

Independent Review of the Dangerous Goods Act 1985 and associated regulations

Consultation Paper questions

DBYD: *In responding, Dial Before You Dig Vic/Tas (DBYD) has limited feedback to our areas of interest. That being ensuring company's/individuals intending to undertake excavation/construction can easily obtain the relevant information pertaining to sites where:*

- 1. Contaminated waste product is legally store; and*
- 2. Sites contaminated soil remains in the ground.*

Term of Reference A: The extent to which the Dangerous Goods Act 1985 (DG Act) and associated regulations promote the safety of persons and property and the effective management of dangerous goods

Question 1 To what extent does Victoria's dangerous goods legislation promote the safety of persons and property?

Question 2 To what extent does it promote the effective management of dangerous goods?

Question 3 How could it be improved so that it better promotes these objectives?

DBYD: *Specific to contamination (Wastage storage & soil), promotion of safety could be improved by utilising/leveraging a one-call service where the enquirer could ascertain if the site they were intending to conduct excavation and/or construction held any DG risks that needed to be allowed for.*

Term of Reference B: How the DG Act and associated regulations could be enhanced to be more risk-based and prevention focused

Question 4 How could the DG Act and associated regulations be enhanced to be more risk-based and prevention-focused?

DBYD: *Specific to contamination (Wastage storage & soil), guidance material could be enhanced by utilising/leveraging a one-call service where the enquirer could ascertain if the site they were intending to conduct excavation and/or construction held any DG risks that needed to be allowed for.*

Question 5 Should dangerous goods legislation include a broad, general principle-based duty to minimise risks of harm to persons and property?

DBYD: *Yes. Any legislation relating to dangerous goods should include broad, general principle-based duty assist minimise risks of harm to persons and property*

Question 6 Broadly speaking, do the Storage and Handling, Explosives, High Consequences Dangerous Goods and Transport Regulations impose the right combination of the different kinds of duties?

Question 7 What role should codes and guidance material play in supporting the DG Act and associated regulations?

DBYD: *Specific to contamination (Wastage storage & soil), guidance material should support the DG Act and associated regulations by providing a single point for an enquirer to ascertain if the site they are intending to excavate or undertake construction upon is at risk due to contaminated waste storage or contaminated soil.*

Question 8 Do you have any suggestions about how the codes and guidance material issued by WorkSafe could be improved?

DBYD: *Specific to contamination (Wastage storage & soil), guidance material could be improved by utilising/leveraging a one-call service where the enquirer could ascertain if the site they were intending to conduct excavation and/or construction held any DG risks that needed to be allowed for.*

Question 9 Should a permissioning framework be introduced for higher-risk sites and/or activities involving dangerous goods?

DBYD: *Yes.*

Question 10 What kinds of incidents involving dangerous goods should duty holders be required to report to WorkSafe?

DBYD: *Specific to contamination (Wastage storage & soil), incidents involving dangerous goods should duty holders be required to report to WorkSafe to enable a company's/individuals intending to undertake excavation/construction to easily enquire if there is a risk to enter/undertake activities.*

Term of Reference C: The efficacy of the DG Act and associated regulations in deterring non-compliance and illegal activity in relation to the management of dangerous goods

Question 11 How could the dangerous goods legislation be made more effective in deterring non-compliance and illegal activity in relation to the management of dangerous goods?

DBYD: *By providing a single point of contact to confirm location and type of material stored at all sites.*

Question 12 What methods could WorkSafe use to identify unknown dangerous goods sites, and do those methods require additional legal powers?

Question 13 Are the triggers for notification appropriate?

Question 14 What types of information should be notified?

Question 15 What methods could WorkSafe use to monitor the dangerous goods market, and do those methods require additional legal powers?

Question 16 To what extent is the detection of unknown or illegal dangerous goods activity hampered by restrictions on information sharing by government agencies?

Question 17 What kind of information sharing should be permitted?

Question 18 What are the obstacles to the effective management of dangerous goods where the functions and powers of multiple agencies intersect and overlap?

Question 19 How could interagency coordination in relation to dangerous goods be improved?

- Question 20 Should powers be delegated between agencies to improve coordination?
- Question 21 Under what circumstances should a dangerous goods inspector be permitted to enter a place where dangerous goods might be stored?
- Question 22 Should there be a power for inspectors to enter a residential premises? What should the threshold for these powers be?
- Question 23 Does WorkSafe need broader powers to intervene at non-compliant sites?
- Question 24 If so, what powers does it need, and what should be the threshold to the exercise of those powers?
- Question 25 Should WorkSafe have the power to redirect body corporate obligations to their officers and controlling entities?
- Question 26 What costs should WorkSafe be able to recover, and from whom?
- Question 27 Should WorkSafe be empowered to require entities engaging in dangerous goods activities to provide financial assurances, and if so, how should this be done?
- Question 28 Should dangerous goods operators only be permitted to dispose of their waste to accredited waste providers?
- Question 29 Alternatively, should dangerous goods operators have a duty to undertake due diligence in relation to the disposal of their waste?
- Question 30 Should officer liability for dangerous goods offences be based on a due diligence test or duty?
- Question 31 Should a civil penalty regime be introduced into the dangerous goods legislation, so that WorkSafe has the option of bringing a civil penalty proceeding in relation to a dangerous goods contravention, as an alternative to a criminal prosecution?
- Question 32 Should an infringements scheme be introduced for dangerous goods offences, and if so, which ones?
- Question 33 Should maximum penalties be increased for (some or all) dangerous goods offences?

Term of Reference D: Whether any amendments to the DG Act and associated regulations are required to respond to emerging issues and challenges related to the management of dangerous goods?

- Question 34 How has the dangerous goods industry changed from when the DG Act was first introduced?
- Question 35 Are there any other emerging issues and challenges that Victoria's dangerous goods legislation should be responding to?
- Question 36 What does the future of the dangerous goods industry look like?
- Question 37 What are the main challenges in the disposal of chemical waste in Victoria?
- Question 38 Are there new technologies being introduced into the dangerous goods industry that will change the way the industry operates? Will this create new risks?
- Question 39 How does Victoria's dangerous goods legislation need to adapt and change in order to meet these issues and challenges?

Term of Reference E: Ways to streamline and modernise the DG Act and regulations

- Question 40 Should a new DG Act adopt (as far as possible) the structure, order, language and conceptual framework of the Occupational Health and Safety Act 2004 (OHS Act)?
- Question 41 Should dangerous goods legislation be incorporated within the OHS Act?
- Question 42 Should DG Act and Transport Regulations apply to the transport of prescribed industrial waste?
- Question 43 Should amendments to the Australian Dangerous Goods Code (ADG Code) come into force automatically?
- Question 44 Should the detailed regulations and offence provisions in the Transport Regulations be replaced by a single offence of failing to comply with the ADG Code?
- Question 45 How can the way in which dangerous chemicals are classified and captured be streamlined?
- Question 46 Should Essential Safety Measures compliance be a condition of operating a dangerous goods site or facility?
- Question 47 Should occupiers be required to implement the advice given by emergency services authorities, rather than simply “have regard to” it?
- Question 48 Should Victoria recognise interstate dangerous goods licences?
- Question 49 Should ammonium nitrate be regulated by the Explosives Regulations?

Term of Reference F: Other relevant matters

- Question 50 Are there any other relevant matters that the Review should consider?

DBYD: *Specific to contamination (Wastage storage & soil), to ensure the safety of company’s/individuals and the community during excavation or construction activities, the Review could consider mandating the registration of contaminated storage sites within the DBYD enquiry system and leverage the use of the DBYD enquiry system to distribute information about that location prior to undertaking any activity at that site.*

DBYD is one of Australia’s most recognisable safety related brands and a leading provider of a “one-call” service relating to issues of safety. We would welcome the opportunity to discuss options for how WorkSafe could leverage the DBYD services for areas such as Individuals/Company’s:

- *Registering an enquiry relating to entering a site and or undertaking activity where DG may be stored or soil is contaminated prior to access.*
- *Receiving information on the:*
 - *Location*
 - *The types of DG’s that are stored/have contaminated the soil*

In addition, DBYD can provide services relating to Automation & Permitting solutions.