

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 9

Issued by the Minister for Employment and Workplace Relations

Subject - *Occupational Health and Safety (Commonwealth Employment) Act 1991*

Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 2)

The *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) establishes a framework for the regulation of employers, employees and practices at Commonwealth workplaces to protect the health and safety of employees at work.

Subsection 82(1) of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, necessary or convenient to be prescribed for carrying out or giving effect to the Act. Subsection 23(1) of the Act provides that regulations may make provisions relating to any matter affecting, or likely to affect, the occupational health and safety of employees or contractors, or other persons at or near a workplace.

The purpose of the Regulations is to establish a regime to regulate dangerous goods stored and handled at Commonwealth workplaces, in order to protect the health and safety of persons from hazards arising from such storage and handling. Prior to commencement of these Regulations, State and Territory legislation regulates the storage and handling of dangerous goods at Commonwealth workplaces.

The Regulations give effect to the national standard for the Storage and Handling of Workplace Dangerous Goods [NOHSC:1015 (2001)] declared by the former National Occupational Health and Safety Commission (NOHSC) in May 2001. Although NOHSC was abolished by the *National Occupational Health and Safety Commission Act (Repeal, Consequential and Transitional Provisions) Act 2005*, section 7 of that Act preserves standards declared by NOHSC.

The *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations) give legislative force to national standards declared by the Australian Safety and Compensation Council and previously NOHSC. Part 8 of the Principal Regulations was set aside to deal with the storage and handling of dangerous goods and is based on NOHSC:1015 (2001).

The Regulations impose obligations on employers, manufacturers, suppliers and installers of dangerous goods at those workplaces. The framework requires that employers identify and eliminate, or if that is not possible reduce to the lowest practicable level, all hazards associated with the storage and handling of dangerous goods. Employers must notify Comcare if a certain volume of dangerous goods is stored at a workplace or if dangerous goods are transferred via a pipeline.

A separate notification process applies to the Australian Defence Organisation (ADO) in order to protect sensitive information affecting the defence, security or international relations of Australia. This special process is not intended to reduce the protection afforded to ADO employees in relation to the storage and handling of dangerous goods under the Regulations.

The Regulations control the storage and handling of dangerous goods at the workplace by imposing obligations in relation to the provision of Material Safety Data Sheets; containment, packaging, labelling and placarding of dangerous goods; hazard identification and risk assessment; control of risks; storage and handling of dangerous goods; emergency plans and procedures; and provision of information and training to relevant persons at the workplace.

For the purposes of the Regulations *dangerous goods* include combustible liquids, goods too dangerous to be transported and goods transferred via pipelines. The Regulations do not regulate goods in transit that are regulated by other laws.

The table at [Attachment A](#) sets out the different documents, or parts of documents, incorporated by reference in the Regulations, including where to access each document.

Strict liability is attached to a small number of offences in the Regulations to encourage employers and manufacturers to take active steps to fulfil their obligations under the Regulations and therefore provide a safe and healthy workplace. Strict liability applies to regulations 8.09, 8.11, 8.16, 8.45, 8.46, 8.48, 8.49, 8.50, 8.52, 8.53, 8.54, 8.58 and 8.59. This acts as a deterrent to employers because complying with these regulations would significantly reduce risks to the health and safety of employees. The Attorney-General's Department has been consulted in relation to the Regulations and is satisfied they meet the Australian Government's policy on framing offences.

The Regulations also make other technical and house keeping amendments to Parts 2, 4, 6 and 10 of the Principal Regulations.

Details of the Regulations and offences are set out in [Attachment B](#).

Following consultation with stakeholders, the Safety Rehabilitation and Compensation Commission recommended the adoption of the national standard. Further consultation occurred with Commonwealth employers via a working group established by Comcare to discuss issues arising from the development of the Regulations.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on 1 May 2006 to allow Comcare sufficient time to prepare for implementation of the amendment Regulations.

ATTACHMENT A

Document incorporated by reference	Available from
AS 1940-2004: <i>The storage and handling of flammable and combustible liquids.</i>	SAI Global Limited – see www.saiglobal.com.au
AS 2700-1996: <i>Colour Standards for general purposes.</i>	SAI Global Limited – see www.saiglobal.com.au
AS/NZS 2430.3.1:2004: <i>Classification of hazardous areas – General.</i>	SAI Global Limited – see www.saiglobal.com.au
Australian Code for the Transport of Dangerous Goods by Road and Rail (6 th edition) published by the Federal Office of Road Safety in 1998	SAI Global Limited – see www.saiglobal.com.au
Dangerous Goods Regulations	International Air Transport Association – see www.iata.org/index.htm
International Maritime Dangerous Goods Code	International Maritime Organization — see www.imo.org/home.asp
<i>National Code of Practice for the Preparation of Material Safety Data Sheets</i> [NOHSC:2011(2003)]	Australian Safety and Compensation Council website - www.nohsc.gov.au/default.asp
<i>National Exposure Standards for Atmospheric Contaminants in the Occupational Environment</i> [NOHSC:3008 (1995)]	Australian Safety and Compensation Council website - www.nohsc.gov.au/OHSInformation/NOHSCPublications/#1
<i>National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment</i> [NOHSC: 1006 (2001)]	Australian Safety and Compensation Council website - www.nohsc.gov.au/PDF/Standards/NOHSC-1006-2001_STANDARD.pdf
Technical Instructions for the Safe Transport of Dangerous Goods by Air	International Civil Aviation Authority — see www.icao.int/cgi/goto_m.pl?isbn/index.html
United Nations Recommendations on the Transport of Dangerous Goods	www.unecce.org/trans/danger/publi/unrec/mr_nature_e.html
<i>Road Transport Reform (Dangerous Goods) Act 1995</i> (Cwth)	www.comlaw.gov.au/comlaw/Legislation/ActCompilation1.nsf/frameLodgmentattachments/684E52C3E478149CCA256F7100512241
<i>Road and Rail Transport (Dangerous Goods) Act 1997</i> (NSW)	www.legislation.nsw.gov.au/main/top/view/inforce/act+113+1997+FIRST+0+N/
Road Transport (Dangerous Goods) Act 1995 (Vic)	www.dms.dpc.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/a12f6f60fbd56800ca256de500201e54/F4A855A4D5E2BD77CA256EB40077C6C5/\$FILE/95-84a022.pdf
<i>Transport Operations (Road Use Management – Dangerous Goods) Regulations 1998</i> (Qld)	www.legislation.qld.gov.au/LEGISLTN/CURRENT/T/TrantOpRUDGR98.pdf
<i>Dangerous Goods (Transport) Act 1998</i> (WA)	www.slp.wa.gov.au/statutes/swans.nsf/5d62daee56e9e4b348256ebd0012c422/609deb44f2f359364825678c00211390/\$FILE/Dangerous%20Goods%20(Transport)%20Act%201998.PDF
<i>Dangerous Substances Act 1979</i> (SA)	www.parliament.sa.gov.au/Catalog/legislation/Acts/d/1979.47.htm
<i>Dangerous Goods Act 1998</i> (Tas)	www.thelaw.tas.gov.au/tocview/index.w3p;cond=;doc_id=6%2B%2B1998%2BAT%40EN%2B20051207100000;hison=;prompt=:rec=:term
<i>Dangerous Goods Act 1980</i> (NT)	www.notes.nt.gov.au/dcm/legislat/legislat.nsf/d989974724db65b1482561cf0017cbd2/8744f475fdbfb60069256ef40000f2e0/\$FILE/Repd015.pdf

Notes are provided throughout the proposed Regulations alerting the reader to where copies of these documents can be accessed or obtained.

***OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT)
(NATIONAL STANDARDS) AMENDMENT REGULATIONS 2004 (No. 2)***

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 2)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on 1 May 2006.

Regulation 3 – Amendment of *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994*

This regulation provides that the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] – Regulation 2.02, definition of *boiler*

There are identical definitions of *boiler* in Parts 2 and 10 of the Principal Regulations. This item deletes the definition of *boiler* from regulation 2.02 but retains the definition in Part 10 - Definitions.

Item [2] – Regulation 2.02, definition of *National Standard*

The existing definition of *National Standard* in Part 2 is not consistent with references in other Parts of the Principal Regulations. This item replaces the current definition of *National Standard* in regulation 2.02 with a reference to the National Occupational Health and Safety Certification for Users and Operators of Industrial Equipment (NOSHC:1006 (2001)). This is consistent with references in other Parts of the Principal Regulations.

Item [3] – Paragraph 2.03 (b)

Item [4] – Regulation 2.04, note

Item [5] – Subregulation 2.07 (3), note 2

Item [6] – Paragraph 2.11 (1) (b)

Items 3-6 replace all other references in Part 2 to *National Standard* with the new reference inserted by item 2.

Item [7] – Regulation 4.03

Item [8] – Regulation 4.55

Existing regulations 4.03 and 4.55 provide definitions of *relevant person*, *licensee*, *special licence*, *defence employing authority* and *Australian Defence Organisation* in relation to Plant. Because these definitions are now used in more than one Part of the Principal Regulations they

are moved to Part 10. Items 15, 19 and 23 insert each definition in Part 10 – Definitions and items 7 and 8 delete the existing definitions.

Item [9] – Subregulation 6.02(3)

Subregulation 6.02 (3) provides a list of substances that are excluded from regulation under Part 6 of the Principal Regulations. This item updates the list of exempted substances by inserting a general category of *personal use products* rather than identifying specific types of personal use products such as cosmetics, toiletries, therapeutic goods and tobacco. Item 18 inserts a definition of *personal use products* in Part 10 of the Principal Regulations. Subregulation 6.02 (3) continues to exclude the regulation of food under Part 6.

Item [10] – Regulation 6.03, definitions of *ADG Code, asbestos, consumer package, ingredient, MSDS, retailer and use*

This item removes the definitions of *ADG Code*(the Australian Dangerous Goods Code), *asbestos, consumer package, ingredient, MSDS, retailer and use* from regulation 6.03 of the Principal Regulations. Items 12, 13, 14, 16, 17, 20 and 22 insert the definitions in Part 10 because the definitions are referred to in more than one Part of the Principal Regulations.

Item [11] – Part 8

This item inserts a framework to regulate the storage and handling of dangerous goods at a workplace. Part 8 is titled Storage and Handling of dangerous goods.

Division 8.1 Introduction

Regulation 8.01 Objects of Part 8

This regulation sets out the objects of Part 8 which are broadly to protect the health and safety of persons from hazards arising from the storage and handling of dangerous goods at a workplace.

The *Note* following the regulation alerts the reader that the definition of *dangerous goods* is contained in subregulation 8.04 (3). The definition of *dangerous goods* is wider than the national standard as it includes combustible liquids and goods too dangerous to be transported.

Regulation 8.02 Application of Part 8

This regulation defines the scope of Part 8 of the Principal Regulations. Part 8 applies to the storage and handling of dangerous goods at a workplace, including transferral via pipeline.

Part 8 is not intended to regulate dangerous goods regulated by other Parts of the Principal Regulations or other Commonwealth legislation. Certain goods are also not intended to be covered by Part 8 including:

- goods determined not to be dangerous goods by a Competent Authority;
- goods being transported in accordance with the ADG Code, the Technical Instructions for the Safe Transport of Dangerous Goods, the International Maritime Dangerous Goods Code or the International Air Transport Association Dangerous Goods Regulations;
- goods necessary for the propulsion or operation of a vehicle, ship, mobile plant, appliance or device or a related piece of equipment or accessory, including in the propulsion or operation systems;
- Class 1 (Explosives), subclass 6.2 (Infectious substances), class 7 (Radioactive material); or
- Asbestos which is regulated under Part 6 of the Principal Regulations.

Note 1 following the regulation alerts readers that Division 1 of Part 2 of the Act imposes general duties on employers, employees, manufacturers, suppliers and persons erecting or installing plant in a workplace even where Part 8 does not place specific duties on them in relation to dangerous goods.

The subsequent *Notes* provide information about where to access information about the regulation of dangerous goods not covered by the Principal Regulations.

Subregulation (3) clarifies that Part 8 applies to a contractor of an employer, supplier or manufacturer in the same way that it applies to the employer, supplier or manufacturer.

Regulation 8.03 Substances with unknown physical properties

This item provides that until the physical properties of a substance are known, that substance is prohibited from being supplied to another person unless the substance is being supplied for the purposes of *bona fide research*. A manufacturer, producer or developer of a substance is exempt from the obligations under Part 8 if supplying for the purposes of *bona fide research* only until the physical properties of the substance are known. This is necessary because if a substance is in such a preliminary stage of development, i.e. the research stage, its properties may not be able to be identifiable. It would therefore not be possible to fulfil some duties under this Part.

However, *Note 1* following the regulation provides that the general duty of care under the Act would continue to apply to employers and between the employers and employees. This regulation intends to allow the genuine development of substances but with a balance to ensure employers and employees develop such substances safely. If the substance is supplied to another person for any reason other than for *bona fide research* the exemption ceases to apply.

This item also provides definitions for *bone fide research* and *substance*.

Note 2 explains that the defendant bears the evidential burden in relation to whether that person is producing a substance for the purpose of *bone fide research*. This is because the defendant is the person in the best place to provide evidence that would exempt that person from complying with Part 8.

Regulation 8.04 Definitions for Part 8

The terms defined in Part 8 apply only to that Part. Part 10 of the Principal Regulations defines terms used more widely in the Principal Regulations.

Subregulation 8.04(1) provides a number of definitions specific to Part 8 including the following terms of note:

- **Definition of *combustible liquids, C1 combustible liquid and C2 combustible liquid***

Combustible liquid under Part 8 has the same meaning given by AS 1940-2004 which is any liquid, other than a flammable liquid, that has a flash point and its fire point is less than its boiling point. The definitions of *C1 combustible liquid* and *C2 combustible liquid*, however, are taken from the National Standard on the Storage and Handling of Dangerous Goods. These definitions are different to those in AS 1940-2004. For the purposes of Part 8, a *C1 combustible liquid* is a combustible liquid with a flashpoint of more than 60.5°C but not more than 150°C. A *C2 combustible liquid* means a combustible liquid with a flashpoint of more than 150°C.

- **Definition of *handling***

Handling in relation to dangerous goods includes moving the goods, liquids or gases within a workplace or within a pipework or pipeline as well as manufacturing, processing, using, treating, dispensing, packing, supplying, transferring, loading and unloading, making harmless, destroying and disposing of the goods, liquids or gases.

- **Definition of *near miss***

Section 68 of the Act requires a dangerous occurrence, but not a *near miss*, at a workplace to be reported to Comcare. Regulation 8.40 places obligations on an employer to investigate and mitigate risks associated with a *near miss* in relation to dangerous goods. A *near miss* is defined for this purpose as an unplanned occurrence, involving imminent risk that, but for a mitigating effect, action or system, could have become a dangerous occurrence.

- **Definition of *compatible***

Subregulation 8.04 (2) specifies the circumstances in which two or more substances are *compatible*. Substances are *compatible* if they will not react together to cause a fire, explosion, harmful reaction, the evolution of flammable, corrosive or toxic vapours, a dangerous occurrence or substantially increase the potential of the combined substances to cause a dangerous occurrence.

- **Definition of *dangerous goods***

Dangerous goods are defined in subregulation 8.04 (3) and include goods that:

- are named in column 2 of Appendix 2 to the ADG Code;
- meet the criteria in Chapter 2 of the ADG Code;
- are determined by a relevant Competent Authority to be dangerous goods;
- are C1 combustible liquids;
- are C2 combustible liquids, if stored and handled with fire risk dangerous goods;
- are goods too dangerous to be transported.

Dangerous goods in Part 8 includes *combustible liquids* and *goods too dangerous to be transported* in all cases except where there are different obligations or requirements imposed in relation to combustible liquids or goods too dangerous to be transported. In this case they are mentioned separately.

The *Note* following the subregulation alerts the readers that the definition of *dangerous goods* in the ADG Code does not include C1 and C2 combustible liquids.

- **Definition of *stored and handled with fire risk dangerous goods***

Subregulation 8.04 (4) explains when C2 combustible liquids are *stored and handled with fire risk dangerous goods*. This occurs when C2 combustible liquids are not stored and handled separately (separated by distance or barriers) from fire risk dangerous goods so that if a reasonably foreseeable incident occurred the C2 combustible liquids and the fire risk dangerous goods would not come into contact.

- **Definition of *dangerous goods in transit***

Subregulation 8.04 (5) provides that *dangerous goods in transit* are dangerous goods supplied to a workplace in a container which remains unopened and unused at that workplace for no more than 5 consecutive days.

- **Definition of *free from dangerous goods***

Free from dangerous goods is used in relation to an object, for example a container, that previously stored or contained dangerous goods. Subregulation 8.04 (6) specifies when an object will be free from dangerous goods depending on the type of dangerous good previously held or stored in the object. Regulations 8.24, 8.34 and 8.47 place obligations on an employer to ensure an object is free from dangerous goods on disposal and in relation to temporary storage of goods.

- **Definition of *packing group and subsidiary risk***

Dangerous goods are assigned to a Class according to the most significant risk presented by the goods. Some dangerous goods are also assigned a subsidiary risk which provides a hierarchy of risk within a Class of dangerous goods. In addition dangerous goods are assigned a packing group according to the degree of risk present during the transport of the dangerous goods.

Subregulation 8.04 (7) specifies when dangerous goods are assigned to a *packing group*.

Subregulation 8.04(8) specifies when dangerous goods are assigned a *subsidiary risk*.

Regulation 8.05 Classes of dangerous goods

This regulation provides a table describing the 9 Classes and subclasses of dangerous goods.

The *Note* following this regulation alerts the reader that dangerous goods are classified according to the most significant risk presented by the goods which is determined in accordance with the criteria set out in Chapter 2 of the ADG Code.

Regulation 8.06 Inconsistency between this Part and codes etc

Subregulation (1) defines *instrument*. Subregulation (2) provides that if an instrument is applied or adopted by, or is incorporated in Part 8 and that instrument is inconsistent with Part 8, Part 8 prevails to the extent of the inconsistency.

Regulation 8.07 Determinations in relation to dangerous goods taken to be regulations

Subregulations (1), (2) and (3) provide that certain determinations made under State and other Commonwealth legislation, as in force at the commencement of this regulation, are taken to be regulations under Part 8.

Subsection (4) provides that a declaration by the Minister, as in force at the commencement of this regulation, under section 13 of the *Dangerous Goods Act* (NT) is taken to be a regulation under Part 8.

Regulation 8.08 Quantities of dangerous goods

Subdivision 8.3.4 requires that once a certain level of dangerous goods is stored or handled at a workplace, Comcare must be notified about those dangerous goods. This regulation explains what quantities must be notified for each Class and subclass of dangerous goods.

This regulation also specifies how to measure quantities of different types of dangerous goods.

Division 8.2 Duties of manufacturers, suppliers and installers

The *Note* under this Division heading alerts readers that the effect of subsection 18 (3) of the Act is that a person who imports into Australia a substance that the person has not manufactured is taken to be the manufacturer of the substance.

Subdivision 8.2.1 Duties of manufacturers of dangerous goods

Regulation 8.09 Determination whether goods are dangerous goods

One of the key intentions of the Regulations is to ensure that appropriate information is available to employees and others who are involved in the storage and handling of dangerous goods so that appropriate action can be taken to prevent those persons being harmed if exposed to dangerous goods.

This regulation provides that a manufacturer of goods commits an offence if the manufacturer is reckless as to whether dangerous goods will be used by an employee at a workplace and the manufacturer does not determine in writing whether the goods are dangerous goods.

The regulation sets out the methods by which goods must be determined and classified. A penalty of 10 penalty units applies to a manufacturer who contravenes subregulations (1), (2) and (6). A penalty of 5 penalty units applies to a manufacturer who contravenes subregulation (4).

Strict liability is imposed on a manufacturer who does not determine or classify goods using the required methods (subregulations (2) and (6)) or does not maintain required information (subregulation (4)). This is because the manufacturer is in the best position, and in most cases the only person able, to provide crucial information about the identity and contents of the goods that can be used to prevent an injury or death resulting from unsafe exposure to dangerous goods. The ADG Code and *AS 1940-2004: The storage and handling of flammable and combustible liquids* provide current accepted standards for providing necessary information.

Regulation 8.10 Material Safety Data Sheets

Subregulations (1) and (3) place obligations on a manufacturer to provide an MSDS for each dangerous good it manufactures and that it supplies. Subregulation (2) requires the MSDS to be prepared in accordance with the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (2003)]. This Code adopts the globally harmonised system of classification and labelling of chemicals (GHS) for the classification of hazardous substances.

A manufacturer commits an offence if the manufacturer is reckless as to whether dangerous goods will be used by employees at a workplace and the MSDS for the dangerous goods is not prepared and supplied to the employer before the dangerous goods are received. A further obligation exists to provide an MSDS at any time requested by the supplier. A penalty of 10 penalty units applies to a manufacturer who contravenes these subregulations.

Note 1 following subregulation (1) alerts readers that the purpose of an MSDS is to provide the information needed to allow the safe storage and handling of dangerous goods at a workplace.

Note 2 provides that guidance material on the preparation and use of an MSDS can be obtained from the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (2003)] which is on the ASCC website.

Subregulation (4) provides that subregulations (1), (2) and (3) do not apply to the supply of C1 or C2 combustible liquids.

Subregulation (5) requires the manufacturer to review an MSDS as often as is necessary to ensure that the MSDS contains current information and is accurate in all significant details. It also requires an MSDS to be reviewed at intervals of not more than 5 years. A penalty of 10 penalty units applies to a manufacturer who contravenes this subregulation.

While subregulation (6) requires the name of each ingredient of the goods to be included on the MSDS, subregulations (7) and (8) allow the manufacturer, in certain circumstances, to use the generic name of each ingredient or make a general statement that the goods are not dangerous goods. However, subregulation (9) requires that if there is a medical emergency involving the goods, the manufacturer must disclose the name of the ingredient, for example to Comcare or emergency services. This allows the appropriate treatment of persons exposed to dangerous goods or necessary precautions to be taken by emergency services.

The *Note* following subregulation (9) alerts the reader that manufacturers also have duties in relation to MSDS for hazardous substances under regulation 6.05. A dangerous good may also be a hazardous substance for the purposes of Part 6.

Subdivision 8.2.2 Duties of suppliers of dangerous goods

Regulation 8.11 Containment, packaging and labelling of dangerous goods

This regulation provides that a manufacturer or other person who supplies dangerous goods commits an offence if they are reckless as to whether dangerous goods will be used by employees at a workplace and they do not ensure the goods are contained, packaged and labelled in accordance with the ADG Code. They must also ensure any other information necessary to protect the health and safety of employees is provided on the label.

A penalty of 10 penalty units applies to a supplier who contravenes this subregulation.

The *Note* following subregulation (1) alerts readers that further guidance can be found in Chapter 3 of the ADG Code which deals with containment, packaging and labelling requirements.

Subregulation (2) does not apply to a retailer supplying packaged dangerous goods to a purchaser.

Strict liability is imposed on a manufacturer, who supplies dangerous goods, if the dangerous goods are not contained, labelled and packaged in accordance with subregulation (1). This is because the manufacturer is in the best position, and in most cases the only person able, to label and package dangerous goods that the manufacturer is supplying to others.

Subregulation (5) provides that a person commits an offence if the person is reckless as to whether dangerous goods will be used by employee at a workplace and the person fills, allows to be filled or causes to be filled a cylinder, disposable container or aerosol container, with Class 2 dangerous goods but does not ensure the cylinder or container complies with the ADG Code.

The *Note* following this subregulation alerts the reader that paragraph 3.8.2 and Appendix 2 of the ADG Code deal with containers and cylinders for Class 2 dangerous goods.

A penalty of 10 penalty units applies to a person who contravenes subregulation (5).

Regulation 8.12 Material Safety Data Sheets

This regulation provides that a supplier of dangerous goods commits an offence if the supplier is reckless as to whether dangerous goods will be used by an employee at a workplace and the supplier does not give a copy of the current MSDS for the goods to the employer of a workplace the first time those goods are supplied. A copy of the current MSDS must also be provided to the employer at any other time if requested.

A penalty of 10 penalty units applies to a supplier who contravenes this subregulation.

Subregulation (2) provides that regulation 8.12 does not apply to a retailer supplying consumer packages of packaged dangerous goods to a purchaser.

Regulation 8.13 Additional information

This regulation provides that where information is not contained in an MSDS, if asked by a person who receives dangerous goods, the supplier must provide information about the safe storage and handling of the dangerous goods.

A penalty of 10 penalty units applies to a supplier who contravenes this subregulation.

Subdivision 8.2.3 Duties of suppliers or installers of plant or structures

Regulation 8.14 Supply or installation of plant or structures

This regulation provides that a person who supplies or installs plant or a structure commits an offence if the person is reckless with respect to whether the plant or structure will be used by employees for the storage and handling of dangerous goods and does not comply with each of the conditions set out in that regulation. The conditions involve ensuring the plant and structure is safe to use and certain information is provided to assist employees to use the plant or structure safely.

A penalty of 10 penalty units applies to a person who contravenes this subregulation.

Subregulation (2) provides that a supplier has an ongoing obligation to provide further information to the employer about the plant or structure if it becomes available.

A penalty of 10 penalty units applies to a person who commits an offence against this subregulation.

Division 8.3 Duties of employers

The Regulations impose obligations on an employer to identify and eliminate, or if this is not possible reduce to the lowest practicable level, all risks associated with the storage and handling of dangerous goods. This is to protect the health and safety of employees and others involved in the storage and handling of dangerous goods.

Subdivision 8.3.1 Hazard identification and risk assessment

The *Note* relating to this subdivision alerts readers that Part 6 of the Principal Regulations applies to hazardous substances. If goods that are dangerous goods are also hazardous substances, both Part 6 and this Part apply in relation to the goods and both Parts must be complied with.

Regulation 8.15 Hazard identification

This regulation requires that an employer must ensure that any hazard associated with the storage or handling of dangerous goods at a workplace is identified, to the extent practicable, having regard to the state of knowledge of the hazard.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (2) provides a list of considerations for an employer to take into account when identifying a hazard. This list is not intended to limit subregulation (1) and does not provide an exhaustive list of considerations.

Subregulation (3) requires the employer to ensure a record of each hazard identified is kept.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.16 Risk assessment

Subregulation (1) requires that if a hazard associated with the storage or handling of dangerous goods at a workplace is identified under regulation 8.15, the employer must ensure that any risks associated with the hazard are assessed.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (2) provides that an employer should use the list provided in subregulation 8.15(2) when assessing a hazard. The employer is also required to consider the consequences, within and outside a workplace, of any incident that could occur because of the storage or handling of the dangerous goods. The list from subregulation 8.15(2) is not intended to limit subregulation 8.16(1) and does not provide an exhaustive list of considerations an employer should take into account when assessing hazards.

Subregulation (3) requires that the employer reviews the assessment as soon as practicable after any change in circumstances such that the assessment is no longer valid. A review must also be undertaken within 5 years after the assessment is carried out and then at intervals of not more than 5 years.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (4) requires the employer keep, and make available to Comcare when requested, records of each assessment and review. Strict liability is imposed in relation to keeping records and providing information as compliance with these elements are easily demonstrated. Identifying and assessing risks is central to preventing health and safety risks associated with the storage and handling of dangerous goods. If such records are not retained and reviewed, the Comcare and the employer have no means by which to measure the elimination or reduction in health & safety risks to its employees. Also if an incident occurs records of risks are crucial to determining what went wrong and how to prevent future incidents. The employer is in the best place to keep and maintain such records. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subdivision 8.3.2 Risk control

Regulation 8.17 Control of risk

This regulation requires an employer to ensure that any risk associated with the storage or handling of dangerous goods at a workplace is eliminated or, if it is not practicable, reduced as far as practicable.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subject to subregulation (3), subregulation (2) lists the ways an employer must eliminate or reduce risks.

Subregulation (3) provides that if it is not practicable to reduce the risk in accordance with subregulation (2), the employer must ensure that appropriate engineering controls and systems of work are used to reduce the risk as far as practicable. Some examples of engineering controls

include using the substance in a fume cupboard, using ventilation booths or local exhaust ventilation and using robots.

Subregulation (4) specifies obligations on an employer in relation to engineering controls and systems of work. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (5) places obligations on an employer in relation to plant or a structure used for the storage or handling of dangerous goods to reduce any risks associated with the use of the plant or structure as far as practicable. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (6) places an obligation on an employer to ensure that any thing not used or related to the storage or handling of dangerous goods at a workplace does not increase any risks associated with the dangerous goods. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (7) places a general obligation on an employer to take all reasonably practical steps to eliminate any risks or to reduce any risks at a workplace. This subregulation is limited by paragraphs (a) and (b). A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.18 Physical separation of dangerous goods from people, protected places and other property

This regulation requires an employer to ensure that any risk resulting from a dangerous occurrence, which involves the storage or handling of dangerous goods at a workplace, is either eliminated or reduced as far as practicable. Reduction of risks can be achieved using a barrier or distance to separate the dangerous goods from persons, a protected place or other property.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.19 Separation of dangerous goods from incompatible substances

This regulation requires an employer to ensure that, as far as practicable, dangerous goods are stored or handled at a workplace in such a way as to prevent them from interacting with goods that are not compatible with the dangerous goods or contaminating food, food packaging or personal use products.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.20 Keeping dangerous goods stable etc

This regulation requires an employer to ensure that, as far as practicable, dangerous goods stored or handled at a workplace do not accidentally become unstable, decompose or change in such a way that would create a different hazard from the original hazard or increase the risk associated with the dangerous goods.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (2) provides some examples of how the stability and control temperature of dangerous goods can be maintained to satisfy subregulation (1). However, this is not an exhaustive list of examples nor in any way limits the scope of subregulation (1).

Subregulation (3) provides that subregulations (1) and (2) do not apply in relation to dangerous goods that are about to be used in a manufacturing process.

Regulation 8.21 Impact protection — structures and plant

This regulation requires an employer to ensure that a structure or plant used for storage or handling dangerous goods at a workplace, and any pipework or equipment attached to the structure or plant, are appropriately located in a workplace and if necessary, fixed to a stable foundation to prevent damage from movement of the structure or plant or any attached pipework or equipment.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.22 Impact protection — containers

This regulation requires an employer to ensure that, as far as reasonably practicable, a container at a workplace in which dangerous goods are stored, and any pipework or equipment attached to the container, are protected from damage resulting from an activity conducted at a workplace.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.23 Spills and containment of dangerous goods

If a spill, leak or accidental release of dangerous goods occurs at a workplace, this regulation requires an employer to ensure that it is confined, as far as practicable, within a workplace and immediate action is taken to assess and control any risk resulting from it. The dangerous goods must be contained, cleaned up, disposed of or otherwise made safe as soon as practicable after the spill, leak or release.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.24 Transfer of dangerous goods

This regulation requires an employer to ensure that any risk associated with the transfer of dangerous goods to, from, or within a workplace is eliminated or, if this is not practicable, is reduced as far as practicable having regard to the need to a number of considerations.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

The *Note* following this regulation alerts the reader that *free from dangerous goods* is defined in subregulation 8.04 (6).

Regulation 8.25 Fire protection

This regulation sets out a non-exhaustive list of considerations for an employer designing a workplace. This is to ensure the fire protection and fire fighting equipment at a workplace is adequate to protect employees against any hazards from the types of dangerous goods stored and handled at that workplace.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Some examples of things that could cause or exacerbate a fire involving dangerous goods are provided at the end of subregulation (1).

Subregulation (2) requires the employer to ensure that if the fire protection or fire fighting equipment could become ineffective alternative fire protection or fire fighting equipment is provided or some other action set out to protect employees.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.26 Emergency procedures

This regulation requires an employer to develop, implement, maintain and communicate to relevant persons a procedure for dealing with any emergency that might arise in connection with the storage or handling of dangerous goods at a workplace. Appropriate equipment for use in an emergency and for containing and cleaning up incidents must also be provided. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.27 Emergency plans

This regulation provides that an employer who stores or handles greater than the manifest quantities of dangerous goods must ensure that an emergency plan is developed, implemented and maintained. The employer must also ensure the plan is communicated to relevant persons at a workplace, near a workplace and to emergency services.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (4) requires the employer to review the emergency plan if there is a change in circumstances at a workplace that affects the storage and handling of dangerous goods. A review is also required within 5 years after the plan is developed and then at intervals of not more than 5 years.

Subregulation (5) provides that when developing or reviewing the plan an employer must give a copy of the plan to the emergency services. If an emergency service provides written advice to the employer about the plan the employer must have regard to that written advice in developing the plan.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.28 Elimination of ignition sources in hazardous areas

This regulation provides that all ignition sources must be removed from hazardous areas in a workplace. If it is not practicable to remove an ignition source the employer must control any risk resulting from a potential ignition source. Ignition sources could include:

- cigarettes;
- open flames from matches, Bunsen burners, pilot lights;
- friction or grinding;
- static electricity;
- sparks generated when lights or motors switch on (especially common fire hazard for domestic refrigerators where flammables are stored);
- hot plates and heating ovens;
- exposure of pyrophoric materials to air, or water reactive materials to moisture;
- Laser beam.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.29 Safety equipment for controlling risks

This regulation provides that where equipment is necessary for the control of a risk in relation to the storage or handling of dangerous goods at a workplace, the employer ensures equipment is available and maintained in accordance with the manufacturer's specifications.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.30 Control of hazardous atmosphere

This regulation places an obligation on an employer to ensure that any risk to a person's health or safety associated with any atmospheric conditions arising from the storage or handling of dangerous goods is eliminated or, if this is not practicable, reduced as far as practicable.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.31 Provision of suitable lighting

This regulation places an obligation on an employer to ensure that sufficient and appropriate lighting is provided at a workplace to ensure dangerous goods are stored or handled safely.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.32 Visitor information and supervision

This regulation places an obligation on an employer to ensure that a visitor to a workplace who is likely to be affected by the storage or handling of dangerous goods at a workplace is given appropriate information and is supervised appropriately.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.33 Prevention of unauthorised access

This regulation places an obligation on an employer to ensure that as far as practicable unauthorised access to a workplace where dangerous goods are stored is prevented.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.34 Disposal etc of plant, equipment and containers

This regulation places an obligation on an employer to ensure that if plant, pipework, equipment or a container at a workplace is no longer intended to be used for the storage or handling of dangerous goods, or is to be disposed of, it is free from dangerous goods or otherwise made safe, within the meaning of subregulation 8.04(6).

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subdivision 8.3.3 Provision of information

Regulations 8.35 - 8.40

Subdivision 8.3.3 imposes a number of obligations on the employer to provide information relating to the safe storage and handling of dangerous goods, including to employees, emergency services, health and safety representatives and other relevant persons at a workplace. The subdivision intends to ensure that information is developed, communicated, accessible and

maintained in relation to matters such as MSDS (including that it must not be changed except for example to translate it into another language), risk assessments and information for operators of plant and structures.

The *Note* following regulation 8.35 alerts the reader that an employer also breaches subsection 16 (1) of the Act if the employer fails to take all reasonably practicable steps to provide to the employees, in appropriate languages, the information, instruction, training and supervision necessary to enable them to perform their work in a manner that is safe and without risk to their health.

A penalty of 10 penalty units applies to an employer who contravenes regulations 8.35, 8.36, 8.37, 8.38 and subregulation 8.39(2).

Regulation 8.39 Register of manifest quantities and site plan

This regulation requires an employer to develop and maintain a register of dangerous goods set out in Schedule 7 that are stored or handled at a workplace if the total quantity of any of the dangerous goods is greater than the quantity set out in Schedule 7. This is known as the *register of manifest quantities*. Its location must be decided in consultation with emergency services and readily accessible to them and Comcare.

Subregulations (3), (4), (5) and (6) specify the information that must be included in the register of manifest quantities. If any of this information changes the register must be updated within 7 days. Information to be contained on the register about combustible liquids and dangerous goods in transit are dealt with separately in this regulation to other dangerous goods.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.40 Investigating & recording dangerous occurrences & near misses

Section 68 of the Act requires a dangerous occurrence to be reported to Comcare. This regulation provides more specific requirements in relation to dangerous occurrences and near misses including developing and maintaining a system for investigating and recording dangerous occurrences and near misses. The system must be communicated to effected persons, records kept and corrective action taken immediately when a dangerous occurrence and near miss occurs.

Note 2 following this regulation alerts readers that a near miss is not required to be reported under this Part.

Subdivision 8.3.4 Notification of storage and handling of dangerous goods

Regulation 8.41 Employers other than defence employing authority

This regulation places an obligation on an employer to notify Comcare, in writing, if the employer stores or handles dangerous goods at a workplace in quantities greater than the manifest quantity provided in Schedule 7.

Subregulation (2) specifies when an employer must notify Comcare and the information an employer must provide to Comcare in their notification.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.42 Defence employing authority

Regulations 8.42, 8.60 and 8.64 provide separate and specific notification requirements for the Australian Defence Organisation due to the nature of the organisation and the sensitivity of the information it might provide. These special arrangements are not intended to reduce the protection for Australian Defence Organisation employees' health and safety in relation to the storage and handling of dangerous goods.

This regulation places an obligation on the defence employing authority to notify Comcare, in writing, if it stores or handles dangerous goods at a workplace in quantities greater than those provided in Schedule 7. It also sets out the circumstances and information that the defence employing authority must notify to Comcare in relation to dangerous goods.

For security reasons, the ADO is only required to notify Comcare minimal details about dangerous goods stored and handled by the ADO. However, regulation 8.60 requires the ADO to maintain a register with more detailed information for inspection by Comcare at all times.

A penalty of 10 penalty units applies to the defence employing authority who contravenes subregulations (2) and (3).

Regulation 8.43 Form of notices

This regulation provides that all notices to be provided under this subdivision must be in writing and in a form approved by Comcare.

Regulation 8.44 Comcare to acknowledge receipt of notice

This regulation requires Comcare to acknowledge receipt of a notice within 3 months after receiving it under this subdivision.

Subdivision 8.3.5 Marking and identification of containers

This subdivision imposes obligations on an employer to provide appropriate marking and identification on containers received by an employer or stored permanently or temporarily at a workplace.

Subdivision 8.3.5 Marking and identification of containers

Regulation 8.45 Marking and identification of containers - dangerous goods received by employers

If the employer is reckless as to whether dangerous goods will be used by an employee at a workplace, the employer commits an offence if the employer does not ensure containers received are marked and labelled according to the ADG Code so that its employees are aware of the contents of each container. A penalty of 10 penalty units applies to an employer who contravenes this regulation.

It is imperative that containers are marked and labelled to ensure that employees can take appropriate action to avoid exposure to dangerous goods stored and handled at a workplace. The employer is in the best position to ensure that labels and markings on containers comply with the ADG Code. If they are not marked, as soon as the container or bulk dangerous goods are received, the employer must label or mark the dangerous goods accordingly. Strict liability is

imposed on an employer who receives dangerous goods and those goods are not labelled in accordance with the ADG Code.

Regulation 8.46 Marking and identification of containers at a workplace

This regulation requires an employer to ensure that containers are only used for the dangerous goods for which they are marked. The employer must ensure those labels are maintained for the life of the container. A penalty of 10 penalty units applies to an employer who contravenes this regulation. Strict liability is also imposed on an employer to ensure that the label is maintained while the dangerous goods are at a workplace to ensure employees know at all times what substances are stored in a particular container.

Regulation 8.47 Containers for short-term storage of dangerous goods not required to be marked

Regulation 8.47 provides an exemption from marking containers under regulations 8.45 and 8.46 for an employer if the dangerous goods are to be used immediately after being transferred into the container or if the container is made free from dangerous goods immediately after the dangerous goods have been used.

Subdivision 8.3.6 Placards — bulk dangerous goods and HAZCHEM

This subdivision places obligations on an employer who receives or stores bulk dangerous goods to ensure the bulk dangerous goods are labelled using appropriate placards (provided in Schedule 8 to the Regulations) in order to ensure the goods can be stored and handled safely by employees. Different placards are used for the storage of bulk C1 combustible liquids and other bulk dangerous goods.

Regulations 8.48 & 8.49 Placarding

If the employer is reckless as to whether dangerous goods will be used by employees at a workplace and the employer does not ensure bulk dangerous goods, once received, are placarded in accordance with the ADG Code, the employer commits an offence under regulation 8.48. A penalty of 10 penalty units applies to an employer who contravenes regulation this regulation.

Regulation 8.49 requires an employer to ensure that a placard for bulk dangerous goods or C1 combustible liquids stored in bulk is displayed in a prominent position and as close as possible to the dangerous goods or combustible liquids.

It is imperative that containers are marked and labelled properly to ensure that employees can take appropriate action to avoid exposure to dangerous goods and stored and handled at a workplace. The employer is in the best position to ensure that placards comply with the ADG Code. If the are not placarded, as soon as the bulk dangerous goods are received, the employer must placard the dangerous goods accordingly. The employer is also in the best position to ensure the placards are displayed in prominent locations. Strict liability is imposed on an employer who receives dangerous goods and those goods are not placarded in accordance with the ADG Code and displayed in prominent locations.

Regulation 8.49, however, does not apply to certain types of dangerous goods stored in bulk including those stored in an intermediate bulk container, a bulk container intended for transport, less than 10,000L of isolated C1 combustible liquids and Class 2.1 and Class 3 dangerous goods or C1 combustible liquids stored in an underground tank at a service station.

Regulation 8.50 HAZCHEM outer warning placards — quantity of dangerous goods or combustible liquids exceeds placarding quantity

This regulation requires an employer to provide a HAZCHEM placard at each entrance to a workplace to warn emergency services entering a workplace that there are large quantities of certain dangerous goods stored at a workplace.

Strict liability is imposed on an employer who contravenes this regulation because it is critical that persons, for example emergency services, entering a workplace know the types of goods that are stored and handled at a workplace so that they can protect themselves and others from exposure to the dangerous goods. If the goods are unknown there is a risk that action taken to contain an incident may escalate the risks and consequences to employees, emergency services and the environment. A penalty of 10 penalty units applies to an employer who contravenes this regulation.

Subdivision 8.3.7 Other placards — quantity of packaged dangerous goods or combustible liquids exceeds placarding quantity

This subdivision places obligations on an employer to placard other types of dangerous goods stored or handled at a workplace to ensure the safety of employees. Different placards are used for the storage of bulk C1 combustible liquids and other bulk dangerous goods.

Regulation 8.51 Application

This regulation sets out how subdivision 8.3.7 applies. Subdivision 8.3.7 places obligations on an employer to placard packaged dangerous goods stored or handled in quantities greater than the placarding quantity mentioned in column 4 of Schedule 7. It does not, however, apply to liquefied petroleum gas stored in cylinders outside a building if the cylinders are connected by piping to gas-consuming appliances inside the building.

Regulations 8.52 – 8.54 Placards

These regulations set out the types of placards that must be displayed by an employer where certain types of Classes and subclasses of dangerous goods are stored or handled at a workplace in quantities greater than the corresponding placarding quantities or in other specified quantities. Specific placarding requirements are imposed in relation to the storage and handling of goods too dangerous to be transported and C1 combustible liquids which are stored in quantities greater than the corresponding placarding quantity.

Not displaying a placard in accordance with each of these regulations is an offence of strict liability because it is critical that employees and others at a workplace know the types of dangerous goods that are stored and handled at a workplace so that if an incident occurs, appropriate action can be taken to mitigate the risks of further harm and that emergency services employ appropriate procedures to contain the incident. If the dangerous goods are unknown there is a risk that action taken to contain an incident may escalate the risks and consequences.

Regulation 8.55 Location of placards

This regulation specifies where an employer must display placards required under this subdivision, including that the placard is clearly visible from each normal approach to a workplace.

Subdivision 8.3.8 Accuracy of placards

Regulation 8.56 Accuracy of placards

This regulation places an obligation on an employer to ensure that a placard required under subdivisions 8.3.6 or 8.3.7 is accurate and revised as soon as practicable if there is a change to the Class or quantity of the dangerous goods.

A penalty of 10 penalty units applies to a employer who contravenes this regulation.

Subdivision 8.3.9 Employers' duties to employees

Regulation 8.57 Consultation

This regulation specifies the matters about which an employer must consult an employee who is likely to be affected by the storage or handling of dangerous goods at a workplace.

A penalty of 10 penalty units applies to an employer who contravenes this regulation.

Regulation 8.58 Induction, training and supervision

This regulation requires an employer to provide an employee, whose duties relate to the storage or handling of dangerous goods at a workplace, with appropriate induction, information, training, supervision and instruction. The regulation sets out the types of information the employee should be provided. The information should be communicated in a language appropriate for the employee and relevant to each risk associated with the employee's duties.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Subregulation (2) requires the employer to keep a record of each induction and training activity undertaken for at least 5 years. A penalty of 10 penalty units applies to an employer who contravenes this subregulation. Strict liability is imposed on an employer to ensure such records are kept because Comcare would not be able to obtain the information if it is not kept by the employer. Comcare could not assess or prove non-compliance with this regulation if records are not available to determine if appropriate induction training and supervision has been undertaken.

Subdivision 8.3.10 Miscellaneous

Regulation 8.59 Register of and information about dangerous goods – all employers

This regulation requires an employer to keep and maintain a register that is readily accessible to employees, of each of the dangerous goods stored or handled at a workplace, including any MSDS required under Part 8.

A penalty of 10 penalty units applies to an employer who contravenes this regulation. Strict liability applies to whether an MSDS is required under Part 8 because it is easily proven whether an MSDS is required under other provisions of this regulation.

Subregulation (2) excludes this regulation from applying to dangerous goods contained in a package of a size not required to be marked under the ADG Code or to dangerous goods in transit. However, an employer retains an obligation to provide readily accessible health and safety information about dangerous goods in transit.

A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.60 Registers of information – defence employing authority

In addition to the general register required under regulation 8.59, for security reasons the defence employing authority is required to keep a register of information in relation to the storage and handling of dangerous goods and pipelines

Subregulation (3) requires the defence employing authority to provide access to the register when requested by Comcare. The investigator who inspects or gains access to the register must have security clearance at a level considered appropriate by the defence employing authority.

Subregulation (4) defines *security clearance*.

A penalty of 10 penalty units applies to the defence employing authority who contravenes subregulations (1), (2) and (3).

Regulation 8.61 Confidentiality of information

This regulation is intended to ensure that information given to the Safety Rehabilitation and Compensation Commission by an employer in control of manifest quantities of dangerous goods is protected from misuse by external parties, in particular if the information would affect the defence, security or international relations of Australia. However, this obligation is set aside if doing so would compromise the safety of any person, property or the built or natural environment.

Division 8.4 Duties in relation to pipelines

Regulation 8.62 Duty of employer who builds, owns or operates a pipeline

This regulation sets out obligations specifically for an employer who builds, owns or operates a pipeline, in particular to eliminate or control risks associated with every aspect of designing, manufacturing, installing, commissioning, maintaining and operating a pipeline to ensure the health and safety of employees working on or near pipelines is protected.

Regulation 8.63 Notification in relation to pipelines – employers other than defence employing authority

This regulation places an obligation on an employer to notify Comcare, in writing, if the employer operates, or will operate, a pipeline.

Subregulation (2) specifies when an employer must notify Comcare and the information an employer must provide to Comcare in their notification. A penalty of 10 penalty units applies to an employer who contravenes this subregulation.

Regulation 8.64 Notification in relation to pipelines – defence employing authority

This regulation sets out the circumstances and information that the defence employing authority must notify to Comcare in relation to the operation of pipelines. Comcare must also be notified annually from the date of first notification in relation to pipelines.

For security reasons, the ADO is only required to notify Comcare minimal details about pipelines owned or operated by the ADO. However, information similar to that provided by other employers must be kept by the ADO on site for inspection by Comcare at all times. This regulation is to protect the security of ADO information.

A penalty of 10 penalty units applies to the defence employing authority who contravenes subregulations (2) and (3).

Regulation 8.65 Forms of notices

This regulation provides that all notices to be provided under this subdivision must be in writing and in a form approved by Comcare.

Regulation 8.66 Comcare to acknowledge receipt of notice

This regulation requires Comcare to acknowledge receipt of a notice within 3 months after receiving it under this division.

Division 8.5 Duties of employees

Regulation 8.67 Duties of employees

This regulation places an obligation on an employee and contractor to report any matter, that he/she becomes aware of that may affect the employer's ability to comply with this Part, to the employer as soon as practicable after becoming aware of the matter.

A penalty of 10 penalty units applies to an employee or contractor who contravenes this regulation.

Items [12] – [22] Subregulations 10.1(1) and (2)

These items insert definitions into Part 10 – Definitions for the *ADG Code*, *asbestos*, *consumer package*, *defence employing authority*, *ingredient*, *MSDS*, *personal use products*, *relevant person*, *retailer*, *use* and *Australian Defence Organisation* because the terms are used in more than one Part of the Principal Regulations.

Item [23] – Schedule 1B, subclauses 3.01(1) and (2)

This item tidies up the interpretation clauses in Schedule 1B consequential to moving the definitions of *defence employing authority* and *Australian Defence Organisation* to Part 10.

Item [24] – After Schedule 6

This item inserts new Schedules 7 and 8 into the Principal Regulations to support new Part 8.

Schedule 7 Quantities of dangerous goods

Schedule 7 provides a table setting out information about the quantities of dangerous goods regulated under Part 8 including the classes and subclasses, packing groups, placarding quantities and manifest quantities of dangerous goods. This Schedule should be read in conjunction with regulations 8.01, 8.27, 8.39, 8.41, 8.42, 8.50, 8.51, 8.52, 8.53 and 8.54.

Dangerous goods fall into different classes and subclasses depending on their risk. Part 8 of the Principal Regulations regulates the handling and storage of dangerous goods depending into which class or subclass they fall, for example when certain levels of dangerous goods are being stored or handled at a workplace, known as the manifest quantity, the employer must notify Comcare that those dangerous goods are being stored or handled (i.e. regulations 8.41 and 8.42). Similarly, when certain levels of dangerous goods are being stored or handled placarding requirements apply (i.e. regulation 8.55).

Schedule 8 Placard requirements for dangerous goods

Schedule 8 sets out the requirements for placards and labels used in relation to dangerous goods and should be read in conjunction with regulations 8.49, 8.50, 8.53 and 8.54. The Schedule, for example, sets out the size and dimensions of each placard as well as the content, size, colour, position and dimensions of writing and other diagrams or symbols on each placard.