

# Policy

## Safety Performance Report

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## 1. Purpose

The purpose of this policy is to provide direction to Office of the National Rail Safety Regulator (ONRSR) staff, and advice to rail transport operators, about the requirements for safety performance reports and how the ONRSR intends to use the information gathered through the reports.

## 2. Background

The ONRSR has been established under the *Rail Safety National Law (RSNL)* to administer a national system of rail safety regulation, including the effective management of rail safety risks, through a national scheme for accreditation of rail transport operators in relation to rail operations.

Under the RSNL, a rail transport operator must submit an annual safety performance report to the ONRSR, detailing its railway operations for the specific reporting period.

## 3. Scope

This policy has relevance for ONRSR officers responsible for reviewing safety performance reports, negotiating reporting periods with rail transport operators and utilising the information gathered from safety performance reports.

The document is intended to be read in conjunction with the legislation and other relevant ONRSR policies. The policy itself imposes no legal duty and where actions or requirements are described as mandatory; these reflect requirements in the RSNL or National Regulations. The policy is not intended to replace the legislation, or to limit or expand the scope of the legislation. In the event of an inconsistency between this policy and the legislation, the legislation prevails.

## 4. Definitions

Definitions provided by the RSNL and the National Regulations apply within this policy.

**RSNL** – means the *Rail Safety National Law*, which has been enacted as a Schedule to the *Rail Safety National Law (South Australia) Act 2012 (SA)* as it applies in each state and territory. In Western Australia, ‘RSNL’ means the Rail Safety National Law which has been enacted as mirror legislation in the *Rail Safety National Law (WA) Act 2015*.

**National Regulations** – means the *Rail Safety National Law National Regulations 2012*; or the *Rail Safety National Law (WA) Regulations 2015* in Western Australia.

*Where terms are not defined within the legislation or regulations the Macquarie Dictionary definition applies.*

*Use of the word ‘should’ indicates a recommendation of the ONRSR. However, the rail transport operator is free to follow a different course of action provided it complies with the legislation. Use of the word ‘must’ indicates a legal requirement where compliance is necessary.*

## 5. Legislative framework

S103 of the RSNL details the obligations of rail transport operators regarding safety performance reports and specifies what the report must contain.

R17(4) of the National Regulations further requires that the outcomes of the review of the safety management system (as required by s102 of the RSNL) be summarised and reported in the safety performance report.

R17(1), (2) and (3) of the National Regulations details the requirements for conducting the review of the safety management system, that through the operation of r17(4) are matters that must be addressed within the safety performance report.

A penalty may be imposed for failure to submit a safety performance report in compliance with s103 of the RSNL. Additionally, s103 is an infringement penalty provision under s233 of the RSNL.

## 6. Contents of safety performance reports

The RSNL provides clear requirements for what a safety performance report must contain. While there is no explicit requirement for regulatory officers to examine a safety performance report further than confirming that the required information has been provided, these reports provide valuable information as to the scope and manner of conduct of a rail transport operator's operations.

ONRSR officers are expected to review the contents of a safety performance report to gain an overall impression of the safety and safety management of a rail transport operator's operations and give particular consideration to:

- > the extent of the review of the safety management system;
- > the appropriateness of the corrective action taken in response to identified safety deficiencies;
- > the efforts of the rail transport operator to continuously improve its safety management system; and
- > trends or changes in railway operations indicated through the report.

The safety performance report is retrospective. As with any other historical information relating to a rail transport operator, rail safety officers may use the information from these reports to inform and plan upcoming compliance activities.

It is important to keep in mind that a safety performance report is not a public document and ONRSR officers must treat the report confidentially, in accordance with s244 of the RSNL.

## 7. Omissions or deficiencies in safety performance reports

Minor omissions or deficiencies in a single safety performance report are unlikely to elicit an action from the ONRSR beyond reminding the rail transport operator of their obligations and the expectation that the next years' report be fully compliant.

Regulatory officers will use their discretion as to the magnitude of any deficiencies or omissions, and are expected to request further information if the deficiency is significant or raises other concerns. It is further expected that ONRSR staff view the report in the context of the particular operator, including its scope, nature and scale.

Failure to submit adequate safety performance reports or failure to submit a safety performance report at all may result in the ONRSR issuing an infringement penalty notice or implementing prosecution proceedings. These decisions will be guided by the *ONRSR Compliance and enforcement policy*.

Inadequate safety performance reporting may be an indicator of more systemic issues with the relevant safety management system. The ONRSR may use information from its

assessment of safety performance reports in planning compliance activities such as compliance audits or compliance inspections.

## 8. Interaction with rail transport operators

The submission of safety performance reports within the legislated timeframe is the responsibility of rail transport operators. ONRSR staff are not expected to be actively or formally involved with rail transport operators in respect of preparation or submission of the report; unless a breach of the requirements to submit the report has occurred. However, informal advice and information, is encouraged to support rail transport operators in developing key performance indicators and meeting the reporting requirements.

## 9. Reporting periods

Rail transport operators are provided with six months after the end of each reporting period in which to submit a safety performance report. Any operator that fails to submit a report in this time may be subject to enforcement action under the *ONRSR Compliance and enforcement policy*.

The RSNL defines the reporting period as a financial year although rail transport operators may seek alternative reporting periods. Alternative periods may be sought to align with the rail transport operator's other reporting obligations or to assist with administrative workload over peak periods. The ONRSR will generally accommodate requests from rail transport operators for alternative reporting periods, subject to the following:

- > a safety performance report is submitted at least once in a 12 month period;
- > the reporting periods are continuous; and
- > at least one review of the safety management system is performed within the reporting period.

Individual circumstances and requests will be reviewed by the ONRSR in the context of the particular rail transport operator and the ONRSR reserves the right to refuse a rail transport operator's request.