Western Australia

Dangerous Goods Safety Act 2004

Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007

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Western Australia

Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007

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Defined terms

Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007

Part 1 — Preliminary

1. Citation

These regulations are the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007*.

2. Commencement

These regulations come into operation as follows:

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day on which Part 3 of the *Dangerous Goods Safety Act 2004* comes into operation.

3. Application of regulations

(1) Except as provided in subregulation (2), these regulations apply to and in relation to a place at which more than the critical quantity of Schedule 1 substances is present or is likely to be present.

(2) These regulations do not apply to or in relation to a place if —

(a) the type and quantity of Schedule 1 substances and any other dangerous goods that are or are likely to be present at the place, and the circumstances in which the goods are or are likely to be present, are such that the place is not required to be licensed under the *Dangerous Goods Safety (Explosives) Regulations 2007* or the *Dangerous*

Goods Safety (Storage and Handling of Non-explosives) Regulations 2007; or

(b) the only dangerous goods that are or are likely to be present at the place are explosives (as defined in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 3), and the circumstances in which the explosives are or are likely to be present are such that an explosive storage licence, but no other licence, is required in relation to the place under those regulations.

4. Terms used

In these regulations, unless the contrary intention appears —

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (also called the Australian Dangerous Goods Code) published by the National Transport Commission, including (for the avoidance of doubt) its appendices;

AE Code means the *Australian Code for the Transport of Explosives by Road and Rail Code*, Second Edition, 2000, published by the Commonwealth of Australia (ISBN 0 642 41486 6) (also called the Australian Explosives Code) including (for the avoidance of doubt) its technical appendices;

approved safety report, in relation to a place, means the document last approved by the Chief Officer under regulation 27(1) for that place and the approval of which has not been withdrawn under regulation 28(1);

commencement day means the day on which the Act Part 3 comes into operation;

compliance day, in relation to a major hazard facility, means —

(a) in the case of a facility other than a modified place —

(i) if, at the time notice of the Chief Officer's decision to classify the facility as a major hazard facility is given to the operator under regulation 21(1), more than the critical quantity of Schedule 1 substances is at the facility —

(I) the day specified in the notice under regulation 21(2)(a)(i); or

(II) if the day after the day when the safety report for the facility is first approved under regulation 27(1) is earlier than the day referred to in item (I) — the day after the day when the safety report for the facility is first approved;

or

(ii) if, at the time of such notice, more than the critical quantity of Schedule 1 substances is likely to be at the facility — the day when more than the critical quantity of Schedule 1 substances is at the facility for the first time;

or

(b) in the case of a modified place — the day when the notifiable change occurs;

critical quantity, for Schedule 1 substances at a place or likely to be at a place, means the critical quantity determined under regulation 9;

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

employee, at a place, means any person who works at the place under —

(a) a contract of service; or

(b) a contract for services; or

(c) a training contract registered under the *Vocational Education and Training Act 1996* Part 7 Division 2;

existing facility means a place —

(a) at which more than the critical quantity of Schedule 1 substances is present; and

(b) that immediately before the commencement day —

(i) was a dangerous goods site licensed under the *Explosives and Dangerous Goods (Dangerous Goods Handling and Storage) Regulations 1992* [1]; and

(ii) at which more than the critical quantity of Schedule 1 substances was permitted, under the licence, to be present;

harm means —

(a) injury to, or harm to the health of, an individual; or

(b) damage or harm to property or the environment;

hazard means any activity, procedure, plant, process, substance, situation or other circumstance that could be a cause of a major incident;

major hazard facility has the meaning given in regulation 5;

major incident means an incident involving or affecting a Schedule 1 substance, including —

(a) an emission of a Schedule 1 substance; or

(b) a loss of containment of a Schedule 1 substance; or

(c) a fire; or

(d) an explosion; or

(e) a release of energy,

that causes serious harm to people, property or the environment;

modified place means a place —

(a) in respect of which an operator is required to give the Chief Officer notification under regulation 15(3); and

(b) that becomes, subsequent to the operator giving notification under regulation 15(3), a major hazard facility;

notifiable change, in relation to a modified place, means the change that gives rise to the requirement to give the Chief Officer notification under regulation 15(3) in respect of the place;

notifiable information means the information listed in Schedule 2;

operator, of a place, including a major hazard facility, means the person who has the control or management of the place;

place has the meaning given in regulation 6;

relevant time, in relation to a risk assessment or safety report for a major hazard facility, means —

(a) in the case of a facility other than a modified place —

(i) if more than the critical quantity of Schedule 1 substances is at the facility — the present; or

(ii) if more than the critical quantity of Schedule 1 substances is likely to be at the place — the time when more than the critical quantity of Schedule 1 substances is at the facility for the first time;

or

(b) in the case of a modified place —

(i) if the notifiable change has occurred — the present; or

(ii) if the notifiable change has not occurred — the time when the notifiable change occurs;

risk assessment means a document that complies with regulation 23(2);

safety management system means a document that complies with regulation 24(2);

safety report means a document that complies with regulation 25(2) and includes a safety report amended under regulation 30;

Schedule 1 substance means a substance listed in Schedule 1 Table 1 or a substance belonging to a category of substances listed in Schedule 1 Table 2;

zoning, in relation to an area of land, means the permitted land use under a planning scheme as defined in the *Planning and Development Act 2005* section 4(1).

[Regulation 4 amended: Gazette 22 Jun 2010 p. 2783; 5 Feb 2016 p. 359-60; SL 2020/193 r. 6.]

5. Major hazard facility, meaning of

A place is a major hazard facility for the purposes of these regulations if —

(a) the operator of the place has been given a notice under regulation 21(1) of the Chief Officer's decision to classify the place as a major hazard facility; and

(b) the Chief Officer has not subsequently revoked that decision under regulation 22.

6. Place, meaning of

(1) An area of land, or of water, or of land and water is a place for the purposes of these regulations if it is controlled or managed by one person.

(2) Two or more areas of land, or of water, or of land and water that are situated near each other are one place for the purposes of these regulations if —

(a) all areas are controlled or managed by one person; and

(b) the Chief Officer determines that the areas are to be treated as one place for the purposes of these regulations.

(3) In this regulation, a person is to be taken to control or manage an area of land or water if the person controls or manages —

(a) a dock; or

(b) a pier; or

(c) a jetty; or

(d) a pipeline; or

(e) a conveying system,

situated on, over or in the area.

7. When Sch. 1 substances are likely to be at a place

For the purposes of these regulations, a Schedule 1 substance is likely to be at a place in a particular quantity if the operator of the place has made a decision to —

(a) implement a change to the plant or a process at the place that is likely to result in the substance being at the place in that quantity; or

(b) introduce new plant or a new process at the place that is likely to result in the substance being at the place in that quantity.

8. Quantity of substances at or likely to be at a place, determining

(1) For the purposes of these regulations, the quantity of a substance that is at a place, or that is likely to be at a place, at a particular time is determined by adding —

(a) the maximum quantity of the substance that could be present at the place at that time in —

(i) process vessels and interconnecting piping and conveying systems; and

(ii) storage tanks, storage vessels and storage areas; and

(iii) pipelines outside process areas;

and

(b) the maximum quantity of the substance that could, at that time, escape onto, or escape into the airspace above, the place as a result of the failure of a pipeline connected to (but not part of) the place; and

(c) any other quantity of the substance that is at the place, or is likely to be at the place, as the case requires, at that time but is not included in the quantities referred to in paragraphs (a) and (b).

(2) If a substance is at a place, or is likely to be at a place, as part of a mixture, the quantity of the substance present in that mixture is to be calculated using this formula —

$$a \times b = c$$

where —

a is the quantity of the mixture that contains the substance; and

b is the percentage of the mixture that is the substance; and

c is the quantity of the substance present in the mixture.

9. Critical quantity of Sch. 1 substances at or likely to be at a place, determining

(1) In this regulation —

threshold quantity, for a Schedule 1 substance, is the threshold quantity determined under regulation 10.

(2) For the purposes of these regulations, more than the critical quantity of Schedule 1 substances is at a place, or is likely to be at a place, if —

(a) in the case of a place where only one Schedule 1 substance is present, or is likely to be present, more than 10% of the threshold quantity for the substance is at the place, or is likely to be at the place, as the case requires; or

(b) in the case of a place where more than one Schedule 1 substance is present, or is likely to be present, the application of the following formula to those substances produces a result greater than 0.1 —

$$\frac{qx}{Qx} + \frac{qy}{Qy} + ... + \frac{qn}{Qn}$$

where —

x, y … and n	are the different Schedule 1 substances at the place, or likely to be at the place, as the case requires (excluding any substance that is at the place, or likely to be at the place, as the case requires, in a quantity less than 2% of its threshold quantity); and
qx, qy … and qn	are the quantities of x, y … and n at the place, or likely to be at the place, as the case requires; and
Qx, Qy … and Qn	are the threshold quantities for x, y … and n.

10. Threshold quantity for a Sch. 1 substance, determining

(1) In this regulation —

Table 1 means Schedule 1 Table 1;

Table 2 means Schedule 1 Table 2.

(2) If a Schedule 1 substance is listed in column 1 of Table 1, the threshold quantity for the substance is that specified opposite the substance in column 3 of Table 1, regardless of whether the substance also belongs to a category described in Table 2.

(3) Unless subregulation (4) applies, if a substance is not listed in Table 1 but belongs to a category listed in column 1 of Table 2, the threshold quantity for the substance is that specified opposite the substance in column 2 of Table 2.

(4) If a substance is not listed in Table 1 but belongs to more than one of the categories listed in column 1 of Table 2, the threshold quantity for the substance is the lower or lowest of the threshold quantities specified for those categories.

(5) If in the course of determining whether a substance belongs to a particular category listed in column 1 of Table 2 a question arises as to what procedure is the relevant procedure referred to in the definitions of ***class***, ***classification code***, ***division***, ***hazchem code***, ***packing group*** and ***subsidiary hazard*** in Schedule 1 clause 2, the question is to be decided by the Chief Officer.

(6) A decision by the Chief Officer under subregulation (5) is final and conclusive.

[Regulation 10 amended: SL 2020/193 r. 7.]

Part 2 — Main offences

11. Sch. 1 substances at a place not to exceed critical quantity without prior notification to Chief Officer

(1) The operator of a place must ensure that no more than the critical quantity of Schedule 1 substances is present at the place until —

(a) the operator has been given a notice under regulation 21(1) of the Chief Officer's decision not to classify the place as a major hazard facility; or

(b) if the operator has been given a notice under regulation 21(1) of the Chief Officer's decision to classify the place as a major hazard facility — there is an approved safety report for the place.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

(2) Subregulation (1) does not apply in relation to an existing facility.

12. No significant change to certain places without prior notification to Chief Officer

An operator who is required to give the Chief Officer notification under regulation 15(3) in respect of a place must ensure that the notifiable change does not occur until —

(a) the operator has, subsequent to the operator giving notification under regulation 15, been given a notice under regulation 21(1) of the Chief Officer's decision not to classify the place as a major hazard facility; or

(b) if the operator has, subsequent to the operator giving notification under regulation 15, been given a notice under regulation 21(1) of the Chief Officer's decision to

classify the place as a major hazard facility — there is an approved safety report for the place.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

13. Major hazard facility to operate in accordance with safety management system in approved safety report

On and after the compliance day, the operator of a major hazard facility must not store, handle or transport dangerous goods at the facility except in accordance with the safety management system identified in the approved safety report for the facility.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

Part 3 — Notification requirements

14. Operator to notify Chief Officer if more than critical quantity of Sch. 1 substances likely to be at place

The operator of a place must give the Chief Officer notification that complies with regulation 17 as soon as practicable if —

(a) more than the critical quantity of Schedule 1 substances is likely to be at the place; and

(b) the operator has not been given a notice under regulation 21(1) of the Chief Officer's decision whether to classify the place as a major hazard facility.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

15. Operator of certain places to notify Chief Officer of certain changes

(1) In this regulation —

notifiable change, in relation to a place, means a significant change to —

(a) any plant, process or substance used at the place (including the introduction of new plant, process or substance); or

(b) the layout of the place or where dangerous goods are to be stored, handled or transported within the place.

(2) This regulation applies to the operator of a place at which more than the critical quantity of Schedule 1 substances is present, or is likely to be present, but is not a major hazard facility by reason of the operator having been given —

(a) a notice under regulation 21(1) of the Chief Officer's decision not to classify the place as a major hazard facility; or

(b) a notice under regulation 22(3)(b) of the Chief Officer's decision to revoke a decision to classify the place as a major hazard facility.

(3) If the operator makes a decision to implement a notifiable change and the change is likely to result in Schedule 1 substances continuing to be, or being, at the place in more than the critical quantity, the operator of the place must as soon as practicable give the Chief Officer written notice of the operator's decision.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

(4) If the operator becomes aware of a change in the notifiable information for the place previously given to the Chief Officer, other than a change referred to in subregulation (3), the operator must as soon as practicable inform the Chief Officer about the matter and give the correct information to the Chief Officer.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

[Regulation 15 amended: Gazette 22 Jun 2010 p. 2783.]

16. Chief Officer may direct operator to give notification in some cases

(1) If the Chief Officer suspects on reasonable grounds that —

(a) more than the critical quantity of Schedule 1 substances is at a place, or is likely to be at a place, that is not a major hazard facility; and

(b) a major incident could occur at the place,

the Chief Officer may, in writing, direct the operator of the place to give the Chief Officer notification that complies with regulation 17 within the period specified in the direction or any longer period permitted by the Chief Officer.

(2) An operator must comply with a direction given under subregulation (1).

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

17. Notification required under r. 14, 15 and 16, form and content of

(1) In this regulation —

relevant date, in relation to a notification given in respect of a place, means —

(a) in the case of a place other than a place in respect of which notification is given under regulation 15(3) —

(i) if more than the critical quantity of Schedule 1 substances is at the place when the notification is given — the date of the notification; or

(ii) if more than the critical quantity of Schedule 1 substances is likely to be at the place when the notification is given — the day when more than the critical quantity of Schedule 1 substances is expected to be at the place for the first time;

or

(b) in the case of a place in respect of which notification is given under regulation 15(3) — the day when the notifiable change is expected to occur.

(2) The notification required under regulation 14, 15 or 16 must —

(a) be in writing; and

(b) state the relevant date; and

(c) contain the notifiable information for the place as it exists, or as the operator expects it will exist, on the relevant date.

18. Chief Officer may direct operator to give further information

(1) The Chief Officer may, in writing, direct an operator who has given notification under this Part to provide the additional information specified in the direction within the period specified in the direction or any longer period permitted by the Chief Officer.

(2) An operator must comply with a direction given under subregulation (1).

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

Part 4 — Certain places to be major hazard facilities

19. Classifying places as major hazard facilities, Chief Officer's functions as to

(1) The Chief Officer must decide whether or not to classify an existing facility as a major hazard facility for the purposes of these regulations.

(2) On receiving a notification under Part 3 from the operator of a place, the Chief Officer must decide whether or not to classify the place as a major hazard facility for the purposes of these regulations.

(3) The Chief Officer may decide to classify a place as a major hazard facility for the purposes of these regulations if the Chief Officer is satisfied on reasonable grounds that —

(a) more than the critical quantity of Schedule 1 substances is at the place or is likely to be at the place; and

(b) a major incident could occur at the place.

(4) The matters to be considered by the Chief Officer when determining whether a major incident could occur at a place include —

(a) the quantity and properties of Schedule 1 substances at the place or likely to be at the place; and

(b) the circumstances in which Schedule 1 substances are or will be stored, handled or transported while at the place; and

(c) any other written law that applies to the place for the purpose of ensuring that dangerous goods are stored, handled and transported safely; and

(d) the likely effects of an incident occurring at the place on people, property or the environment outside, as well as inside, the place.

20. Chief Officer to consult before classifying place as major hazard facility

Before the Chief Officer decides to classify a place as a major hazard facility for the purposes of these regulations, the Chief Officer must —

(a) give the operator of the place written notice of —

(i) the Chief Officer's intention to make the decision; and

(ii) the reasons for the intended decision;

and

(b) invite the operator to make submissions to the Chief Officer in relation to the intended decision before a date specified in the notice; and

(c) consider any submissions made by the operator.

21. Chief Officer to notify decision whether or not to classify a place as a major hazard facility

(1) On deciding whether or not to classify a place as a major hazard facility for the purposes of these regulations, the Chief Officer must give the operator of the place written notice of the Chief Officer's decision.

(2) If the Chief Officer decides to classify a place as a major hazard facility, the notice given to the operator under subregulation (1) must include a statement to the effect that the operator must have an approved safety report for the place before the following day —

(a) in the case of a place other than a modified place —

(i) if more than the critical quantity of Schedule 1 substances is at the place — the day specified in the notice;

(ii) if more than the critical quantity of Schedule 1 substances is likely to be at the place — the day

when more than the critical quantity of Schedule 1 substances is at the facility for the first time;

(b) in the case of a modified place — the day when the notifiable change occurs.

(3) If the Chief Officer decides to classify an existing facility as a major hazard facility, the date specified in the notice under subregulation (2)(a)(i) is to be —

(a) a date not earlier than the first anniversary of the commencement day; or

(b) a date agreed between the Chief Officer and the operator.

22. Chief Officer may revoke decision to classify place as major hazard facility

(1) The Chief Officer may revoke a decision made under regulation 19 to classify a place as a major hazard facility if the Chief Officer is no longer satisfied as required under regulation 19(3) in respect of the place.

(2) The operator of a major hazard facility may, in writing, request the Chief Officer to revoke the decision made under regulation 19 to classify the place as a major hazard facility.

(3) Within 90 days of receiving a request under subregulation (2) from the operator of a place, the Chief Officer must —

(a) decide whether or not to revoke the decision made under regulation 19 in respect of the place; and

(b) give the operator a written notice of the decision made under paragraph (a).

Part 5 — Safety reports

23. Risk assessment, operator of major hazard facility to prepare

(1) The operator of a major hazard facility must prepare a risk assessment for the facility.

(2) A risk assessment for a facility is a document that —

(a) identifies all hazards relating to dangerous goods at the facility as it exists, or as the operator expects it will exist, at the relevant time; and

(b) for each hazard, assesses —

(i) the probability of the hazard causing a major incident; and

(ii) the nature of the harm to people, property and the environment that is likely to result from the occurrence of that incident;

and

(c) for each hazard, identifies the measures (***risk control measures***) that will eliminate or, if it is not reasonably practicable to eliminate, that will reduce so far as reasonably practicable —

(i) the probability of the hazard causing a major incident; and

(ii) the harm to people, property and the environment that is likely to result from the occurrence of that incident;

and

(d) records the method of reasoning used to determine the matters referred to in paragraphs (a) to (c); and

(e) has been prepared in consultation with employees and records the details of the consultation; and

(f) is in a form acceptable to the Chief Officer.

(3) A risk assessment is prescribed to be a safety management document for the purposes of the definition of ***safety management document*** in the Act section 3(1).

24. Safety management system, operator of major hazard facility to prepare

(1) The operator of a major hazard facility must prepare a safety management system for the facility.

(2) A safety management system for a facility is a document that —

(a) records the policies and procedures for implementing and managing the risk control measures identified in the risk assessment for the facility, including the procedures referred to in Schedule 4; and

(b) has been prepared in consultation with employees and records the details of the consultation; and

(c) is in a form acceptable to the Chief Officer.

(3) A safety management system is prescribed to be a safety management document for the purposes of the definition of ***safety management document*** in the Act section 3(1).

25. Safety report, operator of major hazard facility to prepare

(1) The operator of a major hazard facility must prepare a safety report for the facility.

(2) A safety report for a facility is a document that —

(a) contains the notifiable information for the facility as it exists, or as the operator expects it will exist, at the relevant time; and

(b) identifies the risk assessment prepared for the facility and states where the risk assessment is available for inspection by the Chief Officer; and

(c) identifies the safety management system prepared for the facility and states where the safety management system is available for inspection by the Chief Officer; and

(d) is in a form acceptable to the Chief Officer.

(3) A safety report is prescribed to be a safety management document for the purposes of the definition of ***safety management document*** in the Act section 3(1).

26. Safety report, application for approval of

(1) An application for approval of a safety report for a facility must —

(a) be made to the Chief Officer in an approved form; and

(b) if it is the first application for approval of a safety report for the facility — be accompanied by the relevant fee specified in Schedule 3 clause 1.

[(2) deleted]

[Regulation 26 amended: Gazette 16 Mar 2012 p. 1270.]

27. Safety report, approval of by Chief Officer

(1) The Chief Officer may approve a safety report for a major hazard facility if satisfied that —

(a) the safety report complies with regulation 25(2); and

(b) the risk assessment and the safety management system identified in the safety report demonstrate that the operator of the facility will take all reasonably practicable measures to minimise the risk to people, property or the environment from dangerous goods at the facility.

(2) The matters to be considered by the Chief Officer when determining whether a measure to minimise the risk to people,

property or the environment from dangerous goods is reasonably practicable include —

(a) the severity of the risk to people, property or the environment from the dangerous goods; and

(b) the severity of any harm that might be caused by the dangerous goods to people, property or the environment; and

(c) public knowledge about the matters in paragraphs (a) and (b); and

(d) public knowledge about means to reduce or eliminate the risk referred to in paragraph (a) or to reduce the severity referred to in paragraph (b); and

(e) the availability, suitability and cost of those means.

28. Withdrawal of approval of safety report

(1) The Chief Officer may withdraw approval of a safety report if the Chief Officer ceases to be satisfied as required under regulation 27(1).

(2) The Chief Officer cannot withdraw approval of a safety report if —

(a) the operator of the major hazard facility to which the safety report relates has amended the safety report, the risk assessment or the safety management system, as the case requires, under regulation 30(3) and applied under regulation 26(1) for approval of the amended safety report; and

(b) the Chief Officer has not given the operator notice under regulation 29(2) that the Chief Officer refuses to approve the amended safety report.

29. Chief Officer to consult etc. before refusing to approve or withdrawing approval of safety report

(1) Before the Chief Officer —

(a) refuses to approve; or

(b) withdraws approval of,

a safety report, the Chief Officer must —

(c) give the operator of the major hazard facility to which the safety report relates written notice of —

(i) the Chief Officer's intention to make the decision referred to in paragraph (a) or (b); and

(ii) the reasons for the intended decision;

and

(d) invite the operator to make submissions to the Chief Officer in relation to the intended decision before a date specified in the notice; and

(e) consider any submissions made by the operator.

(2) If the Chief Officer —

(a) refuses to approve; or

(b) withdraws approval of,

a safety report, the Chief Officer must give the operator of the major hazard facility to which the safety report relates written notice of that decision, the reasons for the decision and the right to have the decision reviewed under the Act section 67.

30. Safety report, review of by operator of major hazard facility

(1) An operator of a major hazard facility must review the safety report for the facility (including the risk assessment and the safety management system identified in the safety report) —

(a) before implementing a significant change to —

(i) any plant, process or substance used at the facility including the introduction of any new plant, process or substance; or

(ii) the layout of the facility or where dangerous goods are to be stored, handled or transported within the facility;

or

(b) as soon as practicable after a dangerous goods incident or major incident occurs at the facility; or

(c) as soon as practicable after becoming aware of a change in land use or zoning for the area surrounding the facility; or

(d) as soon as practicable after receiving information provided under a direction given under regulation 31(1); or

(e) as soon as practicable after the expiry of —

(i) 5 years since the last review under this regulation; or

(ii) if a review has not been conducted, 5 years since the safety report for the facility was first approved under regulation 27(1);

or

(f) as soon as practicable after a request by the Chief Officer.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

(2) An operator of a major hazard facility may, on the operator's own initiative, review the safety report, the risk assessment or the safety management system for the facility.

(3) If a review indicates one or more of the following —

(a) that the safety report no longer complies with regulation 25(2);

(b) that the risk assessment no longer complies with regulation 23(2);

(c) that the safety management system no longer complies with regulation 24(2),

the operator must immediately —

(d) amend the safety report, the risk assessment or the safety management system, as the case requires, so that it does comply with the relevant regulation; and

(e) apply to the Chief Officer under regulation 26 for approval of the amended safety report.

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

(4) If a review required under subregulation (1) indicates that each of the safety report, the risk assessment and the safety management system complies with the relevant regulation without amendment, the operator must give the Chief Officer written notice that the operator has reviewed the safety report for the facility (including the risk assessment and the safety management system identified in the safety report) and no amendment to it is required.

Penalty:

(a) for an individual, a fine of $2 000;

(b) for a body corporate, a fine of $10 000.

Part 6 — Miscellaneous

31. Major hazard facilities near to one another, Chief Officer may direct one to give information to the other

(1) If the Chief Officer considers that the proximity of 2 major hazard facilities to one another is such that an incident at one could cause a major incident at the other, the Chief Officer may, in writing, direct the operator of either facility to give the operator of the other facility the information specified in the direction, within the period specified in that direction or any longer period permitted by the Chief Officer.

(2) An operator must comply with a direction given under subregulation (1).

Penalty:

(a) for an individual, a fine of $10 000 or imprisonment for 10 months or both;

(b) for a body corporate, a fine of $50 000.

32. Closure of major hazard facility, operator to notify Chief Officer of

If a decision is made to permanently close down a major hazard facility, the operator of the facility must give the Chief Officer written notice of the intended closure.

Penalty:

(a) for an individual, a fine of $2 000;

(b) for a body corporate, a fine of $10 000.

33. Classes of major hazard facility for purposes of fees

(1) For the purposes of Schedule 3, major hazard facilities are to be classified under this regulation.

(2) A Class A facility is any major hazard facility at which Schedule 1 substances are used in, or produced by means of, an

industrial production process that the Chief Officer determines is a process of high complexity.

(3) A Class B facility is any major hazard facility at which Schedule 1 substances are used in, or produced by means of, an industrial production process that the Chief Officer determines is a process of medium complexity.

(4) A Class C facility is —

(a) any major hazard facility at which Schedule 1 substances are used in, or produced by means of, an industrial production process that the Chief Officer determines is a process of low complexity; or

(b) any major hazard facility at which Schedule 1 substances —

(i) are stored but not used in, or produced by means of, an industrial production process; and

(ii) in the view of the Chief Officer, are frequently handled.

(5) A Class D facility is any major hazard facility at which Schedule 1 substances —

(a) are stored but not used in, or produced by means of, an industrial production process; and

(b) in the view of the Chief Officer, are infrequently handled.

[Regulation 33 inserted: Gazette 16 Mar 2012 p. 1270-1.]

34. Annual fee for major hazard facilities

(1) In this regulation —

grace period means, as the case requires —

(a) the one month period referred to in subregulation (4); or

(b) the 3 month period referred to in subregulation (6);

site licence means —

(a) an explosives manufacture licence, or an explosives storage licence, granted under the *Dangerous Goods Safety (Explosives) Regulations 2007* in respect of a dangerous goods site; or

(b) an SSAN manufacture licence, or an SSAN storage licence, granted under the *Dangerous Goods Safety (Security Sensitive Ammonium Nitrate) Regulations 2007* in respect of a dangerous goods site; or

(c) a licence granted under the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* Part 4 in respect of a dangerous goods site.

(2) The holder of a site licence granted in respect of a dangerous goods site that is a major hazard facility must pay for each year the relevant annual fee specified in Schedule 3 clause 2.

(3) An annual fee payable under subregulation (2) must be paid annually.

(4) The first annual payment must be made before, on or within one month after the date on which a safety report for the site is approved under Part 5.

(5) If the date referred to in subregulation (4) (***date A***) is not the date, or an anniversary of the date, on which the site licence is granted (***date B***), then, despite subregulation (2), the Chief Officer may reduce the first annual payment to an amount that is in proportion to the period that begins on date A and ends on date B.

(6) Each subsequent annual payment must be made before, on or within 3 months after —

(a) if under the *Dangerous Goods Safety (General) Regulations 2007* regulation 15 the Chief Officer has set

a due date for the site licence — the due date in each year;

(b) in any other case — the anniversary of the date on which the first annual payment has to be made under subregulation (4).

(7) If under subregulation (4) or (6) a fee (including a fee reduced under subregulation (5)) is paid in the grace period, the holder must pay, with the fee, a late payment fee of $41.00.

[Regulation 34 inserted: Gazette 16 Mar 2012 p. 1271-3; amended: Gazette 11 Jan 2013 p. 55-6; 26 Jun 2015 p. 2266; 5 Feb 2016 p. 360; 24 Jun 2016 p. 2327; 23 Jun 2017 p. 3287; 25 Jun 2018 p. 2301; 18 Jun 2018 p. 2042.]

Schedule 1 — Threshold quantity for Schedule 1 substances

[r. 4 and 10]

1. Threshold quantity for substances

In this clause —

UN number for a substance means the UN number assigned to the substance in the Dangerous Goods List column 1.

Table 1

Substance	UN number	Threshold quantity (in tonnes)
ACETONE CYANOHYDRIN	1541	20
ACETYLENE	1001	50
ACROLEIN	1092	200
ACRYLONITRILE	1093	200
ALLYL ALCOHOL	1098	20
ALLYLAMINE	2334	200
AMMONIA, ANHYDROUS	1005	200
AMMONIUM NITRATE FERTILIZERS	2067	5 000
AMMONIUM NITRATE, with not more than 0.2% combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance	1942	2 500
ARSENIC PENTOXIDE, Arsenic (V) acid and other salts	1559	10

Substance	UN number	Threshold quantity (in tonnes)
ARSENIC TRIOXIDE, Arsenious (III) acid and other salts	1561	0.10
ARSINE	2188	0.01
BROMINE or BROMINE SOLUTIONS	1744	100
CARBON DISULFIDE	1131	200
CHLORINE	1017	25
DIOXINS	---	0.10
ETHYL NITRATE	---	50
ETHYLENE DIBROMIDE	1605	50
ETHYLENE OXIDE	1040	50
ETYLENEIMINE	1185	50
FLUORINE	1045	25
FORMALDEHYDE	1198 or 2209	50
HYDROFLUORIC ACID SOLUTION, greater than 50%	1790	50
HYDROGEN	1049	50
HYDROGEN CHLORIDE, anhydrous	1050	250
HYDROGEN CHLORIDE, refrigerated liquid	2186	250
HYDROGEN CYANIDE	1051 or 1614	20
HYDROGEN FLUORIDE	1052	50
HYDROGEN SULFIDE	1053	50
LP GASES	1011, 1012, 1075, 1978 or 1077	200

Substance	UN number	Threshold quantity (in tonnes)
METHYL BROMIDE	1062	200
METHANE or NATURAL GAS	1971 or 1972	200
METHYL ISOCYANATE	2480	0.15
OXIDES OF NITROGEN, including nitrous oxide, nitrogen dioxide and nitrogen trioxide	1067, 1070, 1660, 1975, 2201 or 2421	50
OXYGEN	1072 or 1073	2 000
PHOSGENE	1076	0.75
PROPYLENEIMINE	1921	200
PROPYLENE OXIDE	1280	50
SODIUM CHLORATE, solid	1495	200
SULFURIC ANHYDRIDE (or SULFUR TRIOXIDE)	1829	75
SULFUR DICHLORIDE	1828	1
SULFUR DIOXIDE, liquefied	1079	200
TITANIUM TETRACHLORIDE	1838	500
TOLUENE DIISOCYANATE	2078	200

[Clause 1 amended: Gazette 22 Jun 2010 p. 2783.]

2. Threshold quantity for categories of substances

In this clause —

class for a substance means —

(a) the class assigned to the substance in the Dangerous Goods List column 3; or

(b) if the class is not assigned as described in paragraph (a), the class determined using the relevant procedure referred to in the ADG Code;

classification code for a substance means —

(a) the classification code assigned to the substance in the AE Code Appendix 2 column 4; or

(b) if the classification code is not assigned as described in paragraph (a), the classification code determined using the relevant procedure referred to in the AE Code;

division for a substance means —

(a) the division assigned to the substance in the Dangerous Goods List column 3 or the AE Code Appendix 2 column 4, whichever applies; or

(b) if the division is not assigned as described in paragraph (a), the division determined using the relevant procedure referred to in the ADG Code or the AE Code, whichever applies;

goods too dangerous to transport means —

(a) dangerous good listed in the ADG Code Appendix A; or

(b) other dangerous goods prescribed under the *Dangerous Goods Safety (General) Regulations 2007* to be goods too dangerous to transport;

hazchem code for a substance means —

(a) the hazchem code assigned to the substance in the ADG Code Appendix C C3 List of Emergency Action Codes; or

(b) if the hazchem code is not assigned as described in paragraph (a), the hazchem code determined using the relevant procedure referred to in the ADG Code;

packing group for a substance means —

(a) the packing group assigned to the substance in the Dangerous Goods List column 5; or

(b) if the packing group is not assigned as described in paragraph (a), the packing group determined using the relevant procedure referred to in the ADG Code;

subsidiary hazard for a substance means —

(a) the subsidiary hazard assigned to the substance in the Dangerous Goods List column 4; or

(b) if the subsidiary hazard is not assigned as described in paragraph (a), the subsidiary hazard determined using the relevant procedure referred to in the ADG Code.

Table 2

Category of substances		**Threshold quantity (in tonnes)**
Explosives —	• of classification code 1.1A	10 (excluding packaging, casings and non-explosive components)
	• of division 1.1 (other than explosives of classification code 1.1A)	50 (excluding packaging, casings and non-explosive components)
	• of division 1.2	200 (excluding packaging, casings and non-explosive components)
	• of division 1.3	200 (excluding packaging, casings and non-explosive components)
Compressed or liquefied gases —	• of division 2.1 or subsidiary hazard 2.1	200
	• of division 2.3	20
	• of subsidiary hazard 5.1	200

Category of substances		Threshold quantity (in tonnes)
Flammable materials —	• liquids of class 3 packing group I, except for crude oil in locations considered by the Chief Officer to be remote	200
	• crude oil in locations considered by the Chief Officer to be remote and of class 3 packing group I	2 000
	• liquids of class 3 packing group II or III	50 000
	• liquids with flashpoints <60°C if present at a temperature that is above the ambient temperature and above their boiling points in ambient conditions	200
	• combustible solids of division 4.1 packing group I	200
	• spontaneously combustible materials of division 4.2 packing group I or II	200
	• materials that liberate flammable gases or react violently on contact with water and of division 4.3 packing group I or II	200

Category of substances		**Threshold quantity (in tonnes)**
	• materials of class 3 or 8 packing group I or II that have hazchem codes of 4WE (that is, materials that react violently with water)	500
Oxidising materials of division 5.1 packing group I or II		200
Peroxides, organic, of division 5.2		200
Toxic solids or liquids —	• of division 6.1 packing group I	20
	• of division 6.1 packing group II	200
Goods too dangerous to transport		2

[Clause 2 amended: Gazette 22 Jun 2010 p. 2783; SL 2020/193 r. 8.]

Schedule 2 — Notifiable information

[r. 4]

1. Term used: material safety data sheet

In this Schedule —

material safety data sheet, for a substance, means a document in English that contains the information in relation to the substance that is required by the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011(2003)], whether or not the document is in the form required by that code of practice.

2. Notifiable information

The following information is notifiable information —

(a) if the operator of the place is a corporation, the corporation's full corporate name, trading name, Australian Company Number, registered address and place of business and the nature of the corporation's business;

(b) if the operator of the place is an individual, the person's full name, residential address and business address, any business name used by the person and the nature of the person's business;

(c) the location of the place;

(d) land use and zoning for the area surrounding the place;

(e) for each kind of dangerous goods at the place, its name, a copy of its material safety data sheet and the quantity at the place;

(f) the nature of the business or other activity conducted at the place, including the nature of the presence of dangerous goods in the course of conducting the business or activity;

(g) the number of employees at the place;

(h) plans showing the layout of the place and where dangerous goods are to be stored, handled or transported within that place.

Schedule 3 — Fees

[r. 26, 33 and 34]

[Heading inserted: SL 2023/36 r. 6.]

1. Fees for approval of safety reports (r. 26)

The relevant fee to be paid under regulation 26 for an application for approval of a safety report for a major hazard facility is the fee in the Table relevant to the class of the facility.

Table

Class of facility under r. 33	**Fee ($)**
Class A	129 000
Class B	103 000
Class C	77 900
Class D	20 000

[Clause 1 inserted: SL 2023/36 r. 6; amended: SL 2025/90 r. 6(1).]

2. Annual fees for major hazard facilities (r. 34)

The relevant annual fee to be paid under regulation 34 in respect of a major hazard facility is the fee in the Table relevant to the class of the facility.

Table

Class of facility under r. 33	**Fee ($)**
Class A	129 000
Class B	103 000
Class C	77 900

Class of facility under r. 33	**Fee ($)**
Class D	20 000

[Clause 2 inserted: SL 2023/36 r. 6; amended: SL 2025/90 r. 6(2).]

Schedule 4 — Procedures to be included in safety management system

[r. 24]

1. Skills etc. of employees, procedures to ensure

The procedures for ensuring that each employee who fills an employee position to which a task is allocated under the safety management system has the necessary skills and knowledge to undertake all tasks for which he or she has responsibility under the safety management system.

2. Operation etc. of plant etc., procedures for

(1) The procedures for —

(a) ensuring the safe operation of plant; and

(b) ensuring that plant is properly maintained; and

(c) shutting down or decommissioning plant.

(2) The procedures for isolating the whole or part of the facility if an emergency occurs.

(3) The procedures for managing alarm systems.

3. Security, procedures to ensure

The procedures for preventing unauthorised acts that could cause a major incident and for preventing acts intended to cause a major incident.

4. Safety information, procedures to ensure employees are given

(1) The procedures for informing employees about —

(a) the risk assessment; and

(b) the safety management system.

(2) The procedures for informing persons who are not employees, but who are present at the facility, of the safety measures they are required to take while at the facility.

(3) The procedures for ensuring the community, local governments for the districts in which the community resides and emergency services are informed about —

(a) the use of dangerous goods at the facility; and

(b) the risk assessment; and

(c) the actions members of the community should take if a dangerous situation or major incident occurs.

(4) In subclause (3) —

community, in relation to a major hazard facility, means all people living or working outside the facility who would be likely to suffer personal injury or property damage if a major incident occurred at the facility;

emergency services means the Police Force and the FES Commissioner, as defined in the *Fire and Emergency Services Act 1998* section 3.

[Clause 4 amended: Gazette 19 Feb 2013 p. 988.]

5. Risk control measures, procedures to ensure monitoring of etc.

(1) In this clause —

risk control measures has the meaning given in regulation 23(2)(c).

(2) Procedures for monitoring the effectiveness of risk control measures.

(3) Procedures for monitoring the effectiveness of, and compliance with, the safety management system.

(4) Procedures for using the information obtained from monitoring to improve safety at the facility.

Notes

This is a compilation of the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007	31 Dec 2007 p. 7057-100	r. 1 and 2: 31 Dec 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Mar 2008 (see r. 2(b) and *Gazette* 29 Feb 2008 p. 669)
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations (No. 2) 2009	16 Jun 2009 p. 2194-5	r. 1 and 2: 16 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2009 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2010	22 Jun 2010 p. 2782-3	r. 1 and 2: 22 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jun 2010 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations (No. 2) 2010	25 Jun 2010 p. 2874-5	r. 1 and 2: 25 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2012	16 Mar 2012 p. 1270-3	r. 1 and 2: 16 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Apr 2012 (see r. 2(b))
Reprint 1: The *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* as at 19 Oct 2012 (includes amendments listed above)		
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations (No. 3) 2012	11 Jan 2013 p. 55-6	r. 1 and 2: 11 Jan 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Apr 2013 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations (No. 2) 2012	19 Feb 2013 p. 987-8	r. 1 and 2: 19 Feb 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Feb 2013 (see r. 2(b))

Citation	Published	Commencement
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2013	28 Jun 2013 p. 2825-6	r. 1 and 2: 28 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2013 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2014	17 Jun 2014 p. 1989-90	r. 1 and 2: 17 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b))
Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2015	26 Jun 2015 p. 2265-6	r. 1 and 2: 26 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b))
Dangerous Goods Safety Regulations Amendment Regulations 2016 Pt. 4	5 Feb 2016 p. 343-68	6 Feb 2016 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Levies) Regulations 2016 Pt. 3	24 Jun 2016 p. 2325-34	1 Jul 2016 (see r. 2(b))
Reprint 2: The *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* as at 3 Mar 2017 (includes amendments listed above)		
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2017 Pt. 3	23 Jun 2017 p. 3279-309	1 Jul 2017 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 3	25 Jun 2018 p. 2297-324	1 Jul 2018 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2019 Pt. 3	18 Jun 2019 p. 2040-56	1 Jul 2019 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2020 Pt. 2	SL 2020/93 26 Jun 2020	1 Jul 2020 (see r. 2(b))
Dangerous Goods Safety Regulations Amendment Regulations 2020 Pt. 3	SL 2020/193 9 Oct 2020	10 Oct 2020 (see r. 2(c))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 3	SL 2021/85 21 Jun 2021	1 Jul 2021 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2022 Pt. 3	SL 2022/58 20 May 2022	1 Jul 2022 (see r. 2(b))

Citation	Published	Commencement
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2023 Pt. 3	SL 2023/36 5 May 2023	1 Jul 2023 (see r. 2(b))
Mines and Petroleum Regulations Amendment (Fees and Charges) Regulations 2025 Pt. 3	SL 2025/90 11 Jun 2024	1 Jul 2025 (see r. 2(b))

Other notes

[1] Repealed by the *Dangerous Goods Safety Act 2004* s. 70.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
ADG Code	4
AE Code	4
approved safety report	4
class	Sch. 1 cl. 2
classification code	Sch. 1 cl. 2
commencement day	4
community	Sch. 4 cl. 4(4)
compliance day	4
critical quantity	4
Dangerous Goods List	4
date A	34(5)
date B	34(5)
division	Sch. 1 cl. 2
emergency services	Sch. 4 cl. 4(4)
employee	4
existing facility	4
goods too dangerous to transport	Sch. 1 cl. 2
grace period	34(1)
harm	4
hazard	4
hazchem code	Sch. 1 cl. 2
major hazard facility	4
major incident	4
material safety data sheet	Sch. 2 cl. 1
modified place	4
notifiable change	4, 15(1)
notifiable information	4
operator	4
packing group	Sch. 1 cl. 2
place	4
relevant date	17(1)
relevant time	4
risk assessment	4
risk control measures	23(2), Sch. 4 cl. 5(1)
safety management system	4
safety report	4
Schedule 1 substance	4
site licence	34(1)
subsidiary hazard	Sch. 1 cl. 2

Table 1 ..... 10(1)
Table 2 ..... 10(1)
threshold quantity ..... 9(1)
UN number ..... Sch. 1 cl. 1
zoning 4

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