



JULY 2006

New National Rail Safety Laws:

Implementation Program

A national model *Rail Safety Bill 2006* has been approved by Australian Transport Ministers. Also approved was an Implementation Program to ensure that the legislative reforms are implemented in a nationally consistent and co-ordinated manner in all States and Territories by 1 July 2007.

Introduction

The program of activities for implementing the model rail safety legislation will address the changes required to be made to the current regulatory regime in each state and territory and provide the strategy for introducing those regulatory changes.

It will also provide support and guidance materials for Rail Safety Regulators for the purposes of administering the new regulatory regime and to responsible parties in the rail industry to help them comply with the legislative requirements.

Key elements

The implementation program encompasses the following major elements:

- *Communications and Awareness* of Australian Transport Ministers (ATC) approved legislative changes to key stakeholders;
- *Model Regulatory Documentation* to assist states and territories to achieve passage of legislation through their parliamentary processes and required for the regulatory regime to take effect;
- *National coordination of transitional arrangements* with a view to: minimising compliance costs; providing transparency and

certainty to industry; and achieving a common effective compliance date for the new regulatory regime across Australia;

- *Implementation of ATC approved institutional arrangements* within and between states and territories for administering the regulatory system;
- *National guidelines and/or compliance codes* to support consistent regulatory practice across all jurisdictions.

Communications, Legislative Process and Information Products

Value adding, model materials can be adapted at local level and used at the discretion of the states and territories.

The materials will include legislative documents, plain language information bulletins and fact sheets aimed for the use of government and key industry stakeholders. This includes information for those stakeholders who will have new obligations and duties under the model legislation.

Transitional arrangements

Some of the requirements in the model legislation require transitional arrangements to enable rail transport operators sufficient time to fully comply.

Transitional arrangements will not apply to the application of general duties, to applications for accreditation from new entrants to the industry, or to an application to vary accreditation by a currently accredited rail transport operator. They will not apply also, to the exercise of their powers by the Rail Safety Regulator.

The NTC is yet to make a final determination for the transitional arrangements that will apply to the relevant provisions. However, preparatory developments currently taking place in states and territories will be taken into account. These include:

- compliance with *Australian Standard AS4292 2006* by December 2006 (WA and Qld) and January 2007 (Tas and SA);
- compliance with the *National Accreditation Package (NAP)* by 30 June 2006 for commercial rail and from 1 January 2007 for tourist & heritage rail (NSW).

AS4292, 2006 and NAP are consistent with the model regulatory regime and compliance will provide rail transport operators with significant preparatory groundwork for 1 July 2007

The proposed transitional arrangements apply to:

- accreditation requirements, including what must be demonstrated as evidence of *competency and capacity*;
- safety management systems (SMS) & risk requirements,
- contractor arrangements
- existing ICPs between rail operators
- registration of private sidings (at discretion of jurisdictions)
- development of ICPs between rail transport operators and road managers
- Transition for full compliance with RSWs competencies requirements "TBC"

The aim is to achieve a common national compliance date of 30 June 2008 (noting that Victoria has a compliance date of Aug 2007 for commercial rail and 2008 for tourist and heritage rail)

Review of Institutional Arrangements

A review of the institutional arrangements by which rail safety regulatory regimes are administered included recommendations for:

- establishing the development and approval process for nationally approved guidelines and compliance codes;
- detailing processes for maintenance and review of legislation, regulations and guidance materials;
- establishing the administrative schema for the recognition of industry codes & standards;
- rescinding the 1996 Inter-governmental Agreement for rail safety as it will be superseded by the model Bill and regulations.

National Guidelines and Information

The implementation of the model Bill and regulations is an essential precursor to achieving national consistency in the administration of rail safety. However, differences can arise in the interpretation of legislation, creating an ongoing potential for practical inconsistencies between states and territories and within industry.

The inclusion of nationally approved guidelines and compliance codes in the regulatory framework is intended to assist the parties to address this issue. Nationally approved guidelines to be developed as a matter of priority are:

- Accreditation Guideline (What an applicant must demonstrate, exemptions, ICP, Pte Sidings, Variation)
- How to meet Regulatory SMS Requirements
- Safe Management of Change to SMS
- Managing Risks SFAIRP
- Compliance & Enforcement Policy
- Disclosure of Information by Rail Safety regulators
- "Uniform Administration" for Accreditation
- Tourist & Heritage Rail SMS Guideline
- Management of Fatigue for Rail Safety Workers

Additionally, priority information materials include an explanation of requirements for training and assessing rail safety worker competencies.

FURTHER INFORMATION

For further information about the national model *Rail Safety Bill 2006* and how it has been adopted in your State or Territory, please contact your local Rail Safety Regulator or visit the NTC website at: www.ntc.gov.au

