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Chief Executive
National Transport Commission
Level 15/628 Bourke Street
Melbourne VIC 3000
Via NTC portal

GEA RESPONSE TO NTC DISCUSSION PAPER: EXAMINING THE LEGAL FRAMEWORK FOR THE LAND TRANSPORT OF DANGEROUS GOODS JUNE 2020

Dear Dr Miles

Gas Energy Australia (GEA) appreciates the opportunity to respond to the National Transport Commission (NTC) Examining the Legal Framework for the Land Transport of Dangerous Goods Discussion Paper released in May 2020. GEA notes the Paper's self-explanatory examination and the request made by the Deputy Prime Minister that the NTC considers whether the Australian Dangerous Goods (ADG) Code should be adopted into Australian law using the 'applied legislation' model and whether a common operations manual should be developed to be adopted by all jurisdictions to encourage a more uniform interpretation of the ADG.

GEA endorses the 'applied legislation' model which is the same model used by jurisdictions to adopt amendments to the Heavy Vehicle National Law (HVNL) made by the Queensland Parliament and supports the development of common manuals, documentation.

Further, GEA does not want reform to stop there and supports moving to a national regulatory system for transport that embraces the vehicle load as an integral component of the transportation task. GEA urges the NTC to recommend bringing land transport into a one stop shop no matter what you are carrying. This includes registration and licensing, both of which are used as controls by regulators of the land transport of dangerous goods in Australia and need to be part of an ultimate solution driving the safe, efficient and productive transport of dangerous goods on Australia's road network.

GEA notes that the transport of dangerous goods by road has many regulatory masters, including:

- the HVNL and the National Heavy Vehicle Regulator (NHVR);
- the Australian Code for the Transport of Dangerous Goods by Road & Rail Edition as it is enacted through the different Australian jurisdictions (permits and licenses); and
- workplace health and safety laws (which apply requirements to the design of the pressure vessels many dangerous goods are carried in) as they are enacted by different Australian jurisdictions.

GEA supports the work done on harmonising the national heavy vehicle laws through the HVNL/NHVR, noting that this is still a work in progress, and urges the NTC to advocate for a similar goal for dangerous goods. Further, rather than set up a new separate regulatory silo for dangerous goods, this task should be incorporated into the bailiwick of the NHVR to remove the risk of duplication of regulation and streamline administration.

GEA offers the following response to specific questions posed in the Issues Paper.

Question 1: *What impact has the staggered implementation of amendments had on your business? If possible, please provide examples, economic data, etc*

An example of how staged implementation and state-centric regulations can interact with other laws, including the National Heavy Vehicle Law and the Dangerous Goods legislation, and have a detrimental effect is in Queensland where dangerous goods trailers cannot be issued a dangerous good license without having Queensland registration. The image below – a section of the Queensland Government Dangerous Goods Vehicle Licence Application form – makes clear that prime movers and dolly trailers cannot be included in a Queensland license for the transport of dangerous goods if the trailer has an interstate or national registration. This means that national dangerous goods transport businesses operating in Queensland must manage a fleet constrained by state law.

(g) Have you verified that each of the vehicles recorded in section five are registered in Queensland?
 Yes
 No Vehicles registered interstate cannot be approved for a Queensland Dangerous Goods Vehicle Licence.

(h) Are prime movers or dolly trailers listed in section five?
 Yes Prime movers and dolly trailers cannot be licensed for transport of dangerous goods.
 No

This example highlights how a state-based interpretation of a regulation can stop the dangerous goods transport industry from accessing the benefits of national registration afforded to general freight and Performance Based Standards (PBS) Scheme vehicles.

Question 4: *Thinking about the available national scheme structures, what approach has the potential to best achieve national consistency with greatest efficiency for the land transport of dangerous goods in Australia?*

A National Regulator that is independent and regulates not only the vehicle but the load it is carrying. This structure could be built into the current HVNL/NHVR model.

Question 5: *Are there administrative procedures, such as gazettal requirements or other requirements, contained in jurisdictional laws that are preventing consistent implementation of Australian Dangerous Goods Code updates?*

The following example, which has now been resolved by jurisdictional administrative processes being updated, highlights how 'out of step' jurisdictional requirements can add significant cost and time to the delivery of dangerous goods. This example was cited in a report prepared by Pitt & Sherry for Gas Energy Australia in 2014 titled "Turning up the heat - Cutting regulatory duplication, disparities and red tape for downstream gas"

The Pitt & Sherry report used the example of the transport of unodourised LPG (ULPG), which is a critical refrigerant gas input for LNG gas trains that was sourced from Sydney (NSW) for use in Karratha (WA). This task requires ULPG to be transported through multiple legal jurisdictions requiring permits. Although ADG7.3 code had recently been adopted nationally, South Australia continued to use the state-based regulation and procedures, which required their competent authority to issue transport exemptions. Specifically, the issuing of transport exemptions creates regulatory burdens due to such things as approval times varying from days to months and the imposition of a fee.

The report went on to estimate the cost of commissioning just one plant required the movement of around 750 tonnes of ULPG – or 24 movements of a B-double truck. Pitt & Sherry estimated the additional cost to be around \$132,000 in demurrage alone. When the permit process is included, this cost could be as high as \$156,000.

Question 6: *What changes could to be made to existing governance arrangements to mitigate differences across jurisdictions?*

GEA would prefer a long-term progressive solution rather than piecemeal change to current governance.

Question 9: *What do you think is the best way to achieve uniform interpretation of Code requirements?*

Question 10: *If guidance material was created, which body should be responsible for its maintenance to ensure it remains contemporary and fit for purpose?*

GEA notes that questions 9 and 10 are preceded by the statement “Other than drivers of vehicles transporting dangerous goods in containers with a capacity of 500 L or greater, who are required to undertake a training course that has been approved by the Competent Authority, the Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail (MSI) does not contain detailed training requirements”. GEA notes most States and Territories recognise one unit of competency developed under the Transport and Logistics framework - TLILIC0001 – Licence to transport dangerous goods by road. GEA further notes that training for drivers carrying smaller volumes is often captured in industry sector training specific to the job task for example UEGNSG614 - Load, unload, exchange and connect LPG cylinders.

GEA notes the good work the Competent Authorities Panel (CAP) does in maintaining the code. However, the differences between the CAP and the NHVR when handling temporary changes related to the COVID-19 pandemic reinforces the argument for a single regulatory body. Both the NHVR and the CAP oversee license/accreditation requirements that have training and medical requirements for drivers. The NHVR issued a National Heavy Vehicle Accreditation Scheme (NHVAS) Temporary Business Rules & Standards Changes effective 25 March 2020 which made some temporary changes to the National Heavy Vehicle Accreditation Scheme (NHVAS) in relation to medical requirements and face-to-face audit requirements, in response to the ongoing coronavirus pandemic. The NSW EPA issued a DG driver licence training exemption on 9 April 2020. It was issued in NSW and was provided to the CAP to be given national effect. The NSW EPA exemption applied to training only and was inconsistent with the NHVR exemption which included medical requirements.

In conclusion, GEA endorses the ‘applied legislation’ model which is the same model used by jurisdictions to adopt amendments to the Heavy Vehicle National Law (HVNL) and urges the NTC to advocate for a similar goal for dangerous goods. Further, rather than set up a new separate regulatory silo for dangerous goods, this task should be incorporated into the bailiwick of the NHVR to remove the risk of duplication of regulation and streamline administration.

For consideration.

Yours sincerely



John Griffiths
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