



WESTERN  
AUSTRALIAN  
GOVERNMENT  
**Gazette**  
ISSN 1448-949X PRINT POST APPROVED PP665002/00041

5493



PERTH, MONDAY, 2 DECEMBER 2013 No. 212 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 12.30 PM

© STATE OF WESTERN AUSTRALIA

## SPECIAL GAZETTE

### SUBSIDIARY LEGISLATION

Dangerous Goods Safety (Explosives) Amendment Regulations 2013.....	5567
Dangerous Goods Safety (Goods in Ports) Repeal Regulations 2013 .....	5495
Dangerous Goods Safety (Road and Rail Transport of Non explosives) Amendment Regulations 2013.....	5497
Dangerous Goods Safety (Security Risk Substances) Amendment Regulations 2013 .....	5499
Dangerous Goods Safety (Storage and Handling of Non explosives) Amendment Regulations 2013.....	5517





Dangerous Goods Safety Act 2004

## **Dangerous Goods Safety (Goods in Ports) Repeal Regulations 2013**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Dangerous Goods Safety (Goods in Ports) Repeal Regulations 2013*.

**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 1 January 2014.

**3. Regulations repealed**

The *Dangerous Goods Safety (Goods in Ports) Regulations 2007* are repealed.

R. KENNEDY, Clerk of the Executive Council.



Dangerous Goods Safety Act 2004

## **Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2013**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Amendment Regulations 2013*.

**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 after that day.

**3. Regulations amended**

These regulations amend the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007*.

**4. Regulation 239 replaced**

Delete regulation 239 and insert:

**239. When licences to be carried**

The driver of a road vehicle that is transporting dangerous goods who is required to be licensed under

***Dangerous Goods Safety (Road and Rail Transport of Non-explosives)  
Amendment Regulations 2013***

**r. 4**

---

this Part to drive the vehicle must carry his or her dangerous goods driver licence while driving the vehicle.

Penalty: a fine of \$1 500.

R. KENNEDY, Clerk of the Executive Council.

Western Australia

## **Dangerous Goods Safety (Security Risk Substances) Amendment Regulations 2013**

---

### Contents

---

1.	Citation	
2.	Commencement	
3.	Regulations amended	
4.	Regulation 3 amended	
5.	Regulation 5 amended	
6.	Regulation 6 replaced	
6.	Application of these regulations	2
7.	Regulations 9, 10 and 11 replaced	
9.	Licence holder may authorise individuals to have access to SRS	3
10.	Licence holder to keep records as to secure nominees	5
11.	Duties of secure nominee	6
8.	Regulation 12 amended	
9.	Regulation 21 amended	
10.	Regulation 24 amended	
11.	Regulation 27 amended	
12.	Regulation 30 amended	
13.	Regulation 31 amended	
14.	Regulation 32 amended	
15.	Regulation 33 replaced	
33.	Body corporate and partnership to have qualified officer	
16.	Regulation 40 amended	
17.	Regulation 42 amended	

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**Contents**

---

- 18. Regulation 46A amended
- 19. Regulation 46 replaced
  - 46. Licence holder to notify Chief Officer of certain convictions and charges
- 20. Regulation 49 amended
- 21. Regulation 50 amended



Dangerous Goods Safety Act 2004

## **Dangerous Goods Safety (Security Risk Substances) Amendment Regulations 2013**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Dangerous Goods Safety (Security Risk Substances) Amendment Regulations 2013*.

**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 1 January 2014.

**3. Regulations amended**

These regulations amend the *Dangerous Goods Safety (Security Risk Substances) Regulations 2007*.

**4. Regulation 3 amended**

- (1) In regulation 3 delete the definitions of:  
*employee*  
*secure employee*
- (2) In regulation 3 insert in alphabetical order:

*secure nominee*, of a licence holder, means an individual who, under regulation 9, is authorised by the

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 5**

---

holder to have unsupervised access to an SRS in the holder's possession;

***unsupervised access authorisation*** means an authorisation given under regulation 9 by a licence holder for an individual to have unsupervised access to an SRS in the licence holder's possession.

- (3) In regulation 3 in the definition of ***unsupervised access*** delete "regulation 5(3)." and insert:

regulation 5(3);

**5. Regulation 5 amended**

In regulation 5(2) and (3) delete "employee" and insert:

nominee

**6. Regulation 6 replaced**

Delete regulation 6 and insert:

**6. Application of these regulations**

- (1) These regulations do not apply to or in respect of an explosive.
- (2) These regulations do not apply to or in respect of an SRS if it is in the possession or under the control of —
  - (a) a DGO acting in the course of duty; or
  - (b) a police officer acting in the course of duty; or

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 7**

---

- (c) a member of the police force of another place who is in the State with the approval of the Commissioner of Police for the purposes of, or a purpose related to, law enforcement in this State, acting in the course of duty; or
- (d) an officer of the Commonwealth, or a defence force of the Commonwealth, acting in the course of duty; or
- (e) the air, military or naval force of another country that is in the State with the approval of the Commonwealth for the purposes of, or a purpose related to, the defence of the Commonwealth.

**7. Regulations 9, 10 and 11 replaced**

Delete regulations 9, 10 and 11 and insert:

**9. Licence holder may authorise individuals to have access to SRS**

- (1) A licence holder may authorise an individual —
  - (a) to have unsupervised access; or
  - (b) to have supervised access,to an SRS in the licence holder's possession, and may cancel such an authorisation at any time.
- (2) A licence holder must not, under subregulation (1)(a), authorise an individual to have unsupervised access to an SRS unless the individual has a security clearance.  
Penalty: a level 2 fine.

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

***r. 7***

---

- (3) An authorisation given under subregulation (1)(a) by a licence holder to an individual authorising unsupervised access must —
- (a) be in writing; and
  - (b) state the following —
    - (i) the date on which the authorisation is given;
    - (ii) the name and residential address of the individual;
    - (iii) each type of SRS in the licence holder's possession to which the individual may have unsupervised access;
    - (iv) details about where and when the individual may have unsupervised access;
    - (v) each other condition imposed by the licence holder on the individual in relation to unsupervised access.
- (4) An authorisation given under subregulation (1)(a) to an individual has no effect unless —
- (a) it complies with subregulation (3); and
  - (b) the licence holder has a record that the individual has stated he or she understands the authorisation.
- (5) If a secure nominee of a licence holder requests the licence holder to do so, the holder must give the nominee a copy of the unsupervised access authorisation given by the holder to the nominee.  
Penalty: a level 3 fine.
- (6) An unsupervised access authorisation given to an individual ceases to have effect if it is cancelled or the individual ceases to have a security clearance.

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 7**

---

- (7) A licence holder who, under subregulation (1)(b), authorises an individual to have supervised access to an SRS must ensure the individual is supervised while having access to the SRS by —
- (a) the licence holder; or
  - (b) a secure nominee of the licence holder acting in accordance with the unsupervised access authorisation given by the holder to the nominee.

Penalty: a level 3 fine.

**10. Licence holder to keep records as to secure nominees**

- (1) A licence holder, for each individual who is a secure nominee of the licence holder, must keep —
- (a) a proper record of the secure nominee; and
  - (b) a copy of each unsupervised access authorisation given by the holder to the nominee; and
  - (c) the record required by regulation 9(4)(b),
- while the individual is a secure nominee of the licence holder and for 2 years after the date on which the individual ceases to be a secure nominee of the holder.
- Penalty: a level 2 fine.
- (2) For the purpose of subregulation (1)(a), a proper record is not kept of a secure nominee unless a written record is made of this information —
- (a) the name and residential address of the secure nominee;
  - (b) the details of each valid security card held by the secure nominee under the *Dangerous*

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 8**

---

*Goods Safety (Explosives) Regulations 2007*  
Part 3 while he or she is a secure nominee;

- (c) if the secure nominee does not have such a security card but is a person referred to in the *Dangerous Goods Safety (Explosives) Regulations 2007* regulation 16(3) —
  - (i) the details of the written authorisation referred to in that subregulation; and
  - (ii) if the secure nominee's usual place of residence is in the State, the date on which he or she took up such residence in the State;
- (d) if an unsupervised access authorisation given by the licence holder to the secure nominee is cancelled, the date on which it is cancelled.

**11. Duties of secure nominee**

- (1) A secure nominee of a licence holder must comply with each unsupervised access authorisation given by the holder to the secure nominee.  
Penalty: a level 3 fine.
- (2) A secure nominee of a licence holder who is in possession of an SRS, if asked by a DGO to do so, must give the DGO the name and address of the holder.  
Penalty: a level 3 fine.

**8. Regulation 12 amended**

Delete regulation 12(2)(a) and insert:

- (a) the person —
  - (i) is a secure nominee of the holder of a licence referred to in subregulation (1)

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 9**

---

that authorises the holder to possess the SRS in the circumstances; and

- (ii) possesses the SRS in accordance with the unsupervised access authorisation given by the holder to the nominee;

or

**9. Regulation 21 amended**

Delete regulation 21(2)(a) and insert:

- (a) the person —
  - (i) is a secure nominee of the holder of a licence referred to in subregulation (1) that authorises the holder to manufacture the SRS in the circumstances; and
  - (ii) manufactures the SRS in accordance with the unsupervised access authorisation given by the holder to the nominee;

or

**10. Regulation 24 amended**

Delete regulation 24(3)(a) and (b) and insert:

- (a) is a secure nominee of the holder of such a licence that authorises the holder to transport the SRS; and
- (b) transports the SRS in accordance with the unsupervised access authorisation given by the holder to the nominee.

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

r. 11

---

**11. Regulation 27 amended**

Delete regulation 27(2)(a) and insert:

- (a) the person —
  - (i) is a secure nominee of the holder of a licence referred to in subregulation (1) that authorises the holder to supply the SRS in the circumstances; and
  - (ii) supplies the SRS in accordance with the unsupervised access authorisation given by the holder to the nominee;

or

**12. Regulation 30 amended**

(1) After regulation 30(1)(c) insert:

- (da) if the application is not accompanied by a certificate given under subregulation (5), a checking fee equal to the amount (if any) required to be paid under paragraph (c); and

(2) Delete regulation 30(3) and insert:

- (3) An application by a body corporate or a partnership must be accompanied by proof of the incorporation of the body or of the existence of the partnership.

(3) After regulation 30(4) insert:

- (5) In addition to any document that is required to accompany the application, an application for a licence



***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 12**

---

may be accompanied by a certificate that complies with subregulation (6) and is signed by a person approved by the Chief Officer.

- (6) A certificate given by a person under subregulation (5) must certify that the person —
- (a) has read the application; and
  - (b) is satisfied the application complies with this regulation; and
  - (c) if the application is accompanied by a document for the purposes of subregulation (3), is satisfied the document complies with that subregulation; and
  - (d) if the application is accompanied by a security plan —
    - (i) has read the security plan; and
    - (ii) is satisfied the plan complies with regulation 31; and
    - (iii) unless the application is for an SRS fertiliser licence, has done an assessment of the risks referred to in regulation 31(2)(a) and is satisfied the applicant has taken or will take all reasonably practicable measures to minimise those risks in relation to the SRS to which the licence would relate;
- and
- (e) if the licence would relate to a site, is satisfied the site can be operated in accordance with these regulations.

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 13**

---

**13. Regulation 31 amended**

- (1) In regulation 31(2) delete “A security” and insert:

Unless this regulation says otherwise, a security

- (2) Delete regulation 31(5) and insert:

- (5) A security plan for the purposes of an SRS fertiliser licence must include the following —

- (a) the material listed in subregulation (2)(d) to (k);
- (b) such of the material required in a security plan under subregulation (3) or (4) as is relevant to the activities relating to any SRS that will be conducted by the holder of the licence.

**14. Regulation 32 amended**

- (1) Delete regulation 32(6)(c).
- (2) Delete regulation 32(7)(d) and (e).

**15. Regulation 33 replaced**

Delete regulation 33 and insert:

**33. Body corporate and partnership to have qualified officer**

- (1) In this regulation —  
*officer*, of a body corporate or a partnership, means an individual who is concerned in the management of, or employed by, the body or partnership;

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 15**

***qualified officer***, of a body corporate or a partnership that holds a licence, means an officer of the body or partnership who —

- (a) has reached 18 years of age; and
  - (b) is competent to keep any SRS possessed under the licence secure; and
  - (c) has a security clearance that was issued within the previous 5 years.
- (2) A body corporate or a partnership that holds a licence must have one or more qualified officers.  
Penalty: a level 3 fine.
- (3) A body corporate or a partnership that holds a licence must keep a proper record of at least one of its qualified officers.  
Penalty: a level 3 fine.
- (4) For the purpose of subregulation (3), a proper record is not kept of a qualified officer unless a written record is made of this information —
- (a) the officer's personal details;
  - (b) the officer's date of birth;
  - (c) the position the officer holds in the body corporate or partnership;
  - (d) details of the security clearance held by the officer,

and is kept while the officer is, and for 2 years after the date on which the officer ceases to be, an officer of the body corporate or partnership.

- (5) The Chief Officer at any time may direct an individual who is recorded by a body corporate or a partnership under subregulation (3) to demonstrate to the Chief

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 16**

---

Officer that he or she is competent to keep any SRS possessed under the licence secure.

- (6) The power in subregulation (5) may be exercised whether or not the individual is an officer of the body corporate or partnership.
- (7) A person who does not comply with a direction given under subregulation (5) commits an offence.  
Penalty: a level 3 fine.

**16. Regulation 40 amended**

- (1) In regulation 40(1) delete the definition of *amend* and insert:

*amend*, a licence, includes —

- (a) to amend the licence to delete the name of the holder of the licence and substitute another; and
- (b) to amend, include and remove a condition of the licence.

- (2) After regulation 40(5) insert:

- (6A) Regulation 32, with any necessary changes, applies in relation to dealing with an application to amend a licence as if it were an application for a licence.
- (6B) Regulations 34 and 35, with any necessary changes, apply in relation to amending a licence in the same way as they apply to issuing a licence.

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 17**

---

**17. Regulation 42 amended**

(1) Delete regulation 42(1)(a) and insert:

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 33, is, and is recorded by the holder as, a qualified officer of the holder,

is charged in this State or elsewhere with a relevant offence; or

(2) Delete regulation 42(2)(a) and insert:

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 33, is, and is recorded by the holder as, a qualified officer of the holder,

is convicted in this State or elsewhere of a relevant offence; or

**18. Regulation 46A amended**

(1) In regulation 46A(3) after “fee” insert:

(if any)

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

**r. 19**

---

- (2) In regulation 46A(4) delete “equal to 10% of the fee.” and insert:

of \$35.

**19. Regulation 46 replaced**

Delete regulation 46 and insert:

**46. Licence holder to notify Chief Officer of certain convictions and charges**

If —

- (a) the holder of a licence; or
- (b) an individual who, under regulation 33, is, and is recorded by the holder as, a qualified officer of the holder,

is charged with or convicted of a relevant offence, in this State or elsewhere, the holder must give the Chief Officer written notice of the fact as soon as practicable.

Penalty: a level 3 fine.

**20. Regulation 49 amended**

In regulation 49(2):

- (a) in paragraph (c) delete “regulations.” and insert:

regulations; or

***Dangerous Goods Safety (Security Risk Substances) Amendment  
Regulations 2013***

---

**r. 21**

(b) after paragraph (c) insert:

(d) any certificate that may be given under these regulations.

**21. Regulation 50 amended**

Delete regulation 50(3) and insert:

(3) If a body corporate or a partnership is the holder of a licence, each individual who, under regulation 33, is, and is recorded by the holder as, a qualified officer of the holder must ensure the security plan that relates to the licence is complied with by the body corporate or partnership.

R. KENNEDY, Clerk of the Executive Council.





Western Australia

## **Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2013**

---

### Contents

---

1.	Citation	
2.	Commencement	
3.	Regulations amended	
4.	Regulation 3 deleted	
5.	Regulation 4 amended	
6.	Regulation 6 amended	
7.	Regulation 8 amended	
8.	Regulation 12A inserted	
	12A. Chief Officer may determine classification of goods	4
9.	Regulations 13A and 13B inserted	
	13A. Duties of manufacturer and importer as to classification of goods	5
	13B. Chief Officer may direct analysis of goods	5
10.	Regulation 25 amended	
11.	Regulation 26 amended	
12.	Regulation 29 amended	
13.	Regulation 47 amended	
14.	Regulation 48 amended	
15.	Regulation 50 deleted	
16.	Regulation 73 replaced	
	73. Fire control equipment required on site	
17.	Regulation 74 amended	
18.	Regulation 75 replaced	
	75. Emergency plan required for some sites	

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**Contents**

---

- 76A. Information for occupier of site adjacent to dangerous goods site
- 76B. FES emergency response guide required for some sites
- 19. Regulation 78 amended
- 20. Regulation 93 amended
- 21. Regulation 110 amended
- 22. Regulation 132 amended
- 23. Part 8A inserted
- Part 8A — Dangerous goods in ports**
- Division 1 — Preliminary matters**
- 134. Terms used
- 135A. Meaning of consignor
- 135B. Meaning of explosion risk goods
- Division 2 — Non-explosives in port areas**
- 135C. Application of this Division
- 135D. Packaging and documentation requirements for non-explosives
- 135E. Master's duties as to emergency plan for vessel
- 135F. Berth operator's duties as to emergency plan for berth
- 135G. Berth operator's duty to minimise time dangerous goods kept at berth
- Division 3 — Explosion risk goods in port areas**
- 135H. When special berth (non-explosives) required
- 135I. Applying for declaration of special berth (non-explosives)
- 135J. Content of risk assessment and implementation plan
- 135K. Dealing with application under r. 135I
- 135L. Explosion risk goods not to be in loose form
- 135M. Ammonium nitrate (UN 1942 and 2067) not to be imported, consigned or handled without evidence of analysis and testing
- 135N. Master's duties
- 135O. Berth operator's duties
- 135P. Berth operator to give Chief Officer report after handling explosion risk goods
- 24. Regulation 139 amended
- 25. Schedule 2 deleted
- 26. Schedule 5 Division 1 amended
- 27. Schedule 6 Divisions 3 and 4 inserted

*Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013*

---

Contents

**Division 3 — Provisions relating to *Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2013***

6. Term used: commencement day
7. Emergency plans
8. Special risk plans deemed FES emergency response guides
9. Deferral of licensing requirement for unlicensed dangerous goods site in port area

**Division 4 — Provisions relating to *Dangerous Goods Safety (Goods in Ports) Repeal Regulations 2013***

10. Term used: commencement day
11. Special berth declarations
12. Application of Part 8A to certain cargoes



Dangerous Goods Safety Act 2004

## **Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2013**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2013*.

### **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 1 January 2014.

### **3. Regulations amended**

These regulations amend the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*.

### **4. Regulation 3 deleted**

Delete regulation 3.

### **5. Regulation 4 amended**

- (1) In regulation 4 delete the definition of *UNTC*.
- (2) In regulation 4 insert in alphabetical order:

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 6**

---

***IMDG Code*** means the *IMDG Code, International Maritime Dangerous Goods Code*, 2012 Edition, incorporating Amendment 36-12 (ISBN: 978-92-801-1561-1);

***UNTC*** means the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria*, Fifth revised edition, published by the United Nations (ISBN 978-92-1-139135-0).

- (3) In regulation 4 in the definition of ***petrol station*** before “vehicles” (each occurrence) insert:

road

- (4) In regulation 4 in the definition of ***rural dangerous goods location*** delete paragraphs (e) and (f) and insert:

- (e) at which dangerous goods used for agricultural, aquacultural, floricultural, horticultural or pastoral purposes are stored, handled or supplied to others;

- (5) In regulation 4 in the definition of ***UN Number*** delete “under the UNTC shown”.

**6. Regulation 6 amended**

Delete regulation 6(a) and (b) and insert:

- (a) dangerous goods while they are being transported by a road vehicle on a road or other place over which vehicles move, whether on private property or not, that is open to, or used

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 7**

---

by, the public, whether on payment of consideration or not; or

- (b) dangerous goods while they are being transported by rail other than on —
    - (i) a slipway; or
    - (ii) a railway used exclusively by a crane;
- or

**7. Regulation 8 amended**

(1) In regulation 8(2):

(a) delete “(5) and (6),” and insert:

(5), (6) and (7),

(b) in paragraph (c) delete “liquid; or” and insert:

liquid.

(c) delete paragraph (d).

(2) Delete regulation 8(6) and insert:

- (6) Hay, straw and bhusa are not dangerous goods for the purposes of these regulations.
- (7) Despite subregulation (4), sulphur in any form is dangerous goods for the purposes of these regulations.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 8

---

**8. Regulation 12A inserted**

After regulation 11 insert:

**12A. Chief Officer may determine classification of goods**

- (1) In this regulation —  
*goods* means any substance or article.
- (2) Subject to subregulation (4), the Chief Officer may, for the purposes of these regulations, determine that goods are or are not —
  - (a) dangerous goods; or
  - (b) dangerous goods of a particular class or division; or
  - (c) dangerous goods that have a particular subsidiary risk; or
  - (d) dangerous goods of a particular packing group; or
  - (e) incompatible with particular dangerous goods.
- (3) Subject to subregulation (4), the Chief Officer may, for the purposes of these regulations, determine that goods meet the description, and criteria, that apply to goods of a particular UN Number.
- (4) The Chief Officer may determine that goods are dangerous goods for the purposes of these regulations only if the goods are dangerous goods for the purposes of the definition of *dangerous goods* in section 3(1) of the Act.
- (5) If goods cease to be dangerous goods for the purposes of the definition of *dangerous goods* in section 3(1) of the Act, a determination made under



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 9**

subregulation (2)(a) that the goods are dangerous goods ceases to be in effect in respect of the goods.

**9. Regulations 13A and 13B inserted**

At the beginning of Part 3 Division 1 insert:

**13A. Duties of manufacturer and importer as to classification of goods**

- (1) In this regulation —  
*goods* means any substance or article.
- (2) A person who manufactures any goods must not supply them to another person unless —
  - (a) it has been determined whether they are dangerous goods; and
  - (b) if they are dangerous goods, they have been classified in accordance with the ADG Code.

Penalty: a level 1 fine.

- (3) A person who imports any goods into the State from outside Australia must not supply them to another person unless —
  - (a) it has been determined whether they are dangerous goods; and
  - (b) if they are dangerous goods, they have been classified in accordance with the IMDG Code.

Penalty: a level 1 fine.

**13B. Chief Officer may direct analysis of goods**

- (1) In this regulation —  
*goods* means any substance or article.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 9**

---

- (2) If the Chief Officer has reasonable grounds to suspect any goods —
- (a) are dangerous goods; and
  - (b) have not been classified in accordance with the ADG Code or the IMDG Code,
- he or she may give the person who manufactured the goods or imported them into the State a written direction that complies with subregulation (3).
- (3) The direction must direct the recipient —
- (a) to analyse and test the goods to do either or both of the following (as specified in the direction) —
    - (i) to determine whether they are dangerous goods;
    - (ii) if they are dangerous goods, to classify them in accordance with the ADG Code or the IMDG Code (as specified in the direction);
- and
- (b) to give the Chief Officer a written report of the results of the analysis and test on or before a date specified in the direction.
- (4) The direction may include any or all of the following in relation to the goods —
- (a) the method, procedure or test to be used to analyse and test the goods;
  - (b) the person, or class of person, by whom the goods must be analysed or tested;
  - (c) any other matter the Chief Officer considers is reasonably necessary to ensure —
    - (i) it is accurately determined whether the goods are dangerous goods; and

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 10**

---

- (ii) if the goods are dangerous goods, they are accurately classified in accordance with the ADG Code or the IMDG Code;
  - (d) a direction that the recipient must not sell or supply the goods until the Chief Officer has been given the report of the results of the analysis and test.
- (5) The Chief Officer, in writing, may amend or cancel the direction.
- (6) A person given a direction under this regulation must obey it.  
Penalty: a level 1 fine.

**10. Regulation 25 amended**

- (1) In regulation 25(1A) delete the definition of *handle*.
- (2) After regulation 25(3)(a) insert:
  - (ba) the dangerous goods are not manufactured or processed on the site; and
- (3) In regulation 25(6):
  - (a) delete “that exceed the manifest quantity in an item of Schedule 1”;
  - (b) delete paragraph (a)(ii) and insert:
    - (ii) contain only residual amounts of the dangerous goods that cannot be removed reasonably practicably by draining or decanting them;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 11**

---

- (4) After regulation 25(7) insert:
  - (8) Subregulations (2), (3), (5), (6) and (7) do not apply to a dangerous goods site within a port area as defined in regulation 134.

**11. Regulation 26 amended**

- (1) In regulation 26(2):
  - (a) delete paragraphs (b) and (c) and insert:
    - (b) the risk assessment that would be required by regulation 48 for the site if it were licensed; and
    - (c) the manifest, and the dangerous goods site plan, that would be required by regulation 78 for the site if it were licensed; and
  - (b) delete paragraph (e) and insert:
    - (e) unless a fee would be payable under the *Dangerous Goods Safety (Major Hazard Facilities) Regulations 2007* regulation 34 in respect of the site if the licence were granted, the annual fee for the first year of the licence; and
    - (f) if the application is not accompanied by a certificate issued under subregulation (3), a checking fee equal to the amount (if any) required to be paid under paragraph (e).
- (2) Delete regulation 26(3) and insert:
  - (3) In addition to any document that is required to accompany the application, it may be accompanied by

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 12**

a certificate that complies with subregulation (4) and is signed by a person approved by the Chief Officer.

- (4) A certificate given by a person under subregulation (3) must certify that the person —
- (a) has read the application; and
  - (b) is satisfied the application complies with subregulation (2); and
  - (c) has read the risk assessment; and
  - (d) is satisfied the risk assessment —
    - (i) identifies all the risks to people, property and the environment in relation to the dangerous goods that would be on the site to which the licence would relate; and
    - (ii) identifies all reasonably practicable measures to minimise those risks;
- and
- (e) is satisfied the manifest complies with Schedule 3 Division 2; and
  - (f) is satisfied the dangerous goods site plan complies with Schedule 3 Division 3.

**12. Regulation 29 amended**

- (1) In regulation 29(3):
- (a) in paragraph (a) delete the passage that begins with “a written” and ends with “site; and” and insert:

the revised risk assessment that would be required by regulation 48 for the site if the licence were amended; and

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 12**

---

- (b) in paragraph (c) delete “relates.” and insert:  
  
relates; and
- (c) after paragraph (c) insert:
  - (d) if the application is not accompanied by a certificate given under subregulation (4B), a checking fee equal to the amount (if any) required to be paid under paragraph (c).
- (2) After regulation 29(4A) insert:
  - (4B) In addition to any document that is required to accompany the application, it may be accompanied by a certificate that complies with subregulation (4C) and is signed by a person approved by the Chief Officer.
  - (4C) A certificate given by a person under subregulation (4B) must certify that the person —
    - (a) has read the application; and
    - (b) is satisfied the application complies with subregulation (3); and
    - (c) has read the revised risk assessment; and
    - (d) is satisfied the revised risk assessment —
      - (i) identifies all the risks to people, property and the environment in relation to the dangerous goods that would be on the site if the licence were amended; and
      - (ii) identifies all reasonably practicable measures to minimise those risks.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 13**

**13. Regulation 47 amended**

- (1) Delete regulation 47(2) and insert:
  - (2) The register must record, in relation to each licence, this information —
    - (a) the name of the holder of the licence;
    - (b) the date on which the licence was issued;
    - (c) the date (if any) on which the licence was renewed;
    - (d) the date (if any) on which the licence was suspended;
    - (e) the date (if any) on which the licence was cancelled.
  - (3A) The register may record any other information relevant to a licence holder or to the issue, amendment, renewal, suspension or cancellation of a licence that the Chief Officer thinks fit.
- (2) After regulation 47(4) insert:
  - (5) The Chief Officer must ensure the information listed in subregulation (2) and recorded in the register is accessible to the public during normal office hours.

**14. Regulation 48 amended**

- (1) Delete regulation 48(1).
- (2) In regulation 48(2) after “The operator” insert:

of a dangerous goods site

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 15**

---

**15. Regulation 50 deleted**

Delete regulation 50.

**16. Regulation 73 replaced**

Delete regulation 73 and insert:

**73. Fire control equipment required on site**

- (1) The operator of a dangerous goods site must ensure there is adequate fire control equipment on the site.  
Penalty: a level 1 fine.
- (2) For the purposes of subregulation (1), fire control equipment is not adequate fire control equipment unless —
  - (a) it is designed and constructed either to automatically extinguish or to be capable, when used by a person, of extinguishing any fire that is reasonably foreseeable at the site having regard to —
    - (i) the types and quantities of dangerous goods on the site; and
    - (ii) the conditions under which they are handled on the site; and
    - (iii) any materials and other substances on the site;and
  - (b) it is designed and constructed to prevent dangerous goods on the site from being affected by any such fire; and
  - (c) the equipment it uses to extinguish any such fire is compatible with equipment used, and can be used immediately without adaptation or



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 16**

---

modification, by any fire brigade under the control of the FES Commissioner; and

- (d) each substance it uses to extinguish any such fire is compatible with the material that is on fire.
- (3) The operator of a dangerous goods site must ensure the fire control equipment on the site is in proper working order.
- Penalty: a level 1 fine.
- (4) For the purposes of subregulation (3), fire control equipment is not in proper working order unless —
- (a) it is installed, maintained and tested in accordance with the instructions of its designer and manufacturer; and
  - (b) it is always in working order; and
  - (c) it is always available for immediate use to extinguish a fire; and
  - (d) it is not obstructed or otherwise positioned in a manner that hinders its operation or access to it or use of it.
- (5) If any fire control equipment on a dangerous goods site stops working or becomes unusable, the operator of the site must ensure that —
- (a) the implications of the equipment being inoperative or unusable are assessed; and
  - (b) alternative measures are taken to control, to the same level of effectiveness, the risks that were controlled by the equipment when functioning fully; and
  - (c) the equipment is replaced or returned to full operation as soon as practicable.

Penalty: a level 1 fine.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 17**

---

- (6) If the implications assessed by the operator under subregulation (5)(a) include a significant reduction in the effectiveness of the fire control equipment, the operator must notify the FES Commissioner of the fact as soon as practicable after the equipment stops working or becomes unusable.  
Penalty: a level 2 fine.
- (7) In determining the alternative measures required under subregulation (5)(b) the operator must have regard to the need for —
- (a) the provision of alternative fire control equipment; and
  - (b) a reduction of the quantities of dangerous goods on the site; and
  - (c) the storing or handling of dangerous goods to stop or be limited; and
  - (d) modifications to systems of work.

**17. Regulation 74 amended**

In regulation 74 delete “protection system” and insert:

control equipment

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

---

r. 18

**18. Regulation 75 replaced**

Delete regulation 75 and insert:

**75. Emergency plan required for some sites**

- (1) In this regulation —  
*emergency plan*, for a dangerous goods site, means a document that contains —
  - (a) a plan of the actions to be taken and the procedures to be followed; and
  - (b) the information needed by people, if a dangerous situation occurs on the site.
- (2) This regulation applies to a dangerous goods site if dangerous goods are stored or handled on the site in quantities that exceed the manifest quantity in relation to those goods.
- (3) The operator of the site must ensure there is an emergency plan for the site.
- (4) The operator of the site may at any time revise the emergency plan for the site.
- (5) The operator of the site must review the emergency plan for the site and, if necessary, revise it —
  - (a) whenever there is a significant change in the risk in relation to dangerous goods on the site to people, property or the environment; and
  - (b) whenever there is a significant change to the layout of or to any structure on the site; and
  - (c) as soon as practicable after a dangerous situation occurs on the site; and

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 18**

---

- (d) in any event, at intervals of not more than 3 years from the day on which the plan was first prepared or last reviewed.

Penalty: a level 2 fine.

- (6) The operator of the site must have a copy of the current emergency plan for the site on the site.

Penalty: a level 1 fine.

- (7) The operator of the site, on request, must give a copy of the current emergency plan for the site to the Chief Officer, a DGO or the FES Commissioner.

Penalty: a level 3 fine.

- (8) The Chief Officer, a DGO or the FES Commissioner, by a written notice, may direct the operator of the site to make such amendments to the current emergency plan for the site as are specified in the notice before a date specified in the notice.

- (9) An operator given a notice under subregulation (8) must obey it.

Penalty: a level 3 fine.

- (10) A person who, under an emergency plan for a dangerous goods site, has a function and who, without a reasonable excuse, does not obey the emergency plan commits an offence.

Penalty: a level 2 fine.

**76A. Information for occupier of site adjacent to dangerous goods site**

- (1) This regulation applies to a dangerous goods site if dangerous goods are stored or handled on the site in quantities that exceed the manifest quantity in relation to those goods.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 18

- (2) If the risk in relation to dangerous goods on the site to people, property or the environment were a dangerous situation to occur on the site would extend to a place adjacent to the site, the operator of the site must ensure the occupier of the place is given at least the following —
- (a) information about the risk and what might happen if a dangerous situation occurs on the site;
  - (b) information about what to do if a dangerous situation occurs on the site;
  - (c) information about what the operator will do if a dangerous situation occurs on the site;
  - (d) information to enable the occupier to contact the operator of the site.

Penalty: a level 2 fine.

**76B. FES emergency response guide required for some sites**

- (1) In this regulation —
- agreed FES emergency response guide***, for a dangerous goods site, means an FES emergency response guide that has been prepared or revised by the operator of the site in consultation with the officer in charge of the fire station or of the office of the FES Department nearest the site;
- FES emergency response guide***, for a dangerous goods site, means a document, in a form approved by the FES Commissioner, that contains information relevant to any fire brigade or other person under the control of the FES Commissioner when dealing with any fire or dangerous situation that might occur on the site, including information about the following —
- (a) the operator of the site;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 18**

---

- (b) the layout of the site;
  - (c) the construction of any structure on the site;
  - (d) the dangerous goods on the site;
  - (e) the equipment and resources on the site to detect or deal with any such fire or dangerous situation.
- (2) This regulation applies to a dangerous goods site if —
- (a) the quantity of dangerous goods stored or handled on the site exceeds 10 times the manifest quantity in relation to those goods; and
  - (b) the site is not —
    - (i) a petrol station; or
    - (ii) a mine as defined in the *Mines Safety and Inspection Act 1994* section 4(1).
- (3) The operator of the site must ensure there is an agreed FES emergency response guide for the site.
- (4) The operator of the site may at any time revise the agreed FES emergency response guide for the site.
- (5) The operator of the site must review the agreed FES emergency response guide for the site and, if necessary, revise it —
- (a) whenever there is a significant change to the type or quantity of dangerous goods on the site; and
  - (b) whenever there is a significant change to the layout of or to any structure on the site; and
  - (c) as soon as practicable after a fire or dangerous situation occurs on the site; and

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 19**

- (d) in any event, at intervals of not more than 3 years from the day on which the guide was first prepared or last reviewed.

Penalty: a level 2 fine.

- (6) The operator of the site must ensure the current agreed FES emergency response guide for the site is on the site.

Penalty: a level 1 fine.

- (7) The operator of the site must ensure that —

- (a) the Chief Officer; and  
(b) the fire station or the office of the FES Department nearest the site,

have a copy of the current agreed FES emergency response guide for the site.

Penalty: a level 1 fine.

**19. Regulation 78 amended**

In regulation 78(4)(a) delete “DGO,” and insert:

DGO and

**20. Regulation 93 amended**

Delete regulation 93(2) and insert:

- (2) An applicant who does not obey such a request within 21 days after the date on which it is made, or any longer period permitted by the Chief Officer, is taken to have withdrawn the application.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 21**

---

**21. Regulation 110 amended**

- (1) Delete regulation 110(2) and insert:
  - (2) The register must record, in relation to each registration, this information —
    - (a) the name of the holder of the registration;
    - (b) the date on which the registration was granted;
    - (c) the date (if any) on which the registration was renewed;
    - (d) the date (if any) on which the registration was suspended;
    - (e) the date (if any) on which the registration was cancelled.
  - (3A) The register may record any other information relevant to a registration holder or to the issue, amendment, renewal, suspension or cancellation of a registration that the Chief Officer thinks fit.
- (2) After regulation 110(4) insert:
  - (5) The Chief Officer must ensure the information listed in subregulation (2) and recorded in the register is accessible to the public during normal office hours.

**22. Regulation 132 amended**

Delete regulation 132(3)(d) and (e) and insert:

- (d) the location and proper use, fitting and maintenance of any personal protective



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 23

equipment or safety equipment kept at the  
location in accordance with regulation 129.

**23. Part 8A inserted**

After regulation 133 insert:

**Part 8A — Dangerous goods in ports**

**Division 1 — Preliminary matters**

**134. Terms used**

In this Part, unless the contrary intention appears —

***berth*** means a berth in a port area but does not include any vessel moored at the berth;

***consignor***, of dangerous goods, has the meaning given in regulation 135A;

***explosion risk goods*** has the meaning given in regulation 135B;

***handle***, dangerous goods, means (despite section 3(1) of the Act) —

- (a) to load them on to a vehicle or into a container;
- (b) to unload them from a vehicle or container;
- (c) to carry, move or transport them by any means;
- (d) to store them while they await being so loaded, unloaded, carried, moved or transported;

***harbour master*** —

- (a) of a port subject to the *Port Authorities Act 1999*, has the meaning given in section 3(1) of that Act;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (b) of a port subject to the *Shipping and Pilotage Act 1967*, has the meaning given in section 3 of that Act;

***operator***, of a berth, means the person who controls and manages the operations at the berth;

***port*** means —

- (a) a port as defined in the *Port Authorities Act 1999* section 3(1); or
- (b) a port as defined in the *Shipping and Pilotage Act 1967* section 3;

***port area*** means the area associated with a port being —

- (a) if the port is subject to the *Port Authorities Act 1999* — the area or areas described in relation to the port under section 24 of that Act; and
- (b) if the port is subject to the *Shipping and Pilotage Act 1967* — the area bounded by the limits specified in relation to the port under section 10 of that Act;

***special berth (non-explosives)*** means a berth that, under regulation 135K, is declared to be a special berth (non-explosives);

***vessel*** means anything, including a hovercraft, capable of transporting people or things by water.

**135A. Meaning of consignor**

For the purposes of these regulations, a person is the consignor of dangerous goods in a port area —

- (a) if the person, with the person's authority, is named or otherwise identified as the consignor of the goods in documentation associated with

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

transporting the goods into or from the port area; or

- (b) if paragraph (a) does not apply to the person or anyone else — if the person —
- (i) engages another person, either directly or through an agent or other intermediary, to transport the goods into or from the port area; or
  - (ii) has possession of, or control over, the goods immediately before the goods are transported into or from the port area;

or

- (c) if neither paragraph (a) nor (b) applies to the person or anyone else and the goods are being imported into Australia — if the person is the importer.

**135B. Meaning of explosion risk goods**

For the purposes of this Part, the dangerous goods listed in the Table are explosion risk goods.

**Table**

<b>Dangerous goods</b>	<b>UN No.</b>	<b>Class</b>
Ammonium nitrate, with not more than 0.2% total combustible material, including any organic substance, calculated as carbon to the exclusion of any other added substance	1942	5.1
Ammonium nitrate based fertiliser	2067	5.1
Ammonium nitrate, liquid (hot concentrated solution)	2426	5.1

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

<b>Dangerous goods</b>	<b>UN No.</b>	<b>Class</b>
Ammonium nitrate emulsion or suspension or gel, immediate for blasting explosives	3375	5.1
Calcium hypochlorite, dry or calcium hypochlorite mixture, dry, with more than 39% available chlorine (8.8% available oxygen)	1748	5.1
Calcium hypochlorite, dry with more than 10% but not more than 39% available chlorine	2208	5.1
Calcium hypochlorite, hydrated or calcium hypochlorite, hydrated mixture, with not less than 5.5% but not more than 16% water	2880	5.1
Calcium hypochlorite, dry, corrosive or calcium hypochlorite mixture, dry, corrosive with more than 39% available chlorine (8.8% available oxygen)	3485	5.1
Calcium hypochlorite mixture, dry, corrosive with more than 10% but not more than 39% available chlorine	3486	5.1
Calcium hypochlorite, hydrated, corrosive or calcium hypochlorite, hydrated mixture, corrosive with not less than 5.5% but not more than 16% water	3487	5.1

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 23

**Division 2 — Non-explosives in port areas**

**135C. Application of this Division**

This Division applies to dangerous goods in a port area, whether or not at a special berth (non-explosives).

**135D. Packaging and documentation requirements for non-explosives**

- (1) In this regulation —

*ADG compliant* has the meaning given in subregulation (2);

*designated ADG document*, for dangerous goods, means the dangerous goods transport document for the goods that complies with the ADG Code Chapter 11.1;

*designated IMDG documents*, for dangerous goods, means these documents —

- (a) the dangerous goods transport document that, under the IMDG Code, has to be signed by the consignor of the goods and to accompany the goods;
- (b) the container/vehicle packing certificate that, under the IMDG Code, has to be provided for the goods;

*IMDG compliant* has the meaning given in subregulation (3).

- (2) In this regulation, dangerous goods are *ADG compliant* if —

- (a) they are packed, marked, labelled and placarded in accordance with; and
- (b) their packaging complies with,

the ADG Code.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (3) In this regulation, dangerous goods are ***IMDG compliant*** if —
- (a) they are packed, marked, labelled and placarded in accordance with; and
  - (b) their packaging complies with,
- those provisions of the IMDG Code that that Code says are mandatory.
- (4) A person must not import dangerous goods into a port area by sea from within Australia unless the goods are ADG compliant or IMDG compliant.  
Penalty: a level 1 fine.
- (5) A person must not import dangerous goods into a port area by sea from within Australia unless the goods are accompanied by the designated ADG document, or the designated IMDG documents, for the goods.  
Penalty: a level 1 fine.
- (6) A person must not import dangerous goods into a port area by sea from outside Australia unless the goods are IMDG compliant.  
Penalty: a level 1 fine.
- (7) A person must not import dangerous goods into a port area by sea from outside Australia unless the goods are accompanied by the designated IMDG documents for the goods.  
Penalty: a level 1 fine.
- (8) The consignor of dangerous goods in a port area for the purposes of being transported by sea to a place within Australia commits an offence if the goods are neither ADG compliant nor IMDG compliant.  
Penalty: a level 1 fine.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (9) The consignor of dangerous goods in a port area for the purposes of being transported by sea to a place within Australia commits an offence if the goods are not accompanied by the designated ADG document, or the designated IMDG documents, for the goods.  
Penalty: a level 1 fine.
- (10) The consignor of dangerous goods in a port area for the purposes of being transported by sea to a place outside Australia commits an offence if the goods are not IMDG compliant.  
Penalty: a level 1 fine.
- (11) The consignor of dangerous goods in a port area for the purposes of being transported by sea to a place outside Australia commits an offence if the goods are not accompanied by the designated IMDG documents.  
Penalty: a level 1 fine.

**135E. Master's duties as to emergency plan for vessel**

The master of a vessel transporting more than the manifest quantity of dangerous goods must not take the vessel into a port area unless —

- (a) there is on board a written emergency plan for dealing with any dangerous situation involving the goods that arises on the vessel while the vessel is in the port area; and
- (b) the vessel has adequate crew and equipment to carry out the plan should the need to do so arise; and
- (c) the master has consulted the harbour master of the port about the management of any emergency that might arise from handling or transporting the goods in the port area.

Penalty: a level 1 fine and imprisonment for 10 months.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

**135F. Berth operator's duties as to emergency plan for berth**

- (1) This regulation applies to a berth for which regulation 75 requires that the berth operator have an emergency plan.
- (2) The berth operator of a berth to which this regulation applies must not handle dangerous goods at the berth unless —
  - (a) the berth operator has given the harbour master of the port a copy of the emergency plan for the berth required by regulation 75; and
  - (b) the harbour master has agreed to the plan.

Penalty: a level 1 fine and imprisonment for 10 months.

**135G. Berth operator's duty to minimise time dangerous goods kept at berth**

- (1) This regulation applies when dangerous goods are unloaded from or loaded on to a vessel at a berth.
- (2) The operator of the berth must ensure that any handling of the dangerous goods at the berth is completed as soon as practicable after the vessel berths at the berth or the dangerous goods arrive on the berth.

Penalty: a level 1 fine and imprisonment for 10 months.

- (3) The operator of the berth must ensure that the vessel does not remain at the berth for any longer than is reasonably necessary to complete any handling of the dangerous goods.

Penalty: a level 1 fine and imprisonment for 10 months.



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 23

**Division 3 — Explosion risk goods in port areas**

**135H. When special berth (non-explosives) required**

- (1) If a vessel carrying more than 1 030 tonnes of explosion risk goods is moored at a berth that is not a special berth (non-explosives), the operator of the berth commits an offence.

Penalty: a level 1 fine.

- (2) If 30 tonnes or more of explosion risk goods are unloaded from or loaded on to a vessel at a berth that is not a special berth (non-explosives), the operator of the berth commits an offence.

Penalty: a level 1 fine.

- (3) If 30 tonnes or more of explosion risk goods are on a berth that is not a special berth (non-explosives), the operator of the berth commits an offence.

Penalty: a level 1 fine.

**135I. Applying for declaration of special berth (non-explosives)**

- (1) Only these persons may apply for a berth to be declared a special berth (non-explosives) —

- (a) the harbour master of the port;
- (b) the operator of the berth.

- (2) An application for a berth to be declared a special berth (non-explosives) must —

- (a) be made to the Chief Officer; and
- (b) be in an approved form; and
- (c) specify the following —

- (i) the name of the berth operator;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (ii) the location and dimensions of the berth;
  - (iii) the UN Number and proper shipping name of the explosion risk goods that will be handled at the berth;
  - (iv) the maximum quantity of the explosion risk goods that will be at the berth and on any vessel at the berth, including any such goods on board that are not handled while the vessel is at the berth;
  - (v) the maximum quantity of the explosion risk goods that will be handled at the berth in respect of any one vessel;
  - (vi) any other matter required by the approved form;
- and
- (d) be signed by the applicant; and
  - (e) be accompanied by the following —
    - (i) an aerial photo of the berth and its surroundings on which are marked concentric circles with radii of 500 m, 1 000 m and 2 000 m from the centre of the berth;
    - (ii) a risk assessment for the berth that complies with regulation 135J(1);
    - (iii) an implementation plan that complies with regulation 135J(2);
    - (iv) an emergency plan that complies with regulation 75;
    - (v) a fee of \$3 900.
- (3) One application may specify more than one kind of explosion risk goods.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 23

**135J. Content of risk assessment and implementation plan**

- (1) For the purposes of regulation 135I(2)(e)(ii), a risk assessment for a berth is a document that —
  - (a) is in a form acceptable to the Chief Officer; and
  - (b) identifies all hazards relating to the explosion risk goods specified in the application and to handling them at the berth; and
  - (c) for each hazard, assesses —
    - (i) the probability of the hazard causing a fire or explosion; and
    - (ii) the nature and extent of the harm to people, property and the environment that is likely to result from any such fire or explosion;and
  - (d) for each hazard, identifies the measures that will eliminate or, if it is not reasonably practicable to eliminate, that will reduce so far as is reasonably practicable —
    - (i) the probability of the hazard causing a fire or explosion; and
    - (ii) the harm to people, property and the environment that is likely to result from any such fire or explosion;and
  - (e) records the method of reasoning used to determine the matters referred to in paragraphs (b) to (d); and
  - (f) contains the information listed in, and addresses, the items listed in AS 3846 clause 6.5.2.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (2) For the purposes of regulation 135I(2)(e)(iii), an implementation plan must —
  - (a) state which measures in the risk assessment have been taken at the time the application is made; and
  - (b) state which such measures have not been taken and when they will be taken; and
  - (c) state the procedures that will be followed by people when handling the explosion risk goods at the berth.

**135K. Dealing with application under r. 135I**

- (1) Any decision made by the Chief Officer under this regulation must be in writing.
- (2) The Chief Officer may ask a person who has made an application under regulation 135I for more information to enable the Chief Officer to decide it and may delay deciding it until the information is supplied.
- (3) A person who does not obey such a request within 21 days after the date on which it is made, or any longer period permitted by the Chief Officer, is taken to have withdrawn the application and is entitled to a refund of the fee.
- (4) On an application made under regulation 135I, the Chief Officer may declare the berth to be a special berth (non-explosives) for a period, not over 5 years, specified in the declaration.
- (5) Without limiting the matters the Chief Officer may consider before making a declaration under subregulation (4), he or she must not make a declaration unless he or she has considered —
  - (a) the adequacy of the risk assessment accompanying the application; and
  - (b) the items listed in AS 3846 clause 6.5.2.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

- 
- (6) A declaration made under subregulation (4) must specify the following —
- (a) the name of the berth operator;
  - (b) the berth to which it applies;
  - (c) the UN Number and proper shipping name of the explosion risk goods that can be handled at the berth.
- (7) A declaration made under subregulation (4) may specify more than one kind of explosion risk goods.
- (8) A declaration made under subregulation (4) may specify any of these requirements that the Chief Officer considers necessary to ensure the explosion risk goods are handled safely at the special berth (non-explosives) —
- (a) the maximum quantity of the explosion risk goods that are permitted to be on any vessel at the berth, including any such goods on board that are not handled while the vessel is at the berth;
  - (b) the maximum quantity of the explosion risk goods that are permitted to be handled at the berth in respect of any one vessel;
  - (c) any requirements that must be obeyed when the explosion risk goods are handled at the berth.
- (9) The Chief Officer at any time may amend or cancel a declaration made under subregulation (4).
- (10) If the Chief Officer —
- (a) refuses an application; or
  - (b) makes a declaration that includes a requirement,
- he or she must give reasons for the decision.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

**135L. Explosion risk goods not to be in loose form**

- (1) For the purposes of this regulation, explosion risk goods are in a loose form if they are to be handled while they are not in a container that itself can be loaded on to or unloaded from a vehicle.
- (2) The consignor of explosion risk goods in a port area for transport by sea commits an offence if the goods are consigned in a loose form.  
Penalty: a level 1 fine.
- (3) A person who imports explosion risk goods into a port area by sea commits an offence if the goods are imported in a loose form.  
Penalty: a level 1 fine.
- (4) The operator of a berth commits an offence if explosion risk goods in a loose form are handled at the berth.  
Penalty: a level 1 fine.
- (5) It is a defence to a charge of an offence under subregulation (4) to prove the explosion risk goods were in a loose form because they had spilled as a result of a broken container.

**135M. Ammonium nitrate (UN 1942 and 2067) not to be imported, consigned or handled without evidence of analysis and testing**

- (1) In this regulation —  
*alleged*, in relation to goods, means alleged in the documents accompanying the goods;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

***designated AN*** means these dangerous goods of Division 5.1 —

- (a) ammonium nitrate, with not more than 0.2% total combustible material, including any organic substance, calculated as carbon to the exclusion of any other added substance;
- (b) ammonium nitrate based fertiliser;

***sufficient evidence*** has the meaning given in subregulation (2).

- (2) For the purposes of this regulation, evidence is not sufficient evidence that goods are designated AN unless it includes these documents —
  - (a) written evidence that the goods have been chemically analysed;
  - (b) written evidence of the analysis stating, as percentages, each constituent, including organic carbon, of the goods;
  - (c) written evidence that the goods have undergone —
    - (i) the UN gap test, being test Type 2(a) in Test Series 2 described in section 12 of the UNTC, in accordance with that section 12; or
    - (ii) a test, approved by the Chief Officer, as to whether the goods have explosive properties;
  - (d) written evidence of the result of the test;
  - (e) written evidence that the classification code of the goods has been assigned to them in accordance with the IMDG Code,

and the documents confirm the goods are designated AN.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (3) A person must not import into a port area by sea 30 tonnes or more of goods that are alleged to be designated AN unless the goods are accompanied by sufficient evidence that the goods are designated AN.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (4) If 30 tonnes or more of goods alleged to be designated AN are unloaded from or loaded on to a vessel at a berth, the operator of the berth commits an offence if the goods are not accompanied by sufficient evidence that the goods are designated AN.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (5) If 30 tonnes or more of goods alleged to be designated AN are on a berth, the consignor of the goods commits an offence if the goods are not accompanied by sufficient evidence that the goods are designated AN.  
Penalty: a level 1 fine and imprisonment for 10 months.

**135N. Master's duties**

- (1) This regulation applies when 30 tonnes or more of explosion risk goods are unloaded from or loaded on to a vessel at a berth.
- (2) The master of the vessel commits an offence if any of the following occurs in relation to the unloading or loading —
- (a) any of the requirements of AS 3846 clause 6.6.1(i) is contravened;
  - (b) any of the requirements of AS 3846 clause 6.6.1(b), (e), (f), (g), (j), (k) or (l) is contravened on board the vessel;



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (c) any of the requirements of AS 3846 clause 6.6.2 is contravened.

Penalty: a level 1 fine and imprisonment for 10 months.

- (3) The master of the vessel commits an offence if any of the following occurs in relation to the unloading or loading —
  - (a) any of the requirements of the IMDG Code clause 5.4.3 is contravened;
  - (b) any of the requirements of the IMDG Code Chapter 7.1 is contravened;
  - (c) any of the requirements of the IMDG Code Chapter 7.2 is contravened.

Penalty: a level 1 fine and imprisonment for 10 months.

**1350. Berth operator's duties**

- (1) In this regulation —

*damaged*, in relation to a container, means damaged or defective to the extent that the container is not safe to use to transport explosion risk goods;

*hot work* means any use of a welding device, or of a tool or device that causes or might cause heat, sparks or a flame.
- (2) This regulation applies when —
  - (a) 30 tonnes or more of explosion risk goods are unloaded from or loaded on to a vessel at a berth; or
  - (b) 30 tonnes or more of explosion risk goods are on a berth.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (3) Subregulations (4), (5), (6), (10) and (11)(a) apply if a vessel carrying more than 1 030 tonnes of explosion risk goods is moored at a berth.
- (4) The operator of the berth commits an offence if any requirement specified in a declaration made under regulation 135K is contravened at the berth.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (5) The operator of the berth must ensure any handling of the explosion risk goods at the berth is completed as soon as practicable after the vessel berths at the berth or the goods arrive on the berth.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (6) The operator of the berth must ensure the vessel does not remain at the berth for any longer than is reasonably necessary to complete any handling of the explosion risk goods.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (7) The operator of the berth must not handle the explosion risk goods at the berth unless the operator has written procedures for controlling and managing the movement of road and rail vehicles on the berth.  
Penalty: a level 1 fine and imprisonment for 10 months.
- (8) The operator of the berth must not handle the explosion risk goods at the berth unless the operator has written procedures that state the maximum quantity of the goods that can be on the berth at any one time.  
Penalty: a level 1 fine and imprisonment for 10 months.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (9) The operator of the berth must ensure all people and vehicles are excluded from the berth and from a reasonable area surrounding the vessel other than these —
- (a) any member of the vessel's crew;
  - (b) any person who has a statutory duty to fulfil in respect of the berth, the vessel, its cargo or the explosion risk goods;
  - (c) any person whose presence is essential to enable the explosion risk goods to be handled at the berth;
  - (d) any person who is a member of an emergency service,

and any vehicle carrying such a person.

Penalty: a level 1 fine and imprisonment for 10 months.

- (10) The operator of the berth must ensure signs prohibiting hot work, smoking and the lighting of a flame or fire are displayed prominently on the vessel and the berth.

Penalty: a level 1 fine and imprisonment for 10 months.

- (11) The operator of the berth commits an offence if any of the following occurs at the berth —

- (a) if a person on the berth does any hot work, smokes or lights a flame or fire;
- (b) if there are any other dangerous goods or any explosives on the berth;
- (c) if any substance that could contaminate the explosion risk goods, and any combustible dust or debris, is not cleaned from the berth before the explosion risk goods are handled;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 23**

---

- (d) if any damaged container containing the explosion risk goods is not removed from the berth as soon as practicable after the damage is discovered;
- (e) if any damaged container containing the explosion risk goods is removed from the berth for any purpose other than to enable the explosion risk goods to be —
  - (i) repackaged; or
  - (ii) dealt with in some other way so that the explosion risk goods can be safely handled;
- (f) if any spillage of the explosion risk goods is not cleaned up immediately;
- (g) if any of the explosion risk goods are on the berth after the handling of them is completed.

Penalty: a level 1 fine and imprisonment for 10 months.

- (12) For the purposes of subregulation (11), the berth includes the reasonable area surrounding the vessel from which subregulation (9) requires that all people (other than those specified in subregulation (9)(a) to (d)) be excluded.

**135P. Berth operator to give Chief Officer report after handling explosion risk goods**

- (1) This regulation applies if —
  - (a) explosion risk goods are handled at a special berth (non-explosives); and
  - (b) before, during or after the explosion risk goods are handled, any of the following occurs —
    - (i) a failure to comply with this Part;

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 24**

---

- (ii) a failure to comply with the procedures required by regulation 135O(7) and (8);
  - (iii) a failure to take a measure specified in the risk assessment required by regulation 135I(2)(e)(ii) for the berth.
- (2) If this regulation applies then, within 14 days after the explosion risk goods are handled at the special berth (non-explosives), the operator of the berth must give the Chief Officer a written report that complies with subregulation (3).  
Penalty: a level 2 fine.
- (3) The report required by subregulation (2) must include the following —
  - (a) a description of the failure referred to in subregulation (1)(b) that gave rise to the report;
  - (b) a statement of whether or not the failure resulted in any adverse consequences, and (if it did) a description of those consequences and what measures were, are being or will be taken to remedy them;
  - (c) a description of what measures have been, are being or will be taken to ensure that the failure does not happen again;
  - (d) if any measures of the kind referred to in paragraph (c) have not been taken, when those measures will be taken.

**24. Regulation 139 amended**

In regulation 139:

- (a) in paragraph (c) delete “regulations.” and insert:  
  
regulations; or

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 25**

---

(b) after paragraph (c) insert:

(d) any certificate that may be given under these regulations.

**25. Schedule 2 deleted**

Delete Schedule 2.

**26. Schedule 5 Division 1 amended**

(1) In Schedule 5 Division 1 clause 1(1) delete “Tables to clauses 2 and 3,” and insert:

Table to clause 2,

(2) In Schedule 5 Division 1 delete clause 3.

**27. Schedule 6 Divisions 3 and 4 inserted**

After Schedule 6 Division 2 insert:

**Division 3 — Provisions relating to *Dangerous Goods Safety  
(Storage and Handling of Non-explosives) Amendment  
Regulations 2013***

**6. Term used: commencement day**

In this Division —

***commencement day*** means the day on which the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2013*, other than regulations 1 and 2, come into operation.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

**r. 27**

---

**7. Emergency plans**

If, immediately before commencement day, the operator of a dangerous goods site has an emergency plan for the site that complies with the *Dangerous Goods Sites — Emergency Planning code* ISBN 978-1-921163-09-7 published by the Department, then on and after commencement day the plan is taken to be an emergency plan for the purposes of regulation 75.

**8. Special risk plans deemed FES emergency response guides**

If, immediately before commencement day, the operator of a dangerous goods site has a special risk plan prepared in accordance with the *Dangerous Goods Sites — Emergency Planning code* ISBN 978-1-921163-09-7 published by the Department, then on and after commencement day the plan is taken to be an agreed FES emergency response guide for the purposes of regulation 76B.

**9. Deferral of licensing requirement for unlicensed dangerous goods site in port area**

- (1) If a dangerous goods site in a port area (as defined in regulation 134) is not licensed under Part 4 immediately before commencement day, regulation 25 does not apply to the site until the day after the period of 6 months beginning on commencement day.
- (2) Subclause (1) does not prevent the application for or grant of a licence under Part 4 for such a dangerous goods site on and after commencement day.

***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

r. 27

---

**Division 4 — Provisions relating to *Dangerous Goods Safety  
(Goods in Ports) Repeal Regulations 2013***

**10. Term used: commencement day**

In this Division —

*commencement day* means the day on which the *Dangerous Goods Safety (Goods in Ports) Repeal Regulations 2013* regulation 3 comes into operation.

**11. Special berth declarations**

If, immediately before commencement day, a declaration made under the *Dangerous Goods Safety (Goods in Ports) Regulations 2007* regulation 33 is in force in relation to a berth, then on and after commencement day —

- (a) the declaration is taken to be a declaration made under regulation 135K(4) for the same period and with the same terms and requirements; and
- (b) the berth is taken to be a special berth (non-explosives) for the purposes of Part 8A.

**12. Application of Part 8A to certain cargoes**

(1) If a term is given a meaning in Part 8A, it has the same meaning in this clause.

(2) In this clause —

*threshold amount*, of explosion risk goods, means —

- (a) if the goods are in —
  - (i) a freight container (as defined in the *Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007* regulation 4); or
  - (ii) a portable tank (as defined in that regulation); or
  - (iii) a combination of those, 400 tonnes; or



***Dangerous Goods Safety (Storage and Handling of Non-explosives)  
Amendment Regulations 2013***

---

**r. 27**

- (b) if the goods are in an IBC (as defined in regulation 34 of those regulations), 150 tonnes.
- (3) Regulations 135H(2) and (3), 135O(4), (7) and (8) and 135P do not apply in the 6 months after commencement day if 30 tonnes or more of explosion risk goods but less than the threshold amount of the goods are —
  - (a) unloaded from or loaded on to a vessel at a berth that is not a special berth (non-explosives); or
  - (b) at a berth that is not a special berth (non-explosives).

R. KENNEDY, Clerk of the Executive Council.



Western Australia

## **Dangerous Goods Safety (Explosives) Amendment Regulations 2013**

---

### Contents

---

1.	Citation	
2.	Commencement	
3.	Regulations amended	
4.	Regulation 3 amended	
5.	Regulation 10 amended	
6.	Regulation 17 amended	
7.	Regulation 20 amended	
8.	Regulation 21A inserted	
	21A. Extension of period for which security card is valid	3
9.	Regulation 22A inserted	
	22A. Replacement of security cards	5
10.	Regulations 23, 24 and 25 replaced	
	23. Authorisation by licence holder to have access to explosive	5
	24. Licence holder to keep records as to secure nominees	7
	25. Duties of secure nominees	8
11.	Regulation 29 amended	
12.	Regulation 30 amended	
13.	Regulation 36 amended	
14.	Regulation 45 amended	
15.	Regulation 46 amended	
16.	Regulation 65 amended	
17.	Regulation 77A inserted	
	77A. Explosives transport licence authorises storage of certain explosives in transit	

***Dangerous Goods Safety (Explosives) Amendment Regulations 2013*****Contents**

---

- 18. Regulation 86A inserted
  - 86A. Storage by explosives transport licence holder
- 19. Regulation 92 amended
- 20. Regulation 94 amended
- 21. Regulation 97 amended
- 22. Regulation 102 amended
- 23. Part 11A inserted
  - Part 11A — Explosives in ports**
  - Division 1 — Preliminary matters**
  - 111A. Terms used
  - 111B. General provisions about AS 3846
  - 111C. Cases in which this Part does not apply
  - Division 2 — Explosives in port areas**
  - 111D. Application of this Division
  - 111E. Master's duties
  - 111F. Prime contractor's duties
  - 111G. Berth operator's duties
  - 111H. Fire control equipment required at berth
  - 111I. Emergency plan required for berth
  - 111J. Information for occupier of site at risk from proximity to berth handling explosives
  - Division 3 — Special berth (explosives)**
  - 111K. When special berth (explosives) required
  - 111L. Applying for declaration of special berth (explosives)
  - 111M. Content of risk assessment
  - 111N. Dealing with application under r. 111L
  - 111O. Berth operator's duties
- 24. Regulation 112 amended
- 25. Regulation 118 amended
- 26. Regulation 132 amended
- 27. Regulation 136 amended
- 28. Regulation 143 amended
- 29. Regulation 149 amended
- 30. Regulation 157 amended
- 31. Regulation 158 amended
- 32. Regulation 162 amended
- 33. Regulation 164 amended
- 34. Regulation 165 replaced
  - 165. Body corporate and partnership to have qualified officer
- 35. Regulation 167 amended

***Dangerous Goods Safety (Explosives) Amendment Regulations 2013***

---

**Contents**

- 36. Regulation 171 amended
- 37. Regulation 172 amended
- 38. Regulation 173 amended
- 39. Regulation 174 amended
- 40. Regulation 179A amended
- 41. Regulation 180 replaced
  - 180. Licence holder to notify Chief Officer of certain convictions and charges
- 42. Regulation 181 amended
- 43. Regulation 183 amended
- 44. Regulation 193 amended
- 45. Regulation 194 amended
- 46. Regulations 198 to 206 replaced
  - 198. Transitional status of secure employees
  - 199. Assessing fitness to drive
- 47. Schedule 1 amended
- 48. Schedule 4 amended
  - 7. Smoke generators
  - 8. Thermite igniters
- 49. Schedule 6 amended
  - 7. Smoke generators
- 50. Schedule 7 amended
  - 7. Smoke generators
  - 8. Thermite igniters
- 51. Schedule 8 amended
  - 6. Smoke generators
  - 7. Thermite igniters
- 52. Schedule 9 amended
  - 7. Smoke generators
  - 8. Thermite igniters
- 53. Schedule 10 amended



Dangerous Goods Safety Act 2004

## **Dangerous Goods Safety (Explosives) Amendment Regulations 2013**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Dangerous Goods Safety (Explosives) Amendment Regulations 2013*.

### **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 1 January 2014.

### **3. Regulations amended**

These regulations amend the *Dangerous Goods Safety (Explosives) Regulations 2007*.

### **4. Regulation 3 amended**

- (1) In regulation 3 delete the definitions of:  
*secure employee*  
*UNTC*
- (2) In regulation 3 insert in alphabetical order:

*medical practitioner* means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 5**

---

***secure nominee***, of a licence holder, means an individual who, under regulation 23, is authorised by the licence holder to have unsupervised access to an explosive in the licence holder's possession;

***unsupervised access authorisation*** means an authorisation given under regulation 23 by a licence holder for an individual to have unsupervised access to an explosive in the licence holder's possession;

***UNTC*** means the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria*, Fifth revised edition, published by the United Nations (ISBN 978-92-1-139135-0);

- (3) In regulation 3 in the definition of ***security card*** delete "regulation 17;" and insert:

regulation 20;

**5. Regulation 10 amended**

- (1) In regulation 10(2) delete "employee" and insert:

nominee

- (2) In regulation 10(3) delete "employee" and insert:

nominee



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 6**

---

**6. Regulation 17 amended**

Delete regulation 17(2) and insert:

- (2) Only an individual can apply for a security card.

**7. Regulation 20 amended**

- (1) In regulation 20(2):

- (a) in paragraph (b) delete “satisfaction.” and insert:

satisfaction; or

- (b) after paragraph (b) insert:

- (c) the application is for a security card that would be valid at any time while a security card that the applicant already has is valid.

- (2) In regulation 20(6) after “5 years” insert:

or until the end of a period for which it is extended under regulation 21A

**8. Regulation 21A inserted**

After regulation 20 insert:

**21A. Extension of period for which security card is valid**

- (1) A person who has a valid security card may, within the period of 3 months before the security card is due to

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 8**

---

expire, apply to the Chief Officer for the period at the end of which the security card expires to be extended.

- (2) The application —
  - (a) must be made in the approved form; and
  - (b) must be accompanied by any documents specified in the approved form; and
  - (c) must be accompanied by the prescribed fee.
- (3) If the photograph displayed on the applicant's security card was taken more than a period of 6 years before the application is made, the application must also be accompanied by a photograph of the applicant taken in the period of 6 months before the application is made.
- (4) On receiving an application made in accordance with this regulation, the Chief Officer must approve the application and extend the period at the end of which the security card is due to expire by 5 years.
- (5) The Chief Officer must, on approving the application —
  - (a) issue to the applicant a replacement security card showing when it is due to expire and, where applicable, displaying the photograph provided to the Chief Officer under subregulation (3); and
  - (b) give to the Commissioner of Police notice of the extension of the period at the end of which the security card is due to expire.
- (6) If an application is made in accordance with this regulation but the applicant's security card expires before the application is approved, the period at the end of which the security card is due to expire is taken to have been extended under this regulation.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 9**

---

**9. Regulation 22A inserted**

After regulation 21 insert:

**22A. Replacement of security cards**

- (1) If the Chief Officer is satisfied a security card has been destroyed, lost or stolen, the Chief Officer may issue a replacement.
- (2) No fee is to be charged for issuing a replacement under subregulation (1).

**10. Regulations 23, 24 and 25 replaced**

Delete regulations 23, 24 and 25 and insert:

**23. Authorisation by licence holder to have access to explosive**

- (1) A licence holder may authorise an individual —
  - (a) to have unsupervised access; or
  - (b) to have supervised access,to an explosive in the licence holder's possession, and may cancel such an authorisation at any time.
- (2) A licence holder must not, under subregulation (1)(a), authorise an individual to have unsupervised access to an explosive unless —
  - (a) the individual has a security clearance; and
  - (b) the licence holder is satisfied the individual is suitably trained to safely handle any explosive to which the individual will have unsupervised access.

Penalty: a level 2 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 10**

---

- (3) An authorisation given under subregulation (1)(a) by a licence holder to an individual authorising unsupervised access must —
- (a) be in writing; and
  - (b) state the following —
    - (i) the date on which the authorisation is given;
    - (ii) the name and residential address of the individual;
    - (iii) each type of explosive in the licence holder's possession to which the individual may have unsupervised access;
    - (iv) details about where and when the individual may have unsupervised access;
    - (v) each other condition imposed by the licence holder on the individual in relation to unsupervised access.
- (4) An authorisation given under subregulation (1)(a) to an individual has no effect unless —
- (a) it complies with subregulation (3); and
  - (b) the licence holder has a record that the individual has stated he or she understands the authorisation.
- (5) If a secure nominee of a licence holder requests the licence holder to do so, the licence holder must give the nominee a copy of each unsupervised access authorisation given by the licence holder to the nominee.

Penalty: a level 3 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 10**

---

- (6) An unsupervised access authorisation given to an individual ceases to have effect if it is cancelled or the individual ceases to have a security clearance.
- (7) A licence holder who, under subregulation (1)(b), authorises an individual to have supervised access to an explosive must ensure the individual is supervised while having access to the explosive by —
  - (a) the licence holder; or
  - (b) a secure nominee of the licence holder having access to the explosive in accordance with an unsupervised access authorisation given by the licence holder to the nominee.

Penalty: a level 2 fine.

**24. Licence holder to keep records as to secure nominees**

- (1) A licence holder, for each individual who is a secure nominee of the licence holder, must keep —
  - (a) a proper record of the secure nominee; and
  - (b) a copy of each unsupervised access authorisation given by the licence holder to the secure nominee; and
  - (c) the record required by regulation 23(4)(b),

while the individual is a secure nominee of the licence holder and for 2 years after the date on which the individual ceases to be a secure nominee of the licence holder.

Penalty: a level 3 fine.

- (2) For the purpose of subregulation (1)(a), a proper record is not kept of a secure nominee unless a written record is made of this information —
  - (a) the name and residential address of the secure nominee;

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 11**

---

- (b) the details of each valid security card held by the secure nominee while a secure nominee;
- (c) if the secure nominee does not have a security card but is a person referred to in regulation 16(3) —
  - (i) the details of the written authorisation referred to in regulation 16(3) that the person holds; and
  - (ii) if the secure nominee's usual place of residence is in the State, the date on which he or she took up such residence in the State;
- (d) if an unsupervised access authorisation given by the licence holder to the secure nominee is cancelled, the date on which it is cancelled.

**25. Duties of secure nominees**

- (1) A secure nominee of a licence holder must comply with each unsupervised access authorisation given by the licence holder to the secure nominee.  
Penalty: a level 3 fine.
- (2) A secure nominee of a licence holder who is in possession of an explosive, if asked by a DGO to do so, must give the DGO the name and address of the licence holder.  
Penalty: a level 3 fine.

**11. Regulation 29 amended**

Delete regulation 29(2) and insert:

- (2) The holder of a test permit is not authorised to supply the unauthorised explosive to which the permit relates

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 12**

---

to another person but may supply it to a secure nominee of the holder in accordance with an unsupervised access authorisation given by the holder to the nominee.

**12. Regulation 30 amended**

(1) Before regulation 30(1) insert:

(1A) In this regulation —

*interstate law* means each of these —

- (a) the *Dangerous Substances (Explosives) Regulation 2004* (Australian Capital Territory);
- (b) the *Explosives Regulation 2013* (New South Wales);
- (c) the *Dangerous Goods Regulations* (Northern Territory);
- (d) the *Explosives Regulation 2003* (Queensland);
- (e) the *Explosives Regulations 2011* (South Australia);
- (f) the *Explosives Regulations 2012* (Tasmania);
- (g) the *Dangerous Goods Act 1985* (Victoria).

(2) Delete regulation 30(2)(f)(iii) and insert:

- (iii) the classification code given to the explosive under the ADG Code; and
- (iv) if, under an interstate law, the explosive is an authorised explosive — the classification code given to it under each such law and details of each such authorisation;

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 13**

---

**13. Regulation 36 amended**

(1) Delete regulation 36(3)(c) and insert:

- (c) is a secure nominee of the holder of such a licence acting in accordance with an unsupervised access authorisation given by the holder to the nominee; or

(2) Delete regulation 36(7)(b) and insert:

- (b) does so as a secure nominee of the holder of such a licence and in accordance with an unsupervised access authorisation given by the holder to the nominee; or

**14. Regulation 45 amended**

Delete regulation 45(b) and (c) and insert:

- (b) be a secure nominee of the holder of such a permit acting in accordance with an unsupervised access authorisation given by the holder to the nominee; or
- (c) be being supervised by the holder of such a permit, or by a secure nominee of such a holder having access to the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee.



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 15**

---

**15. Regulation 46 amended**

Delete regulation 46(b) and (c) and insert:

- (b) the person —
  - (i) is a secure nominee of the holder of a licence that authorises the holder to possess the explosive in the circumstances; and
  - (ii) possesses it in accordance with an unsupervised access authorisation given by the holder to the nominee;

or

- (c) the person possesses the explosive while being supervised by —
  - (i) the holder of a licence that authorises the holder to possess the explosive in the circumstances; or
  - (ii) a secure nominee of such a holder having access to the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee.

**16. Regulation 65 amended**

(1) Delete regulation 65(1)(b) and insert:

- (b) is a secure nominee of the holder of a shotfiring licence and manufactures the ANFO in accordance with an unsupervised access authorisation given by the holder to the nominee; or

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 17**

---

(2) Delete regulation 65(2)(b) and insert:

- (b) is a secure nominee of the holder of an explosives manufacture (MPU) licence and manufactures the explosive in accordance with an unsupervised access authorisation given by the holder to the nominee; or

**17. Regulation 77A inserted**

After regulation 76 insert:

**77A. Explosives transport licence authorises storage of certain explosives in transit**

- (1) In this regulation —  
*class 1.4 explosive* means an explosive with a classification code of 1.4.
- (2) The holder of an explosives transport licence is authorised to store a class 1.4 explosive at a place for which there is no explosives storage licence if —
  - (a) the holder is authorised to possess the explosive under the explosives transport licence; and
  - (b) the holder is in the course of transporting the explosive; and
  - (c) the holder stores the explosive only while it is in transit in the course of being transported.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 18**

**18. Regulation 86A inserted**

At the beginning of Part 9 Division 4 insert:

**86A. Storage by explosives transport licence holder**

- (1) This regulation applies to a person who holds an explosives transport licence and who, under regulation 77A, stores an explosive at a place for which there is not an explosives storage licence held by the person.
- (2) The person must ensure the explosive is stored properly.
- (3) For the purposes of subregulation (2), an explosive is not stored properly unless —
  - (a) it is in a building or container that is separate from and at least 5 m from other buildings and containers; and
  - (b) the building or container does not contain anything other than explosives with a classification code of 1.4; and
  - (c) on the outside of the entrance to the building or container are the following —
    - (i) a Class 1 Label, Model No. 1.4, that complies with the AE Code Figure 3.1 and that is at least 250 mm square;
    - (ii) a sign that says “EXPLOSIVES” in black letters at least 100 mm high on a white or silver background;and
  - (d) there is a fire extinguisher containing at least 9 L of water on or close to the outside of the building or container; and

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 19**

---

- (e) there is no combustible material within 5 m of the outside of the building or container; and
  - (f) there is a “HAZCHEM” outer warning placard that complies with the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 71 and Schedule 4 clause 2 —
    - (i) at every entrance in the perimeter of the site where the building or container is situated; or
    - (ii) at a position or positions approved in writing by the FES Commissioner;and
  - (g) except when it needs to be opened to deal with the explosives in it, the building or container is kept closed and locked so as to prevent removal of or access to the explosives by unauthorised people.
- (4) If any of the packaging of the explosive is removed while the explosive is being stored, the person commits an offence.

Penalty for an offence against subregulation (2) or (4):  
a level 2 fine.

**19. Regulation 92 amended**

In regulation 92(4)(c)(iii) after “unexplained” insert:

loss

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 20**

**20. Regulation 94 amended**

In regulation 94(2):

(a) delete paragraph (a) and insert:

(a) it is kept closed and locked except when it needs to be opened for use by the licence holder or a secure nominee of the licence holder acting in accordance with an unsupervised access authorisation given by the holder to the nominee; and

(b) in paragraph (b) delete “employee” and insert:

nominee

**21. Regulation 97 amended**

Delete regulation 97(3)(b)(ii) and insert:

(ii) is a secure nominee of the holder of such a licence and transports the load in accordance with an unsupervised access authorisation given by the holder to the nominee;

**22. Regulation 102 amended**

Delete regulation 102(2) and insert:

(2) A person who drives an MPU transporting a constituent of a bulk AN-based explosive on a road must be a secure nominee of the holder of an explosives manufacture (MPU) licence acting in

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

accordance with an unsupervised access authorisation given by the holder to the nominee.

Penalty: a level 1 fine or imprisonment for 10 months.

**23. Part 11A inserted**

After Part 10 insert:

**Part 11A — Explosives in ports**

**Division 1 — Preliminary matters**

**111A. Terms used**

- (1) If a term used in this Part is not defined in subregulation (2) but is defined in AS 3846 clause 1.4, it has the same meaning in this Part as it has in that clause, unless the contrary intention appears.
- (2) In this Part —

**AS 3846** means the Australian Standard AS 3846—2005, *The handling and transport of dangerous cargoes in port areas*, published by Standards Australia (ISBN 0 7337 7000 2);

**berth** means a berth in a port area but does not include any vessel moored at the berth;

**handle**, an explosive, means (despite section 3(1) of the Act) —

  - (a) to load it on to a vehicle or into a container;
  - (b) to unload it from a vehicle or container;
  - (c) to carry, move or transport it by any means;
  - (d) to store it while it awaits being so loaded, unloaded, carried, moved or transported;

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

***harbour master*** —

- (a) of a port subject to the *Port Authorities Act 1999*, has the meaning given in section 3(1) of that Act;
- (b) of a port subject to the *Shipping and Pilotage Act 1967*, has the meaning given in section 3 of that Act;

***operator***, of a berth, means the person who controls and manages operations at the berth;

***port*** means —

- (a) a port as defined in the *Port Authorities Act 1999* section 3(1); or
- (b) a port as defined in the *Shipping and Pilotage Act 1967* section 3;

***port area*** means the area associated with a port being —

- (a) if the port is subject to the *Port Authorities Act 1999* — the area or areas described in relation to the port under section 24 of that Act; and
- (b) if the port is subject to the *Shipping and Pilotage Act 1967* — the area bounded by the limits specified in relation to the port under section 10 of that Act;

***prime contractor*** has the meaning given in regulation 95(2);

***special berth (explosives)*** means a berth that, under regulation 111N, is declared to be a special berth (explosives);

***vessel*** means anything, including a hovercraft, capable of transporting people or things by water.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

**111B. General provisions about AS 3846**

- (1) This regulation operates for the purposes of this Part.
- (2) In a provision of AS 3846 to which this Part refers directly or indirectly —
  - (a) a reference to “regulatory authority” is taken to be a reference to the Chief Officer;
  - (b) a reference to “dangerous cargo” is taken to be a reference to dangerous goods.
- (3) If a term used in AS 3846 is defined in regulation 111A, it has the same meaning in AS 3846 as it has in regulation 111A, despite AS 3846 clause 1.4, unless the contrary intention appears.
- (4) If a provision of AS 3846 conflicts or is inconsistent with a provision of this Part, the provision of this Part prevails to the extent of the inconsistency.

**111C. Cases in which this Part does not apply**

- (1) In this regulation —

***emergency device*** means an article, containing one or more explosives with or without other substances, that is designed to be used in distress or an emergency for signalling, warning or rescue purposes —

  - (a) to produce light, sound, gas, smoke, or a combination of them, by means of an exothermic chemical reaction that does not rely on oxygen from external sources to sustain the reaction; or
  - (b) to propel an article, such as a line or a flare, through the air.
- (2) This Part does not apply to or in relation to a vehicle in a port area if the only explosive it is carrying is an



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

emergency device to be used in an emergency involving the vehicle or if the vehicle is in distress.

- (3) This Part does not apply to or in relation to an emergency device in a port area if it is in the area for the purposes of being used in an emergency involving a vehicle in the area or if a vehicle in the area is in distress.
- (4) This Part does not apply to or in relation to explosives in a port area that are required for the operation, safety or maintenance of a vessel and that are or will be part of the vessel's stores or equipment.

**Division 2 — Explosives in port areas**

**111D. Application of this Division**

This Division applies to explosives in a port area, whether or not at a special berth (explosives).

**111E. Master's duties**

- (1) The master of a vessel in a port area that is transporting or about to transport an explosive commits an offence if any of the requirements of AS 3846 clause 4.3.1(b), (f), (h), (k), (l), (n), (o) or (p) is contravened on board or in respect of the vessel.
- (2) The master of a vessel on which there is an explosive commits an offence if any of the requirements of AS 3846 clause 4.4 is contravened while the vessel is in a port area.

Penalty: a level 2 fine.

**111F. Prime contractor's duties**

The prime contractor for the transport of an explosive by road into, in or from a port area commits an offence

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

if any of the requirements of AS 3846 clause 4.3.1(j), (k), (l) or (n) is contravened in relation to the transport of the explosive into, in or from the port area.

Penalty: a level 2 fine.

**111G. Berth operator's duties**

The berth operator of a berth where an explosive is being handled commits an offence if a requirement or recommendation of any of these clauses of AS 3846 is contravened —

- (a) clause 4.3.1 (other than paragraphs (d), (e), (h), (m) and (q));
- (b) clause 4.3.3(a);
- (c) clause 4.3.4;
- (d) clause 4.3.5;
- (e) clause 4.3.6.

Penalty: a level 2 fine.

**111H. Fire control equipment required at berth**

- (1) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —
  - (a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or
  - (b) other explosives with a gross weight of 1 kg or more.
- (2) The berth operator of the berth must ensure the berth has adequate fire control equipment.

Penalty: a level 1 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (3) For the purposes of subregulation (2), fire control equipment is not adequate fire control equipment unless —
- (a) it is designed and constructed either to automatically extinguish or to be capable, when used by a person, of extinguishing any fire that is reasonably foreseeable at the berth having regard to —
    - (i) the types and quantities of explosives at the berth; and
    - (ii) the conditions under which they are handled at the berth; and
    - (iii) any materials and other substances at the berth;and
  - (b) it is designed and constructed to prevent explosives at the berth from being affected by any such fire; and
  - (c) the equipment it uses to extinguish any such fire is compatible with equipment used, and can be used immediately without adaptation or modification, by any fire brigade under the control of the FES Commissioner; and
  - (d) each substance it uses to extinguish any such fire is compatible with the material that is on fire.
- (4) The berth operator of the berth must ensure the fire control equipment at the berth is in proper working order.

Penalty: a level 1 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (5) For the purposes of subregulation (4), fire control equipment is not in proper working order unless —
- (a) it is installed, maintained and tested in accordance with the instructions of its designer and manufacturer; and
  - (b) it is always in working order; and
  - (c) it is always available for immediate use to extinguish a fire; and
  - (d) it is not obstructed or otherwise positioned in a manner that hinders its operation or access to it or use of it.
- (6) If any fire control equipment at the berth stops working or becomes unusable, the operator of the berth must ensure that —
- (a) the implications of the equipment being inoperative or unusable are assessed; and
  - (b) alternative measures are taken to control, to the same level of effectiveness, the risks that were controlled by the equipment when functioning fully; and
  - (c) the equipment is replaced or returned to full operation as soon as practicable.

Penalty: a level 1 fine.

- (7) If the implications assessed by the operator under subregulation (6)(a) include a significant reduction in the effectiveness of the fire control equipment, the operator must notify the FES Commissioner of the fact as soon as practicable after the equipment stops working or becomes unusable.

Penalty: a level 2 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

- (8) In determining the alternative measures required under subregulation (6)(b) the operator must have regard to the need for —
- (a) the provision of alternative fire control equipment; and
  - (b) a reduction of the quantities of explosives at the berth; and
  - (c) the handling of explosives to stop or be limited; and
  - (d) modifications to systems of work.

**111I. Emergency plan required for berth**

- (1) In this regulation —
- emergency plan***, for a berth, means a document that contains —
- (a) a plan of the actions to be taken and the procedures to be followed; and
  - (b) the information needed by people, if a dangerous situation occurs at the berth.
- (2) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —
- (a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or
  - (b) other explosives with a gross weight of 1 kg or more.
- (3) The operator of the berth must ensure there is an emergency plan for the berth.

Penalty: a level 2 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (4) The operator of the berth may at any time revise the emergency plan for the berth.
- (5) The operator of the berth must review the emergency plan and, if necessary, revise it —
- (a) whenever there is a significant change in the risk in relation to explosives at the berth to people, property or the environment; and
  - (b) as soon as practicable after a dangerous situation occurs at the berth; and
  - (c) in any event, at intervals of not more than 3 years from the day on which the plan was first made or last revised.

Penalty: a level 2 fine.

- (6) The operator of the berth must have a copy of the current emergency plan for the berth at the berth.

Penalty: a level 1 fine.

- (7) The operator of the berth, on request, must give a copy of the current emergency plan for the berth to the Chief Officer, a DGO or the FES Commissioner.

Penalty: a level 3 fine.

- (8) The Chief Officer, a DGO or the FES Commissioner, by a written notice, may direct the operator of the berth to make such amendments to the emergency plan as are specified in the notice before a date specified in the notice.

- (9) An operator given a notice under subregulation (8) must obey it.

Penalty: a level 3 fine.

- (10) A person who, under an emergency plan for a berth, has a function and who, without a reasonable excuse, does not obey the emergency plan commits an offence.

Penalty: a level 2 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

r. 23

**111J. Information for occupier of site at risk from proximity to berth handling explosives**

- (1) This regulation applies to a berth at which there is all or any part of a load of explosives if the total load that has been, is being, or is to be, transferred to or from the berth includes —
  - (a) explosives with a classification code of 1.4 and a gross weight of 10 tonnes or more; or
  - (b) other explosives with a gross weight of 1 kg or more.
- (2) If, in the event of a dangerous situation occurring at the berth, the risk in relation to explosives at the berth to people, property or the environment would extend to a place because of its proximity to the berth, the operator of the berth must ensure the occupier of the place is given at least the following —
  - (a) information about the risk and what might happen if a dangerous situation occurs at the berth;
  - (b) information about what to do if a dangerous situation occurs at the berth;
  - (c) information about what the operator will do if a dangerous situation occurs at the berth;
  - (d) information to enable the occupier to contact the berth operator.

Penalty: a level 2 fine.

**Division 3 — Special berth (explosives)**

**111K. When special berth (explosives) required**

- (1) A person must not handle an explosive, or allow an explosive to be handled, in a port area except at a special berth (explosives) at which the explosive may

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

be handled under a declaration made under regulation 111N.

Penalty: a level 1 fine.

- (2) Subregulation (1) does not apply to a berth if —
- (a) the distance between an explosive at the berth or on any vessel at the berth and each of the following —
    - (i) every protected place;
    - (ii) the accommodation quarters on any vessel, other than a vessel at the berth to load or unload the explosive,is at least the separation distance specified in Table 4.2 in AS 3846 for the NEQ of the explosive or, if the explosive has a classification code of 1.6, for the NEQ of a single article containing the explosive; and
  - (b) the distance between an explosive at the berth or on any vessel at the berth and each of the following —
    - (i) every road open to and used by the public;
    - (ii) every railway used by the public,is at least half the separation distance specified in Table 4.2 in AS 3846 for the NEQ of the explosive or, if the explosive has a classification code of 1.6, for the NEQ of a single article containing the explosive.
- (3) For the purposes of subregulation (2)(a) and (b), the NEQ of an explosive at a berth is the total NEQ of the explosive that is —
- (a) at the berth; and



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (b) on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth.
- (4) For the purposes of subregulation (2)(a) and (b), if explosives with different classification codes are to be handled, the greater or greatest separation distance specified in Table 4.2 in AS 3846 applies.

**111L. Applying for declaration of special berth (explosives)**

- (1) Only these persons may apply for a berth to be declared a special berth (explosives) —
  - (a) the harbour master of the port;
  - (b) the operator of the berth.
- (2) An application for a berth to be declared a special berth (explosives) must —
  - (a) be made to the Chief Officer; and
  - (b) be in an approved form; and
  - (c) specify the following —
    - (i) the location of the berth;
    - (ii) the name of the berth operator;
    - (iii) each explosive that will be handled at the berth;
    - (iv) the maximum quantity of explosive that will be at the berth and on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth;
    - (v) any other matter required by the approved form;

and

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (d) be signed by the applicant; and
- (e) be accompanied by the following —
  - (i) an aerial photo of the berth and its surroundings on which are marked concentric circles with radii of 500 m, 1 000 m and 2 000 m from the centre of the berth;
  - (ii) a risk assessment for the berth that complies with regulation 111M;
  - (iii) the fee.

**111M. Content of risk assessment**

For the purposes of regulation 111L(2)(e)(ii), a risk assessment for a berth is a document that —

- (a) is in a form acceptable to the Chief Officer; and
  - (b) identifies all hazards relating to the explosive that is or will be handled at the berth and to handling the explosive; and
  - (c) for each hazard, assesses —
    - (i) the probability of the hazard causing a fire or explosion; and
    - (ii) the nature and extent of the harm to people, property and the environment that is likely to result from any such fire or explosion;
- and
- (d) for each hazard, identifies the 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 fire or explosion; and

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 23**

---

- (ii) the harm to people, property and the environment that is likely to result from such a fire or explosion;
- and
- (e) records the method of reasoning used to determine the matters referred to in paragraphs (b) to (d); and
  - (f) contains the information listed in, and addresses, the items listed in AS 3846 clause 4.6.2.

**111N. Dealing with application under r. 111L**

- (1) Any decision made by the Chief Officer under this regulation must be in writing.
- (2) On an application made under regulation 111L, the Chief Officer may declare the berth to be a special berth (explosives) for a period, not over 5 years, specified in the declaration.
- (3) Without limiting the matters the Chief Officer may consider before making a declaration under subregulation (2), he or she must not make a declaration unless he or she has considered —
  - (a) the adequacy of the risk assessment accompanying the application; and
  - (b) the items listed in AS 3846 clause 4.6.2.
- (4) A declaration made under subregulation (2) may specify any of these requirements that the Chief Officer considers necessary to ensure explosives are handled safely at the special berth (explosives) —
  - (a) the maximum quantity of explosive that is permitted to be on any vessel at the berth, including any explosive on board that is not handled while the vessel is at the berth;

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 24**

---

- (b) any requirements that must be obeyed when explosives are handled at the berth.
- (5) The Chief Officer may at any time amend or cancel a declaration made under subregulation (2).

**111O. Berth operator's duties**

The berth operator of a special berth (explosives) where explosives are being handled commits an offence if any requirement specified in a declaration made under regulation 111N is contravened at the berth.

Penalty: a level 1 fine.

**24. Regulation 112 amended**

Delete regulation 112(c) and (d) and insert:

- (c) in the case of a person who is a secure nominee of the holder of an explosives supply licence —
  - (i) the supply is authorised by the licence; and
  - (ii) the person supplies the explosive in accordance with an unsupervised access authorisation given by the licence holder to the nominee;
- or
- (d) in the case of a person who is a secure nominee of the holder of a licence referred to in regulation 113, 114A, 114, 115 or 116 —
  - (i) the supply is in accordance with that regulation; and
  - (ii) the person supplies the explosive in accordance with an unsupervised access

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

r. 25

---

authorisation given by the licence  
holder to the nominee;

or

**25. Regulation 118 amended**

Delete regulation 118(4)(b) and (c) and insert:

- (b) the explosive is delivered to a secure nominee of Y who shows X proof that he or she is a secure nominee; and
- (c) X obtains the secure nominee's personal receipt.

**26. Regulation 132 amended**

- (1) In regulation 132(3) delete "employee" and insert:

nominee

- (2) In regulation 132(4) delete "employee" and insert:

nominee

**27. Regulation 136 amended**

In regulation 136 in the definition of *fireworks event* after "other" insert:

than

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 28**

---

**28. Regulation 143 amended**

- (1) In regulation 143(3) delete “employee” and insert:

nominee

- (2) In regulation 143(4) delete “employee” and insert:

nominee

**29. Regulation 149 amended**

- (1) Delete regulation 149(1)(e) and (f) and insert:

(e) be accompanied by —

- (i) if the application is made more than 14 days before the date of the proposed event, the fee;
- (ii) if the application is made within 14 days before the date of the proposed event, the fee plus a fee of \$35.

- (2) In regulation 149(2)(c):

- (a) delete “including —” and insert:

including the following —

- (b) after subparagraph (ii) insert:

- (iiia) the number of event fireworks that are ground displays (if any);

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 30**

---

- (iiib) the number of event fireworks that are aerial shells (if any);

**30. Regulation 157 amended**

- (1) Delete regulation 157(1)(da) and insert:
  - (da) if the application is for a trading licence, be accompanied by —
    - (i) the annual fee (if any) payable for the 1<sup>st</sup> year of the licence applied for; and
    - (ii) if the application is not accompanied by a certificate given under subregulation (8), a checking fee equal to the amount (if any) required to be paid under subparagraph (i);
  - and
- (2) Delete regulation 157(5) and insert:
  - (5) An application by a body corporate or partnership must be accompanied by proof of the incorporation of the body or the existence of the partnership.
- (3) After regulation 157(7) insert:
  - (8) In addition to any document that is required to accompany the application, an application for a trading licence may be accompanied by a certificate that complies with subregulation (9) and is signed by a person approved by the Chief Officer.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 30**

---

- (9) A certificate given by a person under subregulation (8) must —
- (a) if it relates to an application for a trading licence that, under subregulation (7), is accompanied by a written explosives management plan, certify that the person —
    - (i) has read the application; and
    - (ii) is satisfied the application complies with this regulation; and
    - (iii) if the application is accompanied by a document for the purposes of subregulation (5), is satisfied the document complies with that subregulation; and
    - (iv) has read the explosives management plan; and
    - (v) is satisfied the plan complies with regulation 161; and
    - (vi) has done a risk assessment of the activities the licence would authorise and, having regard to section 8 of the Act, is satisfied the applicant has taken or will take all reasonably practicable measures to minimise the risk to people, property and the environment in relation to the explosives to which the licence would relate; and
    - (vii) if the trading licence would relate to a site, is satisfied the site can be operated in accordance with these regulations; and
    - (viii) is satisfied the explosives to which the licence would relate will be secure;



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 31**

---

- (b) if it relates to an application for any other trading licence, certify that the person —
  - (i) has read the application; and
  - (ii) is satisfied the application complies with this regulation; and
  - (iii) if the application is accompanied by a document for the purposes of subregulation (5), is satisfied the document complies with that subregulation.

**31. Regulation 158 amended**

In regulation 158:

- (a) delete paragraph (a) and insert:
  - (a) that is made by a medical practitioner who examined the applicant within 6 months before the day the application is made; and
- (b) delete paragraph (c) and insert:
  - (c) that certifies that the medical practitioner examined and passed the applicant in accordance with the set of medical standards described as the commercial standards in *Assessing Fitness to Drive for commercial and private vehicle drivers*, Fourth Edition 2012, published by Austroads Ltd (ISBN 978-1-921991-01-1).

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 32**

---

**32. Regulation 162 amended**

(1) Delete regulation 162(1)(e) and insert:

- (e) if the applicant is an individual, to give the Chief Officer a report by —
  - (i) a medical practitioner about the person's physical health and fitness to engage safely in the activities that would be authorised by the licence; and
  - (ii) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession about the person's mental health and fitness to engage safely in the activities that would be authorised by the licence.

(2) Delete regulation 162(2) and insert:

- (2) On an application for a licence made by an individual, the Chief Officer may request the applicant to demonstrate he or she —
  - (a) is competent to engage safely in the activities that would be authorised by the licence; or
  - (b) is competent to keep any explosive possessed under the licence secure; or
  - (c) is competent to do both of the above.

**33. Regulation 164 amended**

(1) In regulation 164(2):

- (a) delete paragraph (b);

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 34**

---

(b) delete paragraph (c)(ii) and insert:

(ii) has a security clearance; and

(c) delete paragraph (e).

(2) Delete regulation 164(6).

**34. Regulation 165 replaced**

Delete regulation 165 and insert:

**165. Body corporate and partnership to have qualified officer**

(1) In this regulation —

*officer*, of a body corporate or a partnership, means an individual who is concerned in the management of, or employed by, the body or partnership;

*qualified officer*, of a body corporate or a partnership that holds a licence, means an officer of the body or partnership who —

(a) has reached 18 years of age; and

(b) is competent to engage safely in the activities that are authorised by the licence and to keep any explosive possessed under the licence secure; and

(c) has a security clearance.

(2) A body corporate or a partnership that holds a licence must have one or more qualified officers.

Penalty: a level 3 fine.

(3) A body corporate or a partnership that holds a licence must keep a proper record of at least one of its qualified officers.

Penalty: a level 3 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 34**

---

- (4) For the purpose of subregulation (3), a proper record is not kept of a qualified officer unless a written record is made of this information —
- (a) the officer's personal details;
  - (b) the officer's date of birth;
  - (c) the position the officer holds in the body corporate or partnership;
  - (d) details of the security clearance held by the officer,
- and is kept while the officer is, and for 2 years after the date on which the officer ceases to be, an officer of the body or partnership.
- (5) The Chief Officer at any time may direct an individual who is recorded by a body corporate or a partnership under subregulation (3) to demonstrate to the Chief Officer that he or she is competent —
- (a) to engage safely in the activities that are authorised by the licence held by the body corporate or partnership; and
  - (b) to keep any explosive possessed under the licence secure.
- (6) The power in subregulation (5) may be exercised whether or not the individual is an officer of the body corporate or partnership.
- (7) A person who does not comply with a direction given under subregulation (5) commits an offence.
- Penalty: a level 3 fine.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 35**

---

**35. Regulation 167 amended**

In regulation 167(1)(a) delete “3 years” and insert:

5 years

**36. Regulation 171 amended**

Delete regulation 171(2) and (3) and insert:

- (2) If the Chief Officer is satisfied that a card issued to a person under regulation 168(2) has been destroyed, lost or stolen, the Chief Officer may issue a replacement.
- (3) No fee is to be charged for issuing a replacement under subregulation (1) or (2).

**37. Regulation 172 amended**

- (1) In regulation 172(1) delete the definition of *amend* and insert:

*amend*, a licence, includes —

- (a) to amend the licence to delete the name of the holder of the licence and substitute another; and
  - (b) to amend, include and remove a condition of the licence.
- (2) In regulation 172(3)(c) before “a fee equal to” insert:  
  
be accompanied by

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 38**

---

- (3) In regulation 172(7) delete “165 to 167,” and insert:

166 and 167,

**38. Regulation 173 amended**

- (1) Delete regulation 173(4).  
(2) In regulation 173(6) delete “165 to 167,” and insert:

166 and 167,

**39. Regulation 174 amended**

- (1) In regulation 174(1):  
(a) delete paragraph (a) and insert:  
(a) either —  
(i) the holder; or  
(ii) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,  
is charged in this State or elsewhere with a relevant offence; or  
(b) in paragraph (b)(iv) delete “and” and insert:

or

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 40**

---

(2) Delete regulation 174(2)(a) and insert:

(a) either —

(i) the holder; or

(ii) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,

is convicted in this State or elsewhere of a relevant offence; or

**40. Regulation 179A amended**

(1) In regulation 179A(3) after “fee” insert:

(if any)

(2) In regulation 179A(4) delete “equal to 10% of the fee.” and insert:

of \$35.

**41. Regulation 180 replaced**

Delete regulation 180 and insert:

**180. Licence holder to notify Chief Officer of certain convictions and charges**

If —

(a) the holder of a licence; or

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 42**

---

- (b) an individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder,

is charged with or convicted of a relevant offence, in this State or elsewhere, the holder must give the Chief Officer written notice of the fact as soon as practicable.

Penalty: a level 3 fine.

**42. Regulation 181 amended**

Delete regulation 181(2) and insert:

- (2) The holder of an explosives manufacture licence must give the Chief Officer written notice of any proposed development at the site to which the licence relates.

Penalty: a level 3 fine.

**43. Regulation 183 amended**

- (1) Delete regulation 183(2) and insert:

- (2) The register must record, in relation to each licence, this information —

- (a) the name of the holder of the licence;
- (b) the date on which the licence was issued;
- (c) the date (if any) on which the licence was renewed;
- (d) the date (if any) on which the licence was suspended;
- (e) the date (if any) on which the licence was cancelled.



***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 44**

---

(3A) The register may record any other information relevant to a licence holder or to the issue, amendment, renewal, suspension or cancellation of a licence that the Chief Officer thinks fit.

(2) After regulation 183(4) insert:

(5) The Chief Officer must ensure the information listed in subregulation (2) and recorded in the register is accessible to the public during normal office hours.

**44. Regulation 193 amended**

In regulation 193(2):

(a) in paragraph (c) delete “regulations.” and insert:

regulations; or

(b) after paragraph (c) insert:

(d) any certificate that may be given under these regulations.

**45. Regulation 194 amended**

Delete regulation 194(3) and insert:

(3) If a body corporate or a partnership is the holder of a licence, each individual who, under regulation 165, is, and is recorded by the holder as, a qualified officer of the holder must ensure the explosives management

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 46**

---

plan that relates to the licence is complied with by the body corporate or partnership.

Penalty: a level 2 fine.

**46. Regulations 198 to 206 replaced**

Delete regulations 198 to 206 and insert:

**198. Transitional status of secure employees**

If immediately before the day on which the *Dangerous Goods Safety (Explosives) Amendment Regulations 2013* regulation 10 commences an individual is a secure employee of a licence holder, then, on the commencement of that regulation, the person is taken to be a secure nominee of the licence holder until —

- (a) the person, under regulation 23, is authorised by the licence holder to have unsupervised access to an explosive in the licence holder's possession; or
- (b) the end of 3 months after the date of that commencement,

whichever happens first.

**199. Assessing fitness to drive**

If a certificate that complies with regulation 158(c) as in force immediately before the date on which the *Dangerous Goods Safety (Explosives) Amendment Regulations 2013* regulation 31 commences is issued within one year after that date, it is taken to be a certificate that complies with regulation 158(c) as in force after that date.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 47**

**47. Schedule 1 amended**

In Schedule 1:

- (a) after item 1 insert:
- 2A. Application to extend period for which a security card is valid (r. 21A) 42
- (b) delete items 3 and 4 and insert:
3. Application to have an explosive authorised (r. 30(2)(j)) —
- (a) if the explosive is authorised under an interstate law (as defined in regulation 30(1A)) 130
- (b) otherwise 520
- 4A. Application for a berth to be declared a special berth (explosives) (r. 111L(2)(e)(iii)) 3 900
4. Application for a fireworks event permit (r. 149(1)(e)) — one fee being whichever of the following is the highest fee applicable to the event —
- (a) if the event fireworks include a ground display but no aerial shells 130
- (b) if the event fireworks include not more than 3 000 aerial shells 260
- (c) if the event fireworks include more than 3 000 aerial shells 3 900
- (c) delete item 6.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 48**

---

**48. Schedule 4 amended**

After Schedule 4 clause 6 insert:

**7. Smoke generators**

A person may possess an article that generates smoke signals if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) in the circumstances the person has a reasonable reason to possess it.

**8. Thermite igniters**

A person may possess an article that ignites thermite if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) the person is employed to weld rails for railways or is an employee of such a person; and
- (c) the person possesses the article in the course of his or her duties as such.

**49. Schedule 6 amended**

After Schedule 6 clause 6 insert:

**7. Smoke generators**

A person may store an article that generates smoke signals at any place if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) there is not more than 250 kg of such articles at the place.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 50**

---

**50. Schedule 7 amended**

After Schedule 7 clause 6 insert:

**7. Smoke generators**

A person may transport an article that generates smoke signals if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) there is not more than 250 kg of such articles in the vehicle.

**8. Thermite igniters**

A person may transport an article that ignites thermite if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and
- (c) the person transports the article in the course of his or her duties as such.

**51. Schedule 8 amended**

After Schedule 8 clause 5 insert:

**6. Smoke generators**

A person may supply an article that generates smoke signals if the article has a classification code of 1.4G or 1.4S.

**7. Thermite igniters**

A person may supply an article that ignites thermite if —

- (a) the article has a classification code of 1.4G or 1.4S; and

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 52**

---

- (b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and
- (c) the person supplies the article in the course of his or her duties as such; and
- (d) the person to whom the article is supplied is engaged or employed to weld rails for railways or is an employee of such a person.

**52. Schedule 9 amended**

After Schedule 9 clause 6 insert:

**7. Smoke generators**

A person may use an article that generates smoke signals if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) the person uses it for the purposes for which it is designed; and
- (c) the person uses it in accordance with its manufacturer's instructions for its use.

**8. Thermite igniters**

A person may use an article that ignites thermite if —

- (a) the article has a classification code of 1.4G or 1.4S; and
- (b) the person is engaged or employed to weld rails for railways or is an employee of such a person; and
- (c) the person uses the article in the course of his or her duties as such.

***Dangerous Goods Safety (Explosives) Amendment  
Regulations 2013***

**r. 53**

---

**53. Schedule 10 amended**

Delete Schedule 10 clause 2(e) and insert:

- (e) the measures that will be taken to ensure that the plan is reviewed to see whether it meets current standards and addresses current circumstances —
  - (i) whenever there is a significant change in the risk in relation to the explosives to which the licence relates to people, property or the environment; and
  - (ii) as soon as practicable after a dangerous situation occurs that involves the explosives to which the licence relates; and
  - (iii) in any event, at intervals of not more than 5 years after the grant of the licence or the last review of the plan,

and that the plan is revised if necessary;

R. KENNEDY, Clerk of the Executive Council.