

This form has been provided to assist stakeholder in making a submission on the Draft Code for the land transport of dangerous goods – Consultation Regulatory Impact Statement (C-RIS)

Submissions close on Tuesday 24 December 2024.

Details of person submitting comments

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If you are submitting comments on behalf of an association or organisation, please provide the following details.			
Organisation name:	GAS ENERGY AUSTRALIA		

C-RIS questions. Please enter your comments in the row below each question.

Note: you are not required to answer every question.

5.4.6.1: Administrative controls – key changes	
Q1.	How will including information in the Code, that is currently only found in the regulations, help your organisation?
<p>GEA acknowledges the consolidation of certain information in the Code will be helpful to the organisations and people obliged to use it.</p> <p>However, as the remit of the document becomes broader to include those consolidations, we recognise it also becomes an independently more complex document to navigate. Both international standards harmonisation and local consolidation in a complex regulatory environment (with at times, shared or competing accountabilities across borders, sectors and levels of jurisdiction) – is a significant aspiration.</p> <p>While acknowledging the extensive and collaborative work of the NTC to date, we also urge the NTC and their stakeholders to put foremost not only the core purpose of the Code, but its accessibility and comprehensibility for public users of the Code; so as not to unwittingly develop incongruent understandings and expectations.</p>	
Q2.	Should the dangerous goods safety advisor role be made mandatory?
<p>Gas Energy Australia holds significant reservations as to the inclusion of the ‘dangerous goods safety advisor role’ in the ADG (at all), having formed the impression in reading that this is not a role description, but an extensive collection of responsibilities, duty, obligations, skills and knowledge which would normally be invested across more than one role at more than one level, and potentially across more than one business through contractors (in anything other than a small business.)</p> <p>The ‘role’ description appears intended to consolidate broad obligations, and in doing so there is significant potential for an unfair accumulation of responsibility and relative risk.</p>	

GEA understand the NTC intent of gathering relevant information from regulation to invest in the ADG as a 'single source of truth' regarding dangerous goods – however this section may demonstrate overreach of that ideal in a multi-jurisdictional environment, evident in the clause's broad extent and ill-defined phrasing.

Phrases such as "...to seek by *all appropriate means* and by *all appropriate action*, within the limits of the relevant activities of that undertaking, to facilitate the conduct of those activities in accordance with the requirements applicable and *in the safest possible way*." are of concern in terms of their vagueness, and incompatibility with parts of relevant legislation and regulation.

GEA thoroughly endorses the responsibilities to safety detailed in all relevant regulation and legislation, collectively bundled into this catch-all - but holds deep concerns as to the ramifications of terms such as "*safest possible*" and "*all appropriate*", which could be interpreted as unreasonable, all encompassing, and ill-defined by comparison to corresponding terms such as "*reasonably practicable*", which allow proportionality and for consideration of relevant, real-world factors.

There might also be perceived to be an inferred deferral (intentional or not) of the shifting of some regulatory responsibility from the regulator to the advisor; in terms of the designated DG safety advisor effectively being responsible for knowing all relevant obligations, monitoring all relevant actions, advising on all aspects of organisational responsibility, and thoroughly investigating any incident: "...after collecting all the relevant information, prepare an accident report to the management of the undertaking or to a local public authority, as appropriate."

We acknowledge that there is *also* a responsibility on regulators to maintain public knowledge and awareness of everchanging regulatory details, structures and frameworks - and where necessary, to investigate thoroughly incidents in the interests of public safety – not to simply review the investigations of others. We believe that these obligations are reciprocal to those of workers and organisations bound by the regulation, and that the currently drafted section shifts the balance. In making some aspects easier to regulate, the NTC should ensure that the effect is not to make compliance more onerous.

5.7.1.1: Packing instructions

For all proposed new or amended packing instructions applicable to your organisation (please include the provision number(s) in your response):

Q3.	If your operations are impacted by these changes, what industry does your business operate in?
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LP Gas supply

Q4.	What are the implications on your operations?
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GEA found aspects of P200 (fundamental to LP Gas supply) to hold potential for misunderstanding, leading to compliance concerns.

LPG sector operations are structured to conform to an integral range of Australian Standards, referenced in legislation and regulation. Section 6.2.4 lists relevant and currently applicable Australian Standards and forecasts their applicability “*until further notice*”.

We note Australian Standards are not directly referenced in P200 (and were not previously), although EN and ISO *are* referenced.

Put simply, cross referencing between these Code sections (Part 6, and P200) may indicate there is no change to the status quo – but this is unclear enough in the reading to raise significant concern among expert reviewers.

If only standards explicitly stated within P200 were to be considered applicable (we understand that they are not), then the immediate non-compliance effect for cylinders manufactured, filled and tested in conformity to Australian Standards would be immense. However, *we recognize this is unlikely to be the intention of the draft*, and suggest instead that the misunderstanding highlights a broader issue in clarity.

For example we refer to clauses:

<p><i>Periodic Inspection, condition “v” page 461</i></p>	<p>v: (1) The interval between inspections for steel cylinders, other than refillable welded steel cylinders for UN Nos. 1011, 1075, 1965, 1969 or 1978, may be extended to 15 years:</p> <p>(a) with the agreement of the competent authority (authorities) of the country (countries) where the periodic inspection and the carriage take place; and</p> <p>(b) in accordance with the requirements of a technical code or a standard recognised by the competent authority</p> <p>(2) For refillable welded steel cylinders for UN Nos. 1011, 1075, 1965, 1969 or 1978, the interval may be extended to 15 years, if the provisions of paragraph (12) of this packing instruction are applied.</p>
<p><i>(12) 1.3 page 463,</i></p>	<p>1.3 Cylinders manufactured since 1 January 1999 shall have been manufactured in conformity with the following standards:</p> <ul style="list-style-type: none"> - EN 1442; or - EN 13322-1; or - Annex I, parts 1 to 3 to Council Directive 84/527/EECa <p>as applicable according to the table in 6.2.4.</p>

	Other cylinders manufactured before 1 January 2009 in conformity with this Code in accordance with a technical code accepted by the national competent authority may be accepted for a 15 year interval, if they are of equivalent safety to the provisions of this Code as applicable at the time of application.
(12) 2. Operational provisions, Page 464	2.5 To prevent internal corrosion, only gases of high quality with very low potential contamination shall be filled into the cylinders. This is deemed to be fulfilled, if the gases conform to the limitations on corrosiveness as specified in ISO 9162:1989.

Additionally - in the case of (12) 2, we note that referenced standard ISO 9162:1989 was revised in 2013; *and* that there is a more appropriate, specific and current Australian Standard for LP Gas quality in AS 4670:2018.

Q5.	What is the volume of goods impacted by these changes?
Noting that interpretation is our concern here - if we interpret correctly, none. If we have misinterpreted, literally millions of gas cylinders.	
Q6.	Are there any additional or reduced costs associated with the proposed new or amended provisions?

5.11.1.1: Requirements for vehicle crews, equipment, operation and documentation	
For all changes proposed in Part 8:	
Q7.	Do you have any concerns or comments regarding the proposed changes.
Yes.	
Q8.	If so, please indicate the applicable change and the associated commentary.
<p>GEA notes the integration of Driver Training criteria in the ADG Code draft.</p> <p>GEA strongly supports essential requirements for training and licensing appropriate to crew.</p> <p>However, we note that while the draft Code <i>should</i> require outcomes of particular training and assessment, it also inappropriately stipulates particular details for training courses. The draft Code has potential to add clarity and consistency to the training landscape, but occasionally addresses it at the wrong level.</p> <p>Section 8.2.2.4 reaches beyond the purpose of the Code and into the authority and expertise of agencies charged with workplace training, assessment and qualification development,</p>	

standardization, frameworks and accreditation – it does so by stipulating *training session criteria* including:

- particular training resources (8.2.2.4.4);
- a course duration (8.2.2.4.1);
- Assessor attributes (8.2.2.4.5);
- and the exclusion of any Recognition of Prior Learning (notably Recognition of Current Competency is a related but different assessment-based path to adult qualification, which is unmentioned) (8.2.2.4.7).

These specifics do not belong in a national Code precisely because they are isolated from the remaining training requirements and formal structures.

By contrast then, we note the vagary of 8.2.2.3.2 “*Elements to be covered by the training course shall be as defined in the relevant unit of competency*” and wonder at the hesitancy in linking to relevant competency units, courses or qualifications? It cannot be a matter of currency, because this draft document is laden with national and international standards all being revised and amended *ad nauseum*.

Why are there no direct references to existing standardized, recognized, listed/registered training at any level (unit, course, qualification)? For consistency, and the benefit of the user, the ADG Code should clearly identify and reference relevant standardized training requirements, rather than detailing individual training conditions to provide partial guidance.

Far too much responsibility is also left within this draft document to RTOs to deliver what is already recognizably inconsistent delivery of training services nationally. Describing minor aspects of how to train in the ADG Code does little to resolve this – as those details of how training is delivered and by whom should be stipulated within the (dizzily complex) documents and structures of the industry skills sector.

Here we also note 8.2.2.6.3 “*An RTO shall apply for approval in writing, providing the training and assessment strategy, and learning materials for review and approval by the competent authority*”- and ask whether this is a reference to the ASQA, or to the authority charged with regulatory compliance in transportation, as the sole approver of what is functionally vocational education and training?

We quote from the NTC as to its role, and level of detail appropriate to this draft document:

*The Australian Code for the Transport of Dangerous Goods by Road & Rail (ADG Code) sets out the **requirements** for transporting dangerous goods by road or rail.*

For operational advice, please direct questions to the competent authority in your state or territory. As the regulators, only they can authoritatively advise on operational issues such as labelling, packaging, quantities or placarding.

Our role is limited to maintaining and updating the Code.

GEA suggest that the ADG Code is not the place to include incomplete instructional design elements plucked individually from within training courses – nor to effectively engage in ‘operational advice’ to RTOs - but instead to outline the minimum necessary requirements for particular roles relative to the Code, which should include reference to: licensing, qualifications, training packages, training courses delivered by accredited training providers (e.g. TLILIC0001), competency units and/or frequency and currency of training.

8.2.2.7 Examinations (the Mandatory Assessment Instrument)

GEA suggests greater transparency is required regarding the design, development and management of the Mandatory Test Instrument.

We note that any disparity between the workplace requirement and the assessment, or the training and the assessment - inevitably results in disparity between the training and the actual workplace. Assessment is integral to training design and development, and crucial to its effectiveness.

Other than 8.2.2.3.8, *“training shall include competency assessment using the Mandatory Assessment Instrument approved by the competent authority”*, there are no conditions for the control, qualified design, development or provision of the instrument, and no provision for national consistency explicitly stated within this national Code.

While the section optimistically notes (for the benefit of approved RTO’s who might, if not explicitly told) that *“No model answers are to be provided to the students at any stage”* – it makes no statement as to the development or provision of what are, by inference, a model examination and/or model questions.

As with our comments on 8.2.2.4, the draft Code here isolates itself from the industry skills and educational frameworks intended for this purpose – relying too heavily on the approval of the ‘competent authority’ without further attribution or explanation.

GEA recognize that an assessment itself cannot and should not be included within the Code for obvious reasons – but the accountabilities not only for its approval, but for its design, fair use, revision, or appraisal of its effectiveness, and any variability in those conditions, can be described within the Code.

5.13.6.2: Driver licensing

NOTE: As discussed in the C-RIS, this will be subjected to further investigation. Responses to these questions will be used to determine the appropriate course of action for this work.

Q9. Do you support different requirements for driver and vehicle licensing?

GEA support initiatives which will lead to greater consistency nationally over all licensing conditions, and the quality of formal training prerequisite to licensing.

Q10. Do you consider that formal training for drivers would be useful in cases where a driver does not need a licence?

Yes.

Q11. Do you support the introduction of a notification scheme for vehicles that don’t require a licence?

Other matters- miscellaneous

1.8.5.1 Dangerous situation

GEA note 'dangerous situation' is a newly introduced term, and that there is potential for crossover, duplication or contradiction with existing terms including 'notifiable event' and 'dangerous incident', and the related mandatory obligations in current law.