

Warnings for Minor / Administrative Breaches as at 1 October 2010

<p>Background</p>	<ul style="list-style-type: none"> ■ The operation of heavy trucks is highly regulated in Australia. There are dozens of pieces of legislation across the country, which carry with them hundreds if not thousands of potential offences. ■ These offences range from very minor administrative matters through to serious safety breaches. ■ The body of law has expanded in recent years with the introduction of compliance and enforcement legislation agreed to by Ministers in 2003 for mass dimension and load restraint, and more recently for fatigue and speeding offences. ■ The model compliance and enforcement legislation makes provision for minor and administrative breaches to be dealt with by way of Improvement Notices or Formal Warnings. ■ Most jurisdictions have implemented legislation broadly consistent with the model compliance and enforcement legislation agreed to by Ministers. ■ NatRoad is not seeking as part of this matter to depart from the model laws.
<p>The Issue</p>	<ul style="list-style-type: none"> ■ Whilst most jurisdictions have the laws in place that provide for Improvement Notices and Formal Warnings these aspects to the best of our knowledge have not been effectively implemented in practice. ■ The matter we raise is predominately a matter of operational policy, except where jurisdictions have failed to implement Formal Warnings and Improvement Notices. ■ Good drivers and good operators still today receive infringement notices for minor breaches of heavy vehicle transport law, with no official guidance or encouragement to account for circumstance or connection to safety.
<p>NatRoad's View</p>	<ul style="list-style-type: none"> ■ NatRoad supports the inclusion of Formal Warnings and Improvement Notices in every jurisdiction. ■ NatRoad seeks the provision of practical guidance to Transport Inspectors and Police Officers encouraging the use of these powers in appropriate circumstances. In other words should an Officer find a breach of law the first reaction should not be an infringement, but rather; does circumstance provide for a Formal Warning or Improvement Notice.

	<ul style="list-style-type: none"> ■ NatRoad supports and acknowledges that often circumstances warrant the use of an infringement notice for minor offences. ■ Conversely, NatRoad also supports and acknowledges that often circumstances warrant the use of a Formal Warning or Improvement Notice as an effective means of addressing a minor offence. ■ NatRoad believes that there are a range of offences that under the right circumstances could be better dealt with by a Formal Warning or Improvement Notice, including but not limited to: <ul style="list-style-type: none"> ○ Work Diary administrative errors; ○ Failure to carry a current Restricted Access Vehicle notice/s, whereby the combination is not otherwise in contravention of current conditions; ○ Minor mass, dimension, load restraint, fatigue and speed offences. ■ NatRoad believes that the system of formal warnings and Improvement Notices for minor breaches should: <ul style="list-style-type: none"> ○ Take account of the history of non compliance for that offence, over say a 6 month period; ○ Take account of whether the offence is of a minor nature; ○ Encourage the use of Formal Warnings in particular for administrative errors unless it is believed that the matter is of a purposefully misleading or deceptive nature;
Next Steps	<ul style="list-style-type: none"> ■ NatRoad is seeking to discuss with each State and Territory enforcement agencies means to implement improved Guidance for Officers on Formal Warnings and Improvement Notices.
What members can do	<ul style="list-style-type: none"> ■ Make contact with NatRoad and tell us what you think.