

**HEAVY VEHICLE DRIVER FATIGUE
Summary of Draft Policy Proposal**

May 2006



National Transport Commission

**Prepared by
National Transport Commission**

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REPORT OUTLINE

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Title:	Heavy Vehicle Driver Fatigue: Summary of Draft Policy Proposal
Address:	National Transport Commission Level 15/628 Bourke Street MELBOURNE VIC 3000 E-mail: ntc@ntc.gov.au Website: www.ntc.gov.au
Type of report:	Policy proposal
Objectives:	The heavy vehicle driver fatigue review is a key component of the third heavy vehicle reform package. The aim of this review is to improve road safety through the implementation of policies and practices addressing the management of fatigue in the road transport supply chain.
NTC Programs:	Fitness for Duty
Key Milestones:	This policy document is being released at this date for public information only. Public consultation on both draft legislation and revised policies developed for the heavy vehicle driver fatigue reform will take place later in 2006 upon receipt of the draft legislation.
Abstract:	This paper provides an overview of NTC policy relating to heavy vehicle driver fatigue. It summarises the policy positions in relation to most aspects of fatigue. It covers the first of two sets of papers that will be available on the NTC website.
Purpose:	Proposed policy for information purposes only.
Key words:	fatigue, driving hours, hours of duty, heavy vehicles, truck, bus
Comments by:	Not applicable

FOREWORD

The National Transport Commission (NTC) is a body established under an intergovernmental agreement with a charter to develop, monitor, and maintain uniform or nationally consistent regulatory and operational reforms relating to road transport, rail transport, and inter-modal transport. The NTC is funded jointly by the Australian Government, States and Territories.

Fatigue is one of the main causes of crashes involving heavy vehicle drivers. The Heavy Vehicle Driver Fatigue Review is a key component of the Third Heavy Vehicle Reform Package. The aim of this review is to improve road safety through the implementation of policies and practices addressing the management of fatigue in the road transport supply chain.

This paper summarises the current status of the review and summarises the content of the policies being released. Stakeholders should note that the views expressed are those of the NTC which have been informed by discussions with industry, regulators and relevant experts. These views have not been endorsed by any other organisations including the Transport Agencies Chief Executives.

The policy positions put forward in this paper are subject to change. The NTC will be undertaking further consideration of these issues over the coming months and will advance a final draft policy and legislation in mid 2006, after consultation with transport agencies and industry.

Final Heavy Vehicle Driver Fatigue draft policy proposals will be made available through the NTC website along with the draft legislation and a regulatory impact statement.

While NTC is not formally seeking comment on this paper, the project manager is happy to consider any written or verbal responses and may be able to attend meetings or seminars to discuss the policy issues. Contact details are below. NTC plans to release the package of revised policy papers, regulatory impact statement and draft legislation in August 2006 for a 6 week period. Formal comment will be sought at that stage. Comments will then be analysed and a final package will be sent to the Australian Transport Council for endorsement in December 2006.

Enquiries can be addressed to Mr Ron Shanks, Ph 03 9236 5000, email rshanks@ntc.gov.au

SUMMARY

NTC is proposing to recommend to Ministers a range of requirements in relation to managing heavy vehicle driver fatigue. These requirements will cover both trucks and buses. The Australian Transport Council has already agreed on some key features of a framework to manage driver fatigue, through a decision in 2004.

This paper summarises the proposed policy in areas that were not fully resolved in 2004. The proposed policies include Advanced Fatigue Management, Bus policy, short rest breaks, recordkeeping requirements, a proposed work diary, two-up driving, transition into and between fatigue management schemes, and accreditation standards. NTC has released a series of papers covering each topic in some detail. This paper summarises those papers and sets out the parameters recommended.

This summary paper covers the two series of papers released by the NTC in March and May 2006.

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1. INTRODUCTION

This paper summarises the NTC's current policy position on managing heavy vehicle driver fatigue. A more comprehensive explanation of each policy area is contained in separate policy proposals being released along with this summary. The proposed policies include:

- Heavy Vehicle Driver Fatigue: Advanced Fatigue Management Policy Proposal, including:
 - Heavy Vehicle Driver Fatigue: Advanced Fatigue Management Business Rules
 - Summary of Fatigue Management Programs and Research in Australia
- Heavy Vehicle Driver Fatigue: Bus and Coach Sector Policy Proposal
- Heavy Vehicle Driver Fatigue: Short Rests Policy Proposal
- Heavy Vehicle Driver Fatigue: Record Keeping and Work Diary Policy Proposal, including:
 - Heavy Vehicle Driver Fatigue: Results From an On-Road Trial of Proposed National Driver Work Diary
 - Heavy Vehicle Driver Fatigue: National Driver Work Diary
- Heavy Vehicle Driver Fatigue: Two-up Operations Policy Proposal, including
 - Two-up Driving Fatigue Study
 - Sleeper Berth Use in Two-up Operations
- Guidelines for Managing Heavy Vehicle Driver Fatigue
- ATC approved guidelines to assist managing driver fatigue comprising
 - Napping Guidelines
 - Rest Area Guidelines

It is proposed that a second set of papers covering matters including transitions between fatigue management schemes, accreditation standards, training policy, etc will be released in April 2006.

The policy positions put forward have been developed in consultation with industry and government agencies. However, it is important to note that they have not yet been endorsed by State and Territory agencies.

2. BACKGROUND

In 2004 the Australian Transport Council (ATC) gave in-principle endorsement to an NTC proposal to regulate heavy vehicle driver fatigue. The 'approved policy' covered some important fundamentals in managing fatigue including:

- a general duty to manage fatigue to minimise road safety risk;
- the need for a fatigue code of practice;
- strengthened chain of responsibility provisions;
- replacement of logbooks with a work diary;
- strengthened record keeping provisions;
- risk- based categorisation of offences;
- a revised range of sanctions;
- enhanced enforcement powers; and
- a multi-option approach that links increased flexibility with increased responsibility by operators to manage fatigue.

The approved policy also noted several areas which required further work including:

- Advanced Fatigue Management;
- Two-Up Driving;
- record keeping and a new work diary;
- bus and coach operations; and
- remote area livestock transport.

Some Ministers reserved support for some of the parameters put forward by NTC at the time.

The policy proposals now being released build-on the approved policy. They do not propose any significant alterations to any of the decisions 'locked-in' through the approved policy. However, there are two proposed variations from the approved policy. These relate firstly to improving the flexibility of short rest breaks and secondly, a proposal to move away from the requirement for third-party signatures in the proposed work diary. These issues are discussed in detail in the relevant policy proposals. Other than these specific variations, there was a need to more fully elaborate on some of the decisions and to develop policy in areas requiring further work. This document summarises the proposals in relation to the areas not specifically covered in the approved policy.

3. APPROVED HEAVY VEHICLE DRIVER FATIGUE POLICY

Attachment 1 summarises in tabular form NTC's current proposal to regulate heavy vehicle driver fatigue. It combines both the 2004 ATC approved policy and the positions proposed in the policies summarised in this paper. However, it is important that in addition to reading the summary table, businesses affected by the proposal also read this document and the supporting documents to ensure they understand the context of the proposal. The draft legislation that would underpin this proposal should also be reviewed when it is released later in 2006 (refer section 6 Where to From Here?).

The following policy proposals (section 4) provide the NTC's view on how the outstanding policy issues should be resolved.

4. NEW POLICY PROPOSALS

4.1 Advanced Fatigue Management (AFM) Policy Papers

The four papers cover different aspects of the AFM proposal. The Policy paper outlines the proposed AFM framework, the Business Rules paper outlines how the system will operate, the research summary paper provides the research data that underpins the policy and its operation and the AFM accreditation guide summarises the requirements to qualify for accreditation and to maintain accreditation. Importantly, the emphasis of AFM is on management of fatigue, rather than prescriptive parameters. Nevertheless some parameters have been set on the advice of fatigue experts. These provide some safe boundaries within which operators have the flexibility to propose management systems that specifically suit their activities.

4.2 Basic Fatigue Management (BFM) Paper

The BFM accreditation guide summarises the requirements to qualify for accreditation and to maintain accreditation.

4.3 Bus and Coach Sector Policy Proposal

This paper is aimed specifically at the bus and coach sector. It proposes a bus and coach-specific set of parameters but allows bus and coach drivers the option to take-up any of the fatigue management options available to other heavy vehicle drivers. A key feature of the bus and coach-specific option is that it allows drivers who undertake very limited night work to 'bank' their required nights off up to a period of one month.

4.4 Short Rest Breaks

It should be noted that the proposed approach to short rest breaks deviates in a minor way from the policy approved by ATC. It mainly affects the Standard Hours option with greater flexibility continuing to be available under either Basic or Advanced fatigue management options. The Standard Hours option requires rest of 15 minutes in five hours and thirty minutes, then 30 minutes in eight hours, and then 1 hour in 11 hours¹. This approach shifts the emphasis to ensure that regular short rest breaks are taken when they are most beneficial. It provides more flexibility than the current regulations, but arguably less flexibility than the approved policy. BFM and AFM options are consistent with the approved policy.

4.5 Recordkeeping and Work Diary

Logbooks and record keeping have been identified as essential tools which assist in the management of fatigue in drivers of heavy vehicles. They provide enforcement agencies with the necessary information to ensure compliance with road transport regulations. A proposal to improve record keeping was outlined in the approved policy.

¹ Sentence amended 4 April 2006

The policy proposal put forward tightened provisions that will require transport operators, owner/drivers and third party agencies to maintain records in a much more systematic, meaningful and accessible manner.

Under the proposal, a new national heavy vehicle driver work diary will replace the existing national driver logbook. Third-party signatures will not be required, but to ensure enforceability, drivers will be required to record odometer readings, along with the work/rest activities.

4.5.1 Results from Work Diary Trial

This paper simply sets out the findings of an industry trial that took place to assess various versions of the proposed work diary.

4.5.2 Proposed Work Diary

This document sets out the proposed work diary and the covering contextual information. This document would replace the current log-book. Importantly There is no change to the circumstances where drivers will be required to fill out the diary, unless they are working under the BFM or AFM option.

4.6 Two-up Operations

The policy for two-up driving was not specified in the approved policy. Two-up is used to cover ultra long distance trips, to address demands with particular types of freight, for training purposes, and to accommodate tight schedules.

Under current regulations, requirements for two-up drivers are not distinguished from those that apply to solo drivers. This means that a heavy vehicle can be operated continuously by a two-up team for 6 x 24 hour periods before an extended rest break is required. This is considered to be excessive by fatigue experts.

From a safety point of view, two-up has some distinctive advantages over the single driver operation including the presence of another driver in the vehicle which allows a tired driver to hand over the wheel when fatigued.

From a productivity point of view, the vehicle can be kept on the road for the full 24 hours and freight can be delivered to regional areas quicker than if managed by a solo driver. Balanced against this is the key disadvantage of poorer quality sleep in a moving vehicle.

The NTC is proposing a three tier system for two-up operations similar to that put forward for solo drivers.

Parameters proposed for the two-up **Standard Hours** option are as follows:

- maximum 12 hours work by any one driver in 24 hours;
- minimum continuous rest break of 5 hours in 24 hours for each driver in a two-up team which can be taken when stationary or in a moving vehicle in an approved sleeper berth;
- maximum 42 hour period in vehicle for both drivers with a requirement for a stationary rest break of at least 10 hours; and

- in any 7 day period, a minimum 48 hours stationary rest for each driver including 24 hours continuous rest and the balance in increments of at least 7 hours continuous.

Parameters proposed for the two-up **Basic Fatigue Management** (BFM) option comprise both regulatory and non-regulatory. They include:

- maximum 14 hours work by any one driver in 24 hours;
- minimum continuous rest break of 5 hours in 24 hours for each driver in a two-up team which can be taken when stationary or in a moving vehicle in an approved sleeper berth;
- maximum 72 hours in vehicle for both drivers with a requirement for a stationary rest break of at least 10 hours;
- in any 7 day period, a minimum 48 hours stationary rest for each driver including 24 hours continuous rest; and
- parameters setting vehicle comfort and driver health/selection issues (to be set in accreditation standards in place of regulations).

The Advanced Fatigue Management (AFM) option for two-up will accommodate the anticipated small number of two-up operations which fall outside the BFM limits. Under AFM, proposals will be treated on a case by case basis, with individual terms and conditions set by approving authorities in each jurisdiction.

4.6.1 Two-up Driving Fatigue Study

NTC undertook to examine the issues surrounding two-up in order to develop clearly defined parameters for its use. An on road study, which monitored the performance of two-up teams travelling across the continent, was conducted. However, this study was inconclusive and transport agencies agreed it should not form the basis for setting two-up fatigue parameters. The study is being released for information.

4.6.2 Sleeper Berth Use in Two-up Operations

Given the inconclusive nature of the research undertaken by ARRB (refer 3.8, above), NTC sought the views of two-up operators, regulators and undertook a comprehensive literature search to underpin the policy. In addition, NTC commissioned an international expert, Mr Ron Knipling to undertake an assessment of two-up driving practices and regulations in the USA and Canada. This report is being released for information.

4.7 Guidelines for Managing Fatigue

Under the approved policy the Guidelines were to be developed as a Code of Practice. The proposed version uses the term Guidelines rather than Code, but NTC believes this approach is consistent with the requirements under the approved policy. These Guidelines were developed in consultation with industry and Occupational Health and Safety (OHS) representatives to provide a practical guide on how to meet the general duty to manage fatigue that will be required in the legislation. Compliance with the Guidelines is also expected to cover-off OHS obligations in this area.

4.8 Approved Guidelines to Assist Managing Driver Fatigue

Development of the following guidelines was approved by the Australian Transport Council (ATC) as an important means of further improving the management of driver fatigue. Both guidelines were recently approved by ATC and will not be amended further prior to implementation of the proposed legislation. The guidelines be published ahead of implementation of the proposed legislation to assist stakeholders prepare for implementation.

4.8.1 Napping Guidelines

This document provides practical guidance on how drivers can take advantage of napping to assist them in managing fatigue.

4.8.2 Rest Area Guidelines

This document sets out good practice in the placement and quality of rest areas. It is aimed at governments, as they are responsible for constructing rest areas.

4.9 Migration between Accreditation Schemes

This paper puts forward NTC's views on migrating between current driving hours regulations and the proposed heavy vehicle driver fatigue regulations, and drivers transitioning between the Fatigue Management Options contained in the proposed heavy vehicle driver fatigue regulations.

4.10 Risk Categorisation, Sanctions, Demerit Points and Penalties

This report sets out the NTC's proposed policy for penalties, demerit points, sanctions and risk categorisation under the projected Heavy Vehicle Driver Fatigue model legislation, and the reasons behind the policy.

5. OTHER POINTS TO NOTE

5.1 Restrictions on Long Shifts and Night Work

The table setting out the Basic Fatigue Management (BFM) option is unchanged from the 2004 ATC approved policy, but the information is presented differently. Importantly, the BFM option introduces some control of the amount of night work and the amount of long shifts that can be undertaken in seven days. In order to try and improve understanding of the approved policy the table in appendix 1 adopts the terms 'long hours' and 'night hours':

- 'Long hours' are the hours worked beyond twelve in any one shift (as the BFM option allows 14 hours total work in 24 hours, it is possible to do two 'long hours' in any 24 hours).
- 'Night hours' are any full or part hour worked between 12 midnight and 6am. There are a possible 42 'night hours' in any seven days.

By setting a combined total of 36 long or night hours in any seven days, NTC is seeking to incorporate expert advice that long or night hours have a greater affect on fatigue than other periods. This has not changed from the 2004 ATC approved policy, but is expressed

within the table along with the other parameters, to aid understanding. NTC recognises that this parameter can be difficult to understand and intends to produce further material to assist drivers.

5.2 General Duty

It is also important to note that, as described in the 2004 ATC approved policy, the legislation will introduce a 'general duty' to manage fatigue. As discussed above, the Guidelines for Managing Driver Fatigue describe ways in which this general duty can be met.

6. WHERE TO FROM HERE?

NTC has determined that in the interests of transparency and good consultation, it should make available all of its proposed policies for a lengthy period to enable stakeholders to consider them and understand what underpins them. The current series of proposed policies will therefore remain on the NTC website for some 3 months. This should provide stakeholders with a good understanding of what they can expect to see drafted into the national model regulations.

These draft regulations will be released for stakeholder consideration later in 2006. At that time, NTC will formally seek public comment on the proposal. The regulatory impact statement will also be released as part of the consultation package. NTC proposes to reissue the proposed policies (perhaps with some minor changes) to clarify what underpins the proposal and to reflect the views of the advisory group. In summary the process will be:

- ensure proposed policies are available for about 3 months;
- convene meetings with interested stakeholders;
- withdraw proposed policies (indicative mid year);
- issue draft model regulations, RIS and revised policy papers for six weeks public consultation (indicative August 2006);
- support package with comprehensive public consultation program;
- issue response to comments received (indicative October 2006);
- finalise package and seek ATC decision (indicative December 2006)

NTC is required by legislation to have model legislation subjected to an ATC vote. If the proposal is successful, the Council of Australian Governments has agreed that all jurisdictions will implement the model law within 12 months.

APPENDIX 1 DEFINITIONS

Night Rest: is 7 hours rest taken between 10.00pm – 08.00am

Work: is counted in 15 minute periods (e.g. any work of 15 minutes or less is counted as 15 minutes work, any period of work more than 15 minutes up to 30 minutes is counted as 30 minutes work etc.)

Rest: is counted in (minimum) 15 minute periods (e.g. any non-work less than 15 minutes does not count towards rest, any period of non-work of 15 minutes but less than 30 minutes is counted as 15 minutes rest etc.)

Solo Drivers – Proposed Standard Hours

Time	Work	Rest
In any period of...	A driver must not work for more than a MAXIMUM of	With the balance of hours taken as off duty with the MINIMUM following rest breaks
5 hours 30 minutes	5 hours 15 minutes	15 minutes
8 hours	7 hours 30 minutes	30 minutes (For example: 2 x 15 minutes)
11 hours	10 hours	60 minutes (For example 2 x 30 minutes or 4 x 15 minutes or 2 x 15 minutes + 1 x 30 minutes)
24 hours	12 hours in total	12 hours rest Must include at least a 7 hour continuous rest
7 days (168 hours)	72 hours in total	96 hours Must include at least a 1 x 24 hour continuous rest
14 days (336 hours)	144 hours in total	192 hours Must include at least * 2 x 24 hours continuous rest * 4 night rests (For example: 2 + 1 + 1 or 2 + 2)

Solo Drivers – Proposed Basic Fatigue Management (BFM)

Time	Work	Rest
In any period of...	A driver must not work for more than a MAXIMUM of	With the balance of hours taken as off duty with the MINIMUM following rest breaks
6 hours 15 minutes	6 hours	15 minutes
9 hours	8 hours 30 minutes	30 minutes (For example: 2 x 15 minutes)
12 hours	11 hours	60 minutes (For example 2 x 30 minutes or 4 x 15 minutes or 2 x 15 minutes + 1 x 30 minutes)
24 hours	14 hours in total	10 hours Must include at least a 7 hour continuous rest
7 days (168 hours)	36 long and night hours in combination (1 `long` or `night` hour is any hour worked above 12 in 24 and any full / part hour worked 12:00 to 6.00a.m.)	1 x night rest if 36 hour work limit exceeded (For example may be taken separately or as part of 1 x 24 hour continuous rest)
14 days (336 hours)	144 hours Maximum 84 hours in any 7 days provided do not exceed 144 hours in any 14 day period	192 hours Must include at least * 2 x 24 hours continuous rest with 1 x 24 hour continuous rest after 84 hours work * 4 night rests

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		(For example: 2 + 1 + 1 or 2 + 2)
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Two-up Drivers – Proposed Standard Hours

Time	Work	Rest
In any period of...	A driver must not work for more than a MAXIMUM OF ...	With the balance of hours taken as off duty with the MINIMUM following rest breaks
5 hours 30 minutes	5 hours 15 minutes	15 minutes
8 hours	7 hours 30 minutes	30 minutes (For example 2 x 15 minutes)
11 hours	10 hours	60 minutes (For example 2 x 30 minutes or 4 x 15 minutes or 2 x 15 minutes + 1 x 30 minutes)
24 hours	12 hours	12 hours Must include: At least a minimum 5 hours continuous rest.
52 hours Maximum time in a moving vehicle is 42 hours		10 hours continuous stationary rest
7 days (168 hours)	60 hours	108 hours. Must include a minimum 48 hours stationary rest comprised of: 1 x 24 hour continuous rest; AND balance in minimum 7 hour rest periods.
14 days (336 hours)	120 hours	216 hours Must include: 4 night rests of which two must be consecutive. (For example 2 + 1 + 1 or 2 + 2)

Two-up Drivers – Proposed Basic Fatigue Management

Time	Work	Rest
In any period of...	A driver must not work for more than a MAXIMUM OF ...	With the balance of hours taken as off duty with the MINIMUM following rest breaks
		Under BFM, short rest requirements are not mandated, but will be stated as recommendations under accreditation standards. Similar to BFM solo requirements.
24 hours	14 hours	10 hours
82 hours Maximum time in a moving vehicle is 72 hours		10 hours continuous stationary rest
7 days (168 hours)	70 hours	98 hours. Must include a minimum 48 hours stationary rest comprised of: 1 x 24 hour continuous rest; AND balance in minimum 7 hour rest periods.
14 days (336 hours)	140 hours	196 hours Must include: 4 night rests (For example 2 + 1 + 1 or 2 + 2)

All rest, apart from the stationary rest break, can be taken in the moving vehicle provided it is fitted with a sleeper berth.

Proposed Advanced Fatigue Management (AFM) Limits

Under AFM, outer limits cannot be exceeded under any circumstances. These outer limits and whether these are to be specified in legislation or in a National Heavy Vehicle Accreditation Scheme (NHVAS) AFM accreditation agreement are listed below.

- Minimum continuous break in a 24 hour period: six hours (legislation);
- Minimum continuous 24 hour periods free of work: four periods in 28 days (legislation);
- Minimum opportunity for night sleep (between 22:00 and 08:00): two periods in 14 days (NHVAS AFM accreditation);
- Maximum hours work in 24 hour period: 16 hours (Note that NSW and Victoria have proposed maximum work in 24 hour period as 15 hours) (NHVAS AFM accreditation);
- Maximum work in 14 days: 154 hours, with no more than 84 hours before a continuous period of 24 hours free of work (legislation); and
- Maximum work in 28 days: 288 hours (legislation).

All approved operating limits submitted by individual transport operators must fall within these outer limits. All schedules must be planned within these approved operating limits.

Drivers can only exceed the approved operating limits if the transport operator responsible accepts responsibility for all subsequent risks.

Bus & Coach Drivers - Proposed Standard Hours

Important

Bus and coach drivers can work under Standard Hours (same parameters as for other heavy vehicles), under the bus and coach specific option below, or under the BFM or AFM options.

Time	Work	Rest
In any period of...	A driver must not work for more than a MAXIMUM of	With the balance of hours taken as off duty with the MINIMUM following rest breaks
5 hours 30 minutes	5 hours 15 minutes	15 minutes
8 hours	7 hours 30 minutes	30 minutes (For example: 2 x 15 minutes)
11 hours	10 hours	60 minutes (For example: 2 x 30 minutes or 4 x 15 minutes or 2 x 15 minutes + 1 x 30 minutes)
24 hours	12 hours	12 hours rest Must include at least a 7 hour continuous rest
7 days (168 hours)	72 hours	96 hours Must include 6 x night rests
14 days (336 hours)	144 hours	192 hours
28 days	288 hours	4 x 24 hour rest periods