HEAVY VEHICLE DRIVER FATIGUE
RECORD KEEPING AND
WORK DIARY
Policy Proposal

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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 (HVDF) 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, Heavy Vehicle Driver Fatigue

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: 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. This exercise looked at addressing difficulties with current record keeping requirements and low levels of compliance. Road transport regulations will now require records be kept in a much more systematic, meaningful and accessible manner. A new national heavy vehicle driver work diary will replace the existing national driver logbook.

Purpose: Proposed policy for information purposes only.

Key words: heavy vehicle driver fatigue, HVDF, record keeping, work diary, logbook, records, driving hours regulations

Comments by: Not applicable
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 policy paper articulates the NTC’s view on record keeping issues which were unresolved at the time of the ATC endorsement of the Heavy Vehicle Driver Fatigue policy proposal in 2004. Presenting the issues and stating our position on record keeping is intended to assist stakeholders in understanding the rationale for this policy and the options which were considered. 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 nor by industry peak bodies.

The policy position put forward in this paper is subject to change. The NTC will be undertaking further consideration of these issues over the coming months and will advance a final draft Heavy Vehicle Driver Fatigue record keeping policy proposal 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. The NTC plans to release the package of revised policy papers, RIS and draft legislation in August 2006 for a six 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 Ms Christine Roche, Ph 03 9236 5000, email croche@ntc.gov.au

Michael Deegan
Acting Chairman
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 Heavy Vehicle Driver Fatigue policy proposal approved by the Australian Transport Council in 2004, however further work was required.

Currently, employers and owner/drivers are required to keep records of all driver work and rest activities where drivers operate heavy vehicles with a gross vehicle mass (GVM) of over 12 tonnes. Employers of local area heavy vehicle drivers (operating within 100kms of the driver’s base) are required to keep estimates of drivers’ working and rest times. Drivers operating outside the local area zone (outside the 100kms limit (200kms in Queensland)) are required to keep a logbook of all work and rest activities. Copies of these records are then retained by employers and owner/drivers for compliance audit purposes.

Issues with current record keeping requirements include incomplete records and difficulties in accessing available records to extract the necessary information. The current heavy vehicle driver logbook system has also been heavily criticised as being open to abuse and falsification with low compliance levels.

The NTC looked at identifying what records should be kept and how these records could be made more readily accessible for enforcement purposes and to demonstrate an operator’s compliance with accreditation requirements.

The NTC also looked at replacing the current national driver logbook with a more comprehensive recording document – a work diary. This document will provide a more accurate and complete continuous record of day-to-day heavy vehicle driver rest and work activities.

More accurate records will provide a more complete and significant record of evidence for Chain of Responsibility enforcement actions. Transport operators, owner/drivers and drivers will be clearly demonstrating how they are meeting their obligations under the new road transport legislation. The work diary will help ensure drivers balance their rest breaks and work hours.

A Recordkeeping Advisory Group comprising representatives from the Australian Trucking Association, State transport agencies, the South Australia Police (SAPOL), OH&S agencies and the Transport Workers Union (TWU) provided advice. A series of focus groups and an on road trial of a draft work diary design were conducted in 2004/2005. Feedback has been incorporated into the latest version of the work diary (Appendix B).

The policy proposes:

- a core set of mandatory records for retention for all heavy vehicle drivers with the work diary constituting the main record for those heavy vehicle drivers operating outside the local area zone and for drivers operating under Basic Fatigue Management (BFM) or Advanced Fatigue Management (AFM);
- a proposed set of secondary documentation, much of which will already be retained for taxation purposes;
• all records to be retained in alphabetical and chronological order;

• all records to be kept for a minimum of 3 years after the creation date of the record;

• drivers will be required to hand a copy of their work diary to their employer / agency within 28 days;

• employers including agencies will be required to obtain a copy of a drivers work diary within 28 days;

• development of a new national heavy vehicle driver work diary to replace the existing national driver logbook. The work diary will not require third party signatures; and

• heavy vehicle drivers accredited under AFM will be required to record all rest and work activities regardless of operating zone. This will provide evidence of compliance with their particular operating limits.

Current driving hours legislation and the *Road Transport Reform (Driving Hours) Regulations 1999*, make provision for electronic record keeping or auditable electronic freight management records as an alternative to logbooks. The proposed HVDF Regulations will retain these provisions as an alternative to the need to maintain paper based documentation e.g. work diary records. The NTC will be investigating electronic record keeping at a later date.

The success of the work diary will depend upon the training provided to drivers and enforcement officers as part of the implementation of the new HVDF reform. It will also depend upon their awareness and understanding of fatigue, the guidance provided on how to manage fatigue, and their understanding of their obligations under the new HVDF regulations.

Note this document may require some further testing before final release.
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1. INTRODUCTION

1.1 Background

The Heavy Vehicle Driver Fatigue (HVDF) proposal given in-principle approval by the Australian Transport Council in 2004 outlined a range of measures to improve the safety performance of heavy vehicle drivers by improving the management of fatigue. One of these measures looked at recordkeeping.¹

Logbooks and record keeping are essential tools which provide enforcement agencies with the necessary information to ensure compliance with driving hours regulatory requirements.

Issues with current record keeping requirements include incomplete records and difficulties in accessing available records to extract the necessary information. Records to date are primarily paper-based.

Heavy vehicle drivers, transport operators and enforcement officers identified a range of issues with the current logbook. The ATC endorsed 2004 Heavy Vehicle Driver Fatigue proposal proposed the replacement of the national driver logbook with a driver work diary and the inclusion of fields in the work diary. These included recording the name and contact details of the vehicle owner, contact details for each customer, speedometer readings, details of trips, work and rest periods, and a signature from consignors/receivers upon pick up or delivery of a load. Finally employers were to be placed under an obligation to request and actively pursue driving records from drivers, an obligation not included in current driving hours regulations.

This project set out to:

• identify a mandatory format, and storage requirements, for records to allow ease of access for compliance assessment;

• identify what additional information should be collected by transport operators, agencies, owner/operators and heavy vehicle drivers, to be able to more accurately assess compliance with the road transport regulations; and

• in light of the 2004 HVDF policy proposal, design a document to replace the existing logbook which could be used to provide more accurate evidence of driver daily rest and work activities.

Both the records and the driver document will continue to provide the means by which transport operator schedules and driver rest and work activities can be readily assessed and monitored for compliance purposes under the new accreditation schemes, the HVDF regulations and OH&S legislation.

¹ Although strengthened record keeping provisions were mentioned in this proposal no detailed parameters were put forward. 'Strengthened record keeping provisions will require operators to maintain records in a systematic, meaningful and accessible manner.'
1.2 Purpose

This policy paper sets out the agreed strengthened record keeping provisions for the new HVDF regulations and the additional information to be collected by the proposed national driver work diary.

- **Strengthened record keeping provisions** will require operators including owner/operators and third party agencies to maintain records in a systematic, meaningful and accessible manner.

- **The replacement of logbooks with a work diary** will enable a driver to more accurately record activities affecting his/her working day as well as fulfilling regulatory requirements similar to the existing national driver logbook.

More accurate record keeping will assist transport operators and heavy vehicle drivers meet their obligations under these new ‘chain of responsibility’ requirements.

- **Strengthened chain of responsibility provisions** mean:
  - a person upon whom a duty is imposed must actively consider whether the way in which they intend to carry out the specified activity will satisfy that duty; and
  - a person must ensure that they are in a position to prove that the duty was met if called upon to do so at some later date.

1.3 Scope

The NTC looked at identifying a set of core records which must be retained for all drivers and at how these records should be stored for ease of access for audit purposes.

In addition, the NTC looked at replacing the existing paper-based heavy vehicle driver logbook with a more accurate and comprehensive document.

This document will include:

- revised work/rest limits for Standard hours and for Basic Fatigue Management;
- revised work/rest limits for bus operators and two-up drivers;
- revised definitions; and
- a set of comprehensive and clear instructions for completion of the document.

It is not intended at this stage to design or propose an electronic record keeping system for heavy vehicles. Although technological solutions such as digital tachographs may well replace the work diary in the near future, at this stage, the scope of this work is to strengthen the existing record keeping provisions and revise the existing paper based system so that compliance can be more accurately and easily assessed. In addition, the proposed HVDF Regulations will retain Regulation 54, from the current Road Transport Reform (Driving Hours) Regulations 1999, which permits the collection of electronic data (Driver Specific Monitoring Devices) as alternatives to logbooks. This provides an opportunity for transport operators to explore this alternative to paper-based record keeping.
The NTC will be investigating the use of electronic record keeping as a separate undertaking.

2. EXISTING REGULATIONS FOR RECORD KEEPING

2.1 Existing Regulations

The Road Transport Reform (Driving Hours) Regulations 1999 sets out the duties and obligations for drivers and transport operators with regard to record keeping and driving hours work and rest limits. These regulations have been adopted in a number of States and Territories (WA and NT excepted). The title ‘National Driver Logbook’ has been adopted by Victoria, NSW and Qld. The logbook is not mandated in WA or NT. Instead both NT and WA have introduced fatigue management codes of practice for heavy vehicle drivers given effect by occupational health and safety legislation.

The NT Code was gazetted in September 1998 and the WA Code was produced in March 2003. These Codes of Practice were developed by the road transport industry, transport regulators, and occupational health and safety experts in WA and the NT. These codes are also aimed at commercial bus and tour vehicle operators.

Adoption of these codes of practice is voluntary. They provide guidance for operators and drivers on how to meet their duty of care obligations under OH&S Legislation. The focus is on safe outcomes as a result of appropriate risk assessment based on the task at hand, the provision of flexibility to allow employees take appropriate rest, and the management of driver health issues. Transport operators must prove that their systems of work have met their occupational health and safety obligations. These systems are subject to audit by OH&S trained inspectors.

Drivers operating vehicles of over 12 GVM outside a 100km zone (200km for Queensland) from base, that is most long distance heavy vehicle drivers, are required to keep a daily log of all work and rest activities. Drivers of commercial buses built to carry over 12 adults (NSW 8 adults) must also complete a logbook if they operate outside the 100km zone. Individual logbook pages are required to be kept by employers and owner/drivers to maintain a record of heavy vehicle driver activity.

For local area work, since local area drivers are not required to maintain logbooks, employers of drivers operating heavy vehicles within a 100km (200km for Queensland) radius of the drivers’ base, are required to keep recorded estimates of drivers’ working and rest times.

2.2 Problems with Existing Regulations

The existing logbook system is widely criticised. It is seen as a regulatory imposition on drivers. Problems with current record keeping requirements include:

- variations from State to State in the adoption of the template driving regulations The Road Transport Reform (Driving Hours) Regulations 1999, variations to the definition of a heavy vehicle, misunderstandings about the definition of work, etc;

- no prescribed format for base records exists. Enforcement officers frequently encounter difficulty in easily accessing the records and in successfully extracting the information they need to assess compliance;
• employed drivers are required to provide their employer with a copy of their logbook record for each day of non-local area work. However, there is no corresponding obligation on the employer to request or pursue the provision of that record if not supplied by the driver. This results in gaps in employers' records and in knowledge of driver activities;

• often schedules or proposed trip plans do not directly reflect activities recorded historically in logbooks or in estimates of driver activities (local area records). In addition, due to the nature of the freight transport business, proposed schedules can often change at a moment’s notice. Frequently accurate records are not kept of those changes to schedules;

• owner/operators keep few records and generally not schedules or revisions to schedules;

• where a driver is a contractor and employed by an agency, there is some confusion over who should keep the management records;

• current driving hours definitions are frequently misunderstood by both drivers and enforcement officers. Anecdotal evidence suggests that both drivers and enforcement officers are not completely clear about how the logbook should be completed and interpreted. The concept of a rolling 24 hour period is frequently misunderstood;

• drivers can easily obtain and run several logbooks concurrently;

• falsification is reportedly widespread;

• employers currently rely heavily on the information provided in the driver logbook which can easily be falsified and which is often completed after the event. Drivers on long trips often manufacture trip details in order to fit in the prescribed 6 hour breaks every 24 hours;

• reported widespread working beyond prescribed hours;

• non-recording of local area work by those drivers working outside the 100km zone;

• non-recording of loading/unloading activities and location of these activities;

• non-recording of either the total kilometres/distance travelled or of any odometer readings on vehicles used;

• confusion over recording two up driving;

• issue of phantom two up drivers;

• confusion over recording of time zones;

• widespread perception that current logbook does not assist with managing driver fatigue;

• inadequate and unclear instructions in the current logbook; and

• low compliance levels.
The revision of the driving hours regulations, the introduction of a more accurate recording document and the provision of widespread education and training with the implementation of the HVDF reform are intended to address the majority of these issues.

3. METHODOLOGY

3.1 Consultation on Policy

In June 2004, the Record Keeping Advisory Group, comprising representatives from the Australian Trucking Association, State transport agencies, the South Australian Police (SAPOL), OH&S agencies and the Transport Workers Union (TWU), met to examine record keeping issues. A brief examination was conducted of record keeping/diarising solutions, and designs already in use in the road transport industry overseas. An initial discussion paper outlining the issues was circulated for comment in May 2004. In July and September 2004 the group:

- looked at revising the requirements for record keeping – what core details must be kept, by whom and in what format for ease of access;
- looked at what additional information the proposed work diary should collect;
- reached agreement on the assignment of obligations and duties (legal issues); and
- provided subjects for focus groups and the on road trial.

While the record keeping issues were resolved in a straightforward manner, the development of the recording document to replace the current logbook required further investigation.

3.2 Focus Groups

In October and November 2004, a draft work diary design with some preliminary instructions for completion was distributed. Focus groups and interviews with heavy vehicle drivers were conducted in both Sydney and Melbourne. The aim of these focus groups was to sound out drivers on issues with the current logbook and driving hours regulations, including the contentious issue of third party signatures. Drivers raised concerns about:

- the inconsistencies in the current regulations and the way in which logbooks are policed and monitored both within and across States;
- the practicality of obtaining countersignatures and who would be penalised if a countersignature was not forthcoming from third parties;
- existing definitions e.g. the rolling 24 hour period;
- the removal of the distinction between driving and work related activities (see Appendix A),
- recording the driver base, queuing, two-up operations, time zones;
- the inflexibility of the current logbook;
• fines for misspellings;
• problems with maintaining odometers;
• a complicated rest and work summaries;
• enforcement officer signatures; and
• the size of the proposed work diary document, etc.

Findings from the focus group sessions and interviews conducted in Sydney indicated:

• there would be major problems in obtaining third party signatures;
• the driving motivator to bend the regulations is the need to earn a living, and existing penalties are not a deterrent;
• the many inconsistencies in the regulations, not least the way in which log books are policed and monitored, both within and across States and Territories;
• drivers could see little connection between the logbook/work diary and fatigue management;
• local area work is seen as being much less regulated and an easier alternative to long distance/line haul operations; and
• a general strong dislike for completing paperwork.

Recommendations included:

• keep the final document as simple and as straightforward as possible, using simple vocabulary;
• include a set of clear instructions with an example(s) of a completed daily sheet;
• provide references to the importance of road and driver safety and to the driver welfare and benefit. The document needs to be more driver oriented (less a management document); and,
• provide training and face-to-face instruction in the new requirements and in completion of the Work Diary.

These findings were presented in February 2005 to the Record Keeping Advisory Group and the Transport Agency Fatigue Committee (TAFC) jurisdictional representatives. At this meeting, after much debate, jurisdictions decided to drop the contentious requirement to collect third party signatures primarily since it was judged too difficult to implement (See 4.3 discussion). Also dropped from the original draft work diary design were some complicated calculations primarily focused on getting a driver to plan out his rest breaks in advance. The result was a simpler format with a design much closer to the original logbook but with the addition of several new fields resulting in a larger format.

The next step was to conduct an on road trial of the work diary design to test the inclusion of the new fields, some new concepts and a revised layout.
3.3 On Road Trial of Work Diary

Local and long distance heavy vehicle drivers, (large and small, interstate and intrastate, independent owner/drivers), bus operators and enforcement officers took part in this trial.

Local drivers, currently not required to complete a logbook, took part in the trial to assess the practicality of extending the use of the work diary to local area work. This will be required for those drivers operating under BFM and AFM.

The trial was conducted from March to July 2005. Drivers were required to maintain both existing logbooks and the draft work diary in tandem during the course of the trial.

Twelve transport companies, two bus operators and fourteen independent operators took part in the trial with 115 out of 197 work diaries returned, fully or partially completed.

Two version of a proposed design were trialled, one with a marked timeline and one with a blank timeline.

Enforcement officers from NSW, SA, Vic and Qld met in focus groups to provide comment on the draft design and on a selected sample of the completed work diaries from the on road trial.

Results from the trial indicated:

(a) Seventy-three percent of drivers preferred the marked timeline as opposed to the blank timeline.

(b) The redefinition of Work (see Appendix A) resulting in the removal of the distinction between driving and non-driving activities created confusion among both drivers and enforcement officers and also affected local area driver response. This is predominantly an education issue which can be addressed through awareness raising, training and instruction.

(c) There was confusion around the issue of recording loading and unloading activity. This is estimated to be a major part of existing non-recorded work related activity. This problem has been addressed by including a separate column in the latest version of the work diary which makes recording of this information more explicit.

(d) There was confusion around the requirement to record odometer readings at each change of activity. This reading only needs to be recorded once at the change of activity. Again effective education and training will be required to address this issue.

(e) There was confusion over recording time zones. This has been addressed through the instruction to record the time zone where the trip commences and to continue to use that time zone until completion of that trip.

(f) There was confusion over the recording of work when two-up driving takes place. The distinction has been made between Solo Work and Two-up Work. Clear work diary instructions and training should address the issue of how to record two up activities correctly.

(g) An optional Notes section was included, however, feedback indicated that while this was a good idea, drivers would not make use of this fearing it would become compulsory.

(h) Local area drivers who took part in the on road trial were resistant to the imposition of a work diary to record rest/work activities and were adamant that it would not be
feasible. The option of extending the use of the work diary to local area work has yet to be fully explored. At this stage the work diary is aimed at all drivers who currently maintain a national driver logbook and at those drivers who will be operating under BFM and AFM.

(i) There was confusion around the definition of Driver Base. This will be addressed through clarification in the work diary instructions.

4. ISSUES IDENTIFIED

4.1 Queuing

Queuing can be recorded as either work or rest depending upon the circumstances.

Under the current regulations, queuing is not explicitly defined but falls under the category of **Work**. Driving includes ‘being in the driving seat of a stationary heavy truck or commercial bus while the engine is running’. In many instances engines are run to maintain air conditioning or refrigeration units while a driver is waiting to load/unload. However, an engine can also be run to operate an air conditioning unit while a driver is resting.

Larger distribution networks now use a time slotting process to manage loading and unloading. Time slots are allocated and electronic time boards are used to call up queued drivers to load/unload. A driver can be waiting for some time and needs to keep watch for an allocated number to maintain his/her place in the queue. This is in effect on duty time and should be recorded as work.

However, if the driver manages to get a short rest break while queuing, then the rest period, if 15 minutes or more, is recorded as rest.

4.2 Loading and Unloading

In many instances drivers did not record how a load was prepared for transport e.g. whether the driver took part in preparing the load for consignment or if he/she took part in the loading/unloading activity. Industry has advised that loading and unloading can take between 1-5 hours on average out of a driver’s working day, yet frequently this work activity is not recorded in the logbook. With frequent dawn starts and long working days, heavy manual activity can contribute greatly to driver fatigue. Although the current regulations define loading as ‘Work time’ (Regulation 13), the current logbook does not capture this activity explicitly. Industry has advised that more often than not drivers avoid recording this activity as work in order to keep within their work limits. The work diary now includes a separate field to record this activity.

4.3 Countersignatures

The HVDF policy proposal approved by the ATC mid 2004\(^2\) proposed that a provision be included ‘in the work diary for consignors/receivers to sign confirming date and time of pick up/delivery. The relevant detail to be confirmed would be the date and time at which loading or unloading was completed’ (Recommendation 9). This requirement was based

on the *Quinlan Safe Driving Plan*\(^3\). The purpose behind this proposal was to capture third party verification of work diary accuracy. This issue was discussed at some length by the Record keeping Advisory Group and proved quite contentious. Industry pointed out the following difficulties with complying with this proposed requirement:

- Most large warehousing and logistics operations now electronically record pickups and deliveries entering and exiting depots at the gate. Signatures are rarely recorded and only electronically generated receipts are provided.
- Distribution Centres and wharves electronically record gate times on entry and exit, however, this does not reflect time spent queuing, and loading/unloading.
- Typical documentation collected upon pickup/delivery of goods such as a delivery order; a consignment note, a load manifest, an export advice or a bill of lading do not record the time of pickup or delivery.
- It would be very onerous and not a little contentious to get the ‘depot occupier’ to sign the driver work diary upon arrival or departure. Questions were raised such as ‘when should this information be captured….upon entry or exit at the gate? Upon completion of pickup or delivery of goods? Who should have the responsibility to countersign drivers’ work diaries? What should the driver do where there is no one available to sign the document at the time of pick up/delivery? Or if there is a delay in countersigning? Or no one present will sign?’

- What is a countersignature? Can it be both manual and electronic?
- How to ensure the legibility of the countersignature for audit purposes?
- How could all this information including multiple signatures be recorded on a single work diary page?
- The potential for falsification is obvious.

When the collection of a countersignature was proposed to drivers and transport operators, it was clarified that the person signing the work diary would be simply recording that at that point in time the driver was at that location to pickup or unload goods. The countersignature would provide a cross-reference for driver activity. The signor would not be verifying any other details in the driver work diary. However, industry remained distinctly uncomfortable with this proposal and questioned the practicality of this requirement.

Industry provided the following working examples of difficulties with implementing this requirement:

- a local driver picks up a load and brings it back to the yard for a line haul driver to collect later in the day/weekend. When the line haul driver departs no one is present (drivers are provided with a security gate key or electronic access for out of hours);
- in many operations, loads are frequently picked up from unmanned sites e.g. fruit and vegetable, stock, freight yards, customers yard, and saleyards, etc;
- ‘a trailer is left with a customer (freight forwarder) and the customer delivers to our yard for the line haul driver to take at a later time’;
- departing from a remote area after a driver changeover;

\(^3\) Quinlan, M (2001).
• typically, if anyone is on site outside of normal business hours, it is the forklift operator or the security guard;
• trailers are left in the street for later pickup;
• pick up details are provided by phone (e.g. livestock) with no one at the location;
• freight consignors and consignees frequently refuse to sign documentation since they ‘don’t have the authority’ especially on building sites where the receiver has not yet arrived. ‘It is the legal consequences (contractual conditions or acceptance of freight in “good condition”) that deter people from signing’; and
• some major consignors will not sign more than the Proof of Delivery (POD) document carried by the driver.

An alternative to countersignatures would be to check Bills of Lading and the delivery documentation usually carried by a heavy vehicle driver when picking up and delivering goods. The jurisdictions group finally agreed to waive this requirement and instead settled on the recording of odometer readings at change of activity in order to provide a cross-reference with other information recorded in the work diary.

4.4 Odometers

An odometer reading places a driver at a certain point at a certain time by cross-referencing with the distance the driver has travelled and with existing recordings made by the driver in the work diary. Odometer readings as a cross-reference go some way to replacing a third party signature. Industry provided some examples of where there may be problems with this requirement:

(a) Where possible transport operators operate their vehicle on a 24 x 7 basis. A long distance vehicle is often used by another local area driver for pickups and deliveries while the first driver is resting. As a result there will be a gap in recorded odometer readings. Drivers have indicated they are concerned about this gap and how to explain it during on road enforcement audits.

(b) Industry also advised that odometers can quite easily malfunction en route e.g. a truck runs over wildlife on the road and the odometer is disconnected or when connecting trailers the electrical system including the odometer is shorted. How can these incidents be taken into account?

Since the requirement for an odometer is being removed from ADR 18/02 at the end of 2007 this requirement will need to be retained in the HVDF Regulations.

(c) Odometer accuracy was raised as a potential issue. In ADR 18/02, clause 18.5.2.1.2, requires that the odometer indicate ‘the actual distance travelled by the vehicle to an accuracy of ± 4 per cent.’ A 4% error in a trip Brisbane to Melbourne could amount to 70 kilometres (about one hours travel depending on terrain, etc). How should this be handled?

(d) Finally, a practical suggestion was made to include a vehicle inspection report on the back page of the daily work diary sheets. This would be handed in when the driver hands in the completed daily work diary sheet. The vehicle check would include a check to verify that the odometer on a vehicle is actually in good working order. It was commented that vehicle checks vary from operator to operator and so this was not deemed practicable.
However, this issue may have to be revisited since if odometers frequently break down en route, how will the driver prove that the instrument was working when he started from base, and how will he handle the subsequent non-recording of this required information?

Enforcement officers will have to be made aware of (a). Drivers and transport operators accredited under the National Heavy Vehicle Accreditation Scheme (NHVAS) and operating under BFM or AFM will be required to conduct a pre-trip vehicle check prior to each long distance trip to ensure among other things that an odometer is working correctly.

4.5 Non-recording of Local Area Work

Regulation 50 of the current Road Transport Reform (Driving Hours) Regulations 1999 requires drivers to record any local area work prior to engaging in long distance driving.

2) Before a driver begins to engage in non-local area work on a day, the driver must record the required information in his or her logbook.

Very often this regulation goes unobserved. Currently a lot of heavy vehicle drivers only start recording their work activities after leaving their first pick up point, omitting to record how they got to that location e.g. if they used their heavy vehicle to drive to work and how the load got on to or was removed off the vehicle at the end of a trip and whether any local area work was undertaken. The redefinition of Work is intended to capture this unrecorded work activity since it contributes to a driver’s overall fatigue.

4.6 Driver Base

The current logbook includes a page for recording driver base details and the location of driver records. Feedback indicated there is some confusion around the definition of Driver Base.

Where a transport operator registers a fleet in one State while operating vehicles within the local area zone in other States, drivers can be caught out without a logbook. In this case, the vehicle owner needs to apply for an exemption from the road transport agencies in each State of operation so his drivers are exempt from carrying logbooks. An alternative would be for the vehicle owner/transport operator to register the vehicle in the primary State of operation of that vehicle. The transport operator must also keep his employees and contract drivers informed so they know whether they should be carrying logbooks or not and so the record of the driver base of operations and location of management records is correctly recorded.

The instructions on this page have been slightly reworded as follows:

Note 1

Address of Driver Base or Garage Address

This is the reference point for the 100km radius (200 km in Qld) and is the place from which you normally work and receive instructions.

Record the garage address of the vehicle if this is your base, otherwise record the place from which you normally work and receive instructions.

If the vehicle is registered in another State record the place from which you normally work and receive instructions when operating the vehicle.
This information must be kept up to date.

**Note 2 (location of management records)**

**Place where work diary sheets and Management Records are kept**

If driver records are kept at the garage address of the vehicle, record the garage address.

If driver records are not kept at the garage address, record the place where the driver records including the work diary are kept.

This information must be kept up to date.

4.7 **Paid versus Unpaid Work**

In many cases the current logbook is used as a record for pay purposes. However, transport operators and drivers need to be aware that work time may extend beyond recognised ‘paid’ time. For example the heavy vehicle driver who uses his vehicle to drive to his base to pick up his first job for the day or to return home at the end of a working day.

The opposite may hold true for resting two-up drivers in a moving vehicle who are regarded as being ‘on duty’.

4.8 **Local Area Work**

Under the new HVDF regulations, heavy vehicle drivers operating under BFM and AFM will have to keep a continuous record of all rest and work activities both outside and within the local area zone to provide evidence of compliance with their operating limits.

During the course of consultation, the issue was raised of possibly extending the work diary to local area operations. As a result, local area drivers were asked to take part in the on road trial to identify potential issues with extending the work diary to record local area driver activities.

Local area driver are currently not required to maintain logbooks. Comments from the on road trial indicated widespread misunderstanding among local area drivers about the redefinition of work. Feedback indicated confusion around the recording of location at each change of activity once only. Face to face training and instruction may address this issue and, in fact, it may be possible to use the document to record local area work. However, this proposal would require further investigation and a separate exercise in the form of an on road trial would need to be undertaken since local area heavy vehicle movements vary tremendously in operation.

At this stage, the focus of this work is to develop a document for use by all heavy vehicle drivers operating outside the local area zone who currently maintain a national driver logbook and for use by drivers accredited to operate under BFM and AFM.

5. **PROPOSED RECORD KEEPING POLICY**

In summary, transport operators and drivers will be required to keep more accurate records of day-to-day driver rest and work activities providing evidence they are meeting their duties and responsibilities under the new HVDF regulations to manage driver fatigue.
The existing National Driver Log Book which forms a significant portion of heavy vehicle driver records is being replaced by a more comprehensive national driver work diary. These changes are not expected to have a significant impact on current practice since they are an extension only of existing requirements under the current Road Transport Reform (Driving Hours) Regulations 1999.

Some fundamental definitions:

**Work** as defined in the proposed HVDF legislation now includes both driving and a range of non-driving but work-related activities most importantly loading/unloading and queuing.

**Night work** refers to work undertaken between the hours of midnight and 6.00a.m.

**Night rest** refers to rest taken between the hours of 10.00p.m. to 8.00a.m.

### 5.1 Mandatory Records

The following records must be retained as a bare minimum under the new HVDF regulations:

1. **outside 100km zone**: driver records to be kept including driver contact details (name, home address and phone numbers), timesheets, pay records, and a copy of each driver’s daily work diary sheet;

2. **within 100km zone**: employers and self-employed to retain records of drivers’ contact details (name, home address and phone numbers), dates and estimates of drivers’ work and rest for each day and week a heavy vehicle (over 12GVM) is driven.

Those operating under BFM and AFM will also have to keep records of:

- all fatigue management policies and procedures, and instruction and training manuals covering all activities required for BFM and AFM accreditation;
- audits of the fatigue management system in operation and of driving records and supplementary records. these should be current, clearly defined and available to all relevant personnel;
- details of participating drivers and evidence of meeting medical fitness tests;
- records showing that driver identification cards and vehicle identification labels are accounted for at all times; and
- all records must be legible, stored, maintained and available for management and audit purposes for at least three years.

### 5.2 Optional Records

In addition, where practicable, the following secondary documentation should be kept to support the information provided in the primary records. In many cases these documents will already be retained for taxation purposes:

- details of all trips performed (origin and destination) including details of any changes in destination;
- details of driver schedules and rosters (including details of annual leave and sick leave);
- vehicle schedules including details of all actual regular and irregular trip time schedules;
- consignment details such as dates and times of customer (consignor and receiver) pick up and deliveries;
- any documents relating to the transport of goods such as:
  - delivery dockets or proof of delivery
  - manifests or bills of lading
  - consignment notes
  - pay records
  - demurrage charges
  - invoices
  - receipts for accommodation expenses, meal expenses, petty cash
  - phone records
  - toll payment records
  - fuel purchase records
  - GPS records or engine management system data.

This secondary information will assist with audits providing a more complete picture of compliance.

### 5.3 Record Storage Format and Accessibility

All records (both paper and electronic) must be kept in alphabetical (driver’s family name), and in chronological order (for non-local work - according to the day on which the driver made the record of his activities). This requirement will apply to all records for both local and non-local area work.

The record storage format is based on the record keeping requirements for the Fatigue Management Pilot which has operated effectively in Qld for a number of years. It is proposed to adopt this simple, practical approach on a national basis.

This meets *Recommendation 10* of the 2004 HVDF policy proposal.

### 5.4 Record Duration

Under the current regulations records for both local and non-local area work must be kept for at least 12 months after the record was created.

Under the revised regulations, all records, for both local area and non-local area work, must be retained by employers and owner/operators or self-employed drivers for at least **three years** after the date on which the record was made. Three years is not considered
too onerous since under NHVAS, records must be kept for three years and for taxation purposes, records are required to be kept for a minimum of for five years.

Note that in NSW under the new *OH&S Amendment (Long Distance Truck Driver Fatigue) Regulation 2005* records must be kept for five years in line with taxation record keeping requirements.

### 5.5 Revised Record Keeping Responsibilities

In the current template legislation *Road Transport Reform (Driving Hours) Regulations 1999*, Regulation 61 requires that ‘An employer must keep the copy of the driver’s driving records given to the employer for the driver’s non-local area work’.

Despite this requirement, no corresponding obligation is imposed on a driver to give a copy of their driving records for non-local area work to their employer. Transport industry representatives mentioned during consultation that they are not always successful in obtaining these records. Enforcement officers frequently encounter gaps in records when assessing compliance.

The 2004 HVDF policy proposal required that, ‘*To ensure that there is no ambiguity as to what is required it is proposed that employers be placed under an obligation to request and actively pursue the provision of driving records from drivers.*’

As a result, an obligation will now be imposed on employers including agencies to obtain daily records (work diary pages) from drivers within a specified timeframe. A corresponding obligation will be placed on the driver to provide the required records within a specified timeframe of the creation of those records. The NTC proposes that the regulations relating to record keeping be revised as follows:

(i) **Driving records made by employed drivers — non-local area work.** An employed driver must give a copy of the driver’s driving records for non-local area work on a day to the driver’s employer (or, if the driver has two or more employers on the day, a copy of the records to each employer) within 28 days after that day.

(ii) Employers and owner/drivers must keep the copy of a driver’s driving records for the driver’s non-local area work for at least three years after that day at the place where the employer manages the employment of the driver.

(iii) **Driving records for non-local area work to be kept.** An employer must obtain a copy of a drivers work diary pages within a specified timeframe (28 days) *(new).*

It will be a strict liability\(^4\) offence for an employer to not obtain driver work diary sheets.

It will be a strict liability offence for a driver to omit giving copies of his/her daily work diary sheets to his/her employer.

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\(^4\) Criminal liability holds an individual responsible for an offence and a penalty is applied. Traditionally, common law has insisted on intention or knowledge as a pre-condition of criminal liability. In other words a person should only be held criminally liable for something they mean to do or did out of carelessness. This is fault based liability and requires the need to prove both intention and fault.

Under the new HVDF regulations some less serious statutory offences are committed simply by (a) doing a prohibited act or (b) not carrying out a required act. These are *strict liability* and *absolute liability* offences: strict liability offences allow for a defence of honest and reasonable mistake; absolute liability does not. In other words, it is up to the Crown to only prove the facts of a case *not the fault element.*
Note that agencies contracting out heavy vehicle drivers will also be required to maintain accurate driver records.

During focus group sessions, drivers raised issue of fines for misspellings as a source of irritation. This problem will be addressed to some extent through the revision of the appropriate regulation, however, whether a driver is fined or not will remain at the discretion of the enforcement officer. Again, face-to-face instruction of enforcement officers may address this issue.

6. PROPOSED NATIONAL DRIVER WORK DIARY

The layout of the proposed work diary document is not dissimilar to the existing national driver logbook. The draft design tested in the on road trial contained abbreviated instructions since drivers would not have been familiar with the proposed details of the new HVDF three tier fatigue management scheme.

The additional cross-references recorded in the proposed work diary will provide a more accurate picture of driver rest and work activities especially of those non-driving activities which to date have gone unrecorded.

The work diary will not address all of the issues with the current logbook. The document will only be as accurate as the information recorded in it by the driver. However, the paper document is portable, relatively easy to complete and audit, and inexpensive to reproduce in volume.

The final version of the work diary will include:

(i) the new work and rest limits for Standard and Basic Fatigue Management; and variations to these limits proposed for two-up drivers and bus drivers;

(ii) a set of clear definitions;

(iii) the parameters for heavy vehicle drivers, bus operators and two-up drivers

(iv) a set of comprehensive instructions with examples;

(v) the Work Diary Application Page as in the existing logbook;

(vi) the Driver Base & Record Storage page as in the existing logbook with some revisions made to the instructions for clarity;

(vii) the daily work diary page with two duplicates of each page; and

(viii) an optional Rest Summary page to record required continuous rest breaks over a two month period for use by those drivers operating under BFM and AFM.

6.1 Work Diary Fields

The following details will be required by the work diary daily page:

- driver’s name;
- driver licence number; state issued;
- date; day of week; time zone (state of driver base);
• driver to identify whether he/she is operating under Standard, Basic Fatigue Management or Advanced Fatigue Management and where relevant to provide a fatigue management scheme (FMS) accreditation number;

• details of all work activity over the 24 hour period on the timeline in 15 minute blocks which makes the distinction between solo work and two-up work;

• details of all rest periods on the timeline in 15 minute blocks;

• details of the location at each change of activity, that is when activity changes from work to rest or rest to work or from solo to two-up or vice-versa;

• details of any loading/unloading activity which takes place;

• odometer readings which will be recorded at each change of activity (as defined above) once only, and at the start and end of each working day. The odometer reading can be abbreviated to the last four digits if the same vehicle is used for the full 24 hour period. If the driver changes vehicles the driver must record the new odometer reading in full;

• vehicle registration details which will be recorded at the start and end of each working day and at each change of activity. If the driver is using the same vehicle for the full 24 hour period then a vertical line through the column will signify this. If the driver changes vehicles the driver must record the new vehicle registration in full;

• totals of time spent working and resting will be calculated for each 24 hour period; and

• the driver will be required to sign each individual daily worksheet for verification.

If two-up driving takes place, the second driver will be required to record the following details in the work diary:

• driver’s name; licence number; state issued, work diary number; fatigue management scheme and two-up driver signature (for verification).

The full draft version of the proposed work diary including the proposed work/rest limits, definitions and instructions, and tips on managing fatigue is provided as a separate document.

6.2 Work Diary Instructions

The work diary instructions provided at this stage are draft and may undergo some further revisions based on feedback during the public consultation phase and on any further on road testing which may take place.

6.3 Training

Feedback from both the focus group sessions and from the on road trial clearly indicates that the release of the final work diary should be accompanied with comprehensive training for both drivers and enforcement officers in requirements under the new driving hours regulations and instruction in the completion of the work diary. Drivers should not be trained by other drivers but by qualified instructors from either the road transport authorities or an accredited trainer. Any transport operator operating under BFM or AFM will need to ensure their drivers are properly trained and records kept of such training.

Training in use of the work diary should cover drivers’ responsibilities under the revised regulations, the revised definitions, a full explanation of the new driving hours limits, and instructions on how to complete the work diary correctly.
An option for road transport agencies is to make this information available on a self-learning CD-ROM to accompany the purchase of the work diary, however, for most drivers it would be preferable to provide face-to-face training in the new HVDF requirements for record keeping.

6.4 Prescribed Accountable Document

Jurisdictions have indicated that they still want the paper-based work diary to be a prescribed accountable document issued by road agencies in each State registered against individual driver licences.

Each work diary page will be issued in triplicate to allow one copy for driver retention, one copy for employer retention and one copy for roadside enforcement extraction.
7. REFERENCES


Definition of Work

What is Work?

Work includes all driving time and all other work related activities such as:

a) all solo and two-up driving time; this includes driving a heavy vehicle (12 GVM) to or from base or place of residence, garage or depot;

b) any local pick up or delivery made immediately before or after a long distance trip in the same work period as the trip outside the 100km zone;

c) any time spent by a driver in the driver’s seat of a commercial bus or heavy truck with the engine running;

d) loading or unloading a heavy truck or commercial bus;

e) queueing (unless a rest break of 15 minutes or more is taken);

f) inspecting, servicing or repairing a heavy truck or commercial bus including checking or changing tyres;

g) inspecting or attending to a load on a heavy truck or commercial bus, or attending to the passengers of a commercial bus;

h) cleaning or refuelling a heavy vehicle;

i) performing marketing tasks such as taking orders and making arrangements for pick-up and delivery of goods or vehicles;

j) supervising or helping with any of the above activities;

k) instructing; or

l) completing any paperwork or document in accordance with these regulations.

This is not a final list but examples of the most common type of work tasks you may be involved in as a heavy vehicle driver.