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| **Submission to:** | NTC and NHVR |
| **Title:** | Heavy Vehicle Roadworthiness Review – Phase 2 integrity review |
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# Introduction

The National Heavy Vehicle Regulator (NHVR) is Australia’s first institutional approach to a single regulator of heavy vehicles. The NHVR administers the Heavy Vehicle National Law (HVNL), which sets legal standards for vehicles over 4.5 tonnes gross vehicle mass (GVM) and provides for delivery of services to industry such as the National Heavy Vehicle Accreditation Scheme (NHVAS).

The NHVR and the National Transport Commission are working on a national approach to heavy vehicle roadworthiness for transport ministers to consider in November 2014. The task is being informed, amongst other information sources, by the NTC-led Roadworthiness Technical Working Group (of which the ATA is a member) and the simultaneous NHVR-led review of the NHVAS.

This ATA submission addresses some of the reform options presented in the NTC Heavy Vehicle Roadworthiness draft Phase 2 integrity review report. The Phase 2 report contains 38 opportunities for roadworthiness reform and for improvements to the NHVAS. It follows the Phase 1 paper which looked into roadworthiness theory and practice. The submission includes some qualitative findings of three surveys conducted during 2014.

The ATA strongly supports joint development by government and industry of new policy measures for a seamless national approach to roadworthiness assessments. The ATA is also grateful for the ongoing opportunity to provide road transport industry advice as a member of the NTC Roadworthiness Technical Working Group (TWG) charged with providing technical input to the review.

#  Australian Trucking Association

The Australian Trucking Association (ATA) is the peak body that represents the trucking industry. Its members include state and sector-based trucking associations, some of the nation’s largest transport companies, and businesses with leading expertise in truck technology.

# Recommendations

**ATA recommendation 1**

**A standardised heavy vehicle inspection system should be implemented.**

**ATA recommendation 2**

**A national heavy vehicle inspection manual should be adopted and called up in the regulations.**

**ATA recommendation 3**

**Responsible parties, such as authorised examiners and inspectors, should be systematically trained to enforce the HVNL.**

**ATA recommendation 4**

**Roadside inspections should target the worst performers in the industry, not the best.**

**ATA recommendation 5**

**A formal process for issuing/clearing/withdrawing defect notices should be agreed between HVNL-participating states. Defect notices should display sufficient detail for a person to be able to note the rule that is applied and the physical location of the alleged non-conformance.**

**ATA recommendation 6 (*Opportunity 24)***

**The NTC should recommend to transport ministers that a new duty should be included in chapter 3 of the HVNL, to require chain parties to take reasonable steps to ensure that vehicles are free of defects, safe and maintained in a roadworthy condition. Vehicle maintenance service providers should be included as chain parties.**

**ATA recommendation 7 (*Opportunity 8)***

**To comply with the Australian Government’s regulatory requirements – and good regulatory practice – the extension of CoR to vehicle standards should be considered as part of a package that includes streamlining other CoR provisions.**

**ATA recommendation 8**

**The COR package submitted to ministers include the results of the reviews recommended by the CoR Taskforce. The package should be accompanied by a detailed case study analysis that investigates net impact. In particular, it is essential that:**

* **the regulatory burden of the law is not increased and, if possible, decreased**
* **the law complies with the COAG principles and guidelines**
* **Executive officer liability offences in the law may and are likely to be investigated and prosecuted effectively**
* **offences provide adequate tools to discourage and, if necessary, deal effectively with systemic corporate failures such as failure to prevent speed limiter tampering that can result in or enable specific offences**
* **the total of penalties, including for multiple breaches, that can be imposed is not smaller than the penalties that can currently be imposed under the HVNL and, before it, the model law; and**
* **the HVNL can stand alone and not rely upon state legislation to fill gaps when pursuing CoR parties due to inadequacies or gaps in the HVNL.**

**ATA recommendation 9 *(Opportunities 32, 35)***

**The NHVAS in its current form should be wound down. The regulator should not continue seeking to crowd out market offerings such as the ATA’s TruckSafe safety management system by delivering an accreditation scheme in competition with them.**

**ATA recommendation 10 (*Opportunity 31)***

**Operators in high risk areas should be required to be in a maintenance management scheme (but not necessarily the NHVAS), which would enable them to choose the scheme best suited to their needs.**

**ATA recommendation 11**

**The skill set required to conduct a full audit should not include mechanical qualifications and expertise to carry out a physical fleet inspection in addition to records-based audit skills.**

# Roadworthiness

As NHVR systems mature, an agreed, stable national approach to the assessment of heavy vehicle roadworthiness (including accreditation, inspection, interception and defect processes) by road transport authorities becomes more critical for minimising administrative or customer confusion and compliance costs. As the whole national access regime matures, industry’s need for systematic treatment under heavy vehicle compliance processes becomes urgent.

Clear, nationally accepted criteria need to be established for the purposes of declaring a vehicle roadworthy or not, and for issuing and clearing defect notices. Consistent interpretation of the national heavy vehicle inspection manual by inspectors and other authorised officers is very much needed to ensure consistent national treatment of heavy vehicle roadworthiness. Clear, nationally accepted criteria should be established for the purposes of inspection, declaring a vehicle roadworthy or not, and for issuing and clearing defect notices.

Rigorous written guidance materials and systematic training must be provided to dedicated staff in relation to the exercise of their inspection powers. This will ensure a nationally consistent approach is used to interpret the national heavy vehicle inspection manual and thus the assessment of any vehicle’s roadworthiness.

# Safety Critical Maintenance

The benefit of annual roadworthiness inspections also remains controversial in the industry. It is the ATA’s view that accreditation schemes like TruckSafe seem to present targets for enforcement even though scheme members record a lower rate of defects than companies who are not enrolled in any accreditation scheme whatsoever. The successful role that TruckSafe plays today in maintaining safety through a unique approach to accreditation should attract more support from policymakers as a tangible example of the strong and voluntary culture of compliance that is steadily emerging within the road transport industry.

An ATA survey of operator maintenance approaches (Attachment A) indicates a drift towards outsourcing and that three factors are consistently influencing operator choices, i.e. *service* *quality, cost* and *convenience[[1]](#footnote-1)*. For example, one respondent, with a mixed maintenance approach (including some company workshops), wrote:

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| *This is a part of the business that costs money. Trying to get this through to some of the senior managers that know nothing about maintenance is a major issue, all they see is the cost and a budget that is set by someone who knows nothing about maintenance. Our policy is to maintain a vehicle to a safe, roadworthy standard at minimal cost.*  |

The ATA concurs with page 6 of the Phase 2 report (see also Phase 1 paper, p31) that states “Current international best practice suggests that efforts for improving heavy vehicle safety should recognise that some elements of roadworthiness have a greater impact on road safety than others”.

As a participant in the NTC technical working group reviewing the draft HVIM, the ATA supports identification by this group of eight safety critical or primary elements requiring high priority attention during inspections and without which heavy vehicle roadworthiness cannot be assured:

*1. Brakes 2. Steering 3. Suspension 4. Tyres 5. Axle/wheel-ends 6. Couplings 7. Frame/chassis 8. Load restraint*

Other vehicle components of course also require assessment and their requirements are also found in the manual.**[[2]](#footnote-2)**

**ATA recommendation 1**

**A standardised heavy vehicle inspection system should be implemented.**

# The draft National Heavy Vehicle Inspection Manual (HVIM)

The NHVR’s current draft national inspection manual is eventually intended as a set of guidelines that interpret the heavy vehicle standards regulations under the HVNL and it will be publicly available. However, it has no current legal status under the HVNL. If it is accorded status, it will still have no legal status in WA or the NT. Some kind of arrangement has to be reached with non-participating states on how to use and interpret the HVIM.

Further, all relevant road safety stakeholders, including police officers, authorised officers, mechanics, operators and drivers must be encouraged to undertake similar training courses in order to apply and interpret the rules from common materials.

In the spirit of Opportunity 25[[3]](#footnote-3), the ATA suggests further supplementary information be added to the HVIM to support its interpretation by stakeholders. For example, the HVIM should provide brief guidance on how to pre-load roller brake testing equipment to prevent false fail results.

**ATA recommendation 2**

**A national heavy vehicle inspection manual should be adopted and called up in the regulations.**

**ATA recommendation 3**

**Responsible parties, such as authorised vehicle examiners and inspectors, should be systematically trained to enforce the HVNL.**

# Defects

A formal process for issuing/clearing/withdrawing defect notices must also be agreed between HVNL-participating states. Defect notices should display sufficient detail for an operator to be able to note the rule being applied, the physical location of the alleged non-conformance either to rectify it or report an inspection error quickly.

Some operator experiences with defect categorisation and clearance processes were surveyed by the ATA in 2014 and a summary of their responses is provided at Attachment B.

During August, ALRTA, an ATA member association, also considered defect processes in detail and provided the following supplementary comments that:

Most operators have experienced problems with issuance and clearance of defects and that the key problems include:

* Inter-jurisdictional inconsistencies in administrative process and lack of communication between jurisdictions; poor mechanical understanding by enforcers (particularly police) result in incorrect defects being issued with little recourse for the operator;
* Poor ‘interpretation’ of the law results in a large grey area between minor and major defects;
* Petty enforcement when a warning would be more appropriate (e.g. small chip on edge of windscreen);
* Problems with vehicles in new condition being defected (e.g. slow retracting seatbelt);
* Defect clearance in SA is a problem. Must be carried out by a government inspector and these are limited in availability – in some remote areas only every 6 weeks;
* Clearance processes within states are inconsistent (e.g. some places will clear at pads and some will not);
* There is some evidence of dodgy clearance services.

This sector of road transport would also prefer a nationally consistent set of rules and processes that provide:

* Improved skills for enforcers – perhaps even removing powers from police except for major safety matters;
* Increased use of formal warnings for non-critical issues;
* Better interpretation of minor versus major defects;
* Systems which do not ‘hold up the trucks’ unnecessarily;
* Self-clearance of minor defects (e.g. sign form and return);
* Greater availability of good quality clearance services (and improved mechanisms for identifying and taking action against dodgy providers); and
* Better opportunities for the NHVR to review and overturn defects issued in error.

**ATA recommendation 4**

**The ATA recommends that roadside inspections target the worst performers in the industry, not the best.**

**ATA recommendation 5**

**A formal process for issuing/clearing/withdrawing defect notices should be agreed between HVNL-participating states. Defect notices should display sufficient detail for a person to be able to note the rule that is applied and the physical location of the alleged non-conformance.**

# Vehicle Standards

The HVNL is currently in force in NSW, Victoria, Queensland, South Australia, Tasmania and the ACT. It has not been adopted in WA or the Northern territory and will not be for the foreseeable future. For the purposes of this submission, references to applications of the HVNL, the NHVR, and a ‘national heavy vehicle roadworthiness system’ should be understood in this context.

There are no chain of responsibility provisions applying specifically to heavy vehicle standards or maintenance. Nevertheless, HVNL Chapter 3 (heavy vehicle standards and safety) section 60(1) states a person must not “use or permit to be used” a heavy vehicle that does not comply with vehicle standards. As the Phase 2 Report also notes, the HVNL includes provisions such as section 89(1) provides that a person must not use, or permit to be used, on a road a heavy vehicle that is unsafe and section 89(2) provides (for the purposes of s89(1)) that a heavy vehicle is unsafe only if the condition of the vehicle, or any of its components or equipment – (a) makes the use of the vehicle unsafe; or (b) endangers public safety.

# Vehicle standards and the chain of responsibility

According to the NTC[[4]](#footnote-4), the development of CoR provisions applying to vehicle standards was investigated in 2004 and 2005 but the NTC did not proceed for a number of reasons, including what was described as a lack of evidence of the link between breaches of the vehicle standards and on-road incidents. This argument is also been put forward in the current review process.

In its response to the 2014 NTC stakeholder brief on COR and vehicle standards, the ATA examined links between vehicle standards and crashes; corporate behaviour to be targeted to reduce defect-related accidents; and issues with the existing version of Chapter 3 in the HVNL.

# The link between vehicle standards and crashes

In the Phase 1 report, the NTC found that less than 5 per cent of heavy vehicle crashes are attributed to mechanical failure.[[5]](#footnote-5)

In 2009 however, an examination of 61 fatal heavy vehicle crashes by Monash University Department of Forensic Medicine researchers found that 12 of the trucks had defects, including bald or defective tyres (8 out of the 12), steering, brakes, load balance or suspension.[[6]](#footnote-6) The paper also found that coroners and police officers had identified vehicle defects as the cause of only one accident, but warned that it was problematic to attribute a single cause to a transport crash. It pointed out that fatal injuries often occur following a chain of events.

This conclusion is supported by US research into the causes of 239 heavy vehicle rollovers. The research, based on the US large truck crash causation study, concluded that vehicle maintenance issues (specifically, poor braking and worn tyres) contributed to 18 of the accidents attributed to speed, because the drivers were travelling too fast for the condition of their equipment.[[7]](#footnote-7)

The research shows that vehicle defects account directly for less than 5 per cent of heavy vehicle accidents, but they can be a latent condition associated with a higher percentage of accidents. A safety related defect in a vehicle can mean the difference between a near miss and an accident. The ATA considers that these percentages warrant amendments to the HVNL to support better maintenance practices, when accompanied by a corresponding streamlining of other CoR provisions to ensure the regulatory burden on industry is not increased.

# Maintenance issues that should be targeted by the CoR extension

In the ATA’s view, the TruckSafe maintenance module sets out a best practice maintenance system for trucking operators. This module requires:

* daily visual checks of vehicles
* a system for recording and reporting faults
* procedures for prioritising and repairing faults
* a system for conducting scheduled maintenance
* procedures for documenting and recording maintenance activity and decisions
* defined responsibilities for maintenance staff and a program to ensure they are trained in their responsibilities
* an internal review process to fix non-conformances and deliver continuous improvement and
* procedures to ensure that speed limiters are maintained and checked for tampering at regular intervals.

Coronial reports can also show what can happen when businesses do not follow these practices, or at least some of them. An analysis of recent reports on maintenance-related truck crashes suggests extension of CoR to vehicle standards should target corporate behaviours such as:

* the lack of an effective system to manage maintenance, although the HVNL should not require every business to have a scheme as comprehensive as TruckSafe
* the lack of appropriate maintenance or fault repair
* unauthorised vehicle modifications and
* not allocating the necessary resources to carry out vehicle maintenance and quality assurance.

# Adding a duty provision to chapter 3

As noted elsewhere, chapter 3 of the HVNL does not require operators or anyone else to have even the most basic maintenance management systems. The offence provisions in the chapter are generally structured so it is an offence to use, or permit to be used, on the road a heavy vehicle that contravenes an applicable standard or is unsafe.[[8]](#footnote-8) These provisions do not require operators or off-road parties to do anything to prevent safety issues from occurring, which is inconsistent with the speed and fatigue chapters of the HVNL and best practice in securing WHS compliance.

Accordingly, the ATA has proposed a new duty provision for chapter 3, which would require all parties in the chain for a heavy vehicle to take all reasonable steps to ensure the vehicle is free of defects, safe and maintained in a roadworthy condition. The ATA considers the duty should apply to the following chain parties:

* an employer of the vehicle’s driver
* a prime contractor for the vehicle’s driver
* an operator of the vehicle
* a consignor of any goods for transport by the vehicle that are in the vehicle and
* outsourced vehicle maintenance service providers.

According to the NTC, there had been disagreement in 2004 and 2005 about targeting entities such as maintenance providers, because of the argument that they were potentially covered by other legislation and did not have a role in influencing on-road behaviour.

However, in the trucking industry there is a trend towards outsourcing of vehicle asset management and maintenance to third party providers. As a consequence of outsourcing this activity, operators lose control over workshop outcomes. Third party providers play a critical role in managing the business’s maintenance management systems and compliance obligations, and should, as a result, be included as chain parties.

# Maximum penalty

The maximum penalty for an offence against this duty provision should be $10,000 for an individual and $50,000 for a corporation. As a result, it would be a high range (severe) offence under the HVNL and would be consistent with the penalties for severe duty breaches in chapters 5 and 6 of the law.

# Extending liability to executive officers

The proposed offence would meet all the requirements of the COAG principles and guidelines for personal liability for corporate fault. Accordingly, it should be included in schedule 4 of the HVNL as an underlying offence for executive officer liability. A business could take reasonable steps to meet the requirements of this duty by:

* having an in-house or third party maintenance management system
* daily checks of the condition of vehicles
* a system for recording and rectifying faults
* carrying out periodic maintenance in accordance with manufacturers’ service manuals or appropriate service schedules
* considering reasonable maintenance requirements when setting budgets
* requesting and considering evidence of maintenance processes as part of letting transport contracts.

Businesses certified under a scheme like TruckSafe should be considered to fully meet their obligations under this provision. The provision should also not include detailed, process-based standards. It should focus on what needs to be achieved – taking reasonable steps to ensure that vehicles are safe and roadworthy – rather than prescribing the steps needed to get there, which will vary from business to business.

# Streamlining CoR provisions in the HVNL

The Australian Government requires that the cost burden of new regulations be fully offset by reductions in the existing regulatory burden.[[9]](#footnote-9) This requirement should be applied to the extension of CoR to vehicle standards. The Government has a role in approving amendments to the HVNL[[10]](#footnote-10) and the requirement is in any case good regulatory practice.

In the ATA’s view, extension of CoR to vehicle standards should be accompanied by a review of other CoR provisions, with the aim of streamlining provisions and investigating the recommendations of the CoR Review Taskforce. This should be submitted as a package of reforms to ministers. A detailed case study analysis should be made to investigate the overall impact of the proposed changes.

**ATA recommendation 6 (*Opportunity 24)*
The NTC should recommend to transport ministers that a new duty should be included in chapter 3 of the HVNL, to require chain parties to take reasonable steps to ensure that vehicles are free of defects, safe and maintained in a roadworthy condition. Vehicle maintenance service providers should be included as chain parties.**

**ATA recommendation 7 (*Opportunity 8)***

**To comply with the Australian Government’s regulatory requirements – and good regulatory practice – the extension of CoR to vehicle standards should be considered as part of a package that includes streamlining other CoR provisions.**

**ATA recommendation 8**

**The COR package submitted to ministers include the results of the reviews recommended by the CoR Taskforce. The package should be accompanied by a detailed case study analysis that investigates net impact. In particular, it is essential that:**

* **the regulatory burden of the law is not increased and, if possible, decreased**
* **the law complies with the COAG principles and guidelines**
* **Executive officer liability offences in the law may and are likely to be investigated and prosecuted effectively**
* **offences provide adequate tools to discourage and, if necessary, deal effectively with systemic corporate failures such as failure to prevent speed limiter tampering that can result in or enable specific offences**
* **the total of penalties, including for multiple breaches, that can be imposed is not smaller than the penalties that can currently be imposed under the HVNL and, before it, the model law; and**
* **the HVNL can stand alone and not rely upon state legislation to fill gaps when pursuing CoR parties due to inadequacies or gaps in the HVNL.**

# The NHVAS Review

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| *Other than having NHVR as the certification supervisor I would support these recommendations. I do not support the concept of NHVR as certification supervisor because I strongly believe the role of the auditor must be that of an independent 3rd party.* *(ATA survey of TruckSafe auditors, September 2014)* |

# Regulation of accreditation and the NHVAS approach

The NHVR has not published guidelines for the registration of industry codes of practice. This is just as well.

The NHVAS would fail to meet any credible set of standards. If it was not a government scheme run by the NHVR, it would be shut down.

As the figure below shows, operators in NHVAS Maintenance in NSW recorded a worse level of major defects in 2009 than operators in no scheme.



*(Chart taken from “Review of Australian Alternative Compliance Schemes” by Mooren and Grzebieta. UNSW, 2009.)*

It is simply inappropriate for a regulatory authority to run a system it should be regulating.

**ATA recommendation 9 *(Opportunities 32, 35)***

**The NHVAS in its current form should be wound down. The regulator should not continue seeking to crowd out market offerings such as the ATA’s TruckSafe safety management system by delivering an accreditation scheme in competition with them.**

**Mandatory accreditation (*Opportunity 31)***

Mandatory accreditation for certain vehicles is acceptable to industry if it is based on robust evidence of risk to road safety and/or property. Operators should be able to join the maintenance management scheme best suited to their needs.

Many operators are also already enrolled in TruckSafe® or ISO-certified systems and these arrangements provide higher levels of maintenance assurance (i.e. better on-road safety outcomes) currently than the NHVAS. On this basis alone, there is no sound reason for forcing industry to join the government’s scheme.

**ATA recommendation 10 (*Opportunity 31)***

**Operators in high risk areas should be required to be in a maintenance management scheme (but not necessarily the NHVAS), which would enable them to choose the scheme best suited to their needs.**

# Management of non-conformances

It comes as a surprise to the ATA that the failure to resolve non-compliance under the NHVAS scheme does not result in suspension of NHVAS accreditation.

The NHVAS review should look into the ability of an auditor to lodge NCRs and preventing customers from choosing a different auditor if they are unhappy with the audit results. Managing reporting of data will be important if used to manage clients and designed to avoid paperwork exercises such as that for data currently recorded in the system.

The national audit matrix, used to assess and confirm maintenance compliance with accreditation standards and criteria, should also be updated. It has been in use for some time and should reflect any further developments.

# Auditor liability and insurance

It is imperative that scheme auditors are covered with suitable professional indemnity / public liability insurance.

**Auditor selection**
The NHVR does not undertake auditor certification and the national system for registering auditors (NHVAA) is handled currently by third party Exemplar Global. There are avenues for auditor performance to be monitored. If auditor performance is in question, the NHVR, as the accrediting agency, can apply through Exemplar Global to review and ask an auditor to show cause.

The ATA agrees that ‘selection bias’ and/or the development of a working relationship between auditor and auditee engaged by the company and returning year on year has the potential to compromise the impartiality of the auditor process – opening the way for criticism of the system that may/may not be warranted. The issue is magnified in smaller jurisdictions where degrees of separation between approved heavy vehicle auditors and trucking companies are small and relationships m pre-existing. The ATA supports implementation of third party appointments triggered by notification from the NHVR or jurisdiction and believes WA has taken some steps to implement this.

Provisions for removing auditors from a scheme under certain conditions and formal procedures for lodging complaints are essential components of any formal system and provide rigour. Tightening the framework and corporate governance requirements appears to overdue and will complement other changes.

# Consultancy

Elsewhere there is a delineation between services that can be supplied by a  1st tier, 2nd tier or 3rd tier auditor.  Such auditors fit the category of third tier (approved by Exemplar Global[[11]](#footnote-11)). If they supply services to assist compliance either before or after the audit then it is expected this should preclude them from either conducting the audit or performing future audits of the company.  If there is not currently an effective method for ensuring the transparency of the auditor then perhaps there is an enhanced training role for SAI Global or the like.

# Remote Regions

In other environments auditors cannot do more than three annual audit inspections of the same company in succession (perhaps it should be written into the Auditor’s Manual). To meet compliance obligations without additional financial penalty a different fee structure may need to be applied to operators in remote areas already picking up the cost of airfares and accommodation on top of auditors’ fees. The ATA does not want to see any changes to the system that will impose unnecessary additional costs on operators in remote areas.

**Should technical qualifications be required for NHVAS audits?**

The ATA conducted a survey of TruckSafe auditors to gauge their reactions to the opportunities in the Phase 2 report. The results showed that a majority (57%) do not currently have technical qualifications but most either have ‘some experience’ or ‘significant experience’ with the technical aspects of roadworthiness.

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The qualifications and experience cited by the 14 auditors responding to the ATA survey included:

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| **Qualifications/Skills** | **Experience** |
| AuditorDegree/Diploma of BusinessTrade certificates:* Diesel mechanic
* Automotive engineer
* Engineering technicians
* Fitter and machinist
* Plumbing and draining
* Trainer – Gasfitting
 | * 17 years in auditing
* Truck driver, road train operator
* 35 years as driver, maintenance provider
* 30 years in maintenance
* Former civil construction manager
* 30 years in policing
* 25 years in fleet management
* >30 years servicing and managing service regimes
* Management
 |

One auditor said:

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| *Providing the emphasis [of the audit] is not shifted to the inspection of equipment at the time of the audit. In most cases the vehicle are out working and the audit is purely paper based. IF there is equipment on site I always look at it. It gives you a good overview of the business.*  |

But other survey respondents noted:

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| *All training is valuable. However its no good if we are asked to sample 10% of the fleet at the time of the audit. The depth of inspection would have to be set in concrete and enforced by a governing party. If that happens why would they what to join NHVAS. They can just go back over the pit every year.* |
| *I fully support the Regulator's intent of having heavy vehicle auditors qualified, competent or experienced in the processes and understanding of maintenance and repairs to heavy vehicles.* *I have had 35 years in the transport industry. I have never owned or driven a truck. The audit is document based and I can see no requirement for "technical competencies" If this is the way you are going then go all the way with auditor being certified mechanics…. A little competence would soon lead to major confrontations with certified persons. [[12]](#footnote-12)* |

The ATA does not believe the skill set required to conduct a full audit should include mechanical qualifications, and the associated expertise to carry out a physical fleet inspection, in addition to usual records-based audit skills.

Some businesses have also expressed concern that:

* ‘upskilling’ by an auditor, i.e. obtaining expertise similar to or the same as an authorised vehicle inspector or examiner, will not only take time, money and commitment, it represents a career undertaking in itself.
* mechanical skills/knowledge of authorised inspectors themselves is limited, and there can be a tendency to focus on the trivial at the expense of the essential/critical which would tend to devalue the purpose of the exercise;
* there are likely to be high associated costs for industry both from higher auditor costs (particularly if two persons are required) and the subsequent cost of each vehicle inspection.
* some fleet owners will not agree to persons who are not members of their workshop staff touching or otherwise ‘interfering’ with their vehicles.
* questions will arise over which, and how many vehicles should be inspected at any given time. For a truly objective process, vehicles would be randomly selected for inspection from the nominated fleet. Due to the nature of the transport business, there is a high likelihood selected vehicles will be not present and available at the place chosen for inspection.

**ATA recommendation 11**

**The skill set required to conduct a full audit should not include mechanical qualifications and expertise to carry out a physical fleet inspection in addition to records-based audit skills.**

# TruckSafe Approach

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| **“8.4.2 Maintenance management standards*****All three heavy vehicle accreditation schemes (NHVAS, WAHVA and TruckSafe) use the NHVAS maintenance management module to address vehicle roadworthiness.”*** |

The sentence above in the Phase 2 report (page 52) does not adequately reflect the TruckSafe approach to maintenance standards.

TruckSafe maintenance standards are different from NHVAS maintenance standards in two key ways:

* Unlike NHVAS, the TruckSafe standards require every enrolled vehicle to undergo a roadworthy assessment every 12 months. The inspection must also be conducted by a competent person experienced in the inspection of heavy vehicles for roadworthiness.
* Further, TruckSafe maintenance standards require operators to ensure there is evidence available of regular inspection and review to ensure compliance with ADR 65/00, and of monitoring the legal calibration of vehicle speed limiting equipment. Again, NHVAS maintenance does not include this requirement.

Other ways in which the TruckSafe scheme differs from the NHVAS approach include that:

* TruckSafe operators pay for the audit process but they do not choose or appoint the auditors who carry it out,
* If an audit is triggered under TruckSafe®, it cannot be resolved with a desk-top review, an on-site visit must be conducted,
* TruckSafe incorporates four audit types – entry, compliance, triggered and random – i.e. one more audit type than either NHVAS or WAHVA. TruckSafe is the only scheme that can apply a random audit under its business rules, and
* Since 1996 when the TruckSafe scheme began, 41 auditors have been removed from the system because the Board of Management was unsatisfied by their auditing performance.

**ATTACHMENT A**

**SURVEY OF OPERATOR APPROACHES TO MAINTENANCE**

**ATA Survey of Fleet Maintenance Approaches**

The ATA conducted a week-long online survey during August 2014 seeking feedback from operators on their approaches to maintenance requirements. The following is a snapshot of findings from the survey. A summary of operator characteristics as provided by 26 anonymous respondents may be found in **Attachment A** to this paper.

It is clear from the ATA’s small survey of 26 transport operators that a heavy vehicle’s maintenance requirements and an operator’s roadworthiness or compliance obligations are being satisfied through different operator approaches today.

Absence of operator control over external workshop outcomes and the evidently widespread dependency of industry on third parties for roadworthiness outcomes provide a basis for including third party providers as ‘chain parties’ in chain of responsibility provisions under the Heavy Vehicle National Law.

**Maintenance Approaches**

The ATA survey looked at three styles of heavy vehicle maintenance management arrangement – an in-house approach; a mixed approach; and a fully outsourced approach.

Half the respondents fell into the mixed maintenance category. Some gave reasons for outsourcing various tasks but not others, with one explaining that the use of external parties is *‘dictated by capacity or skill/equipment limitations within our own workshop’*.

The majority of respondents reported no intention of changing their current approach because it was working well. One said that *‘fleet maintenance is an ever changing environment, so yes it* [the approach] *will change and we constantly look our processes and see if we can improve’*. A similar response was ‘*It seems to be working fine but anything that works better we put in place’*.

*In-House Approach: more than 40 % of respondents.*

One eastern seaboard operator with a fleet of 400 heavy vehicles in various combinations. carries out all fleet maintenance and repairs with few exceptions in-house. This operator is not planning to adjust their approach for a variety of reasons including compliance issues and that the approach currently works well.

Maintenance is only outsourced on an ‘as-needs’ basis for reasons of geography and application. The company has long-standing arrangements with certified interstate repairers and when a vehicle needs work, the operator forwards the job sheet containing the servicing requirements for that vehicle to the most conveniently located provider.

Service intervals are typically determined by factors such as fuel burn, kilometres travelled, time since the previous service and engine hours. After the requested work is complete, the repairer’s obligations (i.e. final inspection, paperwork sign-off by its own workshop and relevant staff) are then formally verified before payment.

Sub-contractors are used on an ad hoc basis but the freight task is primarily undertaken by the operator’s fleet. The compliance and roadworthiness status of sub-contractor vehicles is evaluated by the operator for certain tasks as is necessary and practical, but the operator exerts no control over a sub-contractor’s maintenance regime. The operator conducts checks to ensure sub-contractors’ heavy vehicles are registered and the drivers are licensed.

In this case, the operator wants uniformity of standards across the fleet. They do not believe this can be achieved by outsourcing regular maintenance to a third party, because:

* an external maintenance provider takes little ‘ownership’ of a job;
* a service provider (especially if geographically distant from the operator) may schedule workshop activity to suit themselves or other clients, and not the operator;
* various levels of expertise are put on jobs but an operator is still invoiced at a high rate;
* the operator has insufficient control over third party workshop outcomes.

Another operator who is also not changing their in-house approach soon, operates a large fleet of side-tippers, rigid flat-tops and skels carrying bulk dry loads in Western Australia and remote locations. A WAHVA-accredited operator, their fleet is equipped with tracking software.

Within the past 18 months, this operator changed their approach from outsourcing to conducting maintenance in-house and they state their requirements are now easier to manage. The decision to change their approach was made because outsourcing is not cheap yet sometimes requested work was not done. Other reasons given were that it is cheaper, they maintain control over processes and outcomes and because it is more convenient given the operator’s remote location.

The operator now uses dedicated office software to manage fleet servicing requirements. Amongst other product features, their system:

* issues alerts as A, B and C service intervals are reached for each vehicle unit, or other scheduled tasks and/or repairs are needed;
* generates alerts to the operator and job service sheets for the workshop; and
* manages maintenance end-to-end from flagging required jobs to reporting service data to meter readings through to parts purchasing and invoicing processes.

Another operator also reported their use of business software to calculate fleet fuel usage (km) and determine service intervals etc. The key advantage is that they are able to schedule workshop time and tasks to suit vehicle usage and they don’t need to wait for a third party to schedule the time to complete that work. As with the earlier example above, this operator stated they previously had no control over third party workshop outcomes. They couldn’t confirm all outsourced work was up to OE standards and specifications or even that it always met legal roadworthiness requirements.

*Mixed Maintenance Approach: Half of all respondents fell into this category.*

Approximately three-quarters of Australia’s heavy vehicle operators manage fleets of fewer than five vehicles. One such operator noted how often they would work miles away and for three weeks at a stretch so they didn’t wish to return home to their family only to go straight to the shed.

One respondent until recently managed a heavy haulage operation specialising in carrying complex and oversize loads. This small business had limited geographic access to any third party providers so it carried out grease changes and brake adjustment work itself and outsourced the rest. An OE also conducted work on some vehicles under a contract agreement and any remaining activity, including servicing of trailing equipment, was outsourced to an nearby truck service centre.

The operator employed a mixed approach to maintenance for 15 years until recent retirement. They said they were too small an outfit to do every conceivable repair or maintenance job themselves. They didn’t possess all the necessary tools and equipment, which are too expensive for a small business to purchase anyway. Sometimes, needed work was under OE warranty or outsourcing it was a geographic necessity because the truck wasn’t back at the depot or base when the work needed doing.

However, another larger operator of a rigid vehicle fleet who outsources a lot of maintenance work in different locations recently installed a pre-trip/defect reporting system, which is now constantly reviewed for effectiveness. The operator’s vehicles are serviced every 250 hours of work and, with so many different service providers involved, the operator says it is difficult to maintain the same standard across the fleet. To work around this issue, vehicles are returned to the company’s in-house workshops every few thousand hours for a major service and the fleet is inspected annually by company employees.

One medium-sized operator who finds their mixed maintenance approach works well, noted that verification also includes communicating with drivers and weekly reviews of their daily checks and odometer readings.

*Fully Outsourced Approach: Less than 10% of respondents fell into this category.*

A small number of respondents (the majority also self-identifying as Owner-Drivers) said they outsource all regular maintenance because it is ‘not their core business’. One NHVAS-accredited operator said outsourcing their work to a third party is a safer way to keep their fleet roadworthy and yet another, also NHVAS-accredited, said it’s a more reliable and systematic way to conduct regular maintenance.

In some cases, an operator enters into a maintenance service agreement with an OE for new vehicles. This locks an operator into a contractual relationship with a single provider which can be beneficial or convenient for some operators. In return, operators expect a high quality of service to a declared standard and rely heavily upon the subsequent work meeting legal roadworthiness and compliance requirements.

One NHVAS-accredited large fleet operator who does not use sub-contractors reported that their chosen service provider has the responsibility *‘to repair our equipment to a safe, roadworthy and satisfactory level, along with retaining the records of proof’*. This operator said they monitor the outcomes through daily inspections of works. To ensure toe work complies with NHVAS standards, regular internal audits are completed in addition to external audits.

Another large operator of tanker trailers, tippers, drop-decks and flat tops reported multiple workshops across Australia, some of which are fitted with sophisticated equipment and tools, e.g. roller brake testing equipment. They depend heavily on their workshop’s expertise and the operator stressed how expensive downtime can be, even in comparison with the overheads of running a workshop.

This operator also reported the quality of the outsourced work is verified through audits and visual inspections. Other mixed approaches involve hiring an external service provider to operate their business on company premises who then prioritises the company’s work. When feasible, the provider can also take in non-company work to keep their own business viable and their mechanical skills current.

**Quality Control**

The survey asked how operators verify the quality of outsourced vehicle maintenance.

A few respondents (using mixed or fully outsourced approaches) said verification takes place before vehicles leave the yard and that their methods include:

* Hiring contract mechanics to staff the company workshop;
* Using written job service requests, equipment sheets and other formal paperwork;
* Reviewing completed work and ensuring invoice detail accuracy etc.;
* Using company workshop or management staff to inspect outsourced work;
* Auditing and checking associated paperwork;
* Using the Vehicle Fault Reporting (VFR) feature in the operator’s tracking system.
	+ Ensuring vehicle fault books are signed by repairers
	+ In one case, if a fault is entered in the VFR book more than three times, the asset supervisor should expect a phone call from the driver; and
* Ensuring accreditation, qualifications, public liability insurance status etc.

**The Role of Accreditation**

Four respondents reported not being enrolled in either NHVAS or TruckSafe®, four operators are enrolled in both schemes, and six are accredited under NHVAS alone. Ten respondents gave no response.

One respondent said their enrolment in both TruckSafe and the NHVAS helps them schedule and maintain service records, fault finding and repair reports. They said the schemes helps keep them aware of their fleet’s roadworthiness status.

**Role of Service Quality, Cost and Convenience.**

A respondent who noted a mixed approach (including company workshops), noted:

*“This is a part of the business that costs money. Trying to get this through to some of the senior managers that know nothing about maintenance is a major issue, all they see is the cost and a budget that is set by someone who knows nothing about maintenance. Our policy is to maintain a vehicle to a safe, roadworthy standard at minimal cost.”*

Overall, the survey suggests a ‘drift to outsourcing’ maintenance and that three factors consistently influence operator choices. Not unsurprisingly, these factors appear to be *service* *quality, cost* and *convenience*. It should be noted other factors are also at play and are noted throughout this summary.

* *Service* *quality* relates to outcomes perceived from different approaches. For some maintenance, required work might be under warranty. Fears of a lack of sufficient control over third party workshop outcomes can be contrasted with fears of the high overheads from running workshops, buying equipment and locating/hiring mechanical expertise.
* *Cost* relates to business viability. Financial considerations such as equipment costs play a part in the choice of approach and act in conjunction with geography and application. The work may done be under warranty or a long-term OE maintenance contract agreement. While some operators cannot afford downtime or waiting for a workshop to fit them in, others cannot afford to run their own workshops.
* *Convenience* relates to business efficiency given existing geography, cost and application. Scheduled maintenance or needed repairs are outsourced often because vehicles are away from their depot, there is little time or no mechanical expertise available or a lack of parts. For others, needed work may be under warranty with a perceived high-quality OE dealership but they are too far away to be of practical use as a service provider.

**Respondent Characteristics**

**Declared size of operation:** A total of 26 operators surveyed anonymously said their fleet operations could be classified as:

* Owner/Driver (4)
* Small fleet (2)
* Medium-sized fleet (7)
* Large fleet (13)

**Declared accreditation status and scheme**: Four respondents reported not being accredited in either NHVAS or TruckSafe®, four operators are enrolled in both schemes, and six are accredited under NHVAS alone. Ten respondents provided no data.

**Declared vehicles and/or combinations:** The majority of respondents reported large to medium-sized fleets of prime movers and (tanker) trailers in semi-trailer; B-double and/or road train configurations; and/or rigid truck and (tanker) trailer combinations. Some reported mobile cranes or mixed fleets including light vehicles (forklifts; utilities; and one tonne vans).

*The following general vehicle types make up the respondents’ fleets:*

* B-double, B-double tipper
* Truck and dog
* 2, 3 and 4 axle (tri-axle) rigid truck
	+ Rigid waste vehicle
	+ Rigid table top (flat top) vehicle
* Bulk dry and liquid tankers (from single trailer to T1 road trains)
	+ Powder tankers (single tri-axle powder tankers; single tri-axle tipper trailers)
* Mobile crane
* Car carrier

**Declared vehicle make:** Scania, Kenworth, International, Iveco, Volvo, Hino, Isuzu, Mack, Western Star, Linmac, and Franna cranes.

**Declared use of fleet monitoring or tracking technology:** Most respondents (but not all large fleet operators) reported use of wireless GPS-based technologies for tracking their vehicles. One operator said their fleet operates under three different systems, others noted similar products (e.g. MT Data). Another respondent said they only track articulated vehicles when doing line haul.

A minority reported use of both vehicle and driver performance monitoring (e.g. fatigue). Some said they monitor a subset of the fleet only; others said they use it ‘*predominantly’*; some said its only used on their newest trucks; others only use it for articulated vehicles doing linehaul.

**Declared use of sub-contractors:** Most respondents stated they did not use sub-contractors. Others said they use them rarely or only for limited journeys, such as coast-to-coast operations, ex-Darwin to all other capitals or only for overloads between adjacent capitals.

**ATTACHMENT B**

# SURVEY OF THE DEFECT CLEARANCE PROCESS

The ATA sought views of operators on the defect clearance processes through an online survey which closed on
8 August 2014. The summary below reflects qualitative survey findings.

*Defect categorisation*

The survey findings found that categorisation of defects is a key issue for industry. Some operators reported spending inordinate time and money identifying, attending to and clearing minor matters that in the past would have merely attracted a formal warning.

Other operators have received major defects notices for minor issues. Some expensive activities have been undertaken to address apparent major defects which were later downgraded to minor defects. References on the defect notice itself to the precise compliance rule that has been breached or corresponding section of the HVIM is welcomed.

There is little consistency in the way roadside inspections are undertaken from state to state or even region to region. There should be consistent roadworthiness requirements, interpretations, administrative procedures and regular inspection requirements across jurisdictions.

The time with which to comply with a defect notice, and the selection of an HVIS or HVAIS by an authorised officer does appear to be predictable or based on any risk rating or safety outcome. The feedback notes the process for clearing defects can be both costly and tedious for operators. A simple self-assessment procedure for clearing minor defect notices is welcomed by industry.

*Clearance and Self-clearance*

The administrative processes of road agencies after a defect is cleared is another problem encountered by operators. Clearance is often inadequately communicated between jurisdictions and results in further unnecessary roadside delays. It would be more efficient, easier and economical for operators to be able to log into NHVR/road agencies defect systems online to clear minor defects themselves rather than the current process which requires a multi-step paperwork process for confirming the associated repair. A unique code (e.g. an Area Location Code (ALC) could be created for each vehicle component.

*Roller Brake Testing (RBT)*

There is no consistency in the way that roller brake tests are conducted at inspection stations. There are issues with random intercept brake test results and the absence of test printouts for the driver, particularly in the case of test fails. Until such time as there is a national standard that includes a minimum axle weight, the weight on each tested axle will need to be recorded. In any future standard, a minimum axle weight, the axle weight and how it was achieved (loaded vehicle or external axle force) should be recorded on the defect.

*Safety Risk Rating*

Industry feedback also suggests it would be a good idea to consider including a safety risk rating with each defect. For example, a faded registration plate does not pose a road safety risk and since plate replacement is a minimum of 21 days, any stipulated defect clearance requirement should be removed. A risk rating can form the basis of a consistent, accountable defect categorisation process.

*Record of Inspection cards*

Finally, the use of ‘Record of Inspection’ cards was noted in one state by a respondent. These cards are to be presented by drivers at the next random or subsequent intercept. Industry ask why these are needed.

1. Many other considerations may influence choices and those noted by survey respondents are also included at Attachment A. [↑](#footnote-ref-1)
2. It must be stressed that this list represents eight safety critical elements of a vehicle identified by the NTC TWG as requiring mandatory attention during inspections and maintenance routines, but they are not the only elements needed to assess roadworthiness. Other important elements also require inspection and maintenance and their requirements are included in the draft HVIM. [↑](#footnote-ref-2)
3. ‘*Opportunity 25: consider developing a standardised brake test procedure’*. Phase 2 report, page 54. [↑](#footnote-ref-3)
4. NTC stakeholder brief on chain of responsibility and vehicle standards. 2014 [↑](#footnote-ref-4)
5. NTC, *Heavy vehicle roadworthiness review: phase one: report of current practice*. July 2014, p13. [↑](#footnote-ref-5)
6. Brodie, L et al, “Heavy vehicle driver fatalities: learnings from fatal road crash investigations,” in *Accident Analysis and Prevention*, 41 (2009), pp557-564. [↑](#footnote-ref-6)
7. McKnight, A and G Bahouth, “Analysis of Large Truck Rollover Crashes,” in *Traffic Injury Prevention*, 2009, 10:5, 421-426, DOI: 10.1080/15389580903135291. [↑](#footnote-ref-7)
8. For example, sections 60 and 89. [↑](#footnote-ref-8)
9. Commonwealth of Australia, *Australian Government guide to regulation*, p2. Available at www.cuttingredtape.gov.au [↑](#footnote-ref-9)
10. COAG, *Intergovernmental agreement on heavy vehicle regulatory reform*, 19 August 2011, par C4. Viewed 8 August 2014. <<https://www.coag.gov.au/sites/default/files/NHVR%20IGA-19August%202011.pdf>> [↑](#footnote-ref-10)
11. Formerly known as RABQSA. [↑](#footnote-ref-11)
12. ATA survey of TruckSafe auditors. Closed 19 September 2014. [↑](#footnote-ref-12)