

Drug and Alcohol: Scalability of Drug and Alcohol Management Programs for Tourist & Heritage Operators

June 2022

Under s115 of the *Rail Safety National Law* (RSNL), a rail transport operator must prepare and implement a drug and alcohol management program (DAMP) for rail safety workers who carry out rail safety work in relation to railway operations for which the operator is required to be accredited. The DAMP must comply with the requirements of National Regulation 28.

Tourist & Heritage (T&H) operators must manage risks to safety so far as is reasonably practicable and implement controls that are appropriate with the level of risk. All information relating to the management of risk must be documented in the operator's SMS.

Where actions or requirements are described as mandatory, these reflect requirements in the RSNL.

When considering how to manage risk, T&H operators must consider the scope and context of their operations and how they are impacted by the use of drugs and/or alcohol.

T&H operators should take into account the timing and frequency of operations such as primarily weekend and public holiday, or regular daily operations.

In addition, specific risks may be introduced as a result of the types of rail safety workers:

- > Is the workforce made up predominantly of volunteers?
- > What is the general age and experience of rail safety workers?
- > What is the general health status of workers?
- > What type of work is carried out?

Based on this assessment, T&H operators should establish what proportion of rail safety workers should be tested annually. The reason for this decision should be recorded in the DAMP.

Appendix 1 provides a checklist of examples to assist with demonstration of compliance.

National Regulation 28 – Drug and alcohol management program

Regulation 28(1): What must be included in preparing a DAMP?

28(1)(a) Establishing a drug and alcohol policy

Where T&H operators identify low levels of risk in this area, they may elect to develop a policy statement which will become a key component of a rail safety worker induction program. This statement could be posted on noticeboards to ensure a clear understanding of the T&H operator's position on drug and alcohol use. T&H operators with more complex operations may have a policy document that demonstrates commitment and is endorsed by some, or all, of the Board.

28(1)(b) Providing information and education to rail safety workers

Depending on the complexity of the operations, there are different actions that an operator could take to ensure that the policy is understood by rail safety workers, including:

- > posting the policy statement on noticeboards or on the website
- > asking rail safety workers to sign a copy of the policy statement to ensure understanding
- > including articles about the DAMP in regular quarterly meetings or newsletters

- > Including information about drug and alcohol management in training and re-certification processes.

28(1)(c) Ensuring records kept are confidential

T&H operators have to ensure that records relating to rail safety workers and any related drug and alcohol documentation are kept secure. This can be done electronically or as hard copies.

Access to these documents must be limited to a senior person(s) who is responsible for managing the DAMP.

28(1)(d) Developing a drug and alcohol testing regime

Operators must develop a testing regime that is appropriate to their operations and that addresses the risks that are identified as part of the risk assessment process.

This regime can take several forms, and could include all or any of the following, depending on the size and scope of the operations:

- > use of external contractors to conduct drug and alcohol testing
- > random breath testing using an appropriate device
- > a simple testing regime with testing carried out by competent in-house staff
- > sign-on sheets to include an undertaking as to understanding and compliance with the policy statement / DAMP
- > training or education programs that help rail safety workers in identifying the effects of drugs and alcohol in their co-workers

Regardless of the content of the regime, the details of it must be documented and included in the operator's SMS. Procedures should include details for self-declaration (particularly for prescription medications) prior to testing, and for the management of rail safety workers after testing.

Procedures must also be established and documented to describe the steps to be taken for negative, and non-negative or confirmed positive, test results.

The process for positive test results could include:

- > stand down and re-testing prior to the next shift
- > referral to a GP or counselling service
- > application of disciplinary procedures
- > assessment by an authorised health professional under the National Standard for Health Assessment of Rail Safety Workers

All T&H operators must notify ONRSR if the worker was in breach of the DAMP.

A T&H operator's DAMP must include post-incident testing arrangements. From 1 July 2022, these must include provision for mandatory post-incident testing in response to the following Category A occurrences:

- > Collision (excluding attempted or suspected self-harm incidents)
- > Derailment
- > Proceed Authority Exceeded
- > Runaway
- > Network Rule or Procedure Breach
- > Person / Train Interface

Category A occurrences must be verbally reported to ONRSR immediately by calling 1800 430 888.

ONRSR will endeavour to undertake testing of rail safety workers involved in a Category A occurrence subject to post-incident testing requirements, but if we cannot and the Police also do not, then the T&H operator is required to undertake this testing, unless:

- > they have been notified by ONRSR that drug and alcohol testing is not required, or
- > they have a reasonable excuse for not doing so.

28(1)(e) Developing measures in accordance with sub-regulation (6)

See sub-regulation (6) below.

Regulation 28(5): What other measures must be included in the DAMP?

28(5)(a) Establishing rules relating to the use of drugs and alcohol by rail safety workers

T&H operators can specify rules in employment or volunteer agreements around drug and alcohol use, or a 'zero tolerance' policy statement.

In addition, these rules could be discussed at interviews for both employees and volunteers who will perform rail safety work.

These rules should also articulate options for rail safety workers to self-declare the use of prescription and non-prescription drugs prior to testing. T&H operators may also want to document the process, and next steps, if a rail safety worker has declared prescription use and has a non-negative test result.

28(5)(b) Providing assistance to impacted rail safety workers

Rail safety workers who may have issues in relation to drug or alcohol use may be identified through testing, self-reporting or peer recognition.

Third party providers of counselling or employee assistance programs can be engaged to assist rail safety workers. Alternately, operators may choose to refer them to an approved health provider or a GP.

Procedures should document what documents/evidence is required when a rail safety worker is determined to be fit to return to work. This may include sighting of a 'fit for duty' medical certificate from an authorised health professional.

Regulation 28(6): What are the obligations of rail safety workers and actions that may be taken by the operator if there is a breach?

28(6)(a) Reporting workers who may be impaired by alcohol and/or drug use

T&H operators must ensure that all employee and volunteers understand to whom they should report any concerns relating to drug and/or alcohol use.

28(6)(b) Education and rehabilitation

T&H operators must provide rail safety workers with education and/or awareness on matters such as the DAMP, and the effects of alcohol and other drugs.

This could be done as part of:

- > regular volunteer briefings
- > rail safety worker meetings
- > team or management meetings
- > using the volunteer management systems or intranet/website
- > monthly or quarterly newsletters
- > emails to volunteers and employees, including the distribution of resources from safety regulators
- > tool box talks or pre-start up briefings
- > formal awareness or training sessions
- > working bees

28(6)(c) & (d) Obligations in relation to alcohol and other drug use

T&H operators must provide information to rail safety workers on their legislative obligations, and the effect of alcohol and other drugs.

Rail safety workers must have access to the T&H operator's SMS, which details disciplinary procedures and other actions that may be taken in the event of a breach of the DAMP.

28(6)(e) Appeals and complaints

Depending on the size and scope of operations, a T&H operator may have documented formal grievance procedures as part of their volunteer management processes and employment arrangements.

Others may have less formal processes, such as employees being able to seek a meeting with the responsible manager.

28(6)(f) Discretion and fair application of the DAMP

T&H operators must ensure that matters relating to drug and alcohol management are handled discretely and confidentially.

There may be some documented processes relating to human resource management, but as a minimum, T&H operators must ensure that all actions relating to drug and alcohol management are documented to ensure transparency and fairness in decision-making.

T&H operators with more complex operations may have additional policies such as equal opportunity or bullying and harassment policies which can be used to support fairness and consistency in any disciplinary action.

Note: 28(2), (3) & (4) – NSW ONLY

These additional obligations apply to railway operations in New South Wales only.

Drug and alcohol testing carried out under National Regulation 28 by T&H operators in NSW must be conducted by an authorised person appointed under the RSNL who holds an identity card issued by ONRSR or the T&H operator. In order to be authorised, the person must complete training based on the model drug and alcohol testing training course published on the ONRSR

website. There are also statutory documents that require completion.

The requirement for operators in NSW to ensure that at least 25% of rail safety workers are tested each year does not apply to T&H operators.

ONRSR Testing Program

In addition to the programs put in place by operators, ONRSR undertakes:

- > programmed testing (includes intelligence-led risk-based testing and random testing)
- > post-incident testing in response to Category A occurrences

Further information

Further information is available on ONRSR's website, including the following documents:

- > *ONRSR's Drug and Alcohol Testing policy*
- > *Drug and Alcohol: ONRSR's Testing Program fact sheet*
- > *Drug and Alcohol: Requirements for Rail Transport Operators fact sheet*
- > *Duties of Rail Safety Workers fact sheet*

Contact ONRSR via contact@onrsr.com.au or phone (08) 8406 1500 (South Australia).

NSW operators should refer to *the Drug and Alcohol: Requirements for Rail Transport Operators (NSW Only) fact sheet*.

Appendix 1 – Checklist of examples to assist with demonstration of compliance

Reference	Non-complex operations	Additional measures for more complex operations
Assess risk	Volunteer profile Age and fitness of RSWs Day/time & frequency of operations Number of passengers Level crossing types and number Proportion of RSW tests to be carried out	Interfaces with other operators Speed of operations
28 (1) (a)	Policy statement signed by most senior role On noticeboards Staff meetings	Policy with objectives, statement of commitment and clear roles and responsibilities of all RSWs Policy endorsed by Board Policy signed by RSWs on induction
28 (1) (b)	Information posted on noticeboards Signed undertaking for understanding and compliance on sign on sheets Tool box talks	Links to volunteer management systems Pre-start checks Included in Safe Work Method Statements. Job Safety Analysis etc
28 (1) (c)	Hard copy records locked in a secure location on site	Soft copy records with appropriate securities in place
28 (1) (d)	Use of internal testers Process for negative and positive results – Stand down and re-test or disciplinary Process documented and included in SMS.	Use of external testers Documented HR procedures and processes for disciplinary action Documented Volunteer procedures and processes for disciplinary action Links to volunteer management systems, Identifications of trends
28 (5) (a)	Reference to rules about D&A in volunteer agreements	D&A requirements explained at interview, Reference to rules about D&A in volunteer & employment agreements
28 (5) (b)	Self-reporting or peer recognition Referral to GP or other health professional, Discussion with supervisor	Referral to EAP, Counselling or other medical services or Authorised Health Professional Clearance certificate on return or triggered health assessment

Reference	Non-complex Operations	More Complex Operations (Additional measures)
28 (6) (a)	Nominated person for reporting Reference in inductions to nominated person for reporting – Safety Officer	Reference in inductions to nominated person for reporting – Line Manager or HR Confidential reporting email address
28 (6) (b) & (c)	Regular volunteer briefings Team or management meetings Using the website Monthly or quarterly newsletters Tool box talks or pre-start up briefings Working bees	Using the volunteer management systems or intranet/website Formal training from external or internal competent persons Emails to volunteers and employees including the distribution of resources from safety regulators Formal training /awareness sessions, Rail safety worker meetings
28 (6) (d)	Access to hard copy SMS issued as a controlled document Procedures posted on noticeboards	Access to soft copy SMS on IT system Access to SMS via volunteer management system or intranet
28 (6) (e)	Statement about expected behaviours in relation to D&A use by RSWs Confidential discussions with appropriate manager	Documented HR procedures linked to SMS Confidential discussions with HR Manager Grievance or complaints procedures as part of employment agreements or volunteer agreements
28 (6) (f)	Commitment to confidential record keeping and reporting Key register for lockable drawers or filing system	Documented procedures for secure record keeping EEO policy Bullying and harassment policy Electronic or paper records consistent with HR policies and procedures
28 (2), (3) & (4)	NSW ONLY Authorised persons ONRSR model training and assessment materials	