



Dangerous goods safety information sheet

Differences between the WA Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007 and the national Model Subordinate Instrument

Introduction

This is a summary of significant differences between the Western Australian (WA) Dangerous Goods Safety (Road and Rail Transport of Non-explosives) Regulations 2007 (Transport Regulations) and the corresponding National Transport Commission (NTC) *Model Subordinate Instrument on the Transport of Dangerous Goods by Road and Rail* (MSI). A model subordinate instrument is a national model regulation intended to provide the basis for nationally consistent laws.

The WA Transport Regulations copy nearly all provisions of the MSI with high fidelity except for the four differences outlined below.

There are rare cases where the Transport Regulations expresses the intent with greater clarity, or has to use different terminology to remain true to the *Dangerous Goods Safety Act 2004*, but without change to the intended effect of the law.

The Transport Regulations reference the total contents of the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (ADG Code) without exception, as does the MSI.

The Transport Regulations call up the ADG Code as from time-to-time amended. A new edition of the ADG Code takes effect automatically when it is published by the NTC without the need for regulatory intervention, and it automatically enjoys a one-year transition period, during which time both the new edition and the previous edition of the ADG Code may be used (see regulation 272A of the Transport Regulations).

The following four differences are relevant to the national transport industry and reflect differences that occur with other jurisdictions.

1 *WA exclusively licences road tank vehicles*

Regulation 215 of the Transport Regulations – “Vehicles to be licensed” provides the duty to hold a dangerous goods vehicle licence and the definition of “road tank vehicle” that is covered by this regulation.

215. Vehicles to be licensed [Act s. 14]

(1) In this regulation –

road tank vehicle means a tank vehicle –

(a) that is a road vehicle; and

(b) with a tank or demountable tank with a capacity of more than 500 L that is filled or emptied while attached to the vehicle.

By contrast, the MSI requires a broader range of dangerous goods vehicles to be licensed in accordance with regulation 18.2.1 and this includes tray-top and curtain-sided vehicles

transporting dangerous goods in intermediate bulk containers (IBCs) and portable tanks. These additional types of vehicles are all general freight vehicles that have no special dangerous goods design features, unlike dangerous goods road tankers, which must comply with the many requirements of Australian Standard AS 2809:2020 *Road tank vehicles for dangerous goods*.

18.2.1 Vehicles to be licensed

- (1) A road vehicle must not be used to transport:
 - (a) dangerous goods in a receptacle with a capacity of more than 500 litres; or
 - (b) more than 500 kilograms of dangerous goods in a receptacle;
- (2) unless the vehicle is licensed under this Part to transport the goods.

2 Exemption for mobile processing units (MPUs)

Introduction

Regulations 1.1.6 (3) and (4) of the MSI contain a blanket exemption from all regulatory requirements for the transport of dangerous goods in mobile processing units (MPUs).

MPUs transport non-explosives such as ammonium nitrate and ammonium nitrate emulsions of UN 3375 on public roads. MPUs are not permitted to transport explosives on public roads.

The Transport Regulations deal with the transport of non-explosives in an MPU on public roads. For this reason, a blanket exemption for MPUs is not appropriate and would leave a regulatory vacuum for the transport of non-explosives in MPUs.

The transport of explosives in MPUs on mine sites and the MPU manufacture of explosives is covered by the Dangerous Goods Safety (Explosives) Regulations 2007 (Explosives Regulations) by reference to the AEISG Code of Practice for MPUs 2018 (MPU Code).

Partial exemption for transport by complying MPU

Regarding the transport of MPUs on public roads, regulation 13A of the Transport Regulations requires compliance with an approved code of practice; in this instance, the latest edition of the MPU Code, instead of compliance with the corresponding subject matter in Parts 4-6, 8-13 and regulation 215 of the Transport Regulations.

Other parts of the Transport Regulations are outside of the scope of the MPU Code and continue to apply to MPUs. Of particular relevance to MPUs are:

- Part 14 – “Emergencies” involving the duties of the transport parties during an emergency including the notifications of the incident to the police, emergency service and the Chief Dangerous Goods Officer; and
- Part 18 – “Insurance” regarding public indemnity for each MPU.

3 Approved emergency responders

Division 3 of the Transport Regulations – “Dealing with emergencies involving placard loads” (regulations 183-186) is unique to WA. It requires the Chief Dangerous Goods Officer to approve emergency responders. Each prime contractor of dangerous goods must be an approved emergency responder, or must have an arrangement with a third party emergency response contractor, to ensure that the emergency is handled efficiently and competently and that adequate resources are at hand to do so.

4 *Misleading advertisements on a portable tank or a tank vehicle*

There have been instances where dangerous goods tankers have prominently displayed misleading advertisements of a brand of fuel or product at odds with the dangerous goods classification of the actual content of the tanker. This has led to confusion among emergency services.

For this reason, and with the support of the emergency services, regulation 109A of the Transport Regulations – “Further duties if dangerous goods transported in portable tank or tank vehicle” was introduced in order to outlaw misleading advertisements on dangerous goods tankers.