



DRAFT CODE FOR THE LAND TRANSPORT OF DANGEROUS GOODS CONSULTATION REGULATORY IMPACT STATEMENT

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 13 DECEMBER 2024

1. About the Australian Trucking Association

The Australian Trucking Association is a united voice for our members on trucking issues of national importance. Through our eleven member associations, we represent the 60,000 businesses and 200,000 people who make up the Australian trucking industry.

2. Introduction

In November 2020, transport ministers agreed that the NTC should conduct a full review of the Australian Dangerous Goods Code (ADGC). The last full review of the code was in 2007.

The NTC released a consultation regulatory impact statement with the results of the review in September 2024,¹ along with an exposure draft code reflecting option 4 in the RIS.²

The release of the RIS followed the publication of 12 working group discussion papers in 2023 and 2024.

The ATA made a detailed submission on paper 4, which took the preliminary view that wheel chocks should not be required for Australian dangerous goods vehicles.³ The submission provided evidence to support the NTC's view, with the braking design rules safeguarding against unintentional rolling.⁴

Section 3 of this submission sets out the ATA's response to the four main options considered in the RIS. We join the NTC in recommending option 4, subject to the other recommendations in this submission.

Sections 4-9 put forward recommendations on specific issues raised in the RIS or in the exposure draft code. The sections follow the order of the NTC's consultation questions, with other issues placed in the submission in the order they appear in the draft code.

¹ NTC, [Draft code for the land transport of dangerous goods: consultation regulatory impact statement](#). September 2024.

² NTC, [Draft code for the land transport of dangerous goods – attachment D: draft code under option 4](#). September 2024

³ NTC, [Australian dangerous goods code comprehensive review: WP4: safety equipment for dangerous goods transport](#). May 2023, 22.

⁴ ATA, [Australian dangerous goods code comprehensive review: WP4: safety equipment for dangerous goods transport](#). Submission to the NTC, July 2023.

3. Option 4 should be adopted

The RIS considers four options for addressing the problems with the ADGC, including the option 1 base case of retaining the existing code.

Of the remaining options—

- **Option 2** would retain the current process for developing and maintaining the code, with a round of amendments to identify the gaps and errors identified in the review. While the option would fix some of the problems with the code, it would not address the long term need to keep it up to date⁵
- **Option 3** would see Australia adopt the international standards as its own, with derogations for road and rail transport. The derogations would be substantial, because the international standards were developed for road and rail transport in Europe.⁶ From the ATA's perspective, the problem with this option is that trucking businesses would need to work off two documents, one written in the language of UN standards
- **Option 4** would modify the code to provide a single point of reference for transporters combining both Australian and international requirements. There would need to be an ongoing maintenance program.⁷

The ATA shares the NTC's view that option 4 is the best approach, but its potential effects on safety and productivity need to be considered.

Safety impact of the option 4 measures

The RIS estimates that crashes involving the road transport of dangerous goods result in about 10 deaths per year and 39 serious injuries.⁸

The RIS identifies draft changes that are likely to improve safety, such as changes to the segregation of chlorine, provisions for containment systems not recognised by the current code and simpler, clearer rules for firefighting equipment.⁹

The RIS advances one change – an exemption for extremely short journeys – that would unacceptably reduce safety (page 4). This option should not be progressed further.

It also puts forward options for changes where the safety benefits have not been established: mandatory dangerous goods safety advisers (page 5), the extension of ADGC to cover diesel (page 7), and changing vehicle and driver licensing (page 9).

These options would adversely affect the industry's productivity without any clear safety gain.

⁵ Consultation RIS (n 1), 49-50.

⁶ *ibid*, 50-51.

⁷ *ibid*, 51.

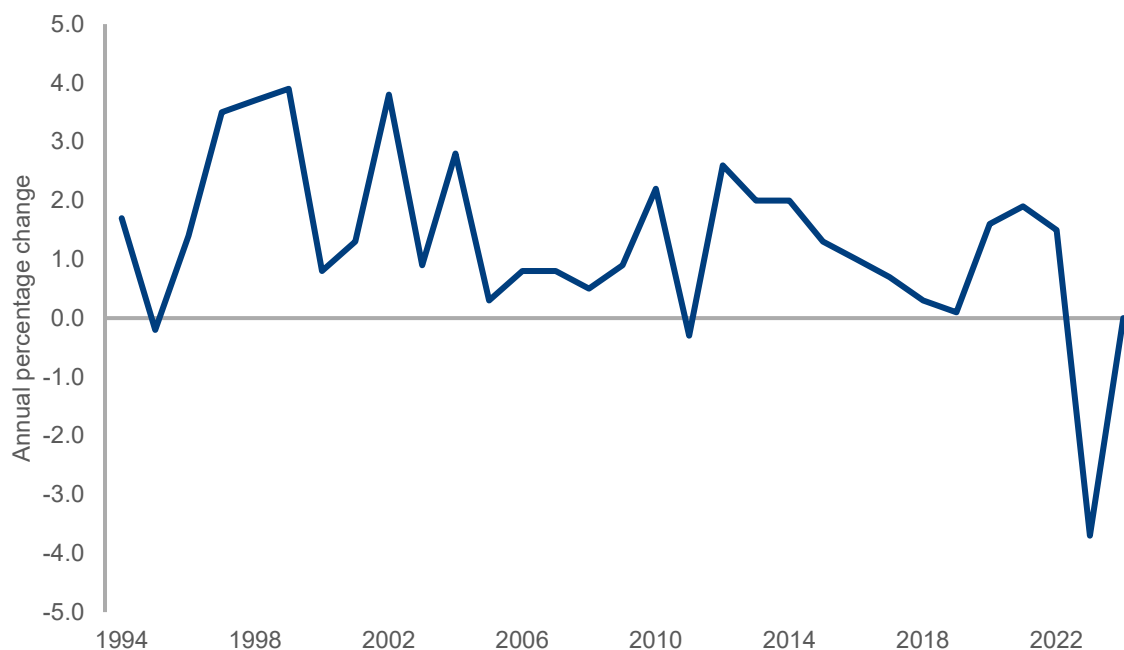
⁸ *ibid*, 126-127.

⁹ *ibid*, 118-122.

Productivity impact of the option 4 measures

Figure 1 uses the broadest measure of labour productivity, GDP per hours worked, to highlight the trend decline in Australia's productivity growth since 1994.

Figure 1: Yearly percentage change in GDP per hours worked, Australia, FY 1994-2024



Source: National accounts.

Governments, regulators and policy advisers like the NTC need to deliver real outcomes on productivity, because productivity growth is the main driver of increasing living standards.

The mandatory appointment of safety advisers, the extension of the ADGC to cover diesel and changing vehicle and driver licensing would all impose additional, unproductive burdens on industry without any gain.

Recommendation 1

Option 4 in the consultation RIS should be adopted, subject to the other recommendations in this submission.

4. Exemptions for extremely short journeys

Section 1.1.3.13 of the draft code would exempt extremely short journeys that cross public roads, provided appropriate measures were taken to mitigate risks. These journeys could be—

- between private premises and a vehicle in the immediate vicinity (for example loading a vehicle just outside the premises)
- between private premises (in the immediate vicinity) occupied by the same person, including where separated by a road.

There would be no limit on the number of road movements per year, day or hour under the exemption.

The RIS argues that the exemption would reduce the regulatory burden on industry,¹⁰ but it would also reduce safety for other road users and members of the public. The risk would scale with the number of road movements involved.

While the ATA considers that any exemption would be unacceptable, we are particularly concerned that 'immediate vicinity' is undefined. We believe the term would turn out to be far more elastic than the drafting of the section might suggest.

The United Kingdom has a similarly worded exemption for dangerous goods movements on public roads, which is implemented as a derogation from its carriage of dangerous goods regulations.¹¹

The UK HSE CDG manual advises that 'immediate vicinity' should be regarded as—

- 100 metres for a vehicle being loaded outside a premises, and
- 400 metres for a vehicle travelling on a road between two private premises.¹²

The Australian public would not accept even one unregulated dangerous goods vehicle travelling this distance down Collins Street in Melbourne, let alone an unlimited number. It should not be allowed anywhere.

Recommendation 2

Section 1.1.3.13 of the draft code should be removed.

¹⁰ Consultation RIS (n 1), 59.

¹¹ Department for Transport, [Carriage of dangerous goods: approved derogations, transitional provisions and exceptions](#). Road derogation 11. Updated 30 June 2023.

¹² Health and Safety Executive, [CDG manual: main exemptions](#). Viewed 4 December 2024. [37].

5. Dangerous goods safety advisers

Section 1.8.3 of the draft code would encourage, but not require, businesses to appoint a dangerous goods safety adviser (DGSA), whose role would include advising the undertaking on transporting dangerous goods, monitoring compliance and training, and reporting.¹³

Making the dangerous goods safety adviser role mandatory (question 2)

The RIS asks if the safety adviser role should be made mandatory.

The answer is no.

We should only add more compliance roles and red tape if there is a compelling safety case.

The RIS does not deliver that compelling safety argument, and many key issues with the proposal remain to be developed, such as—

- the exemptions from the DGSA requirement that might be put in place
- the maximum penalty for failing to appoint a DGSA
- the training that DGSAs would need to have, with the draft code just stating that it should be appropriate¹⁴
- what would happen if a DGSA presented recommendations or advice that a business chose not to implement.

Recommendation 3

Dangerous goods safety advisers should not be mandatory.

Section 1.8.3 should be redrafted

The ATA considers that s 1.8.3 of the draft code should be redrafted, whether DGSAs are recommended or mandatory.

In its current form, s 1.8.3 is indeterminate and is not consistent with the requirement that national standards be in plain language.¹⁵ It should be rewritten to—

- replace 'requirements applicable,' which is insufficiently precise, with 'requirements under the MSI and ADGC'
- remove the words 'safest possible way,' which is again insufficiently precise. Businesses and individuals have specific duties under the dangerous goods legislation. DGSAs should be responsible for advising on and monitoring those duties. If it is decided to retain the 'safest possible way' concept, it should be changed to 'so far as is reasonably practicable' for consistency with the WHS Act

¹³ Draft code (n 2), s 1.8.3.3.

¹⁴ s 1.8.3.9.

¹⁵ Department of the Prime Minister and Cabinet, [Regulatory impact analysis guide for ministers' meetings and national standard setting bodies](#), June 2023. 20.

- remove the statement that annual reports must be ‘made available to national authorities at their request.’ Section 58 of the Model Act already provides authorised officers with the power to issue directions to produce records
- fully list the duties of DGSAs, rather than providing what could be seen as partial list
- use pronouns in line with Australian drafting practice.¹⁶

Recommendation 4

Proposed s 1.8.3 should be rewritten to make it clearer and to bring it into line with Australian drafting practice.

6. Insurance requirements

The MSI currently requires road vehicles used to transport placard loads of dangerous goods to be insured or indemnified for not less than \$5 million.¹⁷ This is an offence provision. The MSI recommends a maximum penalty of \$6,000 for an individual or \$30,000 for a corporation.¹⁸

The RIS proposes to move the insurance requirement from the MSI to s 1.8.5.4 of the draft code, to provide greater transparency for dangerous goods transporters.¹⁹

The \$5 million insurance figure has not been adjusted since the introduction of the current MSI in 2007, when it was increased from \$1 million for packaged and \$2.5 million for bulk dangerous goods.²⁰

\$5 million in 2007 is about \$8 million in 2024 dollar terms. The ATA recognises that there is an argument to increase the mandatory level of insurance, however, our consultations with the insurance industry suggest that \$5 million remains appropriate as a statutory minimum.

Recommendation 5

The minimum insurance requirement in the code should be maintained at \$5 million.

¹⁶ Office of Parliamentary Counsel, [English usage, gender-specific and gender-neutral language, grammar, punctuation and spelling](#). Drafting direction 2.1, release 4.4, reissued 1 March 2016. [15].

¹⁷ MSI, s 20.1.1.

¹⁸ MSI, schedule 1

¹⁹ Consultation RIS (n 1), 61.

²⁰ National Road Transport Commission, *Australian code for the transport of dangerous goods by road and rail*, 6th edition, January 1998. s 8.1.2.

7. Load restraint (question 35)

Part 8 of the current code includes extensive provisions about how dangerous goods must be stowed and restrained. Following discussions between the ATA and the NTC, the load restraint provisions were amended in version 7.8 of the code to allow operators to use certified load restraint curtains (CLRCs) rather than conventional curtains with heavy gates.²¹

Before this version of the code was adopted, only CLRCs with a special competent authority exemption could be used without gates in dangerous goods transport.

The RIS proposes to go further and remove the remaining prescriptive requirements about load restraint from the ADG. Section 7.5.7 of the draft code would replace these with a simple provision that loads must be restrained in compliance with the performance standards in the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*. The NTC load restraint guide provides extensive information about how operators can meet the performance standards.²²

The ATA supports the proposed change.

Recommendation 6

Section 7.5.7 of the draft code should be adopted as drafted.

8. Regulation of diesel as a dangerous good for transport (question 43)

The RIS argues that it is not feasible to continue the existing diesel exemption in its current form.²³

It proposes a low volume (3,000 litre) threshold for regulating diesel transport, and then compliance provisions including placarding and requirements for emergency planning, emergency equipment, PPE and the inspection and maintenance of tank vehicles.²⁴

The ATA does not support extending the code to cover diesel. We have two main concerns.

Impact on rural and remote fuel storage and handling

There are a vast number of diesel storage tanks across rural and remote Australia, ranging from large storage sites at mines, power stations and resorts to small tanks on rural properties.

The RIS argues that including diesel in the ADGC would only affect transport. It says that diesel storage and handling at these sites would be covered by other regulations.²⁵

²¹ *Australian code for the transport of dangerous goods by road and rail*, Edition 7.8, 2022. s 8.1.3.2.

²² NTC, [Load restraint guide](#). 3rd edition, 2018.

²³ Consultation RIS (n 1), 88.

²⁴ *ibid*, 89.

²⁵ *ibid*, 88.

But the draft ADGC would impose duties on consignees, site occupiers and unloaders as well as consignors and transporters.²⁶

The RIS does not consider the cost impact of extending those duties to organisations using diesel or provide a safety case for imposing them.

Breaking down road trains to make local fuel deliveries

In remote areas, the trucking industry commonly uses road trains to transport diesel. The driver uncouples a single trailer for the local delivery leg of the journey, which could be tens or hundreds of kilometres on a dirt road. The other trailers are left beside the road until the driver returns.

As the case study shows, breaking down road trains to make local fuel deliveries reduces the cost of delivering diesel in remote Australia.

Case study: switching from road trains to singles to deliver fuel to Amanbidji, NT

Amanbidji is a remote community south of the Victoria Highway near the Northern Territory border with Western Australia. The community is accessed via by a 62 kilometre unsealed road from the highway. Once on the highway, it is 107 kilometres to Timber Creek.

The trucking business that carts diesel for the community's power station uses triple road trains. The driver drops two trailers at Timber Creek and carries on with a single.

It costs about \$3,000 to deliver 28,000 litres of fuel to Amanbidji. It would cost about \$5,800 to deliver the same amount of fuel from Darwin in a single.

The community needs five deliveries of fuel a year, so the extra transport cost of delivering fuel in singles from Darwin would be about \$14,000 a year.

Classifying diesel as a dangerous good would prevent the industry from breaking down fuel road trains to make deliveries, because of the restrictions in s 8.3.10 of the draft code on detaching trailers and in s 8.4.2 on parking.

The industry would have to rely on jurisdiction specific derogations.²⁷ Requiring industry to rely on derogations would be inconsistent with the overall aim of option 4, which is to make the ADGC usable as a single point of reference for transporters.

²⁶ See, eg, ss 1.4.2.3, 1.4.3.7 and 1.4.4.2.

²⁷ See, eg, *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011* (NT), reg 137(2).

Recommendation 7

The ADGC should not be extended to cover diesel.

9. Driver and vehicle licensing

Changing the requirements for driver and vehicle licensing (question 63)

As part of implementing the draft code, the NTC proposes to review the training and licensing requirements for participants in dangerous goods transport, as well as licensing requirements for vehicles.²⁸

The RIS says that additional options for DG driver licensing could include—

- drivers of vehicles transporting tanks and bulk containers and any packages where transfer occurs while on the vehicle, or
- drivers of all vehicles that are required to display placards.

Similarly, the options for licensing DG vehicles could include—

- any vehicle transporting dangerous goods in tanks or bulk containers, or
- any vehicle where transfer can take place while the containment system (including packages) is mounted on the vehicle.²⁹

The ATA does not support extending DG licensing for either drivers or vehicles. We are not aware of evidence suggesting that the existing DG licensing system is inadequate.

Recommendation 8

The existing rules for licensing DG drivers and vehicles should not be changed.

Formal training for drivers in cases where a driver does not need a DG licence (question 64)

As an alternative to extending DG licensing, the RIS asks if mandatory training should be required for—

- drivers of vehicles transporting tanks and bulk containers and any packages where transfer occurs while on the vehicle, or
- drivers of all vehicles that are required to display placards.³⁰

The ATA does not support extending DG training.

²⁸ Consultation RIS (n 1), 96.

²⁹ *ibid*, 97.

³⁰ *ibid*.

The existing driver licensing system already seeks to provide drivers with a basic knowledge of DG requirements.³¹ The proposed competencies for the Heavy Vehicle Driver Competency Framework include understanding dangerous goods signage and a general knowledge of load restraint.³²

If it is considered that drivers who do not need a DG licence may need a greater understanding of dangerous goods, the training need should be addressed through the competency framework review rather than by adding another, separate training requirement.

Recommendation 9

There should not be a mandatory training requirement for drivers who carry dangerous goods that do not require a DG licence.

Notification scheme for vehicles that do not require a licence (question 65)

The RIS states that one advantage of extending the licensing of dangerous goods vehicles is that it would provide a Competent Authority with contact information for a significant proportion of dangerous goods transporters. It notes that it may be possible to obtain a similar benefit through a notification scheme.³³

The ATA does not support the introduction of a mandatory scheme.

It is not clear how competent authorities would use the contact information that would be collected – or the penalties for operators that did not register.

The decision RIS should instead consider non-regulatory options for communicating with operators, such as collecting contact information through a voluntary email sign up system, or publishing advice through industry associations and commercial publications.

Recommendation 10

There should not be a mandatory notification scheme for vehicles carrying dangerous goods that do not require a DG licence.

³¹ See, eg, TfNSW, [Heavy vehicle driver handbook](#). Viewed 9 December 2024. 102-105.

³² Austroads, [Decision regulatory impact statement – national heavy vehicle driver competency framework](#), March 2023. 103, 111.

³³ Consultation RIS (n 1), 97.