

Western Australia

**Dangerous Goods (Transport) (Explosives by
Road and Rail) Regulations 1999**

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Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999

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Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999

Part 1 — Preliminary

1.1. Citation

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

1.2. Commencement

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

1.3. Interpretation

- (1) In these regulations, unless the contrary intention appears —
 - “**Class**”, in relation to explosives, has the meaning given by regulation 1.7;
 - “**Division**”, in relation to explosives, has the meaning given by regulation 1.8;
 - “**emergency service**” means an ambulance, fire, police or other emergency service;
 - “**explosives**” has the meaning given by regulation 1.6;

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“Explosives Code” means the *Australian Code for the Transport of Explosives by Road and Rail*, Second Edition, March 2000, published by the Commonwealth of Australia;

“prime contractor” has the meaning given by regulation 1.10;

“rail”, in relation to the transport of explosives by rail, does not include —

- (a) a railway that is underground or predominantly underground and that is used in connection with the operation of a mine;
- (b) a slipway; or
- (c) a crane-type runway;

“rail wagon” means a unit of rolling-stock that —

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

“road”, in relation to the transport of explosives by road, means a road or other place over which vehicles move, whether on private property or not, that is open to, or used by, the public, whether on payment of consideration or not;

“train” means 2 or more units of rolling-stock coupled together, of which at least one unit is a locomotive or a self-propelled unit;

“vehicle” means a vehicle used or capable of being used to transport people or things by road and it does not matter how the vehicle is moved or propelled.

- (2) In these regulations, unless the contrary intention appears, words and expressions have the same meanings as in section 1.2 or 1.3 of the Explosives Code.
- (3) Examples and notes in these regulations are provided to assist understanding and do not form part of these regulations.

[Regulation 1.3 amended in Gazette 18 August 2000 p.4776.]

1.4. Application

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

1.5. Codes and standards

- (1) In this regulation —
“**instrument**” means a code, standard or rule (whether made in or outside Australia) relating to dangerous goods or their transport, and includes a provision of an instrument.
- (2) In these regulations, a reference to an instrument includes a reference to another instrument as applied or adopted by, or incorporated in, the first instrument.
- (3) In these regulations, unless the contrary intention appears, a reference to an instrument is a reference to the instrument as amended from time to time.
- (4) If a provision of these regulations is inconsistent with a provision of an instrument that is applied by these regulations, the provision of these regulations prevails to the extent of the inconsistency.

1.6. Explosives

For the purposes of these regulations, substances or articles are explosives if they —

- (a) are named in a specific entry in column 2 in Appendix 2 of the Explosives Code;
- (b) satisfy the criteria in a Special Provision of that Code that is applied by column 7 in that Appendix;
- (c) are determined by a Competent Authority to be explosives; or

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- (d) satisfy the tests and criteria for determining whether goods are dangerous goods of Class 1 specified in the UN Recommendations: Manual of Tests and Criteria.

[Regulation 1.6 amended in Gazette 18 August 2000 pp.4776-7.]

1.7. Classes of explosives

- (1) In these regulations, a reference to —
 - (a) a Class of explosives is a reference to the Classification Code to which the explosives are assigned under subregulation (2), being a combination of the number 1 (being the dangerous goods Class number assigned to explosives) and —
 - (i) the Division number assigned; and
 - (ii) the Compatibility Group letter assigned, to those explosives;
 - (b) a Class by number, or number and letter, is a reference to the numbers, or numbers and letter, of the Classification Code to which the explosives are assigned.
- (2) Explosives are assigned to a Classification Code if the explosives —
 - (a) are assigned to that Classification Code in column 4 in Appendix 2 of the Explosives Code; or
 - (b) as such satisfy tests and criteria in the UN Recommendations: Manual of Tests and Criteria for assignment to that Classification Code.

{Regulation 1.7 amended in Gazette 18 August 2000 p.4777.}

1.8. Divisions of explosives

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

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

- (a) the Division number to which the explosives are assigned by an entry in column 4 in Appendix 2 of the Explosives Code; or
- (b) the Division number that is assigned to the explosives under the UN Recommendations: Manual of Tests and Criteria.

Examples:

If a substance listed in column 2 of Appendix 2 of the Explosives Code is given, in column 4, a Classification Code of 1.2A, "1" indicates the substance has been assigned to dangerous goods Class 1 because it is an explosive, "2" indicates the substance has been assigned to Division 1.2 because of the hazard it presents, and "A" indicates the substance has been assigned to Compatibility Group A. In these regulations the substance is said to be of "Class 1.2A".

If a substance is not listed in column 2 of Appendix 2 of the Explosives Code, it will be classified as Class 1 if it is accepted under the UN Recommendations: Manual of Tests and Criteria into dangerous goods Class 1, it will be assigned a Division number in accordance with those tests and criteria and Addendum I to Appendix 2 of the Code, and it will be assigned a Compatibility Group letter in accordance with those tests and criteria and Addendum I to Appendix 2 of the Code.

[Regulation 1.8 amended in Gazette 18 August 2000 p.4777.]

[1.9. Repealed in Gazette 18 August 2000 p.4778.]

1.10. Prime contractors

A person is the prime contractor —

- (a) for the transport of explosives by road if the person, in conducting a business for or involving the transport of explosives by road, undertakes to be responsible, or is responsible, for the transport of the explosives by road;
- (b) for the transport of explosives by rail if the person undertakes to be responsible, or is responsible, for —
 - (i) the transport of the explosives by rail; or
 - (ii) the condition of a rail wagon transporting the explosives by rail.

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[1.11. Repealed in Gazette 18 August 2000 p.4778.]

1.12. Penalties

- (1) This regulation applies to a provision prescribing a penalty for an offence.
- (2) The penalty is the maximum fine for an individual who is found guilty of the offence.
- (3) If a body corporate is found guilty of the offence, the maximum fine for the body corporate is 5 times the penalty.

Part 2 — General

2.1. Any transport of Class 1.1A explosives to be approved

A person must not transport explosives of Class 1.1A by road or rail except with the prior written approval of a Competent Authority.

Penalty: \$3 000.

2.2. Transport of Class 1.4S explosives

- (1) A person who transports explosives of Class 1.4S by road or rail must, so far as is practicable, ensure that precautions are taken to prevent the explosives becoming involved in a fire or an explosion.

Penalty: \$3 000.

- (2) Except as provided by subregulation (1), these regulations do not apply to the transport by road or rail of explosives of Class 1.4S.

2.3. Transport of unauthorized explosives

Except with the prior written approval of a Competent Authority, a person must not transport by road or rail explosives that are not —

- (a) authorized explosives (as defined in the *Explosives and Dangerous Goods Act 1961*); or
- (b) explosives authorized for importation under an Entry Permit issued under regulation 7 of the *Explosives and Dangerous Goods (Explosives) Regulations 1963*.

Penalty: \$3 000.

Part 3 — Explosives Code applies

3.1. Transport to be in accordance with Explosives Code

- (1) Subject to subregulation (2), the Explosives Code applies to and in relation to the transport of explosives by road and rail.
- (2) Section 8.4.3(3)(b) of the Explosives Code does not apply to the authorisation of a person by a Competent Authority to drive a vehicle used to transport explosives.

[Regulation 3.1 amended in Gazette 18 August 2000 p.4778.]

3.2. Contravention of Explosives Code an offence

- (1) If Chapter 8 of the Explosives Code, other than section 8.3.4(2), 8.4.3(2), and 8.4.3(4), requires a person to do or not to do an act and the person contravenes the provision, the person commits an offence.

Penalty: \$3 000.

- (2) A reference in Chapter 8 of the Explosives Code to the transport of explosives in a quantity sufficient to qualify for inclusion in Category 3 is to be taken to be a reference to the transport of explosives in a quantity that amounts to a high hazard load as defined in regulation 5.1.

[Regulation 3.2 amended in Gazette 18 August 2000 p.4778.]

Part 4 — Emergencies

4.1. Interpretation

In this Part —

“accountable person” means —

- (a) in relation to a vehicle transporting explosives by road — both the prime contractor in relation to the explosives and the driver of the vehicle;
- (b) in relation to a train transporting explosives by rail — the prime contractor in relation to the explosives.

4.2. Dangerous situations, duty to notify authorities

- (1) This regulation applies if a vehicle transporting explosives by road, or a train transporting explosives by rail, is involved in an incident resulting in a dangerous situation.
- (2) In the case of a vehicle involved in such an incident each accountable person in relation to the vehicle —
 - (a) must as soon as practicable notify the police or fire service —
 - (i) of the incident; and
 - (ii) of the shipping name, class and quantity of the explosives being transported;
 - and
 - (b) must provide the reasonable assistance required by an authorized officer, or an officer of an emergency service, to deal with the situation.
- (3) In the case of a train involved in such an incident —
 - (a) the driver of the train must take all reasonable steps to notify the track owner of the incident;
 - (b) the track owner must as soon as practicable notify the prime contractor, and the police or fire service —
 - (i) of the incident; and

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- (ii) of the shipping name, class and quantity of the explosives being transported;
 - and
 - (c) the track owner and prime contractor must provide the reasonable assistance required by an authorized officer, or an officer of an emergency service, to deal with the situation.
- (4) As soon as practicable after the incident, each accountable person in relation to the vehicle or train (as the case requires) must tell the Competent Authority about the incident, and provide details of —
- (a) when and where the incident happened;
 - (b) the nature of the incident; and
 - (c) the shipping name, class and quantity of the explosives being transported when the incident happened.
- (5) Not later than 21 days after the day when the incident happens, the accountable person must give the Competent Authority a written report about the incident.
- (6) The report must provide details of —
- (a) when and where the incident happened;
 - (b) the nature of the incident;
 - (c) any death of or harm to a person or any damage to property;
 - (d) the shipping name, class and quantity of the explosives being transported when the incident happened;
 - (e) what the person believes to be the likely cause of the incident;
 - (f) the measures taken to control any leak, spill or accidental escape of explosives, and any fire or explosion, arising out of the incident;
 - (g) the measures taken after the incident in relation to the explosives involved in the incident; and

- (h) the measures taken after the incident to prevent a similar incident happening again.

Penalty: \$1 500.

Part 5 — Licences for road transport

Division 1 — Preliminary

5.1. Meaning of “high hazard load”

In this Part a high hazard load is a load that contains —

- (a) more than 250 kgs of black powder, as packaged for small arms;
- (b) more than 250 kgs of smokeless powder of Class 1.1C as packaged for small arms;
- (c) more than 250 kgs of explosives of Class 1.1 other than explosives of Class 1.1A or detonators of Class 1.1B;
- (d) more than 5 000 detonators of Class 1.1B;
- (e) more than 250 kgs of explosives of Class 1.2;
- (f) more than 1 000 kgs of explosives of Class 1.3;
- (g) more than 250 kgs of explosives of Class 1.5; or
- (h) more than one of the kinds of explosives referred to in paragraphs (a), (b), (c), (e), (f) and (g) and that in aggregate is more than 500 kgs.

5.2. Part additional to other laws

This Part is in addition to any other law in force in Western Australia about —

- (a) the licensing of drivers;
- (b) the employment or engaging of drivers;
- (c) the registration of vehicles; or
- (d) the transport of goods by road.

Division 2 — Principal duties under this Part

5.3. Consignor's duties

A person must not consign a high hazard load for transport by road on a vehicle if the person knows, or reasonably ought to know, that the vehicle is not licensed under this Part to transport the load.

Penalty: \$3 000.

5.4. Prime contractor's duties

- (1) If a prime contractor employs, engages or permits another person to drive a vehicle transporting explosives by road in a quantity that does not amount to a high hazard load, the other person must —
 - (a) be licensed under this Part to transport the load; or
 - (b) be authorized under regulation 76 of the *Explosives and Dangerous Goods (Explosives) Regulations 1963* to have possession of the explosives.
- (2) If a prime contractor employs, engages or permits another person to drive a vehicle transporting a high hazard load by road, the other person must be licensed under this Part to transport the load.
- (3) If a prime contractor uses a vehicle to transport a high hazard load by road (other than as the driver of the vehicle), the vehicle must be licensed under this Part to transport the load.

5.5. Driver's duties

- (1) If a person drives a vehicle transporting explosives by road in a quantity that does not amount to a high hazard load, the person must —
 - (a) be licensed under this Part to transport the load; or

- (b) be authorized under regulation 76 of the *Explosives and Dangerous Goods (Explosives) Regulations 1963* to have possession of the explosives.
- (2) If a person drives a vehicle transporting a high hazard load by road, the person must be licensed under this Part to transport the load.
- (3) If a person drives a vehicle transporting a high hazard load by road, the vehicle must be licensed under this Part to transport the load.

Division 3 — Explosives driver licences

5.6. Meaning of “licence” and “licensee”

In this Division —

“**licence**” means an explosives driver licence;

“**licensee**” means the holder of a licence.

5.7. Required driving licence evidence

- (1) The following documents are required as driving licence evidence for an application for grant or renewal of a licence —
 - (a) a copy of the applicant’s driving licence; and
 - (b) the 2 documents mentioned in subregulation (2).
- (2) For subregulation (1)(b), the following 2 documents are required —
 - (a) a current certified extract of entries about the applicant in the driving licences register kept by the licensing authority of each jurisdiction where the applicant is licensed to drive;
 - (b) a copy of the records of any conviction of the applicant for an offence certified by the appropriate authority of the jurisdiction where the applicant was convicted.

- (3) For subregulation (2)(a), a current certified extract is an extract certified by the licensing authority not more than 6 months before the day when the application is made.

5.8. Required competency evidence

- (1) A document mentioned in subregulation (2) is required as competency evidence for an application for grant or renewal of a licence.
- (2) The document must be either —
- (a) a certificate issued by a person who conducted a test or course, approved under regulation 5.20, stating that the applicant passed the test or completed the course; or
 - (b) other written evidence that the applicant passed such a test or completed such a course,

not more than 6 months before the day when the application is made.

5.9. Required medical fitness evidence

- (1) The certificate mentioned in subregulation (2) is required as medical fitness evidence for an application for grant or renewal of a licence.
- (2) The certificate must be —
- (a) about the fitness of the applicant to drive a vehicle; and
 - (b) issued by a registered medical practitioner who, not more than 6 months before the day when the application is made, examined and passed the applicant in accordance with the required standard.
- (3) For subregulation (2), the required standard is the *Medical Examinations of Commercial Vehicle Drivers* published by the Federal Office of Road Safety and the National Road Transport Commission.

5.10. Applications for licences

- (1) A person who is not already the holder of a licence or a licence that has effect under regulation 5.43(2) may apply to the Competent Authority for a licence.
- (2) The application must be accompanied by —
 - (a) the driving licence evidence required by regulation 5.7;
 - (b) the competency evidence required by regulation 5.8;
 - (c) the medical fitness evidence required by regulation 5.9;
 - (d) one recent passport-size photograph of the applicant;
and
 - (e) the fee prescribed by regulation 5.33.

5.11. Grant of licences

- (1) The Competent Authority must grant a licence if —
 - (a) an application is made to the Authority for the licence;
 - (b) the application is accompanied by the documents required by regulation 5.10 and otherwise complies with the regulation; and
 - (c) the applicant is at least 21 years old.
- (2) However, the Competent Authority must not grant the licence if —
 - (a) in the 5 years before the day when the application is made —
 - (i) the applicant has been found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting high hazard loads; or
 - (ii) the applicant's driving licence has been cancelled or suspended on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting high hazard loads;

or

- (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

5.12. Application for renewal of licences

- (1) A person who holds a licence may apply to the Competent Authority for renewal of the licence.
- (2) The application must be accompanied by —
 - (a) the driving licence evidence required by regulation 5.7;
 - (b) the competency evidence required by regulation 5.8;
 - (c) the medical fitness evidence required by regulation 5.9;
 - (d) one recent passport-size photograph of the applicant; and
 - (e) the fee prescribed by regulation 5.33.
- (3) The application must be made within one month before, or within 12 months after, the licence expires.

5.13. Renewal of licences

- (1) The Competent Authority must renew a licence if —
 - (a) an application is made to the Authority for renewal of the licence; and
 - (b) the application is accompanied by the documents required by regulation 5.12 and otherwise complies with the regulation.

- (2) However, the Competent Authority must not renew the licence if —
- (a) while the licence was in force —
 - (i) the applicant was found guilty by a court in Australia of an offence that makes the applicant unsuitable to be the driver of a vehicle transporting high hazard loads; or
 - (ii) the applicant's driving licence was cancelled on a ground that makes the applicant unsuitable to be the driver of a vehicle transporting high hazard loads;
 - or
 - (b) the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (3) If the Competent Authority refuses to renew a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

5.14. Licence periods

- (1) A licence is granted for the period of not longer than 3 years stated in the licence.
- (2) A licence takes effect on the day when the licence is granted.
- (3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.
- (4) A renewal of a licence takes effect on the day after the licence expires or expired.

5.15. Licence conditions

- (1) The Competent Authority may grant or renew a licence subject to conditions mentioned in subregulations (3) and (4).

- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about —
 - (a) the explosives that may or may not be transported in or on a vehicle driven by the licensee;
 - (b) the containers that may or may not be used to transport explosives in or on a vehicle driven by the licensee;
 - (c) the vehicles that may be driven by the licensee in transporting explosives;
 - (d) the areas where the licensee may or may not drive a vehicle transporting explosives or particular explosives;
 - (e) the supervision of the licensee when driving a vehicle transporting explosives; and
 - (f) the medical examinations required to be undergone by the licensee in accordance with the standard mentioned in regulation 5.9(3).
- (4) The licence may also be subject to any other condition necessary for the safe transport by road of high hazard loads.

5.16. Additional condition

It is a condition of a licence that the Competent Authority may, by written notice given to a licensee at least 2 months before an anniversary of the day when the licence was granted, require the licensee to produce to the Authority the medical fitness evidence that would be required by regulation 5.9 if the licensee were to apply for renewal of the licence on the anniversary.

5.17. Grounds for cancelling, suspending or varying licences

- (1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal —
 - (a) did not comply with these regulations; or
 - (b) was false or misleading in a material respect.

- (2) A licence may also be cancelled or varied if the licensee is unsuitable to continue to be the driver of a vehicle transporting high hazard loads because —
- (a) the licensee has contravened —
 - (i) a provision of the Act or these regulations; or
 - (ii) a provision of the law in force in another participating jurisdiction corresponding to a provision mentioned in subparagraph (i);
 - (b) the licensee has been found guilty by a court in Australia of an offence;
 - (c) the licensee's driving licence is cancelled; or
 - (d) the licensee is suffering from a medical condition, or has a physical or mental disability.

5.18. Licences to be carried

A licensee must carry his or her licence at all times when driving a vehicle transporting a high hazard load by road.

Penalty: \$500.

5.19. Licences to be produced for inspection

The driver of a vehicle transporting a high hazard load by road must produce his or her licence for inspection by an authorized officer, if the officer asks the driver to produce the licence for inspection.

Penalty: \$500.

5.20. Approval of courses

- (1) The Competent Authority may approve —
- (a) a test of competence for drivers of vehicles transporting high hazard loads by road;
 - (b) a training course for drivers of vehicles transporting high hazard loads by road.

- (2) The Competent Authority may approve such a test or course only if the Authority considers that a person who passes the test, or completes the course, will have the skills and knowledge to perform the task to which the test or course relates safely and in accordance with these regulations.

Division 4 — Explosives vehicle licences

5.21. Meaning of “licence” and “licensee”

In this Division —

“licence” means an explosives vehicle licence;

“licensee” means the holder of a licence;

“vehicle” does not include a vehicle that itself does not have space for a cargo, such as a prime mover or converter dolly.

5.22. Application for licences

- (1) A person may apply to the Competent Authority for a licence for a vehicle —
- (a) used, or intended to be used, whether in combination with other vehicles or not, in transporting high hazard loads by road;
 - (b) for which the person does not hold a licence; and
 - (c) for which the person holds a licence issued under Part III of the *Road Traffic Act 1974*.
- (2) The application must include the following information —
- (a) the registration number, make and type of the vehicle;
 - (b) the type of explosives intended to be transported in or on the vehicle.
- (3) The application must be accompanied by a copy of the licence for the vehicle issued under Part III of the *Road Traffic Act 1974*.

- (4) The application must be accompanied by the fee prescribed by regulation 5.33 unless the applicant holds a bulk vehicle licence for the vehicle under Part 18 of the *Dangerous Goods (Transport) (Road and Rail) Regulations 1999*.

5.23. Additional information and inspections

- (1) The Competent Authority may, by written notice, require an applicant for a licence, or for renewal of a licence, for a vehicle —
- (a) to give to the Authority, or to someone nominated by the Authority, any additional information necessary for a proper consideration of the application; and
 - (b) to make the vehicle available for inspection by the Authority, or by someone nominated by the Authority, at a stated place and time.
- (2) A person who inspects a vehicle for the Competent Authority must give a report of the inspection to the Authority as soon as practicable after the inspection.
- (3) The Competent Authority must give a copy of any report of an inspection to the applicant if the applicant asks for it.

5.24. Grant of licences

- (1) Subject to subregulation (4), the Competent Authority must grant a licence for a vehicle if —
- (a) an application is made to the Authority for the licence;
 - (b) the application complies with regulation 5.22;
 - (c) the applicant has complied with any requirement made under regulation 5.23 in relation to the application; and
 - (d) the vehicle is suitable to transport by road each type of explosives intended to be transported in or on the vehicle.
- (2) Without limiting subregulation (1)(d), a vehicle is suitable only if the vehicle complies with the requirements of Chapter 6 of the

Explosives Code that apply to a vehicle for use in transporting explosives by road.

- (3) However, the Competent Authority must not grant the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) A licence granted by the Competent Authority must relate to only one vehicle.
- (5) If the Competent Authority refuses to grant a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

[Regulation 5.24 amended in Gazette 18 August 2000 p.4778.]

5.25. Applications for renewal of licences

- (1) A person who holds a licence for a vehicle may apply to the Competent Authority for renewal of the licence.
- (2) The application must include the information required under regulation 5.22(2) for an application for the grant of a licence for the vehicle.
- (3) The application must be made within one month before, or within 12 months after, the licence expires.
- (4) The application must be accompanied by the fee prescribed by regulation 5.33 unless the applicant holds a bulk vehicle licence for the vehicle under Part 18 of the *Dangerous Goods (Transport) (Road and Rail) Regulations 1999*.

5.26. Renewal of licences

- (1) Subject to subregulation (4), the Competent Authority must renew a licence for a vehicle if —
 - (a) an application is made to the Authority for renewal of the licence;
 - (b) the application complies with regulation 5.25;

- (c) the applicant has complied with any requirement made under regulation 5.23 in relation to the application; and
 - (d) the vehicle is suitable to transport by road each type of explosives intended to be transported in or on the vehicle.
- (2) Without limiting subregulation (1)(d), a vehicle is suitable only if the vehicle complies with the requirements of Chapter 6 of the Explosives Code that apply to a vehicle for use in transporting explosives by road.
- (3) However, the Competent Authority must not renew the licence if the applicant is subject to a court order prohibiting the applicant from involvement in the transport of dangerous goods by road.
- (4) A licence granted by the Competent Authority must relate to only one vehicle.
- (5) If the Competent Authority refuses to renew a licence, the Authority must inform the applicant in writing of the refusal and of the reasons for the refusal.

[Regulation 5.26 amended in Gazette 18 August 2000 p.4778.]

5.27. Licence periods

- (1) A licence is granted for the period of not longer than 3 years stated in the licence.
- (2) A licence takes effect on the day when the licence is granted.
- (3) A licence is renewed for the period of not longer than 3 years stated in the renewed licence.
- (4) A renewal of a licence takes effect on the day after the licence expires or expired.

5.28. Licence conditions

- (1) The Competent Authority may grant or renew a licence subject to conditions mentioned in subregulations (3) and (4).

- (2) A condition to which the licence is subject must be stated in the licence.
- (3) The licence may be subject to conditions about —
 - (a) the explosives that may or may not be transported in or on the vehicle;
 - (b) the areas where the vehicle may or may not be used to transport explosives or particular explosives; and
 - (c) the inspections of the vehicle (if any) that are required.
- (4) The licence may also be subject to any other condition necessary for the safe transport by road of high hazard loads.

5.29. Disposal of licensed vehicles

- (1) As soon as practicable after selling or otherwise disposing of a licensed vehicle (the “**disposed vehicle**”), the licensee must give notice of the disposal to the Competent Authority with the licence attached.

Penalty: \$500.

- (2) The Competent Authority must —
 - (a) if the licence for the disposed vehicle also relates to another vehicle —
 - (i) amend the licence by omitting reference to the disposed vehicle; and
 - (ii) return the licence to the licensee;
 - and
 - (b) if paragraph (a) does not apply — revoke the licence.

5.30. Grounds for cancelling, suspending or varying licences

- (1) A licence may be cancelled, suspended or varied if the application for the licence or an application for its renewal —
 - (a) did not comply with these regulations; or
 - (b) was false or misleading in a material respect.

- (2) A licence for a vehicle may also be cancelled, suspended or varied if the vehicle does not comply with the Act or these regulations.

5.31. Licence labels

- (1) The Competent Authority must issue to the holder of a licence a licence label for the vehicle to which the licence relates.
- (2) A person must not drive a vehicle transporting a high hazard load by road unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.
- (3) A prime contractor must not transport a high hazard load by road in a vehicle unless a current licence label for the vehicle is attached to the vehicle in a conspicuous place.

Penalty: \$500.

Division 5 — Licences generally

5.32. Meaning of “licence” and “licensee”

In this Division —

“**licence**” means an explosives driver licence or an explosives vehicle licence;

“**licensee**” means the holder of a licence.

5.33. Fees prescribed

The fees payable under this Part are prescribed in the following Table.

Table

Item	Provision for which fee is prescribed	Fee (\$)
1.	Regulation 5.10(2)(e)	12.50
2.	Regulation 5.12(2)(e)	12.50
3.	Regulation 5.22(4)	120.00
4.	Regulation 5.25(4)	120.00

*[Regulation 5.33 amended in Gazette 28 June 2002 p.3086;
27 June 2003 p.2398; 29 Jun 2004 p. 2537-8; 28 Jun 2005
p. 2929; 27 Jun 2006 p. 2273.]*

5.34. Replacement licences and licence labels

- (1) The Competent Authority may issue a replacement licence to a licensee if —
 - (a) the licence is renewed;
 - (b) the licence is varied; or
 - (c) a period of suspension of the licence ends.
- (2) The Competent Authority must issue a replacement licence or licence label to a licensee if the Authority is satisfied that the licence or label has been defaced, destroyed, lost or stolen.

5.35. Failure to comply with licence conditions

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

Penalty: \$3 000.

5.36. Surrender of licences

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

5.37. Registers of licences

- (1) The Competent Authority must keep a register of explosives driver licences.
- (2) The Competent Authority must keep a register of explosives vehicle licences.
- (3) A register may have separate divisions for different kinds of licences.

- (4) The Competent Authority must record each licence granted under these regulations in the appropriate register.
- (5) The Competent Authority must note in the register the cancellation, surrender, suspension or variation of a licence.

5.38. Records of licences

The record of a licence in the register must include the following information —

- (a) the name of the licensee;
- (b) the date when the licence was granted or renewed;
- (c) the period for which the licence was granted or renewed;
- (d) for an explosives driver licence — the licensee's date of birth;
- (e) for an explosives vehicle licence — the registration number, make and type of each vehicle to which the licence relates;
- (f) any condition to which the licence is subject.

5.39. Change of information given in licence applications

- (1) This regulation applies if a licensee becomes aware that information given by the licensee to the Competent Authority in, or in relation to, an application for the grant or renewal of a licence is or has become incorrect in a material respect.
- (2) Within 14 days after becoming aware of the matter, the licensee must inform the Competent Authority about the matter and give the correct information to the Authority.

Penalty: \$500.

5.40. Production of licences to Competent Authority

- (1) The Competent Authority may, by written notice, require a person to whom a licence has been granted to produce the licence to the Authority.

- (2) The person must produce the licence to the Competent Authority within 14 days after the day when the notice is given to the person.

Penalty: \$500.

5.41. Seizure of licences etc.

- (1) An authorized officer to whom a licence is produced for inspection may seize the licence if the officer reasonably believes —
- (a) the licence has been cancelled or suspended;
 - (b) the licence period has ended;
 - (c) the licence has been varied and the variation is not recorded on the licence; or
 - (d) the person who produces the licence is not the licensee.
- (2) An authorized officer to whom a document that appears to be a licence is produced for inspection may seize the document if the officer reasonably believes that the document is not a licence.
- (3) An authorized officer must give a seized licence or document to the Competent Authority.

5.42. Return of licences

- (1) This regulation applies if a licence is produced to the Competent Authority or given to the Authority by an authorized officer.
- (2) If the licence has not been cancelled and is not suspended, the Competent Authority must return the licence after inspecting it.
- (3) If the licence has been suspended, the suspension has ended and a replacement licence is not issued, the Competent Authority must return the licence to the licensee.
- (4) If the licence has been varied, the variation is recorded on the licence and a replacement licence is not issued, the Competent Authority must return the licence to the licensee.

- (5) However, if the licence period has ended, the Competent Authority is not required to return the licence to the licensee.

5.43. Licences issued outside WA

- (1) This regulation applies to a licence granted by an authority in a Territory or another State if —
- (a) the licence is a licence granted under a provision of the law of the Territory or other State corresponding to either of the following regulations (the “**relevant provision**”) —
 - (i) regulation 5.11 (which is about explosives driver licences);
 - (ii) regulation 5.24 (which is about explosives vehicle licences);and
 - (b) the licence is in force in that Territory or other State.
- (2) Except for circumstances that do not exist in Western Australia, the licence has effect in Western Australia as if it were a licence granted by the Competent Authority under the relevant provision.

Part 6 — Miscellaneous

6.1. Transitional provisions

- (1) A person does not commit an offence against these regulations if, within the period of 6 months after the commencement of this regulation, the person transports explosives by road or rail in accordance with the law about the transport of explosives by road or rail that was in force immediately before the commencement.
- (2) A licence to convey explosives issued under the *Explosives and Dangerous Goods (Explosives) Regulations 1963* (as those regulations were in force before the commencement of the *Explosives Amendment Regulations 1999*) and in force immediately before the commencement of this regulation has effect for these regulations as if it were an explosives vehicle licence issued under regulation 5.24.
- (3) If within 6 months after the commencement of this regulation a person applies under regulation 5.10(1) for an explosives driver licence, a certificate or other written evidence that the person, before the commencement of this regulation, passed a course of training approved under regulation 92G of the *Explosives and Dangerous Goods (Explosives) Regulations 1963* (as those regulations were in force before the commencement of the *Explosives Amendment Regulations 1999*), is to be taken to be the competency evidence required by regulation 5.8.

6.2. Prohibition on transport of certain explosives in the tunnel on the Graham Farmer Freeway

- (1) In this regulation —
“**placarded vehicle**” means a vehicle that is marked, or required to be marked, under section 3.4.1 of the Explosives Code.
- (2) A person who drives a placarded vehicle in the tunnel on the Graham Farmer Freeway commits an offence.

r. 6.2

Penalty: \$3 000.

- (3) A prime contractor who does not give the driver of a placarded vehicle instructions not to drive the vehicle in the tunnel on the Graham Farmer Freeway commits an offence.

Penalty: \$3 000.

- (4) The owner of a placarded vehicle who does not give the driver of the vehicle instructions not to drive the vehicle in the tunnel on the Graham Farmer Freeway commits an offence.

Penalty: \$3 000.

[Regulation 6.2 inserted in Gazette 18 August 2000 p.4779.]

Notes

¹ This is a compilation of the *Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999* and includes the amendments made by the other written laws referred to in the following table.^{1a}

Compilation table

Citation	Gazettal	Commencement
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999</i>	8 Jun 1999 p. 2427-51	9 Jun 1999 (see r. 2 and <i>Gazette</i> 8 Jun 1999 p. 2469)
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2000</i>	18 Aug 2000 p. 4776-9	18 Aug 2000
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2002</i>	28 Jun 2002 p. 3085-6	1 Jul 2002 (see r. 2)
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2003</i>	27 Jun 2003 p. 2397-8	1 Jul 2003 (see r. 2)
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2004</i>	29 Jun 2004 p. 2537-8	1 Jul 2004 (see r. 2)
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2005</i>	28 Jun 2005 p. 2928-9	1 Jul 2005 (see r. 2)
<i>Dangerous Goods (Transport) (Explosives by Road and Rail) Amendment Regulations 2006</i>	27 Jun 2006 p. 2273	1 Jul 2006 (see r. 2)

NB. Notices under *Dangerous Goods (Transport) Act 1998* s.48 —
 Gazette 8 June 1999 pp.2451-53
 25 August 2000 pp.4930

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Commencement
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Dangerous Goods Safety Act 2004 7 of 2004 To be proclaimed (see s. 2)
s. 70² assented to 10 Jun 2004

² On the date as at which this compilation was prepared, the *Dangerous Goods Safety Act 2004* s. 70, which gives effect to Sch. 2 cl. 1(2)(b), had not come into operation. It reads as follows:

“

70. Repeals and consequential amendments (Sch. 2)

Schedule 2 has effect.

”

Schedule 2 cl. 1(2)(b) reads as follows:

“

Schedule 2 — Repeals and consequential amendments

[s. 70]

1. *Dangerous Goods (Transport) Act 1998* repealed

(1) ...

(2) The following regulations, made under the *Dangerous Goods (Transport) Act 1998*, are repealed —

(a) ...

(b) *Dangerous Goods (Transport) (Explosives by Road and Rail) Regulations 1999*;

”