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DANGEROUS GOODS (TRANSPORT) ACT 1998

**DANGEROUS GOODS
(TRANSPORT)
(EXPLOSIVES BY
WATER) REGULATIONS
1999**

Western Australia

Dangerous Goods (Transport) (Explosives by Water) Regulations 1999

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Dangerous Goods (Transport) Act 1998

Dangerous Goods (Transport) (Explosives by Water) Regulations 1999

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Dangerous Goods (Transport) (Explosives by Water) Regulations 1999*.

2. Commencement

These regulations come into operation on the day on which the *Dangerous Goods (Transport) Act 1998* comes into operation.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
- “**accountable person**”, in relation to a vessel, means both the master and the owner of the vessel;
 - “**Class**”, in relation to explosives, has the meaning given by regulation 7;
 - “**Division**”, in relation to explosives, has the meaning given by regulation 8;
 - “**emergency service**” means an ambulance, fire, police or other emergency service;
 - “**explosives**” has the meaning given by regulation 6;
 - “**Explosives Code**” means the *Australian Code for the Transport of Explosives by Road and Rail*, First Edition, May 1991, published by the Commonwealth Department of Transport and Communications Federal Office of Road Safety;
 - “**owner**” has the meaning given by regulation 10;
 - “**prime contractor**” has the meaning given by regulation 9;
 - “**UN dangerous goods tests and criteria**” means the tests and criteria specified in —
 - (a) the ninth revised edition of the *Recommendations on the Transport of Dangerous Goods* published by the United Nations; or
 - (b) the second revised edition of the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria* published by the United Nations;

“**vessel**” means any thing used or capable of being used to transport people or things by water.

- (2) Examples and notes in these regulations are provided to assist understanding and do not form part of these regulations.

4. Application

These regulations do not apply to the transport of explosives by an authorized officer, or an officer of an emergency service, to the extent necessary to avert, eliminate or minimize a dangerous situation.

5. Codes and standards

- (1) In this regulation —

“**instrument**” means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or their transport, and includes a provision of an instrument.

- (2) 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.
- (3) In these regulations, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.
- (4) If a provision of these regulations is inconsistent with a provision of an instrument that is applied by these regulations, the provision of these regulations prevails to the extent of the inconsistency.

6. Explosives

Substances or articles are explosives if they —

- (a) are named in a specific entry in column 2 in Table 9.1 of the Explosives Code;
- (b) satisfy the criteria in a Special Provision of that Code that is applied by column 6 in that Table;
- (c) are determined by a Competent Authority to be explosives; or
- (d) satisfy the UN dangerous goods tests and criteria for determining whether goods are dangerous goods of Class 1.

7. Classes of explosives

- (1) In these regulations, a reference to —

- (a) a Class of explosives is a reference to the Classification Code to which the explosives are assigned under subregulation (2), being a combination of the number 1 (being the dangerous goods Class number assigned to explosives) and —
 - (i) the Division number assigned; and

- (ii) the Compatibility Group letter assigned, to those explosives;
 - (b) a Class by number, or number and letter, is a reference to the numbers, or numbers and letter, of the Classification Code to which the explosives are assigned.
- (2) Explosives are assigned to a Classification Code if the explosives —
 - (a) are assigned to that Classification Code in Column 3 of Table 9.1 of the Explosives Code; or
 - (b) as such satisfy the UN dangerous goods tests and criteria for assignment to that Classification Code.

8. Divisions of explosives

In these regulations and for the purposes of the Explosives Code when applying in this State —

“**Division**”, in relation to explosives, means —

- (a) the Division number to which the explosives are assigned by an entry in Column 3 in Table 9.1 of the Explosives Code; or
- (b) the Division number that is assigned to the explosives under the UN dangerous goods tests and criteria.

Examples:

If a substance listed in Column 2 of Table 9.1 of the Explosives Code is given, in Column 3, a Classification Code of 1.2A, “1” indicates the substance has been assigned to dangerous goods Class 1 because it is an explosive, “2” indicates the substance has been assigned to Division 1.2 because of the hazard it presents, and “A” indicates the substance has been assigned to Compatibility Group A. In these regulations the substance is said to be of “Class 1.2A”.

If a substance is not listed in Column 2 of Table 9.1 of the Explosives Code, it will be classified as Class 1 if it is accepted under the UN dangerous goods tests and criteria into dangerous goods Class 1, it will be assigned a Division number in accordance with those tests and criteria and section 2.2.3 of the Code, and it will be assigned a Compatibility Group letter in accordance with those tests and criteria and section 2.3 of the Code.

9. Prime contractors

A person is the prime contractor for the transport of explosives by water if the person, in conducting a business for or involving the transport of explosives by water, undertakes to be responsible, or is responsible, for the transport of the explosives by water.

10. Owners

A person is an owner of a vessel if the person —

- (a) is the sole owner, a joint owner or a part owner of it; or
- (b) has possession or use of it under a credit, hire purchase, lease or other agreement.

11. Penalties

- (1) This regulation applies to a provision prescribing a penalty for an offence.

- (2) The penalty is the maximum fine for an individual who is found guilty of the offence.
- (3) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the penalty.

Part 2 — Transporting explosives by water

12. Interpretation

- (1) In this Part —
 - “**AS 3846**” means Australian Standard AS 3846—1998 *The handling and transport of dangerous cargoes in port areas*, published by Standards Australia (Standards Association of Australia);
 - “**IMDG Code**” means the *International Maritime Dangerous Goods Code* published by the International Maritime Organization;
 - “**high hazard load**” has the meaning given by subregulation (2);
 - “**packaged explosives**” means explosives that are in a package or container the capacity of which does not exceed 250 L;
 - “**statutory port**” means —
 - (a) a port authority port; or
 - (b) a port,
as defined in the *Shipping and Pilotage Act 1967*.
- (2) A high hazard load is a load that contains —
 - (a) more than 250 kgs of black powder, as packaged for small arms;
 - (b) more than 250 kgs of smokeless powder of Class 1.1C as packaged for small arms;
 - (c) more than 250 kgs of explosives of Class 1.1 other than explosives of Class 1.1A or detonators of Class 1.1B;
 - (d) more than 5 000 detonators of Class 1.1B;
 - (e) more than 250 kgs of explosives of Class 1.2;
 - (f) more than 1 000 kgs of explosives of Class 1.3;
 - (g) more than 250 kgs of explosives of Class 1.5; or
 - (h) more than one of the kinds of explosives referred to in paragraphs (a), (b), (c), (e), (f) and (g) and that in aggregate is more than 500 kgs.

13. Requirements for packaged explosives

A person involved in the transport of dangerous goods must ensure that packaged explosives that are to be transported by water are packaged and marked in accordance with —

- (a) the Explosives Code as if they were to be transported by road or rail; or

(b) the IMDG Code.

Penalty: \$3 000.

14. Incompatible explosives to be segregated

An accountable person who transports explosives in a vessel must ensure they are segregated from other explosives and dangerous goods in accordance with section 4.4 of AS 3846.

Penalty: \$3 000.

15. Certain explosives not to be transported without approval

- (1) This regulation applies to the transport of a high hazard load by water if all or some of the explosives in the load are loaded or unloaded at a place other than a statutory port.
- (2) An accountable person in respect of a vessel must not transport a high hazard load on the vessel unless approved to do so by a Competent Authority under regulation 16.

Penalty: \$3 000.

16. Approval of accountable persons

- (1) A Competent Authority may approve an accountable person to transport a high hazard load by water if satisfied that the person has the skills and knowledge to transport the load safely.
- (2) The approval must be in writing.
- (3) The approval may be in respect of —
 - (a) a high hazard load described in the approval;
 - (b) any high hazard load described in the approval that may be transported by the accountable person in a period specified in the approval; or
 - (c) any high hazard load that may be transported by the accountable person in a period specified in the approval.
- (4) The approval may include any requirements that the Competent Authority considers necessary to ensure the explosives are transported safely.
- (5) A Competent Authority may at any time amend or cancel a requirement in an approval.
- (6) The accountable person must comply with any requirements in the approval.
Penalty: \$3 000.
- (7) A person convicted of an offence under subregulation (6) may be punished for the offence even if the requirement contravened is subsequently amended or cancelled, despite section 11 of *The Criminal Code*.
- (8) If a Competent Authority has reasonable grounds for suspecting that the accountable person has not complied with the

requirements in an approval, the Competent Authority may cancel the approval.

17. Explosives not to be in contact with iron

An accountable person who transports packaged explosives in a vessel constructed wholly or partly of iron or steel must ensure that the packages are protected from coming into contact with the iron or steel by fabric, wood or other non-ferrous material.

Penalty: \$3 000.

18. Explosives to be protected from elements

An accountable person who transports explosives in a vessel must ensure they are protected from exposure to the weather and water.

Penalty: \$3 000.

Part 3 — Emergencies

19. Dangerous situations, duty to notify authorities

- (1) This regulation applies if a vessel transporting explosives by water, is involved in an incident resulting in a dangerous situation.
- (2) Each accountable person in relation to the vessel must as soon as practicable notify the prime contractor, and the police or fire service —
 - (a) of the incident; and
 - (b) of the shipping name, class and quantity of the explosives being transported.
- (3) The master and the owner of the vessel and the prime contractor must provide the reasonable assistance required by an authorized officer, or an officer of an emergency service, to deal with the situation.
- (4) As soon as practicable after the incident, each accountable person in relation to the vessel must tell the Competent Authority about the incident, and provide details of —
 - (a) when and where the incident happened;
 - (b) the nature of the incident; and
 - (c) the shipping name, class and quantity of the explosives being transported when the incident happened.
- (5) Not later than 21 days after the day when the incident happens, the accountable person must give the Competent Authority a written report about the incident.
- (6) The report must provide details of —
 - (a) when and where the incident happened;
 - (b) the nature of the incident;

- (c) any death of or harm to a person or any damage to property;
- (d) the shipping name, class and quantity of the explosives being transported when the incident happened;
- (e) what the person believes to be the likely cause of the incident;
- (f) the measures taken to control any leak, spill or accidental escape of explosives, and any fire or explosion, arising out of the incident;
- (g) the measures taken after the incident in relation to the explosives involved in the incident; and
- (h) the measures taken after the incident to prevent a similar incident happening again.

Penalty: \$1 500.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

Dangerous Goods (Transport) Act 1998

Dangerous Goods (Transport) (Explosives by Water) Regulations 1999

Notice of adoption of codes, standards or rules

Under section 48 of the above Act, notice is given that the above regulations apply, adopt or incorporate the codes, standards or rules listed below.

The codes, standards and rules may be obtained or inspected at the Explosives and Dangerous Goods Division of the Department of Minerals and Energy for Western Australia, Mineral House, 100 Plain Street, East Perth, WA, 6004.

| Item | Short reference | Full reference |
|------|--|--|
| 1. | Explosives Code | <i>Australian Code for the Transport of Explosives by Road and Rail</i> , First Edition, published by the Department of Transport and Communications Federal Office of Road Safety |
| 2. | IMDG Code | <i>International Maritime Dangerous Goods Code</i> , published by the International Maritime Organisation (IMO) |
| 3. | UN recommendations | <i>Recommendations on the Transport of Dangerous Goods</i> , Ninth Edition, published by the United Nations |
| 4. | UN recommendations, Manual of Tests and Criteria | <i>Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria</i> , Second Revised Edition, published by the United Nations |

Standards published by the Standards Association of Australia (Standards Australia)

| Item | Standard No. | Full title |
|------|----------------|---|
| 1. | AS 3846 — 1998 | The handling and transport of dangerous cargoes in port areas |

NORMAN MOORE, Minister for Mines



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