

## ONRSR Regulatory approach

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### Introduction

Our regulatory approach sets out the ONRSR's high level approach to regulating rail safety and achieving compliance with the *Rail Safety National Law*.

It describes our key principles and the factors that guide *how* we regulate. On a day to day basis, these provide guidance to our staff and to duty-holders (primarily rail transport operators) on our approach to safety improvement, compliance and enforcement.

### Co-regulatory framework

Rail safety regulation in Australia is administered under a co-regulatory framework, which means that the role of regulation is shared between government and the regulated parties. Underpinning that framework is the *Rail Safety National Law* which is set and monitored by governments and administered nationally by the ONRSR as an independent authority.

The ONRSR comprises the National Rail Safety Regulator (NRSR) and two non-executive members. It consults with and reports to state and territory governments through the Transport and Infrastructure Senior Officials' Committee (TISOC) and the Standing Council on Transport and Infrastructure (SCOTI). Through Memorandums of Understanding the ONRSR also works with other agencies, including the Australian Transport Safety Bureau, National Transport Commission and Workplace Safety Authorities, to improve national rail safety performance.

The principal purpose of the ONRSR is to oversee and enforce a national co-regulatory rail safety regime to enable and promote safe railway operations, including through the administration of a national scheme of accreditation. In exercising its functions the ONRSR must:

- > Facilitate the safe operations of rail transport in Australia;
- > Exhibit independence, rigour and excellence in carrying out its regulatory functions;
- > Promote safety and safety improvement as a fundamental objective in the delivery of rail transport in Australia.

The law sets out the functions, objectives and powers of the ONRSR and imposes a shared responsibility for safety on all parties, including rail transport operators, rail safety workers, other persons involved in the rail industry, the NRSR and the public.

In addition to the principle of shared responsibility, specific safety duties are imposed on others in the rail industry who have control over rail activities, including the primary duty imposed on rail transport operators to ensure the safety of their railway operations so far as is reasonably practicable.

As part of a co-regulatory framework, each party that can influence rail safety has an obligation to play its designated part fully in co-operation and consultation with affected parties.

## Key principles

To achieve our purpose, functions and objectives, the following principles describe the basis by which the ONRSR regulates:

- > **Independent and impartial:** We are independent from industry, political and individual influences and act without bias in the best interest of rail safety and consistent with our functions.
- > **Risk-based:** Regulatory effort and compliance activity is commensurate with risk, which means that we align our priorities and regulatory activity with the highest risk and potential for improvement.
- > **Educational:** ONRSR, through its safety improvement strategy proactively engages in encouraging, collaborating and supporting the wider industry to enable duty-holders under the law to improve their knowledge, skills and standards to prevent accidents and unsafe conditions.
- > **Proportionate compliance and enforcement:** ONRSR's compliance and enforcement policy is predicated upon response to safety issues being proportionate to the risks and potential benefit to safety.
- > **Transparent, fair and accountable:** Rail transport operators know what, why and when we take safety action and these actions are predictable and proportionate.
- > **Consistent:** We are consistent with our risk-based decision-making and like situations will be treated in a like manner as much as possible, no matter where they arise under the ONRSR.

These principles aim to support regulatory effectiveness and efficiency by supporting a transparent and collaborative relationship with the rail transport industry and continual improvement in rail safety.

## Safety improvement strategy

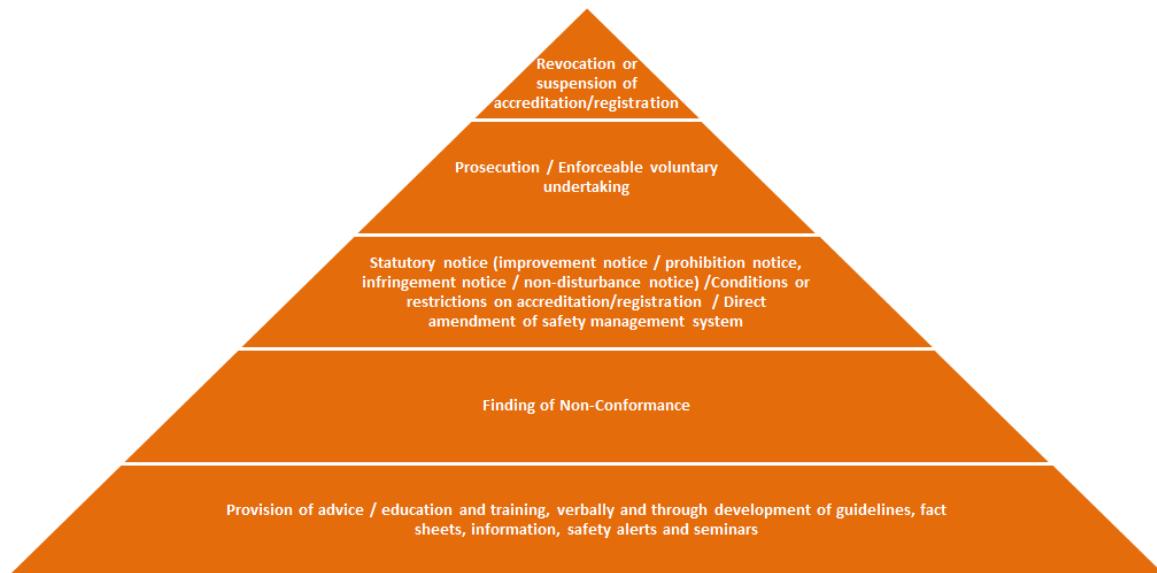
Consistent with our functions and objectives in the law, the ONRSR works with rail transport operators, rail safety workers, and others involved in railway operations to promote and improve rail safety nationally. We prefer to achieve outcomes by providing support and collaboration on risk-based safety improvement initiatives, to encourage industry to build the capacity to improve its performance voluntarily and collectively. Importantly The ONRSR does not set the standards and codes for safety, it is up to duty-holders to do this at an industry and individual operator level and demonstrate that they are fit for purpose.

In support of this, and through enactment of our Safety Improvement Policy, we seek to:

- > Influence industry to work together to identify and manage railway risks as an industry, including through dedicated forums, such as the CEO industry reference group;
- > Support the creation of industry generated standards to reduce risk;
- > Support the adoption of endorsed industry generated standards by rail transport operators;
- > Supplement industry and other available Standards with ONRSR guidance or Approved Codes of Practice (ACoPs) or recommended changes to legislation;
- > Provide advance notice to rail transport operators of the areas that we judge are of greatest national or local risk so that opportunity for reasonably practicable improvements can be made.

## Delivering compliance and enforcement

The ONRSR also has a range of tools and powers to deliver its functions and ensure compliance with the law. As part of its ongoing compliance activities we conduct audits, inspections and compliance investigations. Enforcement tools to support compliance, in order from bottom to top in regulatory effort and frequency, include:



Through enactment of our Compliance and Enforcement Policy we prefer, subject to circumstance, to take a graduated approach to use of regulatory powers, as reflected in the pyramid. This means that the ONRSR generally provides information/ guidance/ education in the first instance and moves up the pyramid to more directional and punitive actions, as necessary, based on risk and other factors to achieve the desired outcomes. In addition to the key principles, factors that may escalate enforcement action include:

- > An immediate or serious risk to safety
- > A broader impact on other duty-holders and the public if a breach is not adequately addressed, including if it is in the public interest
- > An un-willingness, deliberate obstruction or lack of capacity for a duty-holder to comply with a direction
- > Past history of breaches and likelihood that there will be repeat breaches
- > A breach that falls within the ONRSR's regulatory focus, for example, where there has been communication on an identified safety risk and this hasn't been followed

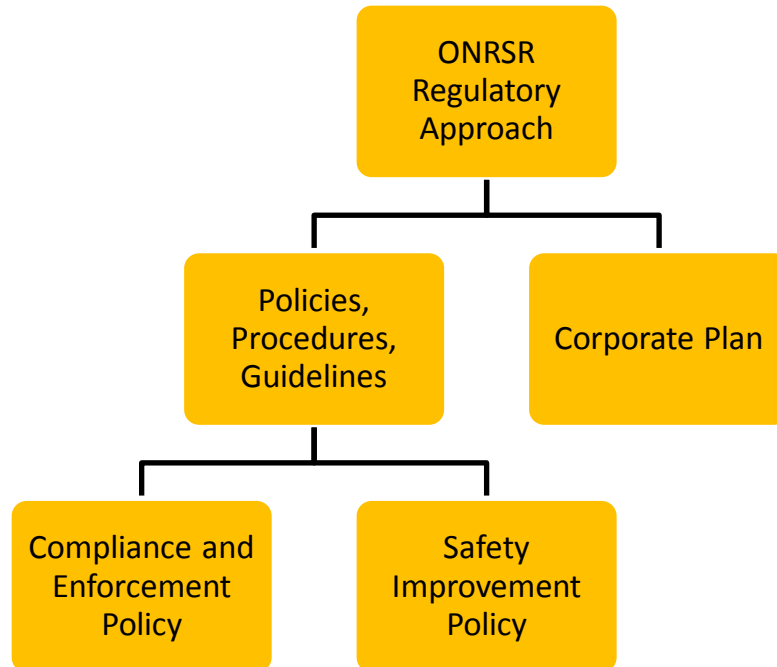
Generally the higher the willingness of duty-holders to comply and how they demonstrate that risks have been managed so far as is reasonably practicable, the less likely the ONRSR will use 'harder' enforcement tools.

## Conclusion

The ONRSR will apply this regulatory approach to work with rail transport operators and other duty-holders in achieving our shared responsibilities and aims for improving rail safety.

## Related documents

This regulatory approach is demonstrated and supported by ONRSR policies, procedures, guidelines – specifically the Compliance and Enforcement Policy and the Safety Improvement Policy - and its corporate goals.



## References

ONRSR Corporate Plan 2013-2016

ONRSR Statement of Intent 2013-2016

*Rail Safety National Law Act 2012*