

20 February 2003

Dear Consultee

Proposal for the Carriage of Dangerous Goods (Amendment) Regulations 2003.

1. This letter sets out the Health and Safety Commission's (HSC) proposals for a short and straightforward set of amending regulations and seeks your views on them.
2. The main purpose of the amending regulations is to extend certain provisions in existing carriage of dangerous goods regulations relating to the construction, inspection, testing and use of tanks and pressure receptacles (e.g. gas cylinders). They are intended solely as an interim measure needed to ensure no gap occurs between the expiry of existing requirements and the implementation of new provisions.
3. The existing requirements currently expire on 1 July 2003, at which point requirements fully implementing equivalent provisions in RID¹, ADR² and the Transportable Pressure Equipment Directive (TPED) are due to be put into place. Implementation of these new provisions is part of a larger package of proposals which seeks to replace the current suite of regulations and approved documents with a single set of consolidated regulations (currently known as the draft Carriage Regulations).
4. While we always understood that working up these proposals was a major task, there have been unforeseen difficulties in developing the draft Carriage Regulations which will not now be in place by 1 July 2003. As a result, we need to ensure the existing requirements continue to apply until these draft Regulations come into force. The amending regulations therefore defer the date when the existing requirements expire to the end of 2004. The date chosen is not an indication of when we expect the consolidated Regulations to come into force. We expect to issue a consultative document setting out our proposals in the summer and remain committed to bringing these regulations into force as soon as possible thereafter. Once in force, the intention is that the draft Carriage Regulations would revoke the amending regulations with immediate effect. Appendix 2 gives further information.
6. We should be grateful for any comments you may have on the draft regulations at Appendix 1. Please send any comments you may have to:

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to arrive no later than 2 April 2003, please

¹ Regulations concerning the International Carriage of Dangerous Goods by Rail

² European Agreement concerning the International Carriage of Dangerous Goods by Road

 STATUTORY INSTRUMENTS

2003 No. []

HEALTH AND SAFETY

 The Carriage of Dangerous Goods (Amendment) Regulations
 2003

<i>Made</i> - - - -	2003
<i>Laid before Parliament</i>	2003
<i>Coming into force</i> - -	2003

The Secretary of State, in exercise of the powers conferred upon him by section 15(1), (2), (3)(a), of, and paragraphs 1(1)(a), 1(2), 1(3), 1(4), 2(1), 3, 4(1) and 16 of Schedule 3 to, the Health and Safety at Work Act 1974 ⁽³⁾ (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation and commencement

These Regulations may be cited as the Carriage of Dangerous Goods (Amendment) Regulations 2003 and shall come into force on 1st July 2003.

[Amendment to the Dangerous Substances in Harbour Areas Regulations 1987

- In regulation 24(a)(i) of the Dangerous Substances in Harbour Areas Regulations 1987⁽⁴⁾—
- (a) in sub-paragraph (aa), for the words “1st July 2001” there are substituted the words “1st January 2005”; and
 - (b) in sub-paragraph (bb), for the words “30th June 2001” there are substituted the words “31st December 2004”.]

⁽³⁾ 1974 c.37: [section 1(1)(c) was modified by the Health and Safety at Work etc. Act (Application to Environmentally Hazardous Substances) Regulations 2001 S.I. []; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (C.71), Schedule 15, paragraphs 6 and 16(3) respectively.]

⁽⁴⁾ S.I. 1987/37 as amended by [S.I. 1988/712, S.I. 1990/2487],[S.I. 1993/1746, S.I. 1994/669, S.I. 1996/2092, S.I. 1996/2095, S.I. 1997/2367 S.I. 1998/2885, [S.I. 1999/2029] and S.I. 2002/2776.

Amendment to the Carriage of Dangerous Goods by Rail Regulations 1996

—(c) The Carriage of Dangerous Goods by Rail Regulations 1996⁽⁵⁾ shall be amended as follows.

(2) In regulation 2 (application)–

(a) in paragraph (5), for the words “1st July 2003” substitute “1st January 2005”; and

(b) in paragraph (7), for the words “1st July 2003” substitute “1st January 2005”.

(3) In regulation 9(1) (examination, testing and certification of tanks), for the words “30th June 2003” substitute “31st December 2004”.

(4) In the title to Schedule 1, for the words “1st July 2003” substitute “1st January 2005”.

Amendment to the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996

—(5) The Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996⁽⁶⁾ shall be amended as follows.

(6) In regulation 3(4) (application of these regulations), for the words “1st July 2003” substitute “1st January 2005”.

(7) In the title to Schedule 8, for the words “1st July 2003” substitute “1st January 2005”.

(8) In paragraph 2(5) to Schedule 8, for the words “30th June 2003” substitute “31st December 2004”.

Amendment to the Carriage of Dangerous Goods by Road Regulations 1996

—(9) The Carriage of Dangerous Goods by Road Regulations 1996⁽⁷⁾ shall be amended as follows.

(10) In regulation 11(examination, testing and certification of tanks)–

(a) in paragraph (1)(a), for the words “1st July 2003” substitute “1st January 2005”; and

(b) in paragraph (1)(b), for the words “30th June 2003” substitute “31st December 2004”.

(11) In the title to Schedule 3, for the words “1st July 2003” substitute “1st January 2005”.

(12) In paragraph 11 of Schedule 10, for the words “1st July 2003” substitute “1st January 2005”.

Signed by authority of the Secretary of State

Date

Name
Parliamentary Under Secretary of State
[Department for Transport]

⁽⁵⁾ S.I. 1996/2089 as amended by S.I. 1999/303, S.I. 1999/2024, S.I. 2000/2688 and S.I. 2001/1426.

⁽⁶⁾ S.I. 1996/2092, as amended by S.I. 1999/257, S.I. 1999/303, S.I. 1999/2024, 2001/1426,

⁽⁷⁾ S.I. 1996/2095, as amended by S.I. 1999/257, S.I. 1999/303, S.I. 2001/1426 and S.I. 2002/2776.

EXPLANATORY NOTE

(This note is not part of the Regulations)

[These Regulations amend the Dangerous Substances in Harbour Areas Regulations 1987 so that certain obligations apply in relation to tanks constructed before 1st January 2005 instead of 1st July 2001 or to those constructed after 31st December 2004 instead of 30th June 2001.]

They amend the Carriage of Dangerous Goods by Rail Regulations 1996, the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 and the Carriage of Dangerous Goods by Road Regulations 1996 so that certain provisions relating to tanks or transportable pressure receptacles apply or do not apply to tanks or receptacles constructed-

before 1st January 2005 instead of before 1st July 2003;

after 31st December 2004 instead of after 30th June 2003,

and make other consequential amendments.

Appendix 2:

Further information on the need for amending regulations

1. In 1996 when the current suite of regulations and approved documents came into force, we took advantage of a derogation in Article 6(4) of the RID and ADR Framework Directives⁸. This allowed us to postpone our implementation of the requirements of RID and ADR as they relate to the construction, use and conditions of carriage of tanks and pressure receptacles used for the carriage of dangerous goods until references to standards are added to RID/ADR. The 1996 regulations therefore continued to require that dutyholders comply with equivalent national provisions in force before 1996. Continuing delays in agreeing standards has meant that the date by which the requirements in RID and ADR need to be implemented has been successively put back – most recently to 1 July 2003 (see regulation 14 of the Transportable Pressure Vessels Regulations 2001 - TPVR).

2. For the reasons set out in the covering letter, we need to issue the amending regulations at Appendix 1. These defer the date to (as appropriate) 31 December 2004 or 1 January 2005 in respect of:

- a) Regulation 24(a)(1) of the Dangerous Substances in Harbour Areas Regulations 1987. Regulation 2 of the Amending Regulations is in square brackets because there is a possibility that it might not be needed. It is expected that new regulations on Dangerous Goods in Harbours will be in force before 1 July 2003. If they are not, then regulation 2 will be needed. In this case, the date of 1 July 2001 was not deferred to 1 July 2003 by TPVR so this omission needs to be rectified in addition;
- b) Regulations 2 and 9(1) and Schedule 1 of the Carriage of Dangerous Goods by Rail Regulations 1996;
- c) Regulation 3(4) and Schedule 8 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996; and
- d) Regulations 11 and Schedules 3 and 10 of the Carriage of Dangerous Goods by Road Regulations.

⁸ Council Directives 96/49/EC and 94/55/EC