HEAVY VEHICLE DRIVER FATIGUE:
POLICY PROPOSAL

January 2004

Prepared by
National Transport Commission
REPORT OUTLINE

Date: January 2004
ISBN: 1 877093 16 5
Title: Heavy Vehicle Driver Fatigue: Policy Proposal
Address: National Transport Commission
         Level 15/628 Bourke Street
         Melbourne   VIC   3000
         E-mail: nrtc@nrtc.gov.au
         Website: www.ntc.gov.au
Type of report: Policy Proposal
Program Objectives: Facilitate the implementation of policies and practices that will assist in the management of fatigue in drivers of heavy vehicles.
NRTC Programs: Road Safety; Fatigue Review
Abstract: Heavy vehicle driver fatigue is a safety issue. Current prescriptive approaches are not fully effective and may be inconsistent with requirements under occupational health and safety. The paper details the proposed regulatory regime that will apply to drivers of heavy vehicles that are covered by the regulations.
Purpose: To seek in principle endorsement of the proposal by the Australian Transport Council.
Key words: Heavy vehicles, fatigue, road safety
The structure of prescribed driving hours regulations in Australia and overseas (most developed countries have prescribed hours regulation) has been criticised for the lack of scientific basis and for provisions which if fully complied with could in some cases exacerbate rather than mitigate the fatigue problem. The rationale for the introduction of prescribed driving hours is obscure and believed to be based on the need to address industrial relations issues rather than as a fatigue management tool.

A further major consideration for the Review was the need to achieve consistency between road transport and OHS legislative approaches. While there are many areas of overlap between the two in the past OHS authorities have tended to leave issues such as fatigue to road transport authorities. OHS authorities have indicated an increased interest in the road transport industry with a consequent need to achieve consistency in the approach to the issue and where possible avoid duplication.

The following proposal has been developed through research on, and analysis of, the issues, evaluation of the extensive scientific research into the effects of fatigue and from the areas of consensus reached during the extensive consultation that has taken place with industry and enforcement agencies. Ministers’ in principle endorsement is sought of the policies detailed in Section 3 of the proposal. Following Ministers’ endorsement of the policy approach legislation will be developed and a number of implementation issues addressed before the final package is brought back to Minister’ for consideration.

The Fatigue Review is a key component of the 3rd Heavy Vehicle Reform Package. The aim of the review is to achieve improvements in road safety and transport productivity through the development and implementation of policies and practices to assist in the management of fatigue in drivers of heavy vehicles. The full review encompasses:

1. review of the operation of the Transitional Fatigue Management Scheme (TFMS);
2. technical review of the Road Transport Reform (Driving Hours) Regulations;
3. evaluation of the Queensland fatigue management program pilot;
4. surveys of drivers and operators on operational and fatigue management practices and experiences of fatigue;
5. report on comparison of fatigue management practices of operators under prescriptive regulation and operators not subject to prescriptive regulation;
6. report of a technical expert group on options for regulatory approaches to managing driver fatigue (Fatigue Expert Group);
7. review of driver fatigue detection and prediction devices (Review of the Research on Impacts of Day and Night Driving);
8. the preparation of guidelines for drivers and operators on napping strategies as a fatigue management technique;
9. development of national guidelines for rest areas for drivers of heavy vehicles; and
10. investigation of the application of driver specific monitoring devices (electronic logbooks).
Items 1 to 7 have been completed and the results used in the development of the proposed regulatory proposal. Guidelines on napping strategies as a fatigue management technique (Item 7) and national guidelines for rest areas are included in the driving hours policy proposal.

Next Steps

If endorsed by the Australian Transport Council, this policy will become the basis for drafting instructions for appropriate legislative provisions. Once complete, the legislative provisions can be a model for jurisdictions to use, making any necessary adaptations to take account of any areas of identified difference.

The NTC will continue to consult with a national reference group and various advisory panels on development of the legislation and implementation issues.
SUMMARY

In developing the regulatory proposal the key outcomes sought are to:

- improve road safety;
- improve transport productivity;
- facilitate the implementation of policies and practices that will assist in the management of fatigue in drivers of heavy vehicles; and
- achieve a consistent approach with OHS legislation in managing fatigue in the road transport industry.

Provision of the opportunity for sleep and rest is the key ingredient of the proposal. Design principles developed by the Fatigue Expert Group\(^1\) (FEG) were used as the basis for the proposal.

The design principles focus on:

- minimum sleep periods, opportunity for sleep and time of day influences;
- cumulative nature of fatigue and sleep loss;
- fatigue risk associated with night work;
- duration of working time; and
- role of short breaks.

The focus has been on creating the opportunity for sleep, shifting the emphasis for fatigue management to management practices and control over fatigue precursors, and achieving consistency with an OHS approach to such issues.

Advice was sought from the Fatigue Expert Group as to whether this proposal is in accord with their findings. The response from the fatigue experts was positive with general endorsement of the proposal. The experts noted that:

“The policy options all incorporate a number of elements that promote a more active and evidence based approach to fatigue management. These options represent a clear step forward from the current prescriptive hours and the transitional schemes in place. In combination with other legislative changes and supporting guidance such as the proposed code of practice these options will operate in a framework in which flexibility will be accompanied by matching accountability requirements.”\(^2\)

The response from the Fatigue Expert Group members is at Attachment A.

---

\(^1\) Fatigue Expert Group (2001), *Options for Regulatory Approach to Fatigue in Drivers of Heavy Vehicles in Australia and New Zealand*, review commissioned jointly by the National Road Transport Commission, the Australian Transport Safety Bureau and the New Zealand Land Transport Safety Authority.

\(^2\) Fatigue Expert Group (2001)
Elements of the Proposed Regulatory Regime

The proposal is an integrated package of initiatives designed to improve road safety by addressing all aspects of the fatigue problem, not just focus on hours of work. The package includes:

- a general duty to manage fatigue to minimise road safety risk;
- 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.

General Duty to Manage Fatigue to Minimise Road Safety Risk

A general duty is a new concept for road transport legislation and will act like a general duty under OHS legislation. The general duty to manage fatigue will bear on all parties who have the ability to influence the road transport task. These parties will have an obligation to take steps to manage fatigue and must be able to demonstrate those steps were taken if called upon.

Fatigue Code of Practice

A fatigue code of practice will assist operators and drivers in managing their responsibilities under the proposed regulations. The Fatigue Code of Practice will provide valuable guidance on how operators and drivers can meet their obligations under the general duty to manage fatigue. The Code will not be mandatory and operators will be free to utilise other means of addressing the fatigue risk.

Chain of Responsibility

Chain of responsibility provisions are proposed to be strengthened to ensure that those who are in a position to influence a decision to breach the road transport regulations are held accountable for their actions. Importantly, parties under the chain of responsibility provisions will be subject to absolute liability. This means 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 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.

Replacement of Logbooks with a Work Diary

There are significant benefits in moving towards a universal work diary that goes beyond the limited regulatory role of the current logbook. A work diary would enable a driver to record activities that affected their working day as well as the regulatory requirements. Such a document would not only provide a record of the driver’s activities for regulatory purposes but also provide a significant record for chain of responsibility actions.
Strengthened Record Keeping Provisions

Strengthened record keeping provisions will require operators to maintain records in a systematic, meaningful and accessible manner.

Risk Based Categorisation of Offences

Under the risk based approach, offences will be categorised according to the seriousness of the risk they pose to safety, infrastructure, the environment, traffic efficiency and competitive equity. Appropriate powers, penalties and sanctions are then set, based upon the category into which the risk falls. It is proposed that the revised offences be divided into three categories; administrative offences, substantial offences and severe risk offences.

Revised Range of Sanctions

A comprehensive suite of sanction and penalty options, consistent with the Road Transport Reform (Compliance and Enforcement) Bill, designed to maximise compliance by all parties in the chain of responsibility will be developed. It is anticipated these will include improvement notices, a commercial benefits penalty and prohibition orders.

Enhanced Enforcement Powers

Enhanced enforcement powers will be implemented mainly through the recently developed Compliance and Enforcement Bill. Powers under the Bill will assist enforcement authorities in the gathering of evidence.

Multi-option Approach

The multi option approach recognises the diversity of the road transport industry and the need for flexibility. The staged approach of the three options has been designed to enable operators to progress to more flexible options, commensurate with their operational requirements, by ensuring that the costs and difficulties are minimised. At the same time operators who run operations suitable for a base option, and have little or no fatigue risk, will not be subjected to unnecessary costs. At the top end an optional Advanced Fatigue Management option, based on risk management, alternative compliance and quality assurance approaches, has been included.

Similarly the need for night driving, extended shifts and the problem of accumulated sleep deficit, has been addressed in the parameters with the provision of flexibility while at the same time recognising the road safety risk, caused by combining these key fatigue precursors.

The proposed regime will comprise three options:

Standard Hours – a default option prescribing minimum rest and maximum working hours;

Basic Fatigue Management – an optional more permissive set of minimum rest and maximum working hours requirements with increased fatigue management and compliance-assurance responsibilities imposed on operators; and

Advanced Fatigue Management – an optional approach based on risk management, alternative compliance and quality assurance approaches. Operators will adhere to agreed standards and operating limits in return for maximum work and minimum rest hours defined by the regulatory agency according to the operator’s specific fatigue risks and fatigue management system.

The Standard Hours and Basic Fatigue Management options are built around sets of key parameters the focus of which is on providing the opportunity for sleep and rest.
**Standard Hours Option**

The parameters for the Standard Hours option are:

**Table 1: Standard Hours - Operating Limits**

<table>
<thead>
<tr>
<th>Operating limit parameter</th>
<th>Operating limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum continuous break in a 24 hour period</td>
<td>7 hours</td>
</tr>
<tr>
<td>Minimum opportunity for night sleep (22.00 – 08.00)</td>
<td>1 pair of consecutive nights and two other nights off in 14 days.</td>
</tr>
<tr>
<td>Continuous 24 hour period free of work</td>
<td>1 in 7 days</td>
</tr>
<tr>
<td>Maximum hours work in 7 days</td>
<td>72</td>
</tr>
<tr>
<td>Maximum hours of work in a 24 hour period</td>
<td>12</td>
</tr>
<tr>
<td>Minimum short rest breaks during the day</td>
<td>30 minutes for a trip over 5 and up to10 hours</td>
</tr>
<tr>
<td></td>
<td>60 minutes for a trip over 10 hours</td>
</tr>
<tr>
<td></td>
<td>Minimum length of break: 15 minutes.</td>
</tr>
<tr>
<td></td>
<td>The short rest breaks must be taken throughout the shift and cannot be used to shorten a trip.</td>
</tr>
<tr>
<td></td>
<td>Provided the above requirements are met the maximum continuous period of driving: 6 hours.</td>
</tr>
</tbody>
</table>

**Basic Fatigue Management Option**

The proposed Basic Fatigue Management option in the regulatory regime provides operators with a degree of flexibility, provided that appropriate checks and balances to manage any additional fatigue risk are adopted. Those operators choosing to utilise the Basic Fatigue Management option will be required to be accredited under the National Heavy Vehicle Accreditation Scheme (NHVAS), comply with certain management standards and undertake fatigue management training and internal and external audits. Drivers operating under the Basic Fatigue Management model will also be required to undertake fatigue management training and meet medical requirements.
The parameters for the Basic Fatigue Management option are:

**Table 2: Basic Fatigue Management – Operating Limits**

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Operating Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum continuous break in a 24 hour period</td>
<td>7 hours</td>
</tr>
<tr>
<td>Minimum opportunity for night sleep (22.00 and 08.00 hours)</td>
<td>1 pair of consecutive nights and two other nights off in 14 days. The first night rest to be taken after no more than six days of work.</td>
</tr>
<tr>
<td>Minimum continuous 24 hour periods free of work</td>
<td>2 in 14 days</td>
</tr>
<tr>
<td>Maximum hours work in a 24 hour period</td>
<td>14</td>
</tr>
<tr>
<td>Maximum hours work in 14 days</td>
<td>144, with no more than 84 hours before a continuous period of 24 hours free of work</td>
</tr>
<tr>
<td>Maximum hours ‘night’ work in 7 days</td>
<td>36 hrs (6 nights). A night hour is calculated as any hour worked between 00.00 and 06.00 and any hour or part hour, in 15 minute blocks, worked in excess of 12 hours in a 24 hour period</td>
</tr>
<tr>
<td>Minimum short rest breaks during shift</td>
<td>30 minutes for a trip over 5 and up to 10 hours</td>
</tr>
<tr>
<td></td>
<td>60 minutes for a trip over 10 hours</td>
</tr>
<tr>
<td></td>
<td>Minimum length of break: 15 minutes</td>
</tr>
<tr>
<td></td>
<td>The short rest breaks must be taken throughout the shift and cannot be used to shorten a trip</td>
</tr>
<tr>
<td></td>
<td>Provided the above requirements are met maximum continuous period of driving: 6 hours.</td>
</tr>
</tbody>
</table>

**Advanced Fatigue Management Option**

The Advanced Fatigue Management option is based on risk management and quality assurance approaches and requires operators and drivers to meet agreed safety standards to ensure they effectively manage driver fatigue. It is a risk management system that is akin to the safety systems approach utilized rail safety accreditation but with a higher level of transparency.

The experience gained in the Fatigue Management Pilot has been used to develop the Advanced Fatigue Management option. Operators will be required to develop sets of normal limits and flag points that are individually tailored to meet the needs and capacity of the drivers and the operator.

These limits must take into account:
- the time required to perform the task safely;
- adequate rest periods to recover from the effects of fatigue;
- the cumulative effects of fatigue over time; and
• effect of time of day on fatigue and quality of sleep.

Work and rest times are planned around normal limits and flag points. Outer limits will be in the accreditation process based on research of the ability of people to tolerate lack of sleep and evidence of operations that can be conducted with an acceptable degree of road safety risk.

Drivers are empowered with the flexibility to work within the range between normal limits and flag points to best manage their own fatigue. Flag points may be exceeded in some circumstances after a risk assessment is undertaken and fatigue counter measures implemented. The countermeasures nominated by operators to manage incidents of exceeding flag points must be suitable for managing the risk associated with the task. The countermeasures will be approved by the accrediting agency and they could involve location specific counter measures to reflect the risk assessment of the accrediting agency.

Outer limits represent the point past which further driving or work would pose an unacceptable fatigue risk and are not to be exceeded under any circumstances.

The Advanced Fatigue Management option is similar in concept to the approach to managing fatigue adopted in Western Australia. As in Western Australia key parameters will be prescribed in regulation. These parameters for Advanced Fatigue Management are:

• minimum 24 hour periods off in 28 days – 4;
• maximum hours work in 14 days – 154; and
• maximum hours work in 28 days - 288.

Operators will be required to be accredited under the Advanced Fatigue Management option as a module of the NHVAS.

A detailed explanation of the Advanced Fatigue Management option is at Attachment B.

Two-up Driving

Two-up driving arrangements are presently regulated under the basic hours option. The various issues covering the practice of two-up driving are currently being considered by the NTC, jurisdictions and industry. Consequently the policy proposal makes no recommendations in respect of two-up driving. It is proposed to bring forward appropriate recommendations to Ministers in the next stage of the policy process.

Other Issues

The NTC and relevant jurisdictions are working with the Remote Area Livestock Transport Group to address issues that affect that sector. A study, funded largely by industry, will be commenced shortly. The results of this study will be available to feed into the policy process prior to Ministers’ final considerations.

The facilitation of freight operations at night, a likely increasing necessity in major urban areas, is potentially a significant issue. The NTC considers that sufficient flexibility has been built into the proposal to allow for night operations in urban areas while at the same time recognising the potential road safety risk from this key fatigue precursor. This is an issue however that needs to be monitored closely in the future.
Coverage

The proposed regulatory regime will apply in respect of the operation of vehicles having a GVM of over 12 tonnes and buses with more than 12 seats. Given the costs involved the evidence presented does not support any change in the coverage of road transport regulation. However, it is expected that the Fatigue Code of Practice will become state of knowledge and may be applied more broadly under occupational health and safety regulation.

RECOMMENDATION

Ministers’ agreement is sought to the following:

1. The adoption of a three option approach comprising:
   - Standard Hours;
   - Basic Fatigue Management; and
   - Advanced Fatigue Management
   and a general duty to manage fatigue applicable to all options (Section 1.2.1).

2. That operators operating under either the Basic Fatigue Management option or the Advanced Fatigue Management option will be required to be accredited under the National Heavy Vehicle Accreditation Scheme (Section 1.2.2).

3. The abolition of the Transitional Fatigue Management Scheme (Section 1.2.3).

4. A Standard Hours option with operating parameters as detailed in Table 3, Standard Hours - Operating Limits (Section 1.2.4).

5. A Basic Fatigue Management option with operating parameters as detailed in Table 4, Basic Fatigue Management - Operating Limits, and management standards as detailed in Attachment E (Section 1.2.5).

6. An Advanced Fatigue Management option embodying the principles and regulatory parameters outlined in Section 1.2.6 and the management standards detailed in Attachment F.

7. Strengthening chain of responsibility provisions by adopting the standards of criminal liability specified in Table 5, Chain of Responsibility Duties, and Table 6, Fatigue Management Duty – Actions Required (Section 1.2.7).

8. A risk based approach to categorisation of offences (Section 1.2.8).

9. The replacement of log-books with a work diary that includes provision for the details specified in Section 1.2.9.

10. Strengthening record keeping requirements as outlined in Section 1.2.10.

11. To the provision for exemptions being retained in any new regulatory regime (Section 1.2.11).
12. Recognition that, while being subject to the regulatory regime, the different risk profile and operating environment of the bus and coach industry be recognised through appropriate variations (Section 1.2.12).

13. Note that recommendations regarding two-up driving and remote livestock transport as well as details of implementation issues, such as record keeping and the collegiate accreditation process, will be included in a subsequent submission to Ministers.
CONTENTS

1. POLICY PROPOSAL ...................................................................................................... 1
   1.1 Advice from the Fatigue Expert Group (FEG) ....................................................... 2
   1.2 Key Elements of Proposal – Policy Recommendations................................. 2
       1.2.1 Multi-option Regulatory Approach .................................................................4
       1.2.2 Accreditation under National Heavy Vehicle Accreditation Scheme (NHVAS) ...........5
       1.2.3 Transitional Fatigue Management Scheme (TFMS) .............................................5
       1.2.4 Standard Hours Option .....................................................................................6
       1.2.5 Basic Fatigue Management .................................................................................8
       1.2.6 Advanced Fatigue Management .........................................................................10
       1.2.7 Compliance and Enforcement ..........................................................................14
       1.2.8 Risk Based Categorisation of Offences ...............................................................20
       1.2.9 Record Keeping Requirements ..........................................................................21
       1.2.10 Form of Record Keeping Required ...................................................................22
       1.2.11 Exemptions .......................................................................................................22
       1.2.12 Bus and Coach Industry ....................................................................................23

ATTACHMENT A: RESPONSE FROM FATIGUE EXPERT GROUP .................. 24
ATTACHMENT B: ADVANCED FATIGUE MANAGEMENT OPTION .............. 27
ATTACHMENT C: CURRENT REGULATORY REGIME ............................... 35
ATTACHMENT D: BASIC FATIGUE MANAGEMENT STANDARDS ............ 39
ATTACHMENT E: ADVANCED FATIGUE MANAGEMENT STANDARDS ...... 43

LIST OF TABLES

Table 1: Standard Hours - Operating Limits ................................................................. iv
Table 2: Basic Fatigue Management – Operating Limits ............................................. v
Table 3: Standard Hours - Operating Limits ...............................................................6
Table 4: Basic Fatigue Management - Operating Limits .............................................9
Table 5: Proposed Chain of Responsibility Duties .....................................................16
Table 6: Fatigue Management Duty - Actions Required ............................................20
Table 7: Advanced Fatigue Management – Possible Outer Limits ............................28
Table 8. Example of Operating Limits an Operator Might Submit for a Brisbane to Sydney Freight Operation .................................................................33
Table 9: Implementation of the Road Transport Reform (Driving Hours) Regulations ....36
Table 10: Prescribed Driving and Rest Hours ............................................................36
1. POLICY PROPOSAL

The proposal is an integrated package of initiatives that aim to improve road safety by addressing all aspects of the fatigue problem and not just focussing on hours of work. The proposal seeks to:

- better address the factors which cause fatigue;
- strengthen the obligations of parties in the transport chain whose decisions may influence fatigue outcomes;
- provide guidance and education about fatigue management to parties in the transport chain;
- increase compliance through more effective enforcement, targeted offences, a wider range of sanctions and improved record keeping requirements; and
- remove anomalies in the current prescription of work and rest requirements.

The regulatory regime will comprise a three option approach under which the heavy road transport industry would operate comprising:

Standard Hours – a default option prescribing maximum working and minimum rest hours;

Basic Fatigue Management – an optional set of working and rest hours that provide more flexibility within the same cap but with some mandatory fatigue management and compliance-assurance responsibilities imposed on operators; and

Advanced Fatigue Management – an optional approach to fatigue management based on risk management, alternative compliance and quality assurance approaches. Operators adhere to agreed standards and operating limits in return for maximum work and minimum rest hours that are defined by the regulatory agency according to the operator’s specific fatigue risks and fatigue management system.

The core operating options will be supported by:

- strengthened chain of responsibility provisions;
- a general duty to manage fatigue to minimise road safety risk;
- a fatigue code of practice;
- replacement of logbooks with a work diary;
- strengthened record keeping provisions;
- risk-based categorisation of offences;
- a revised range of sanctions; and
- enhanced enforcement powers.
1.1 Advice from the Fatigue Expert Group (FEG)

Advice was sought from the Fatigue Expert Group as to whether the proposal is in accord with their findings. The response from the fatigue experts has been positive with general endorsement of the proposal. The experts noted that:

“The policy options all incorporate a number of elements that promote a more active and evidence based approach to fatigue management. These options represent a clear step forward from the current prescriptive hours and the transitional schemes in place. In combination with other legislative changes and supporting guidance such as the proposed code of practice these options will operate in a framework in which flexibility will be accompanied by matching accountability requirements.”

The Group went on to note that:

“In general the policy options are consistent with the design principles, or have the potential to be consistent if suitably implemented and monitored. The recognition of night sleep for recovery and the incorporation of some limits to night driving in various options reflect a regime more consistent with design principles. The protection of sleep opportunities through the minimum break period and limitations to working time in the standard and limited flexibility options achieves consistency with the principles.”

The fatigue experts noted the importance of compliance and monitoring in respect of the flexibility options to ensure that the fatigue management objectives are being met.

The Group did not however support the proposal to allow for six continuous hours of driving before a short break is taken noting the “evidence base for allowing six hours continuous driving is not established but this change is probably not consistent with better fatigue management.”

In the original FEG Report, the fatigue experts had noted that evidence to support a specific length and timing of short breaks is inconclusive and that boredom, monotony and the need for respite from the driving task were the main reasons why breaks should be available.

The extension from to five hours to six hours of driving in the proposal is to provide drivers flexibility to match short breaks to when they are of most benefit. It also addresses an operational problem in that on some routes there is a shortage of appropriate rest areas that can be utilised within the five hour constraint. These are significant factors and in the absence of any substantial data that the change would have negative road safety impacts the extension to six hours would appear to be justified.

The response from the Fatigue Expert Group members is at Attachment A.

1.2 Key Elements of Proposal – Policy Recommendations

*General Duty to Manage Fatigue to Minimise Road Safety Risk*

The proposal recommends that a general duty to manage fatigue to minimise road safety risk be instituted. A general duty is a new concept for road transport legislation and will act like a general duty under OHS legislation.
The general duty to manage fatigue will bear on all parties who have the ability to influence the transport task. Those parties will have an obligation to take steps to manage fatigue and must be able to demonstrate those steps were taken if called upon.

**Fatigue Code of Practice**

A fatigue Code of Practice will sit alongside the proposed regulatory regime. The general duty to manage fatigue will bring in the role of a code.

The Code will provide guidance on how the general duty could be met and achieve consistency between road transport and OHS approaches. It will mean that in any of the options, the base case included, that there is a requirement to not only comply with prescribed requirements, or in the case of the Advanced Fatigue Management option agreed operating practices, but also to manage fatigue to minimise road safety risk.

The Code will operate in the same manner as an OHS industry code providing guidance on how outcomes could be achieved. Given the nature of the fatigue code, it is likely that it would be adopted by OHS as a benchmark for those transport operators not covered by the road transport legislation.

**Replacement of Logbooks with a Work Diary**

The reported widespread abuse of the logbook system suggests that it is not effectively achieving its objective as a regulatory tool. The format of the document is fiddly and along with the fact that it is purely for regulatory purposes it does not encourage drivers to view it as a working record nor provide scope as a useful fatigue management tool.

There are significant benefits in moving towards a universal work diary that goes beyond the limited regulatory role of the current logbook. A work diary would enable a driver to record activities that affected their working day as well as the regulatory requirements. Such a document would not only provide a record of the driver’s activities for regulatory purposes but also provide a significant record for chain of responsibility actions. It is highly likely that drivers/operators would see benefits in such a document for demonstrating how they have met their obligations under both road transport and OHS legislation.

**Strengthened Record Keeping Provisions**

The record keeping requirements of operators fall into two categories, primary and secondary. Primary records are those records directly related to demonstrating compliance with road transport regulatory requirements. Secondary records are those records not directly required by the driving hours regulatory regime but can be used to verify/support the primary records (eg pay records). The extent of record keeping required will vary depending on the option the operator is working under.

There will be minimal additional record keeping required, if any, particularly for the Standard Hours option. For the two higher tiers, additional records will be required to demonstrate an operators compliance with accreditation requirements. The additional requirements are however closely aligned with what could be expected as best practice in a transport entity and it is likely that many operators would already keep such records.

In respect of secondary records, it is probable that the records kept for other purposes, eg taxation, are sufficient to provide verification of the primary documents (or can be used independently in the absence of primary records) and ensure effective enforcement.
With the exception of the proposed work diary and the requirements under NHVAS and the Advanced Fatigue Management accreditation, there is no prescribed format for records kept by operators. This can lead to difficulties in extracting and understanding the information contained, and makes the task of investigating officers more difficult. The desired outcome is to have record keeping requirements that can be utilised easily by Road Transport and OHS regulators. Consequently strengthened record keeping provisions will require operators to maintain records in a systematic, meaningful and accessible manner.

Risk Based Categorisation of Offences

Under the risk based approach, offences are categorised according to the seriousness of the risk they pose to safety, infrastructure, the environment, traffic efficiency and competitive equity. Appropriate powers, penalties and sanctions are then set, based upon the category into which the risk falls. It is proposed that the revised offences be divided into three categories – administrative offences, substantial offences and severe risk offences.

Offences categorised as administrative would include breaches of record keeping or other administrative requirements which are trivial or do not affect the integrity of the record (by masking some other safety related breach) and as such present no risk to safety.

Substantial risk offences would include inadvertent and less severe breaches of provisions eg by breaching prescribed hours by less than one hour.

Severe risk offences would be those involving extended breaches of driving or working hours, large shortfalls in rest times, deliberate or premeditated breaches of safety related provisions and record keeping offences involving fraud. These could also include night driving breaches where there is an additional safety risk.

Revised Range of Sanctions

A comprehensive suite of sanction and penalty options, consistent with the Compliance and Enforcement Bill, designed to maximise compliance by all parties in the chain of responsibility will be developed. It is anticipated these will include improvement notices, a commercial benefits penalty and prohibition orders.

Enhanced Enforcement Powers

Enhanced enforcement powers will be implemented mainly through the recently developed Road Transport Reform (Compliance and Enforcement) Bill. Powers under the Bill will assist enforcement authorities in the gathering of evidence.

Ministers’ in-principle agreement is sought to the following policy proposals.

1.2.1 Multi-option Regulatory Approach

The policy proposal recommends the adoption of a three option approach under which the road transport industry would operate comprising:

- Standard Hours;
- Basic Fatigue Management; and
- Advanced Fatigue Management.
The rationale for a three option approach is predicated on the recognition of the need to provide a regime that caters for different operating requirements in the industry while not imposing unnecessary costs on those who have basic operating requirements. In providing for the flexibility required by the industry it is important to recognize that this has the potential to lead to a greater exposure to the dangers of fatigue, and that such exposure needs to be managed in an appropriate way. Any additional risk must be matched by the adoption of increased responsibilities and commensurate checks and balances.

It is considered that the three option approach not only provides the best means of meeting the problem of the diverse needs of industry but also provides a manageable series of steps for drivers/operators to progress up the chain. It offers the incentive of potential benefits from increased flexibility balanced by their being subject to additional responsibilities to manage fatigue.

The general duty to manage fatigue will apply to all options and a non-mandatory code of practice to provide guidance will be developed.

**Recommendation 1**

Ministers agree to the adoption of a three option approach comprising:

- Standard Hours;
- Basic Fatigue Management;
- Advanced Fatigue Management;

and a general duty to manage fatigue applicable to all options.

**1.2.2 Accreditation under National Heavy Vehicle Accreditation Scheme (NHVAS)**

One of the principal findings of the TFMS evaluation was that the integrity of any such approach requires external audit. Given the already developed external audit requirements of the NHVAS the logical approach is to sit the Basic Fatigue Management regime under NHVAS, bracketed with the Advanced Fatigue Management option. This would allow commonality in several areas between the two “flexible” options and consistency in approach with the other two modules of NHVAS - mass and maintenance. Under the proposal operators would be required to implement and maintain management systems (including record keeping) that would ensure Scheme standards are met.

**Recommendation 2**

Ministers agree that to operate under either the Basic Fatigue Management or the Advanced Fatigue Management options operators will need to be accredited under the National Heavy Vehicle Accreditation Scheme.

**1.2.3 Transitional Fatigue Management Scheme (TFMS)**

The evaluation of TFMS raised serious concerns about the adequacy of the TFMS model in ensuring accountability by employers and drivers (over 50% of employers and 72% of owner drivers had not undertaken the required internal review), for not meeting the core requirements of increasing productivity for the industry and not being cost neutral for road agencies. Most importantly, however, the evaluation found that TFMS has not led to the implementation of improved work practices or fatigue management principles.
Given the limited accountability and fatigue counter measures, if utilised to the full, the operating parameters allowed under TFMS are extreme and do not have the support of fatigue experts. Accordingly it is recommended that TFMS be abolished as a regulatory option.

Recommendation 3

Ministers agree to the abolition of the Transitional Fatigue Management Scheme.

1.2.4 Standard Hours Option

It is proposed that a default regulatory option, a simple system of prescribed driving hours, be retained but amended to take account of the greater understanding of fatigue and its precursors. A fundamental change is that while the current standard prescribed hours regime focuses on maximum hours of work the proposed base prescription option starts from rest opportunities, and addresses key fatigue concerns regarding time of day, time on task and accumulated sleep deficit.

In the absence of any other checks and controls, the key objectives in determining the parameters for the standard hours option are simplicity and the need to set criteria that do not push the fatigue risk boundaries.

The proposed option is made up of six parameters and operating limits. These limits are set out in the table below.

Table 3: Standard Hours - Operating Limits

<table>
<thead>
<tr>
<th>Operating limit parameter</th>
<th>Operating limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum continuous break in a 24 hour period</td>
<td>7 hours</td>
</tr>
<tr>
<td>Minimum opportunity for night sleep (22.00 – 08.00)</td>
<td>1 pair of consecutive nights and two other nights off in 14 days.</td>
</tr>
<tr>
<td>Continuous 24 hour period free of work</td>
<td>1 period of 24 hours in 7 days</td>
</tr>
<tr>
<td>Maximum hours work in 7 days</td>
<td>72 hours</td>
</tr>
<tr>
<td>Maximum hours of work in a 24 hour period</td>
<td>12</td>
</tr>
<tr>
<td>Minimum short rest breaks during the day</td>
<td>30 minutes for a trip over 5 and up to 10 hours, 60 minutes for a trip over 10 hours, Minimum length of break: 15 minutes</td>
</tr>
<tr>
<td></td>
<td>The short rest breaks must be taken throughout the shift and cannot be used to shorten a trip</td>
</tr>
<tr>
<td></td>
<td>Provided the above requirements are met</td>
</tr>
<tr>
<td></td>
<td>maximum continuous period of driving: 6 hours</td>
</tr>
</tbody>
</table>
The key differences between the proposed Standard Hours option and the current regulatory requirements are:

- the removal of the distinction between “work” and driving;
- the decrease in the hours of work permitted in a day from 14 to 12;
- a requirement for one pair of consecutive nights, and two other nights off in 14 days;
- an increase of one hour in the length of the daily continuous break; and
- increased flexibility in the short rest break requirements.

**Work and Time on Task**

The ability to work for 14 hours in a 24 hour period is a long shift by contemporary Australian standards. It cannot be demonstrated that the addition of two hours of other “work” to driving can be substantiated as a means of reducing road safety risk. Instances where any beneficial effects from undertaking different tasks would, in all probability, be offset by instances where other activities, particularly hard physical activity, contribute to fatigue.

Whilst there is no universally agreed point as to when time on task reaches an unacceptable fatigue risk level, in the absence of any other checks and balances 12 hours of work would appear to be at the upper end of what should be permitted under a base case option.

**Minimum Continuous Rest Period**

While there are variations between individuals medical studies show that a minimum of six hours sleep is required by most people in a 24 hour period to maintain performance. To gain six hours sleep a longer continuous break is required.

Accordingly, the proposal recommends a minimum continuous opportunity for sleep of seven hours in both the Standard Hours and Basic Fatigue Management options.

**One Pair of Consecutive and Two Other Nights Off**

The third proposed change is the inclusion of a requirement for one pair of consecutive nights and two other nights’ of rest in 14 days. The need to provide for the opportunity for night sleep and consecutive nights sleep was a key finding of the Fatigue Expert Group. Due to circadian factors night sleep is more recuperative than daytime sleep. The proposed parameter will in effect reduce the amount of night shifts that can be undertaken in the Standard Hours option from 12 in 14 days to 10 in 14 days.

Under the proposal over 14 days a driver would be able to undertake six night shifts (between the hours of midnight and 06.00 am) one week and four the next. The proposed parameter will have no effect on the number of day shifts that can be undertaken.
Flexibility in the Timing of Short Rest Breaks

It is proposed to provide some flexibility as to when drivers take their short break by allowing them to drive for up to six hours before taking the required break. Drivers would not be allowed to use the flexibility to shorten the trip. Feedback from industry has indicated that drivers often break the present requirement either to match their short breaks to when they are feeling tired or due to a lack of suitable rest areas.

The proposed change is considered important in that it would not only enable drivers to better match their rest breaks to when they would get the best benefit from the rest, but would also provide flexibility for drivers to reach an appropriate place to stop.

This proposed change was not supported by the fatigue experts. In their response the experts noted that while the evidence base for allowing 6 hours continuous driving is not established this change is probably not consistent with better fatigue management and preferred the current 5 hour limit.

The NRTC notes that in the original FEG report the Group concluded that the evidence on short breaks as a fatigue counter measure was not conclusive but there were other reasons, such as boredom, monotony and the need for respite, as to why breaks should be available. The Group also, however, emphasised the importance of flexibility.

It is debatable as to whether increasing the driving time to six hours rather than five would have adverse road safety implications. It could be argued that by allowing the driver greater flexibility it would reduce pressure to meet schedules and would allow drivers to utilise rest breaks when they are most beneficial. The change would be instrumental in moving away from a culture of working to the maximum permitted periods. Similarly drivers could be expected to benefit from being able to reach rest areas that, for what ever reason, provide for better opportunities to relax and recuperate.

Accordingly it is considered that, on balance, in the absence of evidence of adverse implications, the benefits of increased flexibility warrant the extension of the continuous driving period to a maximum of 6 hours.

The NRTC notes that it will be difficult to codify the requirement that the short rest breaks can not be used as a means to shorten the trip and this issue may need to be reconsidered in the legislative drafting stage.

Recommendation 4

Ministers agree to a Standard Hours option with the operating parameters as detailed in Table 3, Standard Hours - Operating Limits.

1.2.5 Basic Fatigue Management

The operating parameters for the Basic Fatigue Management option are detailed in Table 4. The proposal retains the concepts of daily and fortnightly driving limits from the current TFMS but addresses the shortcomings of the TFMS, raised in the evaluation, and introduces a number of measures to reduce the risk of fatigue inherent in the present scheme.
### Table 4: Basic Fatigue Management - Operating Limits

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Operating Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum continuous break in a 24 hour period</td>
<td>7 hours</td>
</tr>
<tr>
<td>Minimum opportunity for night sleep (22.00 and 08.00 hours)</td>
<td>1 pair of consecutive nights and two other nights off in 14 days. The night rest to be taken after no more than six days of work.</td>
</tr>
<tr>
<td>Minimum continuous 24 hour periods free of work</td>
<td>2 periods of 24 hours in 14 days</td>
</tr>
<tr>
<td>Maximum hours work in a 24 hour period</td>
<td>14 hours</td>
</tr>
<tr>
<td>Maximum hours work in 14 days</td>
<td>144 hours with no more than 84 hours before a continuous period of 24 hours free of work</td>
</tr>
<tr>
<td>Maximum hours ‘night’ work in 7 days</td>
<td>36 hours (6 nights). A night hour is calculated as any hour worked between 00.00 and 06.00 and any hour or part hour, in 15 minute blocks, worked in excess of 12 hours in a 24 hour period</td>
</tr>
<tr>
<td>Minimum short rest breaks during shift</td>
<td>30 minutes for a trip over 5 and up to 10 hours</td>
</tr>
<tr>
<td></td>
<td>60 minutes for a trip over 10 hours</td>
</tr>
<tr>
<td></td>
<td>Minimum length of break: 15 minutes</td>
</tr>
<tr>
<td></td>
<td>The short rest breaks must be taken throughout the shift and cannot be used to shorten a trip</td>
</tr>
<tr>
<td></td>
<td>Provided the above requirements are met maximum continuous period of driving</td>
</tr>
<tr>
<td></td>
<td>6 hours.</td>
</tr>
</tbody>
</table>

As in the Standard Hours option, the Basic Fatigue Management option proposes a minimum continuous rest opportunity of 7 hours (compared with 6 hours in the current regulations) and one pair of consecutive nights and two other nights off in 14 days. It also proposes restrictions on the length of shifts/hours that involve night driving before a nights rest is required and finally includes a work restriction of no more than 84 hours before a continuous period of 24 hours free of work is required. These requirements are not in the current TFMS regulations.

The arguments for increasing the sleep opportunity and the opportunity for nights off in 14 days have been presented previously in respect of the Standard Hours option. However, there are a number of additional considerations that need to be evaluated when considering them for inclusion in the Basic Fatigue Management option. It could be argued that given the extra responsibilities required of operators/drivers under the Basic Fatigue Management option, additional latitude could be provided in respect of these parameters.
Balancing this argument is that under the Basic Fatigue Management option 14 hours work, and in particular 14 hours driving, in a 24 hour period, can be undertaken with up to 84 hours work before a requirement for a continuous break of 24 hours. This not only effectively increases the potential risk of fatigue resulting from time on task but also the cumulative effect of several consecutive long shifts. The relative potential risk would vary depending on the interaction between the two operating parameters. Consequently the proposal recommends that these parameters be the same as in the Standard Hours option.

As in the Standard Hours option, the Basic Fatigue Management option provides for up to 6 consecutive shifts that cover part or the whole of the period 00.00-06.00 before a night off must be taken. It adds an additional parameter however that addresses the problem of combining long shifts (14 hours) and working through the night. Each driver starts a week with a ‘bank’ of 36 ‘night hours’, to be used in a 7 day period. The bank is reduced by an hour for each hour (or part of an hour) of night driving (ie, 00.00 to 06.00), plus an additional hour for each hour (or part of an hour) of work beyond 12 hours in any 24 hour period. Both are calculated in 15 minute blocks. The ‘bank’ only applies to the 36 hours of ‘night work’ and does not enter the calculation for any other parameter.

Whilst it adds a degree of complexity, the parameter has very substantial benefits in that it provides flexibility in managing the cumulative effect of the three key fatigue precursors: accumulated sleep deficit, circadian rhythms and extended time on task. It allows drivers and operators to manage fatigue by balancing shift lengths against time worked and rest periods during the night hours.

The parameter allows drivers and operators the flexibility of extended driving hours and the ability to reduce the risk of fatigue by manipulating the effect of the three precursors in a manner that best matches their operational requirements. The specification of an actual number of permitted night hours driving also provides the flexibility for those drivers who need to end, or commence work during the period 00.00-06.00.

Management Standards

Accreditation to NHVAS will also require adherence to certain standards. The standards for the Basic Fatigue Management option are consistent with the standards set for the two other NHVAS modules, Mass and Maintenance and are detailed in Attachment E.

Recommendation 5

Ministers agree to a Basic Fatigue Management option with the operating parameters as detailed in Table 4, Basic Fatigue Management - Operating Limits, and management standards as detailed in Attachment E.

1.2.6 Advanced Fatigue Management

Prescribed hours, the basis for the Standard Hours and Basic Fatigue Management options, are invariably only a proxy for managing fatigue even though, as in the case of both proposed options, criteria can be targeted to create the opportunity for rest and thus minimise the potential risk of fatigue. A fatigue management scheme, however, not only focuses on fatigue itself, and its precursors, but also puts in place systems, controls and responsibilities on operators and provides a driver with the flexibility and responsibility to manage their fatigue while on the road. Importantly, a fatigue management scheme can be instrumental in achieving a cultural change in the approach to managing fatigue. It changes
the approach to one of starting from a position of planning operations to address the fatigue risk and thus reduce the road safety risk.

The Advanced Fatigue Management (AFM) option is based on risk management and quality assurance approaches that require operators and drivers to meet standards to ensure they effectively manage driver fatigue. The AFM standards are designed around best practice and cover readiness for duty, scheduling, rostering, management practices, training, record keeping, health, and workplace conditions issues. It is a risk management system akin to the safety systems approach utilised in the rail industry and other areas.

The experience gained in the Fatigue Management Program pilot has been used to develop the AFM option for the proposal. The standards have been reviewed and improved and the operating limits model refined. Operators who wish to operate under AFM must develop systems, policies and processes to meet these standards and be accredited by the responsible jurisdiction.

The Advanced Fatigue Management option is similar in concept to the approach to managing fatigue adopted in Western Australia. As in Western Australia key parameters will be prescribed in regulation. The parameters for Advanced Fatigue Management are:

- minimum 24 hour periods off in 28 days – 4;
- maximum hours work in 14 days – 154; and
- maximum hours work in 28 days - 288.

**Operating Limits**

Operating limits are tools that allow operators and drivers to plan, monitor and manage work and rest times to minimise the impact of fatigue. The Advanced Fatigue Management option uses a system of normal operating limits, flag points and outer limits. The operating limits and the fatigue counter measures are approved by the accrediting jurisdiction during the accreditation process.

Normal operating limits are the limits used to guide the scheduling and rostering of drivers, and are the limits required to do the job in most circumstances. Operators are required to develop sets of normal limits and flag points within the outer limits that are individually tailored to meet the needs of the drivers and the operator. These limits must take into account:

- the time required to perform the task safely;
- adequate rest periods to recover from the effects of fatigue;
- the cumulative effects of fatigue over time; and
- affect of time of day on fatigue and quality of sleep.

Flag points are defined around the normal limits and give the driver flexibility, if required, to work outside the normal limits. Drivers are empowered with the flexibility to work within the range between normal limits and flag points to best manage their fatigue. Flag points indicate the point at which the fatigue risk may be increased and risk management strategies need to be employed.
Operators will be required to assess the risks associated with operating between the flag points and the outer limits and set in place a range of countermeasures to balance the fatigue effects. Exceeding the flag points more frequently than agreed will result in a non-conformance report being raised during internal and external audits. Records must be kept of all instances where a flag point has been exceeded.

Outer limits are not to be exceeded under any circumstances. Outer limits represent the point past which further driving or work would pose an unacceptable fatigue risk. The outer limits and the frequency with which drivers are allowed to operate out to the outer limits are, based on research on the ability of people to tolerate lack of sleep and evidence of operations that can be conducted with an acceptable degree of road safety risk and are determined during the accreditation process. Possible outer operating limits are detailed in Table 7 in Attachment B.

**Accreditation to Advanced Fatigue Management**

It is proposed that the following accreditation process will apply to operators wishing to become accredited under Advanced Fatigue Management. Operators will be required to:

- attend an information session;
- develop operating limits and fatigue management systems;
- submit proposed operating limits to accrediting agency;
- obtain in principle approval of operating limits from accrediting agency;
- undertake an entry audit and be certified as meeting the Advanced Fatigue Management standards; and
- submit an application form and system accreditation audit report to accrediting agency.

A collegiate accreditation process will be established for accrediting operators. This process would involve the accrediting agency reviewing and giving initial approval to applications submitted by operators. When the agency is satisfied that an operator’s application meets fatigue management requirements the agency will circulate the proposal to each of the other jurisdictions for approval. Upon receiving confirmation from the other jurisdictions that the application is acceptable, the operator will then be accredited.

The collegiate system ensures full mutual recognition of Advanced Fatigue Management accreditation amongst the participating jurisdictions. The collegiate accreditation process also ensures that consistent decisions are made on a national basis. Details of this accreditation process will be developed prior to submission of legislative provisions to Ministers for consideration.

**Advanced Fatigue Management Standard Requirements**

As with the Basic Fatigue Management option operators will need to meet a range of management standards to gain NHVAS accreditation. The proposed standards for the Advanced Fatigue Management option are set out in Appendix F.

**Performance Monitoring**

As noted previously, in respect of the Basic Fatigue Management option, NHVAS provides for an external audit system. In addition, Advanced Fatigue Management includes other
compliance mechanisms to measure an operators’ performance. These mechanisms include:

- triggered audits by third party independent auditors where there are concerns with an operator’s performance;
- annual internal audits conducted by the operator;
- quarterly compliance reports compiled by the operator;
- a requirement for records to be maintained for at least 3 years and to be accessible for audit at all times;
- monitoring of driver work and rest times by the operator and at audit;
- on-road interceptions to be reported to the accrediting agency through interception report books, and follow up action taken if required; and
- operators to implement and maintain a system for managing any occurrences of non-compliance with their Advanced Fatigue Management accreditation to ensure corrective and preventative action is taken.

Sanctions

A national sanctions model is being developed outlining a range of actions available to accrediting agencies to deal with operators who do not meet their accreditation requirements. These sanctions range from corrective action notices to temporary suspension, variation of accreditation conditions, and finally, cancellation of accreditation. The level of the sanction applied will be determined by the nature of the breach by the operator.

On-road enforcement procedures have been developed for enforcement officers. These procedures will ensure a national approach consistent with other NHVAS modules.

In addition to accreditation sanctions, statutory sanctions will also apply. These sanctions will cover:

- provision of false or misleading information;
- misrepresentation of accreditation status; and
- exceeding outer operating limits.

Record Keeping

Advanced Fatigue Management accredited drivers will be required to carry and complete work diaries. Accredited drivers will be required to maintain a continuous record of their driving, work and rest times. Operators will be required to regularly review driver’s work diaries to ensure compliance with their operating limits. This means that work diary records must be kept at all times, including while operating in unregulated zones and local areas.

Driver Specific Monitoring Devices (DSMDs) will not be a mandatory requirement for accreditation under Advanced Fatigue Management. However, operators may use such technology as a management tool to assist them in monitoring driver activities.
Recommendation 6

Ministers agree to an Advanced Fatigue Management option embodying the principles regulatory parameters outlined in Section 1.2.6 and the management standards detailed in Appendix F.

1.2.7 Compliance and Enforcement

The NRTC conventional compliance model will provide the framework for the development of the compliance and enforcement provisions for the driving hours regulations. The model comprises the following elements:

- chain of responsibility offences directed at those responsible for conduct amounting to a breach;
- offences that are linked to the risk to safety, infrastructure, the environment, traffic efficiency and competitive equity, posed by non-compliance;
- enforcement powers that enable an effective response to each breach;
- evidentiary provisions that promote efficient investigations and enforcement proceedings; and
- sanctions and penalties that are fitting and proportionate to each breach.

Chain of Responsibility

To develop a better targeted, more effective, driving hours chain of responsibility, the transport activities which can influence or affect a driver’s ability to plan and carry out the driving task need to be identified, and appropriate responsibilities imposed upon persons engaging in those activities.

The activities identified as having the greatest bearing or influence on the planning and organisation of the driving task can be grouped as follows:

- consigning – commissioning the transport of goods by road;
- operating– controlling the use of a heavy vehicle for the transport of goods by road or controlling the use of a bus for carrying passengers;
- driving – driving the heavy vehicle carrying the goods or the bus carrying the passengers; and
- receiving – taking possession of or paying for goods transported by road.

A further activity which may not feature in the planning and organisation of the driving task, but can have a significant bearing on driver’s ability to carry it out, is:

- loading/unloading – placing or restraining the load on the vehicle, or removing the load from the vehicle.

In addition to these activities, the major role played by employers and responsible employees in planning and scheduling driver’s activities should continue to be specifically recognised and appropriate responsibilities imposed.
Criminal Liability under the National Road Transport Laws

Traditionally common law has insisted on intent or knowledge as a pre-condition of criminal liability (often described as the fault element). However, many less serious statutory offences dispense with the fault element and are committed simply by the doing of the prohibited act or the failure to meet obligations. These summary and regulatory offences are strict or absolute liability offences.

The critical factor in determining appropriate responsibilities is the level of control or influence participants in an activity might exert in relation to the driving task. Accordingly it is proposed that the standard of liability should be set as follows:

Where a party has full control over the performance of a task, the liability for meeting the fatigue management requirements in relation to that task should be absolute liability (and should not be subject to any defence). Consequently it is proposed that drivers would not have a reasonable steps defence.

Where a party has the capacity to control or exercise a level of influence over the performance of a task, liability should be absolute liability, but subject to a reasonable steps defence.

Where a party does not exercise control or influence over the performance of a task, liability should be fault based, determined by the party’s knowledge as to whether fatigue management requirements are being met.

Tables 5 and 6 set out the proposed responsibilities for each party in the transport chain.
### Table 5: Proposed Chain of Responsibility Duties

<table>
<thead>
<tr>
<th>Activity</th>
<th>Rest and work hours</th>
<th>Fatigue management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consigning</td>
<td>Consignor is in a position to control or influence the driving task</td>
<td>Duty</td>
</tr>
<tr>
<td>Consigning</td>
<td>Consignor is in a position to control or influence the driving task</td>
<td>Liability</td>
</tr>
<tr>
<td>Consigning</td>
<td>Consignor has no control or influence over driving task</td>
<td>Subject to the “general duty” applying to any person engaging in an activity affecting the driving task.</td>
</tr>
<tr>
<td>Carrying</td>
<td>Duty</td>
<td>Duty to take reasonable steps to ensure that drivers of vehicles transporting goods or passengers for the carrier comply with: Rest &amp; work hours requirements; Record keeping requirements; and Speed limits.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Duty to take reasonable steps to ensure that drivers transporting goods or passengers for the carrier do not drive if their ability or alertness to drive is so impaired through fatigue as to make it unsafe for them to do so.</td>
</tr>
<tr>
<td>Activity</td>
<td>Liability</td>
<td>Duty</td>
</tr>
<tr>
<td>----------</td>
<td>-----------</td>
<td>------</td>
</tr>
</tbody>
</table>
| **Liability** | Liability is *absolute*, but is subject to a *reasonable steps defence*. What constitutes reasonable steps will depend upon the circumstances of the case. | Duty to comply with:  
Rest & work hours requirements;  
Record keeping requirements; and  
Speed limits. | Liability is *absolute*, but is subject to a *reasonable steps defence*. What constitutes reasonable steps will vary according to the Option under which the driver is operating (see following Table below). |
| **Driving** | Liability is *absolute*, and is not subject to any defence. | Duty not to drive if ability or alertness to drive is so impaired through fatigue as to make it unsafe to do so. | |
| **Receiving** | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
What constitutes reasonable steps will depend upon the circumstances of the case. | Duty to take reasonable steps to ensure that drivers of vehicles transporting goods to receiver do not drive if their ability or alertness to drive is so impaired through fatigue as to make it unsafe for them to do so. | |
| **Receiver is in a position to control or influence the driving task** | Duty | Duty to take reasonable steps to ensure that drivers of vehicles transporting goods to receiver comply with:  
Rest & work hours requirements;  
Record keeping requirements; and  
Speed limits. | |
| **Receiver has no control or influence over driving task** | Liability | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
What constitutes reasonable steps will vary according to the Option under which the driver is operating (see following Table below). | Subject to the “general duty” applying to any person engaging in an activity affecting the driving task. |
<table>
<thead>
<tr>
<th>Activity</th>
<th>Duty</th>
<th>Fatigue management</th>
</tr>
</thead>
</table>
| Scheduling/Rostering    | Duty to take reasonable steps to ensure that drivers scheduled or rostered to drive comply with:  
                          | Rest & work hours requirements;  
                          | Record keeping requirements; and  
                          | Speed limits.  
                          | Duty to take reasonable steps to ensure that drivers scheduled or rostered to drive do not drive if their ability or alertness to drive is so impaired through fatigue as to make it unsafe for them to do so. |
|                         | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
                          | What constitutes reasonable steps will depend upon the circumstances of the case.  
                          | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
                          | What constitutes reasonable steps will vary according to the Option under which the driver is operating (see following Table below). |
| Employing                | Duty to take reasonable steps to ensure that employee drivers comply with:  
                          | Rest & work hours requirements;  
                          | Record keeping requirements; and  
                          | Speed limits.  
                          | Duty to take reasonable steps to ensure that employee drivers do not drive if their ability or alertness to drive is so impaired through fatigue as to make it unsafe for them to do so. |
|                         | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
                          | What constitutes reasonable steps will depend upon the circumstances of the case.  
                          | Liability is *absolute*, but is subject to a *reasonable steps defence*.  
<pre><code>                      | What constitutes reasonable steps will vary according to the Option under which the driver is operating (see following Table below). |
</code></pre>
<p>| Loading/unloading        | Duty                                                                 | To develop and maintain a system of setting and allocating loading and unloading times which minimises the time drivers are required to spend queuing in order to load or unload, and taking reasonable steps to ensure that drivers are able to load or unload at those times. |</p>
<table>
<thead>
<tr>
<th>Activity</th>
<th>Rest and work hours</th>
<th>Fatigue management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liability</td>
<td>Liability to develop and maintain a system is <em>absolute</em>, and is not subject to any defence. Liability to ensure that drivers can load and unload at allocated times is <em>absolute</em>, but is subject to a <em>reasonable steps defence</em>. What constitutes reasonable steps will depend upon the circumstances of the case.</td>
<td></td>
</tr>
<tr>
<td>Any other activity affecting the driving task</td>
<td>Duty</td>
<td>General duty not to ask, direct or require, directly or indirectly, a driver to do something if the person knows, or reasonably ought to know, that by complying with the request, direction or requirement the driver will, or would be likely to, breach: Rest &amp; work hours requirements; Record keeping requirements; and Speed limits.</td>
</tr>
<tr>
<td>Liability</td>
<td>Liability for breach of duty requires proof of fault, ie, knowledge.</td>
<td></td>
</tr>
</tbody>
</table>
Table 6: Fatigue Management Duty - Actions Required

<table>
<thead>
<tr>
<th>Standard Hours Option</th>
<th>Basic Fatigue Management Option</th>
<th>Advanced Fatigue Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fatigue management actions will need to be determined case by case, depending upon circumstances. The Fatigue Code will serve as a guide to the matters that should be considered and addressed by heavy vehicle drivers and operators (but will not prescribe actions to be taken).</td>
<td>Fatigue management actions will need to be determined on a case by case, depending upon circumstances. Mandatory Business Rules, which will be prescribed, comprise: Audit requirements Standards Risk assessments Selected parts of the Fatigue Code The balance of the Fatigue Code will serve as a guide to additional matters that should be considered and addressed by heavy vehicle drivers and operators (but will not prescribe actions to be taken).</td>
<td>Fatigue management actions will be specified in the accreditation process. The Fatigue Code will serve as a guide to the matters that should be considered and addressed by the Fatigue Management Program.</td>
</tr>
</tbody>
</table>

Recommendation 7

Ministers agree to strengthening Chain of Responsibility provisions by adopting the standards of criminal liability specified in Table 5, Proposed Chain of Responsibility Duties, and Table 6, Fatigue Management Duty - Actions Required.

1.2.8 Risk Based Categorisation of Offences

Under the NRTC’s risk based approach, offences are categorised according to the seriousness of the risk they pose to safety, infrastructure, the environment, traffic efficiency and competitive equity. Appropriate powers, penalties and sanctions are then set, based upon the category into which the risk falls. The aim of this approach is to provide enforcement officers and courts with an appreciation of the relative seriousness of offences, and to promote fair and nationally consistent sentencing outcomes.

It is proposed that the driving hours offences be revised against the road safety risk they pose with offences divided into three categories – administrative offences, substantial risk offences and severe risk offences.

Offences categorised as administrative would include breaches of record keeping or other administrative requirements which are minor and do not affect the integrity of the record, and as such present no risk to safety (by masking some other safety related breach).
Substantial risk offences would include inadvertent and less severe breaches of provisions.

Severe risk offences would be those involving a potentially high road safety risk eg extended breaches of driving or working hours, large shortfalls in rest times, deliberate or premeditated breaches of safety related provisions and record keeping offences involving fraud.

Sanctions and Penalties

It is proposed the approach to setting sanctions and penalties will be consistent with the Compliance and Enforcement Bill. The Bill Provides a comprehensive suite of sanction and penalty options designed to maximise compliance by all parties in the chain of responsibility.

These options have been tailored to address specific types of offenders (for example, first-time offenders, those who might benefit from compliance supervision and ‘systematic or persistent’ offenders) and specific consequences (for example, offences involving a risk to safety or the reaping of large commercial profits from the wrong-doing).

The proposed sanctions form a hierarchy beginning with administrative sanctions and penalties – improvement notices, formal warnings and infringement notices. For more serious offences, there are court-imposed sanctions and penalties – fines, commercial benefits penalties, restitution orders, supervisory intervention orders and orders prohibiting an offender from involvement in the road transport industry. There is no provision for imprisonment as it is considered likely that if an offence was of such severity that it warranted a term of imprisonment then proceedings would most likely be instigated under different laws.

Recommendation 8

Ministers agree to a risk based approach to categorisation of offences.

1.2.9 Record Keeping Requirements

Work Diary

It is proposed that a work diary be developed to replace the existing log book. The requirement to complete a work diary will, as in the existing Regulations, only apply to non local operations. It is noted however that drivers engaged in local operations may choose to complete a work diary as a means of demonstrating how they have met their obligations in respect of the Regulations.

It is proposed that the work diary should allow for the recording of the following details by the driver:

- driver’s details;
- name and contact details of the owner of the vehicle;
- name and contact details of customer;
- speedometer reading on vehicle prior to departure;
- details of trip, specifying departure point and time, destination, route to be used and time for journey; and
- details of rest and work periods.
It is also proposed that 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.

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.

Recommendation 9

Ministers agree to the replacement of log books with a work diary that includes provision for the details specified in Section 1.2.9

1.2.10 Form of Record Keeping Required

With the exception of the log book for long haul drivers and the driving records required to be kept by operators for drivers engaged in urban operations there are currently no specified requirements as to what records, and in what format, are to be kept. To overcome this problem it is proposed that operators and self-employed drivers be required to maintain certain designated records, “required records”, to do with their operations.

Lack of good records hinders enforcement. The desired outcome is to have record keeping requirements that can be utilised easily by Road Transport and OHS enforcement officers. To assist in maintaining the integrity of the driving hours regulations and encourage compliance, operators and owner drivers need to maintain records in a systematic, meaningful and accessible manner.

Those records that will be designated as “required records” will be identified in the finalisation of regulations following Ministers’ endorsement of the policy approach.

These record keeping requirements relate to the Standard Hours and Basic Fatigue Management options. The requirements for the Advanced Fatigue Management option are detailed in Section 1.2.6.

Recommendation 10

Ministers agree to strengthen record keeping requirements as outlined in Section 1.2.10.

1.2.11 Exemptions

The present legislation provides for jurisdictions to grant a limited driving hours exemption. The maximum driving hours provision may not apply to a person who has a driving hours exemption. A limited driving hours exemption can be granted where:

- compliance with the provision would be an unreasonable restriction on operations conducted by the applicant;
- the driver fatigue management practices stated in the application would, if followed, be at least as effective as the provision in managing driver fatigue; and
- the applicant and the employed drivers are likely to follow the stated practices effectively and consistently.

It is considered that given the flexibility provided in the proposed options that the need for exemptions will be rare. Ideally no operations should require an exemption as all unusual
operations should be addressed under the Advanced Fatigue Management option. However, to gain accreditation requires incurring significant costs. These costs may bear no relationship to the potential road safety risk, for example a driver who drives everyday for an hour would be breaking the prescribed hours but on that basis alone would not likely to constitute a road safety risk as the result of fatigue.

Accordingly it is proposed that provision for exemptions be retained but jurisdictions, before granting an exemption, undertake an assessment of the fatigue risk in granting the exemption. In meeting this requirement agencies will be able to draw on the work of the Fatigue Expert Group and the risk assessment criteria to be used in assessing applications for the Advanced Fatigue Management option.

Recommendation 11

Ministers agree that provision for exemptions be retained in any new regulatory regime.

1.2.12 Bus and Coach Industry

The operating environment of the bus and coach industry can vary significantly from that of the trucking industry with different fatigue risks. Accordingly it is proposed that while being subject to the proposed regulatory regime there will be some variations to address the different risk profile and operating environment.

Recommendation 12

Ministers agree that, while being subject to the proposed regulatory regime, the different risk profile and operating environment of the bus and coach industry be recognised through appropriate variations.
ATTACHMENT A: RESPONSE FROM FATIGUE EXPERT GROUP

As part of the process of finalising policy options the NRTC has sought the advice of the Fatigue Expert Group on the various options. An initial review paper was circulated to ensure key issues were canvassed (attached). Initial responses were received from the Fatigue Expert Group addressing the issues in the review paper. These responses were incorporated into a summary position that was circulated to members for endorsement. The process was coordinated by a consultant who worked directly with the fatigue experts.

The Summary Position, follows. The initial brief and responses are available from the NRTC.

Summary Position of Fatigue Expert Group

The policy options all incorporate a number of elements that promote a more active and evidence based approach to fatigue management. These options represent a clear step forward from the current prescriptive hours and the transitional schemes in place. In combination with other legislative changes and supporting guidance such as the proposed code of practice these options will operate in a framework in which flexibility will be accompanied by matching accountability requirements. The accountability and monitoring processes are more critical where the level of flexibility has the potential to compromise recovery from acute and cumulative fatigue.

Consistency of the Policy Options with the Design Principles in the FEG Report

In general the policy options are consistent with the design principles, or have the potential to be consistent if suitably implemented and monitored. The recognition of night sleep for recovery and the incorporation of some limits to night driving in various options reflect a regime more consistent with design principles. The protection of sleep opportunities through the minimum break period and limitations to working time in the standard and limited flexibility options achieves consistency with the principles. The potential for a similar consistency within the Full Fatigue model [now named the Advanced Fatigue Management option] is dependent on how work and rest are combined to manage fatigue and the corresponding accountability requirements set out by respective agencies.

Evidence Base to Support Operating Limits in Each Option

The operating limits in the Standard Hours option are broadly supported by evidence about duration of working time, opportunities for recovery and the need for restorative night sleep. The mandating of 4 night sleep opportunities including a pair of consecutive nights is considered a reasonable way encouraging recovery. The evidence base for allowing 6 hours continuous driving is not established but this change is probably not consistent with better fatigue management. In all options the current 5 hour limit is preferred.

Under the TFMS 144 hours, with no restriction on night work, can be worked before a 24 hour break is required. The Limited Flexibility model [this option is now named the Basic fatigue management option] adds to the Standard Hours option greater flexibility in the length of working days, working weeks/fortnights and the timing of 24 hour breaks. The ability to work a longer week, up to 84 hours before a 24 hour break must be taken, could only be supported where night work is minimised and opportunities for longer breaks and night sleep are provided.

Under the limited flexibility option 84 hours can only be worked if the shifts are day shifts. There are also parameters on the number of nights and length of shifts which limit the number
of night hours that can be undertaken. The impact of the shorter following work week in providing recovery will depend on the amount of rest following the first long working week.

There is no requirement for increased rest between the long and short weeks so whilst some aspects of this model are significantly better than the present regime it is uncertain as to whether sufficient rest will be taken immediately after the long week to compensate.

The concern about the 6 hours continuous driving period is also heightened in this situation. Whilst both options can, under certain circumstances, reduce the number of hours worked, eg for a driver who wants to work 14 hour night shifts in limited flexibility or night shifts under standard hours, neither option universally reduces the number of hours that can be worked in 14 days and in this regard is not consistent with the position of the Expert Group of moving in the direction of reducing the length of the work week.

The Full Fatigue Management option whilst having separate operating limits can only be assessed in terms of the interrelationships between the operating limits. Similarly the frequencies which are part of the checks and balances in the option can only be assessed in relation to the overall and cumulative impact they have.

Taken in isolation the outer limits for example, would not meet evidence based thresholds to minimise fatigue. However the opportunity to work up to 16.5 hours up to twice a week may be acceptable if preceded by adequate sleep and followed by an extended rest period.

The use of a 6 hour break or 8 hours in two parts is not consistent with the need for a minimum 6 hours continuous sleep each day. Broken sleep in combination with another outer limit parameter such as a 16.5 hour working day would be in conflict with the evidence on fatigue and recovery. Consequently any approvals of operating limits should contain further conditions to ensure combination of limits act to reduce fatigue risk rather than exacerbate risk.

**Capacity of Approval and Monitoring Processes to Optimise Outcomes**

It is accepted that in developing policy in this industry sector, it is necessary to balance scientific evidence against operational needs and this is most obvious in the approval processes associated with flexibility options.

The proposed processes involve at least three performance hurdles:

- preparation of an application for limited and full fatigue options through the NVHAS;
- approval of operators and operating limits; and
- under full fatigue management options there needs to be clear documentation of risk assessments and countermeasures.

These processes, applied in the knowledge of the evidence about fatigue, will provide some assurance that flexibility is balanced by suitable fatigue management countermeasures.

However because of the interrelationship of fatigue risk factors and the corresponding fatigue countermeasures the approval process should:

- articulate further criteria to particularly account for the interaction of limits and frequencies, especially in the full fatigue management option;
• ensure that operating limits approvals are trip specific and assessed against the cumulative effect of fatigue risks;

• ensure that operating approvals are exclusive and specific to the applicant and their matching countermeasures;

• approvals are subject to monitoring and corrective action if non-compliances are detected; and

• conditions of approval are evaluated and modified where the state of knowledge about fatigue recommends changes to operating limits and practices.

Endorsed by:

Drew Dawson: major concerns are decision making processes and criteria used for approvals. These issues are covered in the summary.

Ann-Marie Feyer: considers that the counter measures included in the Limited Flexibility Option are consistent with the design principles and have considerable potential to reduce fatigue risk, particularly in comparison to the TFMS. However she notes that, as potentially high fatigue risk situations are not covered by the same checks and balances as in FMM, effective monitoring and accountability frameworks need to be maintained. It is critical that the duties under the broader legislative framework (eg general duty to manage fatigue) are vigorously applied if the operating parameters in this option are to be kept within good fatigue management practices.

Narelle Haworth: important that all options including standard option is subject to effective enforcement. Important that in FMM flag points/outer limits are not combined. Frequency of broken sleep is too high at twice per week, once would be preferable.

Laurence Hartley: only qualifications relate to FMM. Need for boundaries for normal limits rather than open ended range out to outer limits. Suggest normal limits should be within the parameters set in Limited Flexibility model. Rest breaks should be included as part of length of working time and that sleep opportunity should not include journey to work and related activities. Countermeasures need to be listed and made more transparent in the approval process.

Ann Williamson: endorses the proposal. Notes that the success of the policy lies in compliance and enforcement of the standard and limited flexibility options and in application of the constraints which will be applied to individual fatigue management plans under the full fatigue management option.

Final response not received

Phillipa Gander
ATTACHMENT B: ADVANCED FATIGUE MANAGEMENT OPTION

Queensland Transport developed the Fatigue Management Program (FMP) pilot in 1994 and agreed to trial it as the fatigue management module of the National Heavy Vehicle Accreditation Scheme (NHVAS). The aim of the pilot was to develop and evaluate a fatigue management program that addressed all of the fatigue risk factors impacting on a driver, not just driving hours.

The Advanced Fatigue Management option (AFM) is based on risk management and quality assurance approaches that require operators and drivers to meet standards to ensure they effectively manage driver fatigue. The AFM standards are designed around best practice and cover readiness for duty, scheduling, rostering, management practices, training, record keeping, health, and workplace conditions issues. Operators must develop systems policies and processes to meet these standards.

The experience of the FMP pilot has been used to develop the AFM. This has seen the standards reviewed and improved and the operating limits model refined. The FMP pilot was evaluated and it was found that drivers who are working under FMP conditions are exposed to significantly less fatigue related risk than those drivers surveyed before the commencement of the pilot. FMP drivers reported a decrease in the frequency in fatigue symptoms and a reduction in the use of negative fatigue strategies (eg. caffeine, drugs, smoking, etc.).

Proposed Operating Limits

Operating limits are tools that allow operators and drivers to plan, monitor and manage work and rest times to minimise the impact of fatigue. Work and rest times are planned around normal limits. Normal operating limits are the limits used to guide the scheduling and rostering of drivers, and are the limits required to do the job in most circumstances. Drivers are empowered with the flexibility to work within the range between normal limits and flag points to best manage their own fatigue. Flag points indicate the point at which the fatigue risk is increased. Flag points may be exceeded up to the outer limits after a risk assessment is undertaken and countermeasures are implemented. Records must be kept of all instances where a flag point has been exceeded.

Outer limits will be determined during the accreditation process and are based on research on the ability of people to tolerate lack of sleep and evidence of operations that can be conducted with an acceptable road safety risk. Table 7 details possible outer limits.
### Table 7: Advanced Fatigue Management – Possible Outer Limits

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Outer Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum sleep opportunity in a 24 hour period</td>
<td>6 hours or 8 hours in two parts break only can be used on 2 consecutive 24 hour periods</td>
</tr>
<tr>
<td>Frequency</td>
<td>Twice a week</td>
</tr>
<tr>
<td>Minimum opportunity for night sleep (22.00 and 08.00)</td>
<td>1 night sleep in 7 days</td>
</tr>
<tr>
<td>Frequency</td>
<td>Once a fortnight</td>
</tr>
<tr>
<td>Maximum hours “night work” in 7 days</td>
<td>36 hours (6 nights). A night hour is calculated as any hour worked between 00.00 and 06.00 and any hour or part hour, in 15 minute blocks, worked in excess of 14 hours in a 24 hour period</td>
</tr>
<tr>
<td>Frequency</td>
<td>84 hours</td>
</tr>
<tr>
<td>Maximum hours work in 7 days</td>
<td>Once a fortnight</td>
</tr>
<tr>
<td>Maximum hours work in 24 hour period</td>
<td>16.5 hours</td>
</tr>
<tr>
<td>Frequency</td>
<td>Twice a week</td>
</tr>
<tr>
<td>Maximum hours work in 48 hour period</td>
<td>30 hours</td>
</tr>
<tr>
<td>Frequency</td>
<td>Once a week</td>
</tr>
</tbody>
</table>

Operators are required to develop sets of normal limits and flag points within these outer limits that are individually tailored to meet the needs of the drivers and the operator. These limits must take into account:

- the time required to perform the task safely;
- adequate rest periods to recover from the effects of fatigue;
- the cumulative effects of fatigue over time; and
- the effects of time of day on fatigue and quality of sleep.
Definitions

*Operating Limits* - is the collective term used to refer to a group of normal limits, flag points and outer limits. Operating limits are proposed by the operator and approved by the accrediting jurisdiction/s.

*Normal Limits* - are limits that guide the scheduling and rostering of drivers’ driving, work and rest times. These limits provide the basis around which the business is planned and organised. These are the limits that are required to do the job in most circumstances.

*Flag Points* - are the limits past which the fatigue risk is significantly increased and risk management action by the operator and driver is required. The number of times a driver may exceed this limit is prescribed in the frequency rates outlined in their NHVAS FM agreement.

*Outer Limits* - is the point at which further driving or work would pose an unacceptable fatigue risk as evidenced by research on the ability of people to tolerate lack of sleep and evidence of operations that can be conducted with an acceptable road safety risk. Outer limits cannot be exceeded under any circumstances.
Proposals that put forward normal limits and flag points that approach the outer limits would not usually be accepted. However, it is recognised that some operators may have operational circumstances that may require work to approach an outer limit. In these instances, it needs to be recognised that the driver may be subject to a higher safety risk from fatigue and stronger countermeasures will be required to combat this.

For accrediting agencies to consider approving such a proposal, operators should demonstrate the following:

- Clear evidence is provided as to why these limits are required, along with how this will be countered measured with other fatigue management strategies contained within the risk assessment guide.
- If more than one outer limit parameter is set as a flag point or normal limit stronger countermeasures would be required depending on how many limits are set this way.
- Systems are in place to ensure that the outer limit are not exceeded under any circumstances. If the outer limit is reached, the only acceptable countermeasure is for a driver to pull over and sleep.
- Operators will also need to specify the maximum frequency with which drivers will be permitted to go past the flag points up to the outer limits. These frequencies are approved by the accrediting agency. Operators will be required to assess the risks associated with operating between the flag points and the outer limits and set in place a range of countermeasures to balance the fatigue effects. Exceeding the flag points more frequently than agreed will result in a non-conformance being raised in internal and external audits.

Accreditation

It is proposed that the following process will apply to operators wishing to become accredited under the AFM:

- attend information session;
- develop operating limits and fatigue management systems;
- submit proposed operating limits to accrediting agency;
- obtain in principle approval of operating limits from accrediting agency;
- undertake an entry audit and be certified as meeting the NHVAS FM standards;
- submit application form and system accreditation audit report to accrediting agency; and
- obtain accreditation

It is proposed that a collegiate accreditation process will be established for accrediting operators to the AFM. This would involve the accrediting agency reviewing and giving initial approval to AFM applications put up by operators. When the agency is satisfied with an operator’s application, they will circulate the proposal to each of the other jurisdictions for approval. Upon receiving confirmation from the other jurisdictions that the application is acceptable, the operator will be accredited.

This system ensures full mutual recognition of NHVAS FM accreditation amongst the participating jurisdictions. The collegiate accreditation process also ensures that consistent
decisions are being made on a national basis about what is considered acceptable for NHVAS FM accreditation.

**Performance Monitoring**

The NHVAS provides an audit framework through a network of accredited auditors for the mass and maintenance modules. Independent audits will be required at the following intervals:

- on application for accreditation (system accreditation audit);
- within six months of accreditation (compliance audit) to ensure that operator is meeting the standards and following their fatigue management systems; and
- every two years following accreditation.

In addition, the AFM includes rigorous compliance mechanisms that will be used to measure operators’ performance in the module. These include:

- triggered audits by third party independent auditors where there are concerns with an operator’s performance;
- annual internal audits conducted by the operator;
- quarterly compliance reports compiled by the operator;
- records must be maintained for at least 3 years and be accessible at all times;
- monitoring of driver work and rest times by the operator and at audit;
- on-road interceptions are reported to the accrediting agency through interception report books, and follow up action taken if required; and
- operators must implement and maintain a system for managing any occurrences of non-compliance with their AFM accreditation to ensure corrective and preventative action is taken.

There is also a range of accreditation sanctions available to the accrediting agencies to deal with operators who do not meet their accreditation requirements. These range from corrective action notices to temporary suspension, variation of accreditation conditions, and finally, cancellation of accreditation. The level of the sanction to be applied will be determined by the severity of the operator’s breach of the accreditation conditions.

- In addition to accreditation sanctions, statutory sanctions will also apply. These include:
  - provision of false or misleading information;
  - misrepresentation of accreditation status; and
  - exceeding outer operating limits.
The following table nine provides an example of what operating limits an operator might submit to a jurisdiction for assessment and approval to manage a Brisbane to Sydney freight operation. Before nominating the limits the operator would need to:

- assess the business requirements;
- assess the trip requirements (ie distance, available roads, available rest stops);
- talk to drivers that will be required to drive the trip to assess their needs;
- talk to all those in the transport chain that can effect the trip (eg consignors, schedulers, loaders);
- conduct a risk assessment using the Advance Fatigue Management Risk Assessment Guide; and
- analyse the above information and nominate what limits would be required to do the job most of the time (ie normal limit) and what limits would be acceptable if this could not be met (flag) and how many times this would be acceptable (frequency) and what countermeasures would be required.
Table 8. Example of Operating Limits an Operator Might Submit for a Brisbane to Sydney Freight Operation.

<table>
<thead>
<tr>
<th>Operating Limits parameter</th>
<th>Normal Limit</th>
<th>Flag Point</th>
<th>Countermeasures Control when flag point exceeded</th>
<th>Frequency the maximum number of times a driver can exceed the flag point per driver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum sleep opportunity in a 24 hrs period</td>
<td>8</td>
<td>7</td>
<td>Make up with longer opportunity to sleep in the next 24 hour period</td>
<td>1 per week</td>
</tr>
<tr>
<td>Minimum consecutive night sleeps in 7 days</td>
<td>4</td>
<td>3</td>
<td>Add extra night sleep to following 7 days work.</td>
<td>1 per fortnight</td>
</tr>
<tr>
<td>Minimum 24 hrs periods off in 28 days</td>
<td>2 days off 1 day off</td>
<td>2 days off 1 day off</td>
<td>Roster 3 consecutive days off following week</td>
<td>1 per month</td>
</tr>
<tr>
<td>Maximum hours ‘night work’ in 7 days</td>
<td>30</td>
<td>32</td>
<td>N/A</td>
<td>1 per fortnight</td>
</tr>
<tr>
<td>Maximum hours work in 7 days</td>
<td>50</td>
<td>60</td>
<td>Communicate with driver every hour worked over 50 hrs to ensure driver is capable of working up to 60 hours. Ensure following 2x7 day periods is no more than 50hrs.</td>
<td>1 per month</td>
</tr>
<tr>
<td>Maximum hours work in 14 days</td>
<td>100</td>
<td>120</td>
<td>N/A</td>
<td>1 per month</td>
</tr>
<tr>
<td>Maximum hours work in 24 hour period</td>
<td>12</td>
<td>14</td>
<td>Work 2 less hours within 2 days of flag point being reached.</td>
<td>2 per week</td>
</tr>
<tr>
<td>Maximum hours work in 48 hours period</td>
<td>24</td>
<td>28</td>
<td>Work 4 less hours within 2 days of flag point being reached</td>
<td>1 per week</td>
</tr>
<tr>
<td>Minimum short rest break during the day</td>
<td>30 mins break for every 5hrs</td>
<td>30 mins break for every 6 hrs</td>
<td>N/A</td>
<td>2 per week</td>
</tr>
</tbody>
</table>
Record Keeping

Under AFM, accredited drivers will be required to carry and complete work diaries, specifying driving, work and rest times. Operators will be required to regularly review driver’s work diaries to ensure compliance with their operating limits. AFM accredited drivers will be required to maintain a continuous record of driving, work and rest. This means that work diary records must be kept at all times, including while operating in unregulated zones and local areas.
ATTACHMENT C: CURRENT REGULATORY REGIME

Introduction

Fatigue is a major road safety issue for heavy vehicle drivers and other road users. The structure of prescribed driving hours regulations in Australia and overseas (most developed countries have prescribed hours regulation) has been criticised for the lack of scientific basis and for provisions which, if fully complied with, could in some cases exacerbate rather than mitigate the fatigue problem. The issue is one of risk management, of having the necessary systems and regulatory environment in place to manage fatigue not focussing on the number of hours a person can drive. Improvement in the way fatigue is managed, and consequently road safety, will come from an integrated package of measures and not from tinkering at the edge with driving hours. It is only by the adoption of such a package that the culture of the approach to managing fatigue will change and compliance improved.

Current Regulatory Framework

The regulatory framework governing heavy vehicle driver fatigue approved by the Australian Transport Council (ATC) in 1999 applies to trucks with a GVM over 12 tonnes and buses that seat over 12 (8 adult seats in NSW). The purpose of the driving hours regulations is to improve road safety by limiting the hours of driving and work and requiring minimum continuous rest breaks.

The framework has three components:

- a regulated driving hours (standard hours) regime;
- a Transitional Fatigue Management Scheme (TFMS), not available to bus drivers and operators); and
- provision for a Fatigue Management Scheme (FMS).

The regulatory framework, with some differences across jurisdictions, has been implemented in New South Wales, Victoria, Queensland, South Australia and Tasmania based on the Road Transport Reform (Driving Hours) Regulations 1999.

Western Australia and the Northern Territory have chosen to regulate driving hours under occupational health and safety legislation. Western Australia has recently included in regulations certain key parameters, for example, specifying maximum hours of work and minimum hours of rest. Both jurisdictions have endorsed codes of practice.

The take up of the Regulations by jurisdiction is summarised in Table 9.

---

3 Bus Driving Hours Regulations were initially approved in 1994, Truck Driving Hours Regulations in 1998 with amalgamated and updated provisions in 1999.
Table 9: Implementation of the Road Transport Reform (Driving Hours) Regulations

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Implementation status</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>Regulations implemented. The cut-off limit for buses is 8 adult seats rather than 12; longer continuous breaks for bus drivers</td>
</tr>
<tr>
<td>Victoria</td>
<td>Regulations implemented. Regulations implementing the chain of responsibility provisions added in early-2001</td>
</tr>
<tr>
<td>Queensland</td>
<td>Regulations implemented</td>
</tr>
<tr>
<td>South Australia</td>
<td>Regulations implemented</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Regulations implemented. Logbook provisions not required for long distance drivers</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>Not implemented</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Fatigue code of practice based on occupational health and safety legislation. Regulations covering rest and work added in 2003.</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Fatigue code of practice based on occupational health and safety legislation</td>
</tr>
</tbody>
</table>

Prescribed Driving and Rest Hours

In those jurisdictions which have adopted the Regulations, the prescribed hours in the Regulations must be observed unless an operator is a member of the Fatigue Management Scheme pilot program (FMP) being conducted by Queensland Transport as national lead agency.

Table 10 details what is allowed under the current prescribed hours.

Table 10: Prescribed Driving and Rest Hours

<table>
<thead>
<tr>
<th>Feature</th>
<th>Standard Hours</th>
<th>TFMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum driving allowed in 24 hour period</td>
<td>12 hours</td>
<td>14 hours</td>
</tr>
<tr>
<td>Maximum work allowed in 24 hour period</td>
<td>14 hours</td>
<td>14 hours</td>
</tr>
<tr>
<td>Weekly driving limit</td>
<td>72 hours</td>
<td>n/a</td>
</tr>
<tr>
<td>Fortnightly driving limit</td>
<td>n/a</td>
<td>144 hours</td>
</tr>
<tr>
<td>Maximum period of continuous driving</td>
<td>5 hours</td>
<td>5 hours</td>
</tr>
</tbody>
</table>
The Transitional Fatigue Management Scheme (TFMS) was introduced in the 1999 Regulations as an interim measure pending the introduction of the fatigue management module of the National Heavy Vehicle Accreditation Scheme (NHVAS); the FMP pilot had already been initiated. TFMS provides greater flexibility in the core prescribed hours regime in exchange for implementing certain counter balancing controls. TFMS stands between, and contains elements of both, prescribed driving and rest hours and the Fatigue Management Program. Drivers are required to undergo a health check and both drivers and relevant operational staff are required to be trained in fatigue management. TFMS operators are subject to a general obligation under the Regulations to manage driver work and rest times so that they comply with the limits on driving and rest hours, to ensure that drivers undergo medical examinations and fatigue management training and to keep appropriate records.

The greater flexibility is a significant factor in the longer line haul routes. For example, TFMS allows the Brisbane-Sydney trip to be completed legally by a single driver in a single shift. Prior to the introduction of TFMS this was not possible but had been allowed under a moratorium on enforcement by the regulatory authorities in NSW.

The TFMS Administration Guidelines required a broad assessment of the operation of the scheme after twelve months of operation. The assessors concluded that:

- TFMS is unlikely to have significantly affected road safety;
- TFMS has provided some improvements with greater flexibility, although the gains in productivity have not been significant;
- TFMS has not resulted in the adoption of fatigue management principles in the road transport industry; and
- TFMS has not ensured employer accountability for compliance assurance with the scheme.4

**Record Keeping**

Drivers operating beyond 100 km from base are required to maintain logbook records (except in Queensland where a 200 km threshold applies, and Tasmania where logbooks are not required). The Regulations contain provisions for electronic recording (not activated in the

---

absence of appropriate business rules) or management records that can be subject to audit as alternatives to logbooks.

Employers of drivers engaged in local area work are required to keep records of drivers’ driving, work and rest times. Self-employed drivers are required to keep similar records. Employers participating in TFMS and the FMP pilot are required to keep additional records relating to the management of drivers under the schemes.

**Fatigue Management Program (FMP) Pilot**

The FMP pilot is based on risk management and quality assurance approaches that require operators and drivers to meet certain standards to ensure that they effectively manage driver fatigue. The aim of the pilot was to develop and evaluate a fatigue management scheme that addressed all of the fatigue risk factors impacting on a driver, not just driving hours.

Queensland Transport, with the Australian Trucking Association, implemented the fatigue management pilot in 1994, as lead agency with outside and industry involvement, and agreed to trial it as the fatigue management module of the NHVAS.

Under a fatigue management scheme it is proposed that operators who receive accreditation for their fatigue management systems will be able to operate outside the prescriptive hours regulatory regime in those jurisdictions that directly regulate driving hours. The FMP pilot comprises documented assurance schemes, policies, procedures and records that demonstrate management and evaluation systems are in place to ensure compliance with fatigue management standards and practices agreed between the operator and jurisdiction.

**Chain of Responsibility**

The *Road Transport Reform (Driving Hours Regulations) 1999* provided new offences for persons whose directions or requirements result in the heavy vehicle driver breaching driving hours, record keeping or speed regulations\(^5\). It is recognised that breaches of road transport law are not always the sole responsibility of drivers and that other parties may have measures of responsibility. In broad terms, these provisions in Part 5 of the Regulations prohibit consignors, employers, responsible employees and persons generally from making requests or setting rosters or schedules that would require a driver to commit a core driving hours offence, a driving record offence or a speeding offence.

---

ATTACHMENT D: BASIC FATIGUE MANAGEMENT STANDARDS

1. Scheduling and Rostering

Standard

Scheduling of individual trips and rostering of drivers must be in accordance with limits prescribed in legislation.

Description

Scheduling and rostering practices must ensure all trip schedules and driver rosters are planned and assigned in compliance with the legislated operating limits taking into account the transport task. Time must be allowed for the transport task to be completed safely.

Criteria

To satisfy this standard an operator must demonstrate the following:

- schedules and rosters are planned to be achievable under legislative operating limits;
- where there are regular schedules and rosters, these are documented; and
- schedules and rosters are monitored and regularly reviewed to ensure that they are/remain appropriate.

2. Fitness for Duty

Standard

Drivers must be in a fit state to safely perform required duties and meet the specified medical requirements.

Description

Operators must ensure that time off is provided for drivers to recover from or to prepare for the fatigue effects of work. Drivers must ensure that they consider the impact of activities such as recreational activities and personal life on their well being and capacity to work safely, and use time off responsibly to prepare for, or to recover from, the fatigue effects of work. Operators must ensure that drivers have undertaken the required medical examination.

Criteria

To satisfy this standard an operator must demonstrate the following:

- drivers are certified as being fit to drive a heavy vehicle by a medical practitioner according to the FORS/NRTC guideline Medical Examinations of Commercial Vehicle Drivers (or equivalent document approved by the Australian Transport Council). The examination must include an assessment to detect drivers in the high risk group for sleep disorders. Examinations are to be conducted, as a minimum, once every three years for drivers aged 49 or under, and yearly for driver’s aged 50 or over;
• drivers are employed on duties they are capable of performing, in accordance with the medical fitness assessment;

• a driver's ability to perform the task safely is assessed prior to the driver commencing work where practicable. The increased fatigue risk for a driver returning from leave should be included in this assessment;

• drivers assess their own fitness to complete a task prior to and during work,

• drivers advise the operator if they are unfit for duty due to any lifestyle, health or medical issue both before and during work; and

• drivers are provided information to promote and encourage better management of their health.

3. Training and Education

Standard

All personnel are provided with relevant training on the causes, effects and management of fatigue.

Description

Training and education is essential to ensure all responsible employees, including managers, understand fatigue management issues and have the knowledge and skills to practice effective fatigue management commensurate with their level of responsibility and exposure.

Criteria

To satisfy this standard an operator must demonstrate the following:

• all managers, supervisors and drivers participating in the Basic Fatigue Management option are trained in managing driver fatigue, including the causes and effects of fatigue, recognising the symptoms of fatigue, strategies to better manage fatigue including lifestyle changes, methods of conducting fatigue risk assessments, and applying countermeasures;

• staff are trained in their responsibilities under the Basic Fatigue Management option; and

• on-going training needs are assessed.

4. Responsibilities

Standard

The authorities, responsibilities and duties of all positions involved in the management, operation, administration, participation and verification of their operations under the Basic Fatigue Management option are current, clearly defined and documented.

Description

The successful operation of the Basic Fatigue Management option is dependent on all personnel knowing and fulfilling their responsibilities to ensure that the requirements of the Basic Fatigue Management option are met.
Criteria

To satisfy this standard an operator must demonstrate the following:

- all personnel are carrying out their duties and responsibilities as required to meet the standards and legislated requirements.
- management practices are in place to deter non-compliance and implement corrective actions;
- an effective communication process is in place to facilitate the exchange of information between drivers and management; and
- authorities, responsibilities and duties relating to the Basic Fatigue Management option are current, clearly defined and communicated to all appropriate personnel.

5. Internal Review

Standard

An internal review system is implemented to identify all non-compliances and verify that all activities comply with the Basic Fatigue Management option requirements.

Description

The internal audit process is an essential management tool that checks that requirements are being followed. Fundamental to the effective management of the fatigue risk is the capacity of the internal management system to assess fatigue risk and to identify, report and investigate incidents of non-compliance with requirements and take the necessary corrective action.

Criteria

To satisfy this standard an operator must demonstrate the following:

- records of drivers’ work and rest times are regularly reviewed to ensure compliance with the legislated operating limits;
- quarterly compliance statements are to be produced;
- internal reviews are undertaken at least every 12 months of fatigue management practices and procedures by , where practical, competent persons not responsible for the activity being reviewed; and
- procedures are in place to monitor, identify, report, investigate and record non-compliances and take the necessary corrective action to prevent further occurrences.

6. Records and Documentation

Standard

Documented evidence must be maintained to demonstrate the effective operation of the Basic Fatigue Management option.
The Operator shall establish, implement and maintain documented procedures to manage the issue of documents, and to manage and maintain records that relate to the requirements of the Basic Fatigue Management Standards.

Description

Essential to the Basic Fatigue Management option is the keeping and preservation of pertinent records.

Criteria

To satisfy this standard an operator must demonstrate the following:

- policies, procedures and instructions covering all activities required to meet the Basic Fatigue Management option are current, clearly defined and available to all relevant personnel;
- all records are legible, stored, maintained and available for management and audit purposes for at least three years;
- records could include individual driving hours records (e.g. work diaries, rosters, schedules), records of reviews of the system and records of checks of driving records. The system should also describe supplementary records that are being retained;
- records of participating drivers are kept current; and
- all work diaries, driver identification cards and vehicle identification labels are accounted for at all times.
ATTACHMENT E: ADVANCED FATIGUE MANAGEMENT STANDARDS

1. Scheduling and Rostering

Standard

Scheduling of individual trips and rostering of drivers must incorporate fatigue management measures.

Description

Scheduling and rostering practices must ensure all trip schedules and driver rosters are planned and assigned in accordance with the operator's approved operating limits. Scheduling and rostering practices must include an assessment of the driver's recent work history, ability, welfare and preference (where appropriate). Time must be allowed for the transport task to be completed safely.

Criteria

To satisfy this standard an operator must demonstrate the following:

- no schedules and rosters are planned to extend outside the flag points;
- in general, schedules and rosters are planned to be achievable within the normal limits under average conditions;
- instances where schedules and rosters are planned to exceed normal limits are recorded, including details of the risk assessment conducted and the fatigue management countermeasures, corrective action and preventative action taken;
- where there are regular schedules and rosters, these are documented;
- schedules and rosters are monitored and regularly reviewed;
- action is taken to minimise fatigue risks when altering schedules and rosters;
- drivers are provided with regular holidays and breaks throughout the year (including at least one period of five consecutive days);
- the increased fatigue risk for a driver returning from leave is considered in scheduling and rostering of the driver;
- guidelines are in place for the use of relief/casual drivers; and
- records detailing the actual schedules and rosters worked by drivers (eg, driver's work diary, pay records, operations manager's diary) are maintained and are available for audit.

2. Operating Limits

Standard

Operating limits must provide drivers and operators with the flexibility to effectively manage fatigue.

Operating limits must take into account and provide for:
• the time required to perform the transport task safely;

• the rest periods required to recover from the fatigue effects of work;

• the cumulative effects of fatigue over several days of work; and

• the effects of time of day on fatigue risks and quality of sleep.

Description

Operating limits are tools that allow operators and drivers to plan, monitor and manage work and rest times to minimise the impact of fatigue. Work and rest times are planned around normal limits. Drivers are empowered with the flexibility to work within the range between normal limits and flag points to best manage their own fatigue. Flag points may be exceeded up to the outer limits after a risk assessment is undertaken and countermeasures are implemented.

Criteria

To satisfy this standard an operator must demonstrate the following:

• the approved operating limits are monitored and reviewed at least every 12 months to ensure they are still effective;

• drivers are provided with flexibility to alter trip schedules within flag points to maximise rest opportunities and minimise fatigue risk;

• the occasions when a driver is permitted to exceed the flag points are managed to ensure appropriate countermeasures are implemented and limitations are placed on the number of occurrences to ensure that they do not exceed the approved frequency per driver;

• instances where flag points have been exceeded are recorded, including details of the risk assessment conducted and the fatigue management countermeasures, corrective action and preventative action taken;

• drivers do not exceed outer limits; and

• records of drivers’ work and rest times are regularly reviewed to ensure compliance with the approved operating limits for a minimum sample of two continuous weeks per driver per quarter.

3. Readiness for Duty

Standard

Drivers must be in a fit state to safely perform required duties.

Description

Operators must ensure that time off is provided for drivers to recover from or to prepare for the fatigue effects of work. Drivers must ensure that they consider the impact of activities such as recreational activities and personal life on their well-being and capacity to work safely, and use time off responsibly to prepare for, or to recover from, the fatigue effects of work.

Criteria
To satisfy this standard an operator must demonstrate the following:

- the operator has systems for driver readiness for duty, which address issues of driver health, use of drugs/alcohol, medical condition, well-being and state of fatigue;
- the driver's ability to perform the task safely is assessed prior to the driver commencing work where practicable;
- drivers assess their own fitness to complete a task prior to and during work, and
- drivers advise the operator if they are unfit for duty due to any lifestyle, health or medical issue both before and during work.

4. **Health**

*Standard*

Drivers must participate in a health management system to identify and manage fatigue risks.

*Description*

Operators must implement a health management system that addresses, as a minimum, sleep disorders, medical history, substance abuse and diet, and provides preventative and remedial measures to assist drivers in the management of their health.

*Criteria*

To satisfy this standard an operator must demonstrate the following:

- drivers are certified as being fit to drive a heavy vehicle by a medical practitioner according to the FORS/NRTC guideline *Medical Examinations of Commercial Vehicle Drivers* (or equivalent document approved by the Australian Transport Council). The examination must include an assessment to detect drivers in the high risk group for sleep disorders. Examinations are to be conducted, as a minimum, once every three years for drivers aged 49 or under, and yearly for driver’s aged 50 or over;
- drivers are employed on duties they are capable of performing in accordance with the medical fitness assessment;
- drivers found unfit or placed on restricted duties are provided with appropriate assistance and counselling to aid recovery and improve the management of their health; and
- drivers are provided information to promote and encourage better management of their health.

5. **Management Practices**

*Standard*

Management practices must control the risks relating to driver fatigue.
Description

Management practices must ensure all drivers are suited to the freight task and support effective communication between management and drivers on matters that affect the safe operation of the business.

Criteria

To satisfy this standard an operator must demonstrate the following:

- driver recruitment, selection and induction practices include fatigue management requirements;
- personnel performance management practices, including counselling and disciplinary action, are in place to deter non-compliance and implement corrective actions; and
- an effective communication process (including in-trip communication with drivers, meetings, notices, newsletters) is in place to facilitate the exchange of information between drivers and management.

6. Workplace Conditions

Standard

Workplace environments and conditions must assist in the prevention of fatigue.

Description

Operators must ensure that depot facilities, vehicles and sleep accommodation are suitable for the management and prevention of fatigue.

Criteria

To satisfy this standard an operator must demonstrate the following:

- vehicles used for sleep during rest periods must be fitted with, as a minimum standard, a sleeper berth that meets ADR42;
- the vehicle cabin is safe and suitable for the freight task and include as a minimum ventilation in accordance with ADR 42.18 and seating suspension that is adjustable to the drivers weight and height;
- vehicles are maintained to ensure that drivers are subject to a minimum of breakdowns during trips; and
- operators provide access to safe and suitable fatigue management facilities (eg, lunch rooms, sleep accommodation) that are appropriate to the operator's freight task and in accordance with Workplace/Occupational Health and Safety requirements.

7. Training and Education

Standard

All personnel involved in the management, operation, administration, participation and verification of the Advanced Fatigue Management option are provided with relevant training
on the causes, effects and management of fatigue; and the operator's fatigue management program.

**Description**

Training and education is essential to ensure all employees, including managers, understand fatigue management issues and have the knowledge and skills to practice effective fatigue management and comply with the Advanced Fatigue Management option requirements. Training must include an assessment process to ensure learning objectives are met. Customer understanding and support for the Advanced Fatigue Management option is also important for successful fatigue management.

**Criteria**

To satisfy this standard an operator must demonstrate the following:

- persons who hold a position of responsibility under the Advanced Fatigue Management option are trained in and are familiar with the specific policy procedures and instructions they are to carry out;

- all managers, supervisors and drivers participating in the Advanced Fatigue Management option are trained in managing driver fatigue, including the causes and effects of fatigue, recognising the symptoms of fatigue, strategies to better manage fatigue and make lifestyle changes, and methods of conducting fatigue risk assessments and applying countermeasures;

- advanced Fatigue Management option operation, administration, verification and participation training needs are identified and appropriate training is given;

- the knowledge of managers, supervisors and drivers participating in the Advanced Fatigue Management option is regularly assessed to identify training needs and required training is conducted; and

- customers are educated in the operator’s participation in the Advanced Fatigue Management option and any obligations/responsibilities this places on the customer.

**8. Responsibilities**

**Standard**

All personnel involved in the management, operation, administration, participation and verification of the Advanced Fatigue Management are option aware of their authorities, responsibilities and duties and carry these out accordingly.

**Description**

The successful operation of the Advanced Fatigue Management option is dependent on all personnel knowing and fulfilling their responsibilities to ensure that the Advanced Fatigue Management option standards are met.

**Criteria**

To satisfy this standard an operator must demonstrate the following:
• authorities, responsibilities and duties relating to the Advanced Fatigue Management option are current, clearly defined (e.g., organisational chart, position descriptions etc), regularly reviewed and communicated to all appropriate personnel; and

• all personnel are carrying out their Advanced Fatigue Management option duties and responsibilities as required.

9. Records and Documentation

Standard

The operator must implement, authorise, maintain and review documented policies and procedures that ensure the effective management, performance and verification of the Advanced Fatigue Management option in accordance with the standards.

Records that demonstrate the effective operation of the Advanced Fatigue Management option and compliance with each standard must be identified, collected, stored and maintained.

Description

Policies, procedures and instructions must be authorised, current and clearly identify and describe all Advanced Fatigue Management option management, operation, administration, participation and verification activities.

Criteria

To satisfy this standard an operator must demonstrate the following:

• policies, procedures and instructions covering all activities required to meet the Advanced Fatigue Management option standards are authorised, current, clearly defined and available to all relevant personnel;

• all Advanced Fatigue Management option records are legible, stored, maintained and available for management and audit purposes for at least three years;

• all work diaries, driver identification cards and vehicle identification labels are accounted for at all times;

• records of participating drivers and vehicles are kept current; and

• documents are approved, issued, reviewed, modified and accounted for in accordance with the operator's prescribed control procedures.

10. Internal Review

Standard

An internal review system is implemented to identify all non-compliances and verify that all activities comply with the Advanced Fatigue Management option standards, policies, procedures and instructions.

Description

The internal audit process is an essential management tool that checks that procedures are being followed and indicates how the Advanced Fatigue Management option is working. Fundamental to the effective management of the fatigue risk is the capacity of the Advanced
Fatigue Management option system to identify, report and investigate incidents of non-compliance with the standards and take the necessary corrective action.

Criteria

To satisfy this standard an operator must demonstrate the following:

- procedures are in place to define how an internal review program of all the Advanced Fatigue Management option standards is produced, conducted, reported and recorded at least every 12 months and corrective action taken where required;

- internal reviews are undertaken by competent persons not responsible for the activity being reviewed, where practical;

- procedures are in place to monitor, identify, report, investigate and record non-compliances and take the necessary corrective action to prevent further occurrences;

- procedures are in place to investigate incidents to determine whether fatigue was a contributing factor and to report findings to the accrediting authority; and

- a quarterly compliance statement is produced containing advice of compliance with the Advanced Fatigue Management option standards, including a summary of:

  - instances where schedules or rosters have been planned to exceed normal limits;

  - instances where drivers have been permitted to exceed flag points; and

  - non-compliances detected.