



18 September 2017

Mr Sal Petrocchio  
National Heavy Vehicle Regulator  
PO Box 492  
Fortitude Valley QLD 4006  
[fatiguemanagement@nhvr.gov.au](mailto:fatiguemanagement@nhvr.gov.au)

Dear Mr Petrocchio,

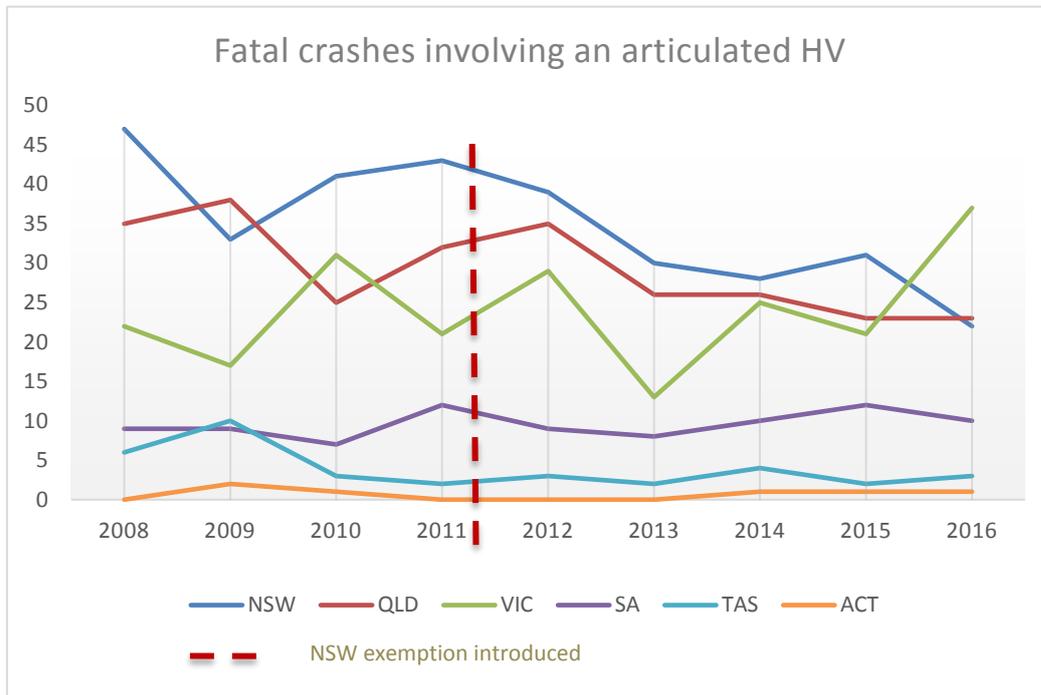
I am writing in response to the National Heavy Vehicle Regulator (NHVR) request for feedback on a proposed national work and rest exemption notice.

The ATA is supportive of this initiative and would endorse the introduction of a national work and rest hour exemption that provides up to one hour of permitted personal activity, essentially extending the current New South Wales (NSW) arrangements across other jurisdictions.

### **Safety Implications of the Proposal**

The introduction of this exemption aligns with the Australian Trucking Association's (ATA) advocacy for national consistency in Heavy Vehicle National Law (HVNL). The ATA supports that the initiative will promote compliance with fatigue laws and work to simplify complex, and what can be confusing, fatigue management regulations.

Heavy vehicle crash statistics, as an indicator of industry fatigue management performance, show that NSW – where the exemption already applies, is experiencing a notable downward trend in crashes. Other states where the exemption doesn't apply, show no major decline or peaks in crash activity (excluding Victoria which does show variation year to year). This indicates that the introduction of this type of work and rest hours exemption has no adverse effect on road safety outcomes.



As stated in the NHVR *Notice of Proposed Rule Making - Private use of fatigue-regulated heavy vehicles*<sup>1</sup> there appears to be no peer-reviewed research evidence showing that the ministerial and statutory exemptions in place in NSW have led to heavy vehicle crashes in New South Wales.

Additionally, the NHVR's preferred option requires that drivers of articulated FRHV unhitch the hauling unit from the combination. NHVR's *Notice of Proposed Rule Making* itself states that a hauling unit alone is more stable than a hauling unit in combination and the likelihood of a loss of control for vehicular reasons is lower<sup>2</sup>. Therefore, operating a prime mover bobtail is no different to driving a car, which drivers are permitted to do under fatigue management during rest periods.

Fatigue exemptions are regularly issued by road authorities to allow drivers to participate in for example, charity and union events<sup>3</sup>, further demonstrating that the level of risk on non-work related truck movements is thought to be minimal.

<sup>1</sup> [NHVR Notice of Proposed Rule Making - Private use of fatigue regulated HV proposed work & rest hours exemption - page 7](#)

<sup>2</sup> [NHVR Notice of Proposed Rule Making - Private use of fatigue regulated HV proposed work & rest hours exemption - page 10](#)

<sup>3</sup> [NSW Government Gazette No. 79 - 2446](#)

## Issues and Recommendations

The ATA has consulted with representatives of our member organisations (many of whom will submit more detailed submissions to the NHVR).

In line with this consultation the ATA recommends:

**Recommendation 1:**

**National consistency is a priority and therefore Option 3 should be implemented immediately as an interim measure.**

**Recommendation 2:**

**Option 4 should be included as an item in the next round of HVNL routine improvement maintenance and implemented thereafter.**

Option 4 should be considered as interim only as the NHVR moves towards implementation of Option 5.

**Recommendation 3:**

**Harmonisation, flexibility and voluntary compliance are a priority and hence Option 5 should be implemented in the longer term. This option should form part of the National Transport Commission (NTC) review of HVNL.**

The ATA has been advised that this review may commence in the second half of 2018, which will coincide with the completion of the Alertness CRC/NTC research project, into the impacts of the HVNL on heavy vehicle driver fatigue. The implementation of Option 5 should be prioritised at the completion of the review and research.

**Recommendation 4:**

**The NHVR must offer a clear definition of 'personal use'.**

Clear definitions of what 'personal use' includes or excludes will promote compliance.

In addition to domestic purposes, refuelling and cleaning, the NHVR should include activities related to vehicle repair and maintenance in the work and rest hours exemption definition (such as driving to and from a repairer and/or purchasing of parts or supplies).

Inclusion of repair and maintenance, works to ensure that trucks are safe and well maintained. Drivers will achieve better quality rest knowing that their vehicle meets all safety and maintenance requirements and is ready for the commencement of their next shift

**Recommendation 5:**

**The NHVR must provide clear guidance material regarding how the private use hour should be recorded in work diaries.**

**Recommendation 6:**

**Key proposal 1 (2.5.1) should not restrict drivers from driving the FRHV within the first three hours of commencing or ending their 24-hour rest break.**

This restriction does not allow for a driver to travel to and from a restaurant or shower amenities in order to properly prepare for quality rest. Additionally, the 500 km restriction does not make allowance for drivers that are out of hours and required to rest closer to their base. These drivers still require access to amenities in order to have a quality rest break.

**Recommendation 7:**

**Key proposal 2 (2.5.2) should allow the driver to use the hour's exemption as and when they need to.**

The 500km radius should be removed. As an alternative to restricting drivers through a distance or radius method, provision of clear definition of 'personal use' and how the time can be used is considered by industry as a better approach.

The requirement that the hour be deducted from the next 24 hour period should be removed, this adds to complexity and increases the potential for non-compliance.

Importantly I also emphasise that in our discussions with ATA members it was concluded that the NHVR should hold further discussions with operators post consultation and prior to finalisation of the new rule.

Thank you for the opportunity to provide comment on this matter. Should you require clarification or further information the ATA contact for this letter is Bill McKinley, Chief of Staff, on [bill.mckinley@truck.net.au](mailto:bill.mckinley@truck.net.au) or (02) 6253 6900.

Yours sincerely



Ben Maguire  
Chief Executive Officer  
Australian Trucking Association