

Australian Explosives Transport Safety and Security Group.

Member Companies

Mitchell Helidon Pty Ltd

Rocky's Own Transport

Allfreight Australia

Keysekers Transport

Submission to Productivity Commission Enquiry on Chemicals and Plastics Regulation
Industry Impact – Explosives Laws and Regulations

Introduction:

The Australian Explosives Transport Safety and Security Group (AETS&SG) has been formed to (a) provide a forum for members to discuss issues of safety and security, in the context of the draft Australian Code for the Transport of Explosives by Road and Rail; and (b) make representations on behalf of members as a group to the relevant authorities.

The majority of Class 1 Explosives consumed in the Australia market is used to support the resources industry, and in particular, mining. It is critical to recognise that the resources industry is owned by the whole country, and benefits flow through to the total community. One of the competitive strengths of the resources industry is its ability to flexibly deploy resources from one place to another, from time to time and as the market demands. The majority of this product is moved by road transport.

The existence of multiple regulatory regimes with different treatment of explosives across the country creates barriers in achieving the maximum efficiencies, and in many cases, creates specific, expensive inefficiencies. It should be noted that the minerals industry's global competitors are not subject to multiple regulatory regimes.

The removal of these multiple regulatory barriers, which can be achieved by streamlined and consistent legislation and regulation without usurping States rights, would enable real and significant benefits to flow through to the community as a whole by assisting in maximising the productivity potential of the mining sector.

The explosives industry is highly service oriented and is under continuous pressure from its mining industry customers to "make things happen" at short notice. Where the customer requirement is not covered by existing regulations the supplier generally does not have the option of undertaking lengthy negotiations with the appropriate Regulator(s); An outcome negotiated "on the run" in this manner is often financially sub-optimal.

Explosives are considered to be covered by the Productivity Commission's Terms of Enquiry as they are (Class 1) chemical materials which are covered by the same international Model Regulations and conventions as other Dangerous Goods Classes (2 through 9).

It is thought that the current State based regulatory system for Class 1 explosives pre dates the regulation of the other classes of Dangerous Goods by several decades. It is also thought that the current stand-alone system for explosives regulation has historically arisen from:

- the age of the industry in Australia which can be traced back to the second half of the 19th century
- public apprehension of the community danger presented by explosives
- the poor intra-jurisdiction communications available in pre-Federation times.

It is AETS&SG considered view that these considerations (particularly the last one) are no longer relevant in the 21st Century and that the efficiencies of the explosives and mining industries would be considerably enhanced if laws and regulations were truly uniform and nationally applied. It is recognised that working groups have been formed to address some of these issues; however the output of these groups will inevitably be limited by their inherent inability to rationalise inconsistencies in jurisdiction based legislation and regulation. For this reason AETS&SG includes the following list of such matters in this submission.

REGULATORY INEFFICIENCIES.

1. The current system of laws and regulations governing explosives lacks a uniform template and creates opportunities for jurisdictions to regulate the details of many items according to an individual preference. It is acknowledged that significant consistency exists but it must also be acknowledged that this is achieved by informal networking rather than legislative consistency. A recent example where individual preference has resulted in operational inefficiencies is the decision of by Safework South Australia to stop Transport companies moving mixed loads (Detonators and packaged explosives) in segregated carry boxes through South Australia. As South Australia is the only state in Australia that won't allow mixed loads, it leaves transport companies and explosives manufacturers no option but to run two vehicles (one for detonators and one for packaged explosives) through South Australia or to detour via the northern territory.
2. Some jurisdictions require 7 days' formal notice of transport of explosives into their territory whether or not those explosives are destined for delivery into or through that territory.
3. The process of "Authorisation" of a product or article is jurisdiction specific and in extreme cases needs to be done 8 times.
4. The procedures for licensing explosives personnel and equipment differ substantially among jurisdictions. These differences significantly impede the movement of these resources between jurisdictions, movements which are necessary to match resource availability with market demand. For a transport company that operates in multiple states and or territories it requires that equipment and personnel hold multiple licences and registrations, adding to cost and administrative process of compliance.
5. The philosophical differences between jurisdictions lead to some jurisdictions encouraging self regulatory "duty of care" behaviour while other jurisdictions will regulate the same activity in a highly prescriptive manner.

6. While the Australian explosives regulatory system is based on the UN Classification system it retains a number of “Australianisms” which are expensive to comply with and in the view of AETS&SG has no safety or other value. These issues include but are not limited to:
 - a. Shipping containers lined to international standards are not acceptable for land transport in Australia; imported explosives have therefore to be repacked at the magazine of arrival prior to onwards movement
 - b. Local regulators have and utilise discretion to accept or reject international classifications of imported explosives. An example of this inefficiency is the current requirement to re-label and re-document certain products which have been legally air freighted to Australia as say 1.4S. While these can be legally on-freighted *by air* inside Australia they have to be re-labelled and re-documented for *land transport* inside Australia. This can impact on the contracted transport companies ability to transport the product
7. The draft AEC includes the restriction on the carriage of pallet jacks in carry boxes. The practice of transporting pallet jacks in carry boxes has occurred for more than a decade (since palletised loads replaced hand stacking). Pallet jacks are secured under the pallet and separated from the product by ply. In most businesses this practice is supported with risk assessments. Our concern is that enforcement of storing the pallet jacks in another compartment or external to the carry box may cause a manual handling hazard and result in personal injury. This has a negative impact on industry productivity and efficiency.

PREFERRED LEGISLATIVE MODEL

AETS&SG preferred model for Explosives Regulation is a centralised model reflecting the specialised skills base of the industry. AETS&SG considers that the existing ability of jurisdictional legislators to draft legislation implementing a set of centrally agreed Principles creates excessive scope for regulatory inconsistency between jurisdictions.

The legislative structure which AEISG considers most suitable for the task of regulating explosives is one modelled on the structure of the **Australian Dangerous Goods (ADG) Code** and its implementation mechanisms, namely:

- a. **The Road Transport Reform (Dangerous Goods) Act 1995** of the Commonwealth and
- b. **The Road Transport Reform (Dangerous Goods) Regulations 1997** of the Commonwealth as adopted by the law of that State or Territory as the case may be
- c. Legislative backing for a **Co-Regulatory model** enabling approved Codes of Practice to be enforced
- d. Formation of an expert regulatory body with similar powers to the **Competent Authorities Panel** for other Classes of Dangerous Goods. This body would be charged with:
 - a. Interpretation of technical issues as and when required
 - b. Oversight of the co-regulatory Codes of Practice
 - c. Consideration and decisions on variations and technical matters not specifically considered elsewhere
 - d. Providing expert guidance to other instrumentalities representing Australia in international forums.
 - e. Providing a consistent framework for carriage and transport of explosives across all states and territories.

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This expert body would be required to decide on submissions within a statutory time frame.

AETS&SG expresses its thanks for the opportunity to make this submission on Class 1 Explosives under the broader framework offered by the Productivity Commission Issues Paper on Chemicals and Plastics Regulation. We advise our willingness to respond promptly to any queries the Commission may have with the contents of this submission.

This submission contains no material which AETS&SG regards as Commercial-in-Confidence. AETS&SG is therefore agreeable to this submission being posted on the Productivity Commission's website.