



New South Wales

Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2019

under the

Dangerous Goods (Road and Rail Transport) Act 2008

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Dangerous Goods (Road and Rail Transport) Act 2008*.

GABRIELLE UPTON, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to amend the *Dangerous Goods (Road and Rail Transport) Regulation 2014* to reflect amendments made to the *Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail*. In particular, this Regulation:

- (a) exempts from the *Dangerous Goods (Road and Rail Transport) Regulation 2014* the transport of dangerous goods by a mobile processing unit for the purpose of manufacturing explosives, and
- (b) makes amendments consequent on the replacement of edition 7.5 with edition 7.6 of the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, and
- (c) extends certain provisions relating to transport operations to the transport of empty dangerous goods packaging, and
- (d) makes other minor amendments in the nature of law revision.

This Regulation is made under the *Dangerous Goods (Road and Rail Transport) Act 2008*, including section 13 (the general regulation-making power).

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Dangerous Goods (Road and Rail Transport) Act 2008

1 Name of Regulation

This Regulation is the *Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2019*.

2 Commencement

This Regulation commences on 22 February 2019 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Dangerous Goods (Road and Rail Transport) Regulation 2014

[1] Clause 6 Further exemptions

Omit “less” from clause 6 (2) (a). Insert instead “not more”.

[2] Clause 6 (3) and (4)

Insert after clause 6 (2):

(3) This Regulation does not apply to the transport of dangerous goods by a mobile processing unit for the purpose of manufacturing explosives.

(4) In subclause (3):

mobile processing unit means a vehicle, or a moveable piece of equipment, designed to transport the constituents of a bulk ammonium nitrate-based explosive to the place where the explosive will be manufactured and used, but does not include a trailer.

[3] Clause 9 Definitions

Omit the definition of *subsidiary risk* from clause 9 (1).

Insert in alphabetical order:

subsidiary hazard—see clause 35.

[4] Clause 18 Dangerous goods “packed in limited quantities”

Omit “7” from clause 18 (b). Insert instead “7a”.

[5] Clauses 24 (1) (c), 35 (including the note) and 143 (1) (b)

Omit “risk” wherever occurring. Insert instead “hazard”.

[6] Clause 74 Meaning of “appropriately marked”

Insert at the end of the clause:

(5) A package of dangerous goods that are packed in excepted quantities is also *appropriately marked* if it is marked and labelled in accordance with Chapter 3.5 of the ADG Code.

(6) In subclause (5), dangerous goods are *packed in excepted quantities* if:

(a) the goods are assigned to code E1, E2, E3, E4 or E5 in column 7b of the Dangerous Goods List, and

(b) the goods are packed in accordance with Chapter 3.5 of the ADG Code, and

(c) the quantity of dangerous goods does not exceed the quantity specified in section 3.5.1.2 of the ADG Code.

[7] Clauses 89 (e) and 102 (1) (b)

Omit “Risk” wherever occurring. Insert instead “Hazard”.

[8] Clause 89 Application

Insert at the end of the clause:

(2) This Division also applies to the transport of empty dangerous goods packaging, and a reference in this Division to *dangerous goods to which this Division applies* includes a reference to empty dangerous goods packaging.

- (3) In subclause (2), *empty dangerous goods packaging* means:
- (a) unused pre-labelled packaging intended for use with dangerous goods, and
 - (b) packaging that has been used for dangerous goods and is nominally empty.

[9] Clauses 90, 91, 92 (1) and 93

Insert “or 7.2” after “7.1” wherever occurring.

[10] Clauses 122, 123 (1), 124 (a), 125 (1) and 127 (2)

Omit “that complies with Chapter 11.1 of the ADG Code” wherever occurring.

[11] Clause 243

Insert after clause 242A:

243 Savings and transitional provisions consequent on Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2019

- (1) A person is taken to comply with any provisions of this Regulation that are amended by the amending Regulation if the person complies with those provisions as in force immediately before the commencement of the amending Regulation.
- (2) Subclause (1) ceases to have effect on 30 June 2019.
- (3) A subsidiary risk determination in force immediately before the commencement of the amending Regulation continues, until it is revoked, to have effect under this Regulation as if it were a subsidiary hazard determination.
- (4) In this clause:
 - amending Regulation* means the *Dangerous Goods (Road and Rail Transport) Amendment (Model Law) Regulation 2019*.
 - subsidiary hazard determination* means a determination made under clause 24 (1) (c), as amended by the amending Regulation.
 - subsidiary risk determination* means a determination made under clause 24 (1) (c), as in force immediately before the commencement of the amending Regulation.