



## HVNL REVIEW CONSULTATION RIS CHAPTER 11: ROADWORTHINESS

### AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 13 NOVEMBER 2020

#### 1. About the Australian Trucking Association

The Australian Trucking Association and its member associations collectively represent 50,000 businesses and 200,000 people in the Australian trucking industry. Together we are committed to safety, professionalism and viability.

#### 2. Introduction and summary

In June 2020, the National Transport Commission released the Heavy Vehicle National Law consultation regulation impact statement,<sup>1</sup> as well as a scenario setting out what the new law could look like.<sup>2</sup>

This submission responds to chapter 11 of the consultation RIS on roadworthiness.

In the ATA's view, **options 11.1 should proceed and be strengthened.**

- Option 11.1 (standardised maintenance / roadworthiness assessment) would deliver important elements of the ATA's reform priorities, including incorporating the National Heavy Vehicle Inspection Manual (NHVIM) under the HVNL and using self-clearing defects for non-safety cases.

**Option 11.1 should be expanded (designated as option 11.1b in this submission),** to add:

- a defect notice review mechanism, to enable the NHVR to review and overturn defect notices that are not consistent with the NHVIM.
- a requirement for the mutual recognition of roadworthiness inspections for registration and defect clearance by jurisdictions.

**Option 11.2 (risk-based inspection scheme) requires further consideration,** including assessment of the 2015 roadworthiness RIS, the extent of risk-based approaches in existing inspection schemes and the impact on the number of inspections for industry.

These options need to be considered within the broader context of heavy vehicle roadworthiness. The NTC issues paper on vehicle standards and safety found that in general, the regulation of vehicle safety is working well and that safety risks are relatively well-managed.<sup>3</sup>

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<sup>1</sup> NTC, [HVNL review consultation regulation impact statement](#). Report prepared by frontier economics. June 2020a.

<sup>2</sup> NTC, [HVNL 2.0: a better law scenario](#). June 2020b.

<sup>3</sup> NTC. [Vehicle standards and safety issues paper](#). July 2019. 8.

NTI's 2020 major accident investigation for heavy vehicle crashes reports that mechanical failure is responsible for four per cent of large loss events, with steer tyre failures responsible for over half of these crashes.<sup>4</sup>

### **3. Analysis of option 11.1: standardised maintenance / roadworthiness assessment**

The consultation RIS proposes this option with three key features:

- Recognition of the National Heavy Vehicle Inspection Manual (NHVIM) in the HVNL to increase the consistency in the roadside inspection of vehicles
- Amendments to the HVNL to require the use of self-clearing defects for non-safety cases
- Where a defect does relate to safety then an inspection for defect clearance would only be required to check if the identified defect has been rectified (rather than a full inspection).<sup>5</sup>

#### **ATA reform priorities**

Reforms to defect notices and inspections are well overdue.

In 2014, the ATA raised the need for an agreed, stable national approach to the assessment of heavy vehicle roadworthiness, including accreditation, inspection, interception and defect processes. This included the need for consistent interpretation of the NHVIM.<sup>6</sup>

The ATA's 2019 submission to the HVNL review recommended:

- Enforceable defect standards by incorporating the NHVIM and the NHVR's national risk-based inspection criteria under the HVNL. The manuals would need to be revised, with a formal consultation process.
- Standards for minor defects that can be addressed by formal warnings, on the spot (in-situ) repairs when safe and timely to do so, and self-clearing processes.
- The provision of a review mechanism.
- Nationally consistent and proportionate roadworthiness inspections.<sup>7</sup>

#### **ATA assessment of option 11.1**

Option 11.1 would deliver important elements of the ATA's reform priorities, including incorporating the NHVIM under the HVNL and using self-clearing defects for non-safety cases.

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<sup>4</sup> NTI. Major accident investigation 2020 report. 31.

<sup>5</sup> NTC. June 2020a. 169, 170.

<sup>6</sup> ATA. [Submission on the Heavy Vehicle Roadworthiness Review – Phase 2 integrity review](#). September 2014. 4.

<sup>7</sup> ATA. [Submission on Vehicle Standards and Safety: HVNL Review issues paper](#). September 2019. 4.

The consultation RIS states that recognising the NHVIM in law would remove ambiguity and could increase consistency in enforcement. It also states it could reduce regulator and industry costs if it results in fewer spurious defect notices.<sup>8</sup>

Overall, the option is assessed as likely to improve operational efficiency in the industry. The ATA agrees with this assessment.

Additionally, improvements to the consistency and clearances of defect notices would prevent the use of defect notices as a form of extra-judicial punishment. The NHVR and road agencies have ample powers, backed by substantial penalties, to prosecute operators through the court system if they consider it necessary.

The NHVIM would need to be reviewed, with a formal consultation process, before it is recognised under the law and then at regular intervals.

The ATA submission on chapter 6 of the RIS (data) also recommends an electronic option for notifying and processing defect notices.

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<sup>8</sup> NTC. June 2020a. 172.

#### **4. Analysis of additional option 11.1b: defect notice review mechanism and mutual recognition of roadworthiness inspections and defect clearances**

Option 11.1 will have a clearer outcome of increasing consistency if it is backed with a new defect notice review mechanism, as the ATA has previously recommended.<sup>9</sup>

ATA proposed option 11.1b would:

- provide a review mechanism to enable the NHVR to review and overturn defects that may have been issued in error or are inconsistent with the NHVIM
- establish a requirement for the mutual recognition of roadworthiness inspections for registration and defect clearance by jurisdictions
- establish a requirement for full vehicle inspections to reset the clock on scheduled inspections.

#### **ATA assessment of option 11.1b**

National standards and laws cannot be expected to deliver consistency in decisions if they are not backed by a review mechanism.

Enabling the NHVR to review defect notices under the HVNL, and to overturn notices which do not meet the NHVIM, would strengthen the impact assessment and consistency that would be achieved under the option 11.1 reforms.

Additionally, mutual recognition of roadworthiness inspections and defect clearances would reduce the compliance costs for industry from the existing, inconsistent arrangements.

Full vehicle inspections should reset the clock on inspection requirements. This would deliver operational benefits by enabling operators to bring forward scheduled inspection requirements to when it may be operationally more efficient.

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<sup>9</sup> ATA. September 2019. 4.

**Table 1: Qualitative analysis of option 11.1 and 11.1b**

Industry		Government and community		Other
Compliance costs	Improvements in operational efficiency	Government admin costs	Enforcement and compliance monitoring costs	Avoided costs associated with reduced crashes
<b>1. Consultation RIS assessment of option 11.1</b>				
Reduced compliance costs for clearing non-safety defects.	Improved operational efficiency as a result of heavy vehicles being off the road for less time when awaiting administrative defect clearance on registration systems.	Reduced costs associated with clearing non-safety defects.  Some additional costs for training inspectors in the NHVIM, both an initial one off cost and then an ongoing cost to keep capability current.		
<b>2. ATA assessment of option 11.1</b>				
Agreed.	Agreed.	Agreed.		
<b>3. ATA assessment of additional option 11.1b</b>				
Reduced industry costs from greater consistency in defect notice decisions and the removal of inconsistent registration inspection defect clearance requirements.	Reduced industry costs from greater consistency in defect notice decisions, the removal of inconsistent registration inspection defect clearance requirements and enabling operators to bring forward inspections if it better fits their operational requirements.	NHVR would incur some costs from conducting defect notices review.  If 11.1b results in greater consistency of defect notices with the NHVIM, these costs could reduce over time.  Mutual recognition of registration inspections and defect clearances may reduce enforcements costs for jurisdictions.		

## 5. Analysis of option 11.2: risk-based inspection scheme

The consultation RIS states that option 11.2 would comprise the NHVR developing a national regime of risk-based inspections of heavy vehicles, as set out in the NHVIM.

Under this option:

- the NHVR would develop risk criteria for identifying which vehicles have a higher risk of being unroadworthy
- based on this criteria, the NHVR would have the power to require nominated heavy vehicle vehicles and/or classes of vehicles to submit to scheduled inspections at a frequency commensurate to the risk they present
- for HVNL jurisdictions, this would replace state and territory-based inspection schemes
- ministerial approval would be necessary to apply the criteria to a risk-based inspection scheme.<sup>10</sup>

It should be noted that option 11.2 is inconsistent with the two operator licensing options considered in the RIS (options 7.1c and 7.1d). These options assume that every vehicle would be inspected annually.<sup>11</sup>

### ATA assessment of option 11.2

The impact assessment in the consultation RIS considers that increased focusing of inspections on vehicles with a higher risk of defects should reduce the number of defects, and as a result, reduce crash risk. However, this impact assessment includes uncertainty about the extent of risk-based approaches of the existing state and territory inspection regimes.

Additionally, there would be some costs for the NHVR.

The ATA is disappointed with the level of assessment of this option. Recommending a national risk-based inspection scheme, when the consultation RIS states that the level of risk-based approaches in existing schemes that would be replaced is unknown, suggests a lack of assessment.

The 2015 heavy vehicle roadworthiness regulation impact statement looked into these issues in more detail. For the purposes of the cost-benefit analysis, the roadworthiness RIS assessed five options of a risk-based approach to inspections.<sup>12</sup> The RIS calculated a range of outcomes between \$3,459 million in savings to \$1,423 million in additional costs over 10 years, depending on the option of which risk-based approach was used.<sup>13</sup> It did demonstrate that an expansion of scheduled inspections will result in higher costs.

Option 11.2 is likely to reduce the number of inspections in NSW and Queensland but would likely result in increased inspections in other jurisdictions. As the impact on the number of inspections will be directly connected to the impact on costs for industry, this should be better assessed before it can be considered further.

<sup>10</sup> NTC, June 2020a. 170.

<sup>11</sup> NTC, June 2020a. 86.

<sup>12</sup> Frontier Economics. [Economic assessment of options for the ensuring the compliance with heavy vehicle roadworthiness standards](#). February 2016. 18, 19.

<sup>13</sup> Frontier Economics. February 2016. 55.

In the ATA's view, the impact of this option would ultimately depend on the effectiveness of the risk-based criteria developed by the NHVR, the translation of those risks to inspection approaches and if the option changes the number of inspections which are conducted.

Additionally, the RIS presumes an ability to redirect resources both within and between different jurisdictions.<sup>14</sup> It would be difficult for jurisdictions to agree to this even with a well-developed assessment to support it. It is highly unlikely to be agreed considering the option being proposed has not considered the level of risk-based approaches already deployed in jurisdictions.

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<sup>14</sup> NTC. June 2020a. 173.

Table 2: Qualitative analysis of option 11.2

Industry		Government and community		Other
Compliance costs	Improvements in operational efficiency	Government admin costs	Enforcement and compliance monitoring costs	Avoided costs associated with reduced crashes
<b>1. Consultation RIS assessment of option 11.2</b>				
		Some costs to develop and maintain risk-based inspection scheme		Assuming option enables a more risk-based approach to inspections then should deliver improved safety outcomes with the same number of inspections
<b>2. ATA assessment of option 11.2</b>				
Unclear. If the scheme results in additional inspections, there may be significant costs for industry.		Agreed.  May also be additional costs if the scheme results in additional inspections.		Possible. This was assessed in more detail in the 2015 RIS. This assessment should be updated.