



HEAVY VEHICLE NATIONAL LAW STATUTORY INSTRUMENTS

AUSTRALIAN TRUCKING ASSOCIATION SUBMISSION 1 DECEMBER 2025

1. About the Australian Trucking Association

The Australian Trucking Association is a united voice for our members on trucking issues of national importance. Through our eleven member associations, we represent the 60,000 businesses and 200,000 people who make up the Australian trucking industry.

2. Introduction

On 31 October 2025, the NTC published exposure drafts of the—

- Safety Management System (SMS) Standard
- Ministerial Guidelines for Heavy Vehicle Accreditation
- National Audit Standard (NAS), developed by the NHVR, and the
- Ministerial Standard for Alternative Compliance Hours.¹

The instruments are being developed for approval under the amended Heavy Vehicle National Law (HVNL). They put in place more detail about the planned changes to the National Heavy Vehicle Accreditation Scheme (NHVAS).

Importantly, **the changes will only affect accredited operators.**

Section 3 of this submission sets out the ATA's proposed changes to the SMS Standard. It argues that the standard needs to be more scalable. It also argues that **industry SMSs such as TruckSafe should be deemed to comply** with the standard.

Section 4 looks at the Ministerial Guidelines for Heavy Vehicle Accreditation. It argues that the proposed **frequency and timing of NHVAS audits should be changed.**

Section 5 argues that **the draft audit standard should be extensively rewritten.** The draft is not consistent with ministers' expectations or the amended HVNL. Section 5 also recommends **changes to the auditor qualification and rotation standards.**

The submission recommends that the NHVR should have **more flexibility to approve alternative compliance hour arrangements** (section 6).

And finally, attachment A summarises the ATA's recommendations and reconciles them with the relevant sections of the draft instruments.

¹ NTC, [Heavy Vehicle National Law statutory instruments consultation overview](#). 31 October 2025.

3. Safety management system (SMS) standard

Structure of an operator's SMS

The draft standard would require that an operator's SMS cover five areas—

1. Leadership and commitment
2. Risk management
3. People
4. Assurance, monitoring and improvement
5. Safety systems.²

One of the goals of the SMS standard should be to support operators who want to take a holistic view of their organisation, safety decision-making and long-term planning, rather than having separate systems for WHS and their transport activities.³

But an operator's existing SMS or an SMS package may use a different structure to the five standards identified in the draft.

The SMS standard should make it clear that a compliant SMS **does not have to use the same structure as the standard**, provided the content is covered.

Scalability of the SMS standard

The draft standard is intended to be flexible and scalable for operators of different sizes and complexity.⁴ It does not achieve this goal. Even though 41 per cent of NHVAS operators are small operators with 10 vehicles or fewer,⁵ it focuses on larger businesses.

For example, the evidence expectations for responsibility and accountability would require the operator to provide documented SMS policies and procedures that—

- demonstrate active oversight by senior management, including regular review and update of responsibilities to reflect operational practice
- document organisational and governance arrangements (e.g. committees, reporting lines) providing oversight of SMS responsibilities and accountabilities
- processes ensuring that governance reporting to senior management is structured to provide assurance that the five elements of executive due diligence under the HVNL are being met.⁶

² NTC, [SMS Standard](#). Exposure draft, October 2025.

³ NTC, [Heavy Vehicle National Law high-level regulatory framework](#). Decision RIS, May 2023. 142.

⁴ NTC, [Heavy Vehicle National Law statutory instruments consultation overview](#). October 2025. 4.

⁵ NTC, May 2023. 144.

⁶ NTC, SMS Standard, sch 1 s 1.1. 3.

The listed examples of evidence include—

- governance records showing senior management oversight (e.g. board minutes, safety committee agendas)
- communication artefacts demonstrating reprisal protections in practice (e.g. toolbox talks, bulletins, whistleblower reports).⁷

None of these expectations or examples are scalable to a single truck owner driver. They are barely relevant to a small business.

The draft standard does include a note explaining that the form and detail of evidence required to demonstrate compliance will vary.⁸ But it does not provide specifics.

The ATA recommends that the evidence expectations and examples of evidence content in schedule 1 should be expanded to **provide separate lists for small and larger businesses**.

The lists should recognise that small trucking businesses have very flat management structures and limited administrative resources.

Deemed compliance for industry safety management systems

While the SMS Standard should be more scalable, the ATA's TruckSafe SMS has already addressed and solved this issue.

TruckSafe is the first and only industry-led safety management system and aims to improve the safety and professionalism of trucking businesses across Australia and, under licence, in New Zealand.

TruckSafe has always been recognised for its robustness. In 2014, for example, the NTC noted that—

A number of aspects of TruckSafe offer opportunities for improvements to the NHVAS. The TruckSafe requirement for “In one – In all” is a particular strength that requires its members to make a comprehensive commitment to bringing a systematic approach to a broad range of business operations that may be relevant to safety.⁹

TruckSafe changed over to a full safety management system in 2024 and now offers—

- a tailored system for single vehicle owner drivers, and
- a comprehensive SMS for larger businesses.

⁷ *ibid.*

⁸ *ibid.*

⁹ NTC, *Heavy vehicle roadworthiness review phase 2 - integrity review of the national heavy vehicle roadworthiness system*. August 2014. 64.

TruckSafe operators can put together a compliant SMS in less than a day, because—

- we trialled the systems to ensure they were workable and effective
- members have access to more than 60 templates, a sample policy and procedure manual, and a website that provides detailed information and guidance on the SMS elements.

Recognising TruckSafe and other industry safety management systems would provide operators with an alternative way of meeting the SMS requirement for entry into accreditation. It would help ensure that small operators have the support they need to develop an SMS.

Accordingly, a new schedule, schedule 2, should be added to the standard so **industry safety management systems such as TruckSafe would be deemed to comply.**

Training and competency

Draft standard 3.2 would require operators using the standard to implement and maintain training, onboarding, refresher training and ongoing programs to ensure all personnel are aware of their obligations and competent to discharge them safely.

For clarity and to avoid unnecessary training obligations, **standard 3.2 should be redrafted** to read—

3.2 Training and competency

Implement and maintain training, onboarding, refresher training, and ongoing programs as necessary under the operator's training needs analysis to ensure all personnel are aware of their obligations and competent to discharge them safely.

The evidence expectations and examples in section 3.2 of schedule 1 focus on RTO programs and statements of attainment, even though most of the training required under the standard would not involve or require nationally recognised training.

The schedule should be amended to make it clear that the evidence expectations for training and competency could include, for example—

- attendance records for educational sessions run by the NHVR, industry associations, law firms or other providers
- records of training such as toolbox talks, training days and one-on-one training
- records showing the provision of safety awareness information to workers.

Acceptability of electronic records

The experience of ATA members is that some enforcement officers and auditors still expect to sight paper records, even though the state electronic transaction acts make it clear that electronic records are acceptable for most purposes.

To address this issue, the standard should include a section stating that electronic records are acceptable as evidence, provided that—

- there is a reliable means of assuring the integrity of the record, and
- the electronic form of the record is readily accessible.¹⁰

Page 10 of this submission proposes parallel changes to the draft audit standard.

4. Ministerial guidelines for heavy vehicle accreditation

Audit frequency

Section 5(4) of the ministerial guidelines would require the regulator to ensure that an applicant's SMS undergoes—

- (a) an initial compliance audit between six and seven months after the effective date of the accreditation when first accredited;
- (b) a second audit within nine months prior to the expiry of the accreditation period when first accredited; and
- (c) an audit between nine months and one month prior to expiry of the accreditation for an applicant seeking renewal of accreditation for any subsequent period.

Section 5(4) is inconsistent with the amended HVNL and the draft audit standard.

Under inserted s 459(2)(b)(ii) of the HVNL, an application for accreditation must be accompanied by an initial audit statement from an entry audit.¹¹ This requirement is reflected in s 3.2.1 of the draft audit standard but is not in the guidelines.

Section 5(4)(a) of the guidelines would require an initial compliance audit 6-7 months after accreditation.

Based on the ATA's experience with TruckSafe, it is not reasonable to expect operators to be able to schedule an audit inside a one month window. It would be particularly difficult for small businesses in rural or remote Australia.

It would be reasonable to offer a three month window; the initial compliance audit could then be scheduled between six and nine months after accreditation.

Sections 5(4)(b) and (c) would set out the requirements for renewal audits. An operator in its first accreditation period would need to have an audit up to nine months before its accreditation expired; an operator on a subsequent accreditation could be audited between nine and one months prior to its accreditation expiring.

There is no reason to have different audit timings for operators on their first and subsequent accreditations. The nine month limit could be reduced to six months.

¹⁰ See, eg, *Electronic Communications Act 2000* (SA), s 11.

¹¹ HVNL Amendment Act, cl 101.

Accordingly, **s 5(4) of the guidelines should be redrafted** to provide for—

- (a) an entry audit accompanying the accreditation application;
- (b) an initial compliance audit between six and nine months after the applicant is first accredited;
- (c) a renewal audit no more than six months before the expiry of the applicant's initial and each subsequent accreditation period.

These audit frequencies **should not apply to operators transitioning from existing accreditations**. Our recommended amendments to the transitional arrangements in Part 3 of the guidelines are below.

Separately, our amendments to the draft NAS include a **recommended audit frequency for non-NHVAS SMS Standard audits** (page 10).

Definition of 'person'

The definition of 'person' in s 6(4) of the guidelines is inconsistent with the definition in the HVNL.¹² The inconsistency could cause confusion.

Section 6(4) should be removed. The term would then take the meaning given in the HVNL.

Training requirements for fatigue accreditation

Schedule 1, section 4.2 of the guidelines sets out the training evidence that operators with fatigue alternative compliance accreditation would be expected to provide.

The guidelines would require drivers to hold TLIF0005 (or a successor unit of competency). Schedulers, supervisors and managers would need to hold TLIF0006 (or a successor unit).

The NHVR requires that these units be delivered by an approved RTO.¹³ The **requirement should be in the guidelines** rather than in s 6 of the audit standard.

Transitional arrangements

As a transitional measure, inserted s 761 of the HVNL provides that an existing heavy vehicle accreditation will continue until it expires or is cancelled.¹⁴

Part 3 of the guidelines would provide more detail about the transition. It would require the NHVR to ensure an orderly transition to the new system, including through addressing—

- conditions for renewal of existing accreditations, including the requirement for compliance with the SMS Standard and audit standard

¹² HVNL, sch 1 s 12 (definition of 'person').

¹³ NHVR, [NHVAS business rules and standards](#). Version 3.1, June 2021. s 23. 24.

¹⁴ HVNL Amendment Act 2025, cl 151.

- a process for operators to update their SMS, audit evidence, and declarations to align with the requirements of the HVNL and the guidelines.¹⁵

The transition to the new system will be challenging. An unmanageable number of audits will be required if the operators currently in NHVAS are required to go through the full entry process. Considerable training and education will be needed.

In our view, the guidelines need to provide more certainty about the transition arrangements for existing operators—

- operators in NHVAS should only need to undertake a **single renewal audit to transition to the new system**
- **existing accreditations should not lapse** if there are delays due to the NHVR's workload in effecting the transition or long waits for auditors.

5. National audit standard

In 2023, ministers agreed that—

- the National Audit Standard would be outcomes based and designed so other audit schemes could adopt it
- the NAS would also be designed to be used for non-accreditation audits intended to establish compliance with the primary duty.¹⁶

Inserted s 632B of the HVNL¹⁷ reflects this approach. It provides that—

632B Use of audit of safety management system in proceeding

An audit of an operator's safety management system carried out by an approved auditor in accordance with the audit standard is admissible in proceedings for an offence against section 26D(1A), 26F, 26G or 26H.

Section 632B does not require an operator to be accredited. It simply requires that the audit be carried out by an approved auditor in accordance with the audit standard.

The draft National Audit Standard is not consistent with this approach. It is written on the basis that it only applies to heavy vehicle accreditation.

Accordingly, **the draft audit standard should be rewritten and restructured** to provide—

- robust auditing standards that could be applied to NHVAS, other scheme and non-accreditation audits and, as a separate section
- additional requirements for NHVAS accreditation.

¹⁵ s 18(3).

¹⁶ NTC, May 2023. 88.

¹⁷ HVNL Amendment Act 2025, cl 127.

Requirement to use the NHVR audit tool

Section 4.2 of the draft NAS would require auditors to use an NHVR-approved and published audit tool, the Audit Criteria Report. The ATA understands that the NHVR aims to transition the report to an online system where auditors input their findings directly into the NHVR Portal.

At present, an auditor undertaking a third party audit is likely to use a commercial audit platform. TruckSafe auditors use CoRsafe, but other commercial platforms are available.

Auditors should be able to **use the platform of their choice and export the information to the NHVR**. It is duplicative, time consuming and costly for auditors to answer the same questions on different platforms.

Qualifications of auditors

Under the current NHVAS business rules, mass and management system auditors must—

- have relevant technical competencies recognised under the AQTF or through training recognised by the NHVR, or
- have a formal arrangement that enables the auditor to second a person or persons with those competencies to the audit team.¹⁸

The draft NAS would remove this rule, which ministers agreed to introduce in 2014 after a major fuel tanker crash in Sydney.¹⁹ The company was in NHVAS maintenance,²⁰ but in the months after the crash NSW RMS issued it with 224 major defect notices and grounded 10 of its vehicles.²¹

The NTC's review of the heavy vehicle roadworthiness system explained why the change was needed—

...the level of mechanical skills / knowledge of auditors is limited so there is a tendency to focus on the trivial at the expense of the essential / critical.²²

Figure 1 shows the results of this and the other changes to NHVAS audits.

In 2009, hauling units with RMS roadworthiness accreditation had more major defects than vehicles that were not accredited under any scheme.²³ In 2024, maintenance accredited hauling units had a markedly lower percentage of major defects than non-accredited units.²⁴

¹⁸ NHVR, June 2021. s 22(2)

¹⁹ Transport and Infrastructure Council, [Communiqué](#). 7 November 2014.

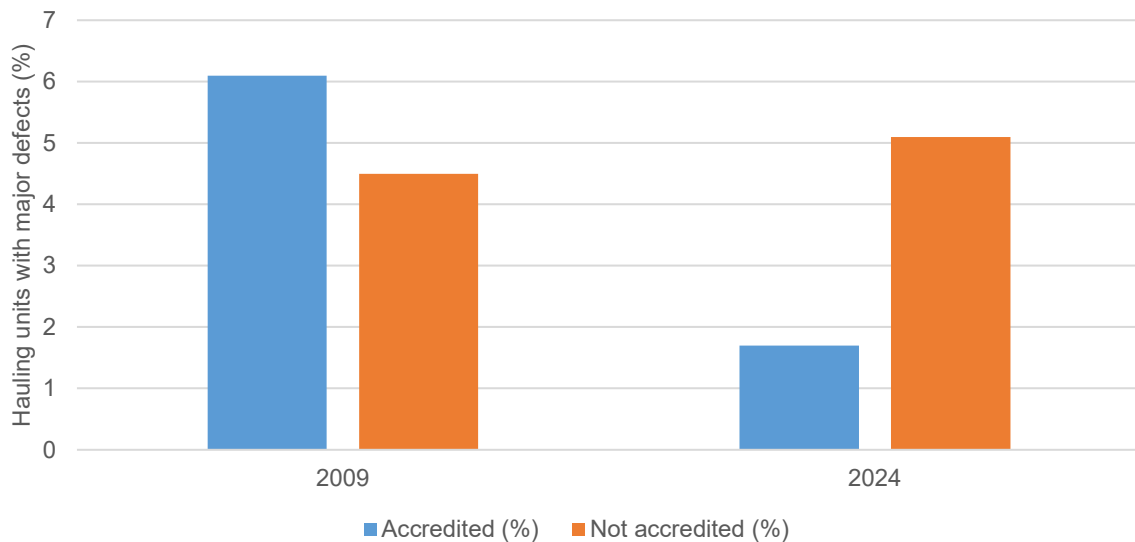
²⁰ ATA, [Review NHVAS, NSW roads minister says](#). 18 October 2023. Viewed 22 November 2025.

²¹ Gay, D. [Cootes compliance operation sees another truck grounded](#). Media release, 5 December 2013.

²² NTC, August 2014. 57.

²³ Mooren, L and R Grzebetia, "Review of Australian alternative compliance schemes." TRB annual meetings 2010. 9. The paper uses 2009 major defect data from NSW RMS.

²⁴ Based on NHVR, [National roadworthiness survey 2024](#). February 2025. 32.

Figure 1: Major defects in accredited and non-accredited hauling units, 2009 and 2024

Sources: NSW RMS, NHVR.

Given these results, the ATA considers that **the technical competency requirement should be retained.**

Auditor rotation

Section 3.7 of the draft audit standard would require an operator to select a different auditor for each accreditation period: the one period rule.

In contrast, the current NHVAS business rules prohibit an auditor from carrying out more than two consecutive audits of the same module of an applicant or participant.²⁵

After consulting its TruckSafe auditors, the ATA considers that **the existing two consecutive audit rule should be retained.** This is for two reasons.

The two consecutive audit rule delivers good results

Our TruckSafe auditors told us that the two consecutive audit rule delivers good results. One auditor said—

When an auditor returns for a second audit, they already understand the operator's structure, risks, systems, and previous non-conformances. That level of continuity makes it easier to properly test whether corrective actions have actually been implemented and embedded, rather than simply documented. The second audit is usually more focused, more efficient, and often more transparent because rapport and trust have already been established.

²⁵ NHVR, June 2021. s 22(10).

The one period rule would affect auditor availability and cost

Our TruckSafe auditors reported that moving to the one period rule would affect auditor availability and cost in rural and remote areas. One auditor advised that—

As a rural auditor and previous rural operator, I believe operators who are remote who do not have the luxury of multiple auditors to select from will see an increase in their audit costs having to pay travel costs to an auditor more frequently. It will also make it harder to get an auditor as there are a number of auditors that do not travel far outside of the urban fringe.

Another commented that—

There may not be sufficient auditors to achieve a one and done system as increased travel time will reduce the number of audits completed significantly.

Also, some auditors will not travel to some remote areas so operators could be left with no auditor available to complete an audit. This is already a problem where some remote operators request permission to use an auditor three times in a row because of auditor non-availability.

Audit types and frequency

Section 3.2 of the draft NAS, audit types and frequency, should be amended to match the ATA's proposed amendments to the Ministerial Guidelines for Heavy Vehicle Accreditation (page 5).

The NAS also needs to set an audit frequency for SMS Standard audits that are not used for NHVAS accreditation, given the changes we are recommending.

Non-NHVAS SMS Standard audits should be current for two years, with a renewal audit no more than six months before the end of the currency period.

Acceptability of electronic records

Section 4.7, collecting and verifying evidence, should be amended in line with the ATA's proposed amendments to the SMS Standard about electronic records (page 4).

The requirement in the standard that 'alternative media' be assessed to ensure its reliability implies that electronic records are less reliable than paper ones. It should be redrafted as—

Information may be recorded on paper or electronically and could use file types or devices that are not familiar to auditors. Auditors are required to ensure that they have, or can obtain, an understanding of the record types and devices used by the operator and their strengths and weaknesses.

Registered training organisations

Section 6 of the draft is about the delivery of fatigue management training by registered training organisations. It is not relevant to auditing.

The section should be removed; its content should be transferred to the Ministerial Guidelines for Heavy Vehicle Accreditation (page 6).

6. Ministerial standard for alternative compliance hours

Inserted s 654(1)(c) of the HVNL enables transport ministers to approve a standard for alternative compliance hours for the purposes of fatigue alternative compliance accreditation.

The NHVR must comply with the standard when it issues a fatigue accreditation.²⁶

Table 1 summarises the maximum work and minimum rest times that the NHVR would be able to approve under the exposure draft standard.²⁷

Table 1: Maximum work and minimum rest times for alternative compliance

Total period	Maximum work time	Minimum rest time
<i>In any period of ...</i>	<i>... a driver must not work for more than ...</i>	<i>... a driver must not rest for less than ...</i>
24 hours	15½ hours work time	7 continuous hours of rest time. The draft standard does not specify that this time must be stationary or provide details of how two-up arrangements would be handled. The NHVR could grant alternative compliance hours that would permit a driver to split a continuous rest break into no more than two separate rest breaks. These would not be able to be scheduled and could only be used to manage problems with sleep, unforeseen circumstances or emergencies. A split rest break would need to include a major rest break of at least 5 continuous hours. The regulator would have to specify how frequently a driver could use split rest breaks.

²⁶ HVNL, inserted s 461A.

²⁷ NTC, [Ministerial standard for alternative compliance hours](#). Exposure draft, October 2025. s 4.

Minimum rest time

The minimum rest time in the standard should be amended to enable the NHVR to approve an ACH schedule where a driver can have a **minimum of six continuous hours of rest in a 24 hour period, but no more than once a week.**

Without this exception, a driver on a long trip might have to stop an hour from home to ensure they can meet the 7 hours of continuous rest requirement.

Provided the driver does not exceed their maximum work time, they should be able to continue driving to get home provided they get at least 6 hours of continuous rest in the 24 hour period.

It should be emphasised that the driver would get more than 6 hours of rest in total. The remainder of the rest would be outside the 24 hour period.

Split rest breaks

Section 4(b)(i) of the standard would provide that split rest breaks could not be scheduled. Drivers would only be able to use them to manage problems with sleep, unforeseen circumstances or emergencies.

As drafted, this section would prevent an operator from working with a driver on the road to schedule a split rest as part of managing an emerging issue such as a long and unforeseen delay.

To address this, s 4(b)(i) should be amended to provide that split rest breaks must not be scheduled in advance but **can be scheduled to deal with one of the issues envisaged in s 4(b)(ii).**

Two-up drivers

The standard does not specify minimum rest hours for two-up drivers. To cover two-up driving arrangements, it should be amended to provide that—

- the seven hours of required rest time would have to be **stationary rest time** as defined by s 221 of the HVNL, except for
- a driver who was a party to a two-up driving arrangement. The rest time for a two-up driver should be **5 continuous hours of stationary rest time** or **5 hours continuous hours of rest time in an approved sleeper berth while the vehicle is moving.**

How time is to be counted

Section 247 of the HVNL sets out rules for counting time in a period. These rules apply to counting alternative compliance hours under the standard, but the draft does not make this clear.

To fix this, an extra sentence should be added to s 4(a) to make it clear that **time is to be counted in accordance with s 247 of the HVNL**.

SUMMARY OF RECOMMENDATIONS AGAINST THE DRAFT INSTRUMENTS

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