



SUBMISSION

Prepared by the
New Zealand Retailers Association

For the
NZ Transport Agency

In respect of
**The Draft Land Transport Rule: Dangerous
Goods Amendment [2009] Rule 45001/2**

April 2009

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Introduction

This submission is presented by the New Zealand Retailers Association, the largest trade association involved in the retail industry in New Zealand.

The Association represents an industry with annual sales of \$66billion, which employs 325,000 people (approx 20% of the New Zealand workforce) in more than 49,000 outlets throughout New Zealand.

Our national membership includes the major supermarket and general merchandise chains, specialised chains, traditional department stores and thousands of owner operators spread throughout the country.

The membership also includes a number of specialised trade groups representing manufacturers, distributors and retailers in the plumbing materials, metal fastener, pet, equestrian, jewellery, bicycle and sporting goods sectors.

General Submission

The Association is in favour of all changes designed to clarify and simplify the rules and process when it comes to transporting Dangerous Goods. Any change which will make it easier for retailers to better understand and therefore comply with requirements are good for business and for a safer New Zealand.

The Association's specific interest is in the proposed changes related to transport dispensations for dangerous goods in excepted quantities.

Specific Submission

Overview Document: Issues under consideration

Dangerous Goods in Limited Quantities
Christmas crackers

Our interest is in the Small Packages of explosives provisions, specifically the transport of Christmas Crackers and the change proposed in the Overview to the Rule amendment.

There is at present a conflict between the risk element associated with Christmas crackers (or bon bons) and the transport requirements.

While neither Environmental Risk Management Authority (ERMA) nor NZTA see any risk in transportation of Christmas crackers, under current legislation, the Land Transport Rule for Dangerous Goods will trigger for loads exceeding 50kgs.

This matter came to our attention in October 2008 following a reminder from ERMA to Customs that Christmas crackers are covered by the definition and controls on the importation of fireworks. While this was not a change it certainly raised awareness of the classification of Christmas crackers as fireworks and led to retailers questioning controls on handling, transport and storage.

In response to concerns raised, ERMA confirmed that Christmas crackers fall under the general approval for retail fireworks with the classification UN0337, class 1.4S. ERMA provided trigger weights for HSNO requirements, including the statement that in their view, for the purposes of transportation, no HSNO rules apply to Christmas crackers when in quantities of less than 10,000kgs.

But apparently even the experts are confused. The NZTA originally concurred with this 10,000kg HSNO trigger and, in an earlier draft of 'Issues under Consideration –Christmas crackers' – proposed that the quantity limit for Christmas crackers transported under the Small Packages be increased to 10,000kg, in line with HSNO.

Subsequently it was pointed out that the Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations 2003 removed the earlier (2001) HSNO transport controls. So, as we understand it now, HSNO has no transport controls on *any* quantity of Christmas crackers, whereas the Dangerous Goods Rule will trigger at loads over 50kgs.

This is clearly an inconsistency and if the experts are confused, spare a thought for retailers concerned with compliance.

The current proposal to remove the quantity limit for Christmas crackers transported under the Small Packages of explosives provisions will bring it into line with HSNO. It will also restore the situation which existed prior to the introduction of HSNO. Under previous legislation the Chief Inspector for Explosives had declared that Christmas crackers packaged for retail sale were not explosive articles for the purpose of transport. Unfortunately this transport dispensation was not continued under HSNO and, while ERMA does not consider Christmas crackers as dangerous for transport purpose, it also does not consider that HSNO empowers ERMA to provide a statement to that effect.

In the meantime, retailers are left with a trigger weight of anything over 50kgs requiring DG documents, placards and 'D' endorsement. - Regulatory requirements which are considered onerous relative to the risk of carrying Christmas crackers, given their miniscule explosive content and method of activation.

Some major retailers have told us (variously) that:

- transport of Christmas crackers from the wharf to a distribution centre might be about 7 tonnes gross weight, spread over 6 loads;

- initial store deliveries can be as much as a pallet load, or ranging from 200 - 500kgs for each store;
- several store-loads will be loaded onto the same truck;
- other products –poppers, caps etc are usually sent in smaller loads, perhaps 15 to 95kgs.

Our view is that no-one sees Christmas crackers as a risk for transport purposes and the proposal to remove the quantity limit for Christmas crackers transported under the Small Packages of explosives provision of the Rule will greatly simplify the supply of this Christmas novelty.

It is accepted that the experts consider other Christmas novelties have a higher risk value and will likely retain the 50kg dispensation.

Recommendation

The Association recommends that the final amendment of the Rule include the proposal to remove the quantity limit for Christmas crackers transported under the Small Packages of explosives provision.

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