



NTC EFFLUENT AND LOAD RESTRAINT DISCUSSION PAPER

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 10 JULY 2018

About the ATA

The ATA is the peak body representing the trucking industry. Its members include state and sector trucking associations, major logistics companies and businesses with leading expertise in truck technology. The ATA represents many thousands of trucking businesses, ranging from owner-drivers to large fleets.

Introduction

The National Transport Commission's effluent and load restraint discussion paper¹ considers three options for clarifying the application of the Heavy Vehicle National Law (HVNL) duties and load restraint provisions to minor, incidental or unavoidable effluent or other spills.

The ATA has made submissions to a previous NTC review² and a parliamentary inquiry³ about amending the chain of responsibility duties to address effluent spills. The Australian Livestock and Rural Transporters' Association (ALRTA) has also made a detailed submission in response to this review.

Accordingly, this submission focuses on the broader issues raised by NTC option 3, and makes three recommendations to ensure that the option, if adopted, addresses the full range of minor, incidental or unavoidable load releases that can occur in the industry.

About NTC option 3

Under s 111 of the HVNL, it is an offence to drive on a road a heavy vehicle that does not, or whose load does not, comply with the loading requirements that apply to the vehicle.

Evidence that a load, or part of a load, has fallen off a heavy vehicle is evidence that the load was not properly secured.⁴

The discussion paper points out that the strict application of this section would mean that any load spillage or leakage, including small amounts that raised no safety or environmental concerns, would be evidence of a load restraint breach.

¹ NTC, [Effluent and load restraint discussion paper](#). May 2018.

² ATA, [Primary duties for chain of responsibility parties and executive officer liability](#). Submission to the NTC, 7 August 2015.

³ ATA, [Heavy Vehicle National Law and Other Legislation Amendment Bill 2016](#). Submission to the Queensland Transportation and Utilities Committee, 28 September 2016.

⁴ HVNL, s 115.

The paper cites the following examples:

- the creation and subsequent emission of a small quantity of dust from an empty tip truck
- the leakage or spillage of a small quantity of water from the body of a water carrying tanker
- the escape of a small quantity of leaves or green matter from a truck carrying mulched trees, and
- the inevitable (given the nature of living animals) spillage or discharge of effluent arising from the transport of livestock.

The paper seeks views on an amendment to the HVNL to provide that the minor, incidental or unavoidable release of part of a load in circumstances like these would not be an offence under s 111.⁵

ATA position

The ATA supports the adoption of option 3, in addition to any decisions that are taken with respect to options 1 and 2 in response to the ALRTA submission.

In our internal discussions, ATA member associations pointed to a host of additional examples to support option 3, including the escape of wisps of hay, chicken feathers and sugar cane ash.

ATA member associations also raised examples where the HVNL load restraint requirements conflict with the Australian Dangerous Goods Code (ADGC), state dangerous goods legislation and the applicable Australian standards. To take two examples:

- The ADGC and state legislation require **tankers carrying liquefied compressed gases** to be constructed in accordance with AS2809.3.⁶ Section 2.3 of the standard requires these tankers to be fitted with safety valves that allow venting to the atmosphere.⁷
- **Bitumen tankers** carry a product that varies in temperature during the transport task as the product cools and is reheated in the tank. The cooling and reheating would cause a dangerous vacuum or pressure in the tank if it was sealed, so the tank is fitted with 76 mm diameter pipes extending through to drain points under its trailer.⁸ Although the pipes are fitted with buckets to catch liquids or condensate, the vents cannot and must not be sealed and emit strong odours. These odours have resulted in complaints in the past.

The ATA considers that drivers and operators should not be exposed to prosecution under the HVNL for operating equipment that complies with other laws or the standards called up under those laws.

⁵ NTC, 9.

⁶ NTC, [Australian Dangerous Goods Code](#). Edition 7.5, s 6.9.2.1.2. 1105.

⁷ Standards Australia, AS2809.3: 2017, *Road tank vehicles for dangerous goods: Part 3: road tank vehicles for compressed liquefied gas*. s 2.3.2, 8.

⁸ Standards Australia, AS2809: 2001, *Road tank vehicles for dangerous goods. Part 5: tankers for bitumen-based products*. Figure 2.1, 13.

Recommendations

The ATA accordingly recommends that:

Recommendation 1

The NTC should proceed with option 3, in addition to any decisions it takes with respect to options 1 and 2.

Recommendation 2

The legislative drafting of option 3 should make it clear that the exception from the load restraint requirements also applies to losses or escapes required by another law or Australian Standard.

Recommendation 3

Any examples used in the HVNL or its associated Explanatory Notes to illustrate option 3 should include an example based on ATA recommendation 2 as well as the ones listed in the discussion paper.