

**DISCUSSION PAPER
DRUG AND ALCOHOL CONTROL
WITHIN THE RAIL INDUSTRY**

October 2004



**Prepared by
National Transport Commission**

National Transport Commission

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Address: National Transport Commission
Level 15/628 Bourke Street
MELBOURNE VIC 3000

E-mail: ntc@ntc.gov.au
Website: www.ntc.gov.au

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Abstract: The paper reviews the current approach within the rail industry in managing the use of drugs and alcohol and identifies options for improving the ongoing management of this risk. The purpose of the paper is to seek comment from a broad range of industry representatives and government stakeholders on what improvements can be made to regulation and industry practices. Feedback and comments received from stakeholders will be used to develop recommendations to the Australian Transport Council.

Purpose: For comment

Key words: Drug, Drugs, Alcohol, Safety, Rail, Fitness for Duty

Comments by: **17 December 2004**

Comments to be addressed to: Chief Executive
National Transport Commission
L15/628 Bourke Street
MELBOURNE VIC 3000

FOREWORD

The National Transport Commission (NTC) is an independent body established under Commonwealth legislation and an Inter-governmental Agreement to progress regulatory and operational reform for road, rail and intermodal transport. The NTC has an objective to develop, monitor and sustain uniform or nationally consistent regulatory and operational reforms in these transport sectors.

Reform of rail safety regulation is one of a set of key rail initiatives that the NTC has been directed to undertake. This Discussion Paper examines the current regulatory environment for drug and alcohol management and starts the consultation process on this work. Its purpose is to promote discussion on what changes could be made to the way in which drugs and alcohol are presently controlled in order to improve safety and efficiency outcomes.

It has been released at a time when Australia's rail industry is changing rapidly as a result of initiatives by Commonwealth, State and Territory governments to reform historic structures, policies and practices. Drug and alcohol control in the Australian rail industry is generally regulated through the safety accreditation process, which is underpinned by the Australian Standard AS4292.1 *Railway Safety Management*. However, whilst the approach to drug and alcohol management is somewhat similar amongst jurisdictions, there is no common policy in this area, nor is there an industry standard relating to the management of the associated risks.

This Discussion Paper provides information on the key issues in respect of drug and alcohol management and the current regulatory approach. In preparing submissions, please focus on the discussion points noted in the paper. The NTC is seeking your views on present policies and how best these should be developed for the ongoing management of drugs and alcohol in rail.

Submissions received in response to this paper by **17 December 2004** will become important inputs to the development of national policy in this area.

The Commission acknowledges the significant contribution made by the NTC Project Manager Brett Baker in preparing the Discussion Paper. The NTC also wishes to thank representatives from track managers, train operators, the Australasian Railway Association and governments who have participated in the combined Fatigue and Drug and Alcohol Reference Group.

Stuart Hicks
Chairman

*Comments are sought by **17 December 2004**. Submissions by e-mail are preferred, however responses may be mailed to the following address:*

Mr Tony Wilson
Chief Executive
National Transport Commission
L15/628 Bourke Street
MELBOURNE VIC 3000

Telephone:(03) 9236 5000
Facsimile: (03) 9642 8922
Email: ntc@ntc.gov.au
Website: www.ntc.gov.au

SUMMARY

The rail transport industry is a major industry in its own right employing about 35,000 persons. Over the last decade the Australian rail industry has undergone fundamental changes to its structure, ownership and competitive position in the provision of land transport services and organisations are looking for a regime of seamless regulation that will allow them to operate across the nation.

Many of these changes have also impacted on traditional work practices and in light of recent findings associated with recent rail incidents, have led to attention being focussed on the workplace safety issues of medical standards, fatigue, drugs and alcohol.

Drugs and alcohol have an effect in both the domestic and workplace environments. Since the inception of the legislative framework and accreditation regime for the rail industry in 1993, regulators have ensured that adequate controls have been in place for the management of drugs and alcohol within the rail industry.

Similarly, some sectors of the industry itself have been at the forefront in developing policy and procedures to manage the risks that drugs and alcohol can introduce into an operational environment. For example, the rail industry is one of the few within Australia where a significant number of operators implement random drug and alcohol testing.

The current approach Governments have adopted for managing drugs and alcohol can be summarised as follows:

- The establishment and definition of minimum requirements within legislation and/or regulation;
- The definition of limits associated with the use of drugs and alcohol;
- The definition of minimum testing requirements and associated powers to test; and
- The establishment of a compliance and enforcement regime, including penalties for non-compliance.

Even before these regulatory requirements were introduced, some parts of the industry had established policies to manage the risks associated with the use of drugs and alcohol. As governments have developed regulatory requirements, accredited organisations have responded to comply with these and to maintain standards.

Whilst both Governments and industry have acted positively in the management of drugs and alcohol, there are some matters which need to be considered further:

- The formulation of national policy from the different state based policies, leading to common legislation/regulation;
- The ongoing relationship with Occupational Health and Safety (OH&S) in this area;
- Setting performance criteria and improving the reference data to measure this; and
- Defining and implementing best practice management.

In addition, one of the recurring problems highlighted within the rail industry is the lack of substantive data, which can be used in any review, monitoring and investigation into the industry. Due to limitations on the way data is collected and reported within the rail industry reflecting the effectiveness of current policy and management application it is

difficult to fully quantify the effectiveness of the current regulatory framework for managing drug and alcohol use. Notwithstanding this, drugs and alcohol are a risk for the rail industry which needs to be managed effectively.

Current reporting requirements also vary between respective drug and alcohol policies, such that the reporting, collection and analysis of drug and alcohol test data should be improved to provide performance related data and industry indicators.

Further discussion is required on the current framework as it relates to:

- The continued use of the present fragmented rail transport legislative framework;
- Improving the current policy and control approach using rail safety legislation linked to the outcomes of the concurrent co-regulatory project;
- Fully embracing policy and control under OH&S legislation;
- The deregulation of drug and alcohol control, allowing industry to set policy and manage as it deems necessary using a risk management approach;
- Utilising the proposed rail code of practice within an agreed framework; and
- Collection and reporting of drug and alcohol related data.

These points are explored within the discussion paper and your response on these will provide an important basis upon which to implement future policy.

CONTENTS

1. INTRODUCTION	1
1.1 Problems within the Industry.....	2
2. PURPOSE AND SCOPE	4
3. THE CO-REGULATION MODEL LEGISLATIVE OVERVIEW	5
4. THE SIZE AND NATURE OF THE PROBLEM	6
4.1 Nature of the problem	6
4.2 Size of the Problem	7
4.3 Rail Industry Drug and Alcohol Data.....	9
4.4 Improving the Reference Data	11
5. DRUG AND ALCOHOL LEGISLATION	13
5.1 Introduction	13
5.2 Current Legislation in Australian Jurisdictions	13
5.2.1 <i>Maintaining the Current Framework</i>	14
6. INTERNATIONAL APPROACHES TO DRUG AND ALCOHOL LEGISLATION	15
6.1 The United Kingdom (UK).....	15
6.2 United States of America (USA)	15
6.3 International Labour Organisation	17
7. REGULATORY OPTIONS FOR MANAGING DRUGS AND ALCOHOL	18
7.1 Option 1: Change or Harmonise Current Legislation	18
7.2 Other Considerations.....	18
7.2.1 <i>The Role of Testing in a Drug and Alcohol Policy</i>	18
7.2.2 <i>Drug Policy – Presence vs Impairment</i>	20
7.3 Option 2: Seek coverage under OH&S Legislation.....	22
7.4 OH&S Legislation	22
7.4.1 <i>Rail Transport or OH&S Regulation</i>	23
7.5 Other Commercial Boundaries	25
8. NON REGULATORY APPROACHES	26
8.1 Developing a Workplace Policy	26
8.2 The Code Management Company Proposed Code of Practice.....	27
8.3 OH&S and the Role of a Code of Practice.....	29
9. INTEGRATED APPROACH	30
10. SUMMARY	31
APPENDIX A: SUMMARY OF DISCUSSION POINTS	I
APPENDIX B: JURISDICTIONAL COMPARISON	V
APPENDIX C: INDUSTRY MANAGEMENT PRACTICE	VII

LIST OF TABLES

Table 1. Summary of Industry Available Data	9
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1. INTRODUCTION

The rail transport industry is a service industry, providing for the transport of people and of freight. It is a major industry in its own right employing about 35,000¹ persons or 0.38% of the total work force in 2002. The industry is divided into two main components 'above' and 'below' rail. Above rail are the train operators who run and provide transport services while below rail are those who provide and maintain the track and associated facilities.

Historically, the industry has been vertically integrated where above and below rail operations were performed by a Government entity, however, over the last decade the Australian rail industry has undergone fundamental changes to its structure, ownership and competitive position in the provision of land transport services, with rail operations and track management functions now clearly separated with some elements either sold off to private enterprise or franchised. These new (private) operators and some existing rail organisations are now extending their service capability well beyond their historical boundaries and are integrating them with road and shipping operations. They are looking for a regime of seamless regulation that will allow them to operate across the nation in both a safe and efficient manner.

Many of these changes have also impacted on traditional work practices and in light of recent findings associated with recent rail incidents, have led to attention being focussed on the workplace safety issues of medical standards, fatigue, drugs and alcohol.

The community in general is concerned about the effects that drugs and alcohol have in both the domestic and workplace environments. Governments have initiated the National Drug Strategy, a cooperative venture between Australian, State and Territory Governments and the non-government sector, which is aimed at improving health, social and economic outcomes for Australians by preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in our society.

The Australian Institute of Health and Welfare (AIHW) report '*Statistics on Drug Use in Australia 2002*'² provides a brief overview of the drug and alcohol problem in Australian Society and summarises the research evidence on the extent of this problem. The statistics on drug and alcohol use raises concern on the extent of the problem within society, and consequently what risks this represents to safety for the rail industry and how best these risks can be managed.

Within the rail environment Governments have taken a number of steps to manage these safety risks that drugs and alcohol introduce to the industry. A large body of work has been collated on this issue for road transport, with elements already integrated into rail safety regulation.

The management of drugs and alcohol in the Australian rail industry is regulated through legislation and the safety accreditation process, which requires rail operators to have an adequately resourced safety management system. Australian Standard AS4292.1, *Railway*

¹ Bureau of Transport and Regional Economics (June 2003) *Australian transport Stats*

² Australian Institute of Health and Welfare (AIHW) 2003. *Statistics on Drug Use in Australia 2002*. AIHW cat. No. PHE43. Canberra: AIHW (Drug Statistics Series no. 12).

Safety Management, provides the recognised framework for the system. This is in addition to meeting Occupational Health and Safety (OH&S) requirements.

Since the inception of the legislative framework and accreditation regime for the rail industry in 1993, regulators have ensured that controls have been in place for the management of drugs and alcohol within the rail industry.

Similarly, some sectors of the industry itself have been at the forefront in developing policy and procedures to manage the risks that drugs and alcohol can introduce into an operational environment. By example, the rail industry is one of the few within Australia where a number of rail operators implement random drug and alcohol testing.

The current regulatory structure governing railway safety in Australia, which includes drugs and alcohol, comprises a number of different instruments, which are summarised as follows:

- Principal and subordinate legislation in each of the jurisdictions;
- Australian Standards (AS4292 – Railway Safety Management, AS4360 – Risk Management and AS4308 - Procedures for the collection, detection and quantitation of drugs of abuse in urine);
- Safety Management Plans, Network Rules and Procedures; and
- National Code of Practice for Australian Railway Operations.

For a train operator/track manager to obtain accreditation they must develop a Safety Management System that complies with AS 4292.1.

1.1 Problems within the Industry

AS4292.1 Section 4.4 simply states that an accredited person is to implement policies and procedures for controlling drug and alcohol risks. This however, has led to several problems for the industry:

- a. There is no uniform national policy, instead disparate jurisdictional and railway based policy has been developed; and
- b. There are no formal standards or guidelines for how best to manage the risks, especially for managing these risks across jurisdictions.

By example, requirements relating to testing differ between jurisdictions and between operators. NSW's recently revised Rail Safety Act (2002) specifies the need to implement drug and alcohol programs that comply with specified guidelines, a provision that does not apply in other jurisdictions.

The requirements of AS4292.1 have also been further enforced by each jurisdiction through additional legislation. This has been done by prescribing specific requirements for drug and alcohol controls within relevant jurisdictional rail Acts and Regulations.

However, the lack of a national policy has resulted in various regulations being issued by respective jurisdictions, each differing in their content to varying degrees as they relate to mandatory requirements for drug and alcohol controls. It should be noted that railway organisations that operate across borders do apply a single drug and alcohol policy and procedures within their core safety management system.

Whilst Governments and industry have taken action in the management of drugs and alcohol, these issues need to be discussed and consideration given to the following:

- The formulation of a common national approach to regulation;
- The ongoing relationship with OH&S as it relates to drug and alcohol use;
- Setting performance criteria to determine the effectiveness of policy in this area and consequently improving the reference data to measure this; and
- Defining and implementing best practice management for this risk.

The following sections of this paper detail the current drug and alcohol management framework within the rail industry and details the issues associated with the points raised above for further discussion.

It should also be noted that some the outcomes from this review may be influenced by the work being undertaken on the concurrent National Transport Commission (NTC) project, “Identification and examination of best practice principles for national rail regulation”. In achieving consistency in the approach to regulatory issues in the rail industry some changes may be required to the current regulatory framework as it relates to the control of drugs and alcohol, such as the development of national policy and legislation and/or code of practice for the management of drugs and alcohol for the rail industry.

2. PURPOSE AND SCOPE

Resulting from several recent incidents in the rail industry, attention has been focussed on the 'fitness for duty' of railway workers, especially in the areas of medical standards and fatigue. The NTC has completed its review of medical standards with recommendations approved by the Australian Transport Council (ATC) in April 2004, and the review into fatigue management is presently in progress.

Complementing the NTC's review into medical standards and fatigue management, the ATC has also requested the NTC to perform a review of the present drug and alcohol policies and to ensure a best practice approach is been applied.

The purpose of this paper is to present for discussion matters associated with the NTC's review into the manner in which drugs and alcohol are currently regulated and managed within the Australian rail industry and to identify any measures which may need to be implemented at the national level to promote a more effective and consistent approach to controlling drugs and alcohol, removing inconsistencies across jurisdictions and assisting in attaining best practice standards.

Depending on the outcome of the review, specific measures for implementation at the national level may be recommended to the ATC for consideration by Ministers.

This discussion paper is based on an examination of the current drug and alcohol policies in use within each jurisdiction and how this is managed across all sectors of the Australian rail industry.

3. THE CO-REGULATION MODEL LEGISLATIVE OVERVIEW

The NTC has an on-going responsibility to develop, monitor and maintain uniform or nationally consistent regulatory and operational reforms relating to rail transport.

As part of its current work programme, the NTC has commenced the project which involves the review of the present co-regulatory nature of the rail industry with the aim of the NTC's work to develop:

- Nationally consistent regulation that takes into account the need for flexibility of application to particular operations and environments;
- A strengthened rail safety regulatory system that, when implemented by jurisdictions and industry, leads to improvement in safety and efficiency outcomes;
- Proposed changes to the co-regulatory system that are widely supported by industry and by Australian Transport Ministers; and
- A system reflecting regulatory best practice.

The NTC is committed to taking a systematic approach to the future development of the co-regulatory structure for rail safety. As part of the process of development and consideration, the NTC is currently engaged in consultation with representatives of industry and Governments on this topic.

The NTC Issues Paper³ discusses a range of topics, from high level principles through to specific matters related to the operation of the existing co-regulatory framework for rail in Australia at the present time. Questions are posed in order to draw a response from stakeholders on the major issues (problems and possible solutions) which may require attention in order to strengthen the existing framework.

The NTC's task is to propose a strengthened model for rail safety regulation to the Australian Transport Council (ATC). It is anticipated that ATC will be asked to vote on this issue in early 2005.

When responding to the options discussed in this paper on the management of drugs and alcohol, one should also consider the matters under review in the co-regulation discussion, which include:

- Adequacy of current regulation;
- The requirements for drug and alcohol management being embodied within possible future Safety Management System principles;
- Whether future regulatory measures will be needed for the ongoing management of drugs and alcohol; and
- The role of OH&S in the management of drugs and alcohol in the rail industry.

³ *Improving the Regulatory Framework for Rail Safety in Australia*, NTC, May 2004

4. THE SIZE AND NATURE OF THE PROBLEM

4.1 Nature of the problem

Alcohol and drug use has the potential to impact on performance at work including the potential to increase the risk of an incident resulting in the loss of productivity, asset damage, injury or death.

The following evidence from the National Institute on Alcohol Abuse and Alcoholism in the United States indicates some of the dimensions of the problem:

Alcohol-related job performance problems are caused not only by on-the-job drinking but also by heavy drinking outside of work (15, 19). Ames and colleagues (15) found a positive relationship between the frequency of being "hungover" at work and the frequency of feeling sick at work, sleeping on the job, and having problems with job tasks or co-workers. The hangover effect was demonstrated among pilots whose performance was tested in flight simulators. Yesavage and Leirer (20) found evidence of impairment 14 hours after pilots reached blood alcohol concentrations (BACs) of between 0.10 percent and 0.12 percent. Morrow and colleagues (21) found that pilots were still significantly impaired 8 hours after reaching a BAC of 0.10 percent. Drinking at work, problem drinking, and frequency of getting "drunk" in the past 30 days were positively associated with frequency of absenteeism, arriving late to work or leaving early, doing poor work, doing less work, and arguing with co-workers (19).⁴

This highlights the short and longer term aspects of drug and alcohol use. A British study of illegal drug use notes that:

Previous work has provided evidence for functional and cognitive deficits associated with drug use. These studies have considered both acute effects of drugs (within a few hours – see Golding, 1992) and also chronic effects of drug usage that may be independent of acute effects of the drug. However, there has been an absence of studies that have looked at drug effects several days after use. We do not know, therefore, whether recreational drug usage at the weekend may have effects on performance and safety at work several days later.⁵

The UK study in its survey found that the work impacts of drug use included:

- Lower alertness;
- Lower hedonic tone (i.e. less positive mood);
- Slower concentration reaction times;
- Slower attention reaction times;
- Poorer memory; and

⁴ The National Institute on Alcohol Abuse and Alcoholism, USA, Alert No 44, 1999, <http://www.niaaa.nih.gov/publications/aa44-text.htm>

⁵ The scale and impact of illegal drug use by workers, Andy Smith, Emma Wadsworth, Susanna Moss, Sharon Simpson Centre for Occupational and Health Psychology Cardiff University, HSE research report, 2004.

- Poorer reasoning performance.⁶

Importantly the performance impacts varied by the type of drug. Further the impacts vary according to the presence of other risk factors such as demographics, heavy alcohol use and smoking.

*The cognitive failures and injury data also show that it is essential to consider drug use in combination with other risk factors. This could be extended to performance testing, to examine whether drug use not only has direct effects, but also makes the person more sensitive to other factors (e.g. noise, working at night, a high workload).*⁷

The study did not find a direct association between drug use and workplace accidents but concluded that recreational drugs may reduce performance efficiency and safety at work.

Other research on the relationship between drug use and workplace safety has indicated there is no clear association. This highlights the difference between testing that indicates presence of a drug and any conclusion that drugs play a causal role in workplace incidents. Apart from alcohol, other drugs are not able to be easily measured for a level of “intoxication”. The intoxicating effects of drugs are most likely linked to workplace safety incidents.

4.2 Size of the Problem

The size of the drug and alcohol problem in the rail workplace cannot be precisely scaled given the lack of rail specific data. However it is reasonable to assume that the exposure to drugs and alcohol in the rail work force is similar to the work force in general.

Pidd states that the research on prevalence of drug use in the workplace is limited in Australia but argues that the available evidence suggests:

*That while there are variations across workplaces, the overall consumption patterns of workers are similar to the consumption patterns of the general population. As the majority of drug users are employed it is logical that one indicator of costs to the workplace are the drug related health statistics of the general population.*⁸

Estimates of the size of the drug and alcohol problem in Australian workplaces include the cost of sickness and death to industry of alcohol and drug abuse. This has been estimated at \$3.7 billion per year.⁹

⁶ Ibid, p.37.

⁷ Ibid, p.86.

⁸ Ken Pidd ‘Drugs and Alcohol “Abuse” and Testing of Workers for the Presence of Drugs and Alcohol’, National Centre for Education and Training on Addiction (NCETA), Flinders University, 2000, p.9.

⁹ Cited in NSW WorkCover, Drugs, Alcohol and the Workplace, p4. 1995.

A summary of research by the Western Australian Health Department¹⁰ reports that:

Studies show that between 8 per cent and 22 per cent of employees drink at hazardous or harmful levels, and in any one year, alcohol-related problems are experienced by up to 27 per cent of the working population.

Alcohol and driving studies which show the impairment of fine motor skills and concentration demonstrate that there is a clear relationship between intoxication and an increased risk of accidents while operating complex machinery.

Accidents caused by alcohol intoxication at work peak in the first two hours of the afternoon shift and from 10 p.m. to midnight in the evening shift.⁵ This is consistent with employees consuming alcohol over lunch or before an evening shift.

The National Treatment Agency for Substance Abuse in the United Kingdom estimates the cost to industry of illegal drug use is at £800 million each year¹¹. The problems identified by the agency that can arise where employees are misusing substances can include:

- Poor performance and reduced productivity;
- Increased staff turnover and loss of experienced staff absenteeism: up to fourteen million working days are lost as a result of alcohol misuse, amounting to about three to five per cent of all absence;
- “Presenteeism” – an employee may be at work but under-perform due to alcohol or drug use at lunchtime, during breaks or from the previous night. When working with drug or alcohol users, a hangover can affect an individual’s work and might be perceived negatively by potentially vulnerable service users;
- Increase in complaints;
- Damage to organisation’s reputation and image;
- Accidents: alcohol contributes to an estimated 20-25 per cent of workplace accidents;
- Stress and low morale;
- Workplace bullying;
- Theft by employees; and
- Health problems¹².

¹⁰ Alcohol and the Workplace, Alcohol and the Drugs program, Public Health Division, Health Department WA, 1999.

¹¹ Developing drug service policies. Briefing no. 3: Drugs and alcohol in the workplace, Julie Virgin, DrugScope, for National Treatment Agency, www.nta.nhs.uk, 2004.

¹² Ibid, pp.3-4.

A review of literature by the US Department of Labour¹³ reports the following workplace impacts of drug and alcohol abuse:

- One in five workers report that they have had to work harder, redo work or cover for a co-worker or have been put in danger or injured as a result a fellow employee's drinking;
- Up to 40 percent of industrial fatalities and 47 percent of industrial injuries can be linked to alcohol consumption and alcoholism; and
- Alcohol and drug abuse has been estimated to cost American businesses roughly 81 billion dollars in lost productivity in just one year—37 billion due to premature death and 44 billion due to illness. Of these combined costs, 86 percent are attributed to drinking.

4.3 Rail Industry Drug and Alcohol Data

There is a widely held belief, both in Australia and overseas, that drug and alcohol use is a significant problem within society in general. With Governments and the community looking for ways to address this problem through such activities as assistance programs, education and law enforcement, Governments have set specific requirements for how drugs and alcohol are to be managed within the rail industry.

However, due to limitations on the way data reflecting the effectiveness of current policy and management application is collected and reported within the rail industry, quantification of the extent of the problem in rail is difficult.

Table 1 provides a summary of data which was made available to the NTC, sourced from data provided to the rail regulators and some from the Australasian Railway Association (ARA) as a result of notifiable occurrences or as part of an organisation's testing program.

Table 1. Summary of Industry Available Data

State	Data Made Available
Northern Territory ¹⁴	To date there have not been any cases returning a positive test result for either drugs or alcohol.
South Australia ¹⁵	<p>Results are for the period 1st January 1997 to 26th January 2004. A total of 539 tests were conducted over the period:</p> <ul style="list-style-type: none"> • A total of 222 tests were conducted for both drugs and alcohol where: <ul style="list-style-type: none"> ▪ 204 tested negative to both; ▪ 15 tested positive to drugs and negative to alcohol; ▪ 3 tested positive to alcohol and negative to drugs; (No employee tested positive to both drugs and alcohol) • A total of 307 tests were conducted on the employees for

¹³ Working partners for an Alcohol and Drug Free Workplace website, Department of Labor, US, <http://www.dol.gov/workingpartners/welcome.html>

¹⁴ Regulator, NT.

¹⁵ Rail Services, Transport SA

State	Data Made Available
	alcohol only where: <ul style="list-style-type: none"> ▪ 304 tested negative ▪ 3 tested positive • A total of 10 tests were conducted on the employees for drugs only where: <ul style="list-style-type: none"> ▪ 3 tested negative ▪ 7 tested positive
Western Australia ¹⁶	<ul style="list-style-type: none"> • 2002 15 reports DRUG 2 reports ALCOHOL • 2003 8 reports DRUG 1 report ALCOHOL <p>This only reflects actual positive test results. Figures for the total number of tests undertaken by the various companies were not available.</p>
NSW ¹⁷	From recent testing: <ul style="list-style-type: none"> • Only 0.12% of random alcohol tests proved positive out of some 24,654 tests, as of 9th September 2004; and • Only 0.45% of random drug tests proved positive out of 655 tests as of 9th September 2004, with the notable drug detected being cannabis.
Victoria	Only one positive alcohol test result reported to the regulator in 2003.
Tasmania	There have been no reported incidents where alcohol was a contributing factor.
Queensland	From the incidences reported to the regulator none have been linked with the use of drugs and alcohol.
Industry Example ¹⁸	In the first 3 months of 2004, a company that tests approximately 6% of the workforce per month has returned only 1 positive drug and alcohol test result, which represents 0.25% of its workforce.

Whilst data exists relating to drug and alcohol management programs associated with testing, the data itself is managed (reported, collected, analysed, etc.) in different ways across jurisdictions and any statistical analysis of industry trends is difficult to accomplish.

It is also interesting to note that Railcorp publishes the results of its testing program on the internet (refer http://www.cityrail.info/aboutus/our_performance/alcohol_testing.jsp), making the data freely available.

There is a generally increasing trend in society as it relates to the use of drugs. The Railcorp positive test result data shows that drug use is four times worse than that for

¹⁶ DPI, WA.

¹⁷ Source: http://www.cityrail.info/aboutus/our_performance/alcohol_testing.jsp

¹⁸ Source: ARA

alcohol, even though the numbers are less than 1%. However, it is a critical risk which needs to be managed effectively and whilst the focus of testing is on illicit drug use, of equal importance is the impairment suffered from the use of prescription and over the counter medicines.

Data which quantifies the cost of the drug and alcohol problem within the rail industry does not exist. The best that is available comes from the Bureau of Transport and Regional Economics (BTRE). In a 1999 BTRE report the annual costs of rail accidents in 1999 amounted to \$111 million¹⁹, excluding level crossing rail accidents, level crossing accidents involving motor vehicles and suicides/attempted suicides.

It should be noted also that the quality of the data available to prepare the estimates contained in this BTRE report was generally quite low, compared with the quality of data available from other industries. It is anticipated that the establishment of a national rail occurrence database will progressively resolve at least some of the data quality issues encountered.

What is also significantly missing from the BTRE report is information about the actual causal factors that lead to an accident, for example were drugs, alcohol, fatigue or worker health are contributing factors.

Certainly more data is required to quantify the extent of drug and alcohol use, the effectiveness of current management practices, and its associated cost within the rail industry.

The inquiry²⁰ into substance abuse in Australian Communities makes the observation that there is not a great deal of research that has been done about the impact of substance abuse in the workplace, however, there are costs involved in the impact and the states, territories and the Commonwealth government have responsibilities collectively in this area.

4.4 Improving the Reference Data

There is no statistically verified data to support the level of effectiveness of current drug and alcohol controls in managing the associated risks for the rail industry. The lack of data about drug and alcohol use hinders any meaningful assessment of current management approaches. For example in the USA (refer 6.2) drug and alcohol test data reported to the Federal Railroad Administration (FRA) is used to assess the industries' management program and make adjustments accordingly.

Current reporting requirements also vary between respective drug and alcohol policies. These include:

- When a drug and alcohol test is considered to be a Notifiable Occurrence.
- When and how general drug and alcohol testing is reported to the regulator.
- Monitoring the overall performance of drug and alcohol controls using test related data.

¹⁹ BTRE Report 108

²⁰ Road to recovery: Report on the inquiry into substance abuse in Australian Communities, House of Representatives, Standing Committee on Family and Community Affairs, August 2003 Canberra, p 273.

By example, one way of improving the data set might be to have all drug and alcohol related data reported annually to respective regulators, who would then forward it to a body such as the Australian Transport Safety Bureau (ATSB) for assessment, aggregation and general publication. Alternatively, the data could be provided directly to the ATSB. This reporting could be overseen by the respective regulators as part of the accreditation process, or through regulation if specifically required.

The Standing Committee on Family and Community Affairs recommends that national standards be developed for collecting data on workplace harm²¹, across all jurisdictions, to help assess the link between drug use and safety.

Obviously the sensitivity of this data both from a commercial and privacy perspective would need to be recognised when it is reported and results and data analysis made public.

Discussion Topic 1:

Improved performance data is required to reflect the ongoing effectiveness of current drug and alcohol policy and implementation in managing the risks. Therefore:

1. What type of drug and alcohol use data should industry report?

Typical data that could be reported could include information on such things as listed below:

- i. Number of employees in company;
- ii. Business activity: manager, operator, freight, passenger, metropolitan, inter or interstate, heritage, etc.;
- iii. Number of pre-employment tests conducted and number that tested positive;
- iv. Number of employees tested in random tests or on reasonable grounds and number that tested positive;
- v. Number of incidents, category of incident, number of employees tested associated with each, and number that tested positive.
- vi. Costs associated with drug and alcohol testing, training and education programs;
- vii. Number of employees whose employment was terminated due to drug and alcohol use.

A suitable data set to be reported could be agreed between industry stakeholders (regulators, operators, track managers, ATSB, etc.).

2. How is the data best collated, via the regulator to some other body such as the ATSB, or directly to that agency, or other method?

3. To assist in the development of the Regulatory Impact Statement for this review, respondents are invited to provide data associated with their drug and management programs in their submissions.

²¹ Road to recovery: Report on the inquiry into substance abuse in Australian Communities, House of Representatives, Standing Committee on Family and Community Affairs, August 2003 Canberra, p 280.

5. DRUG AND ALCOHOL LEGISLATION

5.1 Introduction

With a high level of importance placed on public safety, Governments have already legislated with regards to drug and alcohol controls for the rail industry. The current legislative approach Governments have adopted is summarised as follows:

- Establishment and definition of requirements within respective jurisdictional legislation and regulation;
- Definition of limits associated with the use of drugs and alcohol;
- Definition of testing requirements and associated powers to test; and
- Establishment of a compliance and enforcement regime, including penalties for non-compliance.

Generally, the basis of rail safety drug and alcohol policy has been adopted from road safety policy within each jurisdiction.

Industry performance is primarily monitored through incident reports submitted to a regulator and the accreditation audit function.

5.2 Current Legislation in Australian Jurisdictions

A review and comparison of the relevant Acts and Regulations associated with drug and alcohol policy within the rail industry is summarised in Appendix B.

The principles applied to the management of drugs and alcohol is generally consistent amongst jurisdictional policy, however there are areas of difference, which include:

- The content within legislation relating to drug and alcohol provisions: some are brief while others are lengthy in detail, distributed between primary legislation and subordinate regulations;
- For alcohol, the prescribed concentration (Blood Alcohol Concentration - BAC) varies across jurisdictions, 0.00 BAC (Victoria), 0.02 BAC and 0.05 BAC (Tasmania). It is argued by some that 0.00 BAC and 0.02 BAC is considered to be fundamentally similar, representing the same level. This is argued on the basis that a BAC of 0.02 exists where there is no discretion in prosecution and has the same outcome as 0.00 in another jurisdiction where there is some discretion. The numerical difference is based on the existence of natural alcohol in the body, hence setting a BAC of 0.02 with no discretion is really saying zero with some discretion.

Whilst legislation in Tasmania specifies a BAC of 0.05, this will be changed in the next legislative review to be consistent with other jurisdictions. It should be noted though that the operators within the state enforce a zero tolerance requirement for its workers;

- The definition of a railway worker and safety work varies slightly and in some cases the application of drug and alcohol controls is applied to all railway workers/employees, not just rail safety workers, regardless of position or work function;
- The defined penalties/offences vary across jurisdictions;

- There are varying cross references within individual jurisdictions to road safety and other legislation relating to drugs and alcohol, including listings of illicit drugs;
- The definition of a drug and impairment, noting:
 - i. Recent changes in legislation by Victoria to broaden the perspective on drug impairment to include prescription and over-the-counter medicines and herbal remedies, in addition to illegal drugs;
 - ii. As it relates to drug use, defining what is ‘impairment’ and how is it determined;

The requirements for testing for either drugs, alcohol or both. Jurisdictions specify different requirements for testing regimes.

5.2.1 Maintaining the Current Framework

Through accreditation requirements Australian Standard AS4292.1 contains a requirement for a Safety Management System to include drug and alcohol controls. Through legislation and regulation, governments have further prescribed the content of some of those controls. For example:

- a. Prescribed limits for alcohol;
- b. Determining impairment;
- c. When and how to test;
- d. Applicable penalties and offences; and
- e. Authorities and powers.

The ultimate responsibility for setting rail safety policy, especially from a public safety perspective, is considered to be the prerogative of Governments, hence, the current legislative approach that has been adopted to drug and alcohol controls within the rail industry.

The present legislative arrangements differ between the respective jurisdictions to varying degrees, which gives rise to concerns over the consistency of Government drug and alcohol policy. In addition, the management practices that have been developed and implemented by train operators and track managers also vary amongst the organisations (refer appendix C).

Discussion Topic 2:

1. Based on the review comparing jurisdictional legislation (refer 5.2 and Appendix B) and from industry available data (refer 4.3), is there a need to change the present regulatory environment pertaining to the management of drugs and alcohol?
2. Can changes be made to achieve best practice in the management of drugs and alcohol and what then would you consider to be the ‘best practice’ approach?

6. INTERNATIONAL APPROACHES TO DRUG AND ALCOHOL LEGISLATION

6.1 The United Kingdom (UK)²²

Similar to the Australian regulatory environment, it is an offence under section 27 of the Transport and Works Act 1992 (UK) for employees to carry out, and for employers to allow employees to carry out, tasks such as train driving or signal operation (tasks sometimes called safety critical), while under the influence of drugs or alcohol. The British Transport Police enforces this part of the law.

All companies working for Network Rail in the UK, train operating companies or station operating companies on Network Rail's infrastructure have a Railway Safety Case which is assessed and accepted by the Health and Safety Executive (HSE). The safety case will cover the company's policy on the use and testing for drugs and alcohol.

Procedures for detecting drug and alcohol abuse are also likely to be necessary for determining fitness for undertaking safety critical tasks under the Railway (Safety Critical Work) Regulations 1994 (UK) which HSE enforces.

The British Railway Group Standard GH/RT8070 also contains mandatory controls designed to prevent accidents and incidents occurring on Network Rail controlled infrastructure as a result of impaired performance due to the consumption of drugs or alcohol.

Any allegations of drug and alcohol abuse in the railway industry are of concern, particularly if they involve workers such as signallers, drivers, or track-side workers, whose work is safety critical.

Railway operators also carry out drug and alcohol testing for selecting or promoting staff to safety critical tasks and after incidents. Some pre-employment medicals may cover this in Australia to a limited extent, but are generally not applied for promotions.

Random testing is sometimes undertaken as a deterrent. There is an issue within the UK as to how random such testing should be. It is important to have employees available for testing, but equally it may defeat the purpose if a warning is given prior to testing commencing, as happens.

The requirement for employees to give samples for testing is usually dealt with as a term in the employment contract of those working on the rail transport system. HSE supports testing for the purpose of selecting safety critical workers and random testing as a deterrent, but believes the details are for the employer and employee to determine.

6.2 United States of America (USA)

The USA uses regulatory control to manage drugs and alcohol, which is administered through the Federal Railroad Administration (FRA). The regulation on the control of drug and alcohol use (49 CFR Part 219 and 40) applies to all railroads that operate on the general rail system within the United States (Note: this excludes certain operations, eg. metro systems).

²² <http://www.hse.gov.uk/railways/liveissues/drugs.htm>

The purpose and scope of the regulation is²³:

- a. The purpose is to prevent accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs;
- b. It prescribes minimum Federal safety standards for control of alcohol and drug use. It does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with the regulation.

In a final rule published on December 2, 1994 (59 FR 62218), the FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from the FRA's Management Information System. Based on this data, the Administrator publishes a Federal Register notice each year, announcing the minimum random drug and alcohol testing rates for the following year (see 49 CFR 219.602, 608).

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates). FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

In 1994, FRA set the 1995 minimum random drug testing rate at 25 percent because 1992 and 1993 industry drug testing data indicated a random drug testing positive rate below 1.0 percent; since then FRA has continued to set the minimum random drug testing rate at 25 percent as the industry positive rate has consistently remained below 1.0 percent. In a recent announcement the FRA stated that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2003 through December 31, 2003, since the industry random drug testing positive rate for 2001 was 0.77 percent²⁴.

The FRA has also implemented a parallel performance-based system for random alcohol testing. Under this system, if the industry-wide violation rate is less than 1.0 percent but greater than 0.5 percent, the rate will be 25 percent. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. The FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate. Since the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years, the FRA set the minimum random alcohol testing rate at 10 percent of covered railroad employees for the period January 1, 2003 through December 31, 2003. Railroads remain free, as always, to conduct random testing at higher rates.

²³ <http://frwebgate4.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=20175132214+7+0+0&WAISaction=retrieve>

²⁴ Federal Register: January 2, 2003 (Volume 68, Number 1), Rules and Regulations, Page 57, From the Federal Register Online via GPO Access [wais.access.gpo.gov], DOCID:fr02ja03-28.

6.3 International Labour Organisation

The International Labour Organisation (ILO) has developed a code of practice for the management of alcohol and drug-related problems at the workplace²⁵.

The code of practice was developed in recognition that there are problems relating to alcohol and drugs which may arise as a consequence of personal, family or social factors, or from certain work situations, or from a combination of these elements. Such problems not only have an adverse effect on the health and well-being of workers, but may also cause many work related problems including deterioration in job performance. Given that there are multiple causes of alcohol and drug related problems, there are consequently multiple approaches to prevention, assistance, treatment and rehabilitation.

The practical recommendations of the code of practice are to provide guidance to all those who have responsibility for addressing alcohol and drug related problems at the workplace. The code is not intended to replace international standards, national laws, regulations or other accepted standards. Alcohol and drug policies and programs should apply to all staff, manager and employees and should not discriminate on grounds of race, colour, sex, religion, political opinion, national extraction or social origin.

The objectives of the code are to promote the prevention, reduction and management of alcohol and drug related problems in the workplace.

It should be noted that NSW cites this as a reference source in its published guidelines.

Discussion Topic 3:

Are there principles of the UK system, the USA system or elements contained within the ILO code of practice which can be considered best practice in the management of drugs and alcohol which can be applied within the Australian rail industry?

²⁵ “*Management of alcohol and drug-related problems at the workplace*”, Code of Practice, International Labour Office Geneva, 1996.

7. REGULATORY OPTIONS FOR MANAGING DRUGS AND ALCOHOL

7.1 Option 1: Change or Harmonise Current Legislation

Whilst similar principles have been adopted by most jurisdictions in ensuring adequate drug and alcohol controls are in place, there are some obvious differences which can be overcome by the formulation and application of national uniform policy in this area.

Issues to consider in changing the current framework include, for example:

- The management of risks associated with drugs and alcohol are to some degree ineffective due to best practice not being adopted in all jurisdictions;
- There are industry inefficiencies in having to comply with varying requirements across jurisdictions, eg. administrative, management system, training costs; and
- There is a substantial lack of information available on how well drug and alcohol risks are being managed within the industry.

Discussion Topic 4:

1. Should drugs and alcohol continue to be regulated by rail safety legislation?
2. If you support a legislative approach, what are the respective roles for principal and subordinate legislation, codes of practice and guidelines?
3. Similar to what has been done in New South Wales (NSW) with the issue of guidelines by Independent Transport Safety and Reliability Regulator (ITSRR)²⁶, should national guidelines for managing the risks associated with drugs and alcohol be developed? Could a Code of Practice be developed to provide such guidance?

7.2 Other Considerations

7.2.1 The Role of Testing in a Drug and Alcohol Policy

Testing for alcohol and more recently drug misuse has become a key issue in our society as evidenced by the approach adopted in the road sector where public safety is a very important issue that needs to be considered.

There is also a growing movement towards screening for drugs in many different situations. Rapidly developing technology suggests that the testing of urine, hair, saliva or sweat samples for evidence of drug misuse will become easier in the near future. Take, for example, the work in Victoria in the road area as it relates to impairment whilst driving and

²⁶ Guidelines relating to Drug & Alcohol Programs, ITSRR.

roadside testing for illicit drug use²⁷, as well as the procedure to be followed in Assessing Drug Impairment²⁸ for the rail industry within Victoria.

Requirements for testing are prescribed in individual Acts, regulations or a combination of both with some obvious differences, which include:

- The way in which drug and alcohol testing requirements are defined:
 - Part in Act, some by regulation;
 - Mandatory for incidents and accidents; and
 - Can be performed on reasonable grounds or suspicion of being under the influence of drugs and alcohol.
- Several jurisdictions endorse the introduction of random testing in legislation and regulation as a means of controlling the risks associated with drug and alcohol use, although it is not stated as being mandatory, while other jurisdictions are silent in regulation on this form of testing; and
- In some jurisdictions the definition for the requirements on testing is highly prescriptive, whilst in others brief.

The scientific and evidentiary support relating to alcohol impairment and testing is well established and proven in law. This is not so as it relates to drugs and impairment, which is evident in the way much of the rail safety legislation is currently drafted. Whilst drug testing can provide a presence indicator as to usage, being able to measure and prove impairment is in its infancy. More research is required to demonstrate the link between presence and impairment.

That said, testing for drugs does provide a tool for identifying and managing those who may present a safety risk in the workplace by continuing to use drugs. Obviously a distinction needs to be made between illicit, prescription, over the counter and herbal drugs and a safety management plan must consider these factors when dealing with such issues in the workplace.

Making this distinction between the classes of drugs is an important issue and the control for each may vary too. Victoria has already identified this and has incorporated into its latest regulations new controls to address these differences.

Senior analyst Kathryn Heiler from the School of Business at the University of Sydney (acirrt) has raised questions about the validity and usefulness of workplace drug and alcohol policies²⁹.

Heiler claims that drug tests cannot draw conclusions about likely impairment (especially with respect to cannabis), but only recent use. It is therefore the case that workplace testing

²⁷ http://www.dpc.vic.gov.au/domino/Web_Notes/newmedia.nsf/798c8b072d117a01ca256c8c0019bb01/970b8c97640f495bca256dcf00784200?OpenDocument

²⁸ Victoria Government Gazette, No. S 108 Tuesday 25 June 2002

²⁹ Drugs and alcohol management and testing standards in Australian workplaces: avoiding that “morning-after” feeling, Working Paper 81, Kathryn Heiler, acirrt, University of Sydney. From the Breakfast Briefing, 5 December 2002, Masonic Centre Sydney.

is not undertaken for the purposes of ascertaining impairment, but rather for the purposes of detecting presence. This point was also highlighted in the outcomes of Western Australian Industrial Relations Commission hearing of 1999³⁰.

According to Heiler also, the current interest in ensuring that employees do not use drugs or alcohol at work and are not impaired when they arrive at work, is leading to a proliferation of differing approaches to its management. In particular, the spread of workplace testing in Australia is raising new and as yet unresolved problems associated with standards, accuracy of testing, fair and effective procedures that protect employers and employees alike.

The comments of Heiler relate to the quantity of metabolites which can reside in the body for some time. More recent test methods (as used in Victoria for road vehicles) are able to test for the active agents directly.

The complexity of issues associated with a company's decision to undertake an effective drug and alcohol program cannot be underestimated. There are legal, industrial relations, scientific and technical, ethical, privacy and management issues to consider.

As part of the overall risk management framework, testing for drugs and alcohol is just one risk assessment tool, rather than the main focus of the entire approach to managing the problem.

Discussion Topic 5:

If common national policy is developed for the management of drugs and alcohol, things to consider as it relates to testing include:

1. What specific requirements on testing should be included in national policy?
2. When should testing be mandatory?
3. Are there benefits to having random testing compulsory for all the industry (as per the USA, refer 6.2) or should the introduction of such be part of an operator's decision to include it in its safety management system, where due to risk it is considered necessary to ensure rail safety workers are not working under the influence of drugs or alcohol?
4. How should a safety management system incorporate testing given that an operator should also be considering larger issues of OH&S, general fitness for duty, employee education, training and counselling schemes?

7.2.2 Drug Policy – Presence vs Impairment

The testing for drugs does not assess impaired performance but rather indicates the presence of drugs in the system. Depending on the testing method used, levels of a particular drug can be identified, along with estimates of when last used. It is extremely difficult to determine impairment or even when a person was likely to have been impaired.

³⁰ WAIRC, Aust. Railways Union of Workers & Others –and- Western Australian Government Railways Commission, No. CR257 of 1998, Commissioner A.R. Beech, 20 January 1999.

This is especially the case with cannabis because traces can be detected a long time after use.

Consequently the likely impairment effect of drugs is difficult to ascertain. Some approach the problem on the basis that the detection of the presence of a drug is therefore considered as inappropriate drug use and therefore, possible impairment.

Whilst rail safety legislation details that workers should not be 'impaired' or under the 'influence' of drugs when about to start or while at work, the definition of impairment is not so clear.

A large body of research work exists about the effects of alcohol on performance, which has been tested in law through road safety legislation. The impairment effect of drug use is still unclear and enforcement in law is still a matter undergoing research. Whilst research suggests drugs have similar effects to alcohol on performance, as yet there are no clear limits established.

In addition, after cessation of drug use, the time in which the total elimination of the substance from the body is achieved can be considerable, eg. cannabis, where the effects are immediately obvious on use but residual traces of the can drug remain in the user's blood for weeks. Attempting to perform rail safety work whilst suffering its effects is an offence under rail safety legislation, but how is the user to be treated if these residual traces of the drug are still found to exist a week after its consumption, as at the time of testing he is not impaired? These are important issues which still need to be explored further in the development of management principles in this area.

Similarly, in the course of a doctor prescribing a drug for use by a worker, the worker's fitness for work may very well be affected by the intake of such a prescribed medication.

To overcome some of these problems, the Victorian Government³¹ has published a list of drugs that identifies those that can impair a worker, and is supported by procedures for determining impairment.

It should be noted also that the recent inquiry into substance abuse in Australian Communities also considers that drug screening programs should be part of a test of fitness for duty where public safety is a concern³² and that it is reasonable to test for drugs where there is a risk to public safety and security.

The research on the effects drugs can have on a worker continues, and the outcomes from this will enable legislators in the future to define more clearly what drug impairment is.

Recent research³³ on this subject demonstrates the role of Delta(9)-tetrahydrocannabinol (THC), the major active component in cannabis, has in driver impairment and motor vehicle crashes. The degree of performance impairment observed in experimental studies after doses up to 300 microg/kg THC were equivalent to the impairing effect of an alcohol dose producing a blood alcohol concentration (BAC) ≥ 0.05 g/dl.

³¹ Victoria Government Gazette, No. S 108 Tuesday 25 June 2002

³² Road to recovery: Report on the inquiry into substance abuse in Australian, Communities, House of Representatives, Standing Committee on Family and Community Affairs, August 2003 Canberra, p 288.

³³ Dose related risk of motor vehicle crashes after cannabis use-Ramaekers JG, Berghaus G, van Laar M, Drummer OH. Drug Alcohol Dependence 2004; 73(2): 109-119.

Discussion Topic 6:

One of the critical problems is the fact that there is inadequate information at present on the relationship of drug use to impairment.

1. What policy direction is best as it relates to drugs: presence or impairment? What should be contained within legislation/regulation pertaining to this? Are different approaches warranted for alcohol as distinct from drugs?
2. What principles should be applied in the management of the risks associated with drug use based on the policy direction?
3. Should future national policy development follow research as it determines more clearly the relationship between a positive drug test result and impaired performance?

7.3 Option 2: Seek coverage under OH&S Legislation

AS4292.1 and the various jurisdictional Acts and regulations do not alone define the full compliance requirements for drug and alcohol policy and application within the rail industry. Various other Acts and regulations are also referenced directly or indirectly within the regulatory framework for drugs and alcohol (refer Appendix A). These too, are structured differently between jurisdictions. These include:

- The legislative links to jurisdictional based road safety Acts;
- The legislative links to jurisdictional based drug Acts and associated drug listings;
- General duty of care responsibilities as required under Occupational Health and Safety (OH&S) legislation.

Drug and alcohol legislation builds upon the general requirements of OH&S and may be considered complementary.

7.4 OH&S Legislation

OH&S legislation contains a general duty of care for an employer in any industry to provide a safe and healthy workplace, which includes implementing policies in respect of drug and alcohol management. Under rail safety legislation the objective is to extend this same general duty obligation beyond the worker to incorporate critical public safety requirements.

However, in respect of drug and alcohol management there is an emerging overlap in the areas of rail safety regulation and OH&S legislation. Examples of how drug and alcohol management is being implemented through the OH&S framework include the following:

1. Workcover in NSW has issued guidelines for developing a workplace drug and alcohol policy, that 'aims to assist employers establish a workplace drug and alcohol policy so that the issue can be dealt with ethically, legally and to the benefit of both the organisation and the employee'³⁴;

³⁴ Drugs, alcohol and the workplace: 'A guide to developing a workplace drug and alcohol policy', Workcover NSW October 1995

2. The Northern Territory has issued a bulletin which outlines the basic considerations that an employer should follow in developing a workplace alcohol policy³⁵;
3. In Queensland, Workplace Health and Safety has issued a paper that provides information to employers, managers, unions, occupational health and safety practitioners, health and safety officers, committees and representatives in dealing with alcohol and drugs and their effects at the workplace³⁶.
4. The WorkCover Corporation in South Australia has issued 'Guidelines for Drugs, Alcohol & the Workplace' (Feb 2001), which is based on the same document issued by Workcover NSW;
5. In Tasmania, Workplace Safe has issued two documents the '*Hidden Hazards: A Guide for Employers*' and the '*Hidden Hazards: A Guide for Workers*', which explains the legal obligations that everyone has to make workplaces healthy and safe and to manage hidden hazards, using the four SAFE steps of risk management. It details how you can develop policies to deal with hidden hazards, which includes alcohol and other drug misuse;
6. The WorkSafe Western Australia Commission has released a Guidance Note on how to satisfy the general duty of care obligations under the Occupational Safety and Health Act 1984 as it relates to the use of alcohol and drugs in the workplace³⁷.

Whilst it is evident there is the joint interest between rail and OH&S agencies, it is important that a consistent approach be developed to the management of drugs and alcohol. The need for consistency will range from policy development to enforcement. This will be especially so, with the development of any national rail safety model legislation.

7.4.1 Rail Transport or OH&S Regulation

An option to consider is to completely remove drug and alcohol management from the current rail safety regulatory framework. This would mean the removal of all current legislative requirements, with the industry left to self-regulate its approach to managing drugs and alcohol. However it would still be a requirement to demonstrate for accreditation purposes, under AS4292.1, that an adequate management policy for drugs and alcohol was in place. The adequacy of such could be controlled under OH&S legislation, supported by a code of practice or guidance documents to provide for drug and alcohol management and a safe system of work. This approach is likely to still require a clear definition of what is acceptable in terms of controls and what would be the cut-off limits, eg. 0.0 or 0.02 BAC.

In fact governments have only seen it necessary to legislate tighter drug and alcohol controls for the rail and road environments, mainly due to the importance of "motor" skills to the driving and operating task, and the high public safety profile that road and rail transport attract. In the aviation industry, whilst current safety regulations prohibit a flight crew from being under the influence of drugs and alcohol, notably though, management policy in this industry is different with little in terms of a testing program to support the

³⁵ Work environment – developing an alcohol policy and getting help, NT Worksafe, Bulletin WH 15.01.04

³⁶ Alcohol and Drugs and the Workplace, Workplace Health and Safety, QLD Government, Brochure-034, January 2001

³⁷ *Guidance Note: Alcohol & Other Drugs at the Workplace*, WorkSafe Western Australia

policy objectives. However, a review of the safety benefits of introducing a drug and alcohol testing program for the Australian aviation industry is being conducted by the Department of Transport and Regional Services and the Civil Aviation Safety Authority (CASA)³⁸.

For all other industries, respective OH&S legislation seemingly is considered quite adequate for managing the risks associated with the use of drugs and alcohol, with the specific provisions noted in section 7.4 introduced under the OH&S framework. These provisions certainly seem to clarify the general duty of care required to manage drugs and alcohol and to minimise workplace safety risk, requiring those responsible to implement reasonable steps for the management of drugs and alcohol.

A specific drugs and alcohol code of practice can also be developed under the OH&S framework to support the general duty requirements. This Code would operate in the same manner as any other OH&S industry developed code, providing guidance on how outcomes could be achieved. The Code could be developed in such a way that it would demonstrate compliance with current OH&S and AS4292.1 requirements in relation to drugs and alcohol.

In terms of rail transport safety legislation, managing drugs and alcohol as a general duty of care obligation under OH&S legislation would not be imposing an additional requirement on rail operators over and above that to which they are already subject.

It may be required that some parameters would still be prescribed in regulation (OH&S or perhaps still in rail safety) such as prescribed limits for alcohol and what determines impairment. This may also be needed to ensure proper enforcement for non-compliance.

An important consideration is that it is possible that the option of effective deregulation in rail safety may not meet public expectations about the management of drugs and alcohol in the rail transport industry. Certainly the enforcement of a prescribed limit for alcohol and the determination of drug impairment remain critical issues that may require continuing legislative support, either in rail safety or through OH&S.

Rail safety is a sensitive topic, especially in metropolitan areas, and major incidences or accidents attract a great deal of public attention. Any future move that may be perceived to relax controls for drugs and alcohol may not be well received by the public. A change will require a demonstration and strong assurance to the public that safety standards are not been eroded.

It may require that specific elements of rail transport regulation cannot be dispensed with due to the public perception that rail safety cannot be the sole responsibility of rail operators under an OH&S regime.

Discussion Topic 7:

In considering the following discussion points the respondent should also consider the following:

- The current discussion in relation to the co-regulatory framework and how the risks can best be managed in the future; and

³⁸ Source: <http://www.casa.gov.au/hotopics/other/04-03-18and.htm>

Discussion Topic 7:

- What future rail safety regulations options will be required.

Discussion points include:

1. Should we move away from the current rail specific regulation on drugs and alcohol and have the OH&S regulatory framework hold the primary responsibility for policy and application in this area?
2. Should drugs and alcohol be regulated under both rail safety and OHS legislation? If so, what should be the boundary between OH&S and rail safety?
3. Are codes of practice under either rail safety legislation or OHS legislation suitable supports in the regulatory scheme? Would regulations provide stronger guidance to operators and more assurance to the public?

7.5 Other Commercial Boundaries

Other issues have been raised in relation to the management of drugs and alcohol where management policies differ amongst commercial enterprises. By example:

1. A mine site that uses rail to transport its product, but where the mine site conducts random testing for drugs and alcohol and the rail operator does not. The issue is the rail staff, on entering the mine site, being subject to random testing under the mine site's policy.
2. Contractors being used in various capacities and purposes in what is classified as a rail environment working under different awards, conditions and management policies for the accredited rail organisation.

In some circumstances these matters are covered by some of the current rail safety legislation, however in other cases these matters are associated with management application of policy and should be addressed under commercial/industrial arrangements as opposed to regulatory enforcement. Also OH&S places a general duty of care on an employer to treat contractors as employees.

The NTC's review into drug and alcohol management does not cover the areas noted above in points (1) and (2).

8. NON REGULATORY APPROACHES

The current regulatory framework provides a set of minimum requirements that must be met as part of obtaining accreditation, as well as providing an enforcement and compliance regime.

Management policy and practices have subsequently been developed to at least meet these minimum requirements, with each accredited organisation doing this in isolation and on an individual basis for obtaining accreditation. Appendix C provides a summary sample of the different approaches some organisations have developed for managing the risks associated with the use of drugs and alcohol.

There is no industry standard for managing the risks associated with drugs and alcohol, however in NSW the ITSRR has issued guidelines³⁹ in an effort to bring some consistency to the management of the drug and alcohol risks within NSW.

8.1 Developing a Workplace Policy

To ensure that they are fulfilling their rail safety and OH&S obligations, many employers and companies focus heavily on testing, and to a lesser degree on education and assistance, as a means of demonstrating compliance in managing drugs and alcohol.

Generally, the first step is to develop an agreed workplace drugs and alcohol policy that complies with jurisdictional legislation. Testing will work and bring adequate results only if it is part of an overall workplace policy. It should also be introduced hand in hand with the education, training, awareness, and assistance to prevent problems arising and for dealing with those identified with a problem. Responsible employers realise that developing a drug and alcohol policy before any problems arise means that they are fully prepared should an employee develop a drug or alcohol problem that affects their work⁴⁰.

A workplace drugs and alcohol policy – which may include testing – is a sensible and rational way to tackle a recognised problem. It should set out a clear system for helping someone with an alcohol or drug problem and getting him or her back to working efficiently. A policy means that all staff know the rules, including when it is not acceptable for their social life to impact their work. The introduction of a policy gives an opportunity for prompt recognition of a potential problem before it becomes severe.

A key feature of a policy is to set out what help will be offered to those employees whose alcohol or drug use may be impacting on their work, behaviour or reliability, and who might need skilled help in overcoming their problems. A drug and alcohol policy should make clear to all employees that this service is available.

Consideration should be given, on both an ethical and business basis, for discipline to be regarded as a last resort. A good workplace policy will recognise that, for some, the problem may become a disciplinary issue and thus will make clear at what stage this may happen, and what form the discipline will take.

³⁹ Guidelines relating to Drug & Alcohol Programs, ITSRR.

⁴⁰ *Alcohol and Drug abuse screening as apart of the safety aptitude criteria and safety aptitude regulations in traffic medicine and railroad exploitation service*, Dr. Andrej Virscek, Medical Officer, SZ - SLOVENE RAILROAD COMPANY (Slovenia), MADRID October 1999, UIMC GENERAL ASSEMBLY.

However, without some firm guidance in the development of the workplace policy, policies both within and between industries vary dramatically.

A workplace policy on drugs and alcohol should address matters such as:

- A description setting out the organisation's position on substance misuse, including any policy on testing and the extent of testing required;
- Awareness and assistance programs: develop links with local alcohol and drugs agencies, making sure that staff can be referred on when appropriate;
- Ensuring that all employees – at every level – know the rules, and when it is unacceptable for what they do in their social life to impact on their work;
- Training of supervisors and senior management;
- Fitness for duty;
- Health and lifestyle issues: making it clear that problem use will be treated as a health problem, rather than as a disciplinary problem, and in confidence;
- Counselling and rehabilitation processes; and
- Disciplinary action, where necessary.

With organisations within the rail industry varying in structure and size, this ultimately leads to a number of management options being adopted to achieve the same policy objectives. The industry examples provided in Appendix C demonstrate that whilst many of the above workplace policy requirements have been adopted, there is still variance in the manner in which that have been implemented.

Discussion Topic 8:

1. How important are national consistency and uniformity in the development and application of work place policy for managing drugs and alcohol in rail?
2. Does the rail industry need detailed guidance for developing a workplace policy on drugs and alcohol incorporating the points noted above?
3. If so how should this guidance be provided, eg. legislation, regulation, guidelines, code of practice or some combination of these instruments?

8.2 The Code Management Company Proposed Code of Practice

Prior to and since the introduction of specific regulatory requirements to control the use of drugs and alcohol, a number of organisations within the rail industry had established policies and procedures to manage the risks associated with the use of drugs and alcohol. Appendix C summaries some of the current management practices in place today.

To bring uniformity in the approach to managing the risks in this area for the rail industry, the Code Management Company (CMC) is presently conducting an industry review on the management of the risks associated with the use of drugs and alcohol and has produced a draft Code⁴¹ on this subject.

⁴¹ Refer to <http://www.ara.net.au/code/code.php>

This draft Code will be issued for wider consultation by the CMC in association with the release of this discussion paper.

The approach adopted in the draft encompasses the issues noted above, with some of the main features of the draft Code being⁴²:

- The Code provides practical guidance for the rail industry and its employees and their representatives to develop effective drug and alcohol management policies and procedures;
- The Code seeks to set a minimum standard for drug and alcohol management within the Australian Rail Industry;
- Recognising prescriptive standards have been set by legislation and as a minimum these need to be complied with;
- Testing for the presence of drugs and alcohol in the workplace is an essential component of a workplace policy. The Code sets out standards for drug and alcohol testing based on legislation and Australian standards;
- Enabling individually tailored risk treatments to be developed.

Discussion Topic 9:

1. Is the proposed CMC draft Code of practice an appropriate instrument for managing drugs and alcohol? If so:
 - a. What are the respective roles of legislation and the Code in providing general and specific guidance? How prescriptive should guidance be?
 - b. What evidentiary status should the Code be given?
 - c. How would it be applied by a railway organisation? and
 - d. How shall it be considered by regulators?
2. The NTC recommends that the CMC paper be considered in association with the issues discussed in this paper and appropriate comments made.
3. Does the proposed Code of Practice provide the best practice outcome for the management of drugs and alcohol in the rail industry in complying with current regulation? Future changes in legislation will also need to be considered.
4. Does the proposed content meet such criteria as discussed in section 8.1, or as detailed in the ITSRR Guidelines on drug and alcohol management, the International Labour Organisation (ILO) code of practice (refer 6.3) or other documents dealing with this subject in the workplace? If not, what is further needed in the proposed code?

⁴² 'Drug and Alcohol Management' (Draft), National Code of Practice for Australian Railway Operations, Code Management Company, 2004

8.3 OH&S and the Role of a Code of Practice

Within the legislative environment of OH&S, codes of practice have developed an important role, especially in dealing with hazards in the workplace and are used extensively. Codes of practice provide guidance about the way in which employers can act to mitigate the hazard.

If one of the outcomes of this discussion leads to drugs and alcohol being managed within the OH&S framework, then the proposed CMC draft Code of Practice could be further developed within this context.

9. INTEGRATED APPROACH

Drugs and alcohol, along with health and fatigue, are lifestyle issues that do not start and end when a person clocks on and off for work.

Lifestyle issues cannot be addressed by simply relying on any one regulatory instrument. Ideally it requires a combination of regulatory approaches eg. legislation, codes of practice and other initiatives such as education and training. The best results are likely to be achieved by a total package approach. In summary, as discussion on the NTC projects of health, fatigue and drugs and alcohol progress, together they address general fitness for duty, and the instruments to manage them should have benefits to the rail industry if they were common.

The key issue for workers in the rail industry (as well as for road) is fitness for duty and the ability of the worker to maintain expected performance standards whilst at work.

Impairment results in a decrease in worker performance and can be caused by any number of factors, such as drugs and alcohol, lack of sleep, time of day (working at night), being awake for an extended period of time, sickness, overall health and personal issues. Simply testing for drugs and alcohol will only address some of the possible causes of impairment.

Certainly, workplace conditions could also directly contribute to the level of drug and alcohol use. Such contributing workplace factors include long working hours, poorly managed shiftwork, stress, boredom, workplace conflicts, negative managerial styles, bullying, harassment and peer pressure.

It could be argued that a drug and alcohol policy is best included as part of a wider fatigue management program rather than a stand-alone program of its own, where the fatigue management program aims to ensure maximum levels of performance for employees at all times. This approach would need to be embodied in a rail safety management system.

These points should be considered when developing your response to the discussion points within this document.

10. SUMMARY

Drugs and alcohol have an effect in both the domestic and workplace environments. Since the inception of the legislative framework and accreditation regime for the rail industry in 1993, regulators have ensured that adequate controls have been in place for the management of drugs and alcohol within the rail industry.

Similarly, some sectors of the industry itself have been at the forefront in developing policy and procedures to manage the risks that drugs and alcohol can introduce into an operational environment. By example, the rail industry is one of the few within Australia where a significant number of operators implement random drug and alcohol testing.

The current approach Governments have adopted for managing drugs and alcohol can be summarised as follows:

- The establishment and definition of minimum requirements within legislation and/or regulation;
- The definition of limits associated with the use of drugs and alcohol;
- The definition of minimum testing requirements and associated powers to test; and
- The establishment of a compliance and enforcement regime, including penalties for non-compliance.

Whilst both Governments and industry have acted positively in the management of drugs and alcohol, there are some matters which need to be considered further:

- The formulation of common legislation/regulation;
- The ongoing relationship with OH&S in this area;
- Setting performance criteria and improving the reference data to measure this; and
- Defining and implementing best practice management.

In addition, one of the recurring problems highlighted within the rail industry is the lack of substantive data, which can be used in any review, monitoring and investigation into the industry. Due to limitations on the way data is collected and reported within the rail industry reflecting the effectiveness of current policy and management application, it is difficult to fully quantify the effectiveness of the current regulatory framework for managing drug and alcohol use. Notwithstanding this, data that is available would indicate that current management practices within the rail industry are seemingly effective.

Current reporting requirements also vary between respective drug and alcohol policies, such that the reporting, collection and analysis of drug and alcohol test data should be improved to provide performance related data and industry indicators.

Further discussion is required on the current framework as it relates to:

- The continued use of the present fragmented rail transport legislative framework;
- Improving the current policy and control approach using rail safety legislation linked to the outcomes of the concurrent co-regulatory project;
- Fully embracing policy and control under OH&S legislation;

- The deregulation of drug and alcohol control, allowing industry to set policy and manage as it deems necessary using a risk management approach;
- Utilising the proposed rail Australian Code of Practice within an agreed framework; and
- Collection and reporting of drug and alcohol related data.

These points are explored within this paper and your response on these will provide an important basis upon which to implement future policy. The paper also provides options on the future management of drug and alcohol risks which should be considered when developing a response to this paper. These possible options include, but are not limited to the following:

- a. Change or harmonise current legislation
- b. Seek coverage of drugs and alcohol under OH&S legislation
- c. Non-regulatory approaches
- d. Integrated approach.

Comment is sought on the current approach as highlighted throughout this paper and the identified possible options for improvement for the future. The discussion points are also summarised in Appendix A.

APPENDIX A: SUMMARY OF DISCUSSION POINTS

Discussion Topic 1:

Improved performance data is required to reflect the ongoing effectiveness of current drug and alcohol policy and implementation in managing the risks. Therefore:

1. What type of drug and alcohol use data should industry report?

Typical data that could be reported could include information on such things as listed below:

- i. Number of employees in company;
- ii. Business activity: manager, operator, freight, passenger, metropolitan, inter or interstate, heritage, etc.;
- iii. Number of pre-employment tests conducted and number that tested positive;
- iv. Number of employees tested in random tests or on reasonable grounds and number that tested positive;
- v. Number of incidents, category of incident, number of employees tested associated with each and number that tested positive.
- vi. Costs associated with drug and alcohol testing, training and education programs;
- vii. Number of employees whose employment was terminated due to drug and alcohol use.

A suitable data set to be reported could be agreed between industry stakeholders (regulators, operators, track managers, ATSB, etc.).

2. How is the data best collated, via the regulator to some other body such as the ATSB, or directly to that agency, or other method?
3. To assist in the development of the Regulatory Impact Statement for this review, respondents are invited to provide data associated with their drug and management programs in their submissions.

Discussion Topic 2:

3. Based on the review comparing jurisdictional legislation (refer 5.2 and Appendix B) and from industry available data (refer 4.3), is there a need to change the present regulatory environment pertaining to the management of drugs and alcohol?
4. Can changes be made to achieve best practice in the management of drugs and alcohol and what then would you consider to be the 'best practice' approach?

Discussion Topic 3:

Are there principles of the UK system, the USA system or elements contained within the ILO code of practice which can be considered best practice in the management of drugs and alcohol which can be applied within the Australian rail industry?

Discussion Topic 4:

4. Should drugs and alcohol continue to be regulated by rail safety legislation?

5. If you support a legislative approach, what are the respective roles for principal and subordinate legislation, codes of practice and guidelines?
6. Similar to what has been done in New South Wales (NSW) with the issue of guidelines by Independent Transport Safety and Reliability Regulator (ITSRR)⁴³, should national guidelines for managing the risks associated with drugs and alcohol be developed? Could a Code of Practice be developed to provide such guidance?

Discussion Topic 5:

If common national policy is developed for the management of drugs and alcohol, things to consider as it relates to testing include:

5. What specific requirements on testing should be included in national policy?
6. When should testing be mandatory?
7. Are there benefits to having random testing compulsory for all the industry (as per the USA, refer 6.2) or should the introduction of such be part of an operator's decision to include it in its safety management system, where due to risk it is considered necessary to ensure rail safety workers are not working under the influence of drugs or alcohol?
8. How should a safety management system incorporate testing given that an operator should also be considering larger issues of OH&S, general fitness for duty, employee education, training and counselling schemes?

Discussion Topic 6:

One of the critical problems is the fact that there is inadequate information at present on the relationship of drug use to impairment.

4. What policy direction is best as it relates to drugs: presence or impairment? What should be contained within legislation/regulation pertaining to this? Are different approaches warranted for alcohol as distinct from drugs?
5. What principles should be applied in the management of the risks associated with drug use based on the policy direction?
6. Should future national policy development follow research as it determines more clearly the relationship between a positive drug test result and impaired performance?

Discussion Topic 7:

In considering the following discussion points the respondent should also consider the following:

- The current discussion in relation to the co-regulatory framework and how the risks can best be managed in the future; and
- What future rail safety regulations options will be required.

Discussion points include:

4. Should we move away from the current rail specific regulation on drugs and alcohol and

⁴³ Guidelines relating to Drug & Alcohol Programs, ITSRR.

have the OH&S regulatory framework hold the primary responsibility for policy and application in this area?

5. Should drugs and alcohol be regulated under both rail safety and OHS legislation? If so, what should be the boundary between OH&S and rail safety?
6. Are codes of practice under either rail safety legislation or OHS legislation suitable supports in the regulatory scheme? Would regulations provide stronger guidance to operators and more assurance to the public?

Discussion Topic 8:

4. How important are national consistency and uniformity in the development and application of work place policy for managing drugs and alcohol in rail?
5. Does the rail industry need detailed guidance for developing a workplace policy on drugs and alcohol incorporating the points noted above?
6. If so how should this guidance be provided, eg. legislation, regulation, guidelines, code of practice or some combination of these instruments?

Discussion Topic 9:

5. Is the proposed CMC draft Code of Practice an appropriate instrument for managing drugs and alcohol? If so:
 - a. What are the respective roles of legislation and the Code in providing general and specific guidance? How prescriptive should guidance be?
 - b. What evidentiary status should the Code be given?
 - c. How would it be applied by a railway organisation? and
 - d. How shall it be considered by regulators?
6. The NTC recommends that the CMC paper be considered in association with the issues discussed in this paper and appropriate comments made.
7. Does the proposed code of practice provide the best practice outcome for the management of drugs and alcohol in the rail industry in complying with current regulation? Future changes in legislation will also need to be considered.
8. Does the proposed content meet such criteria as discussed in section 8.1, or as detailed in the ITSRR Guidelines on drug and alcohol management, the International Labour Organisation (ILO) Code of Practice (refer 6.3) or other documents dealing with this subject in the workplace? If not, what is further needed in the proposed code?

APPENDIX B: JURISDICTIONAL COMPARISON

Comparison between Jurisdictions relating to Drug and Alcohol Policy

Item	NSW	NT	QLD	SA	TAS	VIC	WA
Act	Sect. 42 – Brief & refers to Guidelines ^a .	Sect. 49-50: Brief statement on policy & offences.	Sect. 104: Defines testing for incidents. Refers to Drugs Misuse Act.	Sect. 30 – Brief statement on policy & offences. Random testing allowed	Sect. 29 – Brief statement on policy & offences. Random testing allowed	Sect. 92-102A: Detailed on testing and offences. Refers to Road Act.	Sect. 31: Brief statement on policy & offences.
Regulation	Rail Safety Reg. 2003: Prescriptive Definition of Testing. Refers to Road Act	Rail Safety Reg. 2003: Prescriptive Definition of Testing requirements. Refers to Traffic regulations.	None applicable to D&A.	Rail Safety Reg. 1998 Sch. 1: Prescriptive Definition of Testing, Offences & Notifiable Occurrence. Refers to Road Traffic Act.	Rail Safety Reg. 1999: Prescriptive Definition of Testing, Offences & Notifiable Occurrence. Refers to Road Safety Act.	Transport Reg. 1994: Prescrip. Definition of Alcohol Testing. GG No. S108 (June '03): Drug List and Testing. Trans. Reg 1998: Reports to include drug and alcohol test results.	Rail Safety Reg. 1999: Prescriptive Definition of Testing, Offences & Notifiable Occurrence. Refers to Road Traffic Act.
Testing	Defined in Rail Safety Reg 2003. Random testing allowed for both D&A. Director-General can random test for D&A.	Defined in Rail Safety Reg 2003. Random testing allowed for alcohol only.	Defined in Act for incidents. Trans. Ops Act for train drivers. Makes no reference to random testing.	Defined in Rail Safety Reg. 1998. Random testing allowed for both D&A.	Defined in Rail Safety Reg. 1999. Random testing allowed for both D&A. Admin Authority can random test for D&A.	Defined in Regulation 1994 and GG 2003. Testing on reasonable grounds – no reference to random testing.	Defined in Reg. 1999. Testing on reasonable grounds – no reference to random testing.

Item	NSW	NT	QLD	SA	TAS	VIC	WA
Penalties	Defined in Rail Safety Reg. 2003.	In Act and in Rail Safety Reg. 2003.	In Trans. Ops Act for train drivers.	Defined in Rail Safety Reg. 1998	Defined in Rail Safety Reg. 1999	Defined in Transport Act	Defined in Rail Safety Reg. 1999
Alcohol Limits	0.02 (by RS Reg. 2003)	0.02 (by RS Reg. 2003)	0.00 (Trans. Ops Act for train drivers only)	0.02 (In Act Sch. 1 & in RS Reg 1998)	0.05 (In Act Sch. 1 & in RS Reg 1999)	0.00 (By Act 1983)	0.02 (by RS Reg. 1999)
Drugs List	Road Transport Act. Drug Misuse Act.	Misuse of Drugs Act	Drugs Misuse Act	Controlled Substance Act	Misuse of Drugs Act	GG No. S108 (June '03). Drugs, Poison Act 1981,	Misuse of Drugs Act
Notifiable Occurrence	Sch. 3 of Act – does not refer to drug and alcohol testing.	Nothing for D&A	In Act for incident reporting	In Act Sch. 1 and Reg 1998 to advise on positive drugs and alcohol test.	In Act Sch. 1 and Reg 1999 to advise on positive drugs and alcohol test.	Trans. Reg 1998: Reports to include drugs and alcohol test results.	In Reg 1999 to advise on positive test results for incidents

- a. NSW Guidelines Relating to Drug & Alcohol Programs: looks to achieve consistent approach in rail sector.

APPENDIX C: INDUSTRY MANAGEMENT PRACTICE

	Area	Company A	Company B	Company E	Company F	Company G
	Type of Organisation	Suburban Passenger	Interstate and intrastate freight operator, state based track manager	Freight and passenger operator and track manager	Interstate and intrastate freight operator	Tourist and Heritage
1.	a. A documented workplace policy on drugs and alcohol.	√	√	√	√	√
	b. Policy apply to all staff.	Only safety personnel	√	√	√	√
	c. Available to all staff.	√	√ Training, intranet	√ Awareness training	√	√ Posted on all notice boards
	d. Part of another document or standalone.	Standalone	Safety Health & Environment Manual	Standalone	Standalone	√ Accreditation Manual
2.	a. Policy includes a description setting out the organisation's position on substance misuse.	√	√	√	√	√
	b. Approaches adopted by your company to those identified with a problem:	Counselling Rehabilitation Freq. Random Tests Work Suspension	Treated as a medical issue			

	Area	Company A	Company B	Company E	Company F	Company G
	• Disciplinary action only.	X	X	X	X	
	• Treated as a health problem and managed accordingly.	√	√	√		
	• Counselling and assistance.	√	√	√	√	
	• Counselling, followed by disciplinary action if necessary.		√	√	√	√
	• Employee monitoring.	√ Weekly-F'nightly- Monthly-random testing	√ Job assessment, counselling	√ Work Performance. Rehab program participation	√ More regular testing	
3.	Policy provides for confidentiality.	√	√	√	√ Test results held by third party	√
4.	a. Company undertaken a risk assessment associated with drug and alcohol use.	√	√	X	X	
	b. Developed in consultation with employees.	√	√			
	c. External expertise hired to assist.	X	X			
5.	Monitoring of the effectiveness of the policy.	√ By random testing	√ Annual review	X	√ Regular reviews	
6.	a. A documented description setting out any testing that will be performed and the extent of testing required.	√	√	X	√	√

	Area	Company A	Company B	Company E	Company F	Company G
	b. Available to staff.	√ Intranet/Education	√ Intranet	X	√	
	c. Type of testing performed:					
	• Pre-employment.	√	√	X	√	
	• Reasonable grounds.	√ When supervisor suspects	√ On a needs basis	X	√	√
	• Random.	√ Unannounced, computer draw, no warning	√ Unannounced	X	√ Selection by computer, no advance notice	
	• Incident/Accident (mandatory)	√	√	√	√	√
	d. Who conducts drug and alcohol tests.	External laboratory	Alcohol – Internal Drugs – External Contractor	Post incident by Police	Random-External company Medicals-Doctors Incidents-Internal	Police
7.	Provision of the following programs:					
	a. Drug and alcohol education awareness.	√	√	√	√	
	b. Assistance programs.	√	√	√	√	
	c. Management and Employee training.	√	√	√	√	√
	d. Counselling and rehabilitation processes.	√	√	√	√	

	Area	Company A	Company B	Company E	Company F	Company G
8.	Other comments	Current program in place since 1998. 1/3 randomly tested every 2 months.		Introduction of a testing regime under consideration		

Key:

√ – Yes, is implemented.
X – No.