



Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003

Statutory Rules 2003 No. 324 as amended

made under the

*Occupational Health and Safety (Maritime Industry) Act
1993*

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Regulation 1.01

Part 1 Introduction**1.01 Name of Regulations** [see Note 1]

These Regulations are the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003*.

1.02 Commencement

These Regulations commence on 31 December 2003.

Note See section 4 of the *Acts Interpretation Act 1901* in relation to the exercise, before 31 December 2003, of powers conferred by these Regulations.

1.03 Interpretation

(1) In these Regulations:

Act means the *Occupational Health and Safety (Maritime Industry) Act 1993*.

NOHSC means the National Occupational Health and Safety Commission established under section 6 of the *National Occupational Health and Safety Commission Act 1985*.

(2) In these Regulations:

(a) a reference to a document the title of which includes the letters *NOHSC* is a reference to a document of that title published by NOHSC and:

- (i) as in force on the day on which it was published; or
- (ii) if the document has been amended — as in force immediately before the day on which the regulation that refers to the document commences; and

(b) a reference to any other document, followed by a description of the person that published the document, is a reference to the document of that title:

- (i) as in force on the day on which it was published; or

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- (ii) if the document has been amended — as in force immediately before the day on which the regulation that refers to the document commences.

Note 1 These Regulations incorporate National Standards declared by NOHSC under section 38 of the *National Occupational Health and Safety Commission Act 1985*.

Note 2 Penalties in these Regulations are expressed in penalty units, in accordance with the requirements of section 4AA of the *Crimes Act 1914*. At the time these Regulations commenced, one penalty unit was equal to \$110.

Note 3 The Act imposes general duties upon groups of persons. These general duties are supported by specific duties that are prescribed in these Regulations. This note identifies:

- (a) the groups of people upon whom duties are imposed by the Act; and
- (b) the provision of the Act which imposes the general duty.

1. Operators

Operators are referred to in sections 11 (Duties of operators in relation to their employees), 13 (Duties of operators in relation to contractors) and 14 (Duties of operators in relation to third parties) of the Act.

2. Manufacturers

Manufacturers of substances are referred to in section 16 of the Act (Duties of manufacturers in relation to substances).

3. Suppliers

Suppliers of substances are referred to in section 19 of the Act (Duties of suppliers in relation to plant and substances).

4. Employees

Employees are referred to in section 27 of the Act (Duties of employees in relation to occupational health and safety).

Part 2 Hazardous substances

Division 1 Introduction

2.01 Objects of Part

The object of this Part is to minimise the risk to the health of persons due to exposure to hazardous substances:

- (a) by ensuring that hazardous substances used at workplaces are supplied with:
 - (i) labels; and
 - (ii) Material Safety Data Sheets; and
- (b) by providing for:
 - (i) the assessment of the risk of exposure to hazardous substances; and
 - (ii) the control of exposure to hazardous substances; and
 - (iii) the training of employees and contractors who could be exposed to hazardous substances at work on the nature of the hazard and the level of risk posed by the hazardous substances, and the means of assessing and controlling exposure to the substances; and
- (c) by limiting the circumstances under which the use of chrysotile may be exempted; and
- (d) by encouraging research into, and development of, alternatives to the use of chrysotile; and
- (e) by ensuring that emergency services and the Inspectorate have access to relevant information about hazardous substances used at workplaces; and
- (f) by ensuring that relevant information included in NICNAS summary reports is given to operators.

2.02 Application of Part

- (1) Subject to subregulation (2), this Part applies:
 - (a) to all hazardous substances; and

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- (b) to all workplaces at which hazardous substances are used;
and
- (c) in relation to all persons who could be exposed to hazardous substances.

Note **Hazardous substance** and **use** are defined in regulation 2.03.

- (2) This Part does not apply to a substance that is being transported in accordance with the requirements set out in the *International Maritime Dangerous Goods Code*, published by the International Maritime Organization.

2.03 Definitions for Part

In this Part, unless the contrary intention appears:

ADG Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail, 6th edition, published by the Federal Office of Road Safety in 1998.

article means a solid object:

- (a) that is produced with a specific shape, design or surface;
and
- (b) that is used for a purpose that depends, wholly or partly, on that shape, design or surface; and
- (c) the chemical composition and physical state of which:
 - (i) do not change when the object is used for that purpose; or
 - (ii) change only when the object is used for that purpose.

asbestos means any of the following fibrous forms of mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);

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- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos.

atmospheric monitoring means the sampling of workplace atmospheres to derive a quantitative measure of exposure to a hazardous substance through inhalation.

biological monitoring means the measurement and evaluation of a hazardous substance, or its metabolites, in the body tissue, fluids or exhaled air of an employee or a contractor.

bona fide research:

- (a) means a systematic, investigative or experimental activity conducted for the purpose of:
 - (i) acquiring new knowledge; or
 - (ii) creating new or improved materials, products, devices, processes or services; and
- (b) includes an activity conducted for the purpose of preparing an item containing asbestos for display in a museum or other historical displays.

chemical name, in relation to a substance, means the recognised chemical name of the substance that is used generally in scientific and technical texts.

container:

- (a) means an object in, or by which, a substance is, or has been, wholly or partly contained or packed, whether or not the object is empty, partly filled or completely filled; and
- (b) does not include a tank or a bulk storage container within the meaning of the ADG Code.

emergency service includes a fire, ambulance and police department, and any other department, agency or instrumentality of the Crown, that may be required to attend at the scene of an emergency at a workplace.

exposure standard, in relation to exposure to a substance, means an airborne concentration of the substance in a person's breathing zone identified in accordance with the Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003 (1995)].

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hazardous substance means a scheduled carcinogenic substance.

Note It is intended that this definition be expanded over time to cover other substances. The omission of a substance from this definition should not be presumed to be indicative of the absence of a hazard relating to the substance.

health surveillance means the monitoring of an employee or a contractor, including the use of biological monitoring, to identify changes (if any) in the employee's or contractor's health due to exposure to a hazardous substance, but does not include atmospheric monitoring.

in situ, in relation to a product that contains asbestos, means that, at the time the use of the form of asbestos that is in the product is prohibited under regulation 2.08, the product is fixed or installed:

- (a) in:
 - (i) a ship or any other structure that forms a workplace; or
 - (ii) a plant or any other thing that is for use at a workplace; and
- (b) in a way that does not constitute a risk to users until the asbestos contained in the product is disturbed.

Examples

The following are examples of asbestos in products that are in situ:

- (a) amosite and chrysotile used between lamina in laminated panelling;
- (b) chrysotile used as a fire retardant in wall cladding in engine rooms.

minimise means to reduce to the lowest level that is reasonably practicable to achieve.

MSDS means a Material Safety Data Sheet.

NICNAS summary report means a summary report within the meaning of the *Industrial Chemicals (Notification and Assessment) Act 1989*.

product name, in relation to a hazardous substance, means the brand name, trade name, code name or code number given to the substance by the supplier of the substance.

risk phrase, in relation to a hazardous substance, means a word, or series of words:

- (a) that describes the hazards of the substance; and

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- (b) that is set out in the Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1999)].

risk to health means the likelihood that a substance will cause harm to health in the circumstances of its use.

safety phrase, in relation to a hazardous substance, means a word, or series of words:

- (a) that describes the procedures for the safe handling or storage of the substance or the use of personal protective equipment in connection with the substance; and
(b) that is set out in the Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1999)].

scheduled carcinogenic substance means a substance mentioned in column 2 of Schedule 1.

substance:

- (a) includes a chemical entity, composite material, mixture or formulation; and
(b) other than in relation to an article that contains asbestos — does not include an article.

substance name means:

- (a) for a substance that is referred to in the ADG Code — the shipping name, assigned to the substance in the ADG Code, that meets the classification criteria described in the ADG Code; and
(b) for a substance referred to in the Standard for the Uniform Scheduling of Drugs and Poisons (also known as SUSDP), published by the National Health and Medical Research Council — the name given to the substance in that document; and
(c) for any other substance — the chemical name of the substance.

use, in relation to a substance at a workplace, means produce, handle, store, transport or dispose of the substance at the workplace.

Note In addition to these definitions, a number of expressions that are used in these Regulations are defined in section 4 of the Act, including **contractor**, **employee**, **operator** and **workplace**.

Division 2 Duties of a manufacturer, and a supplier, of a hazardous substance for the maritime industry

Note The effect of section 17 of the Act is that a person who imports a substance that the person has not manufactured must, if the manufacturer does not have a place of business in Australia at the time of the importation, be taken to be the manufacturer of the substance.

2.04 Material Safety Data Sheets: Manufacturer's duties

- (1) A manufacturer of a hazardous substance that the manufacturer knows, or ought reasonably to know, will be used by employees or contractors at a workplace must ensure that:
 - (a) an MSDS for the substance is prepared before the substance is supplied to the operator of the workplace; and
 - (b) the MSDS is in accordance with subregulation (3).

Penalty: 10 penalty units.

Note 1 The purpose of an MSDS is to provide the information needed to allow the safe handling of hazardous substances used at workplaces. The MSDS for a substance describes its identity, relevant health hazard information, precautions for use and safe handling information. Guidance on the preparation and use of an MSDS can be obtained from the National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007 (1994)] and the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (1994)].

Note 2 For hazardous substances that are in use but supplied before this subregulation commences, see Division 5.

- (2) Strict liability applies to paragraph (1) (b).
- (3) An MSDS must:
 - (a) set out the name, and Australian address and telephone numbers (including an emergency number), of the manufacturer; and

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- (b) for the hazardous substance to which it relates:
 - (i) clearly identify the substance in accordance with the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (1994)]; and
 - (ii) set out its recommended uses; and
 - (iii) describe its chemical and physical properties; and
 - (iv) set out the substance's risk phrases and safety phrases and any relevant health hazard information about the substance that is reasonably practicable for the manufacturer to provide; and
 - (v) set out information concerning the precautions to be followed in relation to its safe use.
- (4) A manufacturer must:
 - (a) review an MSDS:
 - (i) within 5 years after the MSDS is first issued, and afterwards at intervals of not more than 5 years; and
 - (ii) as often as is necessary to ensure that it contains current information and is accurate in all material respects; and
 - (b) if the MSDS does not contain current information or is not accurate in all material respects — revise the MSDS so that it contains current information and is accurate in all material respects.

Penalty: 10 penalty units.

- (5) A manufacturer of a hazardous substance that the manufacturer knows, or ought reasonably to know, will be used by employees or contractors at a workplace must give a copy of the current MSDS for the substance to a supplier who supplies the substance to the operator of the workplace:
 - (a) before the substance is first supplied by the supplier to the operator; and
 - (b) at any later time on request by the supplier.

Penalty: 10 penalty units

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2.05 Material Safety Data Sheets: Supplier's duties

A supplier of a hazardous substance that the supplier knows, or ought reasonably to know, will be used by employees or contractors at a workplace must give a copy of the current MSDS for the substance to the operator of the workplace:

- (a) not later than the time at which the substance is first supplied by the supplier to the operator; and
- (b) at any later time on request by the operator.

Penalty: 10 penalty units.

Note For hazardous substances that are in use but supplied before this regulation commences, see Division 5.

2.06 Labelling of hazardous substances

(1) A supplier of a hazardous substance that the supplier knows, or ought reasonably to know, will be used by employees or contractors at a workplace must ensure that, at the time of supply:

- (a) each container in which the hazardous substance is supplied is labelled; and
- (b) the label:
 - (i) is in accordance with the National Code of Practice for the Labelling of Workplace Hazardous Substances [NOHSC:2012 (1994)]; and
 - (ii) clearly identifies the hazardous substance; and
 - (iii) sets out the name, and Australian address and telephone numbers (including an emergency number), of the manufacturer of the substance; and
 - (iv) sets out the substance's risk phrases and safety phrases and any relevant health and safety information about the substance that is reasonably practicable for the supplier to provide.

Penalty: 10 penalty units.

Note 1 The manner in which a container is to be labelled is set out in the National Code of Practice for the Labelling of Workplace Hazardous Substances [NOHSC:2012 (1994)].

Note 2 For hazardous substances that are in use but supplied before this subregulation commences, see Division 5.

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- (2) Strict liability applies to subparagraph (1) (b) (i).

2.07 Provision of information by a supplier

A supplier of a hazardous substance that the supplier knows, or ought reasonably to know, will be used by employees or contractors at a workplace must provide to the operator of the workplace, on request:

- (a) a NICNAS summary report that relates to the condition of the hazardous substance at the time of supply; and
- (b) information concerning the condition of the hazardous substance at the time of supply that will assist in the safe use of the substance, being information additional to the information contained in the MSDS relating to the substance.

Penalty: 10 penalty units.

Division 3 Duties of an operator in relation to the use of hazardous substances

2.08 Prohibition on uses of hazardous substances

An operator must ensure that a hazardous substance mentioned in column 2 of an item in Schedule 2 is not used, at a workplace under the operator's control, in any circumstance other than a circumstance specified in column 3 of the item.

Penalty: 10 penalty units.

2.09 Exemption from regulation 2.08

- (1) Regulation 2.08 does not apply to an operator in relation to a hazardous substance mentioned in Schedule 2 (other than chrysotile) if the Authority exempts the operator from the application of the regulation in relation to the substance.
- (2) Regulation 2.08 does not apply to an operator in relation to a use of chrysotile if the Authority exempts the operator from the application of the regulation in relation to that use.

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- (3) An operator seeking an exemption must apply for the exemption in accordance with Schedule 3.
- (4) The Authority may exempt an operator only in accordance with Schedule 3.

2.10 Review of decisions

Application under the *Administrative Appeals Tribunal Act 1975* may be made to the Administrative Appeals Tribunal for review of the following decisions of the Authority:

- (a) a decision, under either of the following provisions of Schedule 3, to refuse to grant an exemption:
 - (i) paragraph 1.02 (1) (b);
 - (ii) paragraph 2.04 (1) (b);
- (b) a decision, under either of the following provisions of Schedule 3, to make an exemption subject to conditions:
 - (i) subclause 1.03 (1);
 - (ii) subclause 2.05 (2);
- (c) a decision, under either of the following provisions of Schedule 3, to add a condition to, or vary or revoke a condition of, an exemption:
 - (i) subclause 1.03 (2);
 - (ii) subclause 2.05 (3);
- (d) a decision, under either of the following provisions of Schedule 3, to cancel an exemption:
 - (i) paragraph 1.04 (2) (a);
 - (ii) paragraph 2.06 (2) (a).

2.11 Use of Material Safety Data Sheets

Note The use of MSDS will allow assessment of the risks of hazardous substances and enable any necessary controls to be established. Further guidance on the use of MSDS can be found in the National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007 (1994)].

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- (1) An operator must obtain an MSDS for a hazardous substance, from the supplier who supplies the substance to the operator, not later than the time at which the substance is first supplied to the operator.

Penalty: 10 penalty units.

Note For hazardous substances that are in use but supplied before this subregulation commences, see Division 5.

- (2) An operator must ensure that the MSDS obtained for a hazardous substance is readily accessible to each of the employees and contractors who could be exposed to the substance.

Penalty: 10 penalty units.

- (3) Subject to subregulation (4), an operator must ensure that the information in each copy of an MSDS under the operator's control is not altered.

Penalty: 10 penalty units.

- (4) An operator may change the appearance of an MSDS for the following purposes only:

- (a) to make the format of the MSDS consistent with the format described in the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC:2011 (1994)];
- (b) to allow the MSDS to be prepared for dissemination by electronic means;
- (c) to allow the operator to attach to the MSDS additional information that is marked clearly as not forming part of the information given by the supplier;
- (d) to translate the MSDS into a language other than the language in which the MSDS was given to the operator.

2.12 Use of labels

Note The purpose of labels is to ensure that the contents of a container used for hazardous substances can be readily identified by product name and to draw the attention of a person who is using the substance to any significant hazards involved.

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- (1) Subject to subregulation (4), an operator must ensure that:
- (a) each container that holds a hazardous substance used at a workplace under the operator's control, including a container supplied to or produced at the workplace, is labelled; and
 - (b) the label:
 - (i) is in accordance with paragraph 2.06 (1) (b); or
 - (ii) if the container is a container into which a hazardous substance is decanted — sets out the substance's product name and the substance's risk phrases and safety phrases; and
 - (c) a person does not remove, deface, modify or alter the label.

Penalty: 10 penalty units.

- (2) Strict liability applies to subparagraph (1) (b) (i).
- (3) Subject to subregulation (4), an operator must ensure that a container that contains a hazardous substance is labelled until:
- (a) the substance is removed from the container; and
 - (b) the container is cleaned to the extent that it no longer contains the hazardous substance.

Penalty: 10 penalty units.

- (4) The operator is not required to comply with subregulation (1) or (3) if:
- (a) a hazardous substance is decanted into a container; and
 - (b) the hazardous substance is used up immediately after being decanted; and
 - (c) the operator ensures that the container is immediately cleaned to the extent that it no longer contains the hazardous substance.

2.13 Register of hazardous substances

Note A register provides, at a minimum, a listing of all hazardous substances used at a workplace together with their MSDS. It may also include notations on the completion of assessments, assessment reports, details of instruction and training and monitoring results.

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A register is a source of information and a tool to manage substances at a workplace.

- (1) An operator must ensure that a register is kept and maintained, at each workplace under the operator's control, for hazardous substances that are used at the workplace.

Penalty: 10 penalty units.

- (2) The operator must ensure that the register includes at least the following information:
 - (a) a list of all hazardous substances used at the workplace;
 - (b) a copy of the MSDS obtained for each hazardous substance.

Penalty: 10 penalty units.

- (3) The operator must ensure that the register is readily accessible by all persons who could be exposed to a hazardous substance at the workplace.

Penalty: 10 penalty units.

2.14 Provision of information about enclosed hazardous substances

If a hazardous substance is contained in an enclosed system (including, for example, a pipe, a piping system, a process vessel or a reactor vessel), the operator that controls the enclosed system must ensure that:

- (a) the existence of the hazardous substance is disclosed to all persons who could be exposed to the hazardous substance; and
- (b) the hazardous substance is identified clearly to those persons.

Penalty: 10 penalty units.

2.15 Risk assessment for hazardous substances

Note The purpose of an assessment is to enable decisions to be made about appropriate control measures, induction and training, atmospheric monitoring and health surveillance commensurate with the level of risk that arises from use of a hazardous substance at workplaces. Guidance on

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assessments can be found in the National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007 (1994)] and the Guidance Note for the Assessment of Health Risks Arising From the Use of Hazardous Substances in the Workplace [NOHSC:3017 (1994)].

- (1) An operator must ensure that:
 - (a) an assessment is made of the risks to health caused by work that involves potential exposure to a hazardous substance used at a workplace under the operator's control; and
 - (b) the assessment is in accordance with subregulations (3), (4) and (5).

Penalty: 10 penalty units.

- (2) Strict liability applies to paragraph (1) (b).
- (3) An assessment must be undertaken:
 - (a) before the introduction of a hazardous substance; and
 - (b) before introducing or changing a workplace or a work practice, or an activity or process, if the introduction or change may give rise to a risk to health.

Note For hazardous substances that are in use but introduced before this subregulation commences, see Division 5.

- (4) An assessment must include:
 - (a) the identification of each hazardous substance that is used at work; and
 - (b) an examination of the MSDS obtained for each hazardous substance; and
 - (c) if an MSDS cannot reasonably be obtained for examination — an examination of information, equivalent to the information that is required to be included in an MSDS:
 - (i) relating to any hazard to health relating to the hazardous substance; and
 - (ii) relating to the precautions to be followed in relation to the safe use of the hazardous substance; and
 - (d) the identification of any risk to health, arising from exposure to each hazardous substance that is identified, of which the operator knows or ought reasonably to know.

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- (5) The operator may undertake a generic risk assessment of risks to health if:
- (a) the risk assessment is carried out only in relation to work:
 - (i) that is performed using the hazardous substance; and
 - (ii) for which the risk factors are identical in all cases; and
 - (b) the risk assessment is designed to identify any differences in the nature of work performed using the hazardous substance that could result in a change to the risk factors associated with the performance of the work; and
 - (c) it is not practicable for the operator to undertake a separate risk assessment for each workplace at which the hazardous substance is used.
- (6) If the risk assessment indicates that there is no significant risk to health from the use of hazardous substances at work, the operator must ensure that the register is noted to indicate that the assessment has been completed.

Penalty: 10 penalty units.

- (7) If the risk assessment indicates that there is a significant risk to health from the use of any hazardous substance at work, the operator must ensure that a report on the assessment (an **assessment report**) is prepared.

Penalty: 10 penalty units.

Note Assessment reports generally reflect the detail of the assessment, including setting out sufficient information to show why decisions about risks and precautions were made. Further guidance on deciding if the risk is significant can be found in the National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007 (1994)] and the Guidance Note for the Assessment of Health Risks Arising from the Use of Hazardous Substances in the Workplace [NOHSC:3017 (1994)].

- (8) An operator must review a risk assessment within 5 years after the assessment is first completed, and afterwards at intervals of not more than 5 years, to ensure that it is still valid.

Penalty: 10 penalty units.

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- (9) An operator must revise a risk assessment if:
- (a) the operator knows, or ought reasonably to know, of evidence that the assessment is no longer valid; or
 - (b) there has been a significant change in the work to which the assessment relates.

Penalty: 10 penalty units.

- (10) An operator must ensure that an assessment report is readily accessible to each of the employees or contractors who could be exposed to a hazardous substance to which the report relates.

Penalty: 10 penalty units.

2.16 Risk control

Note The National Code of Practice for Control of Workplace Hazardous Substances [NOHSC:2007 (1994)] lists, in priority order, the hierarchy of control measures for use in carrying out risk control. Guidance on exposure standards can be found in the Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003 (1995)].

- (1) An operator must ensure that no employee or contractor at work is exposed to an airborne concentration (measured over the length of time relevant to an exposure standard) of a hazardous substance, in the breathing zone of the employee or contractor, at a level that exceeds the exposure standard.

Penalty: 10 penalty units.

- (2) An operator must ensure, on the basis of a risk assessment carried out under regulation 2.15, that exposure to a hazardous substance is:
- (a) prevented; or
 - (b) if it is not reasonably practicable to prevent the exposure — adequately controlled in order to minimise the risks to health caused by the substance.

Penalty: 10 penalty units.

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- (3) An operator must take all reasonably practicable steps to prevent or control exposure to a hazardous substance by measures other than the provision of personal protective equipment.

Penalty: 10 penalty units.

- (4) If measures undertaken in accordance with subregulation (3) do not prevent, or provide adequate control of, exposure of an employee or a contractor to a hazardous substance, the operator must, in addition to taking the measures, make available to the employee or contractor suitable personal protective equipment that will adequately control the employee's or contractor's exposure to the hazardous substance.

Penalty: 10 penalty units.

- (5) An operator must ensure that engineering controls, safe work practices and personal protective equipment that are used to prevent or control exposure to a hazardous substance are properly maintained and used.

Penalty: 10 penalty units.

2.17 Atmospheric monitoring

Note Monitoring may be used to determine the effectiveness of control measures. Further guidance on monitoring can be found in the National Code of Practice for Control of Workplace Hazardous Substances [NOHSC:2007 (1994)].

- (1) If a risk assessment carried out under regulation 2.15 indicates that atmospheric monitoring should be undertaken, the operator to whom the assessment relates must undertake monitoring using procedures that are suitable for measuring exposure to the hazardous substance that is subject to monitoring.

Penalty: 10 penalty units.

- (2) The operator must ensure that the results of the atmospheric monitoring are recorded in the register mentioned in subregulation 2.13 (1).

Penalty: 10 penalty units.

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- (3) The operator must ensure that:
- (a) an employee or a contractor who has been, or could be, exposed to a hazardous substance that is subject to atmospheric monitoring is given the results of the monitoring; and
 - (b) the records of atmospheric monitoring are readily accessible to that employee or contractor at all reasonable times.

Penalty: 10 penalty units.

2.18 Health surveillance

Note Health surveillance can assist in minimising the risk to health from hazardous substances by confirming that the absorbed dose is below the acceptable level, by indicating biological effects requiring reduction of exposure and by collecting data to evaluate the effects of exposure. Further guidance on health surveillance can be found in the National Code of Practice for Control of Workplace Hazardous Substances [NOHSC:2007 (1994)] and in the Guidelines for Health Surveillance [NOHSC:7039 (1995)].

- (1) An operator must provide health surveillance of an employee or a contractor who has been identified, in a risk assessment carried out under regulation 2.15, as being exposed to a hazardous substance if:
- (a) there is a significant risk to the health of the employee or contractor from a hazardous substance mentioned in column 2 of Schedule 4; and
 - (b) either of the following applies:
 - (i) the operator knows, or ought reasonably to know, that:
 - (A) the exposure of the employee or contractor to the substance has the effect that an identifiable disease or other effect on health may be related to the exposure; and
 - (B) there is a reasonable likelihood that the disease or other effect on health may occur under the particular conditions of work; and
 - (C) there are valid techniques for detecting an indication of the disease or other effect on health;

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- (ii) there is a valid biological monitoring procedure available and a reasonable likelihood that accepted values might be exceeded.

Penalty: 10 penalty units.

- (2) The operator must ensure that:
 - (a) the health surveillance is performed under the supervision of a legally qualified medical practitioner who is competent in the requisite testing or medical examinations for the substance; and
 - (b) the health surveillance includes the procedures mentioned in column 3 of the item in Schedule 4 that relates to the substance; and
 - (c) the operator consults the employee or contractor on the selection of a medical practitioner to supervise the health surveillance.

Penalty: 10 penalty units.

- (3) The health surveillance must be undertaken at the expense of the operator.
- (4) If an employee or a contractor undergoes health surveillance, the operator must ensure that:
 - (a) the employee or contractor is notified of the results of the surveillance as soon as practicable; and
 - (b) the employee or contractor is given any necessary explanation of the results of the surveillance; and
 - (c) the Inspectorate is notified of any adverse result detected in the health surveillance that is consistent with exposure to the hazardous substance.

Penalty: 10 penalty units.

- (5) If an operator is advised by a medical practitioner of an adverse result detected in the health surveillance of an employee or a contractor that is consistent with exposure to a hazardous substance, the operator must, as soon as practicable:
 - (a) revise any assessment of the employee's or contractor's exposure to the substance; and

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- (b) take the steps that are necessary to comply with the requirements of this Part.

Penalty: 10 penalty units.

- (6) An operator must ensure that:
 - (a) records obtained by the operator as a result of health surveillance are kept as confidential records; and
 - (b) the written consent of the employee or contractor is obtained before the records are given or shown to a person (other than the operator, the employee or contractor, or a person entitled to have access to the records under regulation 2.22) who is entitled to have access to the records.

Penalty: 5 penalty units.

2.19 Instruction and training

An operator must ensure that:

- (a) employees and contractors who are likely to be exposed to a hazardous substance, and anyone supervising the employees or contractors, are trained and provided with information and instruction in:
 - (i) the nature of the hazard associated with the substance, the process of risk assessment and the level of risk; and
 - (ii) the control procedures associated with the use of the substance; and
 - (iii) the need for, and proper use and maintenance of, measures to control risk; and
 - (iv) the use, fit, testing and storage of personal protective equipment, if personal protective equipment forms a part of the measures to control risk; and
- (b) the instruction and training are commensurate with the level of risk to health, caused by the hazardous substance, that is assessed.

Penalty: 10 penalty units.

Regulation 2.20

Note Guidance on the key elements of an induction and training program can be found in the National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007 (1994)].

2.20 Exposure to scheduled carcinogenic substances

- (1) If it is likely that an employee or a contractor has been exposed to a scheduled carcinogenic substance, the operator must, as soon as practicable, notify the employee or contractor of that exposure.

Penalty: 10 penalty units.

- (2) Subregulation (3) applies to an employee if it is likely that the employee has been, in the course of the employee's employment, exposed to a scheduled carcinogenic substance in, or in connection with, a circumstance mentioned in column 3 of Schedule 1 in relation to that substance.
- (3) On the termination of the employee's employment, the operator must provide the employee with a written statement that includes the following information:
 - (a) the name of each scheduled carcinogenic substance to which the employee was, or was likely to have been, exposed;
 - (b) the period of known exposure to the substance;
 - (c) the period of likely exposure to the substance;
 - (d) a copy of any relevant assessment report prepared under regulation 2.15;
 - (e) details of how and where the employee can obtain any other relevant records;
 - (f) the advisability of having periodic health assessments and the types of tests that are relevant.

Penalty: 10 penalty units.

2.21 Record keeping

- (1) If an assessment report prepared under regulation 2.15 (other than a report to which subregulation (3) applies) indicates a need for, or contains the results of, atmospheric monitoring or

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health surveillance, the operator to whom the report relates must keep the report, as a record:

- (a) in a suitable form; and
- (b) for at least 30 years from the date of the last entry in the report.

Penalty: 5 penalty units.

- (2) If an assessment report prepared under regulation 2.15 (other than a report to which subregulation (3) applies) does not indicate a need for atmospheric monitoring or health surveillance, the operator to whom the report relates must keep the report, as a record:

- (a) in a suitable form; and
- (b) for at least 5 years from the date of the last entry in the report.

Penalty: 5 penalty units.

- (3) If an assessment report prepared under regulation 2.15 identifies an employee or a contractor as likely to have been exposed, in the course of the employee's employment or of the contractor's work at the workplace, to a scheduled carcinogenic substance in, or in connection with, a circumstance mentioned in column 3 of Schedule 1 in relation to that substance, the operator to whom the report relates must:

- (a) keep a record of the full name, date of birth and address of the employee or contractor; and
- (b) keep the report, as a record:
 - (i) in a suitable form; and
 - (ii) for at least 30 years from the date of the last entry in the report.

Penalty: 5 penalty units.

- (4) If a document includes details of instruction and training given by an operator to an employee or a contractor for the purposes of this Part, the operator must keep the document, as a record:

- (a) in a suitable form; and

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- (b) for at least 5 years from the date of the last entry in the document.

Penalty: 5 penalty units.

- (5) If an operator that keeps a record referred to in subregulation (1), (2) or (3) ceases operation in Australia before the end of the minimum period for which the record must be kept, the operator must give the record to the Authority.

Penalty: 5 penalty units.

- (6) An offence against subregulation (1), (2), (3), (4) or (5) is an offence of strict liability.

- (7) In this regulation:

suitable form means:

- (a) a legible form in the English language; or
(b) a form that is readily accessible and convertible into a legible form in the English language.

2.22 Records to be accessible

An operator must ensure that all records, relating to hazardous substances, that are kept by the operator under this Part are readily accessible by the following:

- (a) an emergency service;
(b) the Inspectorate;
(c) an inspector acting in the course of his or her duties.

Penalty: 10 penalty units.

Division 4 Employees' and contractors' duties in relation to hazardous substances

2.23 Duties of employees and contractors

- (1) An employee must report, to the operator of his or her workplace, any matter that may affect the operator's compliance with the provisions of this Part as soon as practicable after the employee becomes aware of the matter.

Penalty: 10 penalty units.

- (2) A contractor at a workplace must report, to the operator of the workplace, any matter that may affect the operator's compliance with the provisions of this Part as soon as practicable after the contractor becomes aware of the matter.

Penalty: 10 penalty units.

Division 5 Hazardous substances supplied to operators before this Part commences

2.24 Transitional — Material Safety Data Sheets and labelling

- (1) This regulation applies in relation to a hazardous substance that:
- (a) was supplied to the operator of a workplace before this regulation commences; and
 - (b) is still in use at the workplace.
- (2) For the provisions of this Part mentioned in this subregulation:
- (a) the hazardous substance is taken to be first supplied to the operator of the workplace immediately after this regulation commences; and

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- (b) the manufacturer:
 - (i) is taken to have complied with paragraph 2.04 (1) (a) if the manufacturer ensures that an MSDS for the substance is prepared within the time required by subregulation (3); and
 - (ii) is taken to have complied with paragraph 2.04 (5) (a) if the manufacturer gives a copy of the current MSDS for the substance to the supplier within the time required by subregulation (3); and
 - (c) the supplier:
 - (i) is taken to have complied with paragraph 2.05 (a) if the supplier gives a copy of the current MSDS for the substance to the operator within the time required by subregulation (3); and
 - (ii) is taken to have complied with subregulation 2.06 (1) if the supplier ensures that the requirements mentioned in paragraphs 2.06 (1) (a) and (b) are complied with within the time required by subregulation (3); and
 - (d) the operator is taken to have complied with subregulation 2.11 (1) if the operator obtains an MSDS for the substance from the supplier within the time required by subregulation (3).
- (3) For subregulation (2), a manufacturer, supplier or operator must comply with each applicable provision mentioned in that subregulation as soon as practicable, and in any case not later than 3 months, after this regulation commences.
 - (4) This regulation is not intended to impose any obligation on a manufacturer or supplier of a hazardous substance, if:
 - (a) the manufacturer or supplier is no longer a manufacturer or supplier of that kind of hazardous substance when this regulation commences; and
 - (b) apart from this regulation, the obligation would not have been imposed, under this Part, on the manufacturer or supplier in relation to the substance.

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2.25 Transitional — risk assessment

- (1) This regulation applies in relation to a hazardous substance that:
 - (a) was introduced to a workplace before this regulation commences; and
 - (b) is still in use at the workplace.
- (2) For subregulation 2.15 (3):
 - (a) the hazardous substance is taken to be introduced to the workplace immediately after this regulation commences; and
 - (b) the operator of the workplace is taken to have complied with subregulation 2.15 (3) if the assessment is undertaken as soon as practicable, and in any case not later than 3 months, after this regulation commences.

Regulation 3.01

Part 3 Manual handling

Division 1 Introduction

3.01 Object of Part 3

The object of this Part is:

- (a) to prevent the occurrence of injury, and reduce the severity of injuries, resulting from manual handling tasks; and
- (b) to require employers to identify, assess and control risks relating to manual handling tasks.

3.02 Definition of manual handling

In this Part:

manual handling means an activity requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing.

Note The regulations in this Part should be read with the *Approved Code of Practice for Manual Handling (Maritime Industry)* as in force on the commencement of this Part.

Division 2 Duties of an employer

3.03 Duties of an employer — general

Employees and other persons at a workplace

- (1) An employer that controls a workplace must ensure that:
 - (a) the plant and the containers used at the workplace are designed, constructed and maintained to be without risk to health and safety when manually handled; and
 - (b) the work systems involving manual handling carried out at the workplace are designed to be without risk to health and safety for the purposes of manual handling; and

Regulation 3.04

- (c) the working environment of the workplace is designed to allow the safe performance of manual handling tasks.

Penalty: 10 penalty units.

Note 1 Subregulation 3.03 (1) addresses an employer's duties in relation to employees, contractors and other persons at a *workplace* within the meaning of section 4 of the Act.

Note 2 *Plant* is defined in section 4 of the Act to include any machinery, equipment or tool, and any component thereof.

Employees at work

- (2) An employer under whose control an employee performs work must ensure that:
- (a) the plant and the containers used by the employee are designed, constructed and maintained to be without risk to health and safety when manually handled; and
 - (b) the work systems involving manual handling carried out by the employee are designed to be without risk to health and safety for the purposes of manual handling; and
 - (c) the working environment of a place at which the employee performs work is designed to allow the safe performance of manual handling tasks.

Penalty: 10 penalty units.

- (3) It is a defence to a prosecution for an offence against subregulation (1) or (2) if the employer complied with the subregulation as far as reasonably practicable.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (3) (see section 13.3 of the *Criminal Code*).

3.04 Duties of an employer — risk assessment

- (1) An employer must ensure that:
- (a) a manual handling task that is likely to be a risk to health and safety is examined; and
 - (b) the risk is assessed in accordance with subregulation (2).

Penalty: 10 penalty units.

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- (2) The employer must take into account as many of the following matters as are relevant in assessing a risk:
- (a) the actions and movements involved in the task;
 - (b) the layout of:
 - (i) the workplace at which the task is carried out; or
 - (ii) the place, other than a workplace, at which the task is carried out;
 - (c) the layout of the workstation at which the task is carried out;
 - (d) the posture and position that must be taken by each individual involved in carrying out the task;
 - (e) the duration of the task;
 - (f) the frequency with which the task is carried out;
 - (g) the location of each load involved in the task;
 - (h) the distance that a load is moved as part of the task;
 - (i) the weight involved in the task;
 - (j) the force required to carry out the task;
 - (k) the characteristics of each load involved in the task;
 - (l) the characteristics of any plant that is used in the course of carrying out the task;
 - (m) the organisation of work at:
 - (i) the workplace at which the task is carried out; or
 - (ii) the place, other than a workplace, at which the task is carried out;
 - (n) the work environment of:
 - (i) the workplace at which the task is carried out; or
 - (ii) the place, other than a workplace, at which the task is carried out;
 - (o) the skills and experience of each individual involved in carrying out the task;
 - (p) the age of each individual involved in carrying out the task;
 - (q) the clothing worn by each individual involved in carrying out the task;

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- (r) the special needs of each individual involved in carrying out the task;
- (s) if the workplace is, or is on, a vessel — the stability of the vessel;
- (t) any other matter that is considered relevant following consultations required under the Act or these Regulations.

Penalty: 10 penalty units.

- (3) Strict liability applies to the physical element in paragraph (2) (t) that the consultations are required under the Act or these Regulations.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

3.05 Duties of an employer — risk control

- (1) An employer must ensure that all risks to health and safety relating to carrying out a manual handling task are controlled in accordance with this regulation.

Penalty: 10 penalty units.

- (2) It is a defence to a prosecution for an offence against subregulation (1) if the employer complied with the subregulation as far as reasonably practicable.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (2) (see section 13.3 of the *Criminal Code*).

- (3) The employer must:
 - (a) subject to subregulation (5) — redesign the task:
 - (i) to eliminate or minimise the risk associated with each risk factor assessed under regulation 3.04; or
 - (ii) if it is not practicable to eliminate or minimise an assessed risk factor — to control the risk factor; and
 - (b) provide appropriate training to employees involved in carrying out the task, including training in safe manual handling techniques; and
 - (c) if possible, schedule the task for the lowest risk period of the operation.

Regulation 3.06

Example for paragraph (c)

When the vessel on which the task is carried out is at dock, rather than at sea.

Penalty: 10 penalty units.

- (4) If the redesign of a task is reasonably practicable, but cannot be implemented within a reasonable time after a risk is identified, the employer must, as soon as practicable after identifying the risk, and until the task has been redesigned:
- (a) implement as many of the following measures as are appropriate to control the risk factors:
- (i) the provision of mechanical aids to manual handling;
 - (ii) the provision of personal protective equipment; and
 - (iii) manual handling by team lifting; and
- (b) provide appropriate training to employees to give effect to each measure implemented under paragraph (a).

Penalty: 10 penalty units.

- (5) If it is not reasonably practicable for an employer to redesign a task, the employer must undertake the actions referred to in paragraphs (4) (a) and (b).

Penalty: 10 penalty units.

Division 3 Duties of an employee

3.06 Duties of an employee — use of training

- (1) An employee who has been given training in safe manual handling techniques in accordance with paragraph 3.05 (3) (b) must carry out manual handling tasks in accordance with the training.

Penalty: 10 penalty units.

- (2) Strict liability applies to the physical element in subregulation (1) that the training in safe manual handling techniques is in accordance with paragraph 3.05 (3) (b).

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

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- (3) It is a defence to a prosecution for an offence against subregulation (1) if the employee complied with the subregulation as far as reasonably practicable.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (3) (see section 13.3 of the *Criminal Code*).

- (4) An employee who has been given training to give effect to a measure implemented under subregulation 3.05 (4) or (5) must carry out manual handling tasks in accordance with the training.

Penalty: 10 penalty units.

- (5) Strict liability applies to the physical element in subregulation (4) that the training is to give effect to a measure implemented under subregulation 3.05 (4) or (5).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) It is a defence to a prosecution for an offence against subregulation (4) if the employee complied with the subregulation as far as reasonably practicable.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (6) (see section 13.3 of the *Criminal Code*).

Regulation 4.01

Part 4 Confined spaces

Note Under subsection 109 (1) of the Act, if the Minister approves a code of practice for confined spaces, it can be used to provide practical guidance to operators.

Division 1 Preliminary

4.01 Interpretation

(1) In this Part:

atmospheric monitoring means continuous measurement, over an uninterrupted duration of time, of:

- (a) the concentration of oxygen; or
- (b) airborne contaminants.

atmospheric testing means measurement, that is not continuous, of:

- (a) the concentration of oxygen; or
- (b) airborne contaminants.

competent person means a person who:

- (a) has, by a combination of training, education and experience, acquired knowledge and skills to enable him or her to:
 - (i) make an informed assessment of the likelihood of an airborne contaminant being present or subsequently arising in a confined space; or
 - (ii) correctly perform a specific task associated with a confined space; and
- (b) meets any specific requirements imposed by a State or Territory law in relation to making the assessment or performing the specific task.

confined space means an enclosed space or partially enclosed space:

- (a) that is, or is intended to be, at normal atmospheric pressure while a person is in the space; and
- (b) that is not intended or designed primarily for human occupancy; and

Regulation 4.01

- (c) within which there is a risk of 1 or more of the following:
- (i) an oxygen concentration outside the safe oxygen range;
 - (ii) an airborne contaminant that could cause impairment, loss of consciousness or asphyxiation;
 - (iii) a flammable airborne contaminant that could cause injury from fire or explosion;
 - (iv) engulfment in a stored free flowing solid or a rising level of liquid that could cause suffocation or drowning;

whether or not the space has a restricted means of entry or exit.

contaminant means a dust, fume, mist, vapour, biological matter, gas or other substance in liquid or solid form, which could be harmful to persons.

flammable airborne contaminant means a dust, fume, mist, vapour or gas present in the air at concentrations that can propagate a flame on contact with an ignition source.

hazard means a source of potential harm.

HSIS means the Hazardous Substances Information System that is published on Safe Work Australia's website.

LEL has the meaning given by regulation 4.02.

permit to work has the meaning given by regulation 4.23.

personal protective equipment means equipment used by a person for their protection, including protective clothing, safety helmets, eye and face protection, hearing protection, gloves, safety footwear, lifelines, safety harnesses, breathing apparatus and respirators.

risk assessment means the process of evaluating the possibility and consequences of injury or illness arising from exposure to an identified hazard or identified hazards.

risk control means the process of managing the elimination or minimisation of the likelihood that a substance will cause harm to health in the circumstances of its use.

safe oxygen range means, under normal atmospheric pressure, a minimum oxygen content in the atmosphere of 19.5% by volume and a maximum oxygen content in the atmosphere of 23.5% by volume.

Regulation 4.02

stand-by person means a person who performs the role mentioned in regulation 4.19.

- (2) A person is taken to have *entered* a confined space if the person's head or upper body is within the boundary of the confined space.

Note Inserting an arm into a confined space for the purpose of atmospheric testing or monitoring is not considered an entry into the confined space.

4.02 Explosive limit

The *LEL* of a flammable contaminant is the concentration of the contaminant in air below which the propagation of a flame does not occur on contact with an ignition source.

Note A flammable contaminant has a lower explosive limit (*LEL*) and an upper explosive limit (*UEL*). This Part refers only to lower explosive limits.

4.03 Exposure standard

- (1) The *exposure standard* for a substance means the airborne concentration of the substance in a person's breathing zone, as described in the HSIS.
- (2) The exposure standard may be expressed as:
- (a) time-weighted average (*TWA*), which is the average airborne concentration of a particular substance calculated over a period of time; or
 - (b) peak exposure limit, which is the maximum or peak airborne concentration of a particular substance that is determined over the shortest analytically practicable period of time that does not exceed 15 minutes; or
 - (c) short-term exposure limit, which is a 15 minute *TWA* exposure that should not be exceeded at any time during a work day even if the 8-hour *TWA* for that work day is within the *TWA* exposure standard.
- (3) Exposure at the short-term exposure limit must not be repeated more than 4 times in a day.
- (4) There must be at least 60 minutes between successive exposures at the short-term exposure limit.

(5) In this regulation:

8-hour TWA means a TWA calculated over an 8-hour work day for a 5-day working week.

Division 2 Duties of operators

Subdivision 1 Securing confined spaces

4.04 Entry and exit points

- (1) The operator of a prescribed ship or prescribed unit must ensure that:
- (a) the entry points to a confined space are secured against unauthorised entry; and
 - (b) if practicable — the entry points to the confined space are permanently sign posted.

Penalty: 10 penalty units.

- (2) The operator of a prescribed ship or prescribed unit must ensure that entry and exit points from confined spaces are not obstructed by fittings or equipment that would impede rescue.

Penalty: 10 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

4.05 Work practices and confined spaces

- (1) The operator of a prescribed ship or prescribed unit must design work practices to minimise the need to enter confined spaces.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Regulation 4.06

4.06 Modifications to confined space

- (1) If a confined space on a prescribed ship or prescribed unit is to be modified, the operator of the prescribed ship or prescribed unit must modify the space in a way that does not detrimentally affect the safe means of entry to, exit from or work in the confined space.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Subdivision 2 Hazard identification and risk assessment

4.07 Hazard identification

Before any work is undertaken in a confined space the operator of a prescribed ship or prescribed unit must ensure that a competent person identifies hazards associated with entry to, exit from or work in the confined space.

Penalty: 10 penalty units.

4.08 Risk assessment

- (1) The operator of a prescribed ship or prescribed unit must not issue a permit to work for work in a confined space until a competent person has:
- (a) undertaken a risk assessment for the work in the confined space; and
 - (b) prepared a written report of the risk assessment including the matters mentioned in subregulation (3).

Penalty: 10 penalty units.

- (2) A risk assessment may be used as the risk assessment for more than 1 confined space only if:
- (a) all confined spaces covered by the risk assessment are similar; and

Regulation 4.09

- (b) the risk factors for all confined spaces covered by the risk assessment are identical.
- (3) A risk assessment must include the following matters:
 - (a) the nature of the confined space;
 - (b) the inherent hazards of the confined space;
 - (c) work that is to be carried out in the confined space, including whether it is necessary to enter the confined space to carry out the work;
 - (d) the methods by which the work can be carried out;
 - (e) the estimated duration of the work;
 - (f) hazards and associated risks of:
 - (i) the method of work selected; and
 - (ii) the equipment proposed to be used;
 - (g) any potential hazard inside the confined space;
 - (h) emergency response procedures;
 - (i) the competency of persons needed to undertake the work.
- (4) An offence against subregulation (1) is an offence of strict liability.

Note Regulation 4.29 sets out the period for which a risk assessment must be kept.

4.09 When risk assessment ceases to be valid

- (1) If evidence is available to the operator of a prescribed ship or prescribed unit that a risk assessment does not address, or no longer addresses, the risks posed by a confined space that is covered by the risk assessment, the risk assessment ceases to be valid.

Examples of evidence

- 1 The installation or modification of plant.
- 2 A change in equipment operating conditions.
- 3 A change in the atmosphere or occupational environment.
- 4 A change in working arrangements or procedures.
- 5 An incident that affects, or could affect, the safety of persons.

Regulation 4.10

- (2) If the risk assessment ceases to be valid, the operator of a prescribed ship or prescribed unit must arrange for a competent person to review the risk assessment.

Penalty: 10 penalty units.

- (3) After the risk assessment has been reviewed under subregulation (2), the operator of a prescribed ship or prescribed unit must make any necessary changes, in writing, to the risk assessment and the permit to work.

Penalty: 10 penalty units.

- (4) An offence against subregulation (2) or (3) is an offence of strict liability.

Note Regulation 4.29 sets out the period for which a risk assessment must be kept.

4.10 Atmospheric testing

- (1) Before a person enters or works in a confined space, the operator of a prescribed ship or prescribed unit must ensure that the atmosphere in and near the confined space is tested by a competent person.

Penalty: 10 penalty units.

- (2) The operator of a prescribed ship or prescribed unit must keep a record of atmospheric testing that is carried out in relation to a confined space.

Note Regulation 4.29 sets out the period for which a record of atmospheric testing must be kept.

4.11 Atmospheric monitoring

- (1) This regulation applies if a risk assessment for a confined space identifies risks requiring atmospheric monitoring in and near the confined space.
- (2) During work in the confined space the operator of a prescribed ship or prescribed unit must ensure that atmospheric monitoring in and near the confined space is conducted by a competent person in a manner consistent with the risk assessment.

Penalty: 10 penalty units.

4.12 Safe atmosphere

- (1) Subregulation (2) does not apply to an entry into a confined space for the purpose of responding to an emergency.
- (2) Before a person enters a confined space, the operator of a prescribed ship or prescribed unit must ensure that:
 - (a) the space is at normal atmospheric pressure; and
 - (b) the level of oxygen in the confined space is within the safe oxygen range; and
 - (c) airborne contaminants in the confined space are at a level below the relevant exposure standards; and
 - (d) the confined space is free from extremes of temperature; and
 - (e) the concentration of any flammable airborne contaminant is below 5% of its LEL.

Penalty: 10 penalty units.

Subdivision 3 Risk control measures

4.13 Elimination or control of risk

- (1) If a risk assessment identifies a risk to health or safety arising from entry to or work in a confined space, the operator of a prescribed ship or prescribed unit must:
 - (a) eliminate the risk; or
 - (b) if it is not reasonably practicable to eliminate the risk — take measures, in accordance with this regulation, to control the risk.

Penalty: 10 penalty units.

- (2) Risk control measures should be undertaken in the following order of priority:
 - (a) elimination;
 - (b) substitution;
 - (c) isolation;

Regulation 4.14

- (d) engineering controls;
- (e) administrative controls;
- (f) use of personal protective equipment.

- (3) The operator of a prescribed ship or prescribed unit must document the measures in subregulation (2) that are taken to address a risk identified in a risk assessment.

Penalty: 10 penalty units.

- (4) Personal protective equipment should be used:

- (a) when all of the other risk control measures (individually or in combination) have failed to adequately control the risk;
or
- (b) in an emergency response.

- (5) If personal protective equipment is needed for an individual, the operator of a prescribed ship or prescribed unit must ensure that it is fitted to suit the individual.

Penalty: 10 penalty units.

4.14 Using purging agent

If a confined space must be cleared of an airborne contaminant, the operator of a prescribed ship or prescribed unit must ensure that:

- (a) the contaminant is removed by using a suitable purging agent; and
- (b) the purging agent is not pure oxygen or a gas mixture with an oxygen content greater than 21% by volume.

Penalty: 10 penalty units.

4.15 Gas used for ventilation purposes

The operator of a prescribed ship or prescribed unit must ensure that gas used for ventilation purposes is not pure oxygen or a gas mixture with an oxygen content greater than 21% by volume.

Penalty: 10 penalty units.

4.16 Isolating hazardous services

- (1) An operator of a prescribed ship or prescribed unit must ensure that, before a person enters or works in a confined space, all potentially hazardous services including all process services normally connected to that space are positively isolated in order to prevent:
 - (a) the introduction of materials, contaminants, agents or conditions harmful to persons in the confined space; and
 - (b) the activation or energising of equipment or services which could pose a risk to the health or safety of persons within the confined space.

Penalty: 10 penalty units.

- (2) In this regulation:

process services includes hot water pipes, sewer pipes and gas pipes.

4.17 Flammable airborne contaminants

- (1) Subregulation (2) does not apply to entry into a confined space for the purpose of responding to an emergency.
- (2) Before a person enters a confined space where a flammable contaminant is present in the atmosphere the operator of a prescribed ship or prescribed unit must ensure that:
 - (a) the concentration of any flammable airborne contaminant is less than 5% of its LEL; and
 - (b) the oxygen content of the atmosphere is no more than 23.5%.

Penalty: 10 penalty units.

- (3) If, after 1 or more persons have entered and are working in a confined space, the concentration of a flammable contaminant in the atmosphere of the confined space is found to be 5%, or greater than 5% and less than 10%, of its LEL, the operator of a prescribed ship or prescribed unit must ensure that:
 - (a) the person or persons are removed from the confined space; or

Regulation 4.18

- (b) there is continuous monitoring with a suitably calibrated detector for the flammable contaminant in the confined space at all times when the person or persons are present in the confined space.

Penalty: 10 penalty units.

- (4) If the concentration of a flammable contaminant in the atmosphere in a confined space is found to be 10% or greater of its LEL, the operator of a prescribed ship or prescribed unit must ensure that all persons are removed from the confined space.

Penalty: 10 penalty units.

4.18 Supplied-air respiratory equipment

- (1) Subregulation (2) applies if, after all risk control measures have been undertaken for a confined space:
 - (a) the oxygen content in the atmosphere in the confined space is 19.5% or less; or
 - (b) the airborne contaminants in the confined space cannot be reduced to a level below the relevant exposure standards.
- (2) The operator of a prescribed ship or prescribed unit must ensure that a person does not enter or work in the confined space unless they are equipped with supplied-air respiratory equipment that is:
 - (a) maintained in a proper working condition; and
 - (b) fitted to suit the person who is to use it.

Penalty: 10 penalty units.

4.19 Stand-by person

If a risk assessment identifies a risk to health or safety arising from entry to or work in a confined space, the operator of a prescribed ship or prescribed unit must ensure that at least 1 competent person:

- (a) acts as a stand-by person; and
- (b) is near the confined space when it is occupied for work, and

Regulation 4.21

- (c) can:
- (i) if practicable, see each person in the confined space; and
 - (ii) be in continuous communication with each person in the confined space; and
 - (iii) communicate with the officer of the watch; and
 - (iv) operate and monitor equipment used to ensure safety during work in the confined space; and
 - (v) initiate emergency response arrangements.

Penalty: 10 penalty units.

4.20 Equipment to be provided

- (1) The operator of a prescribed ship or prescribed unit must provide the equipment identified in the permit to work as necessary for work in the confined space.

Penalty: 10 penalty units.

- (2) The operator of a prescribed ship or prescribed unit must ensure that equipment provided for entry to or work in the confined space is:
- (a) accessible; and
 - (b) suitable for the work to be carried out.

Penalty: 10 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

4.21 Equipment — maintenance

- (1) The operator of a prescribed ship or prescribed unit must ensure that equipment provided for use in, or in connection with, entry to or work in a confined space or during an emergency response is maintained as fit for the purpose for which it was provided.

Penalty: 10 penalty units.

Regulation 4.22

- (2) The operator of a prescribed ship or prescribed unit must make a record of the maintenance of the equipment.

Note Regulation 4.29 sets out the period for which the record must be kept.

4.22 Emergency and first aid procedures

- (1) The operator of a prescribed ship or prescribed unit must ensure that emergency and first aid procedures appropriate to a confined space are in a written document available to all persons who may enter or work in the confined space.

Penalty: 10 penalty units.

Note Regulation 4.29 sets out the period for which the document must be kept.

- (2) The operator of a prescribed ship or prescribed unit must ensure that a person who may enter or work in a confined space has practised the emergency procedures before the person enters or works in the confined space.

Penalty: 10 penalty units.

- (3) The operator of a prescribed ship or prescribed unit must ensure that before a person, who will be involved in an emergency response in a confined space, enters the confined space, the person is informed about:

- (a) the nature of the emergency; and
- (b) the content of the permit to work in the confined space; and
- (c) the hazards and the risks identified in the risk assessment for the confined space.

Penalty: 10 penalty units.

Division 3 Permit to work

4.23 Permit to work

- (1) A *permit to work*, for a confined space, is a document, issued by the operator of a prescribed ship or prescribed unit, that identifies the following:

Regulation 4.23

- (a) the location of the confined space;
 - (b) the person who has direct control of entry to or work in the confined space;
 - (c) the work to be conducted in the confined space;
 - (d) the hazards in the confined space;
 - (e) the risk control measures necessary for safe entry and work in the confined space;
 - (f) the persons required to enter or work in the confined space;
 - (g) the period of validity of the permit;
 - (h) if 1 or more stand-by persons is required — the number of stand-by persons required;
 - (i) equipment required for work in the confined space, including equipment for the following purposes:
 - (i) personal protection;
 - (ii) emergencies;
 - (iii) rescue;
 - (iv) first aid;
 - (v) communication;
 - (vi) fire suppression;
 - (vii) ventilation;
 - (viii) lifting;
 - (ix) lighting.
- (2) The operator of a prescribed ship or prescribed unit must keep a record of all persons:
- (a) permitted to enter or work in a confined space under a permit to work; and
 - (b) who enter into and exit from a confined space.
- Note* Regulation 4.29 sets out the period for which:
- (a) a permit to work must be kept; and
 - (b) the record must be kept.

Regulation 4.24

4.24 Operator's duty — permit to work required for entry to or work in confined space

(1) Subregulations (2) to (4) do not apply to an entry to or work in a confined space for the purpose of responding to an emergency.

(2) The operator of a prescribed ship or prescribed unit must ensure that no person enters or works in a confined space unless there is a valid permit to work for the confined space.

Penalty: 10 penalty units.

(3) The operator of a prescribed ship or prescribed unit must ensure that no person enters or works in a confined space unless the person is identified on a valid permit to work as a person who may work in the confined space.

Penalty: 10 penalty units.

(4) The operator of a prescribed ship or prescribed unit must ensure that before a person enters the confined space the person is informed about the content of the permit to work for the confined space.

Penalty: 10 penalty units.

(5) A permit to work is valid:

(a) if the permit to work has not expired; and

(b) if a risk assessment under regulation 4.08 has been completed; and

(c) if regulation 4.09 applies, the risk assessment for the work in the confined space has been reviewed and noted in the report of the risk assessment.

4.25 Employee's duty — entry to or work in confined space

(1) Subregulations (2), (3) and (5) do not apply to an entry to or work in a confined space for the purpose of responding to an emergency.

Regulation 4.26

- (2) An employee must not enter a confined space unless the employee is identified on a valid permit to work for the confined space as a person who may enter the confined space.

Penalty: 10 penalty units.

- (3) An employee must not work in a confined space unless the employee is identified on a valid permit to work for the confined space as a person who may work in the confined space.

Penalty: 10 penalty units.

- (4) An employee must carry out work in a confined space in accordance with his or her training.

Penalty: 10 penalty units.

- (5) An employee must carry out work in a confined space in accordance with the requirements of the permit to work for the confined space.

Penalty: 10 penalty units.

- (6) An employee must report to the operator of a prescribed ship or prescribed unit any matter, including defects in equipment, that may affect the operator's compliance with the provisions of this Part as soon as practicable after becoming aware of the matter.

Penalty: 10 penalty units.

- (7) An offence against subregulation (2), (3), (4), (5) or (6) is an offence of strict liability.

4.26 When permit to work ceases to be valid

- (1) A permit to work ceases to be valid if, at any time during the work permitted by the permit to work:
- (a) there is a change:
 - (i) of person who has direct control of entry to or work in the confined space; or
 - (ii) in the work permitted under the permit to work; or
 - (b) the risk assessment ceases to be valid; or

Regulation 4.27

- (c) there is a break in work continuity.
- (2) If a permit to work ceases to be valid, the operator of a prescribed ship or prescribed unit must ensure that:
 - (a) the confined space is evacuated; and
 - (b) the entrance to the confined space is closed or secured to prevent re-entry until there is another or revalidated permit to work for work in the confined space.

Penalty: 10 penalty units.

4.27 Withdrawal of permit to work

- (1) The operator of a prescribed ship or prescribed unit may withdraw a permit to work after ensuring that:
 - (a) work in the confined space has ceased; and
 - (b) all persons have left the confined space.
- (2) Before withdrawing the permit to work, the operator of a prescribed ship or prescribed unit must acknowledge in writing that:
 - (a) work in the confined space has ceased; and
 - (b) all persons have left the confined space.

Penalty: 10 penalty units.

Division 4 Training

4.28 Requirement for training

- (1) The operator of a prescribed ship or prescribed unit must provide the following general training for all persons who are required to work in or on a prescribed ship or prescribed unit:
 - (a) the nature of confined spaces;
 - (b) hazard identification and risk assessment procedures for confined spaces;
 - (c) the requirements of a permit to work;
 - (d) the stand-by role.

Penalty: 10 penalty units.

Regulation 4.28

(2) The operator of a prescribed ship or prescribed unit must provide the following specific training to persons who might enter or work in a confined space or are responsible for direct control of work in the confined space:

- (a) safety equipment;
- (b) risk control measures;
- (c) emergency response procedures.

Penalty: 10 penalty units.

(3) The operator of a prescribed ship or prescribed unit must ensure that each person who performs any of the following roles in relation to a confined space, receives specific training in the performance of that role:

- (a) hazard identification;
- (b) risk assessment;
- (c) atmospheric testing and monitoring;
- (d) the stand-by role.

Penalty: 10 penalty units.

(4) For all training provided the operator of a prescribed ship or prescribed unit must make a written record of the following matters:

- (a) the name of the training course;
- (b) if the course is registered or accredited by a statutory body, government department, educational institution or other organisation — the name of the statutory body, government department, educational institution or organisation;
- (c) if the course is not registered or accredited by a statutory body, government department, educational institution or other organisation:
 - (i) an outline of its contents; and
 - (ii) its duration; and
 - (iii) the names, qualifications and experience of persons providing the training;
- (d) names of persons who received training and the dates of attendance;

Regulation 4.29

- (e) competencies attained by the trained persons.

Note Regulation 4.29 sets out the period for which records must be kept.

Division 5 Records

4.29 Period for which records must be kept

- (1) The operator of a prescribed ship or prescribed unit must keep the records mentioned in column 2 of an item in the table for the period mentioned in column 3 of the item.

Penalty: 10 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Item	This record ...	must be kept for ...
1	risk assessment (see regulation 4.08)	5 years after the time when it ceased to be valid
2	changes to a risk assessment (see regulation 4.09)	5 years after the time when it ceased to be valid
3	a record of atmospheric testing (see regulation 4.10)	5 years
4	a record of maintenance of equipment (see regulation 4.21)	5 years
5	emergency and first aid procedures (see regulation 4.22)	5 years
6	permit to work (see regulation 4.23)	30 days after the time when it ceased to be valid or was withdrawn
7	a record of all persons: (a) permitted to enter or work in a confined space under a permit to work; and (b) who enter into and exit from a confined space (see regulation 4.23)	5 years after the time when the permit ceased to be valid or was withdrawn

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Item	This record ...	must be kept for ...
8	a record of training (see regulation 4.28)	5 years after the end of the period of employment of the person who received the training

4.30 Records must be available for inspection

- (1) The operator of a prescribed ship or prescribed unit must ensure that the records mentioned in regulation 4.29 are made available to an inspector on request by the inspector.

Penalty: 10 penalty units.

- (2) The operator of a prescribed ship or prescribed unit must ensure that a record mentioned in the table in regulation 4.29 is made available on request by an employee to whom the record relates.

Schedule 1 **Scheduled carcinogenic substances**

(regulations 2.03, 2.20 and 2.21)

Item	Substance (identified by substance name)	Circumstance
1	Actinolite asbestos	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of actinolite in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]; (b) disturbance of naturally occurring actinolite that is incidental to operations not related to the extraction or processing of actinolite, for example, roadworks; (c) use (without disturbance) of actinolite in products that are in situ
2	Amosite (brown asbestos)	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of amosite in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]; (b) disturbance of naturally occurring amosite that is incidental to operations not related to the extraction or processing of amosite, for example, roadworks; (c) use (without disturbance) of amosite in products that are in situ

Item	Substance (identified by substance name)	Circumstance
3	Anthophyllite asbestos	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of anthophyllite in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]; (b) disturbance of naturally occurring anthophyllite that is incidental to operations not related to the extraction or processing of anthophyllite, for example, roadworks; (c) use (without disturbance) of anthophyllite in products that are in situ
4	Chrysotile (white asbestos)	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of chrysotile in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]; (b) disturbance of naturally occurring chrysotile that is incidental to operations not related to the extraction or processing of chrysotile, for example, roadworks; (c) use (without disturbance) of chrysotile in products that are in situ
5	Crocidolite (blue asbestos)	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of crocidolite in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)];

Item	Substance (identified by substance name)	Circumstance
		<ul style="list-style-type: none"> (b) disturbance of naturally occurring crocidolite that is incidental to operations not related to the extraction or processing of crocidolite, for example, roadworks; (c) use (without disturbance) of crocidolite in products that are in situ
6	Tremolite asbestos	<p>All circumstances other than the following:</p> <ul style="list-style-type: none"> (a) removal or disposal of tremolite in accordance with: <ul style="list-style-type: none"> (i) a law of a State or Territory relating to the removal of asbestos; or (ii) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]; (b) disturbance of naturally occurring tremolite that is incidental to operations not related to the extraction or processing of tremolite, for example, roadworks; (c) use (without disturbance) of tremolite in products that are in situ

Note Schedule 1 is not an exhaustive list of carcinogens used in workplaces. The absence of a substance from the Schedule should not be presumed to be indicative of the absence of a carcinogenic hazard.

Schedule 2 Permitted circumstances for using hazardous substances

(regulation 2.08)

Item	Substance (identified by substance name)	Permitted circumstance
1	Actinolite asbestos	<ol style="list-style-type: none"> 1. Bona fide research. 2. Handling for storage prior to removal or disposal of actinolite. 3. Storage prior to removal or disposal of actinolite. 4. Removal or disposal of actinolite in accordance with: <ol style="list-style-type: none"> (a) a law of a State or Territory relating to the removal of asbestos; or (b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]. 5. Disturbance of naturally occurring actinolite that is incidental to operations not related to the extraction or processing of actinolite, for example, roadworks. 6. Use (without disturbance) of actinolite in products that are in situ.
2	Amosite (brown asbestos)	<ol style="list-style-type: none"> 1. Bona fide research. 2. Handling for storage prior to removal or disposal of amosite. 3. Storage prior to removal or disposal of amosite. 4. Removal or disposal of amosite in accordance with: <ol style="list-style-type: none"> (a) a law of a State or Territory relating to the removal of asbestos; or

Item	Substance (identified by substance name)	Permitted circumstance
3	Anthophyllite asbestos	<p>(b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)].</p> <p>5. Disturbance of naturally occurring amosite that is incidental to operations not related to the extraction or processing of amosite, for example, roadworks.</p> <p>6. Use (without disturbance) of amosite in products that are in situ</p> <p>1. Bona fide research.</p> <p>2. Handling for storage prior to removal or disposal of anthophyllite.</p> <p>3. Storage prior to removal or disposal of anthophyllite.</p> <p>4. Removal or disposal of anthophyllite in accordance with:</p> <p>(a) a law of a State or Territory relating to the removal of asbestos; or</p> <p>(b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)].</p> <p>5. Disturbance of naturally occurring anthophyllite that is incidental to operations not related to the extraction or processing of anthophyllite, for example, roadworks.</p> <p>6. Use (without disturbance) of anthophyllite in products that are in situ.</p>
4	Chrysotile (white asbestos)	<p>1. Bona fide research.</p> <p>2. Handling for storage prior to removal or disposal of chrysotile.</p> <p>3. Storage prior to removal or disposal of chrysotile.</p>

Item	Substance (identified by substance name)	Permitted circumstance
5	Crocidolite (blue asbestos)	<ol style="list-style-type: none"> 4. Removal or disposal of chrysotile in accordance with: <ol style="list-style-type: none"> (a) a law of a State or Territory relating to the removal of asbestos; or (b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]. 5. Disturbance of naturally occurring chrysotile that is incidental to operations not related to the extraction or processing of chrysotile, for example, roadworks. 6. Use (without disturbance) of chrysotile in products that are in situ. 1. Bona fide research. 2. Handling for storage prior to removal or disposal of crocidolite. 3. Storage prior to removal or disposal of crocidolite. 4. Removal or disposal of crocidolite in accordance with: <ol style="list-style-type: none"> (a) a law of a State or Territory relating to the removal of asbestos; or (b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)]. 5. Disturbance of naturally occurring crocidolite that is incidental to operations not related to the extraction or processing of crocidolite, for example, roadworks. 6. Use (without disturbance) of crocidolite in products that are in situ

Item	Substance (identified by substance name)	Permitted circumstance
6	Tremolite asbestos	<ol style="list-style-type: none">1. Bona fide research.2. Handling for storage prior to removal or disposal of tremolite.3. Storage prior to removal or disposal of tremolite.4. Removal or disposal of tremolite in accordance with:<ol style="list-style-type: none">(a) a law of a State or Territory relating to the removal of asbestos; or(b) if no such law applies — the Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1988)].5. Disturbance of naturally occurring tremolite that is incidental to operations not related to the extraction or processing of tremolite, for example, roadworks.6. Use (without disturbance) of tremolite in products that are in situ.

Schedule 3 Exemption from regulation 2.08

(regulation 2.09)

Part 1 Hazardous substances other than chrysotile

1.01 Applications for exemption

- (1) If an operator wishes to seek an exemption under regulation 2.09 in relation to a hazardous substance other than chrysotile, the operator must:
 - (a) apply to the Authority in writing, using the application form (if any) approved by the Authority; and
 - (b) include in the application evidence that:
 - (i) the use of the hazardous substance is essential to the operation of the operator's business; and
 - (ii) there is no reasonable alternative substance for the hazardous substance.
- (2) Subclause (3) applies in relation to an application made in accordance with subclause (1) if:
 - (a) the application is to seek an exemption that is to commence on 31 December 2003; and
 - (b) the application is made before that day; and
 - (c) the Authority has not, before that day, decided whether to grant or to refuse to grant the exemption.
- (3) The exemption sought in the application is taken to be granted to the operator on 31 December 2003 and to continue in force until:
 - (a) if the Authority grants the exemption — the exemption commences; or
 - (b) if the Authority refuses to grant the exemption — written notice of the Authority's decision is given to the operator; or

- (c) the application is taken to have been withdrawn under subclause 1.02 (2).

1.02 Grant or refusal of exemption

- (1) On receipt of an application by an operator under subclause 1.01 (1), the Authority may, in writing:
 - (a) grant the exemption to the operator; or
 - (b) refuse to grant the exemption; or
 - (c) ask the operator to give it further information about the application within a reasonable period specified by it.
- (2) If the Authority has asked for information under paragraph (1) (c), and no information has been given to the Authority within the specified period, or a longer period agreed to by the Authority before the end of the specified period, the application is taken to have been withdrawn.
- (3) Before granting an exemption to the operator, the Authority must be satisfied that:
 - (a) the use of the hazardous substance is essential to the operation of the operator's business; and
 - (b) there is no reasonable alternative substance for the hazardous substance; and
 - (c) there are no circumstances suggesting that granting the exemption would be inconsistent with the objects of Part 2 of these Regulations.
- (4) If the Authority refuses to grant an exemption, it must give the operator a written notice setting out its decision and the reasons for its decision.

1.03 Conditions of an exemption

- (1) An exemption granted under clause 1.02 may be subject to conditions that promote the objects of Part 2 of these Regulations.

- (2) The Authority may, by notice in writing to the operator that holds an exemption:
 - (a) add a condition to the exemption, or vary a condition; or
 - (b) revoke a condition.
- (3) The notice must include:
 - (a) the reasons for the addition, variation or revocation; and
 - (b) the time when the addition, variation or revocation takes effect.

1.04 Operation of an exemption

- (1) An exemption granted under clause 1.02 commences on:
 - (a) the day on which it is granted; or
 - (b) a later date stated in the exemption.
- (2) The Authority must cancel an exemption if:
 - (a) it is satisfied that continuing the exemption would be inconsistent with the objects of Part 2 of these Regulations; or
 - (b) the operator that holds the exemption asks the Authority to cancel it.
- (3) The Authority is not required to consult the operator that holds the exemption before cancelling it.
- (4) If the Authority cancels an exemption under paragraph (2) (a), it must give the operator a written notice setting out:
 - (a) its decision to cancel the exemption; and
 - (b) the reasons for cancelling it; and
 - (c) the time from which it is cancelled.
- (5) An exemption ceases:
 - (a) at the end of the day (if any) stated in the exemption as the day when it ceases; or
 - (b) when it is cancelled.

Part 2 Chrysotile

2.01 Definition

In this Part:

list of exemptions means the table set out in clause 2.02.

2.02 List of exemptions

- (1) The Authority may exempt an operator in relation to a use of chrysotile only if the use is a use mentioned in column 2 of the list of exemptions.
- (2) The Authority must not grant an exemption, in relation to a use mentioned in column 2 in the list of exemptions, that purports to have effect after the date mentioned in column 3 in relation to that use.

Note An exemption is not effective after the relevant date mentioned in column 3 in the list of exemptions. See subclause 2.06 (5).

Item	Uses for which exemption may be granted	Date exemption ceases
1	Use of chrysotile in a compressed asbestos fibre gasket that is: <ol style="list-style-type: none">(a) for use with:<ol style="list-style-type: none">(i) saturated steam; or(ii) superheated steam; or(iii) substances that are classified as dangerous goods (as defined in the ADG Code); or(b) for use with chlorine in a plant used in liquid chlorine service with design process conditions of -45°C and 1 500 kPa	31 December 2004 31 December 2006
2	Use of chrysotile in a product that consists of a mixture of asbestos with a phenol formaldehyde resin or with a cresylic formaldehyde resin used in: <ol style="list-style-type: none">(a) a vane for rotary vacuum pumps; or(b) a vane for rotary compressors; or	31 December 2007

Item	Uses for which exemption may be granted	Date exemption ceases
3	(c) a split face seal of at least 150mm in diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations Use of chrysotile in a diaphragm for use in an electrolytic cell in an existing electrolysis plant for chlor-alkali manufacture	31 December 2006

Note The list of exemptions reflects the exemptions listed in the *National List of Exemptions to the Prohibition of the Workplace Use of Chrysotile Asbestos* set out in Schedule 2 to the *National Model Regulations for the Control of Hazardous Substances* [NOHSC:1005 (1994)] which includes notes about the exemptions.

2.03 Applications for exemption

- (1) If an operator wishes to seek an exemption for a use mentioned in column 2 of the list of exemptions, the operator must:
 - (a) apply to the Authority in writing, using the application form (if any) approved by the Authority; and
 - (b) state in the application the use for which the exemption is sought; and
 - (c) include in the application:
 - (i) evidence that the use is essential to the operation of the operator's business; and
 - (ii) evidence that there is no reasonable alternative to the use of chrysotile; and
 - (iii) a statement of the measures that the operator will take, if the exemption is granted, to deal with any risk that might arise from the use of chrysotile; and
 - (iv) a statement of the actions that the operator will take, if the exemption is granted, to comply with the condition mentioned in paragraph 2.05 (1) (a).
- (2) Subclause (3) applies in relation to an application made in accordance with subclause (1) if:
 - (a) the application is to seek an exemption that is to commence on 31 December 2003; and
 - (b) the application is made before that day; and

- (c) the Authority has not, before that day, decided whether to grant or to refuse to grant the exemption.
- (3) The exemption sought in the application is taken to be granted to the operator on 31 December 2003 and to continue in force until:
 - (a) if the Authority grants the exemption — the exemption commences; or
 - (b) if the Authority refuses to grant the exemption — written notice of the Authority's decision is given to the operator; or
 - (c) the application is taken to have been withdrawn under subclause 2.04 (2).

2.04 Grant or refusal of exemption

- (1) On receipt of an application made by an operator under subclause 2.03 (1), the Authority may, in writing:
 - (a) grant the exemption to the operator; or
 - (b) refuse to grant the exemption; or
 - (c) ask the operator to give it further information about the application within a reasonable period specified by it.
- (2) If the Authority has asked for information under paragraph (1) (c), and no information has been given to the Authority within the specified period, or a longer period agreed to by the Authority before the end of the specified period, the application is taken to have been withdrawn.
- (3) Before granting an exemption to an operator, the Authority must be satisfied that:
 - (a) the use is a use mentioned in column 2 of the list of exemptions; and
 - (b) the use is essential to the operation of the operator's business; and
 - (c) there is no reasonable alternative to the use of chrysotile; and
 - (d) the operator has in place appropriate measures to deal with any risk that might arise from the use of chrysotile; and

- (e) the operator will be able to comply with the condition mentioned in paragraph 2.05 (1) (a); and
 - (f) there are no circumstances suggesting that granting the exemption would be inconsistent with the objects of Part 2 of these Regulations.
- (4) If the Authority refuses to grant an exemption, it must give the operator a written notice setting out its decision and the reasons for its decision.

2.05 Conditions of an exemption

- (1) An exemption granted under clause 2.04 is subject to the condition that the operator:
- (a) takes reasonable steps to find alternatives to the use of chrysotile covered by the exemption, including, if necessary, undertaking, or contributing to the undertaking of, research and development of alternatives to the use of chrysotile covered by the exemption; and
 - (b) informs the Authority, in writing, as soon as the operator becomes aware of either of the following:
 - (i) that the use covered by the exemption is no longer essential to the operation of the operator's business;
 - (ii) that there is a reasonable alternative to the use of chrysotile covered by the exemption.
- (2) An exemption granted under clause 2.04 may be subject to other conditions that promote the objects of Part 2 of these Regulations.
- (3) The Authority may, by notice in writing to the operator that holds an exemption:
- (a) add a condition to the exemption, or vary a condition; or
 - (b) revoke a condition.
- (4) The notice must include:
- (a) the reasons for the addition, variation or revocation; and
 - (b) the time when the addition, variation or revocation takes effect.

2.06 Operation of an exemption

- (1) An exemption granted under clause 2.04 commences on:
 - (a) the day on which it is granted; or
 - (b) a later date stated in the exemption.
- (2) The Authority must cancel an exemption if:
 - (a) it is satisfied that continuing the exemption would be inconsistent with the objects of Part 2 of these Regulations; or
 - (b) the operator that holds the exemption asks the Authority to cancel it.
- (3) The Authority is not required to consult the operator that holds the exemption before cancelling it.
- (4) If the Authority cancels an exemption under paragraph (2) (a), it must give the operator a written notice setting out:
 - (a) its decision to cancel the exemption; and
 - (b) the reasons for cancelling it; and
 - (c) the time from which it is cancelled.
- (5) Unless sooner cancelled, an exemption is effective until:
 - (a) the end of the day stated in column 3 of the item in the list of exemptions that relates to the exemption; or
 - (b) if an earlier day is stated in the exemption as the day when it ceases — the end of the earlier day.

Schedule 4 Hazardous substances for which health surveillance is required

(regulation 2.18)

Item	Substance	Procedures to be included in health surveillance
1	Asbestos	Occupational and demographic data Medical interview Records of personal exposure

Table of Instruments

Notes to the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003*

Note 1

The *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (in force under the *Occupational Health and Safety (Maritime Industry) Act 1993*) as shown in this compilation comprise Statutory Rules 2003 No. 324 amended as indicated in the Tables below.

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> and FRLI registration	Date of commencement	Application, saving or transitional provisions
2003 No. 324	19 Dec 2003	31 Dec 2003	
2004 No. 228	28 July 2004	28 July 2004	—
2006 No. 338	19 Dec 2006 (see F2006L04003)	20 Dec 2006	—
2010 No. 62	19 Apr 2010 (see F2010L00846)	20 Apr 2010	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
R. 2.03	am. 2004 No. 228
Part 3	
Division 1	
R. 3.01	ad. 2006 No. 338
R. 3.02	ad. 2006 No. 338
Division 2	
R. 3.03	ad. 2006 No. 338
R. 3.04	ad. 2006 No. 338
R. 3.05	ad. 2006 No. 338
Division 3	
R. 3.06	ad. 2006 No. 338
Part 4	
Part 4	ad. 2010 No. 62
Division 1	
R. 4.01	ad. 2010 No. 62
R. 4.02	ad. 2010 No. 62
R. 4.03	ad. 2010 No. 62
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Subdivision 1	
R. 4.04	ad. 2010 No. 62
R. 4.05	ad. 2010 No. 62
R. 4.06	ad. 2010 No. 62
Subdivision 2	
R. 4.07	ad. 2010 No. 62
R. 4.08	ad. 2010 No. 62
R. 4.09	ad. 2010 No. 62
R. 4.10	ad. 2010 No. 62
R. 4.11	ad. 2010 No. 62
R. 4.12	ad. 2010 No. 62
Subdivision 3	
R. 4.13	ad. 2010 No. 62
R. 4.14	ad. 2010 No. 62
R. 4.15	ad. 2010 No. 62
R. 4.16	ad. 2010 No. 62
R. 4.17	ad. 2010 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 4.18	ad. 2010 No. 62
R. 4.19	ad. 2010 No. 62
R. 4.20	ad. 2010 No. 62
R. 4.21	ad. 2010 No. 62
R. 4.22	ad. 2010 No. 62
Division 3	
R. 4.23	ad. 2010 No. 62
R. 4.24	ad. 2010 No. 62
R. 4.25	ad. 2010 No. 62
R. 4.26	ad. 2010 No. 62
R. 4.27	ad. 2010 No. 62
Division 4	
R. 4.28	ad. 2010 No. 62
Division 5	
R. 4.29	ad. 2010 No. 62
R. 4.30	ad. 2010 No. 62
Schedule 1	
Schedule 1	am. 2004 No. 228
Schedule 2	
Schedule 2	am. 2004 No. 228
