

# **CODE OF PRACTICE**

## **FATIGUE MANAGEMENT FOR COMMERCIAL VEHICLE DRIVERS**

---

**2004**

## FOREWORD

The introduction of the *Occupational Safety and Health Act 1984* enabled the establishment of the tripartite Commission for Occupational Safety and Health. The Commission, which comprises representatives of employers, unions, government and experts, has the function of developing the legislation and any supporting guidance material and making recommendations to the Minister for implementation. To fulfil its functions, the Commission is empowered to establish advisory committees, hold public inquiries and publish and disseminate information.

This code of practice has been developed through the tripartite consultative process and the views of the employers and unions along with those of government and experts have been considered.

The Commission's objective is to promote comprehensive and practical preventive strategies that improve the working environment of Western Australians.

The information presented in this booklet should be read by employers and employees as background for understanding and implementing this code of practice.

## THE ACT

*The Occupational Safety and Health Act 1984* (the Act) provides for the promotion, co-ordination, administration and enforcement of occupational safety and health in Western Australia.

The Act places certain duties on employers, employees, self-employed people, manufacturers, designers, importers and suppliers.

It also places emphasis on the prevention of accidents and injury.

In addition to the broad duties established by the Act, the legislation is supported by a further tier of statute, commonly referred to as regulations, together with a lower tier of non-statutory codes of practice.

## Regulations

Regulations have the effect of spelling out the specific requirements of the legislation.

Regulations may prescribe minimum standards and have a general application or they may define specific requirements related to a particular hazard or particular type of work. They may also allow the licensing or granting of approvals and certificates etc.

## Codes of Practice

A code of practice is defined in the Act as a document prepared for the purpose of providing:

- practical advice on preventive strategies; and
- a practical means of achieving any code, standard, rule, provision or specification relating to occupational safety and health in Western Australia.

A code of practice may contain explanatory information.

The preventive strategies outlined in a code of practice do not represent the only acceptable means of achieving the standard to which the code refers. A code of practice does not have the same legal force as a regulation and is not sufficient reason, of itself, for prosecution under the Act.

## AUTHORITY

This code of practice has been approved pursuant to section 57 of the *Occupational Safety and Health Act 1984* by the Hon Minister for Consumer and Employment Protection.

## SCOPE

This code applies to all workplaces in Western Australia covered by the *Occupational Safety and Health Act 1984*.

It provides practical guidance for commercial vehicle drivers, and for those who are responsible for the operation of commercial vehicles in workplaces, on carrying out their duties under the *Occupational Safety and Health Act 1984* and meeting the requirements of the Occupational Safety and Health Regulations 1996.

For further information on this code of practice, contact the Chamber of Commerce and Industry of Western Australia on (08) 9365 7415, UnionsWA on (08) 9328 7877 or WorkSafe Infoline 1300 307 877.

# Contents

|           |   |           |
|-----------|---|-----------|
| <b>1.</b> | <b>PURPOSE OF THIS CODE</b> .....   | <b>1</b>  |
| <b>2.</b> | <b>APPLICATION OF THE CODE OF PRACTICE</b> .....  | <b>2</b>  |
| 2.1       | What is a commercial vehicle? .....   | 2         |
| 2.2       | What is a commercial vehicle driver? .....  | 3         |
| 2.3       | What is work time? .....  | 3         |
| <b>3.</b> | <b>WHAT IS FATIGUE?</b> .....   | <b>5</b>  |
| 3.1       | Defining fatigue .....  | 5         |
| 3.2       | How the body clock works .....  | 5         |
| 3.3       | Impact of working hours on fatigue .....  | 5         |
| 3.4       | The need for sleep .....  | 6         |
| 3.5       | Working at night .....  | 6         |
| <b>4.</b> | <b>WHAT DO THE REGULATIONS REQUIRE ME TO DO?</b> .....  | <b>8</b>  |
| 4.1       | Duties for the person who is responsible for drivers and the operation of commercial vehicles ..... | 8         |
| 4.2       | Duties for commercial vehicle drivers .....   | 8         |
| 4.3       | Medical certificates for commercial vehicle drivers .....   | 9         |
| 4.4       | The commercial vehicle operating standard .....   | 9         |
| 4.4.1     | Solo drivers .....  | 10        |
| 4.4.2     | Two-up drivers .....  | 14        |
| 4.5       | Driver fatigue management plan .....  | 15        |
| 4.6       | Record keeping .....  | 16        |
| 4.7       | Other States and Territories .....  | 17        |
| <b>5.</b> | <b>FATIGUE MANAGEMENT PLANS</b> .....   | <b>18</b> |
| 5.1       | Scheduling trips .....  | 18        |
| 5.2       | Rostering drivers .....   | 19        |
| 5.3       | Establishing a driver's fitness for work .....  | 19        |
| 5.4       | The education of drivers in fatigue management .....  | 20        |
| 5.5       | Managing incidents on or relating to commercial vehicles .....                                      | 21        |
| 5.6       | Establishing and maintaining appropriate workplace conditions .....                                 | 21        |
| <b>6.</b> | <b>GENERAL REQUIREMENTS OF OCCUPATIONAL SAFETY AND HEALTH LAWS</b> .....                            | <b>22</b> |
| 6.1       | Duties of employers .....   | 22        |
| 6.2       | Duties of employees .....   | 23        |
| 6.3       | Duties of self-employed people .....  | 23        |
| 6.4       | Safety and health representatives and committees .....  | 23        |
| 6.5       | Resolving issues .....  | 24        |
| 6.6       | The meaning of 'so far as is practicable' .....   | 24        |

|  |           |
|--|-----------|
| <b>APPENDIX ONE: AMENDMENT TO THE OSH REGULATIONS .....</b>  | <b>25</b> |
| <b>APPENDIX TWO: ARE YOU COVERED BY THE REGULATIONS FOR DRIVING<br/>COMMERCIAL VEHICLES? .....</b> | <b>29</b> |
| <b>APPENDIX THREE: DAILY TRIP SHEET .....</b>  | <b>30</b> |
| <b>APPENDIX FOUR: TRIP SHEET.....</b>  | <b>31</b> |
| <b>FURTHER INFORMATION .....</b>   | <b>32</b> |

# 1. PURPOSE OF THIS CODE

The purpose of this code of practice is to provide practical guidance to industry on requirements in occupational safety and health regulations for driving commercial vehicles. The regulations establish an operating standard for hours of work and rest and other requirements for the management of fatigue for commercial vehicle operators.

The regulations emphasise the importance of sleep and the timing of work and rest. The operating standard is designed to promote a systematic and considered approach to organising trip schedules and driver rosters to minimise the hazard of fatigue. The standard offers flexibility in hours of work to reflect the geography of Western Australia and the distances driven.

The operating standard in the regulations has been designed to discourage work schedules and rosters that promote regular, extended working hours, which increase the risk of fatigue to dangerous levels. Long hours without sleep can impair performance to a similar or greater level than alcohol.

The Commission for Occupational Safety and Health considers that the flexibility provided for under the operating standard is designed to allow extended hours of work in well-managed circumstances. This should not be taken as support for regularly setting schedules at the upper limits of the regulations. The standard is designed to be flexible and as it is not possible to explicitly cater for every situation, caution should be exercised and schedules planned to allow for unexpected contingencies. There should be a balance between realistic schedules and client demands and safety should not be compromised in order to meet unrealistic deadlines.

The general duty of care and other requirements of the *Occupational Safety and Health Act 1984* apply in all workplaces, regardless of the application of these regulations. As a consequence where fatigue is identified as a hazard, there is a responsibility to eliminate or control it.

*For more information on fatigue, its causes and its effects, see section 3.*

## 2. APPLICATION OF THE CODE OF PRACTICE

This code of practice explains how the requirements apply to people who are responsible for the operation of commercial vehicles in workplaces and to commercial vehicle drivers themselves.

This section of the code provides information on who is affected by the regulations. It looks at the types of commercial vehicles that are included and explains some of the terms used.

The following terms are defined in the regulations:

- commercial vehicle;
- commercial vehicle driver;
- driver fatigue management plan;
- responsible person at a workplace; and
- work time.

In this code of practice, the term “commercial vehicle operating standard” is also used. It is sometimes referred to as “the operating standard”. This is not defined in the regulations but has been used to easily reference all the hours of work time, breaks from driving and hours of non-work time set out in regulation 3.132.

Words that are not defined in the regulations have their common dictionary meaning.

### 2.1 What is a commercial vehicle?

The definition of a “commercial vehicle” in these regulations includes the following types of vehicles. These vehicles are only covered by the regulations if the driver of the vehicle fits the definition of a “commercial vehicle driver”.

**Omnibus** an “omnibus” which is a motor vehicle used or intended to be used to carry passengers for hire or reward. It includes vehicles operated by the Crown, or an agency of the Crown, but does not include a taxi or vehicle licensed as a taxi-car. An omnibus can be a vehicle of any size;

**School bus** a “school bus” which is a motor vehicle equipped to carry more than eight adults and used solely or principally to pick up and transport school children;

**Mobile plant** any item of mobile plant with a Gross Vehicle Mass (GVM) of more than 4.5 tonnes. “Mobile plant” is not defined but includes machinery that is self-propelled, on wheels or tracks and is controlled by an operator who is located on the plant. Examples include, but are not limited to, mobile cranes, earthmoving machinery and tractors;

**Integrated mobile plant** any motor vehicle with a GVM of more than 4.5 tonnes that is designed to carry, or is carrying, a large item of equipment that is “integrated”. This means that the item of equipment is permanently attached to the motor vehicle and equipment is not off-loaded when it is used. Examples include, but are not limited to, drilling rigs, elevating work platforms and cranes mounted on vehicles; and

**Goods vehicle** any other motor vehicle with a GVM of more than 4.5 tonnes that is used or intended to be used to carry “goods” of all types for hire or reward. The term “goods” includes fuel, containers, cars, machinery, construction and building materials, waste, livestock and farm produce such as grain. Hired or leased vehicles and vehicles owned by a business to carry its own goods are included.

Vehicles such as the Western Australia Police Random Breath Testing Unit, firefighting vehicles and other emergency vehicles are not included in this group.

See regulation 3.130  
at Appendix One

Commercial goods vehicles as defined and required to be licensed under the *Transport Co-ordination Act 1966* are not covered by the occupational safety and health regulations on driving commercial vehicles.

Where there is reference to a GVM of more than 4.5 tonnes, commercial vehicles with a GVM of exactly 4.5 tonnes are not included.

## 2.2 What is a commercial vehicle driver?

The definition of a “commercial vehicle driver” and the definition of “work time” should be considered together. A “commercial vehicle driver” is a person who drives a “commercial vehicle” AND whose “work time” fits into one of the following categories:

- work time is more than 60 hours per week; or
- for more than once per week, work time is more than 10 hours out of any 24 hour period; or
- more than once per week, work time includes the period from midnight to 5.00am.

As soon as a commercial vehicle driver exceeds the hours of work in any one of the categories above, the regulations come into effect. This means that commercial vehicle drivers who undertake occasional work and who work long hours for a few weeks at a time (eg seasonal work) or for a few days per week could be required to comply with the regulations for driving commercial vehicles.

For example, the operator of a business in the country may drive a commercial vehicle to Perth twice a week to deliver goods and pick up supplies. If the round trip involves more than 10 hours of work time and it is completed in 24 hours or less, the operator is a commercial vehicle driver in accordance with the second dot point above.

## 2.3 What is work time?

“Work time” is defined in regulation 3.130 and in relation to driving a commercial vehicle, includes:

- (a) time spent doing work incidental to the driving; and
- (b) time spent operating the mobile plant, where the commercial vehicle is plant; and
- (c) time spent operating mobile plant transported on the commercial vehicle; and
- (d) a break from driving, mobile plant operation or incidental work lasting less than 30 minutes.

The operating standard relies on three important concepts: work time, non-work time and breaks from driving.

**“Work time”** includes driving and all the activities that are associated with driving a commercial vehicle.

It includes time spent loading and unloading, completing any paperwork related to picking up and delivering the load; checking the load; refuelling; checking tyres; maintaining and cleaning the vehicle; and talking to supervisors and other drivers about the work arrangements.

Some of the time spent driving the commercial vehicle may be off-road. For example, a transport driver may have to drive through private property to collect goods. This off-road driving and the time spent loading the goods would be work time.

Work time also includes breaks from driving of less than 30 minutes.

In the definition of work time this is called "Work incidental to driving".

“breaks from driving” can include toilet stops, rest and meals.

“non-work time” means more than 30 minutes time off at home, away from the vehicle or, if on a trip in the vehicle, includes sleep in an appropriate sleeper berth. It does not include driving and work incidental to driving.

Refer to Appendix Two for a table to assist in determining if you are covered under the Regulations.

*More information on breaks from driving can be found in the section on the commercial vehicle operating standard.*



## 3. WHAT IS FATIGUE?

### 3.1 Defining fatigue

Fatigue is a general term used to describe the feeling of being tired, drained or exhausted. Fatigue is accompanied by poor judgment, slower reactions to events, and decreased skills, such as in vehicle control.

Where fatigue may affect a person's ability to work safely it must be identified, assessed and controlled like other hazards in the workplace.

Importantly, fatigue impairs a driver's judgment of his or her own state of fatigue. This means the effective management of fatigue should not be the responsibility of the driver alone. Both employers and employees have a role to play in making sure any risks associated with fatigue are minimised.

Fatigue can result from long or arduous work, little or poor sleep and the time of day when the work is performed. It can be influenced by health and emotional issues, or by several of these factors in combination. Fatigue can accumulate over a period of time.

The body's natural rhythms, or "body clock", also have an impact, particularly for those who work at night or who work for extended periods.

### 3.2 How the body clock works

Most people are day orientated, designed to work in the daytime and sleep at night. The circadian rhythms (the "body clock") are the body's natural rhythms that are repeated approximately every 24 hours. These rhythms regulate sleeping patterns, body temperature, hormone levels, digestion and many other functions.

Work schedules that require people to be awake and active at night or early morning or working for extended periods, cause disruptions to the body clock. This will affect the quality and quantity of sleep and lead to a build up of sleep debt and a drop in alertness and performance.

### 3.3 Impact of working hours on fatigue

Common transport industry work practices include working long hours, prolonged night work, working irregular hours, having little or poor sleep and early starting times. Many commercial vehicle drivers work more than 12 hours per day and a working week of over 70 hours is common practice, which makes them particularly susceptible to fatigue.

The risk of falling asleep at the wheel increases when drivers are driving at times when they would normally be asleep, particularly in the pre-dawn hours. There is also an increased crash risk during the mid-afternoon "siesta hours".

The risk of accidents also increases with the length of shift. The risk of a crash generated by two twelve-hour shifts is equal to the risk of six eight-hour shifts.

Controlling fatigue requires cooperation between employers and employees. Control strategies need to be implemented to reduce the risk of crashes as a result of fatigue.

*17 hours awake leads to performance similar to that of a person with a blood alcohol content of 0.05 per cent.*

*20-25 hours awake leads to performance similar to a blood alcohol content level of 0.1 per cent.*

### 3.4 The need for sleep

All people have an irresistible need to sleep, with the urge to sleep greatest during the night and early morning when most people would normally be sleeping. Six hours sleep a night is the usual minimum. However, people differ in the amount of sleep they need and their tolerance levels may also vary if they don't get enough sleep.

Poor sleep, such as sleeping in a moving vehicle or having a small amount of sleep over several days, leads to severe sleep debt and the irresistible urge to sleep. This increases the risk of falling asleep while driving.

There are early warning signs when a person is sleepy and these warning signs should not be ignored when driving. Drivers have a limited ability to predict when they will fall asleep and by continuing to drive when sleepy, they place themselves and others at great risk of a serious crash.

Sleep indicators include:

- a drowsy feeling;
- blurred vision;
- difficulty keeping eyes open;
- head nodding;
- excessive yawning; and
- repeatedly drifting out of lane.

Fatigue indicators include:

- not feeling refreshed after sleep;
- a greater tendency to fall asleep while at work;
- more frequent naps during leisure hours;
- feelings of sleepiness;
- extended sleep during days off; and
- increased errors and loss of concentration at work.

Using the radio or airconditioning to stimulate alertness has limited effect and will not overcome tiredness. Substances such as stimulant drugs will provide a boost but do not reduce the need for sleep. Sleep that is delayed will need to be made up later.

The risk of fatigue is reduced when work schedules provide for sufficient good quality sleep. The most beneficial sleep is a good night's sleep of **at least** six hours, taken in a single continuous period. The restorative effects are less if the sleep is split between day and night time. Some people experience excessive sleepiness during the day, despite an apparently adequate length of sleep. This suggests the presence of a sleep-related disorder that may require medical attention.

### 3.5 Working at night

Many commercial vehicle drivers work at night and, in particular, during the hours between midnight and 6am. They are either doing shifts or have schedules that require travel at night. Working at night elevates the risk of fatigue because it combines the daily low point of alertness with the increased likelihood of reduced amounts of sleep.

Night workers are six times more likely to have a crash than day workers. The risk of an accident increases with the number of nights worked, with a 45 per cent increase by the fourth night and 90 per cent by the seventh night.

People who work at night have trouble adjusting their body clocks. No matter how much sleep a person has beforehand, he or she will feel sleepy between 1:00am and 6:00am.

Regular night workers can make some adjustment to their body clock that enables them to sleep during the day. This is rarely a complete readjustment however and on average night workers get around two hours less daily sleep than day workers. Apart from the effect of the body clock, their sleep is also more prone to disturbance. When they go back to being “day” people on their days off, they also find that their body clock resets itself to the normal day-night schedule. With both the quality and duration of sleep being affected, sleep deficit and fatigue can accumulate.

Driving at night on regional roads in Western Australia further increases the risk of a fatigue-related crash. The limited visibility, low levels of lighting, and generally reduced levels of sensory stimulation combined with higher speeds increase the likelihood of a road crash.

- Where possible schedules should be adjusted to reduce night driving.
- Drivers and others in the workplace should be informed of the dangers and the warning signs associated with fatigue at night.
- Information should be provided on how best to cope with night work by changing and improving the environment for work and sleep both on the road and at home.
- Drivers coming off night shift should also have the opportunity to recover any sleep loss before returning to work. There should be at least 24 hours off between shift changes to prepare for the new day or night shift regime.

## 4. WHAT DO THE REGULATIONS REQUIRE ME TO DO?

This section of the code of practice explains how the regulations apply to people who are responsible for the operation of commercial vehicles in workplaces and to commercial vehicle drivers themselves. These groups could include the following people:

- employers with employees or contractors who drive commercial vehicles as part of their work;
- self-employed people who drive commercial vehicles as part of their work;
- managers who manage systems of work where employees and contractors drive commercial vehicles as part of their work;
- supervisors who supervise those drivers; and
- employers and employees who drive commercial vehicles as part of their work.

### 4.1 Duties for the person who is responsible for drivers and the operation of commercial vehicles

The regulations set out certain duties for “the responsible person at a workplace” where the work involves driving commercial vehicles. The term is defined in the regulations to mean a person who, at the workplace, is an employer, the main contractor, a self-employed person or the person who has control of the workplace. Some of these terms are also defined elsewhere in the *Occupational Safety and Health Act 1984*. For example, in the context of these regulations a vehicle is a “workplace”.

The responsible person at the workplace has a duty to comply with the following requirements:

- to ensure that commercial vehicles are operated in accordance with the commercial vehicle operating standard;
- to ensure that every commercial vehicle driver is certified by a medical practitioner as fit to drive the commercial vehicle;
- to ensure that there is a fatigue management plan that covers every commercial vehicle driver; and
- to ensure that records are kept in accordance with the regulations for driving commercial vehicles.

These duties work in tandem with the general duties under the *Occupational Safety and Health Act 1984*. For example, the responsible person has a general duty to ensure that employees and contractors who drive commercial vehicles have adequate information, instruction, training and supervision in order that they can work in a safe manner.

For more information on the general duties for employers and self-employed people, see sections 6.1 and 6.3 of this code of practice.

### 4.2 Duties for commercial vehicle drivers

The regulations set out certain duties for commercial vehicle drivers. In some cases, such as an owner driver, one person will be both the responsible person at the workplace and the commercial vehicle driver and will have to comply with both sets of duties.

*See the definition of a ‘responsible person at a workplace’ in regulation 3.130.*

*See regulations 3.131(1), 3.133 and 3.134.*

*Section 19 of the Act sets out duties for employers; and section 20 sets out duties of employees; and section 21 sets out duties of self-employed people.*

A commercial vehicle driver has a duty to comply with the following requirements:

- to drive commercial vehicles in accordance with the commercial vehicle operating standard; and
- to hold a current medical certificate that confirms his or her fitness to drive a commercial vehicle.

These duties work in tandem with the general duties under the *Occupational Safety and Health Act 1984*. For example, employees who drive commercial vehicles have a general duty to report hazards to their employer and to ensure they follow their employer’s safety instructions. Equally it is important that drivers report for work rested and fit for duty.

See regulation 3.131(2).

Section 20 of the Act sets out duties for employees.

### 4.3 Medical certificates for commercial vehicle drivers

There is a requirement for a commercial vehicle driver to hold a current medical certificate of a particular type. The certificate must state that the medical practitioner examined and passed the commercial vehicle driver as fit to drive the vehicle, in accordance with:

- *Assessing Fitness to Drive 2003* which are the medical standards and clinical management guidelines published by Austroads and the National Transport Commission (formerly the National Road Transport Commission); or
- requirements exceeding or substantially equivalent to the requirements in the document referred to above.

See regulation 3.131(3).

Copies of the Western Australian Government examination form for commercial vehicle drivers *Commercial Vehicle Driver Medical Assessment* can be downloaded from the WorkSafe website at [www.worksafe.wa.gov.au](http://www.worksafe.wa.gov.au). This form meets the standards as required in *Assessing Fitness to Drive*.

The person arranging for the medical examinations required by the regulations should ensure the medical practitioner is aware of the particular standard for the medical examination.

The medical examination required under the regulations for driving commercial vehicles is the same medical examination required for Main Roads Western Australia heavy vehicle accreditation and for a dangerous goods licence issued by the Department of Industry and Resources. ***The one medical examination would cover all of these requirements.***

If the commercial vehicle driver has had other significant medical examinations, such as one required for a licence to fly an aircraft, WorkSafe’s occupational physician can advise as to whether that examination would be an acceptable equivalent to avoid unnecessary cost and duplication.

It should be noted that there is no requirement to provide the full medical examination results to the employer. All that is required is the assessment of fitness to drive medical certificate or its equivalent.

For the purpose of the regulations, the medical certificate is valid for three years.

### 4.4 The commercial vehicle operating standard

The commercial vehicle operating standard has been included in the regulations to guide industry in planning trip schedules and driver rosters that best manage fatigue.

The standard sometimes refers to “any period” such as “any 24 hour period”, “any 72 hour period”, “any 14 or 28 day period”. This means that it is not confined to calendar days, but for practical purposes, calculation of maximum working time or minimum rest time should be counted from the start of work after a long break of seven or more continuous hours. For two-up drivers the seven day period would be counted from the last break of 24 or more hours.

For more information on the meaning of "practicable" refer to the "Guidance note: General duty of care in Western Australian workplaces".

See regulation 3.132(1) and 3.132(2) for driving without a relief driver (solo driving).

Drivers can work EITHER a 14 day schedule OR a 28 day schedule. Different working hours apply to each option.

See regulation 3.132(2)(b).

There is a **requirement for the standard to be followed in 'so far as is practicable'**. In practice this means that **it may be varied but only in circumstances where the variation is minor, is not a regular occurrence, is reasonable and does not increase the risk of fatigue**. Schedules should be organised to comply with the standard, but it is accepted that there may be situations where drivers are delayed and the schedule may need to be adjusted.

For example, if a commercial vehicle driver was due for a long break and delays meant that a roadhouse with facilities was within a short distance, it may be reasonable for the driver to exceed the hours permitted under the operating standard to continue to the roadhouse where a longer and more comfortable rest break could be taken. Similarly if a driver was transporting a load of stock to a saleyard and unexpected delays meant a judgement had to be made about continuing to the destination or stopping, it may well be reasonable and practicable to continue. However, if the driver was having difficulty keeping his or her eyes open or there were other signs of sleepiness, it would not be reasonable and the driver should stop and rest as required by the standard. The need to build in an allowance in schedules for unexpected contingencies is an important part of establishing work schedules.

The standard covers arrangements for solo drivers and for driving with a relief driver which is commonly called "two-up driving" in the transport industry. For easy reference, these groups have been covered separately in this code of practice. As a result, some information may be repeated.

#### 4.4.1 Solo drivers

Solo commercial vehicle drivers are drivers who do not have another commercial vehicle driver in the cab of the vehicle to take over the driving from time to time. In the regulations, this is referred to as driving without a relief driver.

Solo drivers must, so far as practicable, have at least 20 minutes of breaks from driving for every five hours of work time, including one break of at least 10 minutes during or at the end of every five hours. The regulations are written in such a way that a driver cannot drive for more than five hours without stopping the vehicle.

These are breaks from **driving**. The breaks may include other activities that are included in "work time" such as toilet stops, rest, and meals. However, it should be remembered that the breaks are designed to minimise the risk of fatigue. Experts in the fatigue area believe that breaks from driving should be of at least ten minutes duration to be effective. It is not intended that breaks be accumulated to shorten the trip or added on to the end of the trip.

So far as practicable, the work time for solo drivers must not be more than 168 hours in any 14 day period. The 14 day period must include at least two periods of 24 continuous hours of non-work time. This means that the 168 hours will usually be spread over 12 days.

It is acceptable to work according to a 28 day schedule instead of the 14 day arrangement described above. However, this is on the condition that the hours of work time do not exceed 144 hours in any 14 day period within the 28 days.

To comply with requirements for 28 day schedules, drivers must have at least four periods of 24 continuous hours of non-work time in any 28 day period. The hours of non-work time may accumulate but they must be taken in **minimum** 24 hour lots. They cannot be split into half days.

The 28 day roster means that a driver could work for 24 out of any 28 days and there could be up to 24 days of work before a driver has days off. If a driver works every day for 24 days, the driver must stop driving the commercial vehicle or operating the item of mobile plant for four continuous days.

**It is preferable that days of work time do not accumulate and the driver has days of non-work time spread throughout each 28 day period.**

There is some flexibility in the way that solo drivers can organise their work time. Each day can have a varied number of hours as long as the total for each period is not exceeded and the driver has the minimum amount of non-work time set out in the standard.

In any 72 hour period (three days) there must be a total of at least 27 hours of non-work time including three breaks of at least seven continuous hours. The remaining non-work time can be made up of other continuous breaks of 30 minutes or more. This non-work time cannot include breaks from driving of less than 30 minutes as they are counted in work time.

The example provided on page 13 helps to explain how these requirements work in practice.

For practical purposes, to determine whether a driver has met the requirement for three breaks of at least seven continuous hours in any 72 hour period, the 72 hours is counted from the end of a long break of seven continuous hours or more.

In well managed circumstances, a solo driver can work for up to 17 hours, but there must be a break of at least seven continuous hours immediately before and after the 17 hour period. These breaks of seven continuous hours would be included in the 27 hours of non-work time referred to above. The 17 hours will include breaks from driving of 20 minutes for every five hours, which would add up to at least one hour of breaks from driving.

It is important to remember that the limits on the number of hours that can be worked in a 14 or 28 day period mean it is not possible to continuously work 17 hour days.

Solo drivers can work through the night, but it is recommended that night work be kept to a minimum to guard against the risk of fatigue.

Solo drivers who do continuous rotating shift work for five or more days in a row, should, as far as practicable, have at least 24 continuous hours of non-work time between shift changes (for example, going from day shift to night shift).

*See the definition of "work time" in regulation 3.130.*

**TABLE ONE**

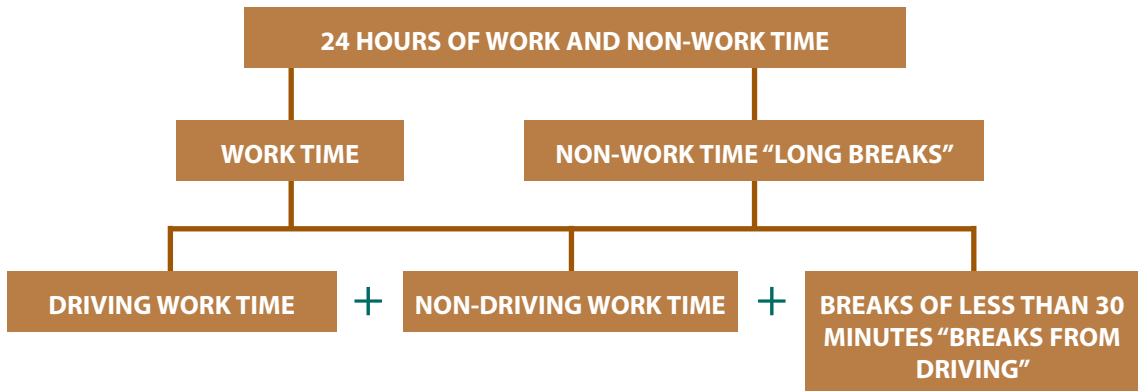
| OPERATING STANDARD FOR SOLO DRIVING   |
|---|
| At least 20 minutes of breaks from driving for every five hours of work time including a break of at least 10 consecutive minutes during or at the end of five hours.     |
| No more than 168 hours of work time in any 14 day period.   |
| At least 27 hours of non-work time in any 72 hour period, including at least three periods of at least seven continuous hours of non-work time.                           |
| No more than 17 hours between non-work periods of at least seven continuous hours.  |
| If there is shiftwork on five or more consecutive days, at least 24 continuous hours of non-work time between shift changes.  |
| <b>Note: All of the items above and one of the options below must be complied with, so far as is practicable.</b>   |
| <b>EITHER</b>   |
| At least two periods of 24 continuous hours non-work time in any 14 day period.   |
| <b>OR</b>   |
| At least four periods of 24 continuous hours non-work time in any 28 day period (provided hours of work do not exceed 144 hours in any 14 day period within the 28 days). |

*See regulation 3.131(1)(a)*

It is important to refer to the relevant sections of this code of practice for information and examples before checking rosters or driving records for compliance with the items in this table.

**Calculating compliance**

A 24 hour period can be made up of work and non-work time as represented in the following diagram.



The following example looks at how a trip from Perth to Port Hedland might be scheduled to satisfy the requirements of the regulations. This is just one scenario and in other situations, such as transporting stock, quite different planning and scheduling might apply.

In determining schedules and rosters, operators should provide for:

- adequate, good quality sleep;
- suitable work schedules; and
- appropriate work conditions.

**Example of an acceptable trip schedule**

The following trip schedule is an example of a solo commercial vehicle driver required to take a double road train from Perth to Port Hedland and return. The driver commences work at the transport yard, carries out the pre-start checks and preparation for the trip. The trailers have been pre-loaded by yard staff; the combination has been hooked up and is ready for departure as soon as the driver has completed the preparations.



TABLE TWO

|  | WORK TIME  | BREAKS FROM DRIVING | NON WORK TIME |
|--|------------|---------------------|---------------|
|  | Hours Mins | Hours Mins          | Hours Mins    |
| <b>DAY 1</b>   |            |                     |               |
| • Commences work in the Kewdale depot at 1630 hours, carries out pre-start checks and departs at 1700 hours, stops at Bindoon, 1820 hours. | 1.50       |                     |               |
| • Tyre check (break from driving)  |            | 0.10                |               |
| • Proceeds to Wubin arriving at 2030 hours.  | 2.00       |                     |               |
| • Meal break   |            |                     | 0.30          |
| • Departs Wubin at 2100 hours and arrives at Mt Magnet at 12 Midnight.   | 3.00       |                     |               |
| • Tyre check (break from driving)  |            | 0.10                |               |
| • Proceeds to Cue arriving at 0100 hours   | 0.50       |                     |               |
| • Takes a seven hour long break (night's sleep).   |            |                     | 7.00          |
| <b>DAY 2</b>   |            |                     |               |
| • Departs Cue at 08.00 hours and drives to 26th Parallel arriving at 10.00 hours   | 2.00       |                     |               |
| • Tyre check (break from driving)  |            | 0.10                |               |
| • Proceeds to Kumarina arriving at 12.00 hours   | 1.50       |                     |               |
| • Tyre check (break from driving)  |            | 0.10                |               |
| • Proceeds to Newman arriving at 14.00 hours   | 1.50       |                     |               |
| • Spends 30 minutes at Newman (meal break).  |            |                     | 0.30          |
| • Unloading  | 1.00       |                     |               |
| • Departs Newman at 15.30 hours and drives through to Auski Roadhouse arriving at 17.30 hours  | 2.00       |                     |               |
| • Tyre check (break from driving)  |            | 0.20                |               |
| • Departs Auski at 17.50 hours and drives to Port Hedland truck stop arriving at 20.30 hours   | 2.40       |                     |               |
| • Spends 30 minutes at truck stop (meal break).  |            |                     | 0.30          |
| • Departs truck stop at 21.00 and drives to depot in Port Hedland arriving at 21.30  | 0.30       |                     |               |
| • Unloading at Port Hedland.   | 1.30       |                     |               |
| • Takes a seven hour long break (night's sleep).   |            |                     | 7.00          |
| <b>DAY 3</b>   |            |                     |               |
| • Departs Port Hedland at 06.00 and arrives at Auski at 09.00 hours  | 3.00       |                     |               |
| • Takes a meal break at Auski.   |            |                     | 0.30          |
| • Departs Auski at 09.30 hours and drives to Newman arriving at 11.30 hours.   | 2.00       |                     |               |
| • Loading in Newman depot for 30 minutes   | 0.30       |                     |               |
| • Drives from Newman depot to Capricorn Roadhouse  | 0.30       |                     |               |
| • Takes a meal break at Capricorn  |            |                     | 0.30          |
| • Departs Capricorn at 13.00 hours and drives to Meekathara arriving at 17.00 hours  | 4.00       |                     |               |
| • Takes a meal break at Meekatharra  |            |                     | 0.30          |
| • Departs Meekathara at 17.30 hours and drives to Mt Magnet arriving at 19.30 hours.   | 2.00       |                     |               |
| • Tyre check (break from driving)  |            | 0.10                |               |
| • Departs Mt Magnet at 19.40 hours and drives to Wubin arriving at 22.40 hours   | 3.00       |                     |               |
| • Takes a seven hour 20 minutes long break (night's sleep)   |            |                     | 7.20          |
| <b>DAY 4</b>   |            |                     |               |
| • Departs Wubin at 06.00 hours and drives to Kewdale arriving at 09.30 hours   | 3.30       |                     |               |
| • Refuelling and completing paperwork  | 0.30       |                     |               |
| • Ceases work 10.00 hours  |            |                     |               |
| <b>TOTAL</b>   | 40.00      | 1.10                | 24.20         |

The key factors to note are that the driver is having:

- at least 20 minutes of breaks from driving for every five hours of work time, with the breaks being a minimum of 10 minutes each;
- these types of breaks are being recorded as breaks from driving;
- where the breaks are 30 minutes or longer, they are recorded as non-work time;
- no more than 17 hours elapse between major rest breaks of seven continuous hours or longer; and
- the longer rest breaks are being taken at night, when the body naturally wants to rest.

#### 4.4.2 Two-up drivers

Two-up commercial vehicle drivers are drivers who have another commercial vehicle driver in the cab of the vehicle, to take over the driving from time-to-time. In the regulations, this is referred to as driving with a relief driver. Well managed two-up operations can offer flexibility and improved safety.

When a commercial vehicle driver spends time in the passenger seat or asleep in an appropriate sleeper berth, it is considered non-work time in the context of these regulations.

So far as practicable, the daily work time for each of the two-up drivers should be shared equally and must not be for more than 168 hours in any 14 day period. The maximum number of hours that may be worked in a day is regulated by the requirements for non-work time, which are set out in the following paragraphs.

Two-up drivers must, so far as practicable, have at least 20 minutes of breaks from driving for every five hours of work time, including one break of at least 10 minutes during or at the end of every five hours.

Two-up drivers are required to have at least seven hours non-work time in any 24 hour period. This time may be spent in the moving vehicle and it does not have to be continuous. Even if this time is not spent in the moving vehicle, it is in addition to the requirement below to have a certain number of hours of continuous non-work time in a stationary vehicle or away from the vehicle.

With reference to continuous non-work time that is not spent in a moving vehicle, two-up drivers have a choice of either:

- one period of seven continuous hours of non-work time in any 48 hours; or
- in any seven day period at least 48 hours of non-work time with at least 24 hours of the 48 hours being consecutive and the balance being taken in minimum seven hour periods.

To determine whether a two-up driver has met the requirement for one break of at least seven continuous hours in any 48 hour period, the 48 hours is counted from the end of a long break of seven or more hours in a stationary vehicle or away from the vehicle.

Similarly, to determine whether a two-up driver has met the requirement for one break of at least 24 consecutive hours of non-work time in any seven day period, the seven days is counted from the end of the last 24 hour break.

In situations where two-up drivers do continuous rotating shift work for five or more days in a row, they should, as far as practicable, have at least 24 continuous hours of non-work time between shift changes.

Research indicates that two up driving arrangements are most effective when:

- drivers are consulted about their choice of driving partner so that they are teamed with someone they trust;
- both drivers know what their schedules are far enough in advance to allow them to agree on who will be driving first. This allows the first driver to prepare by getting adequate sleep prior to departure. The driver resting on the first leg of the trip should do the pre-trip preparation;

*See regulation 3.132(1) and 3.132(3) for driving with a relief driver (two-up driving).*

- sleeper berths are kept clean and tidy;
- there is adequate noise insulation between the cab and the sleeper berth, as well as the inside and outside of the cab;
- the prime-mover has good thermal insulation;
- dual escape hatches (on both sides of the sleeper) exist;
- night driving is equally shared between drivers; and
- sufficient rest is scheduled between trips.

TABLE THREE

| OPERATING STANDARD FOR TWO-UP DRIVING  |
|--|
| At least 20 minutes of breaks from driving for every five hours of work time including a break of at least 10 consecutive minutes during or at the end of five hours.  |
| No more than 168 hours of work time in any 14 day period.  |
| At least seven hours of non-work time in any 24 hour period (this non-work time may be spent in a moving vehicle, in a stationary vehicle or elsewhere).   |
| If there is shiftwork on five or more consecutive days, at least 24 continuous hours of non-work time between shift changes.   |
| <b>Note: All of the items above and one of the options below must be complied with, so far as is practicable.</b>  |
| EITHER   |
| At least one period of seven hours of continuous non-work time in any 48 hour period (this non-work time <b>cannot</b> be spent in a moving vehicle - the vehicle may be stationary or the time may be spent elsewhere).   |
| OR   |
| At least 48 hours non-work time in any seven day period, with at least 24 hours of the 48 hours being continuous and the balance being taken in minimum seven hour periods (this non-work time <b>cannot</b> be spent in a moving vehicle – the vehicle may be stationary or the time may be spent elsewhere). |

See regulation 3.132(1) at Appendix One

It is important to refer to the relevant sections of this code of practice for information and examples before checking rosters or driving records for compliance with the items in this Table.

### 4.5 Driver fatigue management plan

The responsible person at the workplace must ensure that there is a current fatigue management plan for all commercial vehicle drivers at the workplace. The plan must be developed in accordance with the regulations and kept current by a “competent person”. A “competent person” is a person who has acquired through training, qualification or experience, the knowledge and skills required to develop and manage the systems which are documented in an effective fatigue management plan. (See section 5 of this code of practice for details of the requirements for fatigue management plans.)

See regulation 3.133 and the definition of "driver fatigue management plan" in regulation 3.130.

## 4.6 Record keeping

See regulation 3.134 for record keeping.

A responsible person at a workplace must ensure that there is a record for each commercial vehicle driver at the workplace. The responsible person may be an employer, the main contractor, a self-employed person or a person in control of a workplace.

In some situations this duty may be shared between these people. For example, a main contractor may have employees who are subcontractors, in which case the main contractor would be required to ensure records are kept for these subcontractors. Self-employed people also have a duty to keep records.

Drivers and mobile plant operators who are employees or subcontractors must cooperate with their employer/main contractor and provide the information required for the record.

The record must include the following items:

### Work time

- all work time as defined in the regulations. This includes driving time, time spent operating mobile plant and the other types of work activity previously explained in this code of practice;

### Breaks from driving

- all breaks from driving including breaks of less than 30 minutes. For example, toilet breaks should be recorded. This is because all breaks from driving can be added together to ensure that a driver has at least 20 minutes of non-driving time for every five hours, in accordance with the operating standard; and

### Non-work time

- all non-work time, which are breaks of at least 30 minutes spent on any activity that is outside the definition of “work time”. This includes:
  - the time spent in a two-up driving situation as a passenger (or asleep in an appropriate sleeper berth which must comply with the requirements of Australian Design Rule 42 (ADR42) and should be fitted to any vehicle used for two up purposes);
  - time spent asleep in a parked vehicle which has an appropriate sleeper berth;
  - time away from the vehicle;
  - days off; and
  - any other activity that is not driving and not associated with driving a commercial vehicle or operating an item of mobile plant.

In two-up driving situations, there must be a separate record for each commercial vehicle driver.

The record for each driver should include the sum total of work time in all commercial vehicles if there is more than one driven by the person in the course of their work.

There is a requirement for the record to be “set out in a clear and systematic manner”. As there are no prescribed forms or standard record keeping books for this purpose, the format of the record could be varied according to the type of workplace and the nature of the work. Where records are electronic, there should be a back-up copy in case the record is lost. Security measures should ensure the records are not altered.

The record must be kept for at least three years after the date of the last entry.

The record must be current, which should mean up until the last non-work period. The driver should complete the record as the trip progresses with breaks noted as they occur. Records tend to be less accurate when drivers rely on memory to record the time and duration of breaks. It would be acceptable for the record of the trip to be amalgamated with a central record in an office at the end of the trip.

Fatigue experts suggest breaks should be at least 10 minutes to be effective.

A sample of an acceptable trip sheet is included at Appendix Three and Four.

The requirement to keep records for three years is in regulation 3.134(2)(c).

The central record, which could cover up to three years of driving or operating mobile plant, could be held in a head office. For each current trip, the commercial vehicle driver should carry as a minimum the record of the starting time from the last long break for that current trip.

When requested, WorkSafe inspectors should be provided with information about who is responsible for the record and where it is kept.

## 4.7 Other States and Territories

Commercial vehicle drivers who drive outside Western Australia must comply with the legislation that is in place in each State or Territory. However, when a commercial vehicle is operated in Western Australia, the extent to which a driver has complied with requirements in this State will take into account the work time, breaks from driving and the periods of non-work time that occurred whilst the driver was outside the State. The driver should keep a complete trip record covering the time spent at work in another State or Territory. It is necessary to document the hours worked outside of Western Australia's borders to determine whether compliance with the WA legislation has occurred. It is considered more practical to maintain the record using the time zone of the place of departure, rather than try and make adjustments for changes in time zones.

*Section 43 of the OSH Act explains the power of inspectors. This includes requiring the production of any document.*

## 5. FATIGUE MANAGEMENT PLANS

A fatigue management plan is a written document that provides information on the organisation's approach to fatigue management and the procedures that are to be followed. It must cover the following areas:

- scheduling trips;
- rostering drivers;
- establishing drivers' fitness for work;
- the education of drivers in fatigue management;
- managing incidents on or relating to commercial vehicles; and
- establishing and maintaining appropriate workplace conditions.

One plan could cover fatigue management for all commercial vehicle drivers in an organisation. There does not have to be an individual plan for each commercial vehicle driver.

In some situations the fatigue management plan will be made up of a number of policies and procedures that are already in other corporate documents. For example, fitness for work policies and procedures may be in human resource management manuals and relevant information on training may be in general safety induction manuals. Some policies and procedures that are used for fatigue management, such as policies on alcohol and drugs in the workplace and hazard and incident reporting procedures, may apply to a wide range of circumstances within the one organisation.

Where relevant policies and procedures exist, which have been developed in consultation with employees and safety and health representatives, they could be used for the fatigue management plan. To comply with the requirement to have a fatigue management plan it would not be necessary to create documents especially for this purpose. The plan could identify and reference existing policies and procedures. This would be acceptable as long as the full range of items included in the list above was readily available and all are directly relevant to fatigue management.

### 5.1 Scheduling trips

A schedule is a plan of a trip or series of trips to meet a transport task. A key factor in managing driver fatigue is how the schedules are planned to meet a freight task. Scheduling practices should always be in accordance with the regulations for driving commercial vehicles. This should ensure that there is adequate rest. Where practicable, there should be appropriate pre-trip or forward planning to minimise fatigue.

Customer requirements may need to be modified to ensure that drivers are operating in accordance with the regulations and they are able to meet all commitments to complete freight tasks or comply with other contractual obligations.

To reduce the risk of fatigue, some of the following measures could be considered as part of the scheduling arrangements:

- plan flexible schedules that allow time for breaks from driving and rest when and where it is most appropriate;
- set schedules that do not require departures before 5am;
- set schedules that minimise night driving;
- ensure schedules take into account time for maintaining and servicing vehicles;
- reduce work time by removing or modifying non-driving work;
- split trips into shorter continuous driving periods;

- develop schedules in consultation with drivers;
- circulate agreed schedules to drivers and management;
- require drivers to comply with agreed schedules rather than rush to complete the job in a shorter time;
- allow drivers some flexibility to deal with unforeseen circumstances that may require changes to schedules;
- establish operational procedures with drivers and management responsibilities for corrective action when a driver may have been required to, or has, worked outside an agreed schedule; and
- apply the same scheduling practices to casual, relief and subcontracted drivers.

## 5.2 Rostering drivers

Rosters are the driver's planned pattern of work and rest for a week or more. Rostering practices should always be in accordance with the regulations for driving commercial vehicles. This should ensure that there is adequate rest. A driver's roster and workload should be arranged to maximise the opportunity for a driver to have good quality sleep and to recover from the effects or onset of fatigue.

To reduce the risk of fatigue some of the following measures could be considered as part of the rostering arrangements:

- arrange rostered hours to be as regular as possible;
- take a driver's previous duties, time at work and trip schedules into account when planning the roster;
- provide drivers with 24 hours notice to prepare for a trip of 14 hours or more;
- consider shared or two-up driving for a long trip; and
- when drivers return from leave, allow time for them to adapt to working long hours and at night, by starting with day rosters where possible.

## 5.3 Establishing a driver's fitness for work

The responsible person at the workplace has a duty under regulation 3.131(1)(b) to ensure a medical practitioner has certified a driver confirming his or her fitness to drive the vehicle. In addition, there should be fitness for work policies and procedures developed in consultation with employees and safety and health representatives that provide for the management of day-to-day factors that may interfere with a driver's ability to operate a commercial vehicle in a safe manner.

Commercial vehicle drivers who are employers, self-employed people or employees have a duty to take reasonable care of their own safety and health in the workplace. Drivers should be aware of the impact of activities such as a second job, other driving, recreational activities, sport, insufficient sleep, stressful situations, and the consumption of alcohol and other recreational drugs or medication on their well being and capacity to work effectively. These activities may affect their state of fatigue, especially cumulative fatigue, and capacity to drive safely. It is essential that drivers report for work rested and fit for duty.

The system at the workplace must ensure that all drivers have a current medical certificate.

Induction training and ongoing information and training should include health management topics to increase drivers' awareness and understanding of the impact that their health and lifestyle can have on fatigue.

*The Commission for Occupational Safety and Health's "Guidance note: Alcohol and other drugs at the workplace" has more information.*

The approach to managing drivers' fitness for duty could include the following measures:

- develop policies on fitness for duty in consultation with drivers;
- ensure the fitness for duty policies include:
  - alcohol and drug policies, which may involve breath testing for alcohol and random drug testing and the use of fitness for duty devices;
  - access to medical and other appropriate assistance; and
  - authorisation for staff to make alternative arrangements when a driver is not fit for duty;
- establish a tracking system for the renewal dates for medical certificates and make arrangements for drivers to have a medical examination before the current certificate expires; and
- follow an injury management plan for the return to work of drivers who have been ill or injured.

### 5.4 The education of drivers in fatigue management

Training and education should ensure all employees, contractors and managers understand the meaning of fatigue and have the knowledge and skills to practise effective fatigue management. They should be able to follow the procedures in the fatigue management plan and comply with the commercial vehicle operating standard.

Training should be structured and programmed to meet the training needs of the participants. The approach to driver education could include the following measures:

- ensure all people associated with the management, supervision and driving of commercial vehicles are provided with information on the regulations for driving commercial vehicles;
- provide induction training in fatigue management before drivers begin work;
- check drivers' understanding of the requirements;
- provide drivers with information and instruction on risk factors affecting fitness for duty and control measures including the company's approach to alcohol and other drugs in the workplace;
- increase drivers' awareness and understanding of general duties in the *Occupational Safety and Health Act 1984* and the way the general duties apply to their management of fatigue;
- ensure managers and supervisors understand how to establish safe systems of work, especially in relation to driver fatigue;
- provide supervision and ensure training participants understand and apply the driver fatigue training at work;
- review training on a regular basis; and
- provide all managers, supervisors and drivers with information on the fatigue management plan when it is revised.



## 5.5 Managing incidents on or relating to commercial vehicles

A fatigue management plan should emphasise procedures for reporting injuries, property damage and other incidents sometimes called “near misses”. This information should be used to target unsafe practices and prevent future injuries and damage.

Practices to manage accidents and incidents could include the following measures to reduce the risk of fatigue:

- develop hazard reporting and accident and incident reporting procedures and include information about the procedures in the induction training for all employees, subcontractors and relief staff;
- develop procedures to investigate all reports and to take corrective action where required;
- monitor accidents and incidents to identify trends; and
- regularly review the fatigue management plan in consultation with drivers.

## 5.6 Establishing and maintaining appropriate workplace conditions

The responsible person at the workplace should develop, implement and maintain operating policies and procedures in consultation with drivers to ensure the working environment assists in the prevention of fatigue as far as practicable.

Commercial vehicle drivers spend most of their work time in the cabin of a vehicle or item of mobile plant. The risk of fatigue can be reduced if the cabin is comfortable and well designed, providing adequate space and support for the driver. There should be adjustable seating and, in road transport vehicles, an adequate sleeping berth where a driver sleeps during periods of non-work time. The relevant Australian Design Rule ADR 42 should be used as a guide to the design of acceptable sleeping accommodation in the vehicle cabin.

A vehicle that operates north of the 26th Parallel between 1 October and 31 March should be air conditioned and, if the vehicle is used as an alternative for sleeping accommodation, the air conditioning should be able to be run continuously while the vehicle is stationary.

Vehicle cabins and ventilation systems should be maintained as part of the regular maintenance schedule. When a vehicle cabin is fitted with air conditioning, the unit should also be regularly maintained. Procedures should require drivers to report problems in the cabin so they can be attended to promptly.

## 6. GENERAL REQUIREMENTS OF OCCUPATIONAL SAFETY AND HEALTH LAWS

The *Occupational Safety and Health Act 1984* sets out general requirements for people in workplaces including employers, self-employed people and employees.



These general requirements of the Act must be complied with in addition to specific requirements set out in the Regulations.

### 6.1 Duties of employers

Employers have a duty to take reasonable care of their own safety and health at work and to provide and maintain a work environment where their employees are not exposed to hazards. Employers must also ensure, as far as practicable, that the health of other people who are not employees is not harmed by the work. This would include other road users who may be affected by a commercial vehicle driver who is suffering from the effects of fatigue.

As part of the process, employers should identify hazards in their workplaces and assess and control risks associated with those hazards. Reducing the risk of exposure to the effects of fatigue would be part of the general duty for employers to protect themselves and their employees. Employers must identify factors in their workplaces that may contribute to fatigue and make changes to prevent and control the problem. This should occur in every workplace where fatigue may affect people who drive a vehicle or operate mobile plant as part of their work. It is not limited to the group covered by the regulations on driving commercial vehicles.

This includes providing safe and healthy systems of work with adequate information, instruction, training and supervision for employees. In many situations, subcontractors may be employees under the Act and this includes those who provide their own vehicle or item of mobile plant. In general, drivers and mobile plant operators engaged under subcontract arrangements should be required to follow the same procedures and should be provided with the same information, instruction, training and supervision as employees.

Employers must consult and cooperate with safety and health representatives, if any, and other employees at the workplace on safety and health matters, including the effects of fatigue on driving vehicles and operating mobile plant.

## 6.2 Duties of employees

Employees should take reasonable care for their own safety and health at work. They should also avoid adversely affecting the safety and health of other people in workplaces and on the road.

Every employee must be made aware of their duty not to place the safety and health of others at risk by continuing to drive or to operate mobile plant when they know they are tired or when they detect the early signs of fatigue.

Employees should follow the employer's safety instructions, cooperate with their employer on work-related safety and health matters and tell their employer about any work-related injuries or anything that they consider to be hazardous in their workplace.

## 6.3 Duties of self-employed people

A self-employed person should take reasonable care to ensure his or her own safety and health at work and ensure that their work activity does not result in harm to another person. This would apply to fatigue management for self-employed people who drive commercial vehicles.

## 6.4 Safety and health representatives and committees

Consultation with safety and health representatives and committees should be part of the processes used to develop fatigue management strategies and the ongoing monitoring and review of the effectiveness of the strategies.

Safety and health representatives' functions include liaising with employees on workplace safety and health matters and reporting hazards or potential hazards to the employer. Where there is a safety and health committee, the safety and health representative may refer matters to the committee.

In workplaces where fatigue is likely to affect drivers and operators of mobile plant, the employer must provide the safety and health representatives with any information the employer has, or can be expected to have, about the effects of fatigue.

## 6.5 Resolving issues

The *Occupational Safety and Health Act 1984* requires employers to attempt to resolve occupational safety and health issues with safety and health representatives, safety and health committees or employees, according to the relevant procedures for the workplace. If these procedures do not succeed, the Act sets out steps to resolve the issue.

If an issue remains unresolved and there is a risk of serious and imminent injury or harm to someone, either the employer or a safety and health representative may ask for a WorkSafe inspector to attend the workplace. If there is no safety and health representative, the request may be made by another employee. When requested, an inspector will attend the workplace and take whatever action under the Act that he or she considers appropriate.

The inspector's role is not to mediate between the employer and employees, but to ensure that each group meets its obligations under the Act.

## 6.6 The meaning of 'so far as is practicable'

Some of the general duty provisions in the Act are qualified by the words 'so far as is practicable'. Further information on the meaning of 'practicable' is contained in the *Guidance note: General duty of care in Western Australian workplaces* referred to below.

The Commission for Occupational Safety and Health publication *Guidance note: General duty of care in Western Australian workplaces* provides detailed information on the 'duty of care'. The guidance note can be purchased from the WorkSafe Division, DOCEP, Westcentre, Level 5 1260 Hay Street, West Perth [Tel: 1300 307 877] or is available via WorkSafe's website at [www.worksafe.wa.gov.au](http://www.worksafe.wa.gov.au)

## Appendix One

### Amendment to the Occupational Safety and Health Regulations 1996

The regulations on driving commercial vehicles have been included here as a reference. Western Australian legislation is reproduced by permission of the copyright owner, the State of Western Australia, but such legislation does not purport to be the official or authorised version.

#### Division 10 – Driving commercial vehicles

##### 3.129. Application

This Division does not apply to a commercial goods vehicle, as defined in section 4(1) of the *Transport Co-ordination Act 1966*, that is required to be licensed under that Act.

##### 3.130. Interpretation

In this Division -

“commercial vehicle” means -

- (a) an omnibus within the meaning of the *Transport Co-ordination Act 1966*;
- (b) a school bus within the meaning of the *Road Traffic (Vehicle Standards) Regulations 2002*; or
- (c) any mobile plant with a GVM over 4.5 tonnes, or motor vehicle with a GVM over 4.5 tonnes within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* that is designed to carry, or is carrying, a large integrated item of equipment; or
- (d) any other motor vehicle with a GVM over 4.5 tonnes, within the meaning of those terms in the *Road Traffic (Vehicle Standards) Regulations 2002* used or intended to be used for the carriage of goods for hire or reward;

“commercial vehicle driver” means a person who drives a commercial vehicle in the course of work and whose work time –

- (a) is more than 60 hours per week; or
- (b) for more than once per week – is more than 10 hours in any 24 hour period; or
- (c) for more than once per week – includes the period from midnight to 5am;

“driver fatigue management plan”, in relation to commercial vehicle drivers, means a written document setting out requirements and procedures relating to -

- (a) scheduling trips; and
- (b) rostering drivers; and
- (c) establishing a driver’s fitness to work; and
- (d) education of drivers in fatigue management; and
- (e) managing incidents on or relating to commercial vehicles; and
- (f) establishing and maintaining appropriate workplace conditions;

“**responsible person at a workplace**” means a person who, at a workplace, is an employer, the main contractor, a self-employed person or the person having control of the workplace;

“**work time**”, in relation to driving a commercial vehicle, includes -

- (a) time spent doing work incidental to the driving; and
- (b) time spent operating the mobile plant, where the commercial vehicle is plant; and
- (c) time spent operating mobile plant transported on the commercial vehicle; and
- (d) a break from driving, mobile plant operation or incidental work lasting less than 30 minutes.

### 3.131. Driving commercial vehicles

(1) A responsible person at a workplace must ensure that a commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace –

- (a) drives the vehicle in accordance with regulation 3.132; and
- (b) is certified by a medical practitioner as fit to drive the vehicle.

Penalty: the regulation 1.16 penalty.

(2) A commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of a workplace must -

- (a) drive the vehicle in accordance with regulation 3.132; and
- (b) be the holder of a certificate of a medical practitioner confirming his or her fitness to drive the vehicle.

Penalty for a person who commits the offence as an employee:  
the regulation 1.15 penalty.

Penalty in any other case:

- a) for a first offence \$25 000; and
- b) for a subsequent offence, \$31 250.

(3) For the purposes of subregulations (1)(b) and (2)(b), the certificate is to state that not more than 3 years before the driving, the medical practitioner examined and passed the commercial vehicle driver in accordance with -

- (a) the *Assessing Fitness to Drive 2003* published by Austroads Incorporated and the National Road Transport Commission; or
- (b) requirements exceeding or substantially equivalent to the requirements in the document referred to in paragraph (a).

**3.132. Commercial vehicle operating standard**

- (1) A commercial vehicle driver must, so far as practicable, have –
  - (a) for every 5 hours work time – breaks from driving totalling at least 20 minutes including a break from driving of at least 10 consecutive minutes after 5 hours work time; and
  - (b) in any 14 day period - no more than 168 hours of work time.
- (2) In addition to subregulation (1), a commercial vehicle driver who drives without a relief driver must, so far as practicable, have –
  - (a) in any 72 hour period – at least 27 hours non-work time, including at least 3 periods of at least 7 consecutive hours non-work time, with each period separated from the next by not more than 17 hours; and
  - (b) either –
    - (i) in any 14 day period - at least 2 periods of 24 consecutive hours non-work time; or
    - (ii) in any 28 day period - at least 4 periods of 24 consecutive hours non-work time if, and only if, the driver has no more than 144 hours work time in any 14 day period that is part of the 28 day period.
- (3) In addition to subregulation (1), a commercial vehicle driver who drives with a relief driver must, so far as practicable, have –
  - (a) in any 24 hour period – at least 7 hours of non-work time, whether or not the time is spent in the vehicle while it is moving; and
  - (b) either –
    - (i) in any 48 hour period – at least one period of 7 continuous hours non-work time, which time is not spent in the vehicle while it is moving; or
    - (ii) in any 7 day period – at least 48 hours of non-work time, which time is not spent in the vehicle while it is moving, includes a period of at least 24 consecutive hours non-work time and does not include a period of non-work time of less than 7 consecutive hours.
- (4) In addition to sub-regulation (1), a commercial vehicle driver who does shiftwork on 5 or more consecutive days must, so far as practicable, have at least 24 continuous hours of non-work time between shift changes.

**3.133. Driver fatigue management plan**

A responsible person at a workplace must ensure that a driver fatigue management plan is developed and kept current by a competent person for every commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty: the regulation 1.16 penalty.

**3.134. Record of work time, breaks from driving, and non-work time**

- (1) A responsible person at a workplace must ensure that a record in accordance with sub-regulation (2) is established and kept current in respect of the work time, breaks from driving, and non-work time of each commercial vehicle driver who is required to drive a commercial vehicle that forms the whole or part of the workplace.

Penalty: the regulation 1.16 penalty.

- (2) The record is to be –
- (a) set out in a clear and systematic manner;
  - (b) available for inspection by an inspector at all reasonable times; and
  - (c) kept for at least 3 years from the date of the last entry on the record.



## Appendix Two

### Are you covered by the regulations for driving commercial vehicles?

Do you drive a commercial vehicle in the list below:

- omnibus  No  Yes
- school bus  No  Yes
- an item of mobile plant with a GVM of more than 4.5 tonnes  No  Yes
- a motor vehicle with a GVM of more than 4.5 tonnes that is designed to carry or is carrying an item of equipment that is integrated (permanently attached)  No  Yes
- any other motor vehicle with a GVM of more than 4.5 tonnes that is used to carry goods for hire or reward  No  Yes

**If you have answered “No” to all of the questions above, you are not covered by the regulations for driving commercial vehicles. There is no need to continue.**

**If you have answered “Yes” to any of the questions above, please continue with the questions below. Include all work time if you drive or operate several different commercial vehicles.**

- How many hours per week do you spend driving or operating the commercial vehicle?
- How many hours per week do you spend doing work associated with driving the commercial vehicle?

*Include items such as driving off-road, loading and unloading, refuelling, checking the load, vehicle maintenance, completing paperwork related to the load and communicating with supervisors or other drivers.*

- If the commercial vehicle is an item of mobile plant or integrated mobile plant, how many hours per week do you spend operating the plant?
- If you carry an item of mobile plant on your commercial vehicle, how many hours per week do you spend operating that plant at a workplace?

#### TOTAL HOURS OF WORK TIME PER WEEK

Is your total more than 60 hours of work time per week?  No  Yes

If your total includes more than 10 hours of work time in any 24 hours, do you do this more than once per week?  No  Yes

If your total includes work time from midnight to 5.00am, do you do this more than once per week?  No  Yes

**If you have at least one “Yes” in this section, you are covered by the regulations for driving commercial vehicles.**

## Appendix Three

### DAILY TRIP SHEET

Day \_\_\_\_\_ Driver \_\_\_\_\_

|     |   |          |      |      |      |      |      |      |      |      |      |      |      |      |  |
|-----|---|----------|------|------|------|------|------|------|------|------|------|------|------|------|--|
| Day | Work Time<br>Breaks from driving<br>Non work time | midnight | 0100 | 0200 | 0300 | 0400 | 0500 | 0600 | 0700 | 0800 | 0900 | 1000 | 1100 | 1200 |  |
|     |   |          |      |      |      |      |      |      |      |      |      |      |      |      |  |
|     |   |          |      |      |      |      |      |      |      |      |      |      |      |      |  |

|     |   |        |      |      |      |      |      |      |      |      |      |      |      |      |
|-----|---|--------|------|------|------|------|------|------|------|------|------|------|------|------|
| Day | Work Time<br>Breaks from driving<br>Non work time | midday | 1300 | 1400 | 1500 | 1600 | 1700 | 1800 | 1900 | 2000 | 2100 | 2200 | 2300 | 2400 |
|     |   |        |      |      |      |      |      |      |      |      |      |      |      |      |
|     |   |        |      |      |      |      |      |      |      |      |      |      |      |      |

NOTE: Divisions of each hour are marked in 15 minute increments.

| Definitions         |  |
|---------------------|--|
| Work Time           | Driving, loading/unloading, breaks from driving <30mins, maintenance, completing documentation |
| Breaks from driving | <30 mins, napping.   |
| Non work time       | Rest >30 mins, sleeping, time away from vehicle  |

\_\_\_\_\_  
Driver's signature



## Further information

For advice on questions related to fatigue management for commercial vehicle drivers, contact your union/employer organisation, or WorkSafe.

### **Department of Consumer and Employment Protection – WorkSafe Division**

PO Box 294  
WEST PERTH WA 6872  
Phone: 1300 307 877  
Fax: (08) 9321 8973  
TTY: (08) 9327 8838  
Email: [safety@docep.wa.gov.au](mailto:safety@docep.wa.gov.au)  
Website: [www.worksafe.wa.gov.au](http://www.worksafe.wa.gov.au)

### **Chamber of Commerce and Industry Western Australia**

180 Hay Street  
EAST PERTH WA 6004  
Phone: (08) 9365 7415  
Fax: (08) 9365 7550  
Email: [osh@cciwa.com](mailto:osh@cciwa.com)

### **UnionsWA**

Level 4  
79 Stirling Street  
PERTH WA 6000  
Phone: (08) 9328 7877  
Fax: (08) 9328 8132  
Email: [unionswa@tlcwa.org.au](mailto:unionswa@tlcwa.org.au)

### **Transport Workers Union**

Western Australia Branch  
Suite 302, 3rd Floor  
Labour Centre  
82 Beaufort Street  
PERTH WA 6000  
Phone: (08) 9328 7477  
Fax: (08) 9227 8320  
Email: [info@wa.twu.com.au](mailto:info@wa.twu.com.au)

### **Transport Forum WA Inc**

37 Cohn Street  
CARLISLE WA 6101  
Phone: (08) 9355 3022  
Fax: (08) 9361 0106  
Email: [reception@transportforumwa.com.au](mailto:reception@transportforumwa.com.au)

### **Main Roads Western Australia**

Don Aitken Centre  
Waterloo Crescent  
EAST PERTH WA 6004  
Phone: 13 81 38  
Fax: (08) 9323 4430  
Email: [enquiries@mainroads.wa.gov.au](mailto:enquiries@mainroads.wa.gov.au)  
Website: [www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au)