

12 December 2024

Debra Kirk
National Transport Commission
Email: dkirk@ntc.gov.au

Dear Debra,

Consultation: Comprehensive review of the Australian Dangerous Goods Code

Chemistry Australia is the peak national body representing the chemistry industry in Australia. Chemistry Australia members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, and service providers to the sector and the chemistry and chemical engineering schools of a number of Australian universities.

Australia's entire society – businesses, consumers and governments – along with its natural environment receive enormous benefits associated with the safe, responsible and sustainable use of chemicals. To fulfil the optimal benefits of chemistry, balanced approaches are critical in stewarding effective chemical management, as supply chains are complex and can involve multiple partners through a products lifecycle.

Chemistry Australia welcomes the opportunity to comment on the **Comprehensive review of the Australian Dangerous Goods Code**. Our industry supplies in 108 of 114 Australian industry sectors in supporting our economy. Transport plays a key role in linking the supply chains together, and contemporary balanced regulations are important to support our productivity and competitiveness nationally.

We also would like to take this opportunity to commend the NTC in addressing the labelling issues with IBC's as this element directly interferes on our trade and reduces our competitiveness. Harmonised international labelling is recognised as a fundamental cornerstone to any good regulatory governance and the benefits are reflected throughout our regulatory landscape, such as, the adoption of the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS) in our workplaces to facilitate trade and consistent global risk management.

This submission provides feedback on the various proposed reforms and we have catalogued our feedback to be reflective to the questions posed within the CRIS. Chemistry Australia also considers that this is a comprehensive reform package, and may need make a supplementary submission as more information becomes available within our membership and we would kindly appreciate its consideration within the feedback process after the closure date.

For more information or if we can assist this review any further, please don't hesitate to contact me on +613 9611 5417 or by email at nzovko@chemistryaustralia.org.au

Yours sincerely,



Nick Zovko
Head of Regulatory Affairs, Chemistry Australia

Q1. How will including information in the Code, that is currently only found in the regulations, help your organisation?

This should improve transparency in ensuring key information is within one document. This would reduce the need for stakeholders to keep jumping back and forth between different parts of the law to understand their compliance obligations.

Q2. Should the dangerous goods safety advisor role be made mandatory?

Chemistry Australia does not support the inclusion of a DGSA role, in both, a recommended or mandatory manner within the code. To support transparent obligations, the focus of the review should be at making legislation simple, precise and organised in a way to enhance comprehension. Chemistry Australia anticipates that significant costs and burdens would be applied to businesses with a DGSA inclusion in either a recommendation or mandatory measure. It should be noted, that a recommendation pathway still sets an expectation on businesses, and we consider it creates confusion within the framework as the model laws already set duties and responsibilities on people related to different aspects of transport. We consider that this is creating duplicative requirements and adds another tier of burden to businesses.

Q3. We seek to understand to what extent transport providers already have measures in place to ensure the security of dangerous goods and costs associated with this. In particular:

- Do you have a security plan in place for dangerous goods of security concern? If so, what costs are associated with the development and implementation of this per annum?
- What if any additional costs would be expected from complying with these security provisions?

Refer to Q4 for Chemistry Australia's position on this.

Q4. Do you consider the thresholds for high consequence dangerous goods, which would require the preparation of a security plan, are appropriate?

- If not, please explain why?

We support maintaining one set of rules on High Consequence Dangerous Goods (HCDG). There are already rules on HCDG within jurisdictional frameworks, which involve security planning requirements. If there is a concern with the current framework, then this should be addressed within the appropriate legislative frameworks. Overlapping regulation creates confusion and must be avoided, which could also create contradictory requirements. As noted by the Australian Government Guide to Policy Impact Analysis guide, policy makers must consult with each other to avoid creating cumulative or overlapping regulatory burdens.

Q5. How many consignments of impacted goods do you consign per annum, on average?

Q6. Can you provide an estimate of the annual savings in dangerous goods surcharges these concessions would provide your business?

For all changes proposed for AU special provisions:

Q7. Are there any impacts you believe have not been identified and addressed?

Q8. If so, please indicate the applicable special Provision number(s) and the associated impact(s).

AU07 impacts being assessed and we consider that there may be potential impacts to remote locations, which require diversity of products within loads and may lead to disruption to remote supply chains.



For AU01:**Q9. If your operations are impacted by the changes made to AU01, what industry do you operate in and what articles would be impacted?**

While Chemistry Australia acknowledges the rationale to improve the hazard communication of environmentally hazardous substances for larger packages, we also consider that this should be stewarded in a more minimum effective manner and leverage the current provisions of AU01 to minimise supply chain disruption. We support that packages up to 30kg/l that satisfy the UN3077 and UN 3082 should remain exempt from labelling and any packages above 30kg/l threshold should have the same dispensation, with only UN labelling provisions requirements to support better identification with these large goods in terms of risk management benefit. However, we do not support an increased burden in packaging requirements, as the CRIS has not identified a failure with the current packages, nor the potential cost to industry. We would anticipate impacts to businesses, however, making regulatory decisions without a clear cost benefit analysis and the lack of quantified businesses that may be impacted, we consider that there is a lack of information to support transparent decision-making and this could create unduly costs.

Why do we support keeping Special Provision AU01?

Upholding special provision of AU01 would aid seamless compliance as it is well established within the supply chain in terms of its requirement, it would be less disruptive to compliance education, minimise opportunistic overreach by freight carriers and induce an overall less costly impact. Chemistry Australia considers that all industry that handle UN3077 and UN 3082 will be impacted with costs either through a direct or indirect pathway with the removal of special provision AU01. In terms of good practice regulation, where costs can be reduced with policy decisions, this should always be considered as the primary option. In terms of general costs, special provision AU01 is often referred with the environmentally hazardous substances reference in section 14 of a SDS for land transport, and its removal would invoke changes to SDS's. The borne costs on SDS's will be dependent on the management framework underpinned within businesses, such as, using third parties to manage their SDS updates will induce a higher cost.

Special provision AU01 also plays an important role in distinguishing its application from other transport code provisions, through an Australian selective number in its handling of environmentally hazardous substances for land transport. This allocation provides transparency to the user in its applicability as an Australian provision and would aid better compliance outcomes with the movement of goods through other modes of transportation, compared to the allocation of a general provision.

We also consider that the proposal is inherently complex when managed through the general provisions of the code and the exemption is difficult to locate. The information is somewhat buried which would create challenges for users. We consider that the lack of transparency can create misinterpretation. In addition, with the removal of AU01, it can also create an overreactive response from transport carriers in charging dangerous goods rates for these exempted goods due its removal.

Conclusion

Chemistry Australia supports maintaining the current requirements of AU01 through a minimum effective pathway, with a tiered risk management approach in handling marine dangerous goods substances, which does not exert unduly costs and supports an efficient framework relative to the risk profile in Australia. Therefore, we recommend the following:



- maintain SPAU01 to address the environmental hazardous exemption in our code;
- maintain no labelling or package requirements for packages up to 30kg/L (status quo); and
- apply UN labelling for packages above 30kg/L to support identification for appropriate risk management

Q10. If any, what operational implications would there be for your industry?

Refer to our answer in Q9.

Q11. How many large capacity consignment/packages would this change impact per year? What proportion of total consignments does this represent?

Impact expected to be bigger on Australian manufacturers.

Q12. If possible, please provide an estimate of the additional costs associated with this change, including packaging, preparation of transport documentation, and marking and labelling costs.

Refer to our answer in Q9. Transport documentation is not a requirement, and this typo was confirmed from our discussion with the NTC. If changes are proposed to include transportation documents this would invoke significant dangerous goods costs with UN3077 and UN 3082 with freight charges. Chemistry Australia does not support inclusion of documentation.

Q22. Are there any additional impacts/benefits from the removal of EIPs from IBCs that have not been considered?

Chemistry Australia strongly supports the CRIS position in aligning the IBC labelling with international practices, which would deliver a minimum net industry benefit of >\$180M per annum. The EIP obligations are an 'Australianism', that reduces our productivity, our international competitiveness with no improved safety outcomes. Logistical supply chains are complex and can involve multiple countries and different intermodal vehicles through a products lifecycle and it is paramount for Australia to align. The UN labelling is not a new concept for IBCs, and it has been practiced for some time internationally with a proven track record in transport to safely mitigate dangerous goods risk, and to instil confidence with Australia's adoption.

The current labelling serves no benefit and the UN labelling provides similar information to support appropriate risk mitigation. The Office of Impact Analysis articulates in its guide¹ to national standard setting bodies, the policy option offering the greatest net benefit should always be the recommended option, and we consider that there is a significant net benefit to be gained with reforming IBC labelling, without undermining dangerous goods risk management.

Qualitative analysis of other economic impacts, with Australia being out-of-step with IBC labelling.

Chemistry Australia also considers that the current EIP requirements creates additional economic challenges for the local industry. These challenges reduce industry ability to operate in an efficient and effective manner, as international regulatory divergences can create trade barriers for industry, impose substantial unintended costs on industry with workarounds, hinders seamless flow of goods and can reduce product availability in our market. Below Chemistry Australia has provided case studies and

¹ Regulatory impact analysis guide for ministers' meetings and national standard setting bodies



feedback from members, where these disadvantages to our economy can occur with today's IBC labelling principles.

- It reduces our ability to respond urgently with short supply needs from the economy, as introducing IBCs that are not freight containerised can attract a significant cost and burden to manage relabelling at the shipping port. Therefore, industry practice is to avoid such circumstances where possible, thus reducing our efficiency to meet sovereign demands.
- It limits the availability of free space on IBCs to satisfy other labelling requirements, such as the workplace labelling of GHS. Additional plates are often required to satisfy the Australian market and sometimes two additional plates are added to IBCs to support both local and international markets. This reduces our international competitiveness and applies a burden on our industry beyond international peers.
- It reduces our product desirability with export markets, as Australian information is prominently displayed on IBCs, such as the Australian emergency number, which can create misleading information and can pass safety risks to other markets. For instance, the emergency number in New Zealand is 111, not 000. To overcome such issues, manufacturers may need to maintain a separation of products in warehousing to support export and local market needs, which can add complexity in terms of inventory management.
- The dispensation of EIP labelling in freight containers for export markets provides little relief to industry. Products are often moved from manufacturing site to an off-site freight container forwarding site, therefore the EIP obligations need to be satisfied, even for short trips.
- Industry pays a premium where EIP labelling is needed from import markets, as this reduces the international pool for sourcing products competitively and a premium is usually applied.
- Imported flexi-IBC are difficult to manage without EIP information, as it is difficult to relabel on a flexible substrate and/or the large EIP label could over-label critical safety information. This creates significant challenges for the industry and dispensations are often sought from regulators. Where dispensations are not given, repacking may be required with a huge cost burden.

The expected benefit to stakeholders with the proposed reforms.

We consider that the proposed reforms will deliver a significant benefit to the Australian economy in terms of cost savings, while ensuring an appropriate level of safety information. These reforms don't just benefit industry, but other stakeholders, as described below;

General Industry benefits:

- Improvements to industry productivity and competitiveness, and net saving of over \$180M annually to the chemical industry alone.
- Reduction in compliance complexity for industry, as labelling will be consistent with other intermodal codes, such as the IMDG and international practices.
- Reduce unnecessary risks with relabelling.

Government benefits:

- It is expected that the reforms will deliver improved compliance outcomes, as rules will be consistent across intermodal codes.
- There will be no transitional compliance issues with these reforms, as the EIP requirements on existing labelled products would meet the UN labelling obligations.
- Government resourcing and compliance activities can be stewarded to higher risk concerns.
- Delivers on the Australian government commitment to the Trans-Tasman Mutual Recognition Arrangement (TTMRA) with New Zealand in improving efforts to streamline hazardous substances and dangerous goods requirements between the two countries, as IBC handling will be aligned.



- Reduces government intervention from industry in the applications of industry dispensations.

Emergency Services benefits:

- Improved consistency of IBC labelling in Australia to manage risks, as sites currently can have IBCs labelled with UN labelling.
- Transport Vehicles will still maintain placards to support any additional needs.

Consumer benefits:

- It is expected that it will improve consumer choice availability, as there will be greater flexibility to introduce products which otherwise might have been discouraged under the current practices due to costs.
- It is expected it will reduce cost of goods, due to improvements in productivity and increased market availability to source products competitively without additional cost burdens.

NOTE: As discussed above, this will be subjected to further investigation. Responses to these questions will be used to determine the appropriate course of action for this work. For all changes proposed:

Q41. If you transport diesel for your own use or supply, what is the maximum quantity you transport at one time?

– If you typically transport more than 3,000 L of diesel at one time, please advise what volumes are typical, and what purpose you transport it for?

Q42. If you are a fuel transport company, do you transport loads of diesel only (without Class 3 flammable liquids) in tanks or tank vehicles that do not have a dangerous goods design approval issued by a Competent Authority?

– If you use tanks without an approval, please advise why, and the type of tanks you use?

Q43. Please advise if you support the following requirements for diesel transport for more than the low volume threshold (3,000 L in this proposal)?

- Placarding of vehicles to provide hazard communication**
- Emergency preparation, including developing a plan for incidents**
- Fire extinguishers and emergency response equipment**
- Transport documents and carrying emergency information**
- Are there any other controls in transport you consider would be necessary?**

Diesel plays an important part in Australia and any increased changes could create significant economic impacts. We consider that there could be public comment fatigue on a number of changes and that this could result on a lack of key stakeholder engagement. We support a further and separate discussion on diesel with stakeholders to support well-informed decision making.

Q56. Should toxic or corrosive gases be subjected to a lower threshold than “250”?

- Note for comparison, ADR uses a threshold of “20” for these substances.

The current arrangements should be retained, as the CRIS has not identified a current failure with today’s requirements necessitating the need for government intervention. Chemistry Australia considers that the CRIS is driving a precautionary approach to policy making. We consider that this is poor regulatory practice, as it can drive measures that are not justified by imposing costs on businesses when the risk with current provisions has been proven to be acceptable.



**Q57. Should self-reactive substances and organic peroxides be further divided up?
- Note for comparison, ADR assigns a threshold of “20” for types B & C, and any**

Same answer as provided in Q56.

Q58. Should aerosols be treated like other gases, and be subjected to a lower threshold for higher risk aerosols? Note for comparison, ADR assigns a threshold value of “20” for toxic and corrosive aerosols, and “333” for flammable aerosols.

Aerosols should not be treated like gases, as the risk in packaging are significantly different, as aerosols are transported in relatively small packaging. The current arrangements applicable to aerosols under the ADG code should be retained.

Supplementary Comments on 11 December 2024

For all changes proposed for AU special provisions:

Q7. Are there any impacts you believe have not been identified and addressed?

Q8. If so, please indicate the applicable special Provision number(s) and the associated impact(s).

While Chemistry Australia supports the review of the Australian Dangerous Goods code with international practices, we also consider it is fundamental that we recognise the vastness of our continent. We consider that Special provision AU07 provides a significant benefit in supporting the critical needs of chemical distribution to remote areas and its removal would create challenges for those remote businesses to secure chlorine gas for water sanitisation. When it comes to loads for transport, remote areas need to be managed through a more holistic approach and they do not have the luxury of splitting loads between multiple carriers. Chlorine gas can be transported with Class 8 in remote areas, as both have needs in supporting water quality. The removal of AU07 would create challenges for businesses to manage critical services and invoke expected large costs. Therefore, we support maintaining special provision AU07 to ensure our remote businesses receive the important chemistry they need to support Australia’s critical community services.

