Proposed Dangerous Goods (Transport by Road or Rail) Regulations 2018
Response to public comment
Summary of public comment and WorkSafe’s response

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Introduction

The Dangerous Goods (Transport by Road or Rail) Regulations 2008 (existing Regulations) will expire in December 2018. WorkSafe Victoria (WorkSafe) is required to review and remake the regulations by this date to ensure that there is no regulatory gap.

As part of its review, WorkSafe prepared the proposed Dangerous Goods (Transport by Road or Rail) Regulations 2018 (proposed Regulations), in consultation with the Office of the Chief Parliamentary Council. An associated Regulatory Impact Statement (RIS) was prepared by Deloitte Access Economics (DAE) in consultation with the Office of the Commissioner of Better Regulation.

The proposed Regulations and RIS were released for public comment between 26 June and 23 July 2018.

This document summarises the matters raised in public comment submissions and WorkSafe's responses to these, including how they have informed the review of the Dangerous Goods (Transport by Road or Rail) Regulations 2018.

The review

WorkSafe has undertaken a comprehensive review of the existing Regulations. The aim of the review was to:

- evaluate the effectiveness of the existing regulations
- improve the safe transport of dangerous goods for the Victorian community
- identify and deliver savings to business without reducing safety standards
- ensure the regulations address the areas of greatest risk
- ensure the regulations deliver a proportionate regulatory response according to level of risk
- streamline and modernise the regulations whilst maintaining best practice.

The review was undertaken concurrently with the two-yearly review of the transport of dangerous goods national model legislative framework. It is proposed to maintain consistency with the national approach, where practicable.

The national legislative framework consists of:

- The Model Act on the Transport of Dangerous Goods (Model Act)
- The Model Subordinate Instrument on the Transport of Dangerous Goods by Road or Rail (Model Regulations)

Consultation

WorkSafe established a Dangerous Goods (Transport by Road or Rail) Regulations Stakeholder Reference Group (SRG) to support the review of the existing Regulations.

The group comprised employee and employer representatives and emergency services organisations drawn mainly from WorkSafe’s established Health and Safety Stakeholder Reference Group. A list of SRG members is at Appendix A.
In addition, DAE undertook stakeholder consultation in developing the RIS for the proposed Regulations in accordance with the Victorian Guide to Regulation. In developing the RIS, DAE undertook extensive stakeholder consultation including:

- one-on-one interviews with 10 dangerous goods transport businesses and five industry bodies
- a web-based survey that received responses from 29 affected businesses.

DAE also consulted the Metropolitan Fire Brigade directly as a key agency involved in the emergency response to dangerous goods incidents.

The WorkSafe website (worksafe.vic.gov.au), a dedicated consultation website (consultation.worksafe.vic.gov.au) and social media posts provided the Victorian community with information on the proposed Regulations. A dedicated email address was also used to provide a channel for SRG members and the public to seek further information or clarification from WorkSafe.

Public comment

The proposed Regulations and RIS were released for public comment from 26 June to 23 July 2018. WorkSafe received four public comment submissions during this time. A list of submissions received and public comment statistics are provided at Appendix B.

Summary of changes made in response to public comment

WorkSafe has considered all comments received. A comprehensive response to public comment received and any changes made as a result are listed under ‘Specific comments and responses’ below.

No amendments have been made to the proposed Regulations as a result of public comment.
Specific comments and responses

This section provides a detailed response to public comment received and considered by WorkSafe in relation to the proposed Regulations.

General comments

Submissions were generally supportive of the proposed Regulations, particularly in relation to the proposal to adopt the changes made to the national legislative framework, including the national changes to the Limited Quantity provisions for personal care products in consumer packaging and Mixed Packet (Low Risk) Dangerous Goods, and the inclusion and revision of definitions to provide further clarity.

Removal of requirements for Emergency Information Panels (EIPs) on Intermediate Bulk Containers (IBCs)

Comment received

Two industry representative groups reiterated a proposal submitted as part of the national legislative framework review process, and also during the DG TRR Regulation review, seeking an exemption for intermediate bulk containers (IBCs) from emergency information panel (EIP) requirements.

The groups commented that there are significant benefits to business from exempting IBCs from requiring EIPs, including significant cost savings. An exemption would align with international practices and would ensure businesses are not competitively disadvantaged.

They recommended Victoria support the removal of EIPs as part of a national reform agenda to streamline Australian road and rail transport requirements.

WorkSafe response – noted

To ensure national consistency, this proposal has not been included in the proposed Regulations as a Victorian-specific regulation at this time.

WorkSafe will undertake further analysis to determine if the regulatory burden reductions outweigh the safety risks. WorkSafe will continue to engage with stakeholders to explore this change through the next national reform review and through the model legislative framework.

Move from dollar values to fee units

Comment received

An industry representative group noted that the fees for various applications and licences will be specified in fee units rather than dollar value in the proposed Regulations to ensure that the value of the fee is indexed over time. They also noted that the RIS identifies that there is a 'risk under this approach that WorkSafe could in the future over-recover costs if the fee increases are greater than the cost of collecting the fee', and that this risk can be mitigated by a cost recovery review every two years.

They acknowledged that WorkSafe will undertake an evaluation of the fee arrangements every two years to coincide with the national Model framework change proposal review process or earlier if there are any significant cost savings arising as part of WorkSafe 2030. The group suggested that a review should also be undertaken when fees increase due to indexation increases to the ‘fee unit’ made annually under the Victorian Monetary Units Act 2004.
**WorkSafe response – noted**

Fee amounts have been expressed in fee units in accordance with the *Victorian Monetary Units Act 2004* which ensures that fees are increased or decreased annually in line with inflation.

As the costs upon which the fees contained in the proposed Regulations have been determined are predominantly influenced by inflation, annual changes in accordance with *Victorian Monetary Units Act 2004* will continue to ensure full cost recovery requirements are maintained.

The RIS also indicated that over charging may arise from the introduction of operational efficiencies, such as technological advancements, which could impact the cost of processing and assessing applications. Therefore, a two-yearly review of any operational efficiency on fees as specified in the RIS will enable WorkSafe to monitor any cost reductions arising from operational efficiencies.

**Prime mover and trailer design**

**Comment received**

An individual commented that there are situations where the lead axle airbags can become more rigid than the following axle airbags on the same suspension set, which causes handling problems and impacts safety.

**WorkSafe response – noted**

WorkSafe acknowledges the submission; however, as it relates more broadly to safety concerns surrounding heavy vehicle road transport rather than the transport of dangerous goods by road or rail, it has not been considered as part of this review.

This matter would be more appropriately addressed by the National Heavy Vehicle Regulator which is responsible for the management of heavy vehicle transport across Australia through the model national heavy vehicle transport laws enacted in Victoria through the *Heavy Vehicle National Law Application Act 2013*. 
Appendices

Appendix A – Dangerous Goods (Transport by Road or Rail) Regulations Stakeholder Reference Group

- Accord Australia
- Ambulance Victoria
- Australian Industry Group
- Australian Workers Union
- Chemistry Australia
- Construction, Forestry, Maritime, Mining and Energy Union Construction and General Division – Victoria and Tasmania Branch
- Country Fire Authority
- Department of Environment, Land, Water and Planning
- Energy Safe Victoria
- Metropolitan Fire Brigade
- Minerals Council of Australia
- National Bulk Tanker Association
- Rail, Tram and Bus Union
- The Police Association of Victoria
- Transport Workers Union
- United Firefighters Union
- Victoria Police
- Victorian Chamber of Commerce and Industry
- Victorian Congress of Employer Associations
- Victorian Farmers Federation
- Victorian Trades Hall Council
- Victorian Transport Association
Appendix B – Submissions received for the proposed Dangerous Goods (Transport by Road or Rail) Regulations 2018

WorkSafe received four submissions on the proposed Regulations that were released for public comment from 26 June to 23 July 2018.

➢ One was from an individual and was marked confidential therefore did not provide WorkSafe permission to publish the name the submission was from.

➢ Three were from employer and industry organisations
  o Accord
  o Chemistry Australia
  o Gas Energy Australia

During public comment, the consultation website received 372 visits with 91 downloads of the summary of proposed changes, 92 downloads of the proposed Regulations, and 78 downloads of the RIS.