

# Managing Compliance Through Audit Policy



INDEPENDENT  
TRANSPORT  
SAFETY AND  
RELIABILITY  
REGULATOR

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## 1. Purpose

The NSW Independent Transport Safety and Reliability Regulator (ITSRR) has the principal objective of facilitating the safe operation of transport services in New South Wales. This is achieved through regulation of the rail industry in accordance with the *Rail Safety Act 2008* and supporting regulations, guidelines and policies, and promotion of safety as a fundamental objective in the delivery of transport services.

A key component of the role of the ITSRR, generally carried out by rail safety officers, is the conduct of system safety audits to assess compliance with rail safety duties and obligations and in particular, adherence to the safety management system that established the basis for accreditation.

The purpose of this policy is to provide guidance to rail safety officers on conducting system safety audits under s84 of the Act.

## 2. Scope

This policy describes the ITSRR's approach to conducting audits of accredited rail transport operators and the identification and management of non-conformances as a result.

The policy is applicable to rail safety officers and to rail transport operators.

This policy is one of a series of operational policies supporting the *National Rail Safety Guideline for Compliance and Enforcement for Rail Safety*. Other policies include:

- *ITSRR Policy on Managing Compliance Through Advice, Education and Training;*
- *ITSRR Policy on Managing Compliance Through Inspections;* and
- *ITSRR Policy on Managing Compliance Through Investigations.*

This policy should be read in conjunction with the *National Rail Safety Guideline for Compliance and Enforcement for Rail Safety* and the *NSW Appendix to the National Rail Safety Guideline for Compliance and Enforcement for Rail Safety*, relevant ITSRR policies, *Australian Standard AS4292.1 - 2006 Railway safety management Part 1: General requirements*, and *AS/NZS ISO 19011/2003 Guidelines for quality and/or environmental management systems auditing*.

## 3. Definitions

**Act** means the *Rail Safety Act 2008* (NSW).

**audit** a systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which the audit criteria are fulfilled (AS/NZS ISO 19011:2003).

**audit conclusions** means the outcome of an audit provided by the auditor, or audit team, after consideration of the audit objectives and the audit findings (AS/NZS ISO 19011:2003).

**audit evidence** means records, statements of fact or other information that is relevant to the audit criteria (AS/NZS ISO 19011:2003).

**audit findings** means the results of the evaluation of the collected audit evidence against the audit criteria (AS/NZS ISO 19011:2003).

**auditor** a person with the competence to conduct an audit Note: wherever used in this policy, the term 'auditor' refers to a regulatory rail safety auditor unless otherwise qualified.

**audit program** means an annual schedule of planned audits under s84(1)(b) of the Act.

**inspection** means an inspection of the railway operations of a rail transport operator or any other person.

**rail transport operator** has the meaning given to it in the Act.

**railway operations** has the meaning given to it in the Act.

**Regulations** means the *Rail Safety (General) Regulation 2008* (NSW) and the *Rail Safety (Drug and Alcohol Testing) Regulation 2008* (NSW).

#### 4. Legislative framework

The Act sets out the legal requirements for rail transport operators, persons conducting railway operations and other persons including:

- a duty to ensure public safety;
- establishing and reviewing safety management systems;
- applying for and complying with accreditation and any conditions or restrictions of that accreditation, except in specific circumstances such as an exemption under s60 (private sidings); and
- ensuring that railway operations are only conducted by, or on behalf of, an accredited rail transport operator unless specifically exempted under the Act.

Section 84 of the Act gives the ITSRR the power to audit the railway operations of rail transport operators. Under s84(2) an audit program may focus on one or more:

- rail transport operators;
- criteria relating to rail transport operators;
- aspects of rail safety;
- aspects of railway operations.

#### 5. Policy statement/s

##### 5.1 Goals of carrying out audits

The ITSRR aims to support the improvement of rail safety outcomes by working alongside rail transport operators.

In this context, the ITSRR has the objectives of:

- educating the rail community, and taking action to improve rail operators' motivation and capacity to pro-actively manage safety risk and establish a continually improving safety culture;

- taking appropriate compliance and enforcement action to ensure persons undertaking railway operations meet their obligations to comply with the rail safety legislation; and
- protecting the rail community and the public from those persons who cannot, or will not, operate in accordance with mandatory safety obligations.

## 5.2 The Audit Cycle

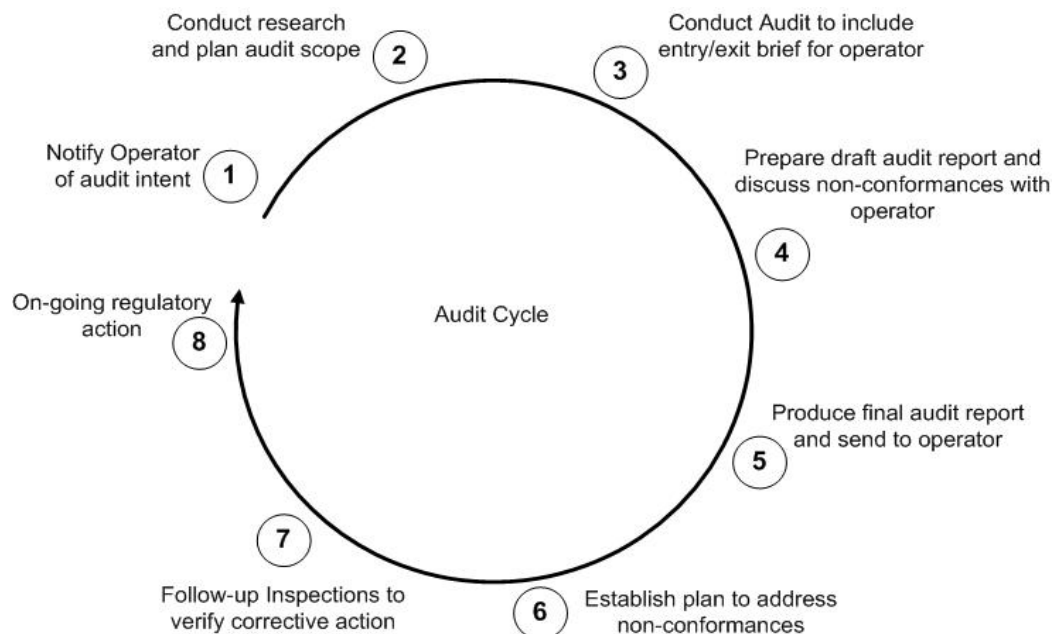
A person can only carry out railway operations if they are a rail transport operator who is accredited or exempt from accreditation, carrying out railway operations on behalf of a person who is accredited or exempt from accreditation, or are exempt more generally.

Once a rail transport operator has been granted accreditation by the ITSRR, they must comply with the requirements of the Act and the Regulations. These include requirements to:

- maintain a safety management system (SMS) that complies with the legislative requirements; and
- ensure their operations are conducted in accordance with their SMS.

Accredited operators must also comply with the content, conditions or restrictions set out in their notices of accreditation. Once accredited, an operator can expect that the ITSRR will conduct audits of their railway operations. This requires the ITSRR to notify the accredited operator of the time, extent and location of the audit. This notification is the start of the ITSRR audit cycle.

The diagram below illustrates the key steps in the audit cycle.



## 5.3 How the ITSRR conducts audits

The ITSRR conducts audits to assess the compliance of operators with the content, conditions or restrictions of their notices of accreditation and their compliance with the Act and the Regulations. The ITSRR approach to audits is one of facilitated compliance, focused on providing operators with information to improve their SMS and their compliance with the Act and the Regulations through Audit Reports and identification of non-conformances requiring corrective action from operators.

#### **5.4 Audit programs**

The ITSRR prepares an audit program and informs operators scheduled to be audited in advance.

The ITSRR may undertake additional audits other than those identified in the initial annual audit program, as long as at least 24 hours written notice of the intention to audit is given to the operator.

#### **5.5 Audit criteria**

The ITSRR uses available rail safety data including past audit outcomes, rail safety intelligence, and inspection and investigation findings to determine the frequency and scope of audits of rail transport operators.

The ITSRR's audit criteria may include :

- the scope of operations specified in the operator's notice of accreditation;
- the elements of the safety management system set out at Schedule 1 of the Regulations;
- particular features of each rail transport operator's accreditation including variations, conditions, restrictions, notices and undertakings;
- the ITSRR's corporate priorities;
- the scope of agreements and controls in place for contractors of accredited operators;
- open non-conformances; and
- mandatory requirements under the Act and Regulations.

The ITSRR conducts audits in accordance with the principles and procedures of AS/NZS ISO 19011:2003 *Guidelines for quality and/or environmental management systems auditing*.

Auditors are to use the National Audit Tool to promote consistency in the conduct of audits.

Section 84(4) of the Act provides for the Regulations to establish procedures for the conduct of audits, including procedures to ensure the confidentiality of records. At this time the Regulations do not include such content.

#### **5.6 Auditing operators accredited in two or more jurisdictions**

For rail transport operators who are accredited in two or more jurisdictions, the audit cycle needs to include collaboration with the other involved regulators in determining the

audit timing and advising the operator. This is the case whether or not the ITSRR is the principal regulator for the particular operator.

### **5.7 Auditing of contractors**

The ITSRR may audit the systems and procedures of contractors to accredited operators, as part of the audit of the accredited operator, to ensure that:

- the accredited operator is meeting their obligations for effective contractor management;
- the contractors are compliant with the content, conditions or restrictions of the operator's notices of accreditation and with relevant rail safety legislation.

### **5.8 Audit outcomes**

Following the on-site audit activities the ITSRR prepares an audit report, including documenting non-conformances against the audit criteria and any evidence for these. Each non-conformance may be linked to a specific audit finding or several findings.

The draft audit report, including the non-conformances, is discussed with the operator. Following consideration of any comments made by the operator, the ITSRR finalises the audit report. The rail transport operator is then required to develop a plan for addressing the non-conformances arising from the audit, in consultation with the ITSRR.

The audit report remains the property of the ITSRR and is kept confidential and is not distributed publicly. However, the operator may distribute the report if it chooses.

If a rail transport operator fails to address a non-conformance in the agreed timeframe, the ITSRR may conduct an inspection which may result in regulatory action such as the issuing of an improvement notice. See the *Policy on Managing Compliance Through Inspections* for further information.

### **5.9 Escalation**

If, at any time in the audit process, an auditor determines that facilitated compliance (ie audit) is not appropriate he or she will inform the operator that the audit has stopped and that an inspection will be commenced. This may lead to regulatory action.

Similarly, if during the audit, an auditor becomes aware of or perceives an immediate risk to rail safety, he or she will take immediate action to remedy the situation such as issuing a prohibition notice or an improvement notice. The operator will be advised simultaneously that the audit has been suspended and that compliance action will commence.

See the *Policy on Managing Compliance Through Inspections* for further information.

## **6. Roles and responsibilities**

### **Auditors**

Auditors are responsible for:

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- communicating and clarifying audit requirements;
- planning and carrying out the audit effectively and efficiently;
- documenting the audit results including any non-conformances and findings identified;
- reporting the audit results;
- verifying the effectiveness of corrective action taken as a result of the audit; and
- retaining and safeguarding documents pertaining to the audit.

### 7. Supporting documentation

- *National Rail Safety Guideline for Compliance and Enforcement for Rail Safety*
- *NSW Appendix to National Rail Safety Guideline for Compliance and Enforcement for Rail Safety*
- *Policy – Compliance and Prosecution*
- *Policy – Managing Compliance Through Advice, Education and Training*
- *Policy – Managing Compliance Through Inspections*
- *Policy – Managing Compliance Through Investigations*
- *Policy – Enforceable Voluntary Undertakings*
- *Policy – Suspending or Revoking Accreditation*
- *AS/NZS ISO 19011:2003 Guidelines for quality and/or environmental management systems auditing*
- *AS 4292.1 – 2006 Railway safety management Part 1: General requirements*
- *National Audit Tool*

### 8. Approval/review/amendments history

Amendment/ Review No		Version No.	Amended by	Description

Approved  
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Chief Executive