



China's Legal System and Standards of Dangerous Cargos Road Transportation

By Zhang Zhuting

Institute of Transport Management,
Ministry of Transport of the People's Republic of China

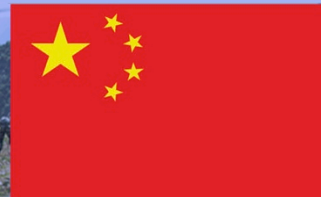




Contents

1. China's Legal System and Standard Classification
2. China's Legal Institutions of Road Transport of Dangerous Cargos
3. China's Standards of Road Transport of Dangerous Cargos





1. China's legal System and Standard Classification

1.1 China's Legal System

1.1-1 Seven laws classified by legal authorities:

- ◆ Constitutional Law
- ◆ Civil and Commercial Law
- ◆ Administrative Law
- ◆ Economic Law
- ◆ Social Law
- ◆ Criminal Law
- ◆ Lawsuit and Non-litigation Procedural Law

1.1-2 Classified by hierarchy:

- ◆ Law (passed by National People's Congress (NPC) and Standing Committee, decreed by President)
- ◆ Administrative Laws and Regulations (passed by the State Council, Prime Minister's decrees)
- ◆ Local Statutes (passed by local NPC and Standing Committee)
- ◆ Regulations (passes by Ministries, Ministers' decrees)

中国特色社会主义 法律体系

(2011年10月)

中华人民共和国
国务院新闻办公室

人民出版社



Lawsuit and Non-litigation Procedural Law

1.1.2 Classified by hierarchy:

- ◆ Law (passed by National People's Congress (NPC) and Standing Committee, decreed by President)
- ◆ Administrative Laws and Regulations (passed by the State Council, Prime Minister's decrees)
- ◆ Local Statutes (passed by local NPC and Standing Committee)
- ◆ Regulations (passes by Ministries, Ministers' decrees)





1.2 Affiliate Legal Branches and Grades of Dangerous Cargo Road Transport

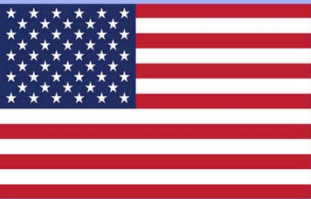
1.2.1 Branches

- ◆ Criminal Law
- ◆ Civil and Commercial Law
- ◆ Administrative Law
- ◆ Economic Law
- ◆ Social Law

1.2.2 Grades

- ◆ Law
- ◆ Administrative laws and regulations
- ◆ Local statutes
- ◆ Regulations





1.3 Standard Classification

1.3.1 Classified on the basis of enactment subjects

- National standards
- Occupation standards
- Local standards
- Enterprise standards

1.3.2 Classified on the basis of efficacy

Compulsory and recommended standards





2. China's Legal Institutions of Road Transport of Dangerous Cargos

2.1 Criminal law

2.1.1 Crime of dangerous driving

Article 133 In the case of any of the following circumstances when driving a motor vehicle on the road, the driver is subject to detention and a fine :

IV. Violation of regulations for hazardous chemicals transport, therefore endangering public safety, the owner of the vehicle and its supervisors , directly liable for Provisions(3),(4) of the preceding paragraph, shall be subject to the punishment according to the provisions of the preceding paragraph. Acts falling in the preceding two paragraphs which constitute other crimes shall be convicted and penalized as severer crime.







2.1.2 Crimes of causing an accident with dangerous substances

Article 136 【Crimes of causing an accident with dangerous substances】

Breach of regulations for explosive , flammable , radioactive , toxic and corrosive materials, causing severe accidents and consequences in production, storage, transportation and use, the offender shall be sentenced to imprisonment of not more than three years or criminal detention. If especially serious consequences are caused, the offender shall be sentenced to imprisonment of not less than three years and not more than seven years.





2·2 Civil and Commercial Law

2.2.1 Contract Law of PRC

Article 307 Consignors' Consignment

Flammable, explosive, toxic, corrosive and radioactive materials must be well packed in strict accordance with the relevant provisions of the state, marked and labeled dangerous warning, written documents included with the name, property and precautions of the dangerous cargos referred to cargo carriers.

Where the consignor violates the previous paragraph, the carrier may refuse to carry or alternatively, may take the appropriate measures to prevent loss at the consignor's expense.



中华人民共和国合同法

Contract Law of the People's
Republic of China

中国方正出版社
China Fangzheng Press

配MP3光盘

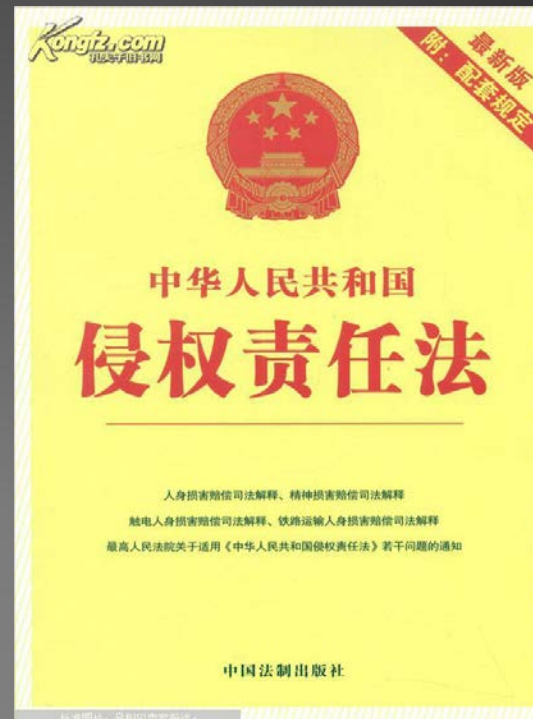






2.2.2 Tort Liability Act of PRC

Article 48 Where motor vehicles cause traffic accidents and damages in conveying dangerous goods, the party responsible shall bear the liability for compensation in accordance with the relevant provisions of road traffic safety.





2.3 Administrative Law

2.3.1 Road Traffic Safety Law of PRC

Article 48 Motor vehicles hauling explosives, inflammable and explosion-prone objects, highly toxic and radioactive chemicals, and the like shall get approved by the public security organs and run at the time, route and speed stipulated with warning signs and precautions on vehicles.

2.3.2 others



中华人民共和国道路交通安全法
Law of the People's Republic of China on Road Traffic Safety
中华人民共和国道路交通安全法实施条例
Regulations for the Implementation of the Law of the People's
Republic of China on Road Traffic Safety

中国法制出版社
China Legal Publishing House







2.4 Economic Law

The transport authority administrates economy of dangerous cargo carriages; local departments in charge of local one.





2.4.1 Road Transportation Regulations of PRC

This law mainly stipulates qualifications, licensing procedures and business operating norms for operators dealing in road transport of dangerous cargos.



中华人民共和国 道路运输条例

人民交通出版社







Article 23 Those applying for a permit to engage in road transport of dangerous cargos shall meet the following requirements:

- I. Owning more than five qualified special vehicles and equipment for dangerous cargos transport;
- II. Having drivers, Loading and unloading managing personnel and escorts who have passed examinations held by the district transport authorities of the municipal government and obtained qualification certificates;





III. Having special vehicles for dangerous cargos transport equipped with necessary means of communication;

IV. having a sound management system of work safety;

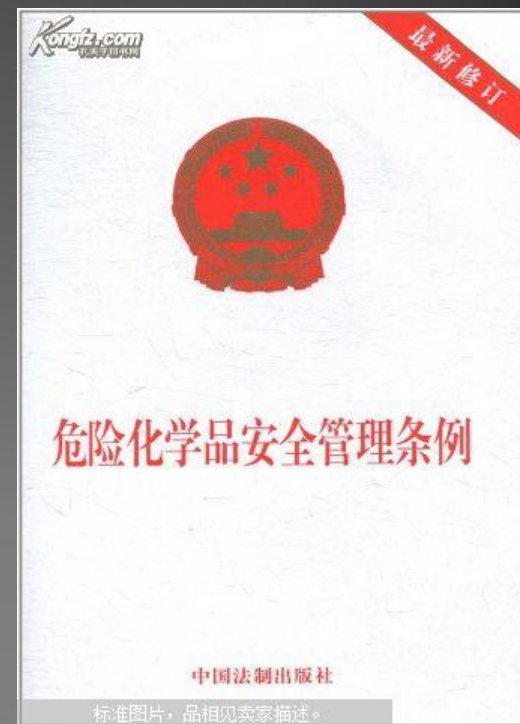
Article 79 Operators engaging in non-operational transport of dangerous cargos shall abide by the relevant provisions of these Regulations.





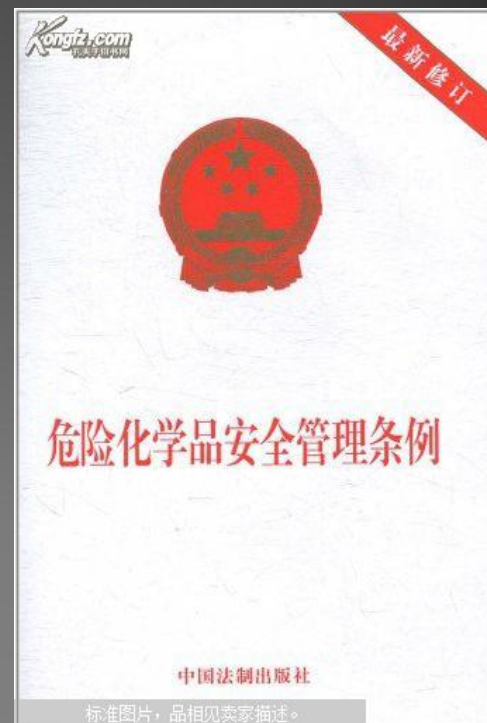
2.4.2. Hazardous Chemicals Control Ordinance

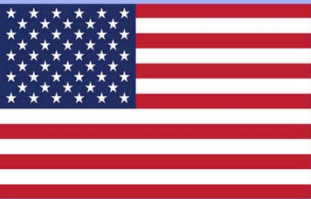
Article 6 Departments concerned in charge of supervision and control over safety of production, storage, use, dealing and transportation of hazardous chemicals (hereinafter referred to as departments responsible for supervision and control over safety of hazardous chemicals) shall fulfill their responsibilities in accordance with the following provisions:





V. Transport administrative authorities shall be in charge of road transport of hazardous chemicals, the permission of waterway transport and safety management of means of transportation. And, it shall supervise the safety of waterway transport of hazardous chemicals, responsible for qualification verifications of enterprises dealing in road transport of hazardous chemicals, ship officers of water transport enterprises, crew, loading and unloading managers, cargo attendants, declarers and qualification verifications of container packing inspectors in the field. The railway administrative departments shall be responsible for supervising and administrating the railway transport safety of hazardous chemicals, examination and approval of qualifications of railway transport carriers of hazardous chemicals and consignors and safety management of means of conveyance. Civil aviation authority shall be in charge of air transport of hazardous chemicals and its enterprises and safety management of means of conveyance.





Article 43 Those dealing in road and water transport of hazardous chemicals, in accordance with relevant laws and administrative regulations, shall obtain a permit respectively for cargo transport of the type in question and register in the Administration of Industry and Commerce.

Enterprises in question shall have full-time security personnel.





2.4.3 Safety Regulations for Explosive Materials for Civilian Use

Article 2 These Regulations apply to explosives for civilian use in production, sale, purchase, import & export, transport, blasting operation and storage and to sale and purchase of ammonium nitrate.

“Explosives for civilian use” as mentioned in this Regulation refers to all kinds, for non-military purposes, of gunpowder, dynamite & Powders and products from them listed in Name List of Explosives for Civilian Use and ignition-detonation equipment like detonators and blasting fuse. Name List of Explosives for Civilian Use shall be formulated and publicized by the authority of science and technology industry for national defense and the public security Institution, both under the State Council.





Article 4 The authority of science and technology industry for national defense shall be responsible for security supervision and administration of the production and sale of explosives for civilian use.

The public security organ shall be in charge of public safety of explosives for civilian use and their security supervision and administration of purchase, transport and blasting operation, monitoring their flowing.

Administrations of work safety, along with authorities of railway, transport and civil aviation shall take charge of security and administration of explosives for civilian use according to the provisions of relevant laws and administrative regulations.

The authority of science and technology industry for national defense, the public security organ and the administrative department for industry and commerce shall , according to their respective responsibilities by law, investigate and penalize illegal production, sale, purchase, storage, transport, mail, and use of explosive materials for civilian use.





2.4.4 Fireworks Safety Management Provisions

Article 2 These Regulations apply to production, dealing, transport and setting off of fireworks and crackers. The "fireworks and firecrackers" as mentioned in this Regulation refers to the Products of fireworks and firecrackers as well as the black powder, gunpowder and firing lines, etc. for civilian use.

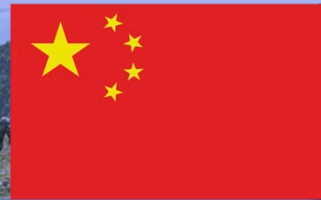




Article 4 Administrations of work safety shall be in charge of supervision and control over production of fireworks and crackers, the public security departments responsible for public safety, and authorities of products quality supervision & inspection for quality supervision of fireworks and crackers and inspection of their import & export.

Article 5 The public security departments, the work safety administration, authorities of products quality supervision & inspection and the administrative authority for industry and commerce shall , according to their respective responsibilities by law, investigate and penalize illegal production, dealing, storage, transportation, mailing of fireworks and crackers and illegal setting off them.





2.4.5 Radioactive Articles Safety Transportation Ordinance

Article 2 The "radioactive articles" as mentioned in this Ordinance refers to the materials containing radioactive nuclides, and their radioactivity and specific activity are above the limit of exemption fixed by the state.



放射性物品运输 安全管理条例

中国法制出版社



Article 4 Nuclear power regulatory authority under the State Council shall supervise nuclear and radiation safety of radioactive articles transportation .

Relevant authorities under the State Council of public security, transport, railway, civil aviation shall exercise supervision and administration in the work within the scope of their functions and responsibilities respectively pursuant to the provisions of this Ordinance.

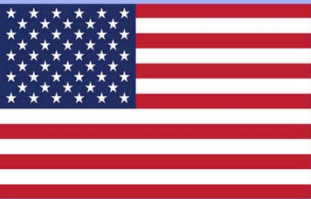
The competent authorities for environmental protection of the local governments at or above the county level, public security organs and transport administration, etc. shall supervise and administrate safe transportation of radioactive articles in their respective administrative area pursuant to the provisions of this Ordinance.





Article 60 Any consignors or carriers who violate laws or administrative regulations connected with the carriage of dangerous cargos in transit of radioactive articles shall be imposed a penalty in accordance with law by responsible regulators of transport, railway and civil aviation concerned.





2.4.6 Urban Gas Management Provisions

Article 2 The fuel gas referred to in these Provisions means the gas fuel which meets certain requirements, such as natural gas (coal-bed methane included), liquefied petroleum gas and artificial coal gas, etc.





Article 24 Activities of gas carriage by road, water and railway must be in compliance with the law and administrative regulations of dangerous cargos transportation and provisions prescribed by the authorities of transport and railway under the State Council. Also, operators of gas carriage by road or water, in accordance with the relevant law and administrative regulations of road and water transportation, shall obtain a permit of road or water transport of dangerous cargos separately.





2.5 Social law

Law of the PRC on Work Safety

Chapter One General Principles

Chapter Two Work Safety Assurance in Production and Business Entities

Chapter Three Workers' Rights and Obligations of Safety in Production

Chapter Four Supervision and Control over Work Safety

Chapter Five Emergency Relief and Investigation of Work Accidents

Chapter Six Legal Liabilities

Chapter Seven Supplemental Provisions



中华人民共和国 安全生产法

Law of the People's Republic of
China on Work Safety

(中英对照)
(Chinese-English)

煤炭工业出版社
Coal Industry Press China





3. China's Standards of Road Transport of Dangerous Cargos

3.1 Standards of dangerous cargos carrying vehicles

3.2 Standards of Tanks

3.3 Signs of Special Vehicles and Operating Standards





In the process of promoting the legal construction in China, “Four Systems” will have been established in time: **complete systems of legal norms, of efficient rule-of-law implementation, of rule-of-law supervision and of rule-of-law protection.**

At present, a comparatively complete system of legal norms has taken shape in the area of road transportation of dangerous cargos, having laid legislative foundation for safety assurance. What is under construction are **systems of implementation, supervision and protection.**





谢谢！
Thank You

