

The background of the slide is a photograph of a white semi-truck driving on a multi-lane highway. The truck is positioned on the right side of the frame, moving away from the viewer. The road stretches into the distance under a cloudy sky. The entire image is overlaid with a semi-transparent blue filter.

Chain of Responsibility

Michael Crellin
Manager, Chain of Responsibility
Regulatory Compliance

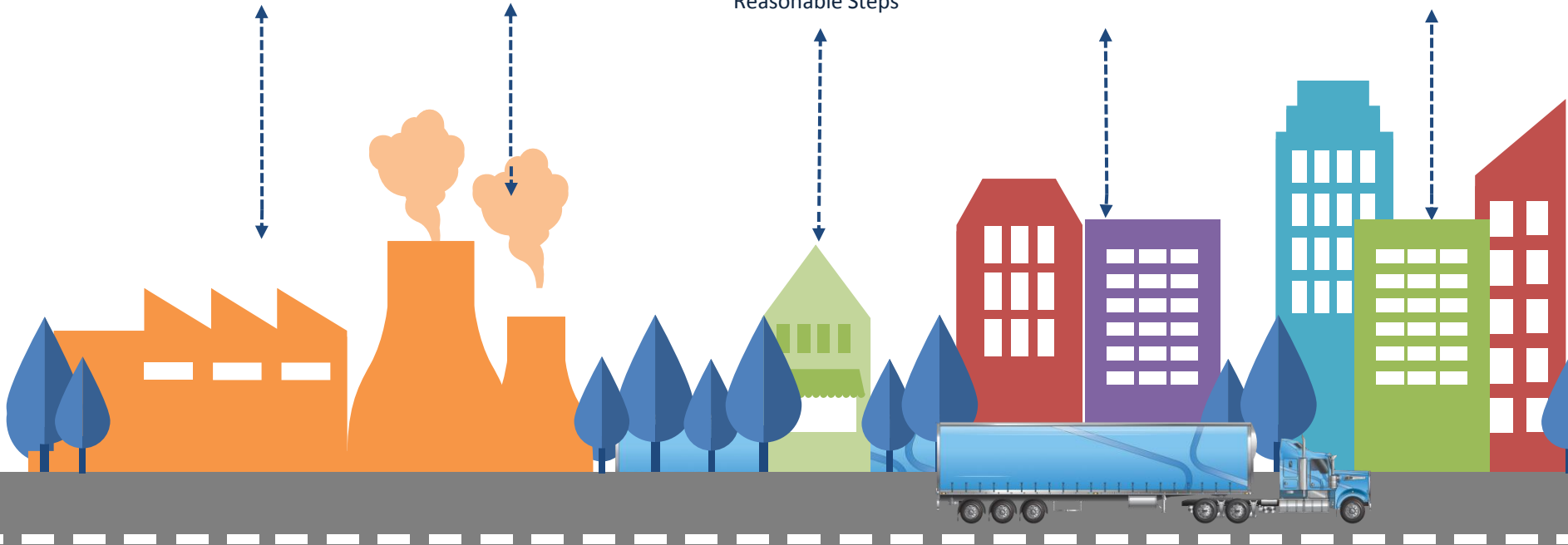
1995
Small beginnings (Qld)

1999
Executive Officers
& Representatives

2008
Extended Liability
(Parties)
Reasonable Steps

2014
Heavy Vehicle
National Law

2018
Primary Duty



Philosophy of CoR

*Chain of Responsibility (CoR) laws mean that any **party in the chain** who has **influence** over the transport activity is **responsible for safety** on the road.*



Who is accountable under the HVNL?

Scenario:

A transport company is contracted by a customer to pick up a shipping container from the Port. Upon arrival, the sealed container is loaded onto the heavy vehicle and the driver is provided with a container weight declaration. On exiting the port the load is weighed and it exceeds mass requirements.

Who is responsible?



What is coming – Primary Duties

Primary Duty: A new direction in legislation

Current Regime	2018
Deemed Liability	Primary Duty
Reasonable Steps	So Far as Reasonably Practicable
Onus on Defendant	Onus returns to Prosecution
Fatigue, Speed, MDL	Vehicle Standards added
Executive Officers after Corporation	Positive Duty
Focus upon driving breaches	Focus upon Business Practices

18C Primary duty - HVNL

- (1) Each party in the chain of responsibility for a heavy vehicle must, so far as is reasonably practicable, ensure the **safety** of the party's transport activities relating to the vehicle.
- (2) Without limiting subsection (1), each party **must**, so far as is reasonably practicable—
- (a) remove public **risks** and, to the extent that is not reasonably practicable, minimise the public **risks**; and
 - (b) ensure the party's conduct does not directly or indirectly **cause** or **encourage**—
 - (i) the driver of the heavy vehicle to contravene this Law; or
 - (ii) another person, including another party in the chain of responsibility, to contravene this Law.
- (3) For subsection (2)(b), the party's conduct includes, for example—
- (a) the party **asking, directing** or **requiring** another person to do, or not do, something; and
 - (b) the party entering into a contract—
 - (i) with another person for the other person to do, or not do, something; or
 - (ii) that purports to annul, exclude, restrict or otherwise change the effect of this Law.

CoR: New Primary Duty Penalties

- **Category 3** – breaches safety duty
 - \$50,000 Individual; \$500,000 Corporation
- **Category 2** – risk of death/injury
 - \$100,000 Individual; \$1m Corporation
- **Category 1** – recklessness
 - 5 years imprisonment, \$300,000 Individual
 - \$3m Corporation

So far as reasonably practicable

Reasonably practicable means something that is, or was at the time, reasonably able to be done to ensure health and safety, while taking into account and weighing up all relevant matters including:

The likelihood of the risk occurring

The degree of harm

What the person knows about the risk

Ways to remove or reduce the risk & whether they are feasible

Cost of modifying is proportional to the risk

CoR: Practical impacts of Primary Duty

- Proactive and preventative outlook
- Identify, assess and control risk
- Recognise obligations and requirements as 'risks'
- Manage requirements with best practice
- Develop an assurance regime to 'test effectiveness' of system
 1. Demonstration of compliance
 2. Monitoring, risk-based and interval audit regimes
 3. Consultation with partners and sub-contractors

Controls and practices

- Consider the entire system that ensures safety
- Apply risk management processes to HV operations
- Collaborate and engage with partners – support the freight operations
- Integrate technology
- Monitor operations and report continuously

The future of CoR investigations

- Right approach for the right circumstance
- Collaborative approach where appropriate
- Review of systems
- Focus on business practices and risk management
- Enforceable undertakings
- Information gathering powers



The Future HVNL

Scenario:

Its late 2018, and word has spread that there are long queues at the Port and many of the heavy vehicles are waiting hours to load and unload.

Every day the Port has an average of 20 heavy vehicles waiting to load/unload at any given time.

There are no facilities for the drivers to wait in as they are required to progress in the queue.

What is the approach now?



Three takeaways

- *CoR Laws will change for the road transport industry and supply chain in 2018 to focus on safety.*
- *CoR Parties will need to **proactively** manage the risks involved in their transport operations.*
- *Installing safety systems to reduce risks.*

Codes of Practice

- Establishes *standards* and *procedures* for parties in the chain of responsibility to *identify*, *analyse*, *evaluate* and *mitigate* general *risks* associated with meeting obligations under the Heavy Vehicle National Law (HVNL).

**Industry
Codes of
Practice**



Codes of Practice

Heavy Vehicle National Law

The HVNL is the point of all truth in determining the requirements, conditions and responsibilities for transport operations.

Codes of Practice

Codes of Practice establish the higher order risks and the features of management systems or business practices that prompt ways of complying with the law.

Implementation Tools

Implementation tools are the forms, software, templates, policies, etc. that can be used to give effect to a Code of Practice. These are also the mechanisms that check systems controls are adequate and in place.

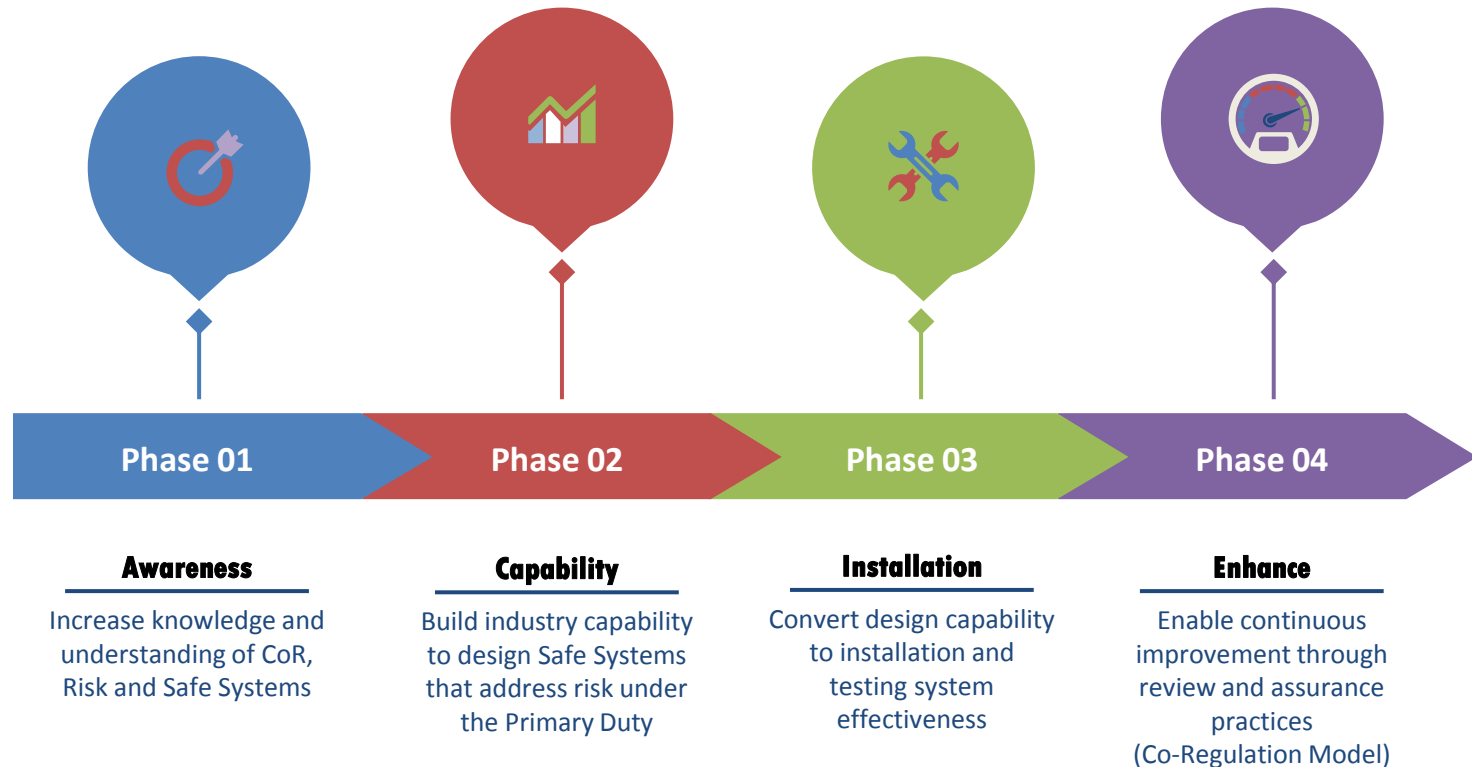
Operational Practice

Operational practice refers to the actual way in which an operator, or party in the supply chain, conducts their business. Such may include: risk management processes, operational processes, training regimes, etc.



Safety

The Education & Awareness Program



The background of the slide is a photograph of a white semi-truck driving on a multi-lane highway. The truck is positioned on the right side of the frame, moving towards the left. The highway has a guardrail on the left side, and the background shows a hilly landscape under a cloudy sky. The entire image is overlaid with a semi-transparent blue filter.

Safety Management Systems

Karen Bow
Manager, Safety Promotions, Training and Education

SMS Framework

Safety Policy

- Management commitment and responsibility
- Safety accountabilities of managers
- Appointment of key safety personnel
- SMS implementation plan
- Third party interfaces
- Documentation

Safety Risk Management

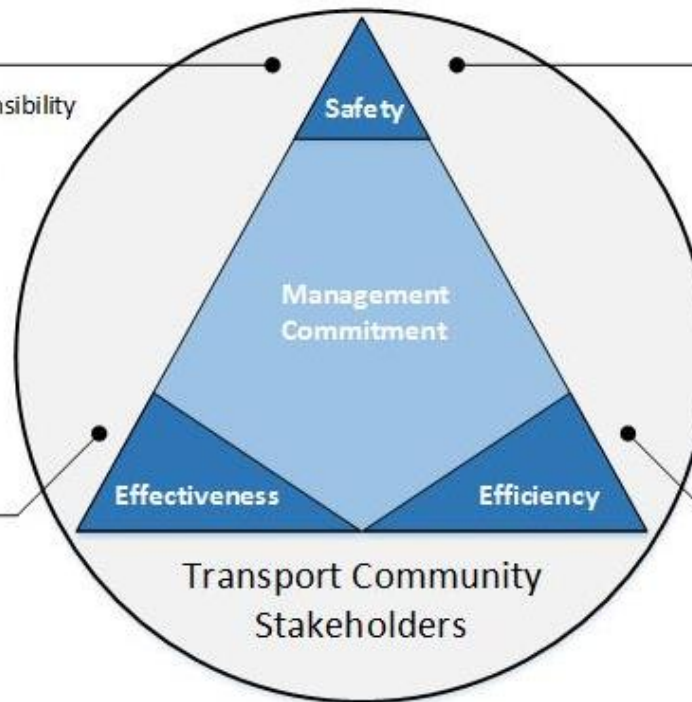
- Hazard identification process
- Risk assessment, mitigation and monitoring processes

Safety Promotion

- Training and education
- Safety communication
- Create positive safety culture

Safety Assurance

- Safety performance monitoring and measurement
- Internal safety investigations
- The management of change
- Continuous improvement of the safety system



Pillar 1 - Safety policy

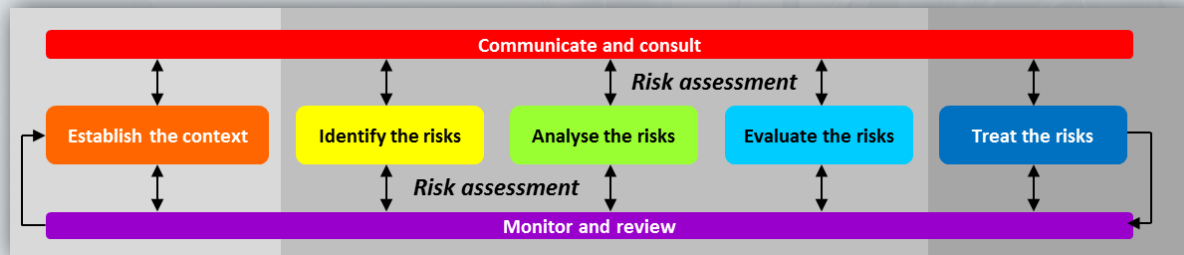
- *Management commitment*
- *Safety accountabilities*
- *Appointment of key safety personnel*
- *Documentation*



Pillar 2 - Safety risk management

Risk management allows you to:

- *identify hazards*
- *assess risks*
- *eliminate the risk or implement treatments to mitigate the risk*



Safety risk management

Hazards must be promptly identified.

- A *hazard* is an event, condition or thing that has the potential to cause harm
- A *risk* is the possibility that harm or loss might occur as the result of a hazard.



Pillar 3 - Safety assurance

- *Monitoring* how the system operates
- *Measuring* safety performance
- *Managing* change

In order to:

- *continually improve the system*



Pillar 4 - Safety promotion

An SMS must include:

- *education and **processes for training personnel** in safety-critical areas*
- *effective **two-way communication** between managers and employees*



Why are SMS important?

Improves the safety performance

Key benefits include:

- *Increased Safety*
- *Informed Decisions*
- *Reduced Costs*
- *Defensible Position*
- *Legal Responsibilities*
- *Business Reputation.*



Safety is everyone's responsibility

- *All employees and relevant stakeholders have a part to play in an SMS.*
- *A SMS assists all personnel to identify risks and develop effective methods and procedures (controls) to manage those risks.*
- *It encourages an operator to take responsibility for the safety of their work practices.*

Questions?