

Ministerial Standard for alternative compliance hours

1. Purpose

To set the standard for alternative compliance hours (the Standard) with which the National Heavy Vehicle Regulator (the Regulator) must comply under section 461A(3) of the Heavy Vehicle National Law Act 2012 (HVNL) if granting fatigue alternative compliance accreditation.

2. Authority

This Standard was approved by the responsible Ministers on [Insert date] under s654(1)(c) of the HVNL.

3. Applicability

The Standard for alternative compliance hours applies to the Regulator for the purposes of fatigue alternative compliance accreditation under the HVNL.

4. Requirements

The Regulator must comply with the following requirements when specifying the alternative compliance hours that apply to the driver of a fatigue-regulated heavy vehicle operating under a fatigue alternative compliance accreditation.

a) Assessing fatigue risks

In any 24-hour period, a driver must not work more than 15.5 hours or rest for less than 7 continuous hours.

Except as provided for under section 4(b) of this Standard, fatigue alternative compliance hours cannot exceed the maximum work or minimum continuous rest time as set out in this Standard.

The Risk Classification System Matrix (RCSM) in **Attachment 1** must be used to assess the relative risk of the hours proposed for the purposes of alternative compliance hours for fatigue alternative compliance accreditation.

The Regulator may consider any information provided by an operator for the purposes of fatigue alternative compliance accreditation, including but not limited to, information provided in an operator's Safety Management System (SMS) to manage fatigue.

b) Split rest breaks

The Regulator may grant or amend alternative compliance hours that permit a driver to split a continuous rest break into no more than two separate rest breaks. When the Regulator grants or amends split rest provisions for the purposes of fatigue alternative compliance accreditation, the following must be complied with:

- i. Split rest breaks must not be scheduled;
- ii. Split rest breaks can only be utilised by a driver to manage problems with sleep, unforeseen circumstances or emergencies;
- iii. Section 4(b)(ii) of this Standard does not prevent the Regulator from limiting under what circumstances a driver may take a split rest break.
- iv. The operator has controls in place in the operator's SMS to reduce the increased level of fatigue risk after a split rest break is taken by the driver and to mitigate the matters listed in section 4(ii) of this Standard;
- v. Split rest breaks must include a major rest break as defined under s221 of the HVNL.
- vi. The Regulator must specify how frequently a driver may access a split rest break in an operator's fatigue alternative compliance accreditation over a period of time.

Attachment 1: Risk Classification System Matrix (RCSM)

Overview

The RCSM identifies and numerically weights the key fatigue risk factors in a proposed work schedule for alternate compliance hours. The fatigue likelihood 'score' derived from the RCSM enables operators and the Regulator to identify where and to what extent a pattern of work increases and decreases the overall likelihood of fatigue.

The RCSM must be used by the Regulator to assess an application for alternative compliance hours.

Three Dimensions of the RCSM

The RCSM is focused on three key dimensions and seven principles.

- **Dimension 1 – Work Related Rest Breaks** - breaks from driving within work opportunity to reduce performance impairment due to extended time-on-task
 - Reduce the time spent continuously working in the work opportunity.
 - The more frequent breaks from driving the better.
- **Dimension 2 – Recovery Breaks** - sleep opportunities between work opportunities to provide enough time to obtain sufficient sleep in order to reduce the likelihood of unsafe levels of fatigue
 - Provide an adequate sleep opportunity in order to obtain sufficient sleep.
 - Maximise adequate night sleep.
 - Minimise shifts ending between 00:00 to 06:00h.
 - Minimise extended shifts.
- **Dimension 3 – Reset Breaks** - breaks in sequences of Work Opportunity to reduce the likelihood of build-up of unsafe levels of fatigue over an extended sequence of shifts
 - Reduce the accumulation of fatigue with Reset breaks at least 30hrs and including two night periods, (00:00-06:00) between work sequences.

Assessment

The scores calculated using the RCSM are *indicative only*, however the Regulator must consider higher scores as representing higher levels of fatigue risk.

In determining whether a work-rest schedule for alternative compliance hours for alternative fatigue accreditation meets the requirements of section 461A(4)(a), the Regulator must:

- Be satisfied that the effectiveness of proposed fatigue controls contained in an operator's SMS adequately addresses the totality of fatigue risks; and
- Demonstrate and document how the fatigue controls proposed to be used and contained in a SMS reduce the residual fatigue risk.

In assessing an application for fatigue alternative compliance accreditation using the RCSM, a Work Opportunity is defined as work time plus work-related rest or breaks between commencing work and finishing work. At least a 7-hour break is necessary to signify the end of a work opportunity.

Risk Classification System Matrix

Principles	Baseline (Score=0)	Low fatigue likelihood/safety risk (Score = 1)	Medium fatigue likelihood/safety risk (Score = 2)	High fatigue likelihood/safety risk (Score = 3)
Work-related Rest breaks: breaks from driving within a work opportunity (WO) to reduce performance impairment due to extended time-on-task				
1. Reduce the time spent continuously working in the WO	>20% of time in the WO	>15-20% time in the WO	>10-15% time in WO	6-10% time in WO*
2. The more frequent breaks from driving the better	≥ 15 mins in every 2 hrs	≥ 15 mins in every 3 hr	≥ 15 mins in every 4 hr	≥ 15 mins in every 5 hr
Recovery breaks: sleep opportunities between work opportunities (WO's) to ensure sufficient time to obtain sufficient sleep to prevent unsafe levels of fatigue				
3. Ensure an adequate sleep opportunity (SO) in order to obtain sufficient sleep	Recovery breaks ≥ 12 hrs	Recovery breaks > 9hrs	Recovery breaks >8-9hrs	Recovery breaks 7-8hrs
4. Maximise adequate night sleep	All Recovery breaks include 23:00 to 07:00 period	All Recovery breaks include 00:00 to 06:00 period	More than half of Recovery breaks include 00:00 to 06:00 period	Less than half of Recovery breaks include 00:00 to 06:00 period
5. Minimise shifts ending between 00:00 to 06:00h	No WO's end in 23:00 to 07:00 period	No WO's end in 00:00 to 06:00 period	Less than half of WO's end in 00:00 to 06:00 period	More than half of WO's end in 00:00 to 06:00 period
6. Minimise extended shifts	<12 hours WO between Recovery breaks	<13 hour WO between Recovery breaks	13 - 14 hour WO between Recovery breaks	> 14-17 hour WO between Recovery breaks
Reset breaks: breaks in sequences of WO to eliminate the build-up of unsafe levels of fatigue over an extended sequence of shifts				
7. Prevent accumulation of fatigue with Reset breaks at least 30hrs and including two night periods, 00:00-06:00) between work sequences	≤ 2 days (48hrs) between Reset breaks	≤3 days (72 hrs) between Reset breaks	≤7 days (≤168 hrs) between Reset breaks	>7 days to 12 days (> 168 - 288hrs) between Reset breaks

***This parameter is limited by the outer limit of a 17 hour work opportunity with a minimum of 1.5 hours work related rest breaks. Therefore, a lower percentage of 6% for work related rest breaks only applies to work opportunities of less than 17 hours.**

Consultation questions on the Ministerial Standard for Fatigue Alternative Compliance Hours

Consultation question – Section 4(b)

The policy intent of Section 4(i) is that a driver or operator cannot plan a trip around a split-rest provision (i.e. it is not permitted to identify places to rest and rest durations based on the driver utilising split rest). Trip planning must be done on the basis that a driver *is not* using split rest.

The NTC seeks comment as to whether this policy intent is accurately reflected in the current draft.

Consultation question – Section 4

It has been suggested that split rest provisions should be subject to a requirement that the total of the individual split rests should be a minimum of 8 hours (similar to the current s255, Defence for solo drivers operating under BFM) e.g. a 5/2 or 6/1 split rest provision would not be permitted as they total less than 8 hours.

The NTC is seeking comment on this proposal.

Consultation question – General

Transparency of decision making by the Regulator is recognised as important, but the NTC considers that this is best addressed through the Statement of Expectations issued to the Regulator by Ministers, rather than within a Standard.

The NTC is seeking comment on this proposal.