

South Australia

# **Dangerous Substances (Dangerous Goods Transport) (Miscellaneous) Amendment Regulations 2023**

under the *Dangerous Substances Act 1979*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Dangerous Substances (Dangerous Goods Transport) (Miscellaneous) Amendment Regulations 2023*.

### **2—Commencement**

These regulations come into operation on 1 April 2023.

## Part 2—Amendment of *Dangerous Substances (Dangerous Goods Transport) Regulations 2008*

### 3—Amendment of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *ADG Code*—delete "Transport and Infrastructure" and substitute:

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- (2) Regulation 4(1), definition of *bulk container*—delete the definition and substitute:

*bulk container* means a system for containing solid substances, including any liner or coating that—

- (a) is designed for transporting solid substances in direct contact with the system; and
- (b) is of a permanent character suitable for repeated use; and
- (c) is designed to facilitate the transport of solid substances by 1 or more modes of transport, without the need for the substances to be unloaded and reloaded when transferred from 1 mode to another; and
- (d) is fitted with devices that permit ready handling; and
- (e) has a capacity of at least 1 m<sup>3</sup>,

**Examples—**

Freight containers, offshore bulk containers, skips, bulk bins, swap bodies, trough-shaped containers, roller containers, load compartments of vehicles and flexible containers are bulk containers.

however, an IBC, large packaging or a portable tank is not a bulk container;

- (3) Regulation 4(1), definition of *food packaging*—after paragraph (b), insert:

or

- (c) plastic wrapping intended for the packaging of food;

- (4) Regulation 4(1), definition of *freight container*—delete the definition and substitute:

*freight container* means a container that—

- (a) is of a permanent character suitable for repeated use; and
- (b) is designed to facilitate the transport of goods by 1 or more modes of transport, without the need for the goods to be unloaded and reloaded when the container is transferred from 1 mode to another; and
- (c) is fitted with devices that permit the ready stowage and handling of the container, particularly in relation to the transfer of the container from 1 mode of transport to another; and
- (d) is designed in a way that facilitates the ease of loading and unloading of goods from the container; and
- (e) for a container used to transport goods other than radioactive material—has an internal volume of at least 1 m<sup>3</sup>;

- (5) Regulation 4(1), definition of ***inner packaging***—delete the definition and substitute:  
***inner packaging*** has the same meaning as in section 1.2.1 of the ADG Code;  
***intermediate packaging*** has the same meaning as in section 1.2.1 of the ADG Code;
- (6) Regulation 4(1), definition of ***large packaging***—delete the definition and substitute:  
***large packaging*** means packaging that—
- (a) consists of outer packaging that contains articles or inner packagings; and
  - (b) is designed for mechanical handling; and
  - (c) has—
    - (i) a net mass of more than 400 kilograms or a capacity of more than 450 litres; and
    - (ii) a volume of not more than 3 m<sup>3</sup>;
- (7) Regulation 4(1), after the definition of ***MEGC*** insert:  
***Ministerial Council*** means the body (however described) that consists of the Minister of the Commonwealth, and the Minister of each State and Territory, who is responsible, or principally responsible, for matters relating to infrastructure and transport;
- (8) Regulation 4(1), definitions of ***outer packaging*** and ***overpack***—delete the definitions and substitute:  
***outer packaging*** has the same meaning as in section 1.2.1 of the ADG Code;  
***overpack*** means an enclosure, other than large packaging, used to contain 1 or more packages in a way that forms 1 unit for convenience of stowage and handling during transport;  
**Examples—**
- packages placed or stacked on a pallet and secured by strapping, shrink wrapping, stretch wrapping or another suitable way;
  - packages placed in protective outer packaging such as in a box or crate.
- (9) Regulation 4(1), definition of ***packaging***—delete the definition and substitute:  
***packaging*** includes—
- (a) inner packaging, intermediate packaging, outer packaging, an overpack, large packaging, an IBC, an MEGC, a tank (including the tank of a tank vehicle), a bulk container or freight container, a drum, a barrel, a jerry can, a box and a bag; and
  - (b) any other components or materials used for containing the contents of the packaging, or performing another safety function in relation to the transport of the packaging and its contents;

- (10) Regulation 4(1), definition of **portable tank**—delete the definition and substitute:

**portable tank** means a tank used for the transport of a solid, liquid or gas that—

- (a) includes a shell fitted with service equipment and structural equipment necessary for the transport of the solid, liquid or gas; and
- (b) is capable of being loaded and unloaded without removing its structural equipment; and
- (c) has stabilising components external to its shell, and is capable of being lifted when full; and
- (d) is designed primarily to be loaded on to a vehicle or vessel and is equipped with skids, mountings or accessories to facilitate mechanical handling; and
- (e) for a tank used for transporting a substance of UN Class 1 or UN Class 3 to 9—is a multimodal tank; and
- (f) for a tank used for transporting non-refrigerated, liquefied gases of UN Class 2—is a multimodal tank having a capacity of more than 450 litres; and
- (g) for a tank used for transporting refrigerated, liquified gases of UN Class 2—is a thermally insulated tank having a capacity of more than 450 litres; and
- (h) is not an item that is not considered to be a portable tank for the purposes of the ADG Code;

**Note—**

See the definition of portable tank in section 1.2.1 of the ADG Code for the list of items that are not considered to be a portable tank for the purposes of the ADG Code.

- (11) Regulation 4(1), after the definition of **rail operator** insert:

**rail tank wagon** means a rail wagon of which a tank forms an integral part;

**rail wagon** means a unit of rolling stock that—

- (a) is designed to carry freight by rail; and
- (b) bears a unique identifying number or alphanumeric identifier;

- (12) Regulation 4(1), after the definition of **road** insert:

**road tank vehicle** means a road vehicle of which a tank forms part or to which a tank, other than a portable tank, is attached;

- (13) Regulation 4(1), definition of **tank**—delete the definition and substitute:

**tank** means—

- (a) unless the context otherwise requires, a reference in these regulations to a tank is a reference to a portable tank, a road tank vehicle, a rail tank wagon, or a receptacle used to contain a solid, liquid or gas.

- (b) however, a reference to a tank includes an item mentioned in paragraph (a) that is used to transport a gas (as defined in section 2.2.1.1 of the ADG Code) only if it has a capacity of at least 450 litres;
- (14) Regulation 4(1), definition of *Transport and Infrastructure Council*—delete the definition
- (15) Regulation 4(1), definition of *tube*—delete the definition and substitute:

*tube* means a pressure receptacle of seamless or composite construction having a water capacity exceeding 150 litres but not more than 3 000 litres;

#### **4—Insertion of regulation 10A**

After regulation 10 insert:

##### **10A—Transitional arrangement if ADG Code or related instrument amended or remade**

- (1) This regulation applies if—
  - (a) the ADG Code is amended or remade or a code standard or rule applied or adopted by, or incorporated in, the ADG Code is amended or remade; and
  - (b) the amendment or remake has the effect of imposing a new requirement on a person, or modifying an existing requirement applying to a person, under these regulations.
- (2) The new requirement or modified existing requirement does not apply in relation to the person for the duration of the relevant period.
- (3) These regulations apply to the person for the duration of the relevant period as if the amendment or remake had not taken effect.
- (4) This regulation is subject to any other provision of these regulations that provides for when or how the new requirement or modified existing requirement applies in relation to the person.
- (5) For the purposes of this regulation:

*relevant period*, for an amendment or remake referred to in subregulation (1)(a), means the period starting on the day the amendment or remake takes effect and ending on the day falling 12 months after that day;

*requirement* means a duty, obligation, requirement or restriction (however described).

#### **5—Amendment of regulation 12—Goods too dangerous to transport**

Regulation 12(2)—delete subregulation (2) and substitute:

- (2) However, goods that satisfy the criteria set out, or referred to, in Part 2 of the ADG Code are not dangerous goods if—
  - (a) the goods are determined under section 1.5.1(1)(a) of the ADG Code not to be dangerous goods; or

- (b) the goods are described as not subject to the ADG Code in a special provision in Chapter 3.3 of the ADG Code that is applied to the goods by column 6 of the Dangerous Goods List, and any condition included in that provision is met.

## **6—Amendment of regulation 26—Grant or renewal of licence**

Regulation 26(2)(b)—delete "6.9" and substitute:

6.10

## **7—Amendment of regulation 56—Manufacturer's duties—compliance plates**

(1) Regulation 56(1)—delete subregulation (1) and substitute:

- (1) A person who manufactures a portable tank for use in the transport of dangerous goods must attach a compliance plate to the tank in accordance with—
  - (a) if the tank is not made of fibre reinforced plastic—Chapter 6.7 of the ADG Code; or
  - (b) if the tank is made of fibre reinforced plastic—Chapter 6.7 and section 6.9.2.10 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

- (1a) A person who manufactures an MEGC for use in the transport of dangerous goods must attach a compliance plate to the MEGC 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.

Expiation fee:

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

(2) Regulation 56(2)—delete "Chapter 6.7 of the ADG Code permits" and substitute:

Chapter 6.7 and section 6.9.2.10 of the ADG Code permit

(3) Regulation 56(3)—delete "6.9.2.2" and substitute:

6.10.2.2

(4) Regulation 56(3)—after the penalty provision insert:

Expiation fee:

- (a) in the case of a body corporate—\$4 000;

(b) in the case of a natural person—\$800.

**8—Amendment of regulation 83—Owner's duties**

Regulation 83—delete "Chapter 4.4" and substitute:

Chapters 4.4 and 6.10

**9—Amendment of regulation 84—Consignor's duties**

Regulation 84—delete "Chapter 4.4" and substitute:

Chapters 4.4 and 6.10

**10—Amendment of regulation 85—Loader's duties**

Regulation 85—delete "Chapter 4.4" and substitute:

Chapters 4.4 and 6.10

**11—Amendment of regulation 86—Prime contractor's and rail operator's duties**

Regulation 86—delete "Chapter 4.4" and substitute:

Chapters 4.4 and 6.10

**12—Amendment of regulation 87—Driver's duties**

Regulation 87—delete "Chapter 4.4" and substitute:

Chapters 4.4 and 6.10

**13—Amendment of regulation 120—Prime contractor's duties**

Regulation 120(3)—delete subregulation (3) and substitute:

- (3) It is a failure to comply with subregulation (2) if the prime contractor—
  - (a) does not retain a legible hard copy of the document, or a legible copy of the document in electronic form, for the 3 month retention period; or
  - (b) cannot produce, at any time during the 3 month retention period at the request of an authorised officer, a legible hard copy of the document or a legible copy of the document in electronic form.

**14—Amendment of regulation 147—Emergency plans**

Regulation 147(3)(c)—delete "Transport and Infrastructure" and substitute:

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**Editorial note—**

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 23 March 2023

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