Master Code

A registered industry code of practice under section 706 of the Heavy Vehicle National Law

ATA
AUSTRALIAN TRUCKING ASSOCIATION

ALC AUSTRALIAN LOGISTICS COUNCIL
SUPPLY CHAIN EFFICIENCY AND SAFETY

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FOREWORD

This Registered Industry Code of Practice (RICP), known as the Master Code, was developed in accordance with the Guidelines for industry codes of practice[1] under section 705 of the Heavy Vehicle National Law (HVNL) and assessed as qualifying for registration by the National Heavy Vehicle Regulator (NHVR) under section 706 of the HVNL.

An approved RICP is a practical guide to achieving the standards of heavy vehicle safety and compliance required under the HVNL and the various Heavy Vehicle National Regulations (HVNR). A Registered Industry Code of Practice applies to anyone who has a duty of care in the circumstances described in this Code.

Safe Trucking and Supply Chains Limited, a jointly owned company of the Australian Logistics Council (ALC) and Australian Trucking Association (ATA), developed this Code. The ALC and ATA are the peak industry bodies in Australia representing the major Australian logistics supply chain participants and trucking operators respectively. The Code was developed in consultation with industry through various public forums involving a wide range of industry participants.

A draft of this Code of Practice was released for public consultation on 3rd July 2018 and was endorsed by the National Heavy Vehicle Regulator for registration on 23 November 2018.

SCOPE AND APPLICATION

This Code applies to all parties in the supply chain of a heavy vehicle, known as the Chain of Responsibility (CoR). It is intended to be used by all persons and businesses involved in the transport activity of a heavy vehicle.

The Code applies to all types of heavy vehicles and loads covered by the HVNL and addresses the risks associated with the four core responsibilities of CoR regulated under the HVNL:

- speed compliance (chapter 1A of the HVNL)
- fatigue management (chapter 1A and chapter 6 of the HVNL)
- mass, dimension and loading (chapter 1A and chapter 4 of the HVNL)
- vehicle standards (chapter 1A and chapter 3 of the HVNL).

The duty to ensure safety in chapter 1A of the HVNL also extends to other safety matters beyond the four core responsibilities of CoR.

This Code applies to a broad range of industry sectors and commodities, including, but not limited to:

- Agriculture and agricultural vehicles
- Animal and vegetable oils, fats and waxes
- Beverages and tobacco
- Buses (transport of passengers)
- Coal and gases
- Cement and concrete

[1] National Heavy Vehicle Regulator, Industry Codes of Practice – Guidelines for Preparing and Registering Industry Codes of Practice, 2017, accessed at the NHVR website www.nhvr.gov.au, issued pursuant to section 705 of the HVNL

- Chemicals and fertilisers
- Construction
- Cranes
- Food and food products
- General freight and other commodities e.g. sealed containers and loads
- Imports and exports
- Iron and steel
- Livestock
- Logging and timber
- Machinery and transport equipment
- Manufacturing
- Mining
- Petroleum and petroleum products
- Retail and wholesale
- Sand, stone and gravel
- Wood and wood products.

This Code applies to:

- all persons or businesses who control or direct the use of heavy vehicles over 4.5 tonnes
- all persons or businesses who employ, engage or control drivers of heavy vehicles
- all persons or businesses who schedule the transport of goods or passengers, or the work/rest times of a heavy vehicle driver
- all persons or businesses who request an operator of a heavy vehicle to transport goods by road (directly, indirectly or through a representative)
- all persons or businesses who send goods using heavy vehicles and/or are the named consignor of the goods
- all persons or businesses who receive goods using heavy vehicles and/or are the named receiver of the goods
- all persons or businesses who assemble or package goods, or control the packing of goods, for road transport by heavy vehicles
- all persons or businesses who load or control the loading of heavy vehicles
- all persons or business who unload or control the unloading of heavy vehicles
- all persons or businesses who import goods into Australia for road transport by heavy vehicles.

This Code may be a useful reference for others interested in the duties under the HVNL and Regulations.

Supporting Registered Industry Codes of Practice may be developed to provide more guidance where industry specific risks are identified and are not covered by the circumstances described in this Code.

HOW TO USE THIS REGISTERED INDUSTRY CODE OF PRACTICE

Adopting this Code is a voluntary choice by a party in the Chain of Responsibility. It is one way to take responsibility for the safety of transport activities. This Code will also assist executives of parties in the Chain of Responsibility to meet their due diligence obligations. While applying this Code is not mandatory, it should be noted that a distinguishing feature of an RICP is its evidentiary role in court proceedings pursuant to chapter 10 of the HVNL.

While complying with this Code will not afford a defence as such, the contents of the Code will be a way of admitting evidence of what is known about risks and controls and could be used by a court to determine what is reasonably practicable in the circumstances to which the Code relates (section 632A of the HVNL).

CoR parties who use this Code to develop and apply risk-based systems in their every-day business practices will improve the safety and legal compliance of their own activities and contribute to continuous improvement in best practice within their industry.[2]

In this Code, the word '**should**' is used to indicate a **recommended** course of action, while '**may**' is used to indicate an **optional** course of action.

This Code includes references to sections of the HVNL and Regulations which set out legal requirements. These references are not exhaustive. The words '**must**' or '**mandatory**' indicate that a **legal requirement exists and must be complied with**.

[2] Acknowledgement of use of National Heavy Vehicle Regulator (NHVR) *Registered Industry Codes of Practice Introduction, Fact Sheet 1 and Guidelines* content throughout the Code

1. INTRODUCTION

1.1 WHAT IS THE PURPOSE OF THIS CODE?

The main purpose of this Code is to assist each party in the Chain of Responsibility, and their executives, to ensure the safety of transport activities and to comply with relevant provisions of the HVNL.

This Code supports the object of the HVNL and provides practical guidance to assist all parties in the Chain of Responsibility.

HVNL section 3 – Object of Law

(a) promotes public safety; and

(b) manages the impact of heavy vehicles on the environment, road infrastructure and public amenity; and

(c) promotes industry productivity and efficiency in the road transport of goods and passengers by heavy vehicles; and

(d) encourages and promotes productive, efficient, innovative and safe business practices.

This Code is a means of admitting evidence of what is known about risks and controls. It may be used by a court to determine what is reasonably practicable in the circumstances to which it relates (section 632A of the HVNL).

Your corporate reputation and financial position can suffer if you are, directly or indirectly, involved in a heavy vehicle incident or breach of the HVNL that impacts public safety. You may suffer:

- bad publicity in the media
- loss of productivity due to recovery, remediation and repairs
- loss of contracts due to damaged goods and equipment
- costs to repair road infrastructure and public amenity
- insurance excess payments and an increase in insurance premiums
- court proceedings and legal costs, fines and imprisonment.

This Code presents a risk-based approach to managing safety. It encourages all CoR parties to implement controls appropriate to the size and nature of their transport activities. The Code provides all parties with an understanding of the risk management process so that they can take steps to control, eliminate or minimise risks within their business (Section 3 of this Code).

The Code translates the requirements of the HVNL into a practical application for the whole industry and suggests controls to manage safety and compliance (Sections 5 to 8 of this Code). The Code describes what you can do and why, but it does not require you to do it that way. You may be able to develop a different approach that is equally effective.

1.2 WHAT IS THE CHAIN OF RESPONSIBILITY?

The Chain of Responsibility is a concept used in the HVNL to place legal obligations on particular parties in the supply chain of a heavy vehicle–not just the operator of the vehicle or the driver of the vehicle.

The philosophy of the Chain of Responsibility laws mean that any party in the chain who has the capacity to influence and control the transport activity is responsible for the safety of transport activities (section 26B of the HVNL). The level and nature of the party's responsibility for a transport activity depends on their capacity to control, eliminate or minimise the risk (section 26A of the HVNL).

1.3 WHO IS A PARTY IN THE CHAIN OF RESPONSIBILITY?

HVNL section 5 – Definitions

***party in the chain of responsibility**, of a heavy vehicle, means each of the following persons–*

(a) if the vehicle's driver is an employed driver–an employer of the driver;
(b) if the vehicle's driver is a self-employed driver–a prime contractor for the driver;
(c) an operator of the vehicle;
(d) a scheduler of the vehicle;
(e) a consignor of any goods in the vehicle;
(f) a consignee of any goods in the vehicle;
(g) a packer of any goods in the vehicle;
(h) a loading manager for any goods in the vehicle;
(i) a loader of any goods in the vehicle;
(j) an unloader of any goods in the vehicle.

Section 5 of the HVNL provides more detailed meanings of each party in the Chain of Responsibility. More information on CoR parties is available in Chapter 4 of this Code.

> **Note:** *The role of a party in the Chain of Responsibility may also be conducted by a legal entity such as a corporation, and/or an executive of the legal entity, such as an executive officer of a corporation.*
>
> *For example, a small transport company may be performing the role of an operator of the vehicle, as the company is responsible for controlling or directing the use of the vehicle/s. The owner of the company, by right of their position, would be an executive of the company.*
>
> *In this example, the transport company has duties under section 26C of the HVNL as a party in the Chain of Responsibility, and the owner has duties under section 26D as an executive of the company (being a legal entity). More information on the duties of executives is provided in Chapter 2 of this Code.*

Persons who are involved in transport activities of a heavy vehicle may have a duty imposed on them under the HVNL, for example, those conducted by labour hire companies and loading agents. Seek independent legal advice if you are not sure about your role or duties.

What about drivers of heavy vehicles or combinations?

The driver of a heavy vehicle is not a named party in the Chain of Responsibility under the HVNL. But it is clear they have responsibilities under the HVNL, other road laws and WHS laws. As a responsible person, drivers play a pivotal role in ensuring the safety of the transport activities of a heavy vehicle. The driver is effectively the last line of defence in the supply chain of a heavy vehicle. It is often the final decision or choice of the driver that may or may not allow a breach of the HVNL. For example, if feeling fatigued, the driver may **decide** to take an extra rest break, or they may **choose** to take a risk and keep driving.

This is a significant responsibility for one person and the reason why the HVNL adopts the common principle of 'shared responsibility'. This means that multiple parties in the supply chain (not just the driver) are responsible for the safety of transport activities of a heavy vehicle. CoR laws are designed to deter all parties in the chain from causing or encouraging the driver or another person, directly or indirectly, to contravene the HVNL.[3]

Drivers need to be empowered and encouraged to speak up and to stop work if they believe an activity is unsafe or in breach of the HVNL. But not all drivers will feel comfortable speaking the truth and raising safety concerns if they are worried about the consequences or if it impacts their livelihood. In the interests of safety, it is critical that drivers who do have the courage to speak up are recognised and rewarded for their courage, rather than be disciplined or labelled as trouble makers. Organisations with high performing safety cultures are said to be inquisitive, open to, and go looking for, bad news.[4]

Strategies to help remove the stigma of reporting and foster a culture of safety and compliance include:

- establishing a written and agreed issue resolution procedure to outline the steps and responsibilities to resolve issues. The procedure needs to be explained to all parties, including drivers–refer to part 5 of the primary WHS law
- establishing a just and fair culture consequence model. This is a culture with a clear line between the acceptable and the unacceptable, with clear consequences; a culture where people are rewarded for doing the right thing (such as raising concerns) and where blame is reserved for truly reckless and malicious behaviour[5,6]
- establishing a whistle-blower policy under which a driver or another person can alert an independent party about concerns without fear of being punished. Consider using the NHVR Heavy Vehicle Confidential Reporting Line
- failing all else, encouraging all parties, including drivers, to directly contact the relevant regulatory body or enforcement agency within the relevant jurisdiction.

A heavy vehicle driver may be a party in the Chain of Responsibility if, for example, they are also an operator of a heavy vehicle or if they are loading or unloading the vehicle themselves.

[3] Queensland Parliament, *Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 – Explanatory Notes*, 09/12/2016, p.2.

[4] Attributed to Professor Patrick Hudson, Energy Institute – *"Hearts and Minds" Design Philosophy, **https://heartsandminds.energyinst.org/***

[5] *"Hearts and Minds"* Design Philosophy

[6] Reason, J. (2004). *Roadmap to a Just Culture: Enhancing the Safety Environment,* First Edition, September 2004, pp.6-7.

2. SAFETY DUTIES

2.1 WHAT IS A COR PARTY RESPONSIBLE FOR?

The HVNL imposes a positive duty on all CoR parties to ensure the safety of their transport activities (section 26C(1)of the HVNL). They must do this in at least two ways: by eliminating or minimising public risks; and by ensuring their conduct doesn't cause or encourage a driver or another person, directly or indirectly, to breach the HVNL.

A CoR party's duty is to ensure the safety of their transport activities 'so far as is reasonably practicable'.

HVNL section 26C – Primary duty

(1) Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

(2) Without limiting subsection (1), each party must, so far as is reasonably practicable–

(a) eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and

(b) ensure the party's conduct does not directly or indirectly cause or encourage–

(i) the driver of the heavy vehicle to contravene this Law; or

(ii) the driver of the heavy vehicle to exceed a speed limit applying to the driver; or

(iii) another person, including another party in the chain of responsibility, to contravene this Law.

The primary duty is based on a positive duty to ensure safety. This means that a CoR party can be prosecuted for a HVNL breach if that party does not take proactive steps to perform its duty – *even if no incident or accident arises.*

> **Note:** *You must also manage risks to the health and safety of workers when undertaking transport activities in the workplace when the "wheels are stopped" – for example, packing, loading, restraining and unloading activities, and the repairs and maintenance of heavy vehicles, in accordance with your duties under the primary WHS Law in the jurisdiction/s in which you operate.*
>
> *The primary duty to ensure safety under the HVNL is complementary to the health and safety duties under the primary WHS Law. In meeting a duty under the HVNL you may also meet a duty under the primary WHS Law, and vice versa. If there is any inconsistency between the safety requirements of the two laws, the provision of the primary WHS Law prevails (section 18 of the HVNL).*

2.1.1 What is reasonably practicable?

The HVNL adopts a required standard to discharge the duty 'so far as is reasonably practicable' for the primary duty (section 26C). The definition of reasonably practicable is explained in section 5 of the HVNL as follows and depicted in Figure 1:

HVNL section 5 – Definitions

reasonably practicable, *in relation to a duty, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—*

(a) the likelihood of a safety risk, or damage to road infrastructure, happening; and
(b) the harm that could result from the risk or damage; and
(c) what the person knows, or ought reasonably to know, about the risk or damage; and
(d) what the person knows, or ought reasonably to know, about the ways of—
  (i) removing or minimising the risk; or
  (ii) preventing or minimising the damage; and
(e) the availability and suitability of those ways; and
(f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

Cost is one factor that is considered as part of working out what is reasonably practicable to manage risk. Where the cost of implementing specific controls is grossly disproportionate to the likelihood of harm or loss, it may be that implementing those specific controls is not reasonably practicable and therefore not required.

This does not mean that the duty holder is excused from doing anything to minimise the risk so far as is reasonably practicable. *A less expensive way of minimising the risk must instead be used.*[7]

You should consider the cost of a control **after** assessing the risk and identifying ways of eliminating or minimising it. There is a clear presumption in favour of safety ahead of cost.[8]

More information on reasonably practicable is available in the ***Safe Work Australia Guide: How to Determine what is Reasonably Practicable to meet a Health and Safety Duty***; and ***Interpretive Guideline: the meaning of 'reasonably practicable'.***

[7] Safe Work Australia, Guide – *How to Determine what is Reasonably Practicable to meet a Health and Safety Duty*, May 2013, p.15.
[8] *How to Determine what is Reasonably Practicable to meet a Health and Safety Duty*, p.6.

Figure 1 So far as is reasonably practicable test – in simplified terms

2.2 WHAT ARE TRANSPORT ACTIVITIES?

HVNL section 5 – Definitions

transport activities, *means activities, including business practices and making decisions, associated with the use of a heavy vehicle on a road, including, for example–*

- *(a) contracting, directing or employing a person*
  - *(i) to drive the vehicle; or*
  - *(ii) to carry out another activity associated with the use of the vehicle (such as maintaining or repairing the vehicle); or*
- *(b) consigning goods for transport using the vehicle; or*
- *(c) scheduling the transport of goods or passengers using the vehicle; or*
- *(d) packing goods for transport using the vehicle; or*
- *(e) managing the loading of goods onto or unloading of goods from the vehicle; or*
- *(f) loading of goods onto or unloading of goods from the vehicle; or*
- *(g) receiving goods unloaded from the vehicles.*

Transport activities involve a whole range of things, not just the acts of consigning, scheduling, packing, loading, operating, driving, unloading and receiving. Transport activities include things such as what happens in the boardroom, how the business operates, the formal and informal systems and processes, the written and unwritten procedures and rules, the relationships and behaviours of people, how decisions are made, and so on – *the business practices and making decisions, associated with the use of a heavy vehicle on a road.*

This may include – decisions made by boards and executives, managers and supervisors; decisions about contracting, hiring and training; how often to maintain and repair vehicles; decisions about controlling risks; and so on.

2.2.1 Management commitment

The HVNL is designed to contribute to improvements in safety outcomes in the road transport sector by requiring all parties in the Chain of Responsibility, and executives, to focus on overall safety outcomes and build compliance cultures.[9]

An important aspect of achieving these outcomes is the 'culture' of an organisation, often referred to as *"the way we do things around here".* An organisational culture can also be focussed on safety and compliance. The safety culture of an organisation is said to be the collective values and behaviours that determine the commitment to an organisation's health and safety management.[10]

Organisations with a positive safety culture are characterised by:

- leadership commitment to safety
- accountability of line managers
- involvement of all employees
- open communication founded on mutual trust
- demonstration of care and concern for all those affected by the business
- confidence in the effectiveness of preventative measures.[11]

Effective risk management starts with the commitment to safety from those who manage and control the transport activities.

Proactive and positive safety cultures that focus on changing business practices have an immediate and direct impact on controlling risk[12]; and encourage continuous improvement will help a business to achieve better overall safety outcomes.

2.3 WHAT ARE BUSINESS PRACTICES?

HVNL section 5 – Definitions

Business practices, *of a person, means the person's practices in running a business associated with the use of a heavy vehicle on a road, including—*

(a) The operating policies and procedures of the business; and

(b) the human resource and contract arrangements of the business; and

(c) the arrangements for preventing and minimising public risks associated with the person's practices.

Business practices are included within the scope of transport activities connected with the use of a heavy vehicle on a road. Business practices include both the formal and informal ways of doing business and making decisions and are not just the written policies and procedures. The way work is done, the "unwritten rules", need to be considered when managing the safety of transport activities.

[9] Queensland Parliament, *Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 – Explanatory Notes,* 09/12/2016, p.3.

[8] Borys. D., (2014). Organisational Culture. In Safety Institute of Australia, *The Core Body of Knowledge for Generalist OHS Professionals*. Tullamarine, VIC. Safety Institute of Australia, pp.6-8.

[11] Organisational Culture, pp.9-11.

[12] Organisational Culture, p.30.

2.3.1 Operating policies and procedures

Operating policies and procedures, also known as 'CoR policies and procedures':

- describe the way the business operates and how the safety of your transport activities and compliance with the HVNL is managed
- help all parties understand their duties and responsibilities in the Chain of Responsibility
- demonstrate a commitment to safe transport activities.

All CoR parties should document and implement their operating policies and procedures. These CoR policies and procedures are referred to throughout this Code as:

- speed management policies and procedures–to manage high risk behaviours such as speeding
- fatigue management policies and procedures–to manage the fatigue of the driver
- mass, dimension and loading policies and procedures–to manage risks associated with heavy vehicle mass, dimension and loading
- vehicle standards policies and procedures–to manage risks associated with vehicle safety standards and roadworthiness.

CoR policies and procedures should include information about:

- the roles, functions and responsibilities of parties in your supply chain
- how you engage and interact with other CoR parties and vice versa
- how the safety of transport activities is managed by CoR parties
- how you will comply and how you expect others to comply
- how you will share and act on information about incidents and non-compliance
- what you will do if other CoR parties don't comply with their obligations.

CoR procedures sit under your safety and compliance policy. They provide instructions to employees and other CoR parties about how to conduct the transport activities over which you have control. For example, in relation to loading, CoR procedures may cover information to be exchanged before loading, who is to do what, pre-departure checks, and what sign-off is to be provided.

CoR policies and procedures should be communicated with relevant CoR parties to support consistent understanding and application throughout the supply chain.

CoR policies and procedures should be regularly reviewed to make sure they reflect operational practice – the way work is actually done. There needs to be supervision, monitoring and management oversight of business practices to give confidence that policies and procedures are followed. There should also be a way to recognise business practices done the right way and to address any non-conformances.

Documented CoR policies and procedures and records of how they are followed help to build an evidence log of safety and compliance. This is useful if there are any safety incidents or breaches of the HVNL. Effective policies and procedures provide assurance and evidence that your business practices are in place and are working. They also allow you to measure how effective your business practices are. More information on assurance is available in Section 2.7 of this Code.

2.3.2 Training

Human resource arrangements involve inducting and training personnel in safety-critical areas, including their duties under section 26C and 26D of the HVNL.

The primary WHS Law has a duty to provide **any information, training, instruction or supervision** that is necessary to protect all people from risks to their health and safety arising from work carried out (section 19 of the WHS Act). Although this is not a specific requirement of the HVNL, it may be an important part of how duties under the HVNL are met.

CoR parties should provide training and awareness of CoR policies and procedures—including how they contribute to the safety of the transport activity—to all relevant parties or persons. This will help everyone involved to understand business practices, and their duties and responsibilities under the HVNL, to prevent them directly or indirectly causing or encouraging the driver (or another party in the chain) to break the law or to take safety risks.

Training should develop awareness of the potential consequences of harm or loss and the human factors that may lead to risk taking behaviours. This includes information about the issues affecting how people do their jobs, such as social and personal factors, especially in relation to speeding and driving while impaired by fatigue.

All CoR parties should provide education and awareness of the steps that can be taken to manage delays, to prevent situations where a driver or another CoR party is directly or indirectly caused or encouraged to breach the HVNL as a result of a delay. It is important that drivers are not directly pressured, or feel indirectly pressured, to speed or drive while impaired by fatigue because of unplanned delays. Drivers and other parties should be positively recognised for taking steps to proactively manage CoR compliance, for example, by driving at safe speeds or taking rest breaks to avoid driving while impaired by fatigue.

All CoR parties should implement a training management system to:

- identify the training needs—for example, a training needs analysis
- identify any gaps in training—for example, a training register
- maintain records of training provided and content covered
- review the effectiveness of training—for example, competency assessments
- conduct ongoing and regular refresher training.

An example training management system is shown in Figure 2.

Examples of training that should be undertaken include, but are not limited to:

- role specific training, such as the responsibilities associated with a CoR role—for each person who has a named role in the chain of responsibility, or the responsibilities associated with HVNL duties—for example, an executive of a legal entity or a record keeper
- task specific training, such as fatigue management strategies for schedulers, or load positioning and load restraint requirements for loading managers and loaders
- the organisation's risk management process, including how hazards are identified, the controls implemented and how to use the controls
- CoR policies and procedures that describe business practices
- CoR requirements, such as fatigue and relevant vehicle mass, dimension and loading requirements, including the awareness of signs of fatigue, drug and alcohol use
- tasks in the maintenance management system and who is responsible for each of those tasks—for example, daily checks and fault reporting.

Figure 2 Training management system framework

The training management system, also known as a learning management system, may be an off-the-shelf computerised database, an electronic spreadsheet or a simple paper-based system.

2.3.3 Contract management

Selecting and contracting with other CoR parties is part of transport activities and the same safety duties apply. Operators and other supply chain parties have a duty to ensure safety so far as is reasonably practicable (section 26C of the HVNL). Section 26B of the HVNL makes it clear that duties cannot be delegated (transferred). Where road transport is conducted by a contractor or third party, it is critical that every party in the supply chain has an *"active system in place to manage the risk and to minimise the chances of road transport law being breached".*

Selecting and contracting with other CoR parties may be the point where you have the greatest capacity to influence and control the transport activities. It is your opportunity to choose who to work with, and on what terms.

Some of the key concepts to be considered in managing contractors are:

- the importance of selecting contractors who have a reputation for running a safe and compliant business
- the need to include CoR safety and compliance conditions in all supply chain contracts
- the importance of monitoring the compliance of contractors and third parties within the supply chain
- where contractors do not have their own reliable safety and compliance systems, the need to subject contractors to awareness of business practices, policies and procedures, internal training and controls
- the need to ensure that businesses have a meaningful safety and compliance framework, preferably documented and records maintained.

A simple model of the contracting process that CoR parties may consider, as shown in Figure 3, includes the following five steps:

1. **Plan**—assign roles and responsibilities and conduct a risk assessment to ensure third parties understand your safety expectations and that you choose providers who can meet your requirements. This will be based on the size and nature of transport activities to be undertaken.
2. **Source**—pre-qualify contractors based on their capability to perform the transport activities and manage any associated safety and compliance risks. Consider whether the provider is part of an industry accreditation scheme or use other assessment tools to find out if they have a reputation for running a safe and compliant business. Find out whether the third party intends to subcontract any work to another party and, if so, identify who that is and how their performance will be assured.
3. **Mobilise**—reach agreement and be clear on the responsibilities of each CoR party, usually by written agreement. Include terms for ending the contract if there is non-compliance. Provide inductions and training if necessary.
4. **Manage**—implement CoR policies and procedures, and monitor performance. For example, have regular catch-ups with the third party to discuss and manage any issues.
5. **Review**—evaluate contractor performance to make sure that the third party is performing the activity according to your contractual arrangements. If unsatisfactory, attempt to negotiate ways to improve their performance or find another party to work with.

Your hazard identification and risk assessment process should consider the public risks that arise from the joint activities and the interactions between the parties when contracting or sub-contracting. The ways to eliminate or minimise risk may include things that the other party has to do, that the operator has to do, or a combination of both. Depending on the circumstances it may be necessary to include contractual obligations.

More information on managing third party interactions is available in the NHVR Safety Management Systems Quick Guide: ***Third Party Interactions.***

More information about how to work with contractors and subcontractors is available in the Comcare publication: ***Contractor and subcontractors under the Work Health and Safety Act 2011 (2018).***

Figure 3 A simple five step model of the contracting process

2.4 WHO IS RESPONSIBLE FOR THE SAFETY OF TRANSPORT ACTIVITIES?

The HVNL adopts the principle of shared responsibility (section 26A) as follows:

HVNL section 26A – Principle of shared responsibility

(1) The safety of transport activities relating to a heavy vehicle is the shared responsibility of each party in the chain of responsibility for the vehicle.

(2) The level and nature of a party's responsibility for a transport activity depends on–

(a) the functions the person performs or is required to perform, whether exclusively or occasionally, rather than—

(i) the person's job title; or

(ii) the person's functions described in a written contract; and

(b) the nature of the public risk created by the carrying out of the transport activity; and

(c) the party's capacity to control, eliminate or minimise the risk.

The example below helps to explain the concept of shared responsibility.

When loading a heavy vehicle, the loading manager identifies the vehicle is unsafe because the brake lights and tail lights are not working.

In this case:

(a) there is a risk if the unsafe vehicle is used on a road another vehicle could collide with it because the driver of the other vehicle was not alerted by rear lights

(b) the operator is responsible for maintaining and repairing the vehicle. The loading manager can observe, record and report any obvious defects to the operator

(c) the operator has the capacity to eliminate the risk by having the fault repaired. The loading manager can minimise the risk by stopping the loading activity and reporting the fault to the operator.

This example demonstrates both parties, the loading manager and operator, have a shared responsibility. And the party's responsibility depends on the function the person performs, the nature of the risk and the person's capacity to control, eliminate or minimise the risk.

The HVNL also adopts the principle of multiple and concurrent duties (section 26B) as follows:

HVNL section 26B – Principles applying to duties

(1) A person may have more than 1 duty because of the functions the person performs or is required to perform.

(2) More than 1 person can concurrently have a duty under this Law and each duty holder must comply with that duty to the standard required by this Law even if another duty holder has the same duty.

(3) If more than 1 person has a duty for the same matter, each person–

(a) retains responsibility for the person's duty in relation to the matter; and

(b) must discharge the person's duty to the extent to which the person–

(i) has the capacity to influence and control the matter; or

(ii) would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

(4) A duty under this Law may not be transferred to another person.

For example, two food manufacturing businesses are both consignors and consignees as they both send and receive goods using heavy vehicles. Both manufacturers also package goods for transport. The first manufacturer manages their own outbound warehousing and distribution network, also performing the role of a packer, loading manager/loader and operator. The second manufacturer engages a third-party logistics provider (3PL) to manage their warehousing and distribution, performing the additional role of a packer only. In this scenario, the two manufacturers have multiple duties because of the functions they perform.

A duty under the HVNL may not be transferred. This means that multiple parties in the supply chain are responsible for the safety of transport activities of a heavy vehicle and those CoR parties may have multiple (and potentially overlapping) duties.

In the above scenario, the second manufacturer cannot contract out (transfer) their duties to the third-party logistics provider, or simply rely on the 3PL to manage the safety of their transport activities. The manufacturer still has a capacity to influence the activity and should have oversight of those activities.

This example demonstrates that a person may have more than one duty, and more than one person may share a duty. The important thing is that you understand your capacity to influence and control the transport activities and that you manage the risks associated with those activities.

More information on managing third party interactions is available in the NHVR Safety Management Systems Quick Guide: ***Third Party Interactions.***

2.4.1 Influence and control

The philosophy of the Chain of Responsibility laws mean that any **party in the chain** who has the capacity to **influence and control** the transport activity is responsible for the **safety** of transport activities (section 26B(3) of the HVNL). The level and nature of a CoR party's responsibility for a transport activity depends on their **capacity** to control, eliminate or minimise the risk (section 26A(2)(c) of the HVNL).

The role of a party in the Chain of Responsibility may be conducted by one or more persons, including but not limited to the examples below:

- a corporation
- an executive
- a person who manages or controls the activity
- a person who supervises the activity
- an individual person performing the activity.

In the case of a 'Packer' – a packer may be:

- an individual person packaging goods for a heavy vehicle load
- a person who supervises the packaging activity
- a person or business who manages or controls the packaging activity.

The level of responsibility for the transport activity of these differing parties and persons will depend on their capacity to control, eliminate or minimise the risk and/or to influence and control the activity. No one will be liable for breaches they cannot control or have influence over.

A seasonal worker packing produce for transport to market will have a different level of responsibility compared to the leading hand who supervises the packing of the produce, who in turn will have a different level of responsibility to the primary producer who manages and controls the packing of the produce.

This is one example of the differences that may exist around the specific duties of a party in the Chain of Responsibility. The important thing is that you understand your capacity to influence and control the transport activities and that you manage the risks associated with those activities.

You should also consider how other parties may influence the safety of your transport activities, and how you may influence theirs.

2.4.2 Consultation, cooperation and coordination

One way to foster a culture of shared responsibility between parties in the Chain of Responsibility is to use effective two-way **consultation, cooperation and coordination**. Proactive engagement and collaboration of all parties along the supply chain will encourage safe and productive transport activities.

Work Health and Safety laws also impose a duty to consult with workers directly affected by a health and safety matter and with all other persons who have a duty in relation to the same matter (sections 46 and 47 of the WHS Act). Although this is not a specific requirement of the HVNL, it may be an important part of how duties under the HVNL are met.

Examples of consultation, cooperation and coordination that encourage an integrated and consistent approach to safe transport activities include but are not limited to:

- communicating CoR policies and procedures to other parties to support consistent understanding and application
- involving other parties in the supply chain in discussions about identified risks to support consistent awareness and control of the risk
- identifying safety and compliance synergies across the chain to create common solutions and strategies
- sharing information to positively impact the activities of other CoR parties, for example, safety information and incident reporting
- alerting other CoR parties to CoR incidents and non-compliances and working together to review the effectiveness of any remedial actions implemented (observe, record and report)
- alerting other CoR parties to practices that have negative impacts, are unsafe, or may breach the HVNL.

CoR parties should engage and consult with each other to foster productive, efficient, innovative and safe supply chain relationships. To support this, you could develop a stakeholder engagement plan, or operational framework, that identifies the Who? What? Where? When? Why? and How? for basic information-gathering and information-sharing amongst CoR parties.

Further guidance on consultation is available in the Safe Work Australia Code of Practice: ***Work health and safety consultation, cooperation and coordination.***

2.5 PROHIBITED REQUESTS AND CONTRACTS

HVNL section 26E – Prohibited requests and contracts

(1) A person must not ask, direct or require (directly or indirectly) the driver of a heavy vehicle or a party in the chain of responsibility to do or not do something the person knows, or ought reasonably to know, would have the effect of causing the driver –

(a) to exceed a speed limit applying to the driver; or

(b) to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or

(c) to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or

(d) to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

(2) A person must not enter into a contract with the driver of a heavy vehicle or a party in the chain of responsibility that the person knows, or ought reasonably to know, would have the effect of causing the driver, or would encourage the driver, or would encourage a party in the chain of responsibility to cause the driver –

(a) to exceed a speed limit applying to the driver; or

(b) to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or

(c) to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or

(d) to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

Note: *Section 26E applies to any person but is restricted to requests of or contracts with a driver or CoR party that cause speeding or breaches of the Chapter 6 fatigue laws. The obligation in 26C(2)(b) applies only to CoR parties, but it relates to conduct encouraging or causing any breach of the HVNL, by a driver, another CoR party, or another person.*

Section 26E of the HVNL applies to **all persons**—not just CoR parties. A person may include a legal entity or an executive of a legal entity, or other persons entering into contracts with drivers or CoR parties, such as freight forwarders, shipping or loading agents, third party or fourth party logistics providers. It is a prescriptive requirement of the HVNL with a maximum penalty of $10000.

You should make sure your requests do not directly or indirectly cause a driver or a CoR party to exceed a speed limit or to breach prescriptive fatigue laws. For example, a customer (the consignee) calls a supplier (the consignor) asking for an urgent delivery. The supplier calls the transport operator and asks that they deliver the goods *"as fast as you can".* In making this statement the supplier has indirectly implied the driver should speed to make the delivery. In this example, the supplier should ask the transport operator when they can **safely** make this delivery and advise their customer of the expected delivery time.

You should make sure that contracts, agreements and terms of consignment do not contain rate structures, incentives or penalties, or associated performance measures, that may reward or encourage the operator or driver to breach CoR requirements. Examples include incentives for early pick-up or delivery, or penalties for late delivery. These might create an environment where the operator or driver feels pressured to speed or drive whilst fatigued or breach work and rest requirements.

Commercial arrangements may include requirements to comply with legal obligations and incentives to do so, such as rewards when full compliance is achieved.

2.6 HOW TO EXERCISE DUE DILIGENCE

The HVNL imposes an executive due diligence obligation to ensure CoR parties comply with their safety duties (section 26D) as follows:

HVNL section 26D – Duty of executive of legal entity

(1) If a legal entity has a safety duty, an executive of the legal entity must exercise due diligence to ensure the legal entity complies with the safety duty.

(2) The executive may be convicted of an offence against subsection (1) even if the legal entity has not been proceeded against for, or convicted of, an offence relating to the safety duty.

Safety duties cover all major safety offences in the HVNL which have a direct safety link and that executives can manage as part of their role. Safety duties include, but are not limited to, the primary duty (section 26C) and prohibited requests and contracts (section 26E). See Appendix B for the full list of the applicable provisions.

Executive due diligence is a **positive, proactive, personal** duty. It is an offence for an executive of a legal entity with a safety duty to fail to use due diligence to ensure the legal entity complies with that safety duty. The executive due diligence duty is independent. This means that if the executive does not proactively take steps to perform their duty, the executive can still be prosecuted for a breach *even if no incident or accident arises.*

Executive Officers are also liable under sections 636-638 of the HVNL where a corporation/ partnership/unincorporated body has committed an offence in Schedule 4 of the HVNL and the executive knowingly authorised or permitted the conduct of the subject of the offence.

2.6.1 Who is an executive?

HVNL section 26D – Duty of executive of legal entity

executive, *of a legal entity, means—*

(a) for a corporation—an executive officer of the corporation; or

(b) for an unincorporated partnership—a partner in the partnership; or

(c) for an unincorporated body—a management member of the body.

legal entity *means—*

(a) a corporation; or

(b) an unincorporated partnership; or

(c) an unincorporated body.

For a corporation, an ***executive officer****, means– a director of the corporation; or any person who is concerned or takes part in the management of the corporation* (section 5 of the HVNL).

A person who is the owner-operator of their own small transport company will be considered an executive officer. In this scenario, the person will have duties under section 26C of the HVNL as an operator of a heavy vehicle and duties under section 26D of the HVNL as an executive.

2.6.2 What is due diligence?

HVNL section 26D – Duty of executive of legal entity

due diligence *includes taking reasonable steps—*

(a) to acquire, and keep up to date, knowledge about the safe conduct of transport activities; and

(b) gain an understanding of—

(i) the nature of the legal entity's transport activities; and

(ii) the hazards and risks, including public risk, associated with those activities; and

(c) to ensure the legal entity has, and uses, appropriate resources to eliminate or minimise those hazards and risks; and

(d) to ensure the legal entity has, and implements, processes—

(i) for eliminating or minimising those hazards and risks; and

(ii) for receiving, considering, and responding in a timely way to, information about those hazards and risks and any incidents; and

(iii) for complying with the legal entity's safety duties; and

(e) to verify the resources and processes mentioned in paragraphs (c) to (d) are being provided, used and implemented.

Executives need to understand CoR compliance and the effectiveness of their business practices. Examples of due diligence activities as part of each stage of the cycle[13], as shown in Figure 4, include:

- **Knowledge**—be aware of your obligations under the HVNL and the compliance strategies, business practices (CoR policies and procedures) and risk management processes to eliminate or minimise public risks associated with your transport activities so far as is reasonably practicable.
- **Understanding**—get advice from a suitably qualified person, if required, to understand the core transport activities and business practices (operations) and the hazards and risks associated with those activities and practices. And knowledge of emerging risks and controls, such as new technologies.
- **Resources**—understand the procedures and resources needed, both financial and physical resources, such as training. Make sure they are available and used, to meet your obligations under the HVNL and to eliminate or minimise public risks.
- **Information**—have oversight of the reporting of incidents, breaches and emerging hazards and risks, identify any further action required to eliminate or minimise the hazards or risks so far as is reasonably practicable and make sure you take reasonably practicable steps.

[13] Adapted from Safe Work Australia, *Interpretive Guideline – model Work Health and Safety Act – the health and safety duty of an officer under section 27*, 26 Sep 2011

- **Compliance**—establish and maintain systems to ensure business practices, policies and procedures comply with duties and obligations under the HVNL. For example, general duties under section 26C, or specific duties such as to make sure that transport documentation is not false or misleading (section 186 of the HVNL), or confirm compliance with conditions of BFM or AFM accreditation (section 467 of the HVNL). This can be done through legal compliance audit or by testing policies, procedures and practices to make sure that they comply with your safety management planning.
- **Verification**—actively check, through inspection or auditing processes, that the procedures and resources are in place and are being used. Implementing governance activities is a good way to keep safety issues a priority for businesses and to make sure obligations are being complied with (see Section 2.7 of this Code). CoR reporting should be developed on the basis that information provided to executives is meaningful, and capable of driving safety and business improvement. For examples of key performance indicators see Appendix C.

More information on due diligence is available in the Comcare *Guidance for officers in exercising due diligence*; and the Safe Work Australia Interpretive Guideline: *The health and safety duty of an officer under section 27*.

Figure 4 Due diligence cycle

2.7 HOW CAN THE SAFETY OF TRANSPORT ACTIVITIES BE ASSURED?

One way to make sure you are making good decisions and managing risk is to establish an active assurance program. Assurance gives you the confidence and certainty that you are doing the right things to meet the safety and compliance requirements of the HVNL.

Assurance tests the effectiveness of your business practices and decision making to confirm that these are working as planned. It involves monitoring operating policies and procedures, measuring safety performance and compliance, and managing change to continuously improve business practices.

All CoR parties and their executives should implement an active assurance program to help ensure transport activities are safe, prevent breaches of the HVNL, manage risk and maintain a safe road environment.

All CoR parties should implement documented reporting and notification processes as part of their business practices to address and manage any risks relating to CoR, including:

- safety incidents or near misses
- breaches of policies and procedures (system non-conformances)
- breaches of the HVNL (non-compliances)
- unplanned delays.

A process to resolve safety issues, particularly those relating to CoR requirements, gives CoR parties confidence that problems are reported and rectified, to prevent or reduce potential harm or loss (risks).

All CoR parties should have ways to alert and engage with other parties in the chain about CoR incidents and breaches and to review the effectiveness of any remedial actions implemented. This will help CoR parties work together to develop solutions and improve safety.

To support compliance and safety management, all CoR parties should implement an internal review process. Internal review involves monitoring, reviewing and assessing the effectiveness of business practices, to confirm they have been done and are being done in the manner intended. This requires a process to record and remedy any non-conformances identified. Internal reviews should be conducted on a periodic basis by a person independent of the business operations wherever possible.

Internal reviews may be complemented by external reviews or audits, by engaging an appropriately qualified auditor to audit business practices against this Code or other industry accreditation schemes. These accreditation schemes, such as the National Heavy Vehicle Accreditation Scheme (NHVAS) or TruckSafe, are a useful tool to provide assurance of safety and compliance to the operator and other CoR parties. Evidence points to improved safety, efficiency and productivity for parties who participate in accreditation schemes.

Implementing governance activities, such as internal reviews and reporting on CoR using key performance indicators (KPIs), is a good way to keep safety issues a priority and to make sure obligations are met. See Appendix C for examples of KPIs.

2.8 WHAT IF A PERSON FAILS TO COMPLY WITH A DUTY?

The HVNL includes significant penalties for offences under the HVNL and breaches of the primary duty (Part 1A.3). There are three categories of offences for failing to comply with the duty – these are similar to primary WHS Laws.

Table 1 Offences and penalties – Failing to comply with **section 26C Primary duty**

Offence	Penalty	
Category 1 offence for a person who is reckless as to the risk	**Individual** maximum $300,000 or 5 years imprisonment, or both	**Corporation** maximum $3,000,000
Category 2 offence for exposure to risk of death or serious injury	**Individual** maximum $150,000	**Corporation** maximum $1,500,000
Category 3 offence for breaches of the safety duty	**Individual** maximum $50,000	**Corporation** maximum $500,000

2.8.1 Failing to comply with section 26D Duty of executive of legal entity

The section 26D penalty is equal to the penalty for the offence against the primary duty that the executive did not prevent the legal entity from committing. The maximum penalty is the penalty for a contravention of the (section 26C) provision by an **individual**. For example, if an executive is reckless as to the risk in performing their duties the maximum penalty is $300,000 or 5 years imprisonment, or both (refer to Table 1).

For the full list of the provisions and penalties applicable to executives see Appendix B.

CoR parties and their executives who incorporate appropriate risk-based activities into their everyday business practices will improve the safety and compliance of their transport activities and reduce their legal exposure to such significant penalties.

3. RISK MANAGEMENT PROCESS

The risk management guidance provided in this chapter and in this Code complies with *AS/NZS ISO 31000:2018 Risk Management – Principles and Guidelines* and is aligned to the Safe Work Australia Code of Practice: ***How to manage work health and safety risks*** (2018) and the NHVR heavy vehicle industry guide: ***Introduction to risk management*** (2017).

3.1 RISK MANAGEMENT APPROACH

The HVNL aims to improve safety by encouraging a proactive, outcomes-focused approach to **managing the risks** associated with transport activities.

This Code addresses the key hazards and risk types that relate to the four CoR responsibilities of:

- **Speed**—incidents caused by speeding heavy vehicles and breaches of speed compliance requirements
- **Fatigue**—incidents caused by drivers being impaired by fatigue and breaches of fatigue management requirements
- **Mass, Dimension and Loading**—incidents caused by incorrectly positioned or restrained loads and overloaded or over-dimensional heavy vehicles, and breaches of mass, dimension and loading requirements
- **Vehicle Standards**—incidents caused by poorly maintained, unsafe or defective heavy vehicles and breaches of vehicle standards requirements.

Loss of control of a heavy vehicle is a serious consequence of such risks. Consequences include significant impacts on public safety such as fatalities or serious injuries to drivers, passengers, other road users and the general public. Operating heavy vehicles that do not comply with these requirements can also cause damage to road infrastructure, public amenity and the environment—whether they are involved in an incident or not.

The business practices of other CoR parties may contribute to these risks.

All duty holders are required to use a risk management process to identify, assess and control public risks within their business to make sure that transport activities are safe and legal.

This chapter of the Code describes a risk management process you can use. A worked example is provided at the end of the chapter to demonstrate this approach.

If you already have a business risk management process in place you should use that.

3.2 HOW TO DEVELOP A RISK MANAGEMENT PROCESS

Risk management is a step-by-step process that consists of four key steps (see Figure 5 below):

(1) **Identify hazards**—find out what could cause harm or loss
(2) **Assess risks**—understand the harm or loss that could be caused by the hazard, how serious it could be and how likely it is to occur
(3) **Control risks**—implement the most effective control that is reasonably practicable in the circumstances
(4) **Monitor and review controls**—make sure controls remain effective over time and work as planned.

Refer to Section 2.1.1 of this Code to determine what is 'reasonably practicable' to ensure the safety of transport activities.

How you implement the risk management process will depend on the size and nature of your transport activities. For example, larger businesses with a greater exposure to risk are likely to need more complex risk management processes whereas smaller operators are likely to need a simpler approach.

Figure 5 The risk management process[14]

Commitment from management is at the core of the risk management process. Effective risk management starts with the commitment to safety from those who manage and control the transport activities. More information on management commitment is available in Section 2.2.1 of this Code.

Consultation at each step of the process supports effective risk management. Consultation includes cooperating and coordinating activities with other CoR parties. More information on consultation, cooperation and coordination is available in Section 2.4.2 of this Code.

To understand the hazards and risks associated with your transport activities:

(a) describe the transport task—the transport of what goods (or passengers) using what type of heavy vehicle/s, where to/from, how often and so on. Different transport tasks will have different hazards and risks

(b) work out your role/s in the chain of responsibility. Different CoR parties will have different hazards and risks in how they influence and control the transport activity.

Completing these two preliminary steps will set the context for your risk assessment. For some duty holders this will be a simple process, for others it will be more complex depending on the size and nature of your transport activities. A worked example of this approach is shown in Section 3.4.

[14] Safe Work Australia, Code of Practice: *How to manage work health and safety risks*, May 2018, p.8.

STEP 1 – HOW TO IDENTIFY HAZARDS

Identifying hazards involves finding things or situations with the potential to cause harm or loss. Hazards can include a wide range of things, such as:

- activities or business practices, like setting unrealistic schedules or delivery windows
- behaviours, like speeding or driving while impaired by fatigue to meet a deadline
- physical objects, like a heavy vehicle with defective brakes, or worn lashings used to restrain a load
- situations, like a poorly restrained load, loading or unloading delays or traffic congestion
- management practices, like not providing employees with proper training.

Some of the common ways to find hazards include:

- asking the person doing the job about any problems they have had and any near misses or incidents that have not been reported
- consulting with other CoR parties to understand each other's needs and to identify any hazards
- observing how people do the job and identifying safe or unsafe work or business practices
- checking vehicles and equipment, how they are used and how well they are maintained
- implementing an effective reporting system and encouraging people to report hazards and things that could go wrong
- analysing information from incident investigation reports, inspection and audit findings
- reviewing information and advice from industry associations, regulators, technical specialists and suppliers about known hazards
- looking for hazards when something changes, for example, starting a new contract or purchasing new equipment.

Record identified hazards, follow up on why the situation may occur and assess the risk (if required).

> **Note:** *Many hazards and their associated risks are well known and have well established and accepted control measures. In these situations, the second step to formally assess the risk is unnecessary. If, after identifying a hazard, you already know the risk and how to control it effectively, you can implement the controls without undertaking a risk assessment.*[15]

STEP 2 – HOW TO ASSESS RISKS

A hazard is a source of risk. A risk assessment involves considering what could happen if someone is exposed to a hazard and the likelihood of it happening.

A risk assessment should be done whenever:

- a new hazard is identified, or a new transport activity is commenced
- there is uncertainty about how a hazard may result in harm or loss
- the controls are not well known
- you are unsure how to best control the risk
- changes occur that may impact on the effectiveness of existing controls.

[15] Safe Work Australia, Code of Practice: *How to manage work health and safety risks*, May 2018, p.8.

Conducting a risk assessment is a structured process that involves working out:

- how the hazard could cause harm or loss
- how severe the harm or loss could be
- the likelihood of harm occurring.

To work out **how the hazard could cause harm or loss**, consider public risks including:

- how could someone (drivers, passengers, other road users or other persons like pedestrians) be hurt?
- how could heavy vehicles or their loads be damaged?
- how could property (such as other vehicles or buildings) be damaged?
- how could road infrastructure (such as road surfaces, tunnels and bridges or other roadside infrastructure like barriers) be damaged?
- how could the environment be impacted?

For example, a poorly restrained load is a hazard and there is a risk that the load could fall off the vehicle and damage the freight. Another risk of this hazard is that freight could hit and damage a car. There is also a risk the driver or passengers in the car could be hurt. Often one risk will lead to another, as demonstrated in this example.

To work out how severe the harm or loss could be, consider the possible consequences including:

- how seriously could someone be hurt? Could the hazard cause death, serious injuries or only moderate to minor injuries requiring medical treatment or first aid? For example, if freight falls off a truck and hits a car, how seriously could the driver or passengers in the car be hurt?
- how many people are exposed to the hazard and how many could be hurt? Could the hazard hurt one person or many people?
- how much damage could occur? Could the hazard result in high cost or major disruption, or only minimal cost or minor disruption, or somewhere in between?
- what factors could influence the severity of harm? For example, the type of load being transported such as highly flammable dangerous goods?
- could one failure lead to other failures? For example, could a poorly restrained load in a container shift and cause the truck to rollover?
- could a small event turn into a much larger event with more serious consequences? For example, could a collision cause a fire or result in an explosion?

To estimate **the likelihood of harm occurring** consider:

- how often is the task done? Does this make the harm more or less likely?
- how often are people near the hazard? How close do people get to it?
- has it ever happened before, either as part of your transport activities or somewhere else?

You can rate the likelihood as one of the following:

- **Certain to occur**—expected to occur in most circumstances
- **Very likely**—will probably occur in most circumstances
- **Possible**—might occur occasionally
- **Unlikely**—could happen at some time
- **Rare**—may happen only in exceptional circumstances.

When working out the severity and likelihood of harm, consider the controls that are already in place to manage the risk. For example, the above-mentioned freight is restrained using webbing straps inside a tautliner vehicle with side gates. What is the likelihood it will fall off the vehicle and hurt someone?

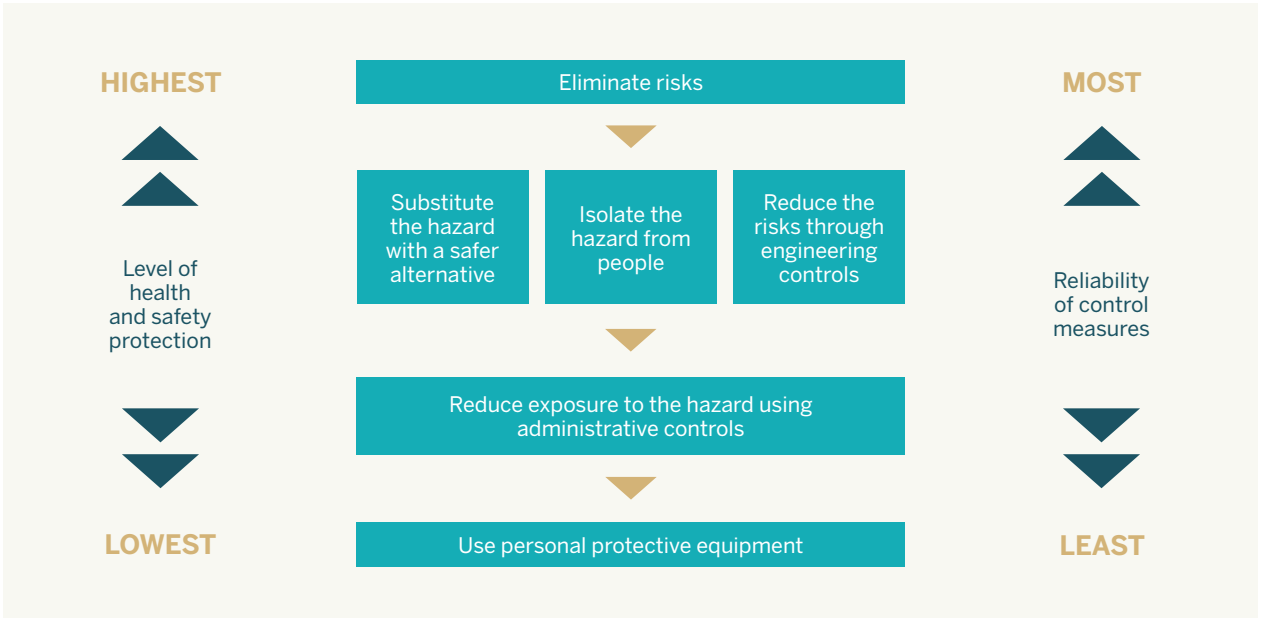
STEP 3 – HOW TO CONTROL RISKS

The most important step in managing risks involves eliminating or minimising them so far as is reasonably practicable. It is a requirement of the HVNL, so far as is reasonably practicable, to eliminate or minimise public risks (section 26C).

When working out how to eliminate or minimise risks, you should work your way through the **hierarchy of control**, as shown in Figure 6. The ways of controlling risks are ranked from the highest level of protection and reliability to the lowest level.

You must always aim to eliminate the risk, which is the most effective control, but this may not always be reasonably practicable. In this event you should minimise the risk by working your way through the other options in the hierarchy. You may need to use a combination of controls to control the risk, so far as is reasonably practicable.

Figure 6 The hierarchy of control[16]



[16] Safe Work Australia, Code of Practice: *How to manage work health and safety risks*, May 2018, p.19.

As an example, driving between the hours of 12 midnight to 6am (when a person would normally be asleep) is a hazard as there is an increased risk of driving while impaired by fatigue.

Options to control the risk include:

- **eliminate the risk** – some operators have eliminated this risk by not driving between these hours
- **reduce the risk through engineering controls** – some operators have minimised the risk by using in-cab face and eye tracking technology that detects the symptoms of fatigue and alerts affected drivers
- **reduce exposure to the hazard using administrative controls** – some operators minimise the risk by contacting drivers regularly during these hours to check on their welfare
- **use personal protective equipment** – in the event of an incident, seatbelts and SRS air bags are designed to reduce the severity of injuries to drivers.

You cannot eliminate the risk without eliminating the hazard (in the example above, by not driving at night). The lower levels in the hierarchy are less effective as they can only minimise the risk. Administrative controls and personal protective equipment (PPE) are the least effective as they rely on human behaviour and supervision. In the example above, administrative controls rely on the operator to make a phone call, or for the driver to wear a seatbelt. These controls should only be used to support higher order controls, as a short-term measure, or as a last resort.

To help duty holders develop controls, this Code identifies and suggests controls for general types of risk including:

- **Speed**—Chapter 5
- **Fatigue**—Chapter 6
- **Mass, Dimension and Loading**—Chapter 7
- **Vehicle Standards**—Chapter 8

As a duty holder it is your responsibility to assess the range of suggested controls and select the most suitable controls and/or develop your own controls. The implementation of controls will depend on:

- your role or roles in the Chain of Responsibility
- the size and nature of your transport activities
- the outcomes of your own risk management processes
- what you are capable of doing to control, eliminate or minimise public risk.

Technical standards and other guidance material about possible controls which are readily and freely available have been included in this Code as reference materials. Refer to **Appendix D – Further information** on each of the four types of risk in Sections 5 to 8 of the Code.

Putting controls in place will usually require changes to the way work is done. For example, when introducing a new load restraint system, or electronic work diaries, it may be necessary to support those controls with other lower level controls to make sure they become embedded operational practices (the way things are done).

To support the introduction of controls, you could:

- document policies and procedures that outline the controls implemented
- provide training, instruction and information on how to use the controls
- provide supervision to make sure that controls are being used as intended
- conduct routine inspections and maintenance of controls to make sure they are working as planned.

Guidance on how to develop and implement controls is available in the Safe Work Australia Code of Practice: ***How to manage work health and safety risks*** (2018).

STEP 4 – HOW TO MONITOR AND REVIEW CONTROLS

As part of the risk management process:

- you should monitor controls put in place to verify they are effective and working as planned – for example, if new information or ways of working become available, do they indicate the current controls may no longer be the most effective?
- you should review all risks on a periodic basis to make sure things haven't changed and to check that all hazards have been identified. Priority for review should be based on the level of risk. Controls for high risks should be reviewed more frequently.

You can use the same methods as in the initial hazard identification step (Step 1 – How to identify hazards) to check controls. If you find problems, go back through the risk management steps (Step 3 – How to control risks), review your information and make further decisions about controlling the risk.

You can also monitor controls by:

- encouraging people to provide feedback about how effective the control is or if things have changed – for example, impacts on your controls from road-works, or changes to advisory speed limits which may impact a chosen route
- observing the controls in practice to check they are working as intended and are being done correctly – for example, doing a walkaround with drivers as they complete daily inspections, or conducting load restraint inspections
- reviewing and analysing any information that might help you understand how the control is working – for example, the use of GPS tracking to monitor adherence to speed limits and checking the effectiveness of speed limiting devices
- using key performance indicators to measure the effectiveness of controls and identify opportunities for improvement – for example, the number (or percentage) of load restraint inspections conducted that passed or failed and the reasons why.

If a control is not effective or not working as planned, or has created additional risks, it may need be modified or a new control implemented. For example, if waterlines are used to prevent overloading, but your mass sampling program identifies repeated overloads, the control will need to be adjusted, such as lowering the waterline. Or you could implement a new control by using air gauges or loader scales.

You should establish accountability for monitoring and performing reviews to provide confidence of the effectiveness of controls. This may include identifying:

- risk owners with the accountability and authority to manage risks. For example, a loading manager who manages the premises where loading or unloading occurs may own the risks associated with loading and unloading a heavy vehicle
- responsibilities of people at all levels for risk management activities. For example, all workers are responsible for following reasonable instructions, reporting hazards and stopping work if it is deemed unsafe or if they are not fit for duty.

3.3 HOW TO DOCUMENT THE RISK MANAGEMENT PROCESS

It is important to document the risk management process to demonstrate what you have done to manage the safety of your transport activities and to comply with the HVNL. A documented risk management process also helps when monitoring controls and reviewing risks so that you can recall what you have done and why, and to keep a record of any changes.

The results of your risk assessment should be recorded and shared with your staff and/or other CoR parties as relevant.

Some common ways of reporting and documenting hazards and risks include:

- hazard report forms – paper-based or electronic hazard and incident reporting systems. For an example hazard report form see the National Heavy Vehicle Regulator (NHVR) Safety Management Systems (SMS) guidance materials and templates: ***Hazard Report Template***
- risk assessment templates – risk assessments and risk registers also track actions where improvements in controls are required. Risk assessment templates may be generic in nature or specific to a task or activity, for example, a traffic management risk assessment
- risk registers – a summary register of risks that can be paper-based or an electronic data base. For an example risk register see the Safe Work Australia Code of Practice: ***How to manage work health and safety risks***, or NHVR SMS guidance materials and templates: ***Risk Register Template.***

The primary duty is an overarching duty and extends to risks that may fall outside the four core responsibilities of CoR. If your transport activities create other risks the same risk management process should be used to identify and control those risks.

3.4 WORKED EXAMPLE

Establish context	**Step 1.** Identify hazards	**Step 2.** Assess risk	**Step 3.** Control risk	**Step 4.** Monitor and review
Describe **transport activity** and **roles** in the chain of responsibility.	Identify any thing that could potentially cause **harm** or **loss**.	Consider how the hazard or risk could cause **harm** or **loss**. Look at your existing controls to **eliminate** or **minimise** the risk.	Try to eliminate the risk first but, if that's not possible, put **additional controls** in place to minimise the risk so far as is reasonably practicable.	**Regularly** monitor and review the controls you've put in place to make sure they are working as planned.
Transport activities				
Loading				
A large machinery company, a consignee, sources pre-fabricated components from an overseas supplier. The components are packed and restrained in freight containers for shipping to Australia. The restraint of the components is done manually using tie-down restraint. When the freight containers arrive in Australia they are picked up from the wharf by a contracted transport operator. The drivers deliver the containers on skel trailers to the machinery company's warehouse for unpacking and assembly.	Poorly restrained freight in an imported shipping container (The consignee and operator are aware this is a known hazard with imported containers as there have been serious incidents reported in the media).	The freight could shift in the container during transport. The freight shifting in the container could cause the vehicle to become unstable and result in the driver losing control of the vehicle. The vehicle could roll over and crush a passing car. The driver or passenger/s of the car could be seriously injured or killed. Packing instructions, including load positioning and restraint requirements, are provided to the overseas supplier (but the control is not always effective as not all loads are correctly restrained).	Engineering – Investigate alternate load restraint methods that utilise more direct restraint such as blocking and containment and reduce the margin for error. Admin – A supervisor is required to inspect and sign-off that the freight has been correctly packed and restrained prior to sealing the container. Admin – A photograph of the freight restrained in the container is to be provided for all loads prior to shipping. Admin – The operator/ scheduler develops a journey plan to identify any hazards on the route that may affect vehicle stability (e.g. harsh corners and steep descents) and advises drivers of precautions to be taken.	The freight is inspected when it is received by the consignee in Australia to verify it is correctly restrained and meets the packing instructions. Feedback is sent to the overseas supplier, including photos of any non-conformances.

4. ROLES AND RESPONSIBILITIES

4.1 STRUCTURE OF THIS CODE

This Code identifies the types of risk for the four core responsibilities of CoR. These are outlined in Sections 5 to 8. The Code is structured to identify and address the risks associated with each activity and responsibility that is covered by HVNL, against the role of each party in the Chain of Responsibility.

Sections 5 to 8 of this Code are structured as follows:

What is the risk?
The general risks relevant to whole sectors of the heavy vehicle industry.

What does the law say?
A summary of the relevant parts of the duties under the HVNL. Note—the HVNL is not quoted in its entirety in these sections of this Code. Duty holders should refer to the HVNL for more detail.

Why do it?
The risks to be managed by each party in the supply chain.

What you can do
The suggested controls identified for each type of risk available to each party in the supply chain (see notes below on selecting controls). The examples of specific controls included in this section of the Code are possible ways to control risk – there may be other ways to control the risk that are equally effective.

> **A Note on Selecting Controls:** *It is each duty holder's responsibility to assess the suggested controls contained in this Code and select the appropriate controls. Not all the controls suggested in this Code may be required and/or you may be able to develop other controls that are equally effective (see* Section 3.2 *of this Code, Step 3 – How to control risk).*
>
> *The examples are provided for explanatory purposes; they are not prescriptive and are intended to highlight possible methods based upon known industry practices and real-world examples. The examples presented in this Code are not an exhaustive list of all measures that can be implemented to control a risk – there may be other ways to control a risk.*

4.2 THE ROLE OF CHAIN OF RESPONSIBILITY PARTIES

To help determine your role, or roles, in the Chain of Responsibility, refer to the NHVR *CoR Gap Assessment Tool* available on the NHVR website at www.nhvr.gov.au. You may have more than one role in the Chain Responsibility – for example, if you send and receive goods you may be both a consignor and a consignee.

Once you know your role (or roles) in the Chain of Responsibility, use Table 2 below as a quick reference guide to the relevant sections of this Code setting out suggested controls applicable to your role or roles.

A note on supply chains and supply chain parties: *Supply chains can often be complex in nature and do not always follow a linear or traditional relationship. For example, a consignor may or may not also be a packer, loading manager, loader or unloader. Duty holders need to consider their roles and relationships with other parties in the supply chain, including differing consignment arrangements, when assessing and selecting the suggested controls in this Code, or develop other controls that are equally effective.*

Table 2 Quick reference guide by CoR party

CoR party	**Definition** (refer also section 5 of the HVNL)	Section of this Code
Employer and Prime Contractor	Employer – in general terms, a person who employs a driver of a heavy vehicle. Prime Contractor – in general terms, a person responsible for engaging a driver of a heavy vehicle by contract.	5.3.1 6.3.1 7.3.1 8.3.1
Operator	In general terms, a person responsible for controlling or directing the use of a heavy vehicle.	5.3.2 6.3.2 7.3.2 8.3.2
Scheduler	In general terms, a person who plans the transport of goods or schedules the work and rest times of a driver.	5.3.3 6.3.3 7.3.3 8.3.3
Consignor and Consignee	Consignor – in general terms the named sender of goods by road transport. Consignee – in general terms the named receiver of goods after their completion of road transport.	5.3.4 6.3.4 7.3.4 8.3.4
Packer	In general terms, a person engaged in the process of packaging goods for a heavy vehicle load.	5.3.5 6.3.5 7.3.5 8.3.5
Loading Manager, Loader and Unloader	Loading Manager – in general terms, a person who supervises loading or unloading or manages the premises where this occurs. Loader and Unloader – in general terms, a person engaged in the process of loading or unloading a heavy vehicle.	5.3.6 6.3.6 7.3.6 8.3.6

5. SPEEDING – RISK TYPES AND SUGGESTED CONTROLS

5.1 WHAT IS THE RISK OF SPEEDING?

Speeding is a high-risk behaviour. Speeding is not just driving faster than the sign-posted speed limit. It is also driving too fast for the weather, light, traffic and road conditions based on vehicle condition, driver skills and experience.

There is a risk that the behaviour or business practices of "off-road" CoR parties may result in a driver feeling pressured to speed.

Speeding heavy vehicles are at a greater risk of being involved in a motor vehicle incident. Evidence suggests that if you travel at 10 km/h faster than the average speed of other traffic, you are twice as likely to have a serious crash. This is roughly equivalent to the increase in risk associated with a blood alcohol concentration of 0.05.[17]

Statistics show that more fatal crashes occur on roads where the speed limit is greater than or equal to 100 km/h.[18] As the speed increases, so too does the time and distance required to stop a heavy vehicle. The impact forces experienced by vehicle occupants and other road users also increase. In fact, at any speed, for every extra 1km/h of speed:

- the stopping distance increases
- more time is needed to react and avoid a crash
- the impact of the crash is more severe. Put simply: the faster you drive, the harder you hit
- the likelihood of serious injury or death increases[19]
- the damage to road infrastructure and the environment as a result of a crash increases.

Speeding can affect the stability, steering and braking performance of a heavy vehicle, increasing the likelihood of a driver losing control of the vehicle. Other road users may misjudge the speed of the vehicle and make a mistake.

Driving at an unsafe speed for the conditions, or failing to follow advisory and variable speed limits, increases the risk of things going wrong. For example, driving too fast for conditions when cornering or negotiating a roundabout, even at lower speeds, increases the risk of the driver losing control of the heavy vehicle and the vehicle rolling over.

[17] Centre for Accident Research & Road Safety – Queensland (CARRS-Q), State of the Road Fact Sheet: *Speeding*, August 2015

[18] Bureau of Infrastructure, Transport and Regional Economics (BITRE), *Australian Road Deaths Database: Fatal Crashes, Fatal Crash Data Index 1) 2011-2017,* https://bitre.gov.au/statistics/safety/fatal_road_crash_database.aspx, August 2017

[19] NSW Government, *Road Safety Plan 2021*, Transport for NSW, Centre for Road Safety, February 2018, p.11.

Contributing factors that may cause safety risks or encourage high-risk behaviours, such as heavy vehicle speeding, include but are not limited to:

- lack of policy and procedures, or systems to report non-compliance
- ineffective two-way consultation, cooperation and coordination of all parties along the supply chain
- inadequate information, training, instruction and/or supervision of speed management obligations and associated policies and procedures
- conflicting commercial arrangements or employment terms between CoR parties
- poorly planned trip schedules and driver rosters and/or inadequate oversight to verify suitability
- inflexible loading and unloading schedules or timeslots
- non-compliance with speed-limiting requirements and/or inadequate maintenance of speed monitoring components
- deliberate actions of drivers or other CoR parties
- driver inexperience and skills
- inadequate monitoring and/ or due diligence by all CoR parties to ensure safety and compliance of transport activities

5.2 WHAT DOES THE LAW SAY?

A focus of the HVNL is the CoR compliance of "off-road" parties rather than specific "on-road" offences committed by drivers. Importantly, the law recognises that multiple parties may be responsible for offences committed by the drivers and operators of heavy vehicles.

HVNL section 26C – Primary duty

Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

Each party must, so far as is reasonably practicable–

- eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- ensure the party's conduct does not directly or indirectly cause or encourage– the driver of the heavy vehicle to contravene this Law; or the driver of the heavy vehicle **to exceed a speed limit applying to the driver**; or another person, including another party in the chain of responsibility, to contravene this Law.

HVNL section 26E – Prohibited requests and contracts

A person must not ask, direct or require (directly or indirectly) the driver of a heavy vehicle or a party in the chain of responsibility to do or not do something the person knows, or ought reasonably to know, would have the effect of causing the driver– **to exceed a speed limit applying to the driver.**

A person must not enter into a contract with the driver of a heavy vehicle or a party in the chain of responsibility that the person knows, or ought reasonably to know, would have the effect of causing the driver, or would encourage the driver, or would encourage a party in the chain of responsibility to cause the driver– **to exceed a speed limit applying to the driver.**

Australian Road Rules Part 3 – Speed-limits

A driver must not drive at a speed over the speed limit applying to the driver for the length of road where the driver is driving.
(For specifics refer to respective state and territory road rule laws)

Refer also *Vehicle Standard (Australian Design Rule 65/00 – Maximum Road Speed Limiting for Heavy Goods Vehicles and Heavy Omnibuses) 2006.* The Vehicle Standard and HVNL both require **heavy goods vehicles** more than 12 tonnes Gross Vehicle Mass to be speed limited at 100 km/h.[20]

5.3 WHAT YOU CAN DO AND WHY

CoR parties should implement a risk-based approach to manage safety and ensure compliance with all requirements of the HVNL, including speed management. A dedicated risk assessment of your speed hazards and speed management requirements can identify where risks might arise in your business. Section 3 of this Code provides information on how to conduct a risk assessment.

Consider any unique or different circumstances that relate to your transport activities in your risk assessment and control the risks accordingly.

For example, risk factors relating to speed compliance may include but are not limited to—urgent, express or overnight deliveries, time sensitive freight such as perishable items, or fast-moving consumer goods.

Controls to manage at-risk behaviours such as speeding, based on your role/s in the Chain of Responsibility, are suggested in this section. You also need to consider the outcomes of the risk assessment of your speed risks when developing and implementing controls and make sure that they are appropriate for the size and nature of your transport activities.

It is good practice to apply these speed management principles and practices to other at-risk behaviours such as not wearing seat belts, harsh braking and cornering (which can be indicators of speeding), reckless driving including tailgating, drug and alcohol use, and in-cab distractions including mobile device or phone use (for example, using voice to text activated dialling). Further information on drug and alcohol use is available in Chapter 6 of this Code.

5.3.1 Employer and Prime Contractor

Why do it?

To make sure:

- your business practices do not cause a driver to speed
- contracts and agreements do not cause a driver to speed
- demands are not made of a driver that may result in the driver speeding

[20] Refer to regulations, road rules and notices in each jurisdiction for applicable variations based on GVM, type of combination or maximum speed limits.

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing a driver to speed	• has enough time been allowed for the transport activity to be completed safely and without a driver feeling pressured to speed?
Before you engage a driver or subcontractor find out whether they have a safe driving record or a reputation for running a safe and compliant business	• conducting reference checks and assessments of their skills and capability to do the task safely • conducting in cab assessments of drivers prior to engagement • using road authority opt-in systems that allow a driver's traffic history to be shared • do subcontractors participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage the risk of speeding?
Make sure your requests of, and any contractual arrangements do not encourage a driver to speed	• do agreements have incentives for early delivery or penalties for late delivery?
Make sure you have a review process in place to check a driver or subcontractor is performing the activity according to your employment or contractual arrangements and that those arrangements are effective in managing the risk of speeding	• are there any new speeding risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage the risk of speeding? • if not effective, improve compliance or change the arrangements • implementing regular performance reviews
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations
Confirm that drivers are licenced for the class of heavy vehicle or combination they are operating	• maintaining an up-to-date register of drivers and their licences
Make sure that drivers agree to adhere to Australian Road Rules in the state/s and/or territory of operation	• including this in employee and subcontractor agreements, driver declarations and inductions
Ask that you be notified of infringement of road rules by drivers or subcontractors and any compliance and enforcement action taken	• using road authority opt-in systems that allow a driver's traffic history to be shared • including self-declaration by drivers or subcontractors of infringements or roadside enforcement action as a condition of employment or contractual arrangements

Note: *If you are an employer or prime contractor who also performs other roles in the Chain of Responsibility, refer to the respective sub-sections under this Section 5.3.*

5.3.2 Operator

Why do it?

To make sure:

- your business practices do not cause a driver to speed
- terms of consignment, contracts and agreements do not cause a driver to speed
- demands are not made of a driver that may result in the driver speeding
- a driver's schedule will not cause the driver to speed
- drivers understand the risks of speeding and drive to conditions including speed limits

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing a driver to speed	• has enough time been allowed for the transport activity to be completed safely and without a driver feeling pressured to speed?
Confirm that drivers are licenced for the class of heavy vehicle or combination they are operating	• maintaining an up-to-date register of drivers and their licences
Make sure that drivers agree to adhere to Australian Road Rules in the state/s and/or territory of operation	• including this in employee and subcontractor agreements, driver declarations and inductions
Initiate alerts and take remedial action when you identify consignment arrangements with the potential to cause a driver to speed	• urgent, express or overnight deliveries, time sensitive freight such as perishable items or fast-moving consumer goods, short lead times, increased volumes or seasonal demands, "stock outs" or backlog orders
Monitor and regularly review driver speeds (if possible in real time and at any sign-posted speed limit, including 'low speed zones', with automatic notifications of breaches)[21]	• GPS-based telematics systems or engine management systems / engine control module data downloads
Record incidents of vehicles exceeding speed limits and act to address any speeding breaches	• developing a speed compliance matrix with the frequency and severity of speeding and corrective action to be taken (or performance management steps) • displaying a "report my driving" decal and phone number on vehicles

[21] At the time of registration of the Code, monitoring driver speed in real time is typically confined to maximum speed limits due to current data limitations of GPS-based technology. Technology advancements may support speed monitoring in any sign posted speed limit in due course.

Measure the accuracy of speed data and implement remedial actions when inaccuracies are detected	• GPS matching – assessing GPS records vs speedo readings, or comparing different sources of speed data such as GPS records of hauling and trailing units, to detect any inconsistencies • checking engine management system data – downloading the vehicle's speed records data
Check and confirm that heavy vehicles are fitted with fit-for-purpose, maintained, calibrated speed limiters and that these have not been adjusted or tampered with (refer sections 60 and 93 of the HVNL)	• periodic maintenance and testing the accuracy of speed data
Provide driver education	• safe driving programs, toolbox talks
Have regular catch-ups with other CoR parties (e.g. consignors) to demonstrate how you perform the task safely and to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

> **Note:** *If you are an operator who also performs other roles in the Chain of Responsibility, including but not limited to employing drivers or scheduling activities, refer to the respective sub-sections under this Section 5.3.*

5.3.3 Scheduler

Why do it?

To make sure

- schedules do not cause a driver to speed

What you can do	Consider
Plan driver schedules with appropriate timeframes so drivers are not directly pressured, or feel indirectly pressured, to speed	• scheduling journeys with enough time for them to be completed safely and according to speed limits along the route, allowing for contingencies and conditions such as steep ascents and descents, traffic congestion, major roadworks, adverse weather, curfews and loading/unloading delays
Adjust and/or manage changes to schedules, including delays, so drivers are not directly pressured, or feel indirectly pressured, to exceed the speed limit	• timely communication and advance notice wherever possible to drivers and other CoR parties of changes or delays to schedules
Regularly review business practices, including scheduling arrangements, in consultation with drivers and other impacted parties in the supply chain	• reviewing schedules to monitor if they are completed to plan, adjusting as required if there are deviations

5.3.4 Consignor and Consignee

Why do it?

To make sure

- your business practices do not cause a driver to speed
- terms of consignment, contracts and agreements do not cause the driver to speed
- demands are not made of a driver or of other parties that may result in a driver speeding
- delivery schedules do not cause the driver to speed

What you can do	Consider
Before you engage a third party (e.g. prime contractor or operator), find out whether they have a reputation for running a safe and compliant business	• do they participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage the risk of speeding?
Make sure your requests and any contractual arrangements with the third party do not encourage a driver to speed	• do agreements have incentives for early delivery or penalties for late delivery?
Initiate alerts when consignment arrangements with the potential to cause a driver to speed are identified	• urgent, express or overnight deliveries, time sensitive freight such as perishable items or fast-moving consumer goods, short lead times, increased volumes or seasonal demands, "stock outs" or backlog orders
Plan deliveries with appropriate time for the required route so drivers are not directly pressured, or feel indirectly pressured, to exceed the speed limit	• allowing for speed limits, contingencies and conditions such as steep ascents and descents, traffic congestion, major roadworks, adverse weather, curfews and loading/unloading delays
Make sure you have a review process in place to check the third party is performing the activity according to your contractual arrangements and that those arrangements are effective in managing the risk of speeding	• are there any new speeding risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage the risk of speeding? • if not effective, improve compliance or change the arrangements • implementing regular contract performance reviews or similar arrangements
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations
Regularly review your business practices, including consignment arrangements and delivery times, and adjust if required	• asking other CoR parties what works well and what doesn't

> **Note:** *If you are a consignor or consignee who also performs other roles in the Chain of Responsibility, including but not limited to packing or loading activities, refer to the respective sub-sections under this Section 5.3.*

5.3.5 Packer

Why do it?

To make sure:

- packing practices will not cause a driver to speed

What you can do	Consider
Adhere to packing times and scheduled pick-up times to minimise delays for drivers. If delays occur, advise operators and drivers in advance and take steps so drivers are not directly pressured, or feel indirectly pressured, to speed	• identifying CoR parties potentially impacted if there are delays and providing timely communication and advance notice wherever possible, so schedules can be adjusted
Regularly review your business practices including packing times and delays in consultation with drivers and other impacted CoR parties	• reviewing packing times to check if they are completed to plan and adjusting as required if there are deviations so that they do not adversely impact drivers or other CoR parties

5.3.6 Loading Manager, Loader and Unloader

Why do it?

To make sure:

- loading and unloading practices do not cause a driver to speed
- demands are not made of a driver that may result in the driver speeding
- delays are minimised or managed, so drivers do not feel pressured to speed

What you can do	Consider
Adhere to scheduled pick-up and delivery windows and minimise delays for drivers. If delays occur, take steps to advise operators and drivers in advance	• providing timely communication and advance notification wherever possible to drivers and other CoR parties so schedules can be adjusted
Allow flexibility in pick-up and delivery times where there are changes to the schedule, so drivers are not directly pressured, or feel indirectly pressured, to speed	• prioritising the loading or unloading of drivers of fatigue-regulated vehicles or making alternative arrangements for the loading and unloading of the vehicle with the prime contractor or operator
Report the early or late arrival of a load as this can be a potential indicator of speed	
Regularly review your business practices in consultation with drivers and other impacted CoR parties, including consignment arrangements, delivery times, time spent on site, loading and unloading times and delays	• monitoring and reviewing truck turnaround times including the time the vehicle arrives at site, the time taken to load or unload the vehicle and the time the vehicle departs the site, to establish average work times and trigger alerts when there are anomalies or deviations (delays) and adjust as required

6. FATIGUE – RISK TYPES AND SUGGESTED CONTROLS

6.1 WHAT IS THE RISK OF FATIGUE?

The main purpose of the fatigue management requirements in the HVNL is to prevent drivers from being impaired by fatigue when operating a heavy vehicle.

There is a risk that the behaviour or business practices of "off-road" CoR parties may result in a driver feeling pressured to drive while impaired by fatigue or in breach of their work and rest hours.

If a driver breaches their work and rest hours option there is an increased risk of the driver becoming fatigued and driving while impaired by fatigue.

Fatigue is when you feel sleepy, physically or mentally tired, weary or drowsy, exhausted and/or lacking in energy (section 223 of the HVNL). A driver is ***impaired by fatigue*** if the driver's ability to drive a heavy vehicle safely is affected by fatigue (section 225 of the HVNL). The main causes of fatigue or drowsy driving are too little sleep, driving at times when you would normally be asleep and/or working or being awake for very long hours.

Examples of the signs of fatigue, as defined in section 221 of the HVNL, include:

- lack of alertness
- inability to concentrate
- reduced ability to recognise or respond to external stimuli
- poor judgment or memory
- making more mistakes than usual
- drowsiness, or falling asleep, at work (including microsleeps)
- finding it difficult to keep eyes open
- needing more frequent naps than usual
- not feeling refreshed after sleep
- excessive head-nodding or yawning
- blurred vision
- mood changes, increased irritability or other changes to the person's mental health
- changes to the person's health or fitness.

It has been shown that after a person has been awake for 17 hours, their performance is comparable having a blood alcohol concentration of .05; the legal limit for driving a car in Australia. After 24 hours of wakefulness, performance is impaired to a level comparable to a BAC of twice the legal limit (.10).[22,23]

A driver impaired by fatigue may experience momentary lapses in alertness, often known as micro sleeps. A fatigued driver experiencing a micro sleep travelling at 80km/h can travel close to 90m with their eyes closed in a span of 4 seconds, entirely unaware of what is happening.[24] There is also a likelihood of a driver taking greater risks in the control of a vehicle when impaired by fatigue. This can result in poor speed control, lane departures and poor decision making.

[22] Dawson, Drew & Reid, Kathryn. (1997). *Fatigue, alcohol and performance impairment.* Nature. 388. 235. 10.1038/40775

[23] BAC legal limits are based on a full (unrestricted) driver licence. The BAC legal limit for driving a heavy vehicle in Australia is typically .00. Refer state and territory legislation for specific requirements or variations.

[24] Fatigue Science, *The Science of Sleep and Workplace Fatigue e-book*, accessed at www.fatiguescience.com

When a driver falls asleep at the wheel there is a risk the vehicle will leave the roadway or cross to the other side of the road in to the path of oncoming traffic. Once a driver loses control of a heavy vehicle, serious injuries and fatalities to drivers and other road users, damage to road infrastructure and to the environment can result.

If a driver is working at a loading or unloading premises while impaired by fatigue, there is a risk to the safety of the driver and others working at the premises. There is also a risk of a driver being fatigued when operating a vehicle that is not a 'fatigue-regulated heavy vehicle'.

Contributing factors that may cause safety risks or encourage a driver to drive a heavy vehicle whilst impaired by fatigue or in breach of their work and rest hours include but are not limited to:

- lack of policy and procedures, or systems to report non-compliance
- ineffective two-way consultation, cooperation and coordination of all parties along the supply chain
- inadequate information, training, instruction and/or supervision of fatigue management requirements and associated policies and procedures
- conflicting commercial arrangements or employment terms between parties
- ineffective monitoring and management of driver fatigue levels
- inadequate assessment of driver fitness including health (physical and psychological factors) and medical issues
- lifestyle factors such as poor quality of sleep, drug and alcohol use, lack of exercise or poor dietary habits
- workplace factors including the work environment and job demands
- poorly planned trip schedules and driver rosters and/or inadequate oversight to verify suitability
- inflexible loading and unloading schedules and/or poor monitoring of time spent on site
- inadequate work records and/or inadequate oversight to ensure compliance
- deliberate actions of drivers or other parties
- inadequate monitoring and/or due diligence by all parties to ensure safety and compliance of transport activities.

> **A Note on Fitness to Drive:** *A driver's health and wellbeing, and drug and alcohol use, can affect their fatigue. Section 5 of the HVNL defines for a person to be fit to drive a heavy vehicle they must:*
>
> - *be apparently physically and mentally fit to drive the vehicle*
> - *be not apparently affected by either or both alcohol or a drug that affects a person's ability to drive a vehicle*
> - *not have an alcohol concentration in the blood or breath exceeding the amount permitted by law*
> - *not have a drug present in the blood or saliva that is not permitted by law.*

Physical signs that someone is affected by alcohol or drugs include:

- glassy or bloodshot eyes
- smell of alcohol or drugs (for example, marijuana) on the breath or clothes
- slurred or incoherent speech and talking too loud or too fast
- lowered inhibitions – doing or saying inappropriate things
- impaired coordination or motor skills – poor balance and clumsiness
- sense of confusion, appears lethargic or "spaced out"
- memory problems or problems concentrating
- general personality changes or mood swings, irritability or outbursts
- additionally, for drugs:
  - periods of hyperactivity ("wired"), agitation or giddiness
  - appears fearful, anxious or paranoid.

6.2 WHAT DOES THE LAW SAY?

HVNL section 26C – Primary duty

Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

Each party must, so far as is reasonably practicable–

- eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- ensure the party's conduct does not directly or indirectly cause or encourage– the driver of the heavy vehicle to contravene this Law; or another person, including another party in the chain of responsibility, to contravene this Law.

HVNL section 26E – Prohibited requests and contracts

A person must not ask, direct or require (directly or indirectly) the driver of a heavy vehicle or a party in the chain of responsibility to do or not do something the person knows, or ought reasonably to know, would have the effect of causing the driver–

- to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or
- to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or
- to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

A person must not enter into a contract with the driver of a heavy vehicle or a party in the chain of responsibility that the person knows, or ought reasonably to know, would have the effect of causing the driver, or would encourage the driver, or would encourage a party in the chain of responsibility to cause the driver–

- to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or
- to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or
- to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

HVNL section 228 – Duty of driver to avoid driving while fatigued

A person must not drive a fatigue-regulated heavy vehicle on a road while the person is impaired by fatigue.

Refer also the *Heavy Vehicle (Fatigue Management) National Regulation* and Commonwealth Gazette notices for information on how drivers operating fatigue-regulated heavy vehicles can comply with their legal obligations, including maximum work requirements and minimum rest requirements.

> **Note:** *A fatigue-regulated heavy vehicle, as defined in section 7 of the HVNL, is a motor vehicle or a combination with a GVM of more than 12t, or a fatigue-regulated bus–a bus built or fitted to carry more than 12 passengers including the driver.*

Section 26C of the HVNL in effect requires all parties to safely manage the risks of fatigue including the fatigue of drivers of all heavy vehicles of more than 4.5t (not just drivers of fatigue-regulated heavy vehicles). It is an additional requirement to manage the fatigue of the driver of a fatigue-regulated heavy vehicle in accordance with the applicable work and rest hours option (s243 of the HVNL) and in doing so, maintain a work diary (s293 of the HVNL), unless exemptions apply.

It is good practice to apply the prescribed requirements for drivers of fatigue-regulated heavy vehicles (chapter 6 of the HVNL) to the drivers of heavy vehicles under 12t (all heavy vehicles).

6.3 WHAT YOU CAN DO AND WHY

CoR parties should implement a risk-based approach to prevent drivers from being impaired by fatigue when operating a heavy vehicle and ensure compliance with all requirements of the HVNL including fatigue. A dedicated risk assessment of your fatigue hazards and fatigue management requirements can identify where risks might arise in your business. Section 3 of this Code provides information about how to conduct a risk assessment.

Consider any unique or different circumstances that relate to your transport activities in your risk assessment and control the risks accordingly.

For example, risk factors relating to fatigue management may include but are not limited to—urgent, express or overnight deliveries (driving at times when a person would normally be asleep), long distance journeys or operating across different time zones, time sensitive freight such as perishable items, or fast-moving consumer goods.

Controls to manage the fatigue of drivers operating heavy vehicles, based on your role/s in the Chain of Responsibility, are suggested in this section. You also need to consider the outcomes of the risk assessment of your fatigue risks when developing and implementing controls and make sure that they are appropriate for the size and nature of your transport activities.

Seven fatigue management principles have been identified to help prevent driver fatigue:[25]

(1) reduce the time spent continuously working in the work opportunity
(2) the more frequent breaks from driving, the better
(3) ensure adequate sleep opportunity in order to obtain sufficient sleep
(4) maximise adequate night sleep
(5) minimise shifts ending between 00:00 to 06:00
(6) minimise extended shifts
(7) prevent accumulation of fatigue with reset breaks of at least 30hrs (and include two night periods, 00:00 to 06:00) between work sequences.

More information on fatigue management principles is available in the NHVR ***Risk Classification System for Advanced Fatigue Management Policy*** (2013).

If a responsible party for the driver of a heavy vehicle, such as the employer, prime contractor, operator or scheduler, becomes aware the driver is impaired by fatigue they should stop the driver immediately and arrange for the driver to have a rest break. This is a control that all CoR parties should implement to prevent a driver from driving while impaired by fatigue.

[25] National Heavy Vehicle Regulator, ***Risk Classification System for Advanced Fatigue Management Policy***, Version 2.0, June 2013

6.3.1 Employer and Prime Contractor

Why do it?

To make sure:

- your business practices do not cause a driver to drive whilst fatigued or breach their work and rest hours option
- demands by other parties do not result in a driver driving whilst impaired by fatigue
- driver fitness for duty is assessed and the fatigue of a driver is managed
- accurate records are kept for the driver of a fatigue-regulated heavy vehicle by the driver's employer (sections 319 and 321 of the HVNL)
- driver fatigue levels are monitored, work and rest times are recorded and reviewed

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing the driver to drive while fatigued or to breach their work and rest hours	• has enough time been allowed for the transport activity to completed safely and within work and rest hours limits?
Before you engage a driver or subcontractor, find out whether they have a safe driving record or a reputation for running a safe and compliant business	• conducting reference checks and assessments of their skills and capability to do the task safely • conducting in cab assessments of drivers prior to engagement • using road authority opt-in systems that allow a driver's traffic history to be shared • do subcontractors participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage the risk of fatigue?
Make sure your requests of, and any contractual arrangements do not encourage a driver to drive while impaired by fatigue or breach their work and rest hours	• do agreements have incentives for early delivery or penalties for late delivery?
Make sure you have a review process in place to check a driver or subcontractor is performing the activity according to your employment or contractual arrangements and that those arrangements are effective in managing the risk of fatigue	• are there any new fatigue risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage the risk of fatigue? • if not effective, improve compliance or change the arrangements • implementing regular performance reviews
Ask that you be notified of infringement of road rules by drivers or subcontractors or any compliance and enforcement action taken	• using road authority opt-in systems that allow a driver's traffic history to be shared • including self-declaration by drivers or subcontractors of infringements or roadside enforcement action as a condition of employment or contractual arrangements

Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations
Assist drivers to self-manage fatigue	• training all employees, including drivers, with awareness of the signs of fatigue, the importance of quality rest and lifestyle factors impacting fatigue. Nationally recognised training in fatigue management is available for truck drivers and schedulers
Empower drivers to act if impaired by fatigue	• a self-declaration and encourage self-reporting if feeling sleepy, physically or mentally tired, weary or drowsy, exhausted and/or lacking in energy
If you become aware the driver is impaired by fatigue, stop the driver immediately and arrange for the driver to have a rest break	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, reallocating the task to a different driver, recording and reporting of any incidents
Keep accurate records and monitor driver work and rest times (in real time if possible) and review regularly for effectiveness and accuracy	• electronic recording systems such as telematics or Electronic Work Diaries (EWDs) to monitor and record work and rest times for drivers. These may be checked more quickly and make record keeping easier • logbook checking software that checks if the records from written work diaries comply with legal requirements • a sampling program where records of driver work and rest times are regularly reviewed to check compliance with the legislated operating limits • maintaining an up-to-date register of driver's records (per sections 319 and 321 of the HVNL)
Make sure drivers have regular medical checks at prescribed intervals, including drug and alcohol testing, and are provided with education, advice and resources to manage their personal health and wellbeing, both physical and mental	• Austroads **Assessing Fitness to Drive**, for information on health assessments and measures to support drivers' health. Drivers are required to report to their employer and/or prime contractor if the licensing authority requires them to provide medical certificates
Regularly check and verify drivers are fit to drive, both physically and mentally, and not affected by drugs or alcohol (or both)	• a driver declaration of fitness for duty – a signed checklist completed by drivers declaring they are fit to drive, are feeling okay, have had enough rest, have enough hours to legally perform the task, are not impaired by drugs or alcohol • a fitness for duty assessment sheet – some simple questions that a driver can be asked before starting work (along the lines of the driver declaration above) • regular drug and alcohol testing programs including random testing where practicable

Note: *If you are an employer or prime contractor who also performs other roles in the Chain of Responsibility, refer to the respective sub-sections under this Section 6.3.*

6.3.2 Operator

Why do it?

To make sure:

- your business practices do not cause a driver to drive whilst fatigued or to breach their work and rest hours
- demands by other CoR parties do not result in a driver driving whilst impaired by fatigue
- driver fitness for duty is assessed and the fatigue of the driver is managed
- the scheduler has complied with scheduling arrangements that will not cause a driver to drive in breach of their work and rest hours option
- accurate records are kept for the driver of a fatigue-regulated heavy vehicle (sections 319 and 321 of the HVNL)
- driver work and rest times are recorded and reviewed, and fatigue levels monitored

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing a driver to drive while fatigued or to breach their work and rest hours	• has enough time been allowed for the transport activity to completed safely and within work and rest hours limits? • do the terms of the contract provide an incentive for exceeding working hours?
Initiate alerts when consignment arrangements with the potential to cause a driver to drive while impaired by fatigue or breach their work and rest hours are identified	• urgent, express or overnight deliveries, time sensitive freight such as perishable items or fast-moving consumer goods, short lead times, increased volumes or seasonal demands, "stock outs" or backlog orders
Monitor driver fatigue levels (in real time if possible) and review regularly for effectiveness and accuracy	• providing predictive wearable technology that analyses personal sleep patterns and empowers drivers to measure, manage and reduce their fatigue levels • using in cab face and eye tracking technology that detects the symptoms of fatigue and alerts affected drivers and their employer or the operator of the vehicles • contacting drivers on a regular basis to check on their welfare, especially during higher risk periods such as 12 midnight to 6am when driving when you would normally be asleep
If you become aware the driver is impaired by fatigue, stop the driver immediately and arrange for the driver to have a rest break	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, reallocating the task to a different driver, recording and reporting of any incidents

Keep accurate records and monitor driver work and rest times (in real time if possible) and review regularly for effectiveness and accuracy	• electronic recording systems such as telematics or Electronic Work Diaries (EWDs) to monitor and record work and rest times for drivers. These may be checked more quickly and make record keeping easier • logbook checking software that checks if the records from written work diaries comply with legal requirements • a sampling program where records of driver work and rest times are regularly reviewed to check compliance with the legislated operating limits • maintaining an up-to-date register of driver's records (per sections 319 and 321 of the HVNL)
Support drivers to self-manage fatigue and other persons to aid the welfare of drivers	• training all employees, including drivers, with awareness of the signs of fatigue, the importance of quality rest and lifestyle factors impacting fatigue. Nationally recognised training in fatigue management is available for truck drivers and schedulers
Empower drivers to act if impaired by fatigue	• a self-declaration and encourage self-reporting if feeling sleepy, physically or mentally tired, weary or drowsy, exhausted and/or lacking in energy
Assess the fatigue of the driver, before, during and after driving duties	• a check-in process including a thorough visual observation of the driver by a supervisor or other nominated person to confirm the driver is fit to drive to the best of their knowledge and training (see Section 6.1 of this Code for things to look for)
Manage environmental factors such as temperature, fumes, vibration and noise that are known to speed up the onset of driver fatigue	• making sure vehicle design does not contribute to fatigue – for example, good suspension, well maintained, protection from glare and noise
Regularly check and verify drivers are fit to drive, both physically and mentally, and not affected by drugs or alcohol or both	• a driver declaration of fitness for duty – a signed checklist completed by drivers declaring they are fit to drive, are feeling okay, have had enough rest, have enough hours to legally perform the task, are not impaired by drugs or alcohol • a check-in process including a thorough visual observation of the driver by a Supervisor or other nominated person to confirm the driver is fit to drive to the best of their knowledge and training (see Section 6.1 of this Code for things to look for) • a fitness for duty assessment sheet – some simple questions that a driver can be asked before starting work (along the lines of the driver declaration above) • regular drug and alcohol testing programs including random testing where practicable

Provide a comfortable sleeper berth	• ADR 42 for design and construction requirements of an approved sleeper berth. Note an approved sleeper berth is a mandatory requirement for two-up driving (section 221 of the HVNL)
Use innovative in-vehicle technologies where practical and based on risk to assist with crash avoidance in the event of a driver being fatigued	• unintended lane departure warning systems and lane keep assist systems to warn the driver of deviation from the lane • object detection systems to warn the driver of potential frontal crashes • stability and vehicle control technologies to correct the vehicle automatically
Have regular catch-ups with other CoR parties (e.g. consignors) to demonstrate how you perform the task safely and to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

> **Note:** *If you are an operator who also performs other roles in the Chain of Responsibility, including but not limited to employing or scheduling, refer to the respective sub-sections under this Section 6.3.*

6.3.3 Scheduler

Why do it?

To make sure:

- schedules and rosters do not cause a driver to drive whilst fatigued or breach their work and rest hours
- schedules and rosters do not result in, encourage, or provide an incentive to a relevant party to cause a driver to drive whilst fatigued

What you can do	Consider
Plan trip schedules (schedules of the transport of any goods or passengers by the vehicle) with appropriate timeframes so drivers are not directly pressured, or feel indirectly pressured, to drive when fatigued or breach their work and rest hours	• scheduling journeys with enough time for them to be completed safely and according to applicable rest breaks required along the route, allowing for contingencies and conditions such as traffic congestion, major roadworks, adverse weather, missed curfews and loading or unloading delays
Schedule journeys so that drivers can stop and rest at places where there are rest facilities and amenities, or where there is not excessive noise	• identifying suitable heavy vehicle rest areas, service centres and roadhouses. Refer to road authority websites for maps of rest areas in respective states and territories
Plan driver's rosters (schedules of the driver's work and rest times) with appropriate timeframes so drivers are not directly pressured, or feel indirectly pressured, to drive whilst fatigued or breach their work and rest hours	• rostering drivers taking into consideration fatigue risks, maximum work requirements and minimum rest requirements according to their work and rest hours option, two-up driving or driver changeovers
Consult with drivers, and CoR parties as relevant to the scheduling of journeys, about pick-up and delivery times. Make sure rostering of drivers considers contingencies and allows changes (including delays) to be managed	• discussing targeted truck turnaround times with consignors, consignees or loading managers including queuing arrangements, loading and unloading times, driver working and resting time on site, and building agreed timeframes into schedules
Design specific tasks to use multiple drivers or allow added recovery and adjust activities based on historical data	• planning for situations where drivers are no longer able to complete a trip within their work limits due to increasing delays and congestion
Manage changes to schedules including delays so drivers are not directly pressured, or feel indirectly pressured, to drive whilst fatigued or breach their work and rest hours	• developing contingency plans in advance including communication protocols and agreed actions to be taken in the event of delays, such as driver changeovers, access to rest facilities or accommodation • timely communication and advance notification wherever possible to drivers and other CoR parties
If you become aware the driver is impaired by fatigue, stop the driver immediately and arrange for the driver to have a rest break	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, reallocating the task to a different driver, recording and reporting of any incidents

6.3.4 Consignor and Consignee

Why do it?

To make sure:

- your business practices do not cause a driver to drive whilst fatigued or breach their work and rest hours
- requests and contractual arrangements will not cause or encourage the driver to drive whilst fatigued or breach their work and rest hours

What you can do	Consider
Before you engage a third party (e.g. prime contractor or operator), find out whether they have a reputation for running a safe and compliant business	• do they participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage the risk of fatigue?
Make sure your requests of, and any contractual arrangements with, the third party do not encourage a driver to drive while impaired by fatigue or breach their work and rest hours	• do agreements or terms of consignment have incentives for early delivery or penalties for late delivery?
Initiate alerts when consignment arrangements with the potential to cause a driver to drive while impaired by fatigue or breach their work and rest hours are identified	• urgent, express or overnight deliveries, time sensitive freight such as perishable items or fast-moving consumer goods, short lead times, increased volumes or seasonal demands, "stock outs" or backlog orders
Make sure you have a review process in place to check the third party is performing the activity according to your contractual arrangements and that those arrangements are effective in managing the risk of fatigue	• are there any new fatigue risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage the risk of fatigue? • if not effective, improve compliance or change the arrangements • implementing regular contract performance reviews or similar forums
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations
Plan deliveries with appropriate time for the required route so drivers are not directly pressured, or feel indirectly pressured, to drive whilst fatigued or breach their work and rest hours	• allowing for speed limits, contingencies and conditions such as steep ascents and descents, traffic congestion, major roadworks, adverse weather conditions, curfews and loading/ unloading delays
Prefer loading and distribution centres that provide access to rest facilities for drivers	
If you become aware the driver is impaired by fatigue, stop the driver immediately and notify the driver's employer or scheduler, or the operator of the vehicle	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, recording and reporting of any incidents

> **Note:** *If you are a consignor or consignee who also performs other roles in the Chain of Responsibility, including but not limited to packing or loading activities, refer to the respective sub-sections under this Section 6.3.*

6.3.5 Packer

Why do it?

To make sure:

- packing practices do not cause a driver to drive whilst fatigued or breach their work and rest hours

What you can do	Consider
Train packers, who may be able to identify the fatigue of the driver, with awareness of the signs of fatigue	• supporting packers who might engage with drivers to identify any obvious signs of fatigue, or concerns with the driver's general welfare
If you become aware the driver is impaired by fatigue, stop the driver immediately and notify the driver's employer or scheduler, or the operator of the vehicle	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, recording and reporting of any incidents
Monitor adherence to delivery windows, truck turnaround times and delays and take remedial action as required	• establishing, measuring and reporting against key performance indicators to track performance to plan, and adjust where necessary
Review loading/unloading arrangements and packing practices that may lead to delays in loading on a regular basis involving relevant parties in the supply chain	• monitoring and reviewing packing times to establish average work times and triggering alerts when there are anomalies or deviations (delays) that impact the transport of goods by a heavy vehicle

6.3.6 Loading Manager, Loader and Unloader

Why do it?

To make sure:

- loading or unloading practices do not cause a driver to drive whilst fatigued or breach their work and rest hours
- delays are minimised or managed so drivers are not directly or indirectly pressured to drive whilst fatigued or breach their work and rest hours

What you can do	Consider
Train key personnel, including but not limited to, loading managers, loaders and unloaders, who may be able to assess the fatigue of the driver, with awareness of the signs of fatigue	• supporting loaders or unloaders who engage with drivers, to identify any obvious signs of fatigue, or concerns with the drivers' general welfare, and report to the loading manager
If you become aware the driver is impaired by fatigue, stop the driver immediately and notify the driver's employer or scheduler, or the operator of the vehicle	• establishing a clear escalation process including agreed actions to be taken if a driver is impaired by fatigue, such as access to suitable rest facilities, recording and reporting of any incidents

Assess the fatigue and general welfare of the driver, before, during and after loading or unloading	• a driver declaration of fitness for duty – a signed checklist completed by drivers declaring they are fit to drive and as such are feeling okay, have had sufficient rest, have sufficient hours to perform the task, are not impaired by drugs or alcohol • a check-in process including a thorough visual observation of the driver by a Supervisor or other nominated person to confirm the driver is fit to drive to the best of their knowledge and training (see Section 6.1 and Section 6.3 of the Code for things to look for) • a fitness for duty assessment sheet – some simple questions that a driver can be asked before commencing work (along the lines of the driver declaration above) • regular drug and alcohol testing programs including random testing
Consult with loaders or unloaders and other CoR parties about planning loading and unloading times, including potential delays	• discussing and agreeing to targeted truck turnaround times with schedulers including queuing arrangements, loading and unloading times, and build these timeframes into schedules
Accommodate and communicate delays in the transport task including adjusting or reprioritising loading or unloading times as required	• prioritising drivers of fatigue-regulated vehicles or making alternative arrangements for the loading and unloading of the vehicle with the prime contractor or operator
Provide access to rest facilities in the event of loading or unloading delays to assist drivers manage their work and rest hours and fatigue levels	• lunchrooms with fresh water, tea and coffee making facilities, toilets, change rooms with showers, or access to the nearest offsite rest facilities if limited onsite facilities are available
Monitor adherence to delivery windows, truck turnaround times and delays and take remedial action as required	• establishing reporting key performance indicators to track performance and to plan and adjust where necessary
Review loading/unloading arrangements and practices that may cause delays on a regular basis involving all relevant CoR parties	• monitoring and reviewing truck turnaround times including the time the vehicle arrives at site, time spent waiting or queuing, the time taken to load or unload the vehicle and the time the vehicle departs the site to establish average work times and triggering alerts when there are anomalies or deviations (delays)

7. MASS, DIMENSION AND LOADING– RISK TYPES AND SUGGESTED CONTROLS

7.1 WHAT ARE THE RISKS ASSOCIATED WITH MASS, DIMENSION AND LOADING?

The main purpose of the mass, dimension and loading requirements in the HVNL is to decrease risks from excessively loaded or excessively large heavy vehicles. Decreasing these risks improves public safety and minimises any adverse impact from excessively loaded or excessively large heavy vehicles on road infrastructure or to public amenity.

There is a risk that the behaviour or business practices of "off-road" CoR parties may result in a driver feeling pressured to drive a vehicle with loads in breach of mass, dimension and loading requirements.

Incorrectly positioned or restrained loads, or a heavy vehicle that is overloaded, can affect the stability, steering and braking performance of a heavy vehicle. This can result in the driver losing control of the vehicle. Loads that affect vehicle stability, such as unevenly distributed loads, loads with a high centre of gravity, or loads that shift when cornering due to poor packing and restraint (for example poorly secured goods in freight containers), increase the risk of the heavy vehicle rolling over. Serious injuries and fatalities to drivers, other road users and pedestrians, damage to road infrastructure and the environment can result.

Protruding loads, or an inappropriately restrained load that falls off the vehicle, can endanger the lives of other road users and pedestrians through a direct collision or by causing other drivers to swerve to avoid it. If the load moves forward it can pierce the cabin and injure or kill the driver or passenger.

There is a risk of serious injury or fatality when loading and unloading a load that is poorly restrained or has shifted in transit. The load could fall from the vehicle and strike or crush people in the immediate vicinity if controls are not in place during unloading. A load that is poorly restrained or has shifted in transit should never be allowed to return to the road (or to sender) without first remedying the situation, due to these risk factors.

Over-size or over-mass loads can cause damage to road infrastructure and result in serious incidents and traffic congestion. Examples include over-height loads colliding with bridges, tunnels and overhead powerlines. If the heavy vehicle is not fit for the purpose, it can cause damage to road infrastructure and the load can adversely affect the performance of the heavy vehicle. This may also cause damage to the equipment and to the vehicle, including suspension damage and degradation of structural integrity.

If safety devices and systems described in and required by dimension exemptions are not used, operated or followed, safety risks may be created. See schedule 8 of the Heavy Vehicle (Mass, Dimension and Loading) National Regulations.

If safety risks are realised, this can lead to lost productivity and increased costs to the operator and other CoR parties.

Contributing factors that may cause safety risks or encourage breaches of heavy vehicle mass, dimension and loading requirements include but are not limited to:

- lack of policy and procedures, or systems to report non-compliance
- ineffective two-way consultation, cooperation and coordination of all parties along the supply chain
- inadequate information, training, instruction and/or supervision of mass, dimension and loading requirements and associated procedures
- conflicting commercial arrangements between parties
- poorly planned or prepared loads and/or inadequate oversight to verify suitability
- incorrect placement and positioning of loads
- lack of weighing or measuring equipment or method
- inflexible loading and unloading practices, including inability to re-adjust loads
- improperly restrained loads and/or inadequate expertise to verify suitability of load restraint systems
- non-compliance with vehicle and equipment operating requirements
- inadequate maintenance of equipment
- deliberate actions of drivers or other CoR parties
- inadequate monitoring and/or due diligence by all CoR parties to ensure safety and compliance of transport activities.

7.2 WHAT DOES THE LAW SAY?

For the main purposes of the mass, dimension and loading requirements and how these are achieved refer to section 94 of the HVNL (see also Section 7.1 of this Code).

HVNL section 26C – Primary duty

Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

Each party must, so far as is reasonably practicable–

- eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- ensure the party's conduct does not directly or indirectly cause or encourage– the driver of the heavy vehicle to contravene this Law; or another person, including another party in the chain of responsibility, to contravene this Law.

HVNL section 96 – Compliance with mass requirements

A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle's components and load, comply with the **mass requirements** applying to the vehicle, unless the person has a reasonable excuse.

HVNL section 102 – Compliance with dimension requirements

A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle's components and load, comply with the **dimension requirements** applying to the vehicle, unless the person has a reasonable excuse.

HVNL section 111 – Compliance with loading requirements

A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle's components and load, comply with the **loading requirements** applying to the vehicle, unless the person has a reasonable excuse.

More information on the mass, dimension and loading requirements is available in sections 95, 101 and 110 of the HVNL respectively.

Refer also the Heavy Vehicle *(Mass, Dimension and Loading) National Regulation* to confirm that vehicles comply with the mass, dimension and loading requirements applicable to the vehicle under the Regulations – mass requirements in Schedules 1-5A, dimension requirements in Schedule 6 and loading requirements in Schedule 7.

Refer also mass, dimension and route requirements contained in exemption notices, permits or PBS vehicle approvals for authorised (mass) limits and/or authorised dimensions. These notices and permits may also include extra conditions that must be followed to control safety risks with over-size or over-mass loads.

7.3 WHAT YOU CAN DO AND WHY

CoR parties should implement a risk-based approach to manage safety and ensure compliance with all requirements of the HVNL including mass, dimension and loading. A dedicated risk assessment of your mass, dimension and loading hazards and requirements can identify where risks might arise in your business. Section 3 of this Code provides information on how to conduct a risk assessment.

Consider any unique or different circumstances that relate to your transport activities in your risk assessment and control the risks accordingly.

For example, risk factors relating to mass, dimension and loading may include but are not limited to—uniformly dense and heavy loads, large indivisible loads including over-size and over-mass loads, non-specific or specialised load types such as awkwardly shaped items or prefabricated components, or loads with a high centre of gravity.

Controls to manage risks associated with mass, dimension and loading, based on your role/s in the Chain of Responsibility, are suggested in this section. You also need to consider the outcomes of the risk assessment of your mass, dimension and loading risks when developing and implementing controls and make sure that they are appropriate for the size and nature of your transport activities.

7.3.1 Employer and Prime Contractor

Why do it?

To make sure:

- the vehicle or combination is fit for the task
- accurate load weights are known
- loaded vehicles comply with gross and axle/axle group weights
- loads are placed to maintain vehicle stability and safety
- loads are secured to prevent them falling or being dislodged from the vehicle
- an appropriate method has been used to restrain the load on a heavy vehicle
- loads are restrained in a way that meets loading performance standards

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing the operator or driver to breach mass, dimension and loading requirements	• is there suitable equipment to move, load, restrain and unload freight safely?
Before you engage a driver or subcontractor find out whether they have a safe driving record or a reputation for running a safe and compliant business	• conducting reference checks and assessments of their skills and capability to do the task safely • conducting in cab assessments of drivers prior to engagement • using road authority opt-in systems that allow a driver's traffic history to be shared • do subcontractors participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage mass, dimension and loading risks?
Make sure your requests of, and any contractual arrangements with, the third party do not reward or encourage a driver to breach mass, dimension and loading requirements	• do agreements have incentives that may encourage overloading?
Make sure you have a review process in place to check a driver or subcontractor is performing the activity according to your employment or contractual arrangements and that those arrangements are effective in managing mass, dimension and loading risks	• are there any new mass, dimension or loading risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage these risks? • if not effective, improve compliance or change the arrangements • implementing regular performance reviews • visual inspections and assessments of mass, dimension and loading requirements and controls
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

Note: *If you are an employer or prime contractor who also performs other roles in the Chain of Responsibility, refer to the respective sub-sections under this Section 7.3.*

7.3.2 Operator

Why do it?

To make sure:

- the vehicle or combination is fit for the task
- accurate load weights are known
- loaded vehicles comply with gross and axle/axle group weights
- loads are placed to maintain vehicle stability and safety
- loads are secured to prevent them falling or being dislodged from the vehicle
- an appropriate method has been used to restrain the load on a heavy vehicle
- loads are restrained in a way that meets the loading performance standards

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing the driver to breach mass, dimension and loading requirements	• is there suitable equipment to move, load, restrain and unload freight safely?
Initiate alerts when consignment arrangements with the potential to cause a driver to breach mass, dimension and loading requirements are identified	• uniformly dense and heavy loads, large indivisible loads including over size and over mass loads, non-specific or specialised load types such as awkwardly shaped items or prefabricated components or loads with a high centre of gravity
Identify the mass, dimension and loading requirements (such as tare, gross and axle weights, widths and lengths) that apply to each vehicle or combination and communicate these with relevant CoR parties	• OEM specifications, mass management accreditation scheme documentation, Commonwealth Gazette notices, NHVR Common Heavy Freight Vehicle Configurations, industry truck charts
Provide drivers with accurate load weights and dimensions before or at the point of loading (refer sections 186 and 187 of the HVNL)	• load plans, consignment notes, despatch documents, container weight declarations. Load weights may need to take into consideration the weight of the goods and any packaging materials, pallet, stillage or dunnage
Make sure appropriate dunnage and stillage is used for the task and that any packaging materials, pallet, stillage or dunnage is in good condition	• communicating with other parties to find out who has responsibility to provide dunnage and stillage • notifying the relevant party (e.g. loading manager) if there are any problems with the load to have it fixed
Measure dimensions of loaded vehicles and compare to applicable requirements	• providing drivers with training, and measuring devices such as tape measures or height sticks to confirm the vehicle and its load are within allowable dimensions

Measure load weights and monitor compliance with gross and axle/axle group mass limits, container maximum limit (for containerised goods)	• access to onsite or offsite weighbridges, for heavier/larger or unevenly distributed loads that may need to be weighed prior to every journey • using of vehicles or combinations or loading equipment fitted with on-board mass systems (weigh scales) or air pressure gauges • cubic capacities and waterlines for contained, evenly distributed or lighter weight loads • sampling programs for loads that are consistent in type and frequency • calculations or modelling of mass (based on batch weights) • physically weighing the load for initial verification to confirm compliance and verifying ongoing compliance at an agreed frequency based on severity of risk
Compare estimated weights with any confirmed weights where possible and take any variations into consideration when adjusting future loading arrangements	• checking your estimated load weight against recorded weights (e.g. where a load is not weighed at the loading point but is weighed at the destination for invoicing)
Verify accuracy of positioning and distribution of the load, including its stability, in accordance with loading instructions and adjust as required	• documented load distribution plans, load planning tools
Communicate load positioning to drivers, consignors and loaders	• documented load distribution plans and diagrams, procedures and work instructions, task specific training
Verify the transport of dangerous goods is undertaken per the requirements of the Australian Dangerous Goods Code (refer separate legislation)	• specific loading and load restraint requirements if a dangerous goods class label is present
Verify loads are placed, secured and restrained in compliance with a loading requirement applying to the vehicle	• checking the Loads module in the Load Restraint Guide for advice on specific load types • load restraint also applies to restraint of goods within freight containers • for tie-down restraint, work out how much load restraint you need using the Working Out Load Restraint module and tie-down tables in the Load Restraint Guide • for direct restraint, to determine what strength lashings you need use the Working Out Load Restraint module or load tables in the Load Restraint Guide • calculating the required load restraint for a vehicle's load and generating a load restraint plan. Provide this plan to relevant parties for implementation

Develop load restraint systems for common loads and provide to responsible parties for implementation (such as loading managers)	• industry specific guidance materials and instructions on load positioning and restraint
For non-specific or specialised load types (for example, large, heavy or awkwardly shaped items or prefabricated components that are difficult to load and restrain) have a certified engineer design and select the load restraint system used, or as applicable refer to certified load restraint systems provided by other CoR parties	• industry specific load restraint guidelines
If required, have an appropriately skilled, experienced and qualified person (for example, a certified engineer) certify the load restraint system used meets the loading performance standards	• referring to the Certification and Technical Advice modules in the Load Restraint Guide
Confirm equipment used to restrain a load is load rated equipment, including rated vehicle structures	• checking against manufacturer's specifications
Confirm equipment used in the loading process, including mass management (e.g. scales and weighbridges) and load restraint (e.g. lashings), is fit for purpose, regularly inspected and maintained, or calibrated as required	• relevant Australian Standards, or manufacturer's operations and maintenance manuals or equivalent. A plant and equipment inspection and testing register or an 'off the shelf' computerised fleet maintenance system are examples of useful tools to keep track of these things
Maintain mass, dimension and loading requirements during pick-up and delivery of part loads and in transit such as compliance with axle weights, vehicle and load stability, and proper restraint	• a journey plan that instructs the driver on how this could be achieved • checks of the load carried out periodically throughout the journey to ensure the load has not shifted and the load is secure
Split multi combinations or road trains to not exceed mass and dimensions limits	
Manage the refuelling of the vehicle as this can cause steer axle overloading	
Monitor mass, dimension and loading requirements and review regularly	• mass sampling programs, load restraint inspections
Have regular catch-ups with other CoR parties (e.g. prime contractors or consignors) to demonstrate how you perform the task safely and to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

Note: *If you are an operator who also performs other roles in the Chain of Responsibility, including but not limited to scheduling, refer to the respective sub-sections under this Section 7.3.*

7.3.3 Scheduler

Why do it?

To make sure:

- schedules and routes will not cause the driver to breach mass, dimension and loading requirements
- road infrastructure is suitable for the vehicle and its load

What you can do	Consider
Schedule vehicles or combinations that have the capability, capacity and equipment to match the mass, dimension and loading requirements for the particular load and journey, including mass management accreditation schemes, mass and dimension permits, access permits or dangerous goods requirements—the right truck with the right equipment for the right load	• requesting written confirmation of mass, dimension loading requirements including any special conditions or equipment required from the consignor as part the load consignment
Make sure route (journey) plans take into consideration mass and dimension requirements to ensure the route/ infrastructure is suitable for the load and complies with any route permits or conditions as applicable	• for over height loads, any low height bridges, tunnels or infrastructure such as overhead powerlines, similarly for wide loads
Check route permits and conditions will be met prior to a journey commencing and notify relevant supply chain parties	• compliance to over-size (dimension) and over-mass requirements, local mass restrictions

7.3.4 Consignor and Consignee

Why do it?

To make sure:

- requests and contractual arrangements do not cause or encourage other CoR parties to breach mass, dimension and loading requirements
- accurate load weights are known
- loaded vehicles comply with gross and axle/axle group weights
- loads are placed to maintain vehicle stability and safety
- loads are secured to prevent them falling or being dislodged from the vehicle
- an appropriate method has been used to restrain the load on a heavy vehicle
- loads are restrained in a way that meets the loading performance standards

What you can do	Consider
Before you engage a third party (e.g. prime contractor or operator), find out whether they have a reputation for running a safe and compliant business	• do they participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage mass, dimension and loading risks?
Make sure your requests of, and any contractual arrangements with, the third party do not reward or encourage the operator or driver to breach mass, dimension and loading requirements	• do agreements have incentives that may encourage overloading?
Initiate alerts when consignment arrangements with the potential to cause the operator or a driver to breach mass, dimension and loading requirements are identified	• uniformly dense and heavy loads, large indivisible loads including over-size and over-mass loads, non-specific or specialised load types such as awkwardly shaped items or prefabricated components or loads with a high centre of gravity
Make sure you have a review process in place to check the third party is performing the activity according to your contractual arrangements and that those arrangements are effective in managing mass, dimension and loading risks	• are there any new mass, dimension or loading risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage these risks? • if not effective, improve compliance or change the arrangements • implementing regular contract performance reviews or similar forums • inspections and assessments of mass, dimension and loading requirements and controls
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

Provide operators and drivers with accurate load weights and dimensions prior to or at the point of loading (refer sections 186 and 187 of the HVNL)	• load plans, consignment notes, despatch documents, container weight declarations • load weights may need to take into consideration the weight of the goods and any packaging materials, pallet, stillage or dunnage • for sealed loads, operators and drivers are provided with a load declaration, akin to container weight declaration
Verify the transport of dangerous goods is undertaken per the requirements of the Australian Dangerous Goods Code (refer separate legislation)	• checking specific loading and load restraint requirements if a dangerous goods class label is present
Develop load restraint systems for common loads and provide to responsible parties for implementation (such as operators and loading managers)	• industry specific guidance materials and instructions on load positioning and restraint
If required, have an appropriately skilled, experienced and qualified person (for example, a certified engineer) certify the load restraint system used meets the loading performance standards	• referring to the Certification and Technical Advice modules in the Load Restraint Guide
For specialised or complex load types (such as large, heavy or awkwardly shaped items or prefabricated components that are difficult to load and restrain) have a certified engineer design and select the load restraint system used	

Note: *If you are a consignor or consignee who also performs other roles in the chain of responsibility, including but not limited to packing or loading activities, refer to respective sub-sections under this Section 7.3.*

7.3.5 Packer

Why do it?

To make sure:

- accurate weights of packaged goods including container weights are known
- packaged goods are accurately itemised or identified
- packaged goods are properly secured to prevent movement
- packaging remains operative and serviceable

What you can do	Consider
Provide loading managers, operators and drivers with accurate packaged goods/load weights and dimensions prior to or at the point of loading (refer sections 186 and 187 of the HVNL)	• consignment notes, despatch documents, container weight declarations. Note: Load weights may need to take into consideration the weight of the goods and any packaging materials, pallet, stillage or dunnage
Communicate the way goods are packed in the load and details of load positioning to operators, drivers and other relevant parties in the supply chain, to maintain load stability and integrity	• packing procedures or instructions, load plans
Verify packaged goods, unitising and containment systems can support the weight of the load, meet the loading performance standards and are robust enough to withstand handling, for example, by forklifts	• determining the strength ratings of any packaging method used and supplying these for inclusion in calculations of load restraint system compliance with loading performance standards
If required, have an appropriately skilled, experienced and qualified person (for example, a certified engineer) certify the packaging strength rating used in load restraint calculations	• referring to the Certification and Technical Advice modules in the Load Restraint Guide
Verify and monitor packaged goods meet mass, dimension and loading requirements (per above suggested controls)	• conducting quality assurance (QA) checks of packaging integrity • seeking feedback from other CoR parties

7.3.6 Loading Manager, Loader and Unloader

Why do it?

To make sure:

- the vehicle or combination is fit for task
- accurate weights of goods, including container weights, are known
- loaded vehicles comply with gross and axle/axle group weights
- loads are placed to maintain vehicle stability and safety
- loads are secured to prevent them falling or being dislodged from the vehicle
- an appropriate method has been used to restrain the load on a heavy vehicle
- loads are restrained in a way that meets the loading performance standards

What you can do	Consider
Provide drivers with accurate load weights and dimensions at the point of loading (refer sections 186 and 187 of the HVNL)	• consignment notes, despatch documents, container weight declarations. For sealed loads, provide operators and drivers with a load declaration, the same as a container weight declaration
Verify the appropriate vehicle with the capability, capacity and equipment to match the mass, dimension and loading requirements is provided	• written confirmation from the prime contractor or operator as part the load consignment and acceptance, cross-checked with the driver at the point of loading, such as vehicle tare mass and GVM, length and width requirements
Measure load weights and monitor compliance with gross and axle/axle group mass limits, container maximum limit (for containerised goods)	• access to onsite or offsite weighbridges, for heavier/larger or unevenly distributed loads that may be required to be weighed prior to every journey • using of vehicles or combinations or loading equipment fitted with on-board mass systems (weigh scales) or air pressure gauges • cubic capacities and waterlines for contained, evenly distributed or lighter weight loads • sampling programs for loads that are consistent in type and frequency • calculations or modelling of mass (based on batch weights) • physically weighing the load for initial verification to confirm compliance and verifying ongoing compliance at an agreed frequency based on severity of risk
Compare estimated weights with any confirmed weights where possible and take any variations into consideration when adjusting future loading arrangements	• checking your estimated load weight against recorded weights (e.g. where a load is not weighed at the loading point but is weighed at the destination for invoicing)

Identify requirements applicable to the load or the vehicle prior to the journey and make sure loads are suitably prepared to comply with requirements, manage risk and maintain a safe road environment	• checking unitised loads or ancillary items are appropriately secured, indivisible loads and components, welfare of livestock, containment of hazardous waste
Communicate load preparation requirements and positioning details to operators, drivers and loaders	• documented load distribution plans and diagrams, procedures and work instructions, task specific training
Verify the accuracy of positioning and distribution of the load, including its stability, in accordance with loading instructions	• documented load distribution plans, load planning tools
Adjust load positioning and distribution upon request by other	• making sure loaders are readily available to adjust loads when required
Verify the transport of dangerous goods is undertaken per the requirements of the Australian Dangerous Goods Code (refer separate legislation)	• specific loading and load restraint requirements if a dangerous goods class label is present
Verify loads are placed, secured or restrained in compliance with a loading requirement applying to the vehicle	• checking the Loads module in the Load Restraint Guide for advice on specific load types • load restraint also applies to restraint of goods within freight containers • for tie-down restraint, work out how much load restraint you need using the Working Out Load Restraint module and tie-down tables in the Load Restraint Guide • for direct restraint, to determine what strength lashings you need use the Working Out Load Restraint module or load tables in the Load Restraint Guide • calculating the required load restraint for a vehicle's load and generating a load restraint plan. Provide this plan to relevant parties for implementation
Calculate load restraint requirements for every load prior to loading and provide outcomes to responsible party's for implementation (such as operators and loaders)	• generating a load restraint plan to be followed
Develop load restraint systems for common loads and provide to responsible parties for implementation (such as operators and loaders)	• industry specific guidance materials and instructions on load positioning and restraint

For non-specific or specialised load types (for example, large, heavy or awkwardly shaped items or prefabricated components that are difficult to load and restrain) have a certified engineer design and select the load restraint system used, or as applicable refer to certified load restraint systems provided by other supply chain parties	• industry specific load restraint guidelines
If required, have an appropriately skilled, experienced and qualified person (for example, a certified engineer) certify the load restraint system used meets the loading performance standards	• referring to the Certification and Technical Advice modules in the Load Restraint Guide
Confirm equipment used to restrain a load is load rated equipment, including rated vehicle structures	• manufacturer's specifications
Monitor adherence to mass, dimension and loading requirements and take remedial action as required	• mass sampling program, checking of dimensions, load restraint inspections by trained and qualified persons
Review loading arrangements and practices to confirm methods are appropriate and effective	• loading infrastructure and equipment is fit for purpose to meet loading requirements
Maintain mass, dimension and loading requirements during pick-up and delivery of part loads such as compliance with axle weights and proper restraint	• a journey plan that instructs the driver on how this could be achieved • load checks to be carried out at the pick-up and delivery points to ensure the load has not shifted and the load is secure

8 VEHICLE STANDARDS - RISK TYPES AND SUGGESTED CONTROLS

8.1 WHAT IS THE RISK?

The main purpose of the vehicle standards obligations in the HVNL is to ensure the safe operation of a heavy vehicle and that heavy vehicles used on roads are of a standard and in a condition that prevents or minimises safety risks.

There is a risk that the behaviour or business practices of "off-road" CoR parties may result in a driver feeling pressured to drive an unsafe or defective heavy vehicle.

Unsafe or defective heavy vehicles, for example a heavy vehicle with faulty brakes, may cause serious injuries and fatalities to drivers and other road users if involved in a motor vehicle incident, or damage to road infrastructure and the environment.

Safety critical components on a heavy vehicle include:[26]

- brakes—must operate effectively and be correctly adjusted, including serviceable airlines
- couplings—fifth wheel and other towing devices must be in a serviceable condition and provide the necessary load carrying capacity
- steering and suspension—must be in good working order and allow the driver to effectively control the vehicle
- wheels, tyres and hubs—must be of a suitable type and condition and provide the necessary load carrying capacity, speed rating and control of the vehicle, including inflation, tread integrity and wheel security.

Defective brakes, steering, suspension and tyres can severely affect the stability, braking and steering performance of a vehicle and can result in the driver losing control of the vehicle. Loss of control of a heavy vehicle can have significant impacts on public safety through serious injuries and fatalities to drivers or passengers, other road users and the general public.

The condition of the fifth wheel coupling (turntable) and other towing devices is also important to prevent trailers decoupling or detaching and being damaged. If a trailer comes free from the hauling vehicle when moving it may endanger the lives of other road users and pedestrians through a direct collision or by causing other drivers to swerve to avoid it.

Other components that can affect heavy vehicle roadworthiness and impact the safety of drivers, other road users and the general public include:[27]

- structure and body condition
- seats and seatbelts
- lights and reflectors
- mirrors
- windscreen and windows
- engine, driveline and exhaust.

[26] NHVR, National *Heavy Vehicle Inspection Manual* (NHVIM), Version 2.2, July 2017

[27] National Heavy Vehicle Inspection Manual

An effective system for inspection, fault finding, recording, maintenance and repair is critical for a safe trucking operation and to support the safety of transport activities, as outlined in the following sections.

Contributing factors that may cause safety risks or encourage a CoR party to operate heavy vehicles that are unsafe or defective include but are not limited to:

- lack of policy and procedures, or systems to report non-compliance
- ineffective two-way consultation, cooperation and coordination of all parties along the chain
- inadequate information, training, instruction and/or supervision of vehicle standards obligations and associated procedures
- conflicting commercial arrangements between parties
- poorly planned or executed maintenance and/or inadequate oversight to verify suitability
- inadequate fault recording and reporting, prioritisation and repairs
- poor workmanship and/or inadequate oversight to verify suitability
- deliberate actions of drivers or other parties
- inadequate monitoring and/or due diligence by all parties to ensure safety and compliance of transport activities.

8.2 WHAT DOES THE LAW SAY?

HVNL section 26C – Primary duty

Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

Each party must, so far as is reasonably practicable–

- eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
- ensure the party's conduct does not directly or indirectly cause or encourage– the driver of the heavy vehicle to contravene this Law; or another person, including another party in the chain of responsibility, to contravene this Law.

HVNL section 60 – Compliance with heavy vehicle standards

A person must not use, or permit to be used, on a road a heavy vehicle that contravenes a heavy **vehicle standard** applying to the vehicle.

HVNL section 89 – Safety requirement

A person must not use, or permit to be used, on a road a heavy vehicle that is unsafe.

Note: ***Transport activities*** *also includes contracting, directing or employing a person to carry out other activities associated with the use of a heavy vehicle (such as maintaining or repairing the vehicle). Therefore,* ***maintaining or repairing the vehicle have been included under the umbrella of vehicle standards*** *as these activities can affect the condition and roadworthiness of a heavy vehicle.*

Vehicle Standards*, or Heavy Vehicle Safety Standards, are the standards derived from Australian Design Rules, HVNL and Heavy Vehicle (Vehicle Standards) National Regulation that set out the minimum safety, emissions and anti-theft requirements that apply to heavy vehicles. The vehicle standards are used to guide heavy vehicle inspections as published in the National Heavy Vehicle Inspection Manual (NHVIM).*

Vehicle standards apply to the vehicle, vehicle components and equipment, including all the equipment fitted to, or forming part of, the vehicle. Vehicle components and equipment include for example, truck bodies and trailers, cranes and other permanently affixed loading/unloading devices or load restraint equipment.

8.3 WHAT YOU CAN DO AND WHY

CoR parties should implement a risk-based approach to manage safety and ensure compliance with all requirements of the HVNL including vehicle standards. A dedicated risk assessment of your vehicle standards hazards, and vehicle standards requirements can identify where risks might arise in your business. Section 3 of this Code provides information on how to conduct a risk assessment.

Consider any unique or different circumstances relating to your transport activities in your risk assessment and control the risks accordingly.

For example, risk factors relating to vehicle safety standards, including maintenance and repairs, may include but are not limited to—heavy vehicles frequently operating on unsealed roads, or regularly transporting over-size over-mass loads, or exposure to harsh environments, either within or external to the heavy vehicle during loading, driving or unloading.

Controls to manage the risks associated with vehicle standards requirements, based on your role/s in the Chain of Responsibility, are suggested in this section. You need to consider the outcomes of the risk assessment of your vehicle standards risks when developing and implementing controls and make sure that they are appropriate to the size and nature of your transport activities.

An example of a specific control used to manage the risks associated with maintenance and repairs to meet vehicle standards is a maintenance management system. An effective vehicle maintenance management system involves the following steps, as shown in Figure 7:

1. **Daily check** — a simple visual safety check at the start of each day
2. **Fault recording and reporting** — a documented system for recording and reporting vehicle faults
3. **Fault prioritisation and repair** — a system to identify and assess the nature and severity of faults and place priorities on their repair
4. **Scheduled maintenance** — periodic maintenance schedules, with identified service periods, that describe the tasks to be completed
5. **Records and documentation** — to manage and maintain the effective operation of the maintenance management system

6. **Responsibilities, training and education** — what the tasks are in your maintenance management system and who is responsible for each of those tasks, the skills and knowledge required to perform the tasks
7. **Internal review** — systems to monitor the performance and review the effectiveness of the maintenance management system and acting if problems are identified.

Figure 7 Maintenance management system

More information on Step 7: Internal review is available in Section 2.7 of this Code.

A useful tool to help manage some of the elements of the maintenance management system is the fleet maintenance system. The fleet maintenance system helps keep track of things like fault repair and periodic maintenance. The fleet maintenance system may be an off-the-shelf software program, an electronic spreadsheet or a simple paper-based system.

8.3.1 Employer and Prime Contractor

Why do it?

To make sure:

- heavy vehicles are safe, roadworthy and properly maintained
- heavy vehicles used on a road comply with heavy vehicle standards
- unsafe heavy vehicles are not used on a road and drivers are not asked to operate an unsafe vehicle

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing the driver to use an unsafe heavy vehicle	• contracts that require the operator to "sweat the assets" (keep the wheels turning) and do not allow timetabling of periodic maintenance
Before you engage a driver or subcontractor find out whether they have a safe driving record or a reputation for running a safe and compliant business	• conducting reference checks and assessments of their skills and capability to do the task safely • conducting in cab assessments of drivers prior to engagement • using road authority opt-in systems that allow a driver's traffic history to be shared • do subcontractors participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage vehicle standards risks?
Make sure your requests of, and any contractual arrangements do not reward or encourage a driver to use an unsafe heavy vehicle	• operators may feel pressured to keep their vehicles on the road and not carry out periodic maintenance
Make sure you have a review process in place to check the third party is performing the activity according to your contractual arrangements and that those arrangements are effective in managing the vehicle standards risks	• are there any new vehicle standards risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage these risks? • if not effective, improve compliance or change the arrangements • implementing regular performance reviews
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

8.3.2 Operator

Why do it?

To make sure:

- heavy vehicles are safe, roadworthy and maintained correctly
- heavy vehicles used on a road comply with heavy vehicle standards
- unsafe heavy vehicles are not used on a road and drivers are not asked to operate an unsafe vehicle

What you can do	Consider
Refuse to enter a contract that you consider has a risk of causing a driver to use an unsafe heavy vehicle	• contracts that require you to "sweat the assets" (keep the wheels turning) and do not allow timetabling of periodic maintenance
Consider technological solutions to improve heavy vehicle safety when purchasing heavy vehicles and components	• electronic stability control, autonomous emergency braking, GPS-based telematic systems, in-cab driver (fatigue and distraction) monitoring systems, lane tracking warning and assistance systems
Confirm heavy vehicles and combinations are registered and meet the heavy vehicle standards applying to the vehicle and its components	• a procedure that includes checking requirements to make sure heavy vehicles meet safety standards and/or purchasing specifications
Initiate alerts when consignment arrangements with the potential to cause a driver to operate an unsafe or defective vehicle are identified	• heavy vehicles frequently operating on unsealed roads, or regularly transporting over size over mass loads, or exposure to harsh environments, either within or external to the heavy vehicle during loading, driving or unloading
Inspect and record, correct and review the effectiveness of any findings from inspections of heavy vehicles	• treating any findings from external parties in the same way you would any faults identified internally using your fleet maintenance system
Confirm the vehicle is fit for use and identify a vehicle that is unsafe before operation	• daily check – a documented instruction for basic visual safety checks to detect problems with critical safety components
Record and report any unsafe vehicles, faults or defects before, during or after operation (as soon as possible)	• documented repair request form. All major or serious faults, including safety related faults, need to be fixed before the vehicle is returned to service
Report and prioritise, repair and review the effectiveness of any faults reported	• documented fault reports or repair request forms, or fleet maintenance system
Assess faults for severity, track their correction or monitor until rectified	• a manual register to track progress and completion, or fleet maintenance system

Implement a preventative (or periodic) maintenance program including regular servicing of vehicles, components and equipment	• service schedules recommended by the manufacturer or supplier. Service periods may vary based on the operating conditions and may need to be more frequent than the manufacturer's recommendations – for example, heavy vehicles frequently operating on unsealed roads, or regularly transporting over size over mass loads, or exposed to harsh environments • the maintenance schedule should include identified service periods that describe the tasks to be undertaken • Note: maintenance and repairs should be carried out by a person with appropriate skills, experience and qualifications
Obtain any defect notices issued for a vehicle, repair the vehicle, and keep records of defects and repairs	• using your fleet maintenance system to keep track of defects, actions and repairs
Identify and prevent from being used by a driver any non-compliant or faulty vehicle that does not comply with heavy vehicle standards	• a tag out and remove from service system or keeping the vehicle keys in a secure location such as a locked key box or locking out trailing equipment airlines
Encourage or incentivise other parties to observe, record and report vehicle faults to you	
Have regular catch-ups with other CoR parties (e.g. prime contractors or consignors) to demonstrate how you perform the task safely and to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

8.3.3 Scheduler

Why do it?

To make sure:

- scheduling practices will not directly or indirectly cause or encourage a CoR party to operate vehicles that are unsafe or defective
- drivers are scheduled to operate roadworthy vehicles and loads are not allocated to vehicles that are unsafe or defective

What you can do	Consider
Make sure that schedules allow for timetabling of periodic maintenance	
Record and report any observations or notifications of unsafe or defective vehicles to the operator	• verbal notification or using paper-based or electronic hazard report forms, documented fault reports or repair request forms
Verify action has been taken by the relevant party to repair or replace an unsafe or defective vehicle prior to scheduling for use	• written confirmation the vehicle is safe for use

8.3.4 Consignor and Consignee

Why do it?

To make sure:

- requests and contractual arrangements will not cause or encourage a CoR party to operate vehicles that are unsafe or defective

What you can do	Consider
Before you engage a third party (e.g. a prime contractor or operator), find out whether they have a reputation for running a safe and compliant business	• do they participate in any accreditation schemes? • have they undertaken any audits or assessments of the effectiveness of controls that manage the vehicle standards risks?
Make sure your requests of, and any contractual arrangements with, the third party do not reward or encourage the operator or driver to use an unsafe heavy vehicle	• operators may feel pressured to keep their vehicles on the road and not carry out periodic maintenance

Initiate alerts when consignment arrangements with the potential to cause a driver to operate an unsafe or defective vehicle are identified	• heavy vehicles frequently operating on unsealed roads, or regularly transporting over-size over-mass loads, or exposure to harsh environments, either within or external to the heavy vehicle during loading, driving or unloading
Make sure you have a review process in place to check the third party is performing the activity according to your contractual arrangements and that those arrangements are effective in managing the vehicle standards risks	• are there any new vehicle standards risks that may arise from the interaction between the parties and are the arrangements put in place effective to manage these risks? • if not effective, improve compliance or change the arrangements • implementing regular contract performance reviews or similar forums
Have regular catch-ups with other CoR parties to discuss and manage any issues	• tactical meetings that focus on day-to-day operations

> **Note:** *If you are a consignor or consignee who also performs other roles in the chain of responsibility, including but not limited to packing or loading activities, refer to the respective sub-sections under this Section 8.3.*

8.3.5 Packer

Why do it?

To make sure:

- packing practices will not cause or encourage a CoR party to operate vehicles that are unsafe or defective
- vehicles that are observed to be unsafe or defective are not loaded and appropriate action taken

What you can do	Consider
Engage with the operator and other parties in the Chain of Responsibility to report on any unsafe or defective vehicles	• using a paper-based or electronic hazard report form
Verify action was taken by the relevant party to repair or replace an unsafe or defective vehicle prior to use	• written confirmation the vehicle is safe for use

8.3.6 Loading Manager, Loader and Unloader

Why do it?

To make sure:

- loading and unloading practices will not cause or encourage a CoR party to operate vehicles that are unsafe or defective
- vehicles that are observed to be unsafe or defective are not loaded and appropriate action taken

What you can do	Consider
Engage with the operator and other parties in the Chain of Responsibility to report on any unsafe or defective vehicles	• using a paper-based or electronic hazard report form
Record and report any observations of unsafe or defective vehicles	• using a pre-prepared checklist of obvious and readily observable faults or defects such as balding tyres and damaged equipment or components
Verify action was taken by the relevant party to repair or replace an unsafe or defective vehicle prior to use	• written confirmation the vehicle is safe for use

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9. APPENDICES

9.1 APPENDIX A – KEY TERMS AND DEFINITIONS

Assurance is a part of corporate governance in which management provides accurate and current information to stakeholders about the efficiency and effectiveness of its operating policies and procedures, and the status of compliance with statutory obligations of its business practices.

ATM (aggregate trailer mass), of a heavy trailer, means the total maximum mass of the trailer, together with its load and the mass imposed on the towing vehicle by the trailer.

Australian Dangerous Goods (ADG) Code provides consistent technical requirements for the land transport of dangerous goods across Australia. The ADG Code should be read in conjunction with relevant state or territory law.

Australian Design Rules (ADRs) contain mandatory requirements for the safe design and construction of vehicles and for the control of emissions and noise.

Australian Standards are voluntary documents that set out specifications, procedures and guidelines that aim to ensure products, services, and systems are safe, consistent, and reliable. They cover a variety of subjects, including consumer products and services, the environment, construction, energy and water utilities, and more.

Business practices refer to a person's practices in running a business associated with the use of a heavy vehicle on the road, including operating policies and procedures, human resource and contract management arrangements and the arrangements for preventing or minimising public risks.

Comcare is a statutory authority of the Australian Federal Government responsible for the administration and regulation of the Commonwealth's workers compensation and national WHS frameworks.

Common heavy vehicle freight configurations, some of the most common heavy vehicle combinations used in Australia (accessible from NHVR website www.nhvr.gov.au).

Commonwealth Gazette notice means a notice published in the Commonwealth of Australia Gazette (a printed publication of the Commonwealth Government of Australia). Gazette notices contain a range of information about legislation, including proclamations and notices of Commonwealth government departments and Courts, and other notices, for example amendments or exemptions to legal duties.

Consequence is the outcome of an event affecting the objectives of an organisation (objectives can include financial, health and safety, and environmental goals for example).

Container weight declaration (CWD) is a written declaration of the weight of a container and its contents. It may be either in hard copy or electronic form, or a placard attached to the freight container.

Controls are the activities undertaken to eliminate or minimise risk.

CoR means chain of responsibility.

Cubic scanning involves obtaining accurate product and package weight and dimension data provided by an electronic dimensioning or cubing system.

Dimension requirements are the requirements about the dimensions of a heavy vehicle, the dimensions of a component of a heavy vehicle and the dimensions of a heavy vehicle's load – section 101 of the HVNL. The dimension requirements applying to a heavy vehicle are stated in Schedule 6 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation.*

Direct restraint is a form of load restraint where the load is restrained by containing, blocking or attaching.

Dunnage is packing placed either between items of a load or between the base of a load and the surface of the vehicle's loading deck.

Fatigue-regulated heavy vehicle is a motor vehicle with a GVM of more than 12t; a combination with a GVM of greater than 12t; a fatigue-regulated bus.

Freight container, or container, is a re-usable container that is designed for the transport of goods by one or more modes of transport.

Fourth party logistics (4PL), is an arrangement in which a firm contracts out (outsources) its logistical operations to two or more specialist firms (the third party logistics) and hires another specialist firm (the fourth party) to coordinate the activities of the third parties.

GVM (Gross Vehicle Mass), of a vehicle, means the maximum loaded mass of the vehicle.

Hazard is any thing with the potential to cause harm or loss, this could be an activity or behaviour, a physical object, a situation or a management practice.

Heavy Goods Vehicle, under ADRs, means a goods vehicle with a 'Gross Vehicle Mass' exceeding 12.0 tonnes.

Heavy Vehicle means a vehicle with a GVM or ATM of more than 4.5t (a heavy motor vehicle or a heavy trailer), or a combination that includes a vehicle with a GVM or ATM of more than 4.5t (a heavy combination).

HVNL stands for Heavy Vehicle National Law.

Human Factors is about understanding **human** behaviour and performance. When applied to business operations, **Human Factors** knowledge is used to optimise the fit between people and the systems in which they work in order to improve safety and performance.

Internal review is generally a way of something being assessed through the collection of objective evidence. It provides critical information to the decision makers of the organisation and is used to confirm that the organisation meets specified requirements.

Key Performance Indicators (KPIs) are key business statistics which measure business performance in critical areas. KPIs show the progress (or lack of it) toward realising business objectives or strategic plans by monitoring activities which (if not properly performed) would likely cause severe losses or outright failure.

Likelihood is the chance of something happening (sometimes called probability).

Load includes the transport of goods (including animals or containers) or passengers using a heavy vehicle—for example a truck, combination or bus.

Loading performance standards, the national regulations may prescribe standards (the loading performance standards) for heavy vehicles. For example, the performance standards in the Load Restraint Guide.[28]

Load restraint, or restraint, is the way loads are effectively restrained on a vehicle. Loads can be restrained by two basic methods: tie-down or direct restraint (which includes containing, blocking and attaching).

Load Restraint Guide means a document of that name prepared by the National Transport Commission. The Load Restraint Guide is a modular document that provides drivers, owners, operators, freight consigners, vehicle manufacturers, equipment manufacturers and suppliers with the basic safety principles that should be followed when designing a load restraint system to ensure the safe and efficient transportation of loads.

Loading requirements are the requirements about securing a load on a heavy vehicle or a component of a heavy vehicle and may include requirements about the restraint or positioning of a load or any part of it – section 110 of the HVNL. The loading requirements applying to a heavy vehicle are stated in Schedule 7 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation.*

MDL means mass, dimension and loading.

Mass management accreditation scheme is a formal process administered by the NHVR for recognising operators who have robust safety and other management systems in place. Operators accredited in the Mass Management module can access additional mass concessions.

Mass requirements are the requirements about the mass of heavy vehicles and the mass of components of heavy vehicles – section 95 of the HVNL. The mass requirements applying to a heavy vehicle are stated in Schedules 1 to 5A of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation.*

NHVR stands for National Heavy Vehicle Regulator. The NHVR is Australia's independent regulator for all vehicles over 4.5 tonnes gross vehicle mass.

Non-compliance is a failure or refusal to comply with something (such as a law, regulation, or term of a contract). For example, permitting an unsafe vehicle to be used on a road.

Non-conformance is a departure from specified requirements. In the context of safety, the "requirements" are to conform to the Safety Management System (SMS). For example, the activities described in CoR policies and procedures are not being carried out or followed.

NTC stands for National Transport Commission. The NTC is an inter-governmental agency charged with improving the productivity, safety and environmental performance of Australia's road, rail and intermodal transport systems.

OEM means Original Equipment Manufacturer.

On-board mass system (OBM) is a system that monitors all the axle groups in the vehicle combination and provides the mass readings of these axle groups to an Intelligent Access Program (IAP) system.

[28] Note: The evidentiary effect of the Load Restraint Guide has been removed from section 115 of the HVNL. However, the wording of the performance standards contained in the Load Restraint Guide 2018 has been amended to facilitate the transfer of the performance standards into the HVNL and the Australian Road Rules. The NTC are in the process of updating the national regulations to include the loading performance standards directly in the law.

PBS means Performance Based Standard.

Primary WHS Law for a participating jurisdiction, means the law that is declared by a law of that jurisdiction to be the primary WHS Law for the purposes of the HVNL.

Policies are clear, simple statements of how your organisation intends to conduct its business practices. They provide a set of guiding principles to help with decision making.

Procedures describe how policies will be put into action in your organisation. Procedures outline who will do what, the steps to take, and the documents or forms to use.

Process (method or mechanism) is a series of actions or steps taken in order to achieve a particular end, objective or outcome.

Public risk means a safety risk; or a risk of damage to road infrastructure.

Public safety means the safety of persons or property, including the safety of the drivers of, and passengers and other persons in, vehicles and combinations; and persons or property in or in the vicinity of, or likely to be in or in the vicinity of, road infrastructure and public places; and vehicles and combinations and any loads in them.

Recovery break is a rest between work opportunities that allows the driver to sleep (that is, they are sleep opportunities). These are breaks that are longer than 7 hrs but less than 30 hrs.

Reset break, is any break longer than 30 hours which contains two night rests (rest between the hours of midnight and 6am).

RICP means Registered Industry Code of Practice; an RICP establishes standards and procedures for parties in the chain of responsibility to identify, analyse, evaluate and mitigate general risks associated with meeting obligations under the HVNL.

Risk is the effect of uncertainty on objectives (an effect can be a positive or negative deviation from the expected outcome).

Risk management is the coordinated activities to direct and control an organisation with regard to risk. The risk management process consists of four key steps, as shown in Figure 4 in this Code, including identifying hazards; assessing risks; controlling risks; and monitoring and reviewing controls.

Roster, or driver's roster, is the forecast and planned work days and hours provided to a driver, in accordance with their maximum work and minimum rest hours requirements, incorporating fatigue management measures.

Safety duty means a major safety duty imposed under a relevant provision of the HVNL – see Appendix B for the full list of the applicable provisions. Safety duties cover all major safety offences in the HVNL which have a direct safety link and that executive officers are able to manage as part of their role.

Safety risk means a risk to public safety; or of harm to the environment.

Schedule, or trip schedule, is the journey task provided to the driver. The schedule includes time, distance, route and rest options.

Sleep Opportunity (SO), are opportunities for a driver to sleep which may occur with either a recovery or reset break.

SMS stands for Safety Management System.

SRS means Supplementary Restraint System.

Stillage is a metal structure for containing individual items of a load.

SWA stands for Safe Work Australia. SWA is an Australian government statutory body established to develop national policy relating to WHS and workers' compensation.

System is a set of resources and activities integrated in a business that all work together efficiently to help improve safety and other business imperatives. The system details the required documentation of policies, procedures and operational records associated with business practices.

The Code, This Code means this Registered Industry Code of Practice.

Third party, generally, a third party is anyone you interact with that's not an employee of your business. For example, third party interactions can take place with clients, prime contractors, subcontractors, freight warehousing, storage and loading facilities, and maintenance and equipment service providers.

Third party logistics (3PL) is an arrangement in which a firm with long and varied supply chains outsources its logistical operations to one or more specialist firms, the third party logistics providers.

Tie down restraint, is a form of load restraint where the load is restrained by friction (also called "indirect restraint").

Transport activities encompasses the 'business practices' and components of a transport business (for example, physical, management, labour and service), and the associated activities for which the parties in the Chain of Responsibility are expected to be responsible – for example, driving, directing, employing or contracting drivers, or consigning, scheduling, packing, loading, unloading and receiving goods. Transport activities also include carrying out other activities associated with the use of a heavy vehicle (such as maintaining or repairing the vehicle).

Two-up driving arrangement means an arrangement under which 2 persons share the driving of a fatigue-regulated heavy vehicle that has an approved sleeper berth.

Vehicle Standards, or Heavy Vehicle Safety Standards, are the standards derived from Australian Design Rules, HVNL and Heavy Vehicle (Vehicle Standards) National Regulation that set out the minimum safety, emissions and anti-theft requirements that apply to heavy vehicles. The vehicle standards are used to guide heavy vehicle inspections as published in the National Heavy Vehicle Inspection Manual (NHVIM).

WHS stands for Work Health and Safety, also known as Occupational Health and Safety (OHS).

Work Opportunity (WO) is work time plus work related rest or breaks between commencing and finishing work. At least a 7 hour break is necessary to signify the end of a work opportunity.

Work sequence is a series of work opportunities and recovery rest breaks between reset rest breaks.

9.2 APPENDIX B – SAFETY DUTY

means a duty imposed under any of the following provisions

Section	Offence	Max. Penalty
26C	**Failing to comply with duty in 26C** – Offences in 26 F, G and H.	See chapter 1 of this Code
26E(1) or (2)	**Prohibited requests and contracts (26E)** – Requests or contract terms that encourage people to speed, drive whilst fatigued, drive in breach of work and rest hours, or to commit another offence to avoid breaching fatigue laws.	$10000
89(1)	**Safety Requirement (89)** – Permitting unsafe vehicle to be used.	$6000
93(1), (2) or (3)	**Person must not tamper with speed limiter fitted to heavy vehicle (93)**	$10000
129(1), (2) or (3)	**Contravening condition of mass or dimension exemption generally (129)** – Using or permitting use of vehicle that breaches condition of permit or notice.	$6000
137	**Using class 2 heavy vehicle (137)** – Using or permitting use of a class 2 heavy vehicle without authorisation.	$6000
150(1)	**Contravening condition of class 2 heavy vehicle authorisation (150)** – Breach of condition of authorisation by driver or operator.	$6000
153A(1)	**Using restricted access vehicle (153A)** – Using or permitting use of RAV without authorisation.	$6000
186(2), (3), (4) or (5)	**False or misleading transport documentation for goods (186)** – Consignor, packer, receiver, loader or loading manager of goods must ensure transport documentation is not false or misleading.	$10000
187(2) or (3)	**False or misleading information in container weight declaration (187)** – Responsible entity for a freight container, and operator, must ensure that CWD is not false or misleading.	$10000
335(1)	**Person must not tamper with approved electronic recording system (335)**	$10000
336(1)	**Person using approved electronic recording system must not permit tampering with it (336)**	$10000
337(2)	**Intelligent access program reporting entity must not permit tampering with approved electronic recording system (337)**	$10000
454(1) or (2)	**Offence to tamper with approved intelligent transport system (454)**	$10000
467	**Compliance with conditions of BFM accreditation or AFM accreditation (467)**	$6000
470(2), (3) or (4)	**General requirements applying to operator with heavy vehicle accreditation (470)** – Operator to provide information to drivers and keep certain documents.	$6000
604	**Contravention of supervisory intervention order (604)** – Person order applies to does not comply with order.	$10000
610	**Contravention of prohibition order (610)** – Person order applies to does not comply with order.	$10000

9.3 APPENDIX C – EXAMPLES OF KEY PERFORMANCE INDICATORS

General#

- Number of CoR events / alerts (by severity level)
- Number of CoR breaches (infringements, fines and prosecutions) (by severity level)
- Number of incidents (and near misses) where CoR was a contributing factor (by severity level)
- Status of incidents or actions (open/closed) – which can be an indicator of management commitment and availability of resources
- Summary reports of key findings from incidents and audits, including corrective action taken / controls implemented

Speed

- Number of fleet fitted with speed limiters and percentage serviced/calibrated to schedule
- Number of fleet fitted with speed monitoring systems – for example GPS units

Fatigue

- Fitness for duty checks and pass levels (including drug and alcohol testing)
- Adherence to timeslots and time spent queuing
- Average truck turnaround times and deviations above upper control limits

Mass, dimension and loading

- Number of mass, dimension and loading inspections and pass level

Vehicle standards

- Number of vehicles overdue for scheduled maintenance
- Number of overdue non-scheduled fault repair/maintenance requests

#CoR means speed, fatigue (including work and rest hours), mass, dimension and loading, and vehicle standards.

9.4 APPENDIX D – FURTHER INFORMATION[29]

APPENDIX D.1: SPEEDING – FURTHER INFORMATION

Australian Road Rules (national model law), 6 November 2015, Australasian Parliamentary Counsel's Committee (PPC), National uniform legislation – Official versions, assessed on PPC website at www.pcc.gov.au – Refer respective state and territory road rule laws

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APPENDIX D.2: FATIGUE – FURTHER INFORMATION

Australian Government, training.gov.au, *TLI – Transport and Logistics Training Package*, accessed at www.training.gov.au

Austroads, *Assessing Fitness to Drive, For Employers and Heavy Vehicle Operators*, accessed on the Austroads website at www.austroads.com.au

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National Transport Commission (NTC), *Guidelines for Managing Heavy Vehicle Driver Fatigue*, August 2017

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[29] Note: As amended from time to time – current a time of registration.

APPENDIX D.3: MASS, DIMENSION AND LOADING – FURTHER INFORMATION

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National Transport Commission (NTC), Load Restraint Guide, 2018 – accessed on the NTC website at www.ntc.gov.au

National Transport Commission (NTC), Australian Code for the Transport of Dangerous Goods by Road & Rail (Australian Dangerous Goods Code), 2018, Edition 7.6 – accessed on the NTC website at www.ntc.gov.au

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APPENDIX D.4: VEHICLE STANDARDS – FURTHER INFORMATION

Australian Design Rules (ADRs), accessed on the Australian Government Federal Register of Legislation at www.legislation.gov.au

Heavy Vehicle Competency Based Assessment (HVCBA) – Pre-Operational Checks – Refer respective state and territory Heavy Vehicle Driver Handbooks

Heavy Vehicle (Vehicle Standards) National Regulation, 6 February 2016, accessed on the QLD Government Queensland Legislation website at www.legislation.qld.gov.au

NHVR Performance-Based Standards (PBS) accessed on the NHVR website at www.nhvr.gov.au/road-access/performance-based-standards

NHVR, Vehicle Standards Bulletin 6 (VSB6), accessed on the NHVR website at www.nhvr.gov.au

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Master Code

A registered industry code of practice under section 706 of the Heavy Vehicle National Law

ATA
AUSTRALIAN TRUCKING ASSOCIATION

ALC AUSTRALIAN LOGISTICS COUNCIL
SUPPLY CHAIN EFFICIENCY AND SAFETY