

Fatigue management for farmers

With grain season underway in various states and territories the NHVR has received a number of questions from operators and industry bodies about the fatigue regulations that apply to farm operations under the Heavy Vehicle National Law (HVNL).

The following information should address the most common questions we have received from industry.

The general principal under the HVNL is that drivers must not drive a fatigue-regulated heavy vehicle while impaired by fatigue. In addition, the HVNL provides the rules for drivers of fatigue-regulated heavy vehicles which;

- create a duty for all drivers, operators and other parties in the Chain of Responsibility (CoR) to prevent drivers from driving while impaired by fatigue
- set maximum **work** and minimum **rest** limits for drivers (standard hours) and options for more flexible **work** and **rest** hours through NHVAS accreditation (BFM and AFM)
- create a requirement for drivers to record their hours of **work** and **rest** in a national driver work diary and provide copies to their record keeper

These rules apply to all drivers and operators, including casual and part time drivers like farmers and farm workers.

Questions and Answers

What does **rest** and **work** mean under the legislation?

Under the HVNL, **work** is driving, instructing or supervising another person driving, sitting in the driver's seat while the engine is running and any task related to the use of a fatigue-regulated heavy vehicle.

This includes but is not limited to tasks such as loading/unloading the vehicle, inspecting the vehicle, attending to the load, cleaning and refuelling the vehicle and performing marketing tasks for the use of the vehicle.

Rest is any activity that is not **work**.

What types of activities count as **work** and **rest** under the HVNL? (i.e. paddock, administration, header, chaser bin driver, truck driver, waiting in line at silos)

Not all work done by farmers or farm workers counts as **work** under the HVNL. Generally, tasks that don't involve the use or future use of a fatigue-regulated heavy vehicle are considered **rest**. This can include tasks such as paddock work, general administration (other than completing a work diary), and driving a chaser bin.



Whether operating a header is defined as **work** under the HVNL, depends on the vehicle the header loads. If a header loads directly into a fatigue-regulated heavy vehicle, the time would be **work** under the HVNL. However, if a header loads into a chaser bin, the time would not be **work** under the HVNL.

Do these other activities count when managing my fatigue?

Yes, activities not counted as **work** can still contribute to a person's level of fatigue impairment. In fact, recent data shows that fatigue is the most common cause of damage to headers, especially in the early morning and late afternoon hours.

It is possible for a driver to comply with the **work** and **rest** limits (because the majority of their farming activities aren't counted) and still be impaired by fatigue. If that's the case, it is up to the driver and any CoR party to ensure that the driver doesn't drive a fatigue-regulated heavy vehicle on the road.

Is waiting in line at the silos considered rest?

If you are in the driver's seat and required to control the vehicle, the queuing time would be considered **work**.

Waiting in line at silos is only **rest** if you do not occupy the driver's seat while the engine is running.

Operating under Standard Hours, what is the rest pattern for a normal day?

Under the HVNL, in a 24 hour period, you must have at least 12 hours of **rest** time. These 12 hours of **rest** must include:

- 15 minutes within the first 5 ½ hours,
- 30 minutes within the first 8 hours,
- 60 minutes within the first 11 hours, and
- 7 continuous hours of stationary rest time.

Having a rest every two hours or so is the best way to slow the onset of driver fatigue. This is especially important if you are sick, haven't slept well or are stressed – all things that are likely happen around harvest time.

What requirements are there to have rest in between working in the paddock and driving the truck?

There is no specific legal requirement to **rest** in between working in a paddock and driving a fatigue-regulated heavy vehicle. However, there is a duty to not drive a fatigue-regulated heavy vehicle whilst impaired by fatigue.

A driver should rest at any time they feel tired, fatigued or drowsy. There are no penalties in the HVNL for taking extra rest or resting before the minimum requirements set out above.

If I'm operating a header from 5am, then drive a truck from 10am, what *rest* periods am I supposed to have throughout the day?

As mentioned earlier, if the header is used to load a fatigue-regulated heavy vehicle, the time counts as *work*. The driver's 24 hour period and minimum *rest* requirements would commence from 5am in this example.

Operating a header that's loading a chaser bin would be considered *rest* and so the driver's 24 hour period and minimum *rest* requirements would commence from 10am.

In the scenario above what time would I have to finish?

The HVNL does not specify a finish time for drivers, but does limit the amount of *work* a driver is allowed to do in a 24 hour period. For Standard Hours the limit is 12 hours of *work*.

If a driver did the maximum *work* (12 hours) and complied with the minimum *rest* requirements (1 hour of short rest breaks), the drivers finish time would be 13 hours after the start of the 24 hour period. That's 6pm in the case of a 5 am start, and 11pm, in the case of a 10 am start.

However, the end of the shift would be pushed back if a driver chooses to have more *rest* than the minimum *rest* requirements.

Starting work at 6am, when am I due for my *rest* breaks and how long do they have to be?

Applying the minimum *rest* requirements to a 24 hour period starting at 6 am requires you to take all of the following breaks:

- 15 minutes starting at 11:15 am at the latest, and
- 15 minutes starting at 1:45 pm at the latest, and
- 30 minutes starting at 4:30 pm at the latest, and
- 7 continuous hours of *stationary rest* time starting no later than 11:00 pm.

In addition to this minimum *rest* requirement you must have another four hours *rest* at any time before 6 am on the following day.

If I'm operating the header throughout the night until 2am, at what time can I drive the truck?

Whilst operating the header would not be considered *work* under the HVNL, it would be unlikely that you would meet your obligation to ensure that you are not driving while impaired by fatigue.

Working at night can lead to insufficient or poor quality sleep, which is a significant cause of fatigue and driver drowsiness.

Even though operating a header may not meet the definition of *work* in the HVNL, a driver should not start work until they've had adequate rest to ensure they are not at risk of driving while impaired by fatigue.

If I am using a contract carrier, do I need to allow them rest?

Yes, you must allow contract carriers time to rest when you engage them to undertake *work* on your behalf.

Under the CoR, you are responsible for ensuring that contract carriers comply with the HVNL and that drivers do not drive while impaired by fatigue.

Who is responsible for monitoring the contract drivers rest?

Contract drivers are responsible for monitoring their own *work* and *rest*. However, if there is any reasonable step you can take to assist them in doing this, you must take it.

Do the same fatigue rules apply to me, my employees and to contractors?

Yes, the same fatigue rules apply for all drivers of fatigue regulated heavy vehicles, regardless of your employment status.

Farmers, drivers other parties in the CoR must be able to demonstrate that they have taken all reasonable steps to ensure drivers are not impaired by fatigue.

Do I have to complete a work diary?

Under the HVNL a driver of a fatigue-regulated heavy vehicle is exempt from having to complete a National Driver Work Diary if they are working within a 100km radius of their base.

Under the [National primary production work diary exemption \(notice\) 2015 \(no.2\) \(PDF, 680KB\)](#) the exemption from having to carry and complete a National Driver Work Diary is expanded to a 160km radius of their base if the driver is carrying out primary production work. For further information please read the [National work diary exemption \(primary production\) fact sheet \(PDF, 284KB\)](#).

While this notice exempts drivers from having to carry and complete a National Driver Work Diary, all other requirements of fatigue regulations still apply:

- Drivers must not drive while impaired by fatigue and must continue to comply with work and rest requirements.
- Record keepers must continue to record driver details, including work and rest times.

If a driver is not using a National Driver Work Diary, it is still a good idea for them to maintain a driving record, so that they and their operators can track the work and rest being done. This information could be helpful if there is a question about a driver being impaired by fatigue.

Please note: While every attempt has been made to ensure the accuracy of the content of this guidance sheet, it should not be relied upon as legal advice.



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