

The background of the slide is a dark blue-tinted photograph of a large truck driving on a road. The truck is positioned in the center of the frame, moving towards the viewer. The road is flanked by trees and a fence, and the overall scene is dimly lit, suggesting a dusk or dawn setting. The text is overlaid on the left side of the image.

Chain of Responsibility and Safety Management Systems

AGENDA

1. Chain of Responsibility
2. Safety Management Systems
3. Codes of Practice, NHVAS and other support



CHAIN OF RESPONSIBILITY - THE PRIMARY DUTY AND THE EXECUTIVE DUTY

1

WHAT IS THE CHAIN OF RESPONSIBILITY?



Chain of Responsibility (CoR) is a concept in road transport that recognises that drivers alone can't ensure the safety of heavy vehicles. Safety outcomes depend on the actions of all parties in the supply chain.

In the HVNL, **Chain of Responsibility** also has a specific meaning. It lists ten functions:

- | | |
|-----------|------------------|
| Employer | Prime Contractor |
| Operator | Scheduler |
| Consignor | Consignee |
| Packer | Loading manager |
| Loader | Unloader |

Persons who perform these functions are parties in the CoR.



WHO OR WHAT IS A COR PARTY?

- A business or organisation may be a party.
- An individual may be a party.
- If a worker performs a CoR function for their employer, then the employer is also a party.
- Many businesses will perform multiple functions, e.g. packing and consigning.
- The number of parties isn't limited; e.g., there may be two consignors and two schedulers for the same heavy vehicle.



THE PRIMARY DUTY

The HVNL creates a duty, called the **primary duty**, that applies to every party in the CoR.

They must ensure, **so far as is reasonably practicable**, that their activities relating to heavy vehicles are carried out in a way that:

- eliminates or minimises public risks
- does not cause or encourage a driver of a heavy vehicle or another person to break this Law.



Complying with your Primary Duty –

- **Identify** and **assess** hazards and risks arising from your transport activities (including your interactions with other businesses)
- Determine what is **reasonably practicable** for you to do to control your risks
- **Implement** control measures: obtain new equipment or staff, provide training, revise, document and implement procedures, update contracts
- **Monitor** whether the control measures are being implemented, and whether they are effective at eliminating and minimising risk
- **Review** and improve your control measures on a regular basis, and when there are red flags or changes e.g., new business partner, changed environment.

SHARED RESPONSIBILITY

All parties in the CoR **share responsibility** for heavy vehicle safety.

Each party must do what is reasonably practicable for them to do, but what's required of each of them may differ.

The level of responsibility depends on what they do, and important factors such as the nature of their capacity to control, eliminate or minimise the risk.

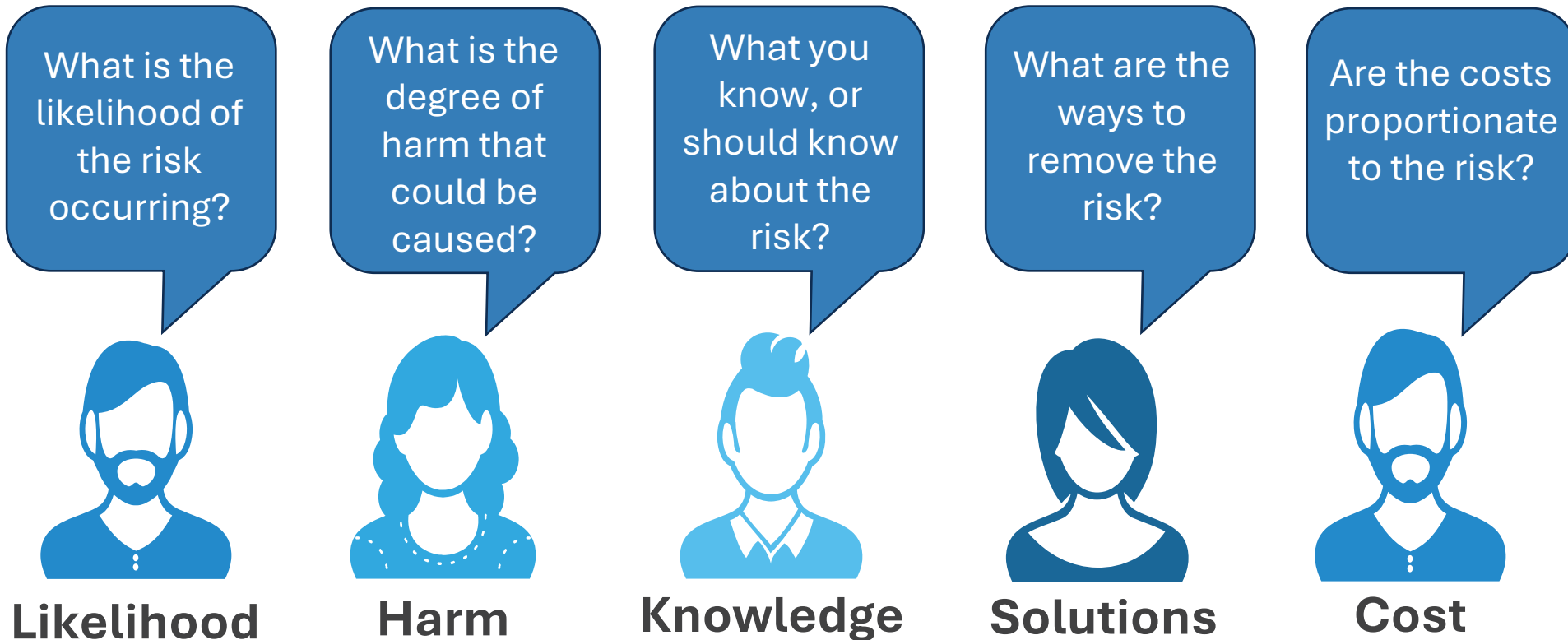
Communicating and collaborating with other parties can substantially improve the safety performance of both.



PRIMARY DUTY – SO FAR AS IS REASONABLY PRACTICABLE



Reasonably practicable means something that is, or was at the time, reasonably able to be done to ensure the safety of transport activities in relation to heavy vehicles.



DEFINITION OF 'SAFETY'

Eliminating or minimizing risk:

- to the safety of drivers and passengers
- to the safety of persons or property on or near roads
- of damage to vehicles and loads
- of damage to road infrastructure
- of harm to the environment.



DEFINITION OF 'TRANSPORT ACTIVITIES'

Transport activities is a broad inclusive definition.

- It gives some examples, but any other activity related to the use of a heavy vehicle on a road, also falls within the definition.
- Transport activities includes **business practices**, which is also a broad inclusive definition.

Anything your business does that has something to do with the use of a heavy vehicle on a road is a transport activity.



WHAT IS A BREACH OF THE PRIMARY DUTY?

Parties in the CoR breach their duty:

- if they fail to have measures in place to eliminate or minimise risk, or
- if the measures in place are inadequate or disproportionate to the overall risk.

A party may be in breach of their duty, even if no incident occurs.

CoR parties are not automatically liable for drivers' or other parties' mistakes.



BREACHES OF THE PRIMARY DUTY (COR)



Examples of breaches of the Primary Duty could include:

- X** Failing to identify risks associated with your transport activities
- X** Failing to identify skills and experience that employees and drivers require for their role
- X** Failing to implement policies that reduce the risk of driver fatigue
- X** Packing goods using materials that don't meet the loading requirements
- X** Failing to ensure that premises, facilities and equipment for loading and unloading are fit for purpose for the vehicles that will use them
- X** Scheduling practices that result in unreasonable delays in loading and unloading
- X** Inadequate program of heavy vehicle inspection and maintenance
- X** Poor communication with other parties in your supply chain

DUTY OF EXECUTIVE OF LEGAL ENTITY



Executives of legal entities must exercise **due diligence** to ensure the safety of the legal entity's transport activities.

An executive means:

- For a corporation – an executive officer
- For an unincorporated partnership – a partner
- For an unincorporated body – a management team member

DUE DILIGENCE FOR EXECUTIVES

- Gain and maintain knowledge about safe conduct of your transport activities.
- Understand the hazards and risks associated with your transport activities.
- Have appropriate resources to implement processes to eliminate or minimise your hazards and risks.
- Respond to information received about your hazards and risks in a timely manner.
- Verify that your resources and processes are provided, used, implemented and effective.



PROHIBITED REQUESTS AND CONTRACTS



“ A business or person must not enter into contracts or arrangements that encourage, reward or give incentives to the driver or other parties in the supply chain to breach the law. ”



PROHIBITED REQUESTS AND CONTRACTS



Prohibited requests or contracts put pressure on drivers due to competitive service demands.

Examples of unreasonable requests and contractual terms include:

- Schedules that don't consider delays caused by changing road or traffic conditions, or accidents
- Scheduling times that cannot be achieved, except by speeding or driving while fatigued
- Incentive-based schemes, including payment methods
- Penalty clauses for late delivery.

As a result, drivers are exposed to the risks of speeding and fatigue to meet these unreasonable demands.

ALIGNMENT OF HVNL WITH WHS LAWS



The primary duty is based on similar principles in OHS or WHS laws, therefore it's possible to align compliance with both.

Benefits of alignment:

- **Common systems** – Manage safety risks across the entire business with the same systems and practices.
- **Integration** – Create safety synergies across parties in the CoR with common approaches and strategies.
- **Economy** – Reduce costs by using similar processes, training, and practices to address all safety issues.

SAFETY MANAGEMENT SYSTEMS

2

SMS

**SAFETY
MANAGEMENT
SYSTEMS**

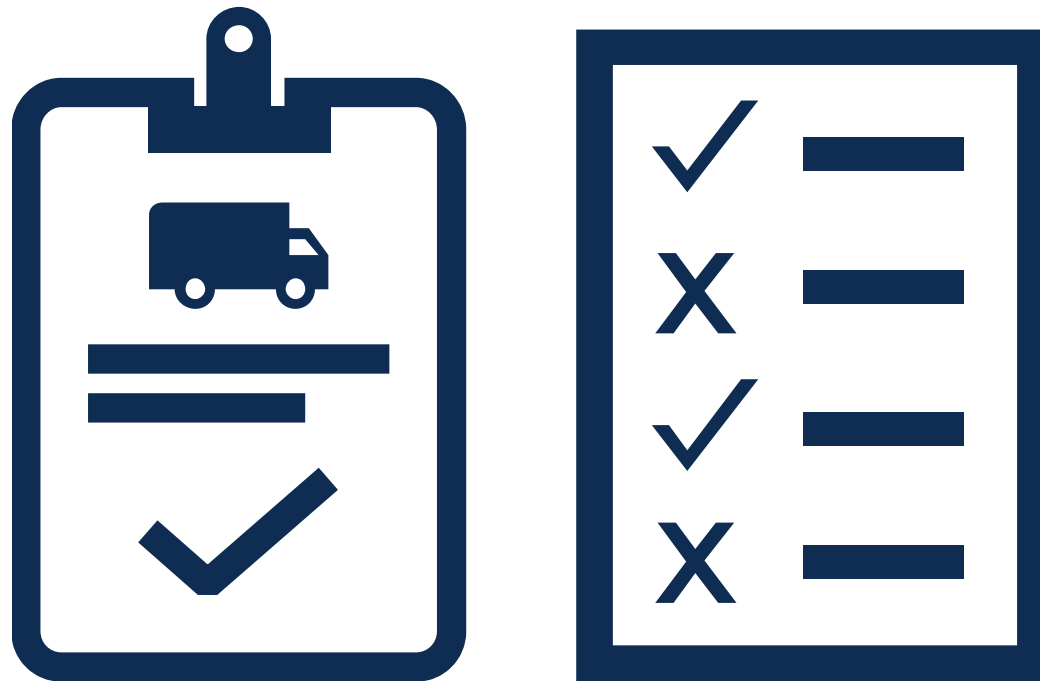
Adopting and actively using a SMS has proven to help reduce safety-related incidents in other transport industries, such as maritime, rail and aviation.

A Safety Management System (SMS) is one of the most effective ways of meeting your safety obligations under the Heavy Vehicle National Law (HVNL).



WHAT IS A SAFETY MANAGEMENT SYSTEM?

An SMS is a systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures – integrated throughout the business.



SMS FRAMEWORK

- An SMS should become a part of the way you do business every day and not just treated like a ‘bolt-on’ process or an afterthought.
- It should reflect the way work is done and influence every task you do.
- An SMS also needs to be appropriate for the size and complexity of your business



9 STEP SMS ROADMAP



NHVR's **9 Step SMS Roadmap** is a guide to developing a new SMS, filling the gaps in an existing SMS, or improving the performance of an already implemented system.

The recommended approach is to progress through the steps in order – from 1 through to 9. In each step, choose guidance that suits where your system is now.

Come back later, as your system improves and grows, and go to the next level.



**CODES OF PRACTICE,
NHVAS & OTHER
SUPPORT**

3

INDUSTRY CODES OF PRACTICE



Codes of practice inform an industry about safe practices.

Codes of practice can help CoR parties identify relevant hazards and risks and make recommendations about managing those risks.

While not exhaustive, a code of practice can be a useful resource to assist a business or person in developing a compliance and safety risk management process that helps them comply with their primary duty.



Master Code



Waste and Recycling

Mobile Crane

Livestock Effluent



Soon

Log Haulage
(2024)

Wine Industry
(2024)



BENEFITS OF ADOPTING AN INDUSTRY CODE OF PRACTICE



A code of practice:

- **Does not create new obligations** – CoR parties already have a primary duty to do what is reasonably practicable.
- **Can be used as evidence of what parties in the CoR know, or ought to know, about hazards, risks and control measures** – if information is published in a code, you are expected to know it
- **Is not a set of rules** – not every recommendation in a code of practice will be reasonably practicable for every party.
- **Keeps you informed about what industry and regulators know about hazards, risks, and controls in a heavy vehicle sector** – when you use a code of practice to guide your safety management, you know that you are working with the same knowledge.
- **Can help businesses agree on common safety practices.**

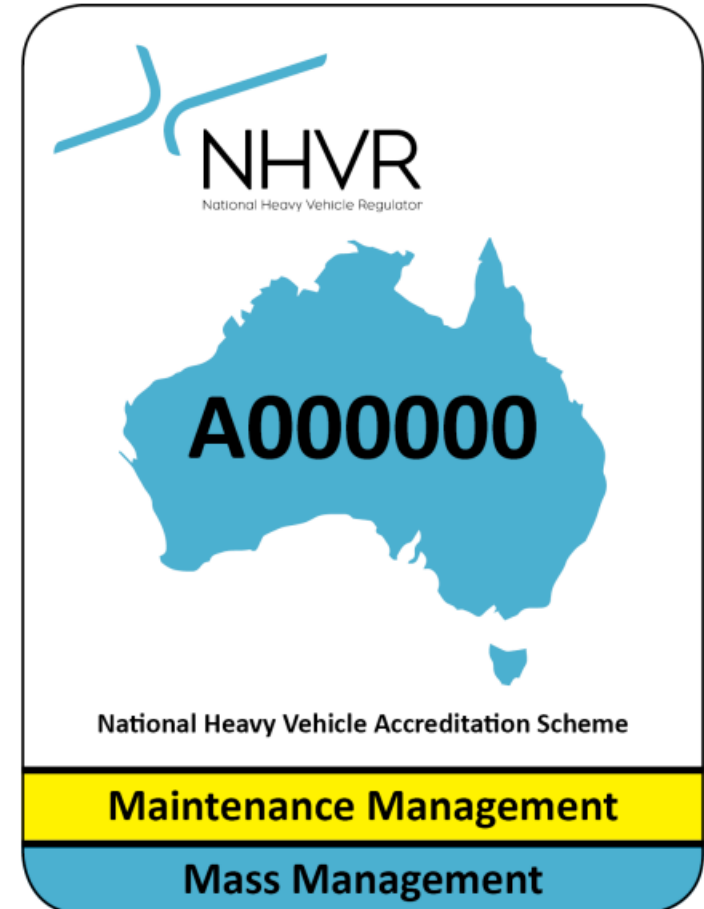
The National Heavy Vehicle Accreditation Scheme (NHVAS) is a formal national process for recognising operators who have robust safety management systems in place.

NHVAS standards address risks associated with:

- mass management
- maintenance management
- fatigue management.

Plus components found in an SMS, such as:

- documenting policies and procedures
- training employees
- detailing responsibilities.



NHVR

- [Regulatory Advice](#)
- [NHVR registered codes of practice](#)
- [Contact Centre](#)

Comcare

- [Workplace health and safety management system](#)

Australian standard

- [AS/NZS ISO 45001:2018 \(Occupational health and safety management systems - Requirements with guidance for use\)](#)

WHERE CAN I GET MORE INFORMATION?



For information and tools to help you understand your responsibilities in the **Chain of Responsibility**, visit www.nhvr.gov.au/cor

For information and tools to help you develop a **Safety Management System** for your business, visit www.nhvr.gov.au/sms

QUESTIONS?



Thank you

For more information:

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 NHVR

 National Heavy Vehicle Regulator