



Refrigerated Warehouse & Transport Association of Australia Chain of Responsibility Code of Practice

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1.0 INTRODUCTION

The Refrigerated Warehouse & Transport Association of Australia (RWTA) recognises the responsibility they have to the operators within their industry and to all members of the community in ensuring that their actions promote road safety. This code of practice is a commitment by their industry to provide guidelines through which they can operate together; safely and efficiently.

2.0 PURPOSE

The RWTA Chain of Responsibility – Code of Practice has been established to provide a framework to prevent the breach of road laws around mass, dimension, load restraint, fatigue and speed.

The signatories to this Code of Practice recognise and accept their responsibilities in the refrigerated warehouse & transport Supply Chain.

All parties agree to:

1. Maintain and promote safe operations which support the Chain of Responsibility Legislation
2. Comply with all applicable road transport laws
3. Not knowingly make, meet or encourage any demand or requirement that would cause us to breach applicable road transport laws
4. Not be party to any anti-competitive behaviour
5. Ensure that they can demonstrate that we have taken reasonable steps to comply with all relevant laws.
6. Include Chain of responsibility clauses in any new Contracts

This Code provides practical guidance to the Australian Refrigerated Warehouse & Transport Industry in relation to:

- Controlling, managing and operating Heavy Vehicle road transport freight movements;
- Minimising the risk along the refrigerated products supply chain associated with freight movements;
- Auditing compliance with the legislation, and
- Complying with the Chain of Responsibility legislation, which imposes liability for Heavy Vehicle offences on all people and / or businesses whose actions, inactions or demands influence conduct on the road as well as on-road parties such as Drivers and Transport Companies.

The RWTA has produced the RWTA Chain of Responsibility – Code of Practice document (Attachment 2) which not only defines to whom this Act applies but goes further and identifies simple and practical responsibilities of the parties in the chain, namely:

- Transport Company
- Driver
- Consignor
- Consignee
- Loader / Packer, and
- Loading Manager

in relation to:

- Mass
- Dimensions
- Load Restraint
- Fatigue and
- Speed

The Code does not replace or is designed to conflict with any legal obligations arising from road transport or Occupational Health and Safety legislation.

Each Refrigerated Warehouse & Transport Industry signatory to this Code of Practice is responsible for ensuring that their procedures and processes support compliance with the Code.

3.0 SCOPE

This Code applies to the Code signatories, their employees and sub-contractors who directly or indirectly participate in the refrigerated warehouse and transport industry supply chain.

The code encompasses the following elements:

1. Legal Compliance & CoR
2. Fatigue Management (scheduling, time slot flexibility, waiting time, queuing, loading or unloading)
3. Speed management
4. Equipment
5. Driver health / drug & alcohol free workplace
6. Subcontractor management
7. Mass and container weight declarations
8. Dimensions
9. Load restraint / containment, and
10. Dangerous goods

4.0 DEFINITIONS

Chain of Responsibility (“CoR”)

The allocation of responsibility along the Supply Chain i.e. refrigerated warehouse and transport supply chain.

Consignee

- (a) person who, with that person’s authority, is named or otherwise identified as the intended consignee of the goods in the transport documentation relating to the transport of the goods by road; or
- (b) person who actually receives the goods after completion of their transport by road; but does not include a person who merely unloads the goods.

Consignor

- (a) person who, with that person’s authority, is named or otherwise identified as the consignor of the goods in the transport documentation relating to the transport of the goods by road; or
- (b) person who engages an operator of a vehicle or combination, either directly or indirectly or through an agent or other intermediary, to transport the goods by road; or

- (c) person who has possession of, or control over, the goods immediately before the goods are transported by road; or
- (d) person who loads a vehicle with the goods, for transport by road, at a place where goods in bulk are stored or temporarily held and that is unattended (except by a driver of the vehicle, a trainee driver or any person necessary for the normal operation of the vehicle) during loading; or
- (e) if paragraphs (a) to (d) do not apply to the person or anyone else, and the goods are imported into Australia — a person who imports the goods.

Contractor

A Carrier who contracts directly with the Consignor or Consignee.

Driver

- (1) A reference to a driver is a reference to the driver of a regulated heavy vehicle and includes an employed driver and a self-employed driver. Note Driver is defined in the C & E Act.
- (2) An employed driver is a driver who is employed by someone else to drive a regulated heavy vehicle.
- (3) A driver who is not an employed driver but is driving a regulated heavy vehicle is a self-employed driver.

Employer

A person who engages someone else to drive a regulated heavy vehicle under a contract of employment, apprenticeship or training.

Heavy Vehicle

A motor vehicle or combination with a Gross Vehicle Mass (“GVM”) over 4.5 tonnes.

Loader

- (a) person who loads a vehicle or combination with goods for transport by road; or
- (b) person who loads a vehicle or combination with a freight container (whether or not containing goods) for transport by road; or
- (c) without limiting the above, a person who loads a freight container already in or on a vehicle or combination with goods for transport by road; or
- (d) person who supervises an activity mentioned in paragraph (a), (b) or (c); or
- (e) person who manages or controls an activity mentioned in paragraph (a), (b), (c) or (d).

Load Manager

- (a) person who manages, or is responsible for the operation of, a site or premises where regulated heavy vehicles are loaded or unloaded; or
- (b) person who supervises, manages or controls any activity undertaken by a loader or unloader.

Operator

(1) An operator of a regulated heavy vehicle is a person who is responsible for controlling or directing the operations of:

- (a) in the case of a vehicle (including a vehicle in a combination) — the vehicle; or
- (b) in the case of a combination — the towing vehicle in the combination.

(2) A person is not an operator merely because:

- (a) the person owns a vehicle or combination; or
- (b) the person drives a vehicle or combination; or
- (c) the person maintains, or arranges for the maintenance of, a vehicle or combination; or
- (d) the person arranges for the registration of a vehicle.

Packer

Person who places items in packages, on pallets or in containers in readiness for transportation

Parties in the Chain of Responsibility

(1) These following people are parties in the Chain of Responsibility in relation to a regulated heavy vehicle:

- (a) Driver of the heavy vehicle
- (b) Employer of the driver of the vehicle; and
- (c) Prime contractor of the driver; and
- (d) Operator of the vehicle; and
- (e) Scheduler of goods or passengers for transport by the vehicle, and the scheduler of its driver; and
- (f) Consignor of goods for transport by the vehicle; and
- (g) Consignee of goods for transport by the vehicle; and
- (h) Loading Manager of goods for transport by the vehicle; and
- (i) Loader of goods on to the vehicle; and
- (j) Unloader of goods from the vehicle.

Prime Contractor

A person who contracts someone else to drive a regulated heavy vehicle

RWTA

Refrigerated Warehouse & Transport Association

Refrigerated Warehouse & Transport Participant

Refrigerated Warehouse & Transport Industry Participants who are signatories to this code.

Refrigerated Warehouse & Transport Association CoR Sub-committee

Nominated representatives from each of the RWTA Participants to overview the Refrigerated Warehouse & Transport industry approach to Chain of Responsibility.

Scheduler

- (a) person who schedules a driver's work or rest time; or
- (b) person who schedules the transport of passengers or goods by road; or
- (c) person who makes a demand that affects a time in a schedule.

Site

An owned or leased property where a Refrigerated Warehouse Participant has overall management control.

Site Manager

A Manager in charge of an individual Site at a given location.

Subcontractor

A party who enters into an agreement to work for a Prime Contractor.

Supply Chain

The activities supporting transport and includes driving, packing loading, scheduling, transportation and receiving.

Unloader

- (a) person who unloads a vehicle or combination with goods for transport by road; or
- (b) person who unloads a vehicle or combination with a freight container (whether or not containing goods) for transport by road; or
- (c) without limiting the above, a person who unloads a freight container already in or on a vehicle or combination with goods for transport by road; or
- (d) person who supervises an activity mentioned in paragraph (a), (b) or (c); or
- (e) person who manages or controls an activity mentioned in paragraph (a), (b), (c) or (d).

5.0 AUDITS / AUDITING

Two types of audits will be used to assess compliance with the RWTA CoR Code of Practice. They consist of:

1. Internal audits conducted by accredited company staff who have no influence on the site they audit
2. External audits conducted by a person registered with RABQSA and certified to perform audits.

The RWTA Chain of Responsibility Code of Practice requires the following audits.

Refrigerated Warehouse & Transport Participants will conduct audits including:

- **Baseline audit** (within 365 days of becoming a signatory);
- **Compliance audit** (an annual audit immediately following the initial baseline audit).
- **Audit for Renewal of Code Registration** is 3 years or at least one month prior to expiry of Registration as advised by the registering agency.
and possibly
- An **unexpected audit** (caused by an incident or more serious event within the participants' supply chain).

Audits will also be undertaken on consignors, consignees and transport companies within their supply chain or require them to formally demonstrate that they are complying with the CoR legislation.

6.0 BENEFITS of COMPLIANCE and RISKS of NON-COMPLIANCE with CoR LEGISLATION

Benefits of CoR Compliance	Risks of CoR Non-Compliance
• Demonstrated commercial responsibility	• Damage to corporate reputations
• Provides "reasonable steps" defence	• Prosecutions – fines and/or penalties
• Caring for "workers" #	• High costs to the businesses
• Provides support for lower insurance premiums	• Death or serious injury to "workers" # and community members
• Reduced legal claims	
• Reduced risk to community members	

"Workers" as defined by OHS Harmonisation laws

7.0 RWTA CHAIN of RESPONSIBILITY MATRIX

Refrigerated Warehouse & Transport Participants will take reasonable steps to prevent a breach of road transport and OH&S legislation occurring by ensuring compliance with the RWTA Chain of Responsibility Matrix. (Refer Attachment 1)

The RWTA Chain of Responsibility Matrix identifies the operational requirements for the Transport Company, Driver, Consignor, Consignee, Loader/Packer and Load Manager compliance audit requirements.

8.0 ADMINISTRATION of the CODE

The RWTA CoR sub-committee is responsible for the administration of this code; reviews, changes and updates will be conducted as per the review procedure. A register of committee members will be maintained by the RWTA. Proposed updates to the code will be communicated to all relevant stakeholders; this consultation process will provide an opportunity for comment and discussion on proposed updates before the update is adopted as part of the code.

The RWTA CoR sub-committee will meet bi-annually or as required to review the code, minutes will be taken and be made available to members. It is intended that the sub-committee through the RWTA Executive will liaise with regulators, unions and industry organisations to ensure the code addresses the current requirement of statute law and the needs of the industry. This will be achieved without any anti-competitive behaviour.

The RWTA Chain of Responsibility – Code of Practice will be audited every three years by an auditor accredited under the National Heavy Vehicle Accreditation Scheme (NHVAS) for assessment of industry codes of practice. Findings and corrective actions identified during this process will be agreed and actioned by the sub-committee under the guidance of the RWTA Executive.

Refrigerated Warehouse & Transport Association Participants should actively support the ongoing maintenance of a Refrigerated Warehouse & Transport Association Chain of Responsibility Code of Practice to better meet their legal obligations under the Chain of Responsibility legislation.

9.0 KEY CONTACTS

The key contact for the Code is:

The Executive Officer
Refrigerated Warehouse and Transport Association of Australia
Phone: (03) 8620 2802

10.0 REFERENCES

Compliance and Enforcement Legislation

Federal

National Road Transport Reform (Compliance and Enforcement) Act 2003

Incorporated into the Road Transport Reform (Heavy Vehicle Registration) Act 1997

Incorporated into the Road Transport Reform (Vehicles and Traffic) Act 1998

VICTORIA

Road Transport Reform (Compliance and Enforcement) Act 2005

Incorporated into the Road Safety Act 1986

NEW SOUTH WALES

Road Transport Reform (Compliance and Enforcement) Act 2005

Incorporated into the Road Transport (General) Act 2005

QUEENSLAND

Transport Legislation Amendment Act (no. 43) 2007

TASMANIA

Heavy Vehicle Road Transport Act No. 19 2009

SOUTH AUSTRALIA

Statutes Amendment (Road Transport Compliance and Enforcement) Act 2006

Incorporated into the Road Traffic Act 1961

WESTERN AUSTRALIA

Road Traffic (Vehicles) Bill 2007 (still before Parliament)

NORTHERN TERRITORY

Not legislated, relying on Industry and non mandatory Code of Practice

AUSTRALIAN CAPITAL TERRITORY

Not legislated, relying on Industry and non mandatory Code of Practice

Occupational Health and Safety Legislation Act 1985 (with revision) Road Transport Legislation

11.0 ATTACHMENTS

Attachment 1: Refrigerated Warehouse & Transport Association Chain of Responsibility Matrix

Attachment 2: RWTA Chain of Responsibility – Code of Practice

12.0 ACKNOWLEDGEMENT OF CONTRIBUTORS TO THE CODE

In developing this Code, Refrigerated Warehouse & Transport Participants acknowledge the contributions made by Government Departments, Industry organisations, Heavy Vehicle Road Industry and in particular:

Oxford Logistics Group

Swire Cold Storage Pty Ltd

Fernhurst Pty Ltd

Fonterra Brands (Australia) Pty Ltd

Sargeant Transport Pty Ltd

RMD Group

Edward River Haulage Pty Ltd

McCain Foods (Aust) Pty Ltd

Simplot Australia Pty Ltd

National Foods Australia

Coles Supermarkets Australia Limited

Berle Transport Pty Ltd