

Land Transport Rule: Dangerous Goods Amendment [2009]

(Rule 45001/2)

Questions and Answers

Note: On 1 August 2008, Land Transport New Zealand and Transit New Zealand became the NZ Transport Agency. The NZ Transport Agency (NZTA) is a new organisation that brings together the functions of Land Transport NZ and Transit to provide an integrated approach to transport planning, funding and delivery.

What are the general changes in the amendment Rule?

The draft Rule proposes amendments to *Land Transport Rule: Dangerous Goods 2005* (the Rule). The principal purpose of the changes is to maintain alignment of the Rule with the United Nations Recommendations on the Transportation of Dangerous Goods – Model Regulations (UNRTDG) and with the New Zealand requirements relating to hazardous substances and new organisms.

The amended Rule updates the requirements for:

- packaging, identification and documentation of dangerous goods
- segregation of dangerous goods
- transport procedures; and
- training and responsibilities of those involved in the carriage of dangerous goods.

What are the specific changes in the amendment Rule?

Most of the changes to the Rule are of a minor technical nature, but there are some changes of greater significance. They include:

- introducing transport dispensations for dangerous goods in excepted quantities and excepted packages of radioactive material;
- confirming that the UN criteria for classification of environmentally hazardous substances applies to transport on land in New Zealand;
- introducing new tools-of-trade quantity limits for the carriage of environmentally hazardous substances. (Diesel and some agrichemical products in this category have not previously been classified as dangerous for transport.);
- introducing new marking for environmentally hazardous substances;
- requiring marking orientation arrows on liquid and other spillable dangerous goods to indicate which way is up.

For more detail on the proposed changes, please read the Overview to the draft amendment Rule.

Why is the amendment Rule needed?

The Dangerous Goods Rule is based on the United Nations Recommendations on the Transport of Dangerous Goods – Model regulations (UNRTDG). The UNRTDG is updated biennially, as are the international codes for the sea and air transport of dangerous goods, which are also based on the UNRTDG. To avoid having to make unnecessary changes to the classification, packaging, identification and documentation of dangerous goods transported on land in New Zealand, it is important that the Rule is updated to maintain alignment with the UNRTDG and the international sea and air transport codes.

The proposed changes will also maintain alignment of the Rule with New Zealand's *Hazardous Substances and New Organisms Act 1966* (the HSNO Act or HSNO). HSNO applies to hazardous substances throughout their entire lifecycle, from import or manufacture to distribution, storage, use and final disposal. Goods that are classified as dangerous for transport are generally a subset of hazardous substances, and the amended Rule applies only to transport on land, which is just one phase of the lifecycle of hazardous substances.

With regard to the new requirements for environmentally hazardous substances, the changes contained in the amended Rule align the transport of dangerous goods with the United Nation's decision to promote a sustainable environment. This specifically focuses on the UNRTDG's criteria for substances that are toxic to the aquatic environment.

Dangerous goods in excepted quantities and excepted packages of radioactive material are goods of low danger that are packaged in very small quantities, e.g. 30 ml of perfume. The UNRTDG now includes reduced transport controls for such products and it is proposed to include these provisions in the amended Rule.

Who will be affected by the amendment Rule?

The proposed amendment Rule applies to all people involved in the transporting of dangerous goods, including importers, manufacturers, consignors, freight forwarders and distributors, loaders, drivers and transport operators. It will also affect people who use dangerous goods as tools-of-trade, such as painters, plumbers, engineers and farmers, and people transporting dangerous goods for private use.

However, none of the changes are likely to have a significant impact on any one group. Indeed, most of the proposed amendments relate to specific procedures that will affect only a small number of people and, in many instances, should make it easier for them to meet the requirements of the amended Rule.

Will the changes add to the compliance costs of industry operators?

The proposed changes to the Rule are mainly of a technical nature and do not involve any changes to the policy for regulating the transport of dangerous goods on land. They are, therefore expected to have little financial impact on the industry. Many of the changes proposed would clarify the meaning of existing provisions in the Rule and some are at the request of industry to suit their particular needs. The NZTA believes that most of the changes proposed in the amendment Rule would not impose any costs on industries involved in the transport of dangerous goods. Costs may, in fact, reduce as a result of clarifying requirements and making other minor amendments to the Rule.

There are, however, two proposals that may impose some costs on industry, although those costs are expected to be small. One is the clarification that the new environmentally hazardous substances classification criterion, which includes diesel and other substances toxic to the aquatic environment, applies to transport on land in New Zealand. The other change that would impose some cost is the requirement to attach package orientation marks to dangerous goods that must be kept upright to avoid spillage. (For more information, see the Overview to the draft amendment Rule.)

The NZTA invites comments on the analysis of the cost of complying with proposed amendments to this Rule, especially if you can provide information to assist with quantifying the costs or savings.

Is there a transition period between when the Rule is signed and when it comes into force?

Yes, for some changes, such as classifying diesel as an environmentally hazardous substance or marking packages with orientation arrows, it is proposed to allow until 2011 to help reduce the cost of complying with new requirements. This date aligns with the UNRTDG requirement for using the new Division 5.2 (Organic peroxides) label.

However, most of the proposed changes, which will have minimal costs or may promote savings, will take effect soon after the amendment Rule is signed by the Minister.

How will the amendment Rule affect the packaging, identification and documentation of dangerous goods?

A number of changes are proposed. :

- Until the end of 2010, allow Dangerous Goods in Limited Quantities and Consumer Quantities to be marked in accordance with the existing options in the Rule, which includes the 'diamond' marking required by the UNRTDG. The diamond identification would become mandatory from 1 January 2011.
- Amend *sub clause 2.3(3)*, and combining Schedule 2 and Schedule 2A, to clarify which dangerous goods can, and cannot, be transported as Dangerous Goods in Limited Quantities. This is intended to make it easier to understand the requirements.
- Amend the relevant sections of the Rule to include provisions for excepted quantities of dangerous goods and excepted packages of radioactive material.
- Require compliance with the packing instructions in the UNRTDG or one of the international sea or air codes.
- Update labelling and marking requirements by adopting the UNRTDG pictogram for 'environmentally hazardous substance' and the UNRTDG requirement to mark packages that need to be kept upright with orientation arrows. It is proposed to allow until the beginning of 2011 before these marks become mandatory for land transport.
- Allow quantity details on a dangerous goods declaration document to be described by the number of packages or containers, plus the total mass or volume in the consignment as appropriate.
- Allow dangerous goods placards on tankwagons carrying bitumen emulsions to be removed or covered and for the vehicle to display a sign that identifies its load as being bitumen emulsions, and allow a placarding dispensation for LPG tankwagons, as is the case with petrol and bitumen tankwagons.

How will the amendment Rule affect the segregation of dangerous goods?

The changes proposed in the amendment Rule:

- clarify requirements for using segregation devices;
- allow segregation dispensations for dangerous goods in excepted quantities, excepted packages of radioactive material and for diesel transported in tankwagons.

What other changes proposed in the amendment Rule will affect transport procedures and the training and responsibilities of those involved in the transporting of dangerous goods?

Stopping at level crossings. It is proposed to exempt vehicles carrying dangerous goods from having to stop at railway level crossings controlled by traffic lights when the lights are not flashing. This would be subject to the adoption of a similar proposal for buses in the Road User Rule.

Most motorists would not expect a bus, or a truck carrying dangerous goods, to stop when the lights are not flashing. Compliance with the current requirement, therefore, presents a significant risk of a rear-end crash or of other drivers undertaking dangerous manoeuvres to avoid the stopped bus or truck.

Drivers without a D endorsement. It is proposed to amend the Rule to allow a driver without a D endorsement to drive a vehicle transporting dangerous goods, if they are accompanied by a supervisor with a D endorsement and to add new responsibilities for the driver and the supervisor.

Dangerous goods transported as tools-of-trade. The draft Rule includes clarification of the quantities of dangerous goods that can be transported as tools-of-trade, whether in full, empty or partially empty containers

An increase in the tool-of-trade quantity limits for the carriage of Class 9, packing group III substances that are toxic to the aquatic environment is proposed. Diesel and some agrichemical products in this category have not previously been classified as dangerous for transport. The proposed limit for diesel is 2000 litres, with a commencement date for transport controls for diesel of 1 January 2011. The proposed quantity limit for other Class 9 products that are toxic to the aquatic environment (UN 3077 and UN 3082) is 500 kg or 500 litres. It is intended that these quantities be large enough for the majority of tools-of-trade operators to be able to conduct their business without needing a D endorsement on their driver licence.

The quantities for environmentally hazardous substances would be in addition to the current mixed-load quantity limit for tools-of-trade. However, with quantities greater than the proposed limits, more controls are necessary to manage the risk to the public and the environment. This includes the person who is in charge of the load having a D endorsement to confirm that they have been trained in the requirements for the safe transport of large quantities of dangerous goods.

How will the amendment Rule be enforced?

The amended Rule will continue to be enforced by the Police in places where dangerous goods are prepared for transport and on the roads and rail, according to the powers in the *Land Transport Act 1998*.

Who is responsible for ensuring that the amendment Rule is complied with?

Everyone involved in preparing, loading and transporting dangerous goods is responsible for ensuring they comply with the amended Rule.

What are the penalties for non-compliance?

Significant penalties for non-compliance with the Dangerous Goods Rule are set out in the *Land Transport (Offences and Penalties) Regulations 1999*. Maximum infringement fees (instant fines) of \$2000 apply to individuals and \$10,000 for companies. More serious offences may result in court action with maximum penalties of \$10,000 for an individual and \$50,000 for a company. It is proposed to add offences and penalties of up to \$10,000 for failure to comply with the new responsibilities proposed in the Rule in relation to allowing a person without a current dangerous goods endorsement to transport dangerous goods.

What is the statutory basis for the amendment Rule?

The *Land Transport Act 1998* (the Act) allows the Minister of Transport to make Land Transport Rules.

Section 156 of the Act provides for the Minister of Transport to make ordinary rules that set out the requirements and provisions concerning the packing, loading, consignment and carriage of dangerous good within the land transport system.

Consultation details

What is the consultation process for the amendment Rule?

The public consultation (yellow) draft Rule is being released for comment. The availability of the draft Rule and associated information material will be advertised in major daily newspapers and in the *New Zealand Gazette*. Groups and individuals who have registered their interest in this Rule will be advised of the availability of the yellow draft and invited to make a submission.

How can I obtain a copy of the draft amendment Rule?

Copies of the yellow draft amendment Rule can be obtained by telephoning the NZ Transport Agency Contact Centre on 0800 699 000. The yellow draft is also available with the accompanying overview on the NZ Transport Agency website at www.nzta.govt.nz/consultation/dangerous-goods-amendment/index.html.

The draft amendment Rule only contains the proposed changes. How can I see how they fit into the Rule?

The proposed amendment Rule and the Dangerous Goods Rule are linked as part of the consultation material on the website so you can see how the proposed amendments fit into the Rule. The accompanying overview provides information about why the amendments are required. (See also *Where can I get copies of Land Transport Rules* below.)

Where can I get copies of Land Transport Rules?

Final Land Transport Rules are available on the website at www.landtransport.govt.nz/rules. They can be purchased from selected bookshops throughout New Zealand that sell legislation. Queries about the availability and prices of Rules can be made to the Rule printers and distributors, Wickliffe Ltd, telephone (06) 358 8231. Rules may be inspected at NZ Transport Agency regional offices.

How do I make a submission?

Public submissions are being sought on the proposals in the draft amendment Rule. You can make your comments on the on-line submission form on the NZ Transport Agency website at www.nzta.govt.nz/consultation/dangerous-goods-amendment/index.html, email your comments to info@nzta.govt.nz or post them to the address provided. Guidance on making a submission can be found in the overview to the draft amendment Rule.

By when do I need to send in my submission?

Submissions close on 9 April 2009.

What will happen to my comments?

Comments made in submissions will be analysed and taken into account in redrafting the Rule for the final draft phase.

The final version of the Rule will go to Cabinet for noting and will then be signed by the Minister.

Where can interested parties get more information?

Further information about the proposed amendments is available from the NZ Transport Agency Contact Centre, freephone 0800 699 000.