (c) goods that are so sensitive or unstable that they cannot be safely transported even if the relevant requirements of these regulations and the ADG Code are complied with.
- (2) However, goods named or described in Appendix A to the ADG Code are not too dangerous to transport if a determination under regulation 155 that the goods are not goods too dangerous to be transported is in effect.

13—UN Classes, Divisions and Categories

- (1) The UN Class or UN Division of particular goods is—
 - (a) if a determination under regulation 155 that the goods are of a particular UN Class or UN Division is in effect—the Class or Division specified in the determination; or
 - (b) if no such determination is in effect—the Class or Division determined for the goods in accordance with the ADG Code.

Notes—

- 1 Under the UN classification system there are 9 classes of dangerous goods. Under that system some Classes are further divided into Divisions.
 - 2 Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their UN Class or Division is that listed in column 2 of that list opposite the name and description of those goods, unless Chapter 3.3 of the Code provides for those goods to be assigned to a different UN Class or Division.
- (2) The UN Category of Division 6.2 (infectious substances) is the Category determined for the goods in accordance with the ADG Code.

14—Subsidiary Risk

The Subsidiary Risk, if any, of particular dangerous goods is—

- (a) if a determination under regulation 155 that the goods have a particular Subsidiary Risk is in effect—the Subsidiary Risk specified in the determination; or
- (b) if no such determination is in effect—the Subsidiary Risk determined for the goods in accordance with the ADG Code.

Note—

Dangerous goods that are able to be assigned to more than 1 UN Class or Division are assigned a Subsidiary Risk. This Subsidiary Risk is the other UN Class/es or Division/s to which the goods also belong. Under the ADG Code, if particular dangerous goods are listed in the Dangerous Goods List, their Subsidiary Risk is that listed in column 4 of that list opposite the name and description of those goods, unless Chapter 3.3 of the Code provides for those goods to be assigned a different Subsidiary Risk.

15—Packing Groups

The Packing Group, if any, of particular dangerous goods is—

- (a) if a determination under regulation 155 that the goods are of a particular Packing Group is in effect—the Packing Group specified in the determination; or
- (b) if no such determination is in effect—the Packing Group determined for the goods in accordance with the ADG Code.

Note—

The assignment of particular dangerous goods to a Packing Group indicates the degree of danger, and the level of containment required for, the goods. The Packing Groups, and the degree of danger they indicate are—

Packing Group I (substances presenting high danger);

Packing Group II (substances presenting medium danger);

Packing Group III (substances presenting low danger).

The Packing Group of a substance can be determined from the Dangerous Goods List, although in some cases it is also necessary to refer to Chapter 3.3 of the ADG Code (the List identifies those cases).

16—Incompatibility

- (1) Dangerous or other goods are *incompatible* with dangerous goods if—
 - (a) the goods are incompatible with the dangerous goods under Chapter 9.1 of the ADG Code; or
 - (b) the goods are determined under regulation 155 to be incompatible with the dangerous goods; or
 - (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 of personal injury, property damage or environmental harm because of the interaction; or
 - (d) should a vehicle transporting both the goods and the dangerous goods be involved in an incident resulting in a dangerous situation, the situation would be substantially more serious because the goods and the dangerous goods are being transported together.

Example—

Flammable material is incompatible with an oxidising agent because of the substantial increase in risk in the event of a fire (whether or not the flammable material is likely to interact with the oxidising agent and increase risk of personal injury, property damage or environmental harm because of the interaction).

- (2) Packaging or equipment for use in the transport of dangerous goods is *incompatible* with the goods if any component of the packaging or equipment that is intended or likely to come into contact with the goods during transport—
- (a) is likely to interact with the goods and increase risk of personal injury, property damage or environmental harm because of the interaction; and
 - (b) is not protected from contact under foreseeable circumstances by a protective coating or other effective means.

Part 3—Licences**Division 1—Preliminary****17—Circumstances in which licence required**

- (1) A licence is only required for the purposes of section 24(2), (3), (4) and (6) of the Act in relation to a vehicle if the vehicle is used to transport—
- (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle.
- (2) However—
- (a) a licence is not required for the purposes of section 24(2), (3), (4) or (6) of the Act if—
 - (i) —
 - (A) the dangerous goods are transported in an IBC; and
 - (B) the IBC is not packed or unpacked on the vehicle; and
 - (C) the total capacity of IBCs containing dangerous goods on the vehicle is not more than 3 000 litres; or
 - (ii) a licence is in force in respect of the vehicle under the *Explosives Act 1936*; or
 - (iii) the vehicle is a unit of rolling stock; and
 - (b) a licence is not required for the purposes of section 24(2) or (4) of the Act if the vehicle is a prime mover or converter dolly.

18—Part additional to other laws

Part 4 of the Act and this Part are in addition to any other law in force in this State about—

- (a) the licensing of drivers; or
- (b) the employment or engagement of drivers; or

- (c) the registration of vehicles; or
- (d) the transport of goods.

Division 2—Dangerous goods driver licences

19—Application for licence or renewal of licence

- (1) A person resident in the State may apply to the Competent Authority for a dangerous goods driver licence.
- (2) A person who holds a dangerous goods driver licence may, not earlier than 2 months and not later than 7 days before expiry of the licence, apply to the Competent Authority for renewal of the licence.
- (3) An application for the grant or renewal of a dangerous goods driver licence must be accompanied by—
 - (a) each of the following:
 - (i) evidence that the person holds a current driver licence;
 - (ii) for each State or Territory of the Commonwealth in which the applicant holds or has held a driver licence—
 - (A) a certified extract of entries about the applicant from the relevant register of driver licences obtained within the immediately preceding 6 months; or
 - (B) an authorisation for the Competent Authority to have access to such entries;
 - (iii) for each State or Territory of the Commonwealth—
 - (A) a certified copy (obtained within the immediately preceding 6 months) of an official record showing whether the applicant has been convicted of any driving offence in that State or Territory and providing details of any such conviction; or
 - (B) an authorisation for the Competent Authority to have access to such records; and
 - (b) evidence that the applicant has passed an approved test, or completed an approved training course, within the immediately preceding 6 months, comprised of a certificate issued by the person who conducted the test or course or other written evidence; and
 - (c) a certificate about the medical fitness of the applicant to drive a road vehicle—
 - (i) issued by a registered medical practitioner following an examination of the applicant by the practitioner within the immediately preceding 6 months; and

- (ii) certifying that the medical practitioner examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive—Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003 (ISBN 0 85588 507 6); and
- (d) 2 photographs of the applicant of a size suitable for an Australian passport that were taken within the immediately preceding 6 months; and
- (e) the fee fixed by Schedule 1.

20—Grant of licence

- (1) The Competent Authority must not grant an application for a dangerous goods driver licence if—
 - (a) in the 5 years immediately preceding the application—
 - (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; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is prohibited by a court order from involvement in the transport of dangerous goods by road.
- (2) If the Competent Authority refuses to grant a dangerous goods driver licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

21—Renewal of licence

- (1) The Competent Authority must not grant an application for renewal of a dangerous goods driver licence if—
 - (a) while the licence had effect—
 - (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; or
 - (ii) the applicant's driver licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting dangerous goods; or
 - (b) the applicant is prohibited by a court order from involvement in the transport of dangerous goods by road.
- (2) If the Competent Authority refuses to renew a dangerous goods driver licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

22—Licence period

- (1) Subject to these regulations, a dangerous goods driver licence remains in force for the period specified in the licence on its grant or renewal.

- (2) The period specified must not exceed 3 years.
- (3) A dangerous goods driver licence takes effect on the day it is granted or, if a later day is specified in the licence, that later day.
- (4) The renewal of a dangerous goods driver licence takes effect on the day the licence would otherwise have expired.

23—Licence conditions imposed by Competent Authority

- (1) A dangerous goods driver licence is subject to any conditions specified in the licence by the Competent Authority.
- (2) The Competent Authority may impose—
 - (a) conditions about—
 - (i) the dangerous goods that may or may not be transported in or on a road vehicle driven by the licensee; and
 - (ii) the packaging that may or may not be used to transport dangerous goods in or on a road vehicle driven by the licensee; and
 - (iii) the road vehicles that may be driven by the licensee in transporting dangerous goods; and
 - (iv) the areas where the licensee may or may not drive a road vehicle transporting dangerous goods; and
 - (v) the supervision of the licensee when driving a road vehicle transporting dangerous goods; and
 - (b) any other condition the Authority considers necessary for the safe transport of dangerous goods.

24—Licence condition requiring production of certificate of medical fitness

- (1) It is a condition of a dangerous goods driver licence that the Competent Authority may, by written notice given to the licensee, require the licensee to produce to the Authority a certificate about the medical fitness of the applicant to drive a road vehicle—
 - (a) issued by a registered medical practitioner following an examination of the applicant by the practitioner within the 6 months immediately preceding the day when the certificate is produced to the Authority; and
 - (b) certifying that the medical practitioner examined and passed the applicant in accordance with the standards in *Assessing Fitness to Drive—Medical Standards for Licensing and Clinical Management Guidelines* published by Austroads and the National Road Transport Commission in September 2003 (ISBN 0 85588 507 6).
- (2) The licensee must be allowed at least 2 months within which to produce the certificate.
- (3) The Competent Authority must not give notice to the licensee under the condition if the dangerous goods driver licence is due to expire in less than 4 months.

Division 3—Dangerous goods vehicle licences

25—Application for licence or renewal of licence

- (1) A person may apply to the Competent Authority for a dangerous goods vehicle licence for a road vehicle used, or intended to be used, in transporting dangerous goods.
- (2) A person who holds a dangerous goods vehicle licence for a vehicle may, not earlier than 2 months and not later than 7 days before expiry of the licence, apply to the Competent Authority for renewal of the licence.
- (3) An application for the grant or renewal of a dangerous goods vehicle licence must include the following information:
 - (a) the registration number (if any), make and type of the vehicle;
 - (b) the type of dangerous goods intended to be transported in or on the vehicle.
- (4) If the vehicle is a registered vehicle, the application must be accompanied by a copy of the certificate of registration.
- (5) The application must be accompanied by the fee fixed by Schedule 1.
- (6) The application may relate to 2 or more vehicles.
- (7) The Competent Authority may, by written notice, require an applicant for the grant or renewal of a dangerous goods vehicle 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 specified place and time.
- (8) The Competent Authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

26—Grant or renewal of licence

- (1) The Competent Authority may refuse to grant or renew a dangerous goods vehicle licence for a road vehicle if not satisfied that the vehicle is suitable to transport each type of dangerous goods intended to be transported in or on the vehicle.
- (2) Without limiting subregulation (1), if a vehicle is intended for use in the transport of dangerous goods in the form of a liquid or gas using a tank that forms part of the vehicle or is to be attached to it, the vehicle is suitable only if—
 - (a) the tank is an approved tank; and
 - (b) the vehicle complies with any relevant provision of Chapters 4.4 and 6.9 of the ADG Code.
- (3) The Competent Authority must not grant or renew a dangerous goods vehicle licence if the applicant is prohibited by a court order from involvement in the transport of dangerous goods by road.
- (4) The Competent Authority may issue a single dangerous goods vehicle licence for more than 1 vehicle.

- (5) If the Competent Authority refuses to grant or renew a dangerous goods vehicle licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

27—Licence period

- (1) Subject to these regulations, a dangerous goods vehicle licence remains in force for the period specified in the licence on its grant or renewal.
- (2) The period specified must not exceed 3 years.
- (3) A dangerous goods vehicle licence takes effect on the day it is granted or, if a later day is specified in the licence, that later day.
- (4) The renewal of a dangerous goods vehicle licence takes effect on the day the licence would otherwise have expired.

28—Licence conditions imposed by Competent Authority

- (1) A dangerous goods vehicle licence is subject to any conditions specified in the licence by the Competent Authority.
- (2) The Competent Authority may impose—
 - (a) conditions about—
 - (i) the dangerous goods that may or may not be transported in or on the vehicle; and
 - (ii) the areas where the vehicle may or may not be used to transport dangerous goods; and
 - (iii) the inspections of the vehicle (if any) that are required; and
 - (b) any other condition the Authority considers necessary for the safe transport of dangerous goods.

Division 4—Cancellation, suspension and variation of licences

29—Interpretation

In this Division—

licence means a dangerous goods driver licence or dangerous goods vehicle licence;

vary a licence means—

- (a) vary or revoke a condition of the licence; or
- (b) impose a further condition on the licence.

30—Variation of licence on application

- (1) The Competent Authority may, on application by the holder of a licence, vary the licence.
- (2) An application for the variation of a licence must be accompanied by the licence.

31—When licence taken to be suspended

- (1) A dangerous goods driver licence is taken to be suspended for any period for which the holder's driver licence has no effect.

- (2) A dangerous goods vehicle licence for a vehicle that was a registered vehicle on the grant of the licence is taken to be suspended in relation to the vehicle for any period for which the vehicle is not so registered.

32—Grounds for cancelling, suspending or varying licence

- (1) The Competent Authority may cancel, suspend (for a period not exceeding 12 months) or vary a dangerous goods driver licence if satisfied that—
- (a) the application for the grant or renewal of the licence did not comply with these regulations or was false or misleading in a material respect; or
 - (b) the licensee is unsuitable to continue to be the driver of a vehicle transporting dangerous goods (or to so continue without a variation of the licence) because—
 - (i) the licensee has contravened—
 - (A) a provision of Part 4 of the Act or these regulations; or
 - (B) a provision of a corresponding law; or
 - (ii) the licensee has been found guilty by a court in Australia of an offence; or
 - (iii) the licensee's driver licence has been cancelled; or
 - (iv) the licensee is suffering from a medical condition, or has a physical or mental disability.
- (2) The Competent Authority may cancel, suspend (for a period not exceeding 12 months) or vary a dangerous goods vehicle licence if satisfied that—
- (a) the application for the grant or renewal of the licence did not comply with these regulations or was false or misleading in a material respect; or
 - (b) the vehicle does not comply with the Act or these regulations.
- (3) The Competent Authority may vary a licence for any other good reason.
- (4) The Competent Authority must, before cancelling, suspending or varying a licence under this regulation, give to the licensee a written notice that—
- (a) states what the proposed action is; and
 - (b) if the proposed action is to suspend the licence—states what the proposed suspension period is; and
 - (c) if the proposed action is to vary the licence—sets out the proposed variation; and
 - (d) sets out the ground for the proposed action; and
 - (e) outlines the facts and other circumstances forming the basis for the ground; and
 - (f) invites the licensee to state in writing, within a specified period of at least 28 days after the day the notice is given to the licensee, why the proposed action should not be taken.

- (5) Notice is not required under subregulation (4) if, in the opinion of the Competent Authority, the cancellation, suspension or variation of the licence is necessary to avoid, eliminate or minimise a dangerous situation.
- (6) The Competent Authority may, by written notice to the licensee, shorten the period of a suspension of a licence.

33—Cancellation and suspension giving effect to court order

The Competent Authority must cancel or suspend a licence as necessary to give effect to a court order prohibiting the licensee from involvement in the transport of dangerous goods by road.

34—When cancellation, suspension and variation take effect

- (1) The cancellation, suspension or variation of a licence by the Competent Authority takes effect on—
 - (a) the day the licensee is given written notice by the Competent Authority of the cancellation, suspension or variation; or
 - (b) a later day specified in the notice.
- (2) The Competent Authority must inform the licensee in writing of the reasons for the cancellation, suspension or variation.

Division 5—Licences generally

35—Interpretation

In this Division—

licence means a dangerous goods driver licence or dangerous goods vehicle licence.

36—Replacement licences and licence labels

- (1) The Competent Authority may issue a replacement licence to a licensee if—
 - (a) the licence is renewed; or
 - (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.

37—Failure to comply with licence condition

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

38—Surrender of licence

- (1) A licensee may surrender his or her licence by giving written notice of surrender to the Competent Authority and returning the licence to the Authority.
- (2) A licence ceases to have effect on its surrender.

39—Change of information given in licence application

Within 14 days after becoming 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, the licensee must inform the Competent Authority and give the correct information to the Authority in writing.

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

40—Production of licence to Competent Authority

- (1) The Competent Authority may, by written notice, require a licensee to produce his or her licence to the Authority.
- (2) The licensee must produce the licence to the Competent Authority within 14 days after the day the notice is given to the licensee.

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

Expiation fee:

- (a) in the case of a body corporate—\$650;
- (b) in the case of a natural person—\$130.

- (3) A person who held a licence immediately before its cancellation or suspension must return the licence to the Competent Authority within 14 days after the cancellation or suspension.

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

Expiation fee:

- (a) in the case of a body corporate—\$650;
- (b) in the case of a natural person—\$130.

Division 6—Corresponding licences

41—Corresponding licences

- (1) This regulation applies to a licence that—
 - (a) has been granted under a provision of the law of another State or a Territory of the Commonwealth corresponding to regulation 20 or regulation 26; and
 - (b) has effect in the other State or Territory.

- (2) Except for circumstances that do not exist in this State, the licence has effect in this State as if it were a licence granted by the Competent Authority under regulation 20 or regulation 26 (as the case requires).

Division 7—Additional requirements

42—Driver licence to be carried

The holder of a dangerous goods driver licence must carry the licence at all times while driving a vehicle pursuant to the licence.

Maximum penalty: \$650.

Expiation fee: \$130.

43—Vehicle licence label

- (1) The Competent Authority must issue to the holder of a dangerous goods vehicle licence a licence label for each vehicle to which the licence relates.
- (2) A person must not drive a vehicle to which a dangerous goods vehicle licence relates that is being used to transport dangerous goods if a current licence label for the vehicle is not attached to the vehicle in a conspicuous place.

Maximum penalty: \$650.

Expiation fee: \$130.

- (3) A prime contractor must not transport dangerous goods in or on a vehicle to which a dangerous goods vehicle licence relates if a current licence label for the vehicle is not attached to the vehicle in a conspicuous place.

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

Expiation fee:

- (a) in the case of a body corporate—\$650;
- (b) in the case of a natural person—\$130.

44—Disposal of licensed vehicle

- (1) If a vehicle for which a dangerous goods vehicle licence is in force is disposed of, the person who holds the licence for the vehicle (the *disposed vehicle*) must—
 - (a) within 21 days after the disposal, give the Competent Authority notice of the disposal; and
 - (b) ensure that the licence label for the vehicle is—
 - (i) attached to the notice of the disposal; or
 - (ii) destroyed (in which case, the person must, if required by the Competent Authority, provide sufficient evidence to show that this has been done); and
 - (c) ensure that the licence for the vehicle is—
 - (i) attached to the notice of the disposal; or

- (ii) if the licence does not relate to any other vehicle, destroyed (in which case, the person must, if required by the Competent Authority, provide sufficient evidence to show that this has been done).

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
 - (b) in the case of a natural person—\$650.
- (2) On receipt of a licence for a disposed vehicle, the Competent Authority may, as appropriate, alter and replace or cancel the licence.

45—Consignor's duties

A person must not consign dangerous goods for transport in or on a vehicle if—

- (a) the vehicle is required to be licensed under the Act to transport the goods; and
- (b) the person knows, or ought reasonably to know, that the vehicle is not so licensed.

Maximum penalty:

- (a) in the case of a body corporate—\$25 000;
- (b) in any other case—\$5 000.

Part 4—General industry requirements

Division 1—Insurance

46—Requirements for insurance

- (1) The owner of a road vehicle must not use the vehicle, or permit it to be used, to transport a placard load unless—
- (a) the use of the vehicle is covered by a policy of insurance, or other form of indemnity, for a sum that includes at least \$5 000 000 for each load bearing vehicle comprising the vehicle, in respect of—
 - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
 - (ii) costs incurred by or on behalf of a government authority of the Commonwealth, a State or a Territory of the Commonwealth in a clean up resulting from such fire, explosion, leakage or spillage; or
 - (b) the owner has an approval under regulation 157(2) in relation to the vehicle and is complying with any conditions of the approval.

Maximum penalty:

- (a) in the case of a body corporate—\$25 000;
- (b) in the case of a natural person—\$5 000.

- (2) A prime contractor must not use a road vehicle to transport a placard load unless—
- (a) the use of the vehicle is covered by a policy of insurance, or other form of indemnity, for a sum that includes at least \$5 000 000 for each load bearing vehicle comprising the vehicle, in respect of—
 - (i) personal injury, death, property damage and other damage (except consequential economic loss) arising out of fire, explosion, leakage or spillage of dangerous goods in, on or from the vehicle or any packaging transported in or on the vehicle; and
 - (ii) costs incurred by or on behalf of a government authority of the Commonwealth, a State or a Territory of the Commonwealth in a clean up resulting from such fire, explosion, leakage or spillage; or
 - (b) the prime contractor has an approval under regulation 157(2) in relation to the vehicle and is complying with any conditions of the approval.

Maximum penalty:

- (a) in the case of a body corporate—\$25 000;
- (b) in the case of a natural person—\$5 000.

47—Requiring evidence of insurance etc

- (1) The Competent Authority may, by written notice, require the owner of a road vehicle used to transport a placard load, or a prime contractor responsible for the condition of the vehicle, to produce—
- (a) written evidence that the vehicle is covered by a policy of insurance or other form of indemnity in accordance with regulation 46; or
 - (b) an approval under regulation 157(2) in relation to the vehicle.
- (2) The owner or prime contractor must produce the evidence or approval to the Competent Authority within 14 days after the day the notice is given to the person.

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

Expiation fee:

- (a) in the case of a body corporate—\$1 300;
- (b) in the case of a natural person—\$260.

Division 2—Instruction and training

48—Instruction and training

- (1) This regulation applies to any task involved in the transport of dangerous goods, including the following:
- (a) packing dangerous goods;
 - (b) unpacking dangerous goods (including by bulk transfer);
 - (c) consigning dangerous goods;
 - (d) loading packages or unpackaged articles of dangerous goods;

- (e) unloading packages or unpackaged articles of dangerous goods;
 - (f) marking packages or unpackaged articles of dangerous goods;
 - (g) placarding placard loads;
 - (h) preparing transport documentation;
 - (i) maintaining vehicles and equipment used in the transport of dangerous goods;
 - (j) driving a vehicle transporting dangerous goods;
 - (k) being the consignee of dangerous goods;
 - (l) following the appropriate procedures in accordance with these regulations in a dangerous situation.
- (2) A person who is responsible for management, control or supervision of a task must not employ, engage or permit another person to perform the task if the other person—
- (a) has not received appropriate instruction and training to ensure that he or she is able to perform the task safely and in accordance with these regulations; or
 - (b) is not 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.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (3) A person must not manage, control or supervise a task unless the person has received instruction and training to enable him or her to manage, control or supervise (respectively) another person to perform the task safely and in accordance with these regulations.

Maximum penalty: \$4 000.

Expiation fee: \$800.

Division 3—Goods suspected of being dangerous goods

49—Goods suspected of being dangerous goods

If it is not clear whether goods are dangerous goods but a person suspects, or ought reasonably to suspect, that they are, the person must not consign or transport the goods until—

- (a) the goods have been classified in accordance with the ADG Code by the manufacturer or importer of the goods; or
- (b) a determination has been made under regulation 155 as to whether or not the goods are dangerous goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Part 5—Packaging

Division 1—General

50—Suitability of packaging for transport

- (1) For the purposes of this Part, packaging is unsuitable for the transport of dangerous goods if—
 - (a) it is required to undergo performance tests under Part 6 of the ADG Code and it is not approved packaging; or
 - (b) it does not meet any relevant standards or requirements specified by Part 4 or Part 6 of the ADG Code (including requirements with respect to inspection, maintenance and repair); or
 - (c) its use, or reuse, for the transport of the goods does not comply with Part 4 or Part 6 of the ADG Code; or
 - (d) its use for the transport of the goods contravenes a Special Provision referenced in the Dangerous Goods List (for example, SP No 26); or
 - (e) its use for the transport of the goods contravenes a determination under regulation 155(1)(c); or
 - (f) in the case of an MEGC, portable tank or tank on a tank vehicle, it does not have a compliance plate attached; or
 - (g) in the case of a freight container used for the transport of solid dangerous goods that are in direct contact with the container, it does not have a Safety Approval Plate attached as required under the *International Convention for Safe Containers 1972*; or
 - (h) it is incompatible with the goods; or
 - (i) it is damaged or defective to the extent that it is not safe to use to transport the goods.
- (2) However, packaging that would otherwise be unsuitable for the transport of particular dangerous goods under subregulation (1) is not unsuitable for that transport if a determination that the goods may be transported in the packaging is in effect.

51—References to Part 4 of ADG Code include Dangerous Goods List requirements (including Special Provisions) and determinations effectively modifying Part 4

- (1) In this Part, a requirement for dangerous goods to be packed in packaging in accordance with any relevant provision of Part 4 of the ADG Code includes—
 - (a) a requirement for the goods to be packed in accordance with any packing requirement specified in relation to the goods in the Dangerous Goods List (but subject to any Special Provision referenced in the Dangerous Goods List and any determination under regulation 155); and

- (b) a requirement for the goods to be packed in accordance with any additional requirement specified in a Special Provision referenced in the Dangerous Goods List or a determination under regulation 155.
- (2) If a determination under regulation 155 is inconsistent with a Special Provision referenced in the Dangerous Goods List, the determination prevails to the extent of the inconsistency.
- (3) Consequently, for example—
 - (a) if a Special Provision referenced in the Dangerous Goods List imposes conditions in relation to packing for transport of particular substances (for example, SP No 28, SP No 132 and SP No 209), those conditions must be complied with for the goods to be packed in accordance with the relevant provisions of Part 4 of the ADG Code; and
 - (b) if a determination requires that particular dangerous goods must or must not be transported in specified packaging (despite any prohibition or authorisation in the Dangerous Goods List) those requirements must be complied with for the goods to be packed in accordance with the relevant provisions of Part 4 of the ADG Code.

52—Breach of conditions of approvals

- (1) A person must not construct, pack or fail to maintain packaging for use in the transport of dangerous goods, or use packaging to transport dangerous goods, if the person knows, or ought reasonably to know, that—
 - (a) a condition about the construction, packing, maintenance or use of the packaging, as the case may be, was imposed in relation to the approval of the design for the packaging; and
 - (b) the construction, packing, failure to maintain, or use is in contravention of the condition.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (2) A person must not use an overpack to transport dangerous goods if the person knows, or ought reasonably to know, that—
 - (a) a condition about the use of the overpack was imposed in relation to the approval of the method of preparing the overpack; and
 - (b) the use is in contravention of the condition.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

53—Marking packaging

- (1) A person must not apply any marking required by Part 6 of the ADG Code on packaging if the packaging is not of a design approved under regulation 157(3).

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (2) A person must not apply a marking mentioned in Part 6 of the ADG Code on packaging if the marking is not appropriate for the packaging.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

54—Seller's and supplier's duties

A person must not sell, supply or offer to sell or supply any packaging for use in the transport of particular dangerous goods unless—

- (a) it is packaging of a design that has been approved under regulation 157(3), and it is marked in accordance with Part 6 (or, if applicable, Chapter 3.4) of the ADG Code, and, according to the marking, its use is appropriate for those goods; or
- (b) it complies with the relevant requirements of Parts 4 and 6 (or, if applicable, Chapter 3.4) of the ADG Code (including any relevant marking requirements) and its use is appropriate for those goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

Division 2—MEGCs, portable tanks, demountable tanks, bulk containers, freight containers and tanks on tank vehicles

55—Application of Division

This Division applies to the following packaging:

- (a) an MEGC;
- (b) a portable tank;
- (c) a demountable tank;
- (d) a bulk container;
- (e) a freight container;
- (f) a tank on a tank vehicle.

56—Manufacturer's duties—compliance plates

- (1) A person who manufactures an MEGC or a portable tank for use in the transport of dangerous goods must attach a compliance plate to the MEGC or tank in accordance with Chapter 6.7 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (2) Subregulation (1) does not apply to a person in relation to a portable tank if Chapter 6.7 of the ADG Code permits the marking of the tank instead of the attachment of a compliance plate and the tank is marked as required by that Chapter.
- (3) A person who manufactures a tank vehicle for use in the transport of dangerous goods must attach a compliance plate to the vehicle in accordance with section 6.9.2.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

57—Owner’s duties

The owner of an MEGC, a portable tank, a demountable tank or a tank vehicle must not use the MEGC, portable tank, demountable tank or tank on the tank vehicle, or permit the MEGC, portable tank, demountable tank or tank on the tank vehicle to be used, to transport dangerous goods if the MEGC or tank is unsuitable for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

58—Consignor’s duties

- (1) A person must not consign dangerous goods for transport in packaging to which this Division applies provided by the person if—
- (a) the packaging is unsuitable for the transport of the goods; or
 - (b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (2) A person must not consign dangerous goods for transport in packaging to which this Division applies provided by any other person if the person knows, or ought reasonably to know, that—

- (a) the packaging is unsuitable for the transport of the goods; or
- (b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;

- (b) in the case of a natural person—\$4 000.

59—Packer's duties

- (1) A person must not pack dangerous goods for transport in packaging to which this Division applies if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
(b) in the case of a natural person—\$4 000.

- (2) A person must not pack dangerous goods for transport in packaging to which this Division applies in a way that the person knows, or ought reasonably to know, does not comply with any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
(b) in the case of a natural person—\$4 000.

60—Loader's duties

A person must not load dangerous goods that are in packaging to which this Division applies on to a vehicle for transport if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
(b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
(b) in the case of a natural person—\$800.

61—Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not transport dangerous goods in packaging to which this Division applies provided by the prime contractor or rail operator if—

- (a) the packaging is unsuitable for the transport of the goods; or
(b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
(b) in the case of a natural person—\$4 000.

- (2) A prime contractor or rail operator must not transport dangerous goods in packaging to which this Division applies provided by any other person if the prime contractor or rail operator knows, or ought reasonably to know, that—

- (a) the packaging is unsuitable for the transport of the goods; or

- (b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

62—Driver’s duties

A person must not drive a road vehicle transporting dangerous goods in packaging to which this Division applies if the person knows, or ought reasonably to know, that—

- (a) the packaging is unsuitable for the transport of the goods; or
- (b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code.

Maximum penalty: \$4 000.

Expiation fee: \$800.

Division 3—Overpacks

63—Consignor’s duties

A person must not consign dangerous goods for transport in an overpack if the preparation of the overpack and its contents does not comply with—

- (a) if an approval under regulation 157(4) applies—the approval; or
- (b) in any other case—section 5.1.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

64—Duty on packers

A person must not pack dangerous goods for transport in an overpack if the person knows, or ought reasonably to know, that the packing of the packages into the overpack, or the preparation of the overpack or its contents, does not comply with—

- (a) if an approval under regulation 157(4) applies—the approval; or
- (b) in any other case—section 5.1.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

65—Loader’s duties

A person must not load dangerous goods in an overpack on to a vehicle for transport if the person knows, or ought reasonably to know, that the preparation of the overpack, or its contents, does not comply with—

- (a) if an approval under regulation 157(4) applies—the approval; or

- (b) in any other case—section 5.1.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

66—Prime contractor’s and rail operator’s duties

A prime contractor or rail operator must not transport dangerous goods in an overpack if the prime contractor or rail operator knows, or ought reasonably to know, that the preparation of the overpack, or its contents, does not comply with—

- (a) if an approval under regulation 157(4) applies—the approval; or
- (b) in any other case—section 5.1.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

67—Driver’s duties

A person must not drive a road vehicle transporting dangerous goods in an overpack if the person knows, or ought reasonably to know, that the preparation of the overpack, or its contents, does not comply with—

- (a) if an approval under regulation 157(4) applies—the approval; or
- (b) in any other case—section 5.1.2 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

Division 4—Other packaging

68—Meaning of other packaging

In this Division—

other packaging means all packaging (including large packagings) other than MEGCs, portable tanks, bulk containers, freight containers, tanks on tank vehicles and overpacks.

69—Consignor's duties

A person must not consign dangerous goods for transport in other packaging if the person knows, or ought reasonably to know, that—

- (a) the packaging is unsuitable for the transport of the goods; or

- (b) the goods have not been packed in the packaging in accordance with any relevant provision of Part 4 of the ADG Code, nor in accordance with Chapter 3.4 of the ADG Code (which applies only if the quantity of dangerous goods in each inner packaging or in each article does not exceed the quantity specified, or referred to, in column 7 of the Dangerous Goods List for those goods).

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

70—Packer's duties

- (1) A person must not pack dangerous goods for transport in other packaging if the person knows, or ought reasonably to know, that the packaging is unsuitable for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (2) A person must not pack dangerous goods for transport in other packaging in a way that the person knows, or ought reasonably to know, does not comply with—

- (a) if the quantity of dangerous goods in each inner packaging or in each article does not exceed the quantity specified, or referred to, in column 7 of the Dangerous Goods List for those goods—Chapter 3.4 of the ADG Code; or
- (b) in any other case—any relevant provision of Part 4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

71—Loader's duties

A person must not load dangerous goods that are in other packaging on to a vehicle for transport if the person knows, or ought reasonably to know, that the packaging is damaged or defective to the extent that it is not safe to use to transport the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

72—Prime contractor's and rail operator's duties

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

73—Driver’s duties

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

Maximum penalty: \$2 000.

Expiation fee: \$400.

Part 6—Signage

Division 1—Marking and labelling of packages

74—Appropriately marked and labelled

- (1) For the purposes of this Division, a package of dangerous goods is appropriately marked and labelled only if the following is complied with:
 - (a) the package is marked and labelled in accordance with Chapter 5.2 of the ADG Code;
 - (b) if the package includes an overpack—the overpack is marked and labelled in accordance with section 5.1.2 of the ADG Code or an applicable approval under regulation 157(4);
 - (c) if the package includes a receptacle (other than a portable tank, bulk container, freight container or overpack) with a capacity of more than 500 litres or kilograms—the package is placarded in accordance with section 5.3.3 of the ADG Code.
- (2) However—
 - (a) a package of dangerous goods containing a quantity of dangerous goods in each inner packaging or in each article that does not exceed the quantity specified, or referred to, in column 7 of the Dangerous Goods List for those goods is appropriately marked and labelled for the purposes of this Division if, instead, it is marked and labelled in accordance with Chapter 3.4 of the ADG Code; and
 - (b) a package of dangerous goods transported only as part of a retail distribution load is appropriately marked and labelled for the purposes of this Division if, instead, it is marked and labelled in accordance with Chapter 7.3 of the ADG Code.
- (3) For the purposes of this Division, an unpackaged article of dangerous goods is appropriately marked and labelled only if it is marked and labelled in accordance with Chapter 5.2 of the ADG Code.

75—Consignor's duties

- (1) A person must not consign dangerous goods for transport in a package or as an unpackaged article if the package or article is not appropriately marked and labelled.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

- (2) A person must not consign dangerous goods for transport in a package or as an unpackaged article if a marking or label on the package or article about its contents is false or misleading in a material particular.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

- (3) A person must not consign goods for transport in a package, or as an unpackaged article, that does not contain dangerous goods but is marked or labelled as if it contained dangerous goods.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

Expiation fee:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$2 000;
 - (ii) in the case of a natural person—\$400;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$650;
 - (ii) in the case of a natural person—\$130.

76—Packer's duties

- (1) A person must not pack dangerous goods for transport in a package if the person knows, or ought reasonably to know, that the package is not, or will not be once the package is ready to be transported, appropriately marked and labelled.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

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

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

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

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

Expiation fee:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$2 000;
 - (ii) in the case of a natural person—\$400;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$650;
 - (ii) in the case of a natural person—\$130.

77—Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not transport goods in a package or as an unpackaged article if the prime contractor or rail operator knows, or ought reasonably to know, that—
- (a) the goods are dangerous goods; and
 - (b) the package or article is not appropriately marked and labelled.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

Expiation fee:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$2 000;
 - (ii) in the case of a natural person—\$400;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$650;
 - (ii) in the case of a natural person—\$130.

- (2) A prime contractor or rail operator must not transport dangerous goods in a package or as an unpackaged article if the prime contractor or rail operator knows, or ought reasonably to know, that a marking or label on the package or article about its contents is false or misleading in a material particular.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;
 - (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

- (3) A prime contractor or rail operator must not transport goods in a package, or as an unpackaged article, that is marked or labelled as if it contained dangerous goods if the prime contractor or rail operator knows, or ought reasonably to know, that the package or article does not contain dangerous goods.

Maximum penalty:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$10 000;

- (ii) in the case of a natural person—\$2 000;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$3 250;
 - (ii) in the case of a natural person—\$650.

Expiation fee:

- (a) for an offence involving large packaging or an overpack—
 - (i) in the case of a body corporate—\$2 000;
 - (ii) in the case of a natural person—\$400;
- (b) for any other offence—
 - (i) in the case of a body corporate—\$650;
 - (ii) in the case of a natural person—\$130.

Division 2—Placarding of loads

78—Appropriately placarded

For the purposes of this Division, a placard load is *appropriately placarded* if, in accordance with Chapter 5.3 of the ADG Code, labels and emergency information panels are affixed, stencilled, printed or placed on any thing used or to be used to transport the load.

79—Consignor’s duties

- (1) A person must not consign a placard load for transport if the load is not appropriately placarded.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

80—Loader's duties

- (1) A person who loads dangerous goods on to a vehicle for transport must ensure that the load is appropriately placarded if the person knows, or ought reasonably to know, that the load is a placard load.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (3) A person who loads goods on to a vehicle for transport must not placard the load as if it were a placard load if the person knows, or ought reasonably to know, that the load does not contain dangerous goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

81—Prime contractor's and rail operator's duties

- (1) A prime contractor or rail operator must not transport dangerous goods if the prime contractor or rail operator knows, or ought reasonably to know, that—

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (3) A prime contractor or rail operator must not use a transport unit that is placarded as if it were a placard load if the person knows, or ought reasonably to know, that the transport unit does not contain dangerous goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

82—Driver’s duties

- (1) A person must not drive a road vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that—
- (a) the goods are a placard load; and
 - (b) the load is not appropriately placarded.

Maximum penalty: \$2 000.

Expiation fee: \$400.

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

Maximum penalty: \$2 000.

Expiation fee: \$400.

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

Maximum penalty: \$2 000.

Expiation fee: \$400.

Part 7—Vehicles and equipment

Division 1—Standards

83—Owner’s duties

The owner of a vehicle must not use the vehicle, or permit it to be used, to transport dangerous goods if the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

84—Consignor’s duties

A person must not consign dangerous goods for transport in or on a vehicle if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

85—Loader’s duties

A person must not load dangerous goods on to a vehicle for transport if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

86—Prime contractor’s and rail operator’s duties

A prime contractor or rail operator must not use a vehicle to transport dangerous goods if the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

87—Driver’s duties

A person must not drive a road vehicle transporting dangerous goods if the person knows, or ought reasonably to know, that the vehicle or its equipment does not comply with Chapter 4.4 of the ADG Code.

Maximum penalty: \$2 000.

Expiation fee: \$400.

Division 2—Safety equipment

88—Owner’s duties

The owner of a road vehicle must not use the vehicle, or permit the vehicle to be used, to transport a placard load unless the vehicle is equipped with—

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

89—Prime contractor’s duties

- (1) A prime contractor must not use a road vehicle to transport a placard load unless the vehicle is equipped with—

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

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

Expiation fee:

- (a) in the case of a body corporate—\$4 000;
- (b) in the case of a natural person—\$800.

- (2) A prime contractor must not use a road vehicle to transport a placard load if the prime contractor knows, or ought reasonably to know, that the equipment for the vehicle mentioned in subregulation (1)—

- (a) has not been inspected or tested in accordance with Part 12 of the ADG Code; or
- (b) is not in good repair or proper working order.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

90—Driver's duties

- (1) A person must not drive a road vehicle transporting a placard load unless the vehicle is equipped with—
- (a) fire extinguishers and portable warning devices that comply with Part 12 of the ADG Code; and
 - (b) any other equipment required under that Part.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (2) A person must not drive a road vehicle transporting a placard load if the person knows, or ought reasonably to know, that the equipment for the vehicle mentioned in subregulation (1)—
- (a) is not stowed in accordance with Part 12 of the ADG Code; or
 - (b) has not been inspected or tested in accordance with that Part; or
 - (c) is not in good repair or proper working order.

Maximum penalty: \$1 300.

Expiation fee: \$260.

Part 8—Self reactive substances, organic peroxides and certain other substances

91—Interpretation

In this Division—

designated dangerous goods means—

- (a) gases of UN Class 2;
- (b) self-reactive substances of UN Division 4.1;
- (c) dangerous when wet substances of UN Division 4.3;
- (d) organic peroxides of UN Division 5.2;
- (e) toxic substances of UN Division or Subsidiary Risk 6.1;
- (f) infectious substances of UN Division 6.2;
- (g) other substances for which the proper shipping name contains the word "STABILIZED" and the self-accelerating decomposition temperature (as determined in accordance with Part 2 of the ADG Code) when presented for transport in a packaging is 50°C or lower.

92—Owner's duties

The owner of a transport unit that has been used to carry dangerous goods comprised of toxic substances of UN Division or Subsidiary Risk 6.1 or infectious substances of UN Division 6.2 must not further use or permit the further use of the transport unit if the owner knows, or ought reasonably to know, that the transport unit has not been decontaminated.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

93—Consignor’s duties

A person must not consign designated dangerous goods for transport if the person knows, or ought reasonably to know, that the goods are not loaded or stowed, or cannot be transported or unloaded, in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

94—Loader’s duties

A person must not load designated dangerous goods on a vehicle for transport otherwise than in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

95—Prime contractor’s and rail operator’s duties

- (1) A prime contractor or rail operator must not transport designated dangerous goods if the prime contractor or rail operator knows, or ought reasonably to know, that the transport does not comply with Chapter 7.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

- (2) If a prime contractor or rail operator has used a transport unit to carry dangerous goods comprised of toxic substances of UN Division or Subsidiary Risk 6.1 or infectious substances of UN Division 6.2, the prime contractor or rail operator must ensure—

- (a) that markings, labels and placards indicating the presence of the dangerous goods are not removed from the transport unit until the transport unit has been decontaminated; and
- (b) that the transport unit is not further used to transport dangerous goods until it has been decontaminated.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

96—Driver’s duties

A person must not drive a road vehicle transporting designated dangerous goods if the person knows, or ought reasonably to know, that the dangerous goods are not being transported in accordance with Chapter 7.1 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

Part 9—Stowage and restraint

97—Consignor's duties

- (1) A person must not consign for transport in or on a vehicle a load of dangerous goods that is a placard load if the person knows, or ought reasonably to know, that the goods or their packaging are not, or will not be, stowed, loaded or restrained in accordance with Chapter 8.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) A person must not consign a load of dangerous goods for transport in or on a transport unit if the person knows, or ought reasonably to know, that the transport unit is not, or will not be, restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

98—Loader's duties

- (1) A person who loads on to a vehicle for transport a load of dangerous goods that is a placard load must ensure that the goods and their packaging are stowed, loaded and restrained in accordance with Chapter 8.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) A person who loads on to a vehicle for transport dangerous goods that are in a transport unit must ensure that the transport unit is restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;

- (b) in the case of a natural person—\$400.

99—Prime contractor’s and rail operator’s duties

- (1) A prime contractor or rail operator must not transport in or on a vehicle a load of dangerous goods that is a placard load if the prime contractor or rail operator knows, or ought reasonably to know, that the goods or their packaging are not stowed, loaded or restrained in accordance with Chapter 8.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
(b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
(b) in the case of a natural person—\$400.

- (2) A prime contractor or rail operator must not transport dangerous goods in or on a transport unit if the prime contractor or rail operator knows, or ought reasonably to know, that the transport unit is not restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
(b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
(b) in the case of a natural person—\$400.

100—Driver’s duties

- (1) A person must not drive a road vehicle transporting a load of dangerous goods that is a placard load if the person knows, or ought reasonably to know, that the goods or their packaging are not stowed, loaded or restrained in accordance with Chapter 8.1 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (2) A person must not drive a road vehicle transporting dangerous goods in a transport unit if the person knows, or ought reasonably to know, that the transport unit is not restrained in accordance with Chapter 8.2 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

Part 10—Segregation

101—Application of Part

This Part applies to—

- (a) the transport of a placard load; and

- (b) the transport of a load of dangerous goods that is not a placard load if the load contains dangerous goods of UN Division 2.3, UN Class 6 or UN Class 8, or dangerous goods that have a Subsidiary Risk of 6.1 or 8, that are being, or are to be, transported with food or food packaging.

102—Exceptions

- (1) This Part does not apply to dangerous goods if—
 - (a) the dangerous goods are the only dangerous goods in or on a vehicle or in a freight container; and
 - (b) the quantity of dangerous goods in each inner packaging or in each article does not exceed the quantity specified, or referred to, in column 7 of the Dangerous Goods List for those goods; and
 - (c) the goods are packed in accordance with Chapter 3.4 of the ADG Code.
- (2) This Part does not prevent food and food packaging being transported on a road vehicle with dangerous goods if the food or food packaging is in the road vehicle's cabin and is for the driver's personal use.
- (3) This Part does not prevent particular dangerous goods being transported in or on the same transport unit as other goods if a determination under regulation 155(1)(e) allowing the goods to be so transported is in effect and the goods are transported in accordance with any conditions of the determination.

103—Consignor's duties

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

- (a) the vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with—
 - (i) if an approval under regulation 157(6) applies—the approval; or
 - (ii) in any other case—Part 9 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

104—Loader's duties

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

- (a) the vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods will not be segregated from the incompatible goods in accordance with—
 - (i) if an approval under regulation 157(6) applies—the approval; or
 - (ii) in any other case—Part 9 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

105—Prime contractor’s duties

A prime contractor must not use a road vehicle to transport dangerous goods if the prime contractor knows, or ought reasonably to know, that—

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
 - (i) if an approval under regulation 157(6) applies—the approval; or
 - (ii) in any other case—Part 9 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

106—Rail operator’s duties

A rail operator must not use a train to transport dangerous goods if the rail operator knows, or ought reasonably to know, that—

- (a) the train is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
 - (i) if an approval under regulation 157(6) applies—the approval; or
 - (ii) in any other case—Part 9 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

107—Driver’s duties

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

- (a) the road vehicle is, in the same journey, transporting incompatible goods; and
- (b) the dangerous goods are not segregated from the incompatible goods in accordance with—
 - (i) if an approval under regulation 157(6) applies—the approval; or
 - (ii) in any other case—Part 9 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

Part 11—Special requirements for transport in tank vehicles and bulk transfer

Division 1—Equipment and transfer

108—Application of Division

This Division applies to bulk transfer into or out of a tank vehicle or into or out of—

- (a) an MEGC; or
- (b) a portable tank; or
- (c) a demountable tank; or
- (d) a tube; or
- (e) a pressure drum; or
- (f) a bulk container; or
- (g) an IBC,

that is on a vehicle.

109—Transferor's duties—hose assemblies

- (1) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the hose assembly is damaged or defective to the extent that it is not safe to use to transfer the goods.

Maximum penalty: \$2 000.

Expiation fee: \$400.

- (2) A person must not use a hose assembly for the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that the hose assembly—
 - (a) has not been constructed, assembled or maintained in accordance with Chapter 10.1 of the ADG Code; or
 - (b) has not been inspected or tested at the intervals, or in the way, required under that Chapter; or
 - (c) did not satisfy a test under that Chapter.

Maximum penalty: \$4 000.

Expiation fee: \$800.

110—Transferor's duties—general

- (1) A person engaged in the bulk transfer of dangerous goods must ensure that the goods are transferred in accordance with Chapter 10.2 of the ADG Code.

Maximum penalty: \$2 000.

Expiation fee: \$400.

- (2) A person must not engage in the bulk transfer of dangerous goods if the person knows, or ought reasonably to know, that—
- (a) the receiving receptacle or the transfer equipment is incompatible with the dangerous goods; or
 - (b) the receptacle contains goods that are incompatible with the dangerous goods.

Maximum penalty: \$2 000.

Expiation fee: \$400.

- (3) If, during the bulk transfer of dangerous goods, the goods leak, spill or accidentally escape, the person engaged in transferring the goods—
- (a) must immediately stop transferring the goods; and
 - (b) must not resume transferring the goods until the conditions that caused the leak, spill or escape have been rectified.

Maximum penalty: \$2 000.

Expiation fee: \$400.

111—Occupier’s duties

- (1) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure that any hose assembly on the premises that is used, or that is intended to be used, for the transfer (other than a hose assembly brought onto the premises on a vehicle involved in the transfer)—
- (a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code; and
 - (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
 - (c) satisfies each test required under that Chapter.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

- (2) The occupier of premises where the bulk transfer of dangerous goods occurs must ensure that the goods are transferred in accordance with Chapter 10.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (3) The occupier of premises where the bulk transfer of dangerous goods occurs must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of each inspection and test, and all maintenance work, carried out on any hose assembly on the premises that is used, or that is intended to be used, for the transfer (other than a hose assembly brought onto the premises on a vehicle involved in the transfer).

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

112—Prime contractor’s duties

- (1) A prime contractor engaged in the bulk transfer of dangerous goods must ensure that any hose assembly that is used, or intended to be used, for the transfer of the goods (other than a hose assembly for which the prime contractor is not responsible)—
- (a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code; and
 - (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
 - (c) satisfies each test required under that Chapter.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$2 000.
- (2) A prime contractor engaged in the bulk transfer of dangerous goods must ensure that dangerous goods are transferred in accordance with Chapter 10.2 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (3) A prime contractor engaged in the bulk transfer of dangerous goods must keep, in accordance with section 10.1.3.4 of the ADG Code, accurate records of each inspection and test, and all maintenance work, carried out on any hose assembly that is used, or intended to be used, for the transfer of the goods (other than a hose assembly for which the prime contractor is not responsible).

Maximum penalty:

- (a) in the case of a body corporate—\$3 250;
- (b) in the case of a natural person—\$650.

113—Rail operator’s duties

A rail operator engaged in the bulk transfer of dangerous goods must ensure that any hose assembly that is used, or intended to be used, for the transfer of the goods (other than a hose assembly for which the rail operator is not responsible)—

- (a) has been constructed, assembled and maintained in accordance with Chapter 10.1 of the ADG Code; and
- (b) has been inspected and tested at the intervals, and in the way, required under that Chapter; and
- (c) satisfies each test required under that Chapter.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Division 2—Filling ratio and ullage for tank vehicles

114—Transferor’s duties

A person engaged in the bulk transfer of dangerous goods into a tank on a tank vehicle must ensure that—

- (a) for dangerous goods of UN Class 2 that are not in the form of a refrigerated liquid—the quantity of the goods in the tank to which the goods are transferred does not exceed the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code; and
- (b) in any other case—the ullage in the tank complies with section 10.3.1 of the ADG Code.

Maximum penalty: \$2 000.

Expiation fee: \$400.

115—Prime contractor’s and rail operator’s duties

A prime contractor or rail operator must not transport dangerous goods in a tank on a tank vehicle if—

- (a) for dangerous goods of UN Class 2 that are not in the form of a refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code; or
- (b) in any other case—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

116—Driver’s duties

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

- (a) for dangerous goods of UN Class 2 that are not in the form of a refrigerated liquid—the quantity of goods in the tank exceeds the maximum permitted filling ratio set out in section 10.3.2 of the ADG Code; or
- (b) in any other case—the ullage in the tank does not comply with section 10.3.1 of the ADG Code.

Maximum penalty: \$2 000.

Expiation fee: \$400.

Part 12—Documentation

Division 1—Transport documentation

117—False or misleading information

A person must not include information in transport documentation for dangerous goods that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

118—Consignor’s duties—transport by road vehicle

- (1) A person must not consign dangerous goods for transport in or on a road vehicle if the prime contractor, or, if there is no prime contractor, the driver of the vehicle, has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

Expiation fee:

- (a) in the case of a body corporate—\$1 300;
- (b) in the case of a natural person—\$260.

- (2) A person must not consign dangerous goods for transport if—

- (a) the person knows, or ought reasonably to know, that the goods will be divided and transported in separate loads on 2 or more road vehicles; and
- (b) the prime contractor, or, if there is no prime contractor, the driver of each road vehicle transporting the goods, has not been given separate transport documentation that complies with Chapter 11.1 of the ADG Code for each load.

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

Expiation fee:

- (a) in the case of a body corporate—\$1 300;
- (b) in the case of a natural person—\$260.

119—Consignor’s duties—transport by rail

- (1) A person must not consign dangerous goods for transport in or on a unit of rolling stock if the rail operator has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

Expiation fee:

- (a) in the case of a body corporate—\$1 300;
- (b) in the case of a natural person—\$260.

- (2) For the purposes of subregulation (1), a rail operator is to be taken to have been given the transport documentation if the contents of the transport documentation have been communicated to the rail operator by means of electronic data processing or electronic data interchange.

120—Prime contractor’s duties

A prime contractor must ensure that a person does not drive a road vehicle used by the prime contractor to transport dangerous goods if the person has not been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

121—Rail operator’s duties

- (1) A rail operator must not transport dangerous goods by rail unless the driver of the train transporting the goods has been given transport documentation that complies with Chapter 11.1 of the ADG Code for the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) For the purposes of subregulation (1), a driver is to be taken to have been given the transport documentation if the contents of the transport documentation have been communicated to the driver by means of electronic data processing or electronic data interchange.
- (3) Subregulations (1) and (2) do not apply if the train is in a depot or yard or is engaged in shunting operations and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or operations.

122—Driver’s duties

- (1) The driver of a road vehicle must ensure that, while the vehicle is being used to transport dangerous goods, transport documentation for the goods is carried in or on the vehicle.

Maximum penalty: \$1 300.

Expiation fee: \$260.

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

Maximum penalty: \$1 300.

Expiation fee: \$260.

123—Train driver’s duties

- (1) A person must not drive a train that the person knows, or ought reasonably to know, is transporting dangerous goods, if the person does not have transport documentation for the goods.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (2) The driver of a train transporting dangerous goods must produce the transport documentation for the goods for inspection by an authorised officer, or an emergency services officer, if the officer asks the driver to produce the documentation for inspection.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (3) Subregulations (1) and (2) do not apply if the train is in a depot or yard or is engaged in shunting operations and the transport documentation for the goods is readily available elsewhere in the immediate vicinity of the depot, yard or operations.

Division 2—Emergency information

124—Meaning of required emergency information

In this Division—

required emergency information means—

- (a) if an approval under regulation 157(7) applies—emergency information that complies with the approval; or
- (b) in any other case—emergency information that complies with Chapter 11.2 of the ADG Code.

125—Consignor’s duties

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

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

Expiation fee:

- (a) in the case of a body corporate—\$1 300;
- (b) in the case of a natural person—\$260.

126—Prime contractor’s duties

A prime contractor must not use a road vehicle to transport a placard load if—

- (a) the vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code; or
- (b) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

127—Rail operator’s duties

- (1) A rail operator must not transport a placard load in a transport unit on a train if the required emergency information for the dangerous goods in the load is not in the train driver’s cab.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) Subregulation (1) does not apply if the train is in a depot or yard, or is involved in shunting operations, and the required emergency information for the dangerous goods in the load is readily available elsewhere in the immediate vicinity of those operations.

128—Driver’s duties

- (1) A person must not drive a road vehicle transporting a placard load if—
 - (a) the vehicle is not equipped with an emergency information holder that complies with Chapter 11.2 of the ADG Code; or

- (b) the required emergency information for the dangerous goods in the load is not in the holder.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (2) The driver of a road vehicle transporting a placard load must ensure that the vehicle's emergency information holder contains only—

- (a) the required emergency information for the dangerous goods in the load; and

- (b) the transport documentation for the goods.

Maximum penalty: \$650.

Expiation fee: \$130.

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

Maximum penalty: \$1 300.

Expiation fee: \$260.

129—Train driver's duties

- (1) A person must not drive a train that is transporting a placard load if the required emergency information for the dangerous goods in the load is not in the train driver's cab.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (2) The driver of a train transporting a placard load must produce the required emergency information for the dangerous goods in the load for inspection by an authorised officer or an emergency services officer, if the officer asks the driver to produce the information for inspection.

Maximum penalty: \$1 300.

Expiation fee: \$260.

- (3) Subregulations (1) and (2) do not apply if the train is in a depot or yard or is engaged in shunting operations and the required emergency information is readily available elsewhere in the immediate vicinity of the depot, yard or operations.

Part 13—Procedures during transport

Division 1—Road vehicles—driver's duties

130—Driving

The driver of a road vehicle transporting a placard load must not allow anyone else to ride in the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: \$650.

Expiation fee: \$130.

131—Parking

The driver of a road vehicle transporting a placard load must not park the vehicle, or leave the vehicle standing, in a public or private place except in accordance with Part 13 of the ADG Code.

Maximum penalty: \$1 300.

Expiation fee: \$260.

132—Control of ignition sources

- (1) This regulation applies to a road vehicle transporting—
 - (a) a load that contains—
 - (i) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (ii) more than 500 kilograms of dangerous goods in a receptacle; and
 - (b) the dangerous goods are of UN Division 2.1 or UN Class 3, 4 or 5 or have a Subsidiary Risk of 2.1, 3, 4 or 5.1.
- (2) The driver of the road vehicle must not—
 - (a) have matches or a cigarette lighter in his or her possession in the vehicle; or
 - (b) smoke in the vehicle.

Maximum penalty: \$4 000.

Expiation fee: \$800.

- (3) The driver must do everything practicable to ensure that anyone else in the road vehicle does not—
 - (a) have matches or a cigarette lighter in his or her possession; or
 - (b) smoke.

Maximum penalty: \$4 000.

Expiation fee: \$800.

133—Unloading or unpacking

- (1) The driver of a road vehicle transporting a placard load must not unload or unpack the dangerous goods, or permit the dangerous goods to be unloaded or unpacked, from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: \$4 000.

Expiation fee: \$800.
- (2) In this regulation, a reference to unpacking dangerous goods from a vehicle extends to the bulk transfer of dangerous goods out of a tank vehicle or a container in or on a vehicle.

134—Detaching trailer

The driver of a road vehicle that has attached to it a trailer transporting a placard load must not detach the trailer, or permit it to be detached, from the vehicle except in accordance with Part 13 of the ADG Code.

Maximum penalty: \$4 000.

Expiation fee: \$800.

135—Road tank vehicle equipped with burner

The driver of a road tank vehicle that is transporting a placard load and is equipped with a burner to heat the load must not operate the burner, or permit it to be operated, except in accordance with Part 13 of the ADG Code.

Maximum penalty: \$4 000.

Expiation fee: \$800.

Division 2—Routes, times etc

136—Prime contractor's and rail operator's duties

A prime contractor or rail operator must not transport dangerous goods contrary to a determination under regulation 155(1)(d) or (e).

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

137—Driver's duties

A person must not drive a road vehicle transporting dangerous goods contrary to a determination under regulation 155(1)(d) or (e).

Maximum penalty: \$2 000.

Expiation fee: \$400.

Division 3—Immobilised and stopped vehicles

138—Interpretation

For the purposes of this Division—

- (a) a motor vehicle is broken down if it is not possible to drive the vehicle because it is disabled through damage, mechanical failure, lack of fuel or any similar reason; and
- (b) a trailer is broken down if it is not connected (either directly or by 1 or more other trailers) to a towing vehicle, whether or not the trailer is disabled through damage, mechanical failure or any similar reason; and

- (c) the driver of a trailer that is broken down is the driver of the towing vehicle to which the trailer was last connected (either directly or by 1 or more other trailers).

139—Driver’s duties

- (1) This regulation applies if a road vehicle transporting a placard load—
 - (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 Part 13 of the ADG Code.

Maximum penalty: \$650.

Expiation fee: \$130.

140—Prime contractor’s duties

- (1) If a prime contractor knows, or ought reasonably to know, that a road vehicle that the prime contractor is using to transport a placard load has broken down or is otherwise immobilised on a road and requires repair, the prime contractor must, as soon as practicable, ensure that the vehicle is—
 - (a) repaired so that it can be driven safely off the road; or
 - (b) towed to a place where it can be repaired.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

- (2) The prime contractor must—
 - (a) remove the dangerous goods from the road vehicle before it is repaired or towed; and
 - (b) transport the dangerous goods from the place of the breakdown or immobilisation,

if the risk of personal injury, property damage or environmental harm involved in complying with paragraphs (a) and (b) is not greater than the risk involved in not complying with the paragraphs.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

141—Rail operator’s duties

If a train transporting a placard load fails or is otherwise immobilised, the rail operator must, as soon as practicable, take all appropriate steps to ensure that a dangerous situation does not arise.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Division 4—Emergencies generally

142—Driver’s duties

If a road vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation, the driver of the vehicle must—

- (a) notify the prime contractor, the Competent Authority and the police or fire service, of the incident as soon as practicable; and
- (b) provide any reasonable assistance required by an authorised officer, or an emergency services officer, to deal with the situation.

Maximum penalty: \$1 300.

143—Train driver's and rail operator’s duties

- (1) If a train transporting dangerous goods is involved in an incident resulting in a dangerous situation, the driver of the train must—
 - (a) notify the rail operator of the incident as soon as practicable; and
 - (b) provide any reasonable assistance required by an authorised officer, or an emergency services officer, to deal with the situation.

Maximum penalty: \$1 300.

- (2) On becoming aware of the incident, the rail operator must—
 - (a) notify the police or fire service of the incident as soon as practicable; and
 - (b) provide any reasonable assistance required by an authorised officer, or an emergency services officer, to deal with the situation.

Maximum penalty:

- (a) in the case of a body corporate—\$6 500;
- (b) in the case of a natural person—\$1 300.

144—Prime contractor’s and rail operator’s duties—food or food packaging

- (1) This regulation applies if—
 - (a) an incident involving a vehicle transporting dangerous goods results in the leakage, spillage or accidental escape of the dangerous goods, or in a fire or explosion; and
 - (b) there is food or food packaging in the vicinity of the incident that is within the control of a prime contractor or rail operator.

- (2) In the case of a prime contractor, the prime contractor must ensure that the food or food packaging is not transported from the site of the incident unless the Competent Authority has given permission to the prime contractor to transport the food or food packaging from the site.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (3) In the case of a rail operator, the rail operator must—

- (a) notify the Competent Authority of the incident as soon as practicable after the incident; and
- (b) deal with the food or food packaging as directed by the Competent Authority.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

145—Prime contractor's and rail operator's duties—reporting

- (1) This regulation applies if a vehicle transporting dangerous goods is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after becoming aware of the incident, the prime contractor or rail operator must provide the Competent Authority with the following details about the incident:
- (a) where the incident happened;
 - (b) the date and time of the incident;
 - (c) the nature of the incident;
 - (d) the dangerous goods being transported when the incident happened;
 - (e) any other details that the Competent Authority may require.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

- (3) Not later than 21 days after the day of the incident, the prime contractor or rail operator must give the Competent Authority a written report about the incident stating the following:
- (a) where the incident happened;
 - (b) the date and time of the incident;
 - (c) the nature of the incident;
 - (d) the dangerous goods being transported when the incident happened;
 - (e) what the driver believes to be the likely cause of the incident;
 - (f) what the prime contractor or rail operator believes to be the likely cause of the incident;

- (g) the measures taken to control any leak, spill or accidental escape of dangerous goods, and any fire or explosion, resulting from the incident;
- (h) the measures taken after the incident in relation to the dangerous goods involved in the incident.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Division 5—Emergencies involving placard loads

146—Telephone advisory service for certain placard loads

- (1) A prime contractor or rail operator must not transport a load that contains—
 - (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle,if a telephone advisory service is not available during the journey.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (2) A person must not consign a load that contains—
 - (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle,if a telephone advisory service is not available during the journey.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
- (b) in the case of a natural person—\$4 000.

- (3) The telephone advisory service—
 - (a) must comprise a service providing access by a continuously monitored telephone not located on a vehicle transporting dangerous goods to a person competent to give advice about the following:
 - (i) the construction and properties of the receptacles in which the dangerous goods are being transported;
 - (ii) the use of equipment on vehicles in or on which the dangerous goods are being transported;
 - (iii) the properties of the dangerous goods;
 - (iv) methods of safely handling the dangerous goods;
 - (v) methods of safely containing and controlling the dangerous goods in a dangerous situation; and
 - (b) may be provided by the prime contractor, rail operator or consignor, or someone else for the prime contractor, rail operator or consignor.

147—Emergency plans

- (1) Before a person consigns a placard load for transport, the person must prepare and have an emergency plan for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (2) Before a prime contractor or rail operator transports a placard load, the prime contractor or rail operator must prepare and have an emergency plan for the transport of the goods.

Maximum penalty:

- (a) in the case of a body corporate—\$20 000;
 - (b) in the case of a natural person—\$4 000.
- (3) The emergency plan must—
 - (a) be in writing; and
 - (b) include procedures for dealing with any dangerous situation arising from the transport of the goods; and
 - (c) be prepared having regard to any guidelines approved by the Australian Transport Council.

148—Provision of information and resources

- (1) This regulation applies if a vehicle transporting a placard load is involved in an incident resulting in a dangerous situation.
- (2) As soon as practicable after being asked by an authorised officer or an emergency services officer, the consignor of goods included in the load must—
 - (a) give the officer the information the officer requires about—
 - (i) the properties of the dangerous goods being transported; and
 - (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.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$2 000.
- (3) As soon as practicable after being asked by an authorised officer or an emergency services officer, the prime contractor or rail operator must—
 - (a) give the officer the information the officer requires about the vehicle's construction, properties and equipment; and

- (b) provide the equipment and other resources necessary—
 - (i) to control the dangerous situation; and
 - (ii) to recover the vehicle or its equipment.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
 - (b) in the case of a natural person—\$2 000.
- (4) If the prime contractor and the consignor, or the rail operator and the consignor, of the dangerous goods are asked to give the same information or provide the same resources for the incident, it is sufficient if the consignor or, as the case may be, the prime contractor or the rail operator gives the information or provides the resources.

Part 14—ADG Code Special Provisions

149—Application of this Part

- (1) This Part applies if a Special Provision referenced in the Dangerous Goods List applies to dangerous goods and that Special Provision prohibits the transport of the goods by land or imposes a restriction on the way the goods are to be transported by land.
- (2) A Special Provision is subject to any applicable determination under regulation 155.

150—Consignor's duties

A person must not consign dangerous goods for transport if the person knows, or ought reasonably to know—

- (a) that a Special Provision applies to the transport of the goods; and
- (b) that the transport of the goods contravenes or will contravene the Special Provision.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

Expiation fee:

- (a) in the case of a body corporate—\$2 000;
- (b) in the case of a natural person—\$400.

151—Packer's duties

A person must not pack dangerous goods for transport if the person knows, or ought reasonably to know—

- (a) that a Special Provision applies to the transport of the goods; and
- (b) that the transport of the goods contravenes or will contravene the Special Provision.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

152—Loader's duties

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

- (a) that a Special Provision applies to the transport of the goods; and
- (b) that the transport of the goods contravenes or will contravene the Special Provision.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

153—Prime contractor's and rail operator's duties

A prime contractor or rail operator must not transport dangerous goods if the prime contractor or rail operator knows, or ought reasonably to know—

- (a) that a Special Provision applies to the transport of the goods; and
- (b) that the transport of the goods contravenes the Special Provision.

Maximum penalty:

- (a) in the case of a body corporate—\$10 000;
- (b) in the case of a natural person—\$2 000.

154—Driver's duties

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

- (a) that a Special Provision applies to the transport of the goods; and
- (b) that the transport of the goods contravenes the Special Provision.

Maximum penalty: \$1 000.

Part 15—Administration

Division 1—Determinations and approvals

Subdivision 1—Determinations

155—Determinations

- (1) For the purposes of Part 4 of the Act and these regulations, the Competent Authority may, on application or on its own initiative, determine—
 - (a) that goods are or are not—
 - (i) dangerous goods; or
 - (ii) dangerous goods of a particular UN Class or UN Division; or
 - (iii) dangerous goods with a particular Subsidiary Risk; or
 - (iv) substances of a particular Packing Group; or
 - (v) incompatible with particular dangerous goods; or

- (b) that particular dangerous goods are or are not too dangerous to be transported; or
 - (c) that particular dangerous goods may be, must or must not be transported in specified packaging (despite any prohibition or authorisation in the Dangerous Goods List); or
 - (d) that particular dangerous goods may be or must or must not be transported—
 - (i) using a specified vehicle, or kind of vehicle; or
 - (ii) on a specified route; or
 - (iii) in or through a specified area; or
 - (iv) at a specified time; or
 - (v) in quantities in excess of a specified amount; or
 - (e) that particular dangerous goods may be or must not be transported in or on the same transport unit as other goods, whether or not dangerous goods.
- (2) A determination may be subject to any condition necessary for the safe transport of dangerous goods.

Note—

To the extent of any inconsistency, a determination prevails over any provision of these regulations or the ADG Code in its application to particular dangerous goods.

156—Corresponding determinations

- (1) This regulation applies to a determination made by a corresponding authority if—
- (a) the determination is made under a provision of the law of the other jurisdiction corresponding to regulation 155; and
 - (b) the determination has effect in the other jurisdiction; and
 - (c) CAP has decided that the determination should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) The determination has effect in this State as if it were a determination made by the Competent Authority under regulation 155.

Subdivision 2—Approvals

157—Approvals

(1) **Tests and training courses for drivers**

The following provisions apply to an approval for the purposes of Part 3:

- (a) the Competent Authority may, on application, approve—
 - (i) a test of competence for drivers of road vehicles transporting dangerous goods; or
 - (ii) a training course for drivers of road vehicles transporting dangerous goods;

- (b) the Competent Authority may approve a test of competence or a training course 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.

(2) Insurance—exemption from Part 4 Division 1

The following provisions apply to an approval for the use of a vehicle for the purposes of Part 4 Division 1:

- (a) the owner of a road vehicle used to transport placard loads, or a prime contractor responsible for the condition of the vehicle, may make an application to the Competent Authority for approval to use the vehicle even if the vehicle is not covered by a policy of insurance or other form of indemnity in accordance with Part 4 Division 1;
- (b) if the Competent Authority is satisfied that the owner or prime contractor is adequately capable of self insurance for the purposes of Part 4 Division 1, the Competent Authority may give written approval for the use of the vehicle;
- (c) an approval under paragraph (b) may be given by the Competent Authority—
 - (i) for a single use or for a period not longer than 3 years; and
 - (ii) subject to any other condition.

(3) Packaging design

The following provisions apply to an approval of a design for packaging for the purposes of Part 5:

- (a) the Competent Authority may, on application, approve a design for a packaging for use in the transport of dangerous goods if satisfied that a packaging of that design—
 - (i) will comply with, or is permitted by, Part 6 of the ADG Code; and
 - (ii) satisfies all the relevant testing and inspection requirements set out in that Part;
- (b) in giving approval, the Competent Authority may impose in relation to the approval any condition about the construction, packing, use or maintenance of a packaging manufactured in accordance with the design necessary for the safe use of the packaging to transport dangerous goods;
- (c) for the purposes of determining an application for the approval of a design for packaging, the following provisions apply:
 - (i) the Competent Authority may rely on a certificate issued by a recognised testing facility certifying that a packaging design type has passed particular performance tests for particular dangerous goods;
 - (ii) if a performance test is conducted by a testing facility registered by NATA, any certificate or report of the test must—
 - (A) contain any details required under the relevant Chapter of Part 6 of the ADG Code; and

- (B) be in the appropriate form used by NATA registered testing facilities;
- (iii) 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 certificate or report of the test must contain any details required under the relevant Chapter of Part 6 of the ADG Code;
- (iv) 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 Part 6 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.

(4) **Method of preparing overpack and contents—exemption from section 5.1.2 of ADG Code**

The following provisions apply to an approval of a method of preparing an overpack and its contents for the purposes of Part 5:

- (a) the Competent Authority may, on application, approve a method of preparing an overpack and its contents for transporting dangerous goods that does not comply with section 5.1.2 of the ADG Code if the Authority considers that the risk of personal injury, property damage or environmental harm involved in using the method is not greater than the risk involved in using a method complying with the section;
- (b) in giving approval, the Competent Authority may impose in relation to the approval any condition about the use of the overpack necessary for the safe use of the overpack to transport dangerous goods.

(5) **Segregation devices**

The following provisions apply to an approval of a design for a Type II segregation device for the purposes of Part 10:

- (a) the Competent Authority may, on application, approve a design for a Type II segregation device if the design complies with Chapter 6.11 of the ADG Code;
- (b) the approval of the design may be subject to any condition necessary for the safe transport of dangerous goods.

(6) Methods of segregation—exemption from Part 9 of ADG Code

The following provisions apply to an approval of a method of segregation for the purposes of Part 10:

- (a) the Competent Authority may approve a method of segregation not complying with Part 9 of the ADG Code for transporting dangerous goods and incompatible goods, if the Authority considers that—
 - (i) it is impracticable to segregate the goods by a segregation device, or method of segregation, complying with that Part; and
 - (ii) the risk of personal injury, property damage or environmental harm involved in using the method to transport the goods is not greater than the risk involved in using a device or method complying with that Part to transport the goods;
- (b) the approval of the method may be subject to any condition necessary for the safe transport of dangerous goods.

(7) Emergency information—exemption from Chapter 11.2 of ADG Code

The following provisions apply to an approval of emergency information for the purposes of Part 12 Division 2:

The Competent Authority may, on application, approve emergency information that does not comply with Chapter 11.2 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 that complies with the Chapter.

158—Corresponding approvals

- (1) This regulation applies to an approval given in another participating jurisdiction if—
 - (a) the approval is given under a provision of the law of the other jurisdiction corresponding to regulation 157; and
 - (b) the approval has effect in the other jurisdiction; and
 - (c) CAP has decided that the approval should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) The approval has effect in this State as if it were an approval given by the Competent Authority under regulation 157.

Subdivision 3—General

159—Application of Subdivision

This Subdivision applies to determinations made under this Part on application and to approvals given under this Part.

160—Application for determination or approval

- (1) An application for a determination or approval must—
 - (a) be made to the Competent Authority in writing; and

- (b) in the case of an application for the approval of a design for packaging—include the information required under Part 6 of the ADG Code; and
 - (c) in the case of an application for the approval of a design for a Type II segregation device—include the information required under Chapter 6.11 of the ADG Code; and
 - (d) be accompanied by the fee fixed by Schedule 1.
- (2) The Competent Authority may, by written notice, require an applicant to give to the Authority any additional information necessary for the proper consideration of the application.
 - (3) If the Competent Authority refuses the application, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

161—Court orders

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

162—Form and term of determination or approval

- (1) A determination or approval must be in writing.
- (2) A condition to which a determination or approval is subject must be specified in the determination or approval.
- (3) A determination or approval has effect for the period specified in the determination or approval.
- (4) A person on whose application a determination is made or approval given is, for the purposes of these regulations, the holder of the determination or approval.

163—Variation or revocation of determination or approval on application

- (1) The Competent Authority may, on application by the holder of a determination or approval, vary or revoke the determination or approval.
- (2) An application for variation or revocation of a determination or approval must be accompanied by the determination or approval.

164—Grounds for revocation or variation

- (1) The Competent Authority may revoke a determination or approval if satisfied that—
 - (a) the application for the determination or approval did not comply with these regulations or was false or misleading in a material respect; or
 - (b) a relevant change has happened since the determination was made or approval given and, if the change had happened earlier, the determination would not have been made or approval given; or
 - (c) the holder of the determination or approval is unsuitable to continue to be the holder of the determination or approval because the person has contravened Part 4 of the Act or these regulations or a corresponding law; or
 - (d) other reasonable grounds exist for doing so.

- (2) The Competent Authority may vary a determination or approval if satisfied that—
- (a) the application for the determination or approval did not comply with these regulations or was false or misleading in a material respect; or
 - (b) a relevant change has happened since the determination was made or approval given and, if the change had happened earlier, the determination would have been made, or the approval would have been given, in the way in which it is proposed to be varied; or
 - (c) the holder of the determination or approval is unsuitable to continue to be the holder of the determination or approval without variation because the person has contravened Part 4 of the Act or these regulations or a corresponding law; or
 - (d) other reasonable grounds exist for doing so.
- (3) The Competent Authority must, before revoking or varying a determination or approval under this regulation, give to the holder of the determination or approval a written notice that—
- (a) states what the proposed action is; and
 - (b) if the proposed action is to vary the determination or approval—sets out the proposed variation; and
 - (c) sets out the ground for the proposed action; and
 - (d) outlines the facts and other circumstances forming the basis for the ground; and
 - (e) invites the holder to state in writing, within a specified period of at least 28 days after the day the notice is given to the holder, why the proposed action should not be taken.
- (4) Notice is not required under subregulation (3) if, in the opinion of the Competent Authority, the revocation or variation is necessary to avoid, eliminate or minimise a dangerous situation.
- (5) In this regulation—
- 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.

165—Revocation giving effect to court orders

The Competent Authority must revoke a determination or approval if the holder is prohibited by court order from involvement in the transport of dangerous goods.

166—When revocation and variation take effect

- (1) The revocation or variation of a determination or approval by the Competent Authority takes effect on—
- (a) the day the holder of the determination or approval is given written notice by the Competent Authority of the revocation or variation; or
 - (b) a later day specified in the notice.
- (2) The Competent Authority must inform the holder of a determination or approval in writing of the reasons for the revocation or variation.

167—Application for reconsideration of decision

- (1) A person directly affected by a decision of the Competent Authority relating to a determination or approval may apply to the Competent Authority for reconsideration of the decision.
- (2) An application for reconsideration must be made within—
 - (a) 28 days after the day the person was informed of the decision by the Competent Authority; or
 - (b) a longer period allowed by the Competent Authority, either before or after the end of the 28 days.
- (3) The application must be in writing and set out the grounds on which reconsideration of the decision is sought.
- (4) Within 28 days after receiving the application, the Competent Authority must reconsider the decision, and confirm, revoke or vary the decision.
- (5) If the Competent Authority has not reconsidered the decision within that period, the Competent Authority is to be taken to have confirmed the decision.
- (6) The Competent Authority must inform the applicant in writing of the result of the reconsideration and of the reasons for the result.
- (7) A person may appeal to the Administrative and Disciplinary Division of the District Court in circumstances where an application for reconsideration of a decision may be made under this regulation, subject to an application for reconsideration of the decision having been made and the period allowed for reconsideration having expired before the appeal is instituted.
- (8) An appeal must be instituted within 28 days of the applicant receiving notice of the result of the reconsideration or, if the Competent Authority has not reconsidered the decision within the period allowed by this regulation, within 28 days after the expiry of that period.

Division 2—Exemptions

168—Applications for exemptions

- (1) An application for an exemption (under section 36 of the Act) from Part 4 of the Act or these regulations must—
 - (a) be made in writing to the Competent Authority; and
 - (b) state the applicant's name and address; and
 - (c) specify the provisions of the Act, these regulations or the ADG Code to which it is proposed the exemption relate; and
 - (d) specify the person, place, vehicles or activities or the class of persons, places, vehicles or activities to which it is proposed the exemption relate; and
 - (e) state why, in the applicant's opinion, compliance with the provisions is not reasonably practicable; and

- (f) state why, in the applicant's opinion, the exemption (subject to compliance with specified conditions, if any) would not result in an increased risk of personal injury, property damage or environmental harm and would not cause unnecessary administrative or enforcement difficulties; and
 - (g) specify the period for which the exemption is sought; and
 - (h) specify any conditions to which it is proposed the exemption be subject; and
 - (i) be signed and dated by or for the applicant; and
 - (j) be accompanied by the fee fixed by Schedule 1.
- (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.

169—Corresponding exemptions

- (1) This regulation applies to an exemption granted by a corresponding authority if—
- (a) the exemption is granted from compliance with a provision of the law of the other jurisdiction corresponding to a provision (the *relevant provision*) of these regulations; and
 - (b) the exemption has effect in the other jurisdiction; and
 - (c) CAP has decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this State, and CAP has not reversed the decision.
- (2) Subject to subregulation (3), the exemption has effect in this State as if it were an exemption from compliance with the relevant provision granted by the Competent Authority.
- (3) The exemption will cease to have effect 10 years after the day CAP decided that the exemption should have effect in all participating jurisdictions or participating jurisdictions including this State (if it has not earlier ceased to have effect).

Division 3—Relationship with corresponding authorities

170—References to CAP

- (1) The Competent Authority must refer the following matters to CAP:
- (a) an application for a determination or approval under these regulations, or for an exemption under section 36 of the Act, that the Authority considers should have effect in another participating jurisdiction;
 - (b) any proposal of the Competent Authority to revoke or vary a determination, approval or exemption having effect in this State and 1 or more other participating jurisdictions.
- (2) The Competent Authority must have regard to any decision made by CAP on a matter referred to it under this regulation.

171—Recommendations by Competent Authority

- (1) The Competent Authority may recommend, in writing, to a corresponding authority that the authority—
 - (a) cancel, suspend or vary a corresponding dangerous goods driver licence or corresponding dangerous goods vehicle licence; or
 - (b) revoke or vary a corresponding determination, corresponding approval or corresponding exemption.
- (2) The Competent Authority must provide written reasons to the corresponding authority for the recommendation.

172—Recommendations by corresponding authorities

- (1) If the Competent Authority receives a recommendation in writing from a corresponding authority that the Authority revoke or vary a determination, approval or exemption, the Competent Authority need not take any action on the recommendation until CAP has considered the recommendation.
- (2) The Competent Authority must have regard to any decision made by CAP on the matter.
- (3) If the Competent Authority receives a recommendation in writing from a corresponding authority that the Authority cancel, suspend or vary a dangerous goods driver licence or dangerous goods vehicle licence, the Competent Authority must have regard to the recommendation.

Division 4—Register

173—Register

- (1) The Competent Authority must keep a register of the following:
 - (a) dangerous goods driver licences;
 - (b) dangerous goods vehicle licences;
 - (c) determinations;
 - (d) approvals;
 - (e) exemptions.
- (2) The register—
 - (a) may be part of a central register kept by the Competent Authority with corresponding authorities; and
 - (b) may have separate divisions for different kinds of licences, determinations, approvals or exemptions; and
 - (c) may be kept by computer.
- (3) The record of a licence in the register must include the following information:
 - (a) the name of the licensee;
 - (b) the date the licence was granted or renewed;
 - (c) either—

- (i) the period for which the licence was granted or renewed; or
 - (ii) the expiry date of the licence;
 - (d) for a dangerous goods driver licence—the licensee's date of birth;
 - (e) for a dangerous goods vehicle licence—the registration number (if any), make and type of each road vehicle to which the licence relates;
 - (f) any condition to which the licence is subject.
- (4) The Competent Authority must note in the register the surrender, cancellation, suspension or variation of a licence.
- (5) The record of a determination, approval or exemption in the register must include—
- (a) the terms of the determination, approval or exemption; and
 - (b) if the determination, approval or exemption was made on the application of a person—the name of the holder of the determination, approval or exemption; and
 - (c) the date the determination, approval or exemption was made, given or granted.
- (6) The Competent Authority must note in the register the revocation or variation of a determination, approval or exemption.

174—Inspection of register

- (1) The Competent Authority must ensure that the register kept under these regulations is available for inspection by corresponding 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 the register; or
 - (b) a computer terminal to inspect the register.

Division 5—Service of notices

175—Giving of notice

- (1) A notice required or authorised by these regulations to be given to a person by the Competent Authority or an authorised officer may be given—
- (a) by delivering it personally to the person or an agent of the person; or
 - (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
 - (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business.
- (2) Without limiting subregulation (1), a notice required or authorised to be given to an applicant under these regulations or to a licensee under the Act may be given—
- (a) by posting it to the person at the address last provided to the Competent Authority by the person for that purpose; or

- (b) by transmitting it to the person by fax transmission or email to the fax number or email address last provided to the Competent Authority by the person for that purpose; or
- (c) in the case of a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth—in accordance with that Act.

Schedule 1—Fees

1	Application for dangerous goods driver licence or for renewal of dangerous goods driver licence—	
	(a) for a period of 1 year or less	\$22.10
	(b) for a period of more than 1 year but not more than 2 years	\$44.25
	(c) for a period of more than 2 years	\$66.50
2	Application for dangerous goods vehicle licence or for renewal of dangerous goods vehicle licence—	
	(a) for a period of 1 year or less	\$133.00
	(b) for a period of more than 1 year but not more than 2 years	\$265.00
	(c) for a period of more than 2 years	\$398.00
4	Application for determination under regulations or for variation of determination	\$288.00
5	Application for approval under regulations or for variation of approval	\$288.00
6	Application for exemption under section 36 of Act	\$288.00
7	Replacement licence, label, approval or exemption if lost, defaced or stolen	\$22.10

Schedule 2—Transitional provisions

Part 3—Transitional provisions

5—Continuing effect of licences, determinations, approvals and exemptions

- (1) This clause applies to a licence, determination, approval or exemption that—
 - (a) was granted, made or given under the Act, Part 4 of the *Dangerous Substances Regulations 2002* as in force before the commencement of these regulations or a provision applied by that Part; and
 - (b) was in force in this State immediately before the commencement of these regulations; and
 - (c) is, respectively—
 - (i) a licence of a kind that may be granted under—
 - (A) regulation 20 (dangerous goods driver licence); or
 - (B) regulation 26 (dangerous goods vehicle licence);
 - (ii) a determination of a kind that may be made under regulation 155;
 - (iii) an approval of a kind that may be given under regulation 157;

- (iv) an exemption from compliance with a provision of or applied by Part 4 of the *Dangerous Substances Regulations 2002* that corresponds to a provision of these regulations (the *relevant exemption provision*).
- (2) The licence, determination or approval has effect for the purposes of these regulations as if it were a licence, determination or approval granted, made or given by the Competent Authority under the regulation referred to in subregulation (1)(c)(i), (ii) or (iii), as the case requires.
- (3) The exemption has effect for the purposes of these regulations as if it were an exemption granted by the Competent Authority under section 36 of the Act from compliance with the relevant exemption provision.
- (4) If an approval or exemption that is continued in effect by virtue of this clause does not have an expiry date, it will expire on the fifth anniversary of the commencement of these regulations (if it has not earlier ceased to have effect).

6—Continuing effect of corresponding licences, determinations, approvals and exemptions

- (1) This clause applies to a licence, determination, approval or exemption (however described) that—
 - (a) was granted, made or given under a law regulating the transport of dangerous goods by road or rail made by another State or a Territory of the Commonwealth that has passed or has indicated that it intends to pass a corresponding law; and
 - (b) was in force in the other State or Territory immediately before the commencement of these regulations; and
 - (c) is a licence, determination, approval or exemption that may be granted, made or given under a provision of the law of the other State or Territory corresponding to a provision of these regulations.
- (2) Except for circumstances that do not exist in this State, the licence, determination, approval or exemption has effect for the purposes of these regulations as if it were a corresponding dangerous goods driver licence, corresponding dangerous goods vehicle licence, corresponding determination, corresponding approval or corresponding exemption (as the case requires).
- (3) If an approval or exemption that is continued in effect by this clause does not have an expiry date, it will expire on the fifth anniversary of the commencement of these regulations (if it has not earlier ceased to have effect).

7—Alternative compliance with ADG 6 until 31 December 2009

- (1) Until 31 December 2009, for the purposes of these regulations—
 - (a) dangerous goods may continue to be classified in accordance with ADG 6 and consequently be regarded as being of the UN Class, Packing Group and Subsidiary Risk, and having the UN Number, proper shipping name and HAZCHEM Code, applicable under ADG 6; and

- (b) dangerous goods that, in accordance with ADG 6, are of a particular UN Class comprised of a decimal number will be regarded as being dangerous goods of the UN Division of the same number; and
- (c) the Special Provisions referenced in the Dangerous Goods List in ADG 6 continue to apply in relation to dangerous goods classified in accordance with ADG 6 as if they were Special Provisions referenced in the Dangerous Goods List in ADG 7; and
- (d) packaging that complies with the requirements of ADG 6 will be regarded as if it were packaging that complies with the relevant requirements of Parts 4 and 6 of ADG 7; and
- (e) packagings and packing methods that are used for dangerous goods in accordance with ADG 6 will be regarded as if they were packaging and packing methods used for the dangerous goods in accordance with ADG 7,

and these regulations will have effect accordingly, despite any other provision of these regulations.

(2) Consequently, for example, until 31 December 2009—

- (a) an offence involving dangerous goods is not committed against these regulations if the offence would not have been committed taking into account the classification and description of the goods applicable under ADG 6 rather than ADG 7; and
- (b) an offence involving contravention of a requirement of ADG 7 relating to packagings or packing methods is not committed unless there is a contravention of the relevant requirements of both ADG 7 and ADG 6; and
- (c) an offence may be committed against Part 14 in relation to goods classified in accordance with ADG 6 if a Special Provision referenced in the Dangerous Goods List in ADG 6 applies to the transport of the goods and the transport of the goods contravenes or will contravene the Special Provision.

(3) For the purposes of this clause—

- (a) **ADG 6** is comprised of the 6th edition of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, as in force under the *Road Transport Reform (Dangerous Goods) (South Australia) Regulations 1998* immediately before the commencement of these regulations, read as if it incorporated and were subject to any relevant determinations; and
- (b) **ADG 7** is the ADG Code, as defined by regulation 4.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation varied by principal regulations

The *Dangerous Substances (Dangerous Goods Transport) Regulations 2008* varied the following:

Dangerous Substances Regulations 2002

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2008	300	<i>Gazette 11.12.2008 p5479</i>	1.1.2009: r 2
2009	146	<i>Gazette 4.6.2009 p2632</i>	1.7.2009: r 2
2010	110	<i>Gazette 10.6.2010 p2902</i>	1.7.2010: r 2
2011	110	<i>Gazette 9.6.2011 p2216</i>	1.7.2011: r 2
2012	127	<i>Gazette 31.5.2012 p2478</i>	1.7.2012: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2009</i>
Sch 1	substituted by 146/2009 r 4	1.7.2009
	substituted by 110/2010 r 4	1.7.2010
	substituted by 110/2011 r 4	1.7.2011
Sch 2		
<i>Pts 1 and 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2009</i>

Historical versions

1.7.2009

1.7.2010