



Industry Codes of Practice

Guidelines

for Preparing and Registering Industry Codes of Practice



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1. About these guidelines

The *Guidelines for Preparing and Registering Industry Codes of Practice* (the Guidelines) are issued pursuant to Section 705 of the Heavy Vehicle National Law (HVNL).

An Industry Code of Practice prepared in accordance with these Guidelines may be registered by the National Heavy Vehicle Regulator (NHVR), subject to the conditions required by 706(2) – periodic review, responsibility to review and maintain, updates following changes to the Guidelines – and to any other conditions required by the NHVR.

The Guidelines are intended to assist any persons, organisations, or other entities who wish to develop an Industry Codes of Practice. They include mandatory requirements and a description of the administrative process of preparing and registering an Industry Code of Practice. The process allows for consultation between the NHVR and the entity developing the code (developer) throughout the process.

The Guidelines may be amended from time to time.

Prior to any further amendment of the Guidelines, the NHVR will provide 12 months notice of its intention, by publication on the NHVR website.

These Guidelines supersede the interim guidelines issued by NHVR in 2014, subject to transitional arrangements discussed in the next section.

2. Transitional arrangements

These six Industry Codes of Practice were registered on 7 July 2014 in accordance with the *HVNL Interim Guidelines for Industry Codes of Practice*:

- National Logistics Safety Code (Vic)
- Retail Logistics Supply Chain Code of Practice (Vic)
- Refrigerated Warehouse & Transport Association of Australia Chain of Responsibility – Code of Practice (Vic)
- TruckSafe Operator Business Rules and Code of Conduct (Vic)
- Australian Steel Industry Logistics Safety Code (Vic)
- Heavy Vehicle Transport Off-Farm Grain Carriers' Code of Practice (SA)

NHVR published the *HVNL Interim Guidelines for Industry Codes of Practice* (July 2014) to accommodate the fact that these codes had already been registered in Victoria and South Australia in accordance with legislation then current in those jurisdictions.

The currently registered Industry Codes of Practice will expire 12 months after the issue date of these Guidelines. Until that time, these six codes will continue to have the status of Registered Industry Codes of Practice, although they do not comply with these Guidelines. This is a transitional arrangement, intended to provide continuity.

Registration of the interim codes is subject to the same conditions that were imposed when they were first registered. For example, each code was registered only in one jurisdiction, and continues to be registered only in that jurisdiction

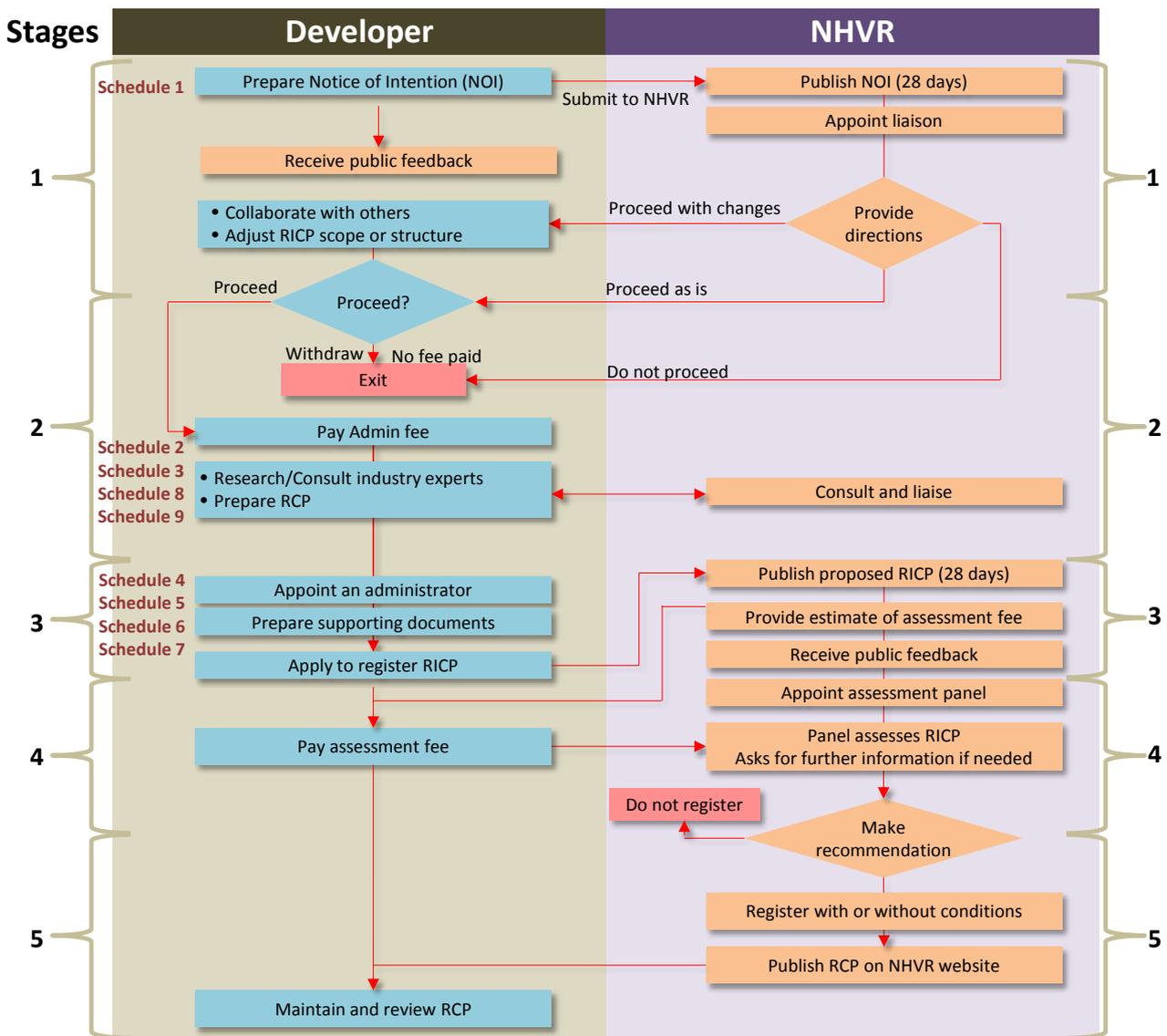
Acknowledgement

These guidelines draw on material contained in the Austroads publication: "Guidelines for the Content, Development, Approval and Use of Industry Codes of Practice", (AP-R282-06).

3. Overview of the registration process

Registering an Industry Code of Practice with the NHVR involves the following stages:

- Stage 1 - Developer initiates registration process with NHVR
- Stage 2 - Developer prepares the Industry Code of Practice
- Stage 3 - Developer submits the Industry Code of Practice
- Stage 4 - The Industry Code of Practice is assessed
- Stage 5 - NHVR makes decision



Stage 1 – Developer initiates registration process with NHVR

1. Prepare and submit a Notice of Intention

The code developer prepares a *Notice of Intention to Register an Industry Code of Practice* (see Schedule 1) and submits it to the NHVR.

2. NHVR publishes the Notice of Intention

The NHVR publishes this notice on its website.

This informs interested parties of the subject matter and scope of the proposed Industry Code of Practice, and the name of the developer or developers.

Parties who wish to be consulted about the code are invited to email the developer with their contact details within 28 days. Members of the public can also provide feedback or suggestions.

Other potential developers will be alerted that work is commencing on a particular code and can avoid duplicating their efforts.

3. NHVR appoints a liaison officer

The NHVR appoints a staff member to liaise and consult with the developer throughout the code development process.

The liaison officer compiles a list of issues identified internally and raises them with the developer. The liaison officer may make suggestions or request more information.

4. NHVR provides directions to developer:

Twenty-eight days after the publication of the notice of Intention, NHVR advises the developer either to:

- proceed with the Industry Code of Practice outlined in the Notice of Intention
- proceed with the Industry Code of Practice but in a different way, for example: with adjustments to its scope or structure, or in collaboration with others, or with other changes
- not proceed at all.

If the advice is to proceed, the NHVR invoices the developer an administrative fee and provides an indicative cost of the assessment.

The NHVR updates their website to show that the Industry Code of Practice will be prepared, either as per the Notice of Intention, or showing details of any changes.

Stage 2 – Developer prepares the Industry Code of Practice

If the developer is advised to proceed, but decides that they no longer wish to, they can withdraw from the process and do not have to pay the administration fee.

If they wish to proceed then they must pay the fee to the NHVR. Fees and charges are based on cost recovery and are non-refundable.

Use Plain English

An RICP must be accurate, easy to understand and free of ambiguity. Use Plain English as the document will be used by many readers in government and industry, by courts and by the general public.

Define all acronyms, technical and industry terms and use them consistently throughout the document.

The following steps are *mandatory* when preparing an RICP:

1. Research and consult with industry

The developer must consult comprehensively with the relevant industry sector and show that it has incorporated regulatory, technical, industry body and operator advice and experience. It must also consult with the persons on the list provided to the developer by the NHVR.

Use the Consultation Checklist (see Schedule 2) to guide this process and include it with other documents needed when submitting the Industry Code of Practice to be registered.

2. Set out the purpose and scope of the Industry Code of Practice

When preparing the Industry Code of Practice, the developer must define its purpose and intended outcomes and identify clearly:

- the industries or industry sectors to be covered by the code
- the activities within that industry that are to be covered
- those responsible for the activities, and associated parties within the chain of responsibility
- the parts of the HVNL invoked by the Industry Code of Practice.

3. Develop the content using a risk management process

Use a risk management process to develop the key content of the Industry Code of Practice. In accordance with *AS/NZS ISO 31000:2009 Risk Management – Principles and Guidelines*, the developer needs to:

- identify risks
- assess risks and
- describe the types of controls that could be applied to the identified risks.

4. Identify the risk types

Because an RICP covers an industry rather than a single business, it must:

- identify the risks relevant to that industry
- identify types of risk, rather than specific instances of a risk
- identify and address the risks associated with each activity and responsibility within the industry that is covered by HVNL legislation.

The legislation is a useful starting point for identifying risks. Depending on the industry sector covered by the code, and the types of risk described, consider these in relation to the HVNL requirements for:

- Roadworthiness and suitability of vehicles and equipment for a task
- Mass, dimension and loading
- Driver fatigue and fitness for duty
- High risk behaviour – e.g. speeding.

Mass, dimension and loading, for example, would involve risk types such as load shifting, collisions with bridges, damage to suspension, impact on braking of excess mass etc. For each industry, these risk types may have a different profile, or may not be relevant.

Schedule 9 summarises relevant HVNL requirements and provides a key to the parties responsible in relation to each offence.

There may also be value in identifying types of risk that fall outside the ambit of the HVNL. Driver health, for example, is not specifically covered in the legislation, but may impact overall performance or how they are affected by fatigue.

To ensure the most comprehensive analysis, also consider the persons or things put at risk, such as:

- other road users
- drivers
- road infrastructure and the environment
- property, including vehicles, loads and private property adjacent to roads.

5. Assess the risks

Once each risk type is identified, consider the range and gravity of consequences it can cause, assess its potential likelihood, and any aggravating factors.

Review and analyse information about the kinds of incidents that occur within the industry, their causes, frequency, and outcomes. The analysis should be evidence-based. Publications produced by the NHVR, National Transport Commission (NTC), standards organisations, technical bodies and educational institutions may provide technical or subject matter assistance in assessing risks specific to heavy vehicle legislation.

Prepare a risk assessment methodology report

Do not include details of the risk assessment methodology you used to prepare the Industry Code of Practice. Describe this in a separate risk assessment methodology report and include this along with other required

documents when you submit the Industry Code of Practice to the NHVR for assessment.

When preparing this report you can draw in part on already published information about workplace safety or risk management methods.

6. Suggest measures to control risks

For each type of risk identified, indicate appropriate control measures. Many of these may already be well-known, but through the consultation process you may be able to identify shortcomings or potential improvements.

Where there are a range of appropriate control measures, state the factors, if any, that would weigh in favour of a particular measure, or that should rule it out.

Do not propose control methods so specific or prescriptive that they would not apply to all participants in an industry. Only include specific control measures or treatments as examples and make sure they are understood as such.

Emphasise the adopter's responsibility to assess the full range of control measures and choose the most appropriate one/s.

Technical standards and other guidance material about potential control measures may be incorporated by reference. Any such document must be readily and freely available and must have a system to reference new versions.

7. Provide guidance for a code adopter to develop their own risk management process

An RICP can only identify risk types. It cannot anticipate every possible risk to which an enterprise is exposed due to its specific location, weather conditions, load and equipment types, organisational structure and business environment.

To fill this gap, the Industry Code of Practice must explain to code adopters how they can use the risk management process to identify, assess and treat risks within their own enterprise.

The Industry Code of Practice must instruct and assist adopters to:

Develop a risk management process

This should be consistent with *AS/NZ ISO 31000:2009 Risk Management – Principles and Guidelines*.

Implement control measures

Adopters must assess and select the appropriate control measures to eliminate or mitigate each risk within their business and within business compliance systems.

Document the customised risk management process

An RICP must require code adopters to document the customised risk management process and make it available to staff for detailed advice and for use in staff inductions, training, and regular retraining. The risk management process may also be referenced in an employment agreement.

There is no required format so long as the document is consistent with *AS/NZ ISO 31000:2009 Risk Management – Principles and Guidelines*.

Establish a system for monitoring, feedback and review

A good risk management process is never complete. An RICP must require code adopters to incorporate compliance monitoring, feedback mechanisms and periodic reviews into their customised risk management process so that it remains responsive to change and is continually improved.

- Monitoring enables the code adopter to measure how well their system is implemented, and to record obstacles to compliance and the incidence of near misses.
- Analysing this information allows them to discover weaknesses or gaps in procedures, which can then be addressed.
- Providing feedback mechanisms to staff enables new circumstances or changed operating conditions to be reported and addressed as required.
- Reviewing the risk management process at regular intervals ensures code adopters adapt to changes in legislation, new technical innovations or testing methods.

The RICP must require adopters to re-train staff and associates each time the customised risk management process is changed.

The RICP must require adopters to seek and incorporate within their risk management process new information that will help identify emerging risks or to assess their gravity or likelihood. This could come from technical bodies, research organisations, industry reports, or even other businesses.

8. Ensure the RICP aligns with the HVNL

A key function of an RICP is to demonstrate how requirements of the HVNL can be satisfied. Overall it must address:

- the relevant parts of the HVNL that apply to each activity
- the transport activities performed by participants in the sector
- the types of risk that arise in relation to each activity
- the duties identified in the HVNL
- the range of controls that may be used to achieve the safety outcomes expected under the HVNL.

Clearly link each risk and control to specific provisions of the HVNL that it is intended to address. Schedules 8 and 9 may be used as guides, but the developer must have a detailed understanding of the scope of the HVNL and its application to understand the parts that are relevant to the code of practice.

Make clear, where appropriate, the specific roles and responsibilities of parties involved in the transport task, even if this may involve a degree of repetition or overlap. Use Schedule 9 of this guideline to help identify the different obligations of each party.

The RICP must be sufficiently comprehensive and of a quality that would permit its use in court proceedings, as per chapter 10 HVNL.

9. Developer appoints an administrator

The developer must nominate an administrator to: ensure that the Industry Code of Practice is updated following changes to best practice methods for the sector of industry to which it relates [HVNL s706(2)(b)]

- be the point of contact for the NHVR once the code is registered
- manage review of the RICP after it is published (see Stage 5).

The same person does not need to be the administrator for the period of registration, but the role must always be filled by a suitable person. The NHVR must be notified of changes to this role (i.e. a new administrator being appointed).

Stage 3 – Developer submits the Industry Code of Practice

Once the developer is satisfied that the Industry Code of Practice has addressed all the requirements listed in Stage 2, it can apply to register it with the NHVR.

1. Developer prepares the supporting documents

In addition to the finalised Industry Code of Practice the developer must submit other supporting documents to the NHVR for assessment and registration. Most of these are not for publication but are to satisfy registration requirements.

The application for registration package should include at least the following:

Application Coversheet	Schedule 4	Completed and addressed to CEO, NHVR
Consultation Checklist	Schedule 2	Completed
Drafting Checklist	Schedule 3	Completed
Developer's Undertaking	Schedule 5	Completed and signed
Administrator's Undertaking	Schedule 6	Completed and signed
Intellectual Property Agreement	Schedule 7	Signed and witnessed
Draft of RICP	Finished draft of the Industry Code of Practice ready for publication on the NHVR website	
Risk assessment methodology report	Report on the risk assessment methodology used to identify and assess risks	
Confirmation of payment	Evidence of the administrative fee having been paid and an undertaking to pay the assessment fee	

2. Developer submits documents for registration

Developer must submit electronic copies of the documents to the NHVR in .pdf and MS Word format.

3. NHVR publishes draft Industry Code of Practice

When the finished draft of the Industry Code of Practice is submitted for assessment, it is uploaded to the NHVR website and displayed there for a period of 28 days.

The NHVR collects and collates any public feedback that is received in relation to the draft.

4. NHVR provides estimate of assessment fee

Once the package is received the NHVR will provide an estimate of the assessment fee to the developer.

The estimate will vary according to the scope and complexity of the code, and the resources required. Fees and charges are based on cost recovery and are non-refundable.

Stage 4 – Industry Code of Practice is assessed

1. NHVR appoints an assessment panel

During the publication period the NHVR appoints a panel to assess the Industry Code of Practice.

This will consist of qualified and experienced persons. Members of the panel will consist of NHVR employees and may include independent consultants or experts from a relevant field.

2. NHVR assessment panel assesses the Industry Code of Practice

At the end of the publication period the panel convenes to assess whether the Industry Code of Practice meets the requirements of the Guidelines.

The panel may take into account any relevant communication, including public feedback provided during the publication period.

The panel may liaise with the developer, via the liaison officer, if it requires further information.

The panel may suggest changes to the Industry Code of Practice that will enable it to be registered, and may re-assess the amended Industry Code of Practice.

Stage 5 – NHVR makes decision

1. Assessment panel makes recommendations and states period

Once all information is available and considered the assessment panel reports to the NHVR with a recommendation to :

- register the code as is
- propose that the developer make changes to the code, or
- refuse registration.

If the code is to be registered, the panel recommends the stated period after which the code must be reviewed, as required by section 706(2)(a) HVNL. The expected period would be five years, counted from the date of registration.

The panel may recommend other conditions.

The NHVR then makes a decision having regard to the panel's recommendation.

If registration is refused the assessment fee is non-refundable to the developer. The NHVR will provide a statement of reasons to a developer if registration is refused.

2. Conditions of registration

Statutory conditions imposed on every RICP that is registered are:

- the RICP must be reviewed after the stated period
- a person must be appointed to maintain the RICP and ensure it is updated following changes to best practice methods for the industry to which it relates
- the RICP must be updated following changes to the Guidelines for preparation and content of the RICP in force under Section 705

The NHVR may also impose other conditions recommended by the panel, or in the exercise of its own discretion. Conditions that will be imposed as a matter of course include:

- the developer must comply with the terms of their undertaking
- the administrator must comply with the terms of their undertaking.

3. Developer pays the assessment fee

The developer must pay the assessment fee to initiate the registration of the code.

4. NHVR publishes RICP on NHVR website

Once registration is confirmed and processed administratively, the final draft of the RICP is published on the NHVR website for adopters to use. It displays the developer's details and includes watermarks and terms and conditions of use, to protect the developer's intellectual property.

For the information of adopters, the date of review is clearly displayed on the RICP.

Stage 6 – Maintenance and review

1. Developer maintains and reviews the RICP

The RICP remains valid and available on the NHVR website until its date for review.

2. Procedure for review of RICP

No later than 12 months before the review date, the NHVR publishes an alert alongside the relevant RICP, indicating it is due for review. NHVR asks the developer whether they plan to conduct the review, and publishes the response. The developer must submit the reviewed RICP to the NHVR no later than six months before the review date. If the review has not resulted in any changes to the RICP, the developer must advise the NHVR of the outcome of the review and why no changes were required.

3. NHVR re-assesses reviewed RICP

The NHVR examines the RICP to determine if it has been amended appropriately or if it requires no further changes. The NHVR may appoint a panel to assist in this process if required. The NHVR will then decide either to:

- extend the registration and state a new date for review
- impose new conditions, such as an amendment to the RICP, or
- cancel the registration.

The NHVR will liaise with the developer during this process and attempt to resolve any differences before the review date is reached. The final outcome and status of the RICP will be published on the NHVR website.

4. Contravention of conditions of registration

During the period of its registration, an RICP is always subject to two statutory conditions:

- that the Industry Code of Practice is maintained, and updated (section 706(2)(b)), and
- that the Industry Code of Practice must be updated following changes to the Guidelines (Section 706(2)(c)).

It is also subject to any other condition of registration – such as compliance with the developer’s undertaking.

If any condition is contravened, the NHVR may take action to amend the conditions of registration, including by adding new conditions, or it may cancel registration (Section 706(5)).

Because of the impact on adopters due to the cancellation of an RICP, the NHVR will attempt to work with developers to update an RICP if required, rather than cancelling it.

Where it is necessary for the NHVR to intervene, in the interests of public safety for example, the NHVR will provide sufficient notice to developers and adopters, will consult throughout the process, and will publish its decisions and the reasons for them.

5. Schedules summary

These Guidelines are published in conjunction with the following nine Schedules. Schedules 1-7 must be completed and submitted to the NHVR to process registration of the Industry Code of Practice. Schedules 8 and 9 are for information purposes only. A template copy of each Schedule is available on the NHVR website.

Schedule	Function	Stage
1	Notification of Intention to Register a Code of Practice Complete and submit this form to the NHVR to initiate the registration process.	1
2	Consultation Checklist Complete this checklist to identify the persons or organisations with whom you will be consulting and submit this in the application for registration package.	2 + 3
3	Drafting Checklist Complete this checklist to track whether you have included all mandatory components within the RICP and submit this in the application for registration package.	2 + 3
4	Application for Registration Complete and submit this form to the NHVR to initiate the registration process.	3
5	Developer’s Undertaking Developer completes and signs this form to acknowledge their obligations and responsibilities as provided in the HNVL and in these Guidelines.	3
6	Administrator’s Undertaking Administrator completes and signs this form to confirm their role and seniority within the organisation and acknowledge their obligations and responsibilities as provided in the HVNL and in these Guidelines.	3
7	Intellectual Property Agreement Developer signs agreement to license the NHVR to publish the RICP, and to affirm the terms and conditions that apply to adopters of the RICP.	3
8	Key Terminology A list of key terms that may be used in preparing the RICP. This Schedule is for information purposes only.	2
9	Summary of key parts of the HNVL Lists HVNL requirements and details the parties responsible in relation to each offence. This Schedule is for information purposes only.	2