NHVR
National Heavy Vehicle Regulator

EWD Policy Framework

28 May 2018

Context

The *Electronic Work Diary Policy Framework* establishes the NHVR's approach to administering the Electronic Work Diary (EWD) provisions in the Heavy Vehicle National Law (HVNL).

The framework consists of the following documents which are designed to be read in conjunction with each other:

- EWD Policy Framework (this document)
- EWD Privacy Policy
- EWD Compliance Policy
- EWD Standards (including associated EWD Standards – Schedule A).

To access the full suite of documents, visit www.nhvr.gov.au/EWD.

Document properties

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Revision history

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Contents

1 About this document

The *Electronic Work Diary Policy Framework* (EWD Policy Framework) establishes the NHVR's approach to administering the Electronic Work Diary (EWD) provisions in the Heavy Vehicle National Law (HVNL or the law).

Key issues addressed in the EWD Policy Framework:

- the NHVR's objectives of the EWD function (within the context of the NHVR's strategic vision)
- the EWD end-to-end process
- the roles and responsibilities of parties in the EWD end-to-end process
- the NHVR's approach to setting standards for EWDs and electronic recording systems
- approval of electronic recording systems
- monitoring and assurance of the EWD function.

1.1 Policy framework

1.1.1 EWD provisions

Section 343 of the HVNL provides the NHVR with the authority power to approve electronic recording systems for use as an alternative to the paper-based *National Driver Work Diary*. Provisions also provide additional powers to monitor EWD performance and to address operational issues.

The HVNL also contains specific amendments to the general fatigue management requirements that reduce red tape by:

- facilitating the integration of regulatory, fatigue management and commercial systems
- removing requirements for the handling and storage of paperwork.

The EWD provisions are designed to avoid overly prescriptive or restrictive wording, and facilitate the implementation of technology in a dynamic and progressive environment.

The EWD Policy Framework has been developed by the NHVR to provide clarity on issues associated with the EWD legislative framework and to allow for agile regulatory responses to operational issues faced in delivering and administrating the EWD function. Figure 1 (below) shows the structure of the EWD Policy Framework and its main components.

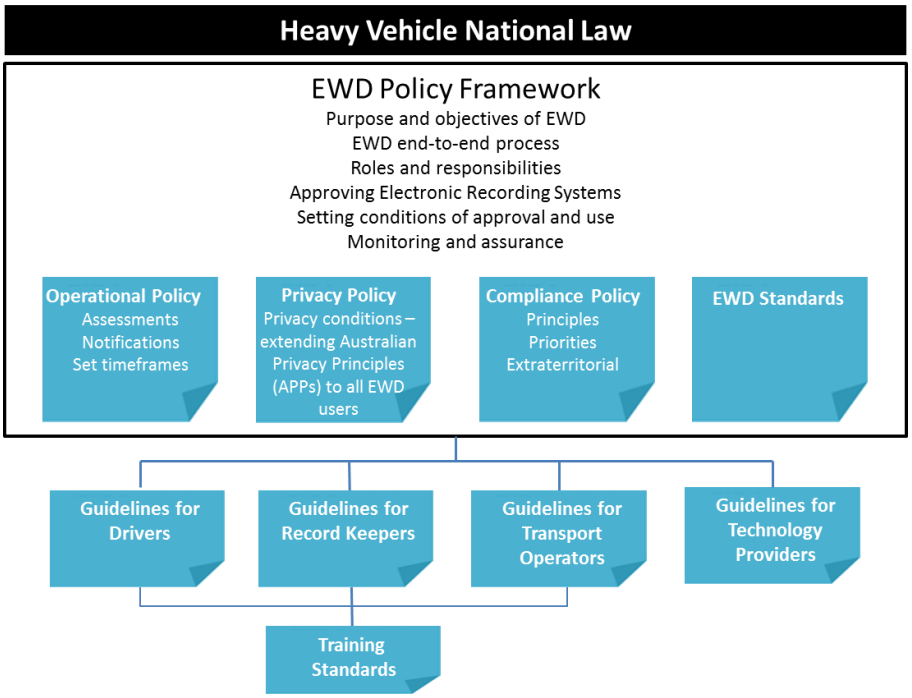

Figure 1: Structure of the EWD Policy Framework

1.1.2 Four tiers of documents

The EWD Policy Framework, as shown in Figure 1, comprises four tiers of documents as described in the table below.

Tier	Component	Description
1	HVNL	The HVNL gives the NHVR power to approve electronic work diaries and is the definitive reference within the EWD Policy Framework. Regardless of any approval by the relevant authority, the HVNL supersedes any other subordinate document (or part of a document) in the EWD Policy Framework.
2	Administrative policies (approved by the NHVR)	These documents define the scope of the NHVR's EWD function, and the standards for EWD operations, entry controls, and monitoring and assurance activities.
3	Regulatory guidance on the law and approved policies	Several guidelines summarise key aspects of the HVNL and the EWD Policy Framework relevant to a particular role or function and present them in plain English. The guidelines are provided to assist persons to meet their obligations and ensure smooth operations of EWD functions.
4	Training standards	The HVNL imposes specific obligations on drivers, record keepers and transport operators who use and interact with EWDs. To ensure that these parties meet their obligations, the NHVR anticipates that each group will undertake training before commencing EWD operations. The NHVR will set separate training standards for each role outlining the essential knowledge requirements.

Table 1: Four tiers of documents

Appendix A sets out the major components of each of the EWD Policy Framework tiers, their purpose and the key elements they address.

1.2 Governance

The EWD Policy Framework is the NHVR's internal policy (made under section 658 of the HVNL) for administering the EWD function, in accordance with the statutory authority set out in Chapter 6 of the HVNL. It is not an ***approved guideline*** under section 653 of the HVNL.

The NHVR will bring any issues regarding the EWD function that are impacting the delivery of the performance requirements specified in the HVNL to the attention of responsible Ministers. This notification will take place through normal official channels (e.g. Transport and Infrastructure Senior Officials' Committee and Transport and Infrastructure Council) and after formal consultation with affected stakeholders.

The following sections outline the NHVR's approach to consultation and approval of administrative policies in the EWD Policy Framework. This approach is designed to facilitate transparent and accountable decision making on how the EWD function is administered.

1.2.1 Scope/application

The EWD Policy Framework applies to any employee or person performing services for and on behalf of the NHVR, regardless of their employment status. This includes NHVR employees, contractors, authorised officers, student placements and volunteers.

Third parties involved in or affected by NHVR's decision making in relation to EWDs are also covered by this policy. This includes the various users of EWDs such as drivers, record keepers, transport operators, and developers of electronic recording systems for approval to use as EWDs.

1.2.2 Approval

The NHVR Board is responsible for approval of the EWD Policy Framework and its components, including the EWD Standards.

However, changes to the EWD Policy Framework that either correct editorial errors or improve clarity (without altering the administrative policy intent), or that are otherwise minor and do not alter administrative policy intent may be approved by the Chief Executive Officer.

1.3 Review and consultation

The road transport industry is dynamic and progressive, and technology used in heavy vehicle operations constantly changes. Because of this, the NHVR anticipates that the EWD Policy Framework will need to be regularly reviewed and amended.

The NHVR is committed to ensuring that regulatory changes to the EWD Policy Framework are transparent, inclusive and consistently applied. This section sets out the NHVR's approach to reviewing the EWD Policy Framework and consulting on new or amended rules relating to the EWD function.

1.3.1 Review

The EWD Policy Framework, including the EWD Standards, will be reviewed at least every two years but may be reviewed earlier, if needed, to respond to changes to the HVNL, NHVR or technological advances.

The EWD Policy Framework, including the EWD Standards, may be revised to:

- reflect changes in the HVNL, the NHVR and the NHVR's strategic directions
- address new requirements or technological developments
- improve clarity and understanding.

Revisions may constitute a part or the whole of this framework.

1.3.2 Consultation process

Figure 2 represents the six stage consultation process the NHVR will follow when a review of the EWD framework proposes a change to the framework. Appendix B provides a detailed description of each stage.

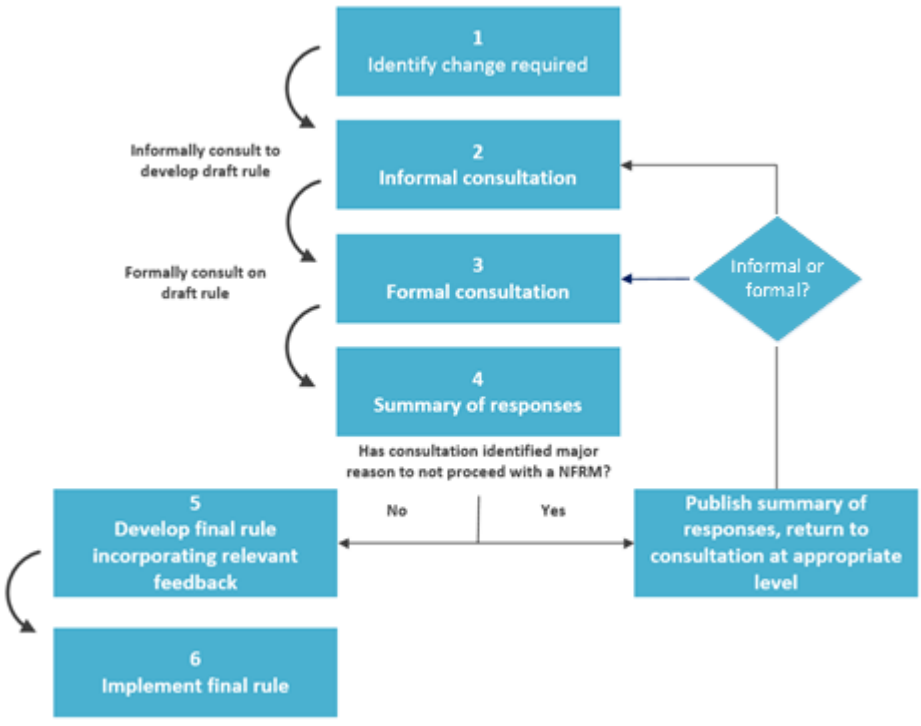

Figure 2: NHVR's consultation process for the EWD Policy Framework

2 Objectives of the EWD function

In terms of fatigue management, the heavy vehicle regulatory environment in Australia sets two complementary requirements for drivers of fatigue-regulated heavy vehicles[1] to: (1) not drive while impaired by fatigue, and (2) work within prescribed limits of work and rest.

In 2013, the NHVR was tasked with introducing an EWD business function that would assist industry in meeting its broader fatigue management obligations under the HVNL by focusing on safety and assurance outcomes, reducing administrative burden for users of EWDs and allowing consistent interpretation of rules and calculations for breach identification.

The following sections provide some background and sets out the:

- regulatory and policy environment for EWD operations
- anticipated objective outcomes of EWD operations
- high level business requirements expected to achieve these.

2.1 Background

To provide an externally auditable record of work and rest compliance, and because a drivers' potential fatigue impairment increases the longer the driver is awake, drivers of fatigue-regulated heavy vehicles are also required to complete paper records of their work and rest activities (called a written work diary).

The administrative effort required in producing and distributing the written work diary and in making, checking and storing records is substantial and heavy vehicle regulators are looking to more efficient and effective means in monitoring driver work and rest.

Heavy vehicle regulators in Australia have long recognised the potential for electronic driver-specific monitoring devices to provide a more secure driving hours record. As early as 1998, heavy vehicle legislation in Australia permitted the use of approved Driver Specific Monitoring Devices as an alternative to the then driver log book. However, given the lack of maturity of portable electronic recording systems when the legislation was first introduced, no Driver Specific Monitoring Device was ever approved for use.

Subsequent research, trials and pilots have increased understanding of how electronic recording systems could be used in the regulatory setting and broadened the potential benefits that electronic work diaries offer both industry and the NHVR.

2.2 Regulatory and policy environment for EWD operations

The regulatory and policy environment for EWDs enshrined in the law reflects the traditional enforcement oriented requirements for driver-specific monitoring devices originally included in model laws in 1998. However, heavy vehicle regulators have increasingly recognised the potential for electronic recording devices to be used to deliver broader safety and operational benefits. Both the Transport Infrastructure Council and the NHVR have published policy positions on this matter.

2.2.1 Related legislation

The HVNL:

- permits drivers and record keepers to use an EWD as an alternative to using a written work diary for record-keeping purposes
- gives the NHVR authority to approve electronic recording systems for use as part of an EWD and amend or cancel those approvals, as needed
- sets the conditions on when the NHVR can approve candidate electronic recording systems[2], including specific requirements for systems capable of being used by multiple drivers
- sets obligations on the NHVR, drivers and record keepers for EWD operations, including the requirement for notifications should EWDs not operate as intended.

[1] A fatigue-regulated heavy vehicles is essentially any vehicle or combination with a GVM of more than 12 tonnes.

[2] A system submitted for approval for use as part of an EWD is known as a 'candidate electronic recording system'.

In addition, the HVNL stipulates the powers of authorised officers and requirements for checking compliance with work and rest rules.

2.2.2 Related management standards

NHVR Strategies for a Safer, Productive and more Compliant Heavy Vehicle Industry[3], released in August 2016, outlines the heavy vehicle regulatory framework to be established and embedded by the NHVR. It also outlines the principles which guide decision making and inform the development of key actions and initiatives.

In relation to EWDs, the guiding principle is to:

> *. . . establish a co-regulatory approach that supports a strong safety culture owned by the heavy vehicle industry, including all parties in the supply chain, based on risk management and continuous improvement.*

The NHVR's key areas of focus to achieve this outcome are to:

- remove barriers to industry uptake (costs, perceptions of big-brother and enforcement inequity)
- shift the focus from traditional enforcement and compliance uses to improving reporting and monitoring.

2.2.3 Related documents

The Transport Infrastructure Council released its *National Policy Framework for Land Transport Technology Action Plan 2016 - 2020*[4] which identifies that a supportive regulatory environment would:

- ensure that community expectations of safety, security and privacy are appropriately considered in new technology deployments
- remove regulatory barriers to new technology in a proactive fashion
- wherever possible, provide certainty about future regulatory requirements.

Additionally, the action plan recommends that:

> *When considering regulatory action, governments will consider low cost approaches such as collaborative agreements or self-regulation before pursuing formal regulation. (page 19)*

2.3 Anticipated outcomes of EWD operations

Based on the regulatory environment discussed above, the NHVR anticipates that the use of EWDs will have three key outcomes:

- promote better reporting and monitoring of work and rest
- reduce the regulatory burden for fatigue management
- provide assurance on the integrity of EWDs.

These three outcomes are discussed further in the following sections.

2.3.1 Improved safety through better reporting and monitoring

Reliable reporting and monitoring of work and rest is essential in effective fatigue risk management systems and consequently to safety outcomes. Research shows that fatigue risk management systems that rely on existing safety indicators alone (e.g. near misses) are less effective than systems that include driver monitoring[5] .

A key requirement for EWD operations then is that they generate a continuous and accurate record of drivers' work and rest activities, and communicate this record in a comprehensible way to drivers' record keepers and other concerned parties. The availability and accuracy of drivers' work and rest records is also a key to encouraging industry to adopt EWDs.

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[3] *NHVR Setting the Agenda – Strategies for a Safer, Productive and more Compliant Heavy Vehicle Industry 2016 – 2020*, August 2016

[4] *Transport Infrastructure Council National Policy Framework for Land Transport Technology Action Plan 2016 – 2020*, September 2016

[5] Cabon, P., Deharvengt, S., Grau, J.Y., Maille, N., Berechet, I. and Mollard, R., (2012), Research and guidelines for implementing Fatigue Risk Management Systems for the French regional airlines. *Accident Analysis and Prevention*, 45S, pp 41–44.

In a voluntary context, industry participation relies on acceptance that EWDs can be a trusted tool and that the increased visibility of accurate information is of benefit—that is, reduced stress for drivers, better information for planning for transport operators, greater confidence that the industry is meeting its obligations for compliance. Uptake will be as a result of overcoming any perceived fears that this visibility may bring.

By specifically addressing perceived barriers, the NHVR believes the availability of electronic work and rest data will promote better reporting and monitoring of drivers' work and rest activities to deliver improved safety outcomes through better fatigue risk management.

2.3.2 Reduced regulatory burden

Each year the NHVR sells approximately 200,000 written work diaries to drivers. Drivers record their work and rest on up to 18 million daily sheets. Record keepers collect, review and store these daily sheets for at least three years. As a result, at any one time in Australia there are as many as 54 million daily sheets being kept for regulatory purposes.

The NHVR believes participation in EWDs will reduce the regulatory burden of complying with work and rest and record keeping regulations, and improve operational efficiencies, by:

- reducing the time taken to make and manage records
- removing the time taken for drivers to physically present themselves to purchase work diaries from customer service centres
- using more precise times instead of rounding work time up and rest time down.

2.3.3 Improved compliance checking

All EWDs approved by the NHVR will deliver two key functions, to:

- record drivers' EWD information
- check EWD information for compliance.

These functions will be standardised by the NHVR for the life of the EWD.

By pre-populating EWD information and recording corroboratory metadata, EWDs provide more accurate information and allow for information to be checked against a reliable source.

By standardising the application of the work and rest rule sets and highlighting potential breaches, EWDs will reduce the amount of time taken to check for potential breaches and ensure consistent interpretation.

Combined, these factors give the NHVR and its service partners confidence in the integrity of EWD information and improve the quality and efficiency of work and rest hours compliance checking.

2.4 EWD high level business requirements

Based on the regulatory and policy environment and objective outcomes described above, the NHVR has set 10 high level business requirements for EWD operations. The requirements and their key elements are outlined in Table 2 (below).

#	Requirement	Key Elements
1.	Meet HVNL requirements	• Approval of electronic recording system by NHVR • Make driver records • Notification to NHVR (malfunction, tamper, filled-up) • Information produced at roadside must be able to be admissible as evidence
2.	Reduce regulatory burden and align with strategic direction	• Co-regulation • Industry manages own risk • Assurance model • Approval, meet changes to approval requirements • Trust, audit, tamper management • Information, education, intervention

#	Requirement	Key Elements
3.	Assist operators and drivers manage fatigue risk and comply with HVNL obligations	• Ability to integrate with existing business systems • Usability (pre-population of fields where appropriate) • Reduce driver stress • Provide relevant information to driver (alerts) • Risk-based reporting to operator
4.	Allow interoperability	• Ability for drivers to move between systems (work diary follows driver) • Common driver identification • Driver data portability • Ability to record all work tasks
5.	Leverage existing industry investments	• Ability to transition existing systems
6.	Financially sustainable NHVR and Industry	• Cost should be a minimal disincentive (up front and ongoing) • Regulatory costs should be justifiable and defensible
7.	Incorporate data protection and sharing	• Meet HVNL information privacy requirements • De-identified data provision (regulatory research/analytics)
8.	Have like-for-like functionality with WWD	• At a minimum EWD must achieve all regulatory functions performed by the WWD
9.	Accuracy and integrity	• EWD records must be accurate and reliable
10.	Allow intervention	• Roadside, back office and audits

Table 2: NHVR EWD high level business requirements

3 Delivering the EWD function

The HVNL provisions provide the fundamental building blocks of the EWD function, allowing the NHVR to approve electronic recording devices that meet essential requirements for use by drivers and record keepers as an EWD. Provisions are also in place to govern how drivers and record keepers should act if an EWD fails, either because it is filled up or because it is not working properly. However, these provisions only regulate what should be done, not how it should be done or the purpose for doing it.

In order to ensure that the EWD function effectively supports the co-regulatory environment and strong safety culture set out in *Setting the Agenda: 2016 – 2020*, the NHVR has developed an end-to-end process for EWD operations (see Figure 3, below).

The end-to-end process outlines the:

- key activities (setting standards, deployment, day to day operations, assurance/enforcement, and EWD assurance) required to deliver the EWD function
- roles and responsibilities of parties required to deliver the EWD functions
- key components in delivering the EWD function
- detailed interactions between the parties under each function.

The end-to-end process defines the scope of the NHVR's regulatory oversight of EWDs.

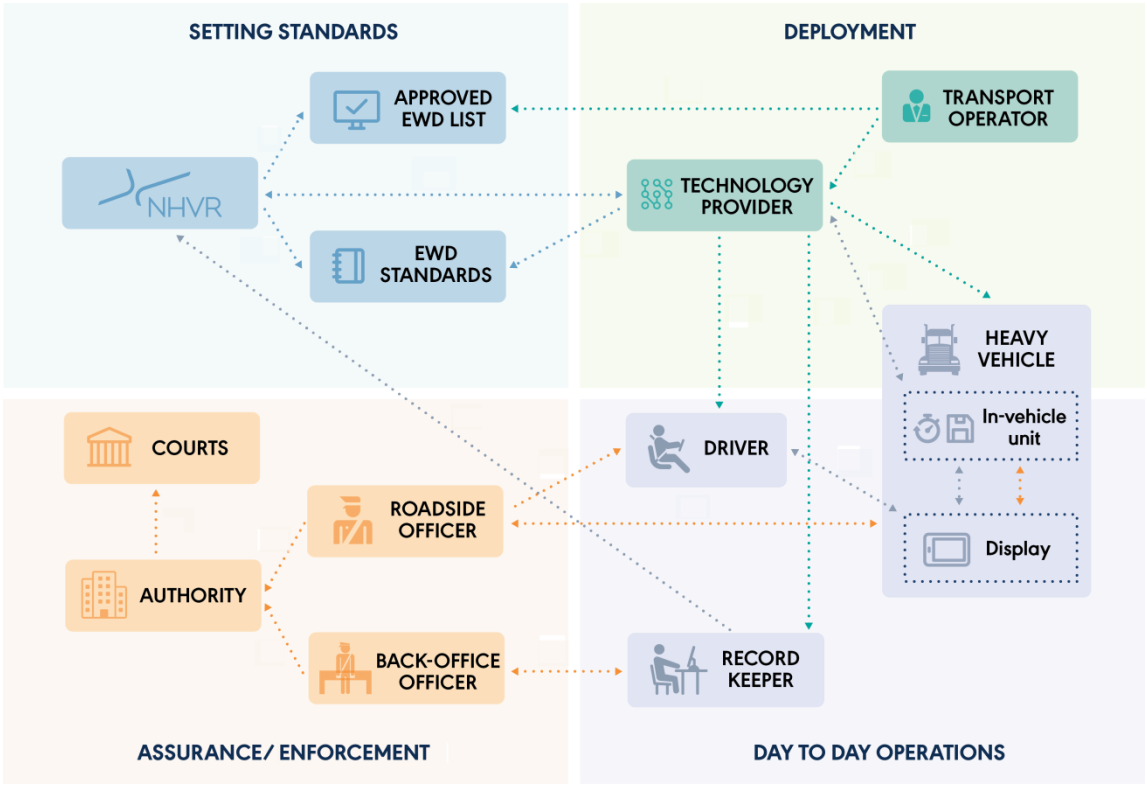

Figure 3: EWD Assurance Framework

The following sections describe the key activities roles and responsibilities, interactions and components in more detail.

3.1 EWD operational functions

The EWD operational functions are setting standards, deployment, day-to-day operations, assurance/enforcement, and the EWD assurance framework. Each of these functions is discussed below in greater detail.

3.1.1 Setting Standards

The first operational function is Setting Standards and its purpose is to ensure that technology approved for use as an EWD meets performance based standards set by the NHVR. These performance based standards align with the essential requirements for EWDs as set out in the HVNL (see Appendix C).

Key processes of the Setting Standards function are:

- setting and maintaining standards
- assessing candidate electronic recording systems
- approving systems for use as an EWD
- publishing the list of approved systems on the NHVR's EWD web page.

3.1.2 Deployment

Deployment is about maximising industry adoption of EWDs as a voluntary alternative to paper-based work diaries.

Key processes in the Deployment function are:

- providing an EWD web page that facilitates industry access to technology providers and the approved list of EWDs
- publishing guidelines for key roles within the EWD function
- supervising the generation of unique driver identification that will allow drivers to swap between different approved EWD systems
- setting minimum training requirements as conditions of approval for EWD systems.

3.1.3 Day-to-Day Operations

The Day-to-Day Operations function relates to two key areas:

- collection and distribution of EWD information
- ensuring EWDs work properly.

3.1.4 Assurance and Enforcement

The Assurance and Enforcement function provides an external measure of the EWD's effectiveness in helping industry to safely manage driver fatigue.

The key processes in the Assurance and Enforcement function include making EWD information:

- accessible for enforcement purposes
- reliable to be used for evidentiary purposes.

3.1.5 EWD Assurance Framework

The EWD Assurance Framework refers to the NHVR strategy for determining if the EWD function is operating effectively and efficiently in all areas. More details on the EWD Assurance Framework are provided in Section 6.

3.2 Roles and responsibilities

The EWD end-to-end process involves eight key roles:

- the NHVR
- technology providers
- transport operators
- drivers
- record keepers
- authorised officers
- authorities
- courts.

The following sections define each role and the key responsibilities for that role.

3.2.1 The NHVR

The NHVR is the regulatory owner of the EWD function, and is responsible for administering the EWD function in accordance with legislative and policy requirements.

Whilst the NHVR may employ or have a contractual arrangement with authorised officers, they are treated separately in the end-to-end process as they have specific skills and separate role to the NHVR in the EWD context.

In this EWD role, the NHVR is responsible for:

- setting detailed performance expectations for electronic recording systems for use as an EWD (based on the legislative and other essential requirements) and publishing these as EWD Standards
- assessing candidate electronic recording systems submitted for approval and administering the approvals
- managing notifications from industry and technology providers about EWDs that are not working properly
- providing reasonable assurance on the performance of the EWD function, risk and issues.

The EWD Policy Framework is supported by an Operational Policy which provides further details on how the NHVR will execute its responsibilities in delivering the EWD function.

3.2.2 Technology providers

Technology providers are legal entities that develop, provide and support EWDs for heavy vehicle operators, in accordance with the EWD Standards set by the NHVR.

The NHVR will not approve or certify technology providers but may approve a technology provider's candidate electronic recording system for use as part of an approved EWD. When doing so, the NHVR may set conditions of approval and use to regulate the technology provider, operator and/or driver to undertake certain functions to ensure the continued and compliant use of EWDs.

Technology providers may be commercial providers of technology (including other regulatory solutions) to the heavy vehicle industry or be owner-operators of non-commercial electronic recording systems. Different conditions of approval and use may apply depending on the nature of the candidate electronic recording system being offered.

Technology providers are responsible for:

- developing electronic recording systems for use in an approved EWD in accordance with the EWD Standards published by the NHVR
- ensuring that approved EWDs operate in accordance with conditions of approval or use
- collaborating with record keepers and drivers to rectify any issues within the timeframe nominated by the NHVR
- advising the NHVR of any changes to their circumstances or approved EWD that may alter the NHVR's original decision to approve the EWD.

More information on the role of technology provider is found in the *EWD Guideline for Technology Providers*.

3.2.3 Transport operators

Transport operators are the persons responsible for controlling or directing the use of fatigue-regulated heavy vehicles. Their main role is to provide and support business practices that ensure their business operates in a compliant and safe manner.

In terms of EWD function, transport operators are responsible for:

- determining to deploy EWDs in their business
- implementing approved EWDs in conjunction with a technology provider
- providing ongoing support and ensuring that record keepers and drivers use an EWD in accordance with conditions of approval and use
- cooperating with authorised officers investigating the driver's compliance with fatigue management obligations under the HVNL.

More information on the role of transport operator is found in the *EWD Guideline for Transport Operators*.

3.2.4 Drivers

Under section 5 of the HVNL, drivers are defined as follows:

> *(a) means a person driving the vehicle or combination; and*
>
> *(b) includes—*
>
> *(i) a person accompanying the person driving the vehicle or combination on a journey or part of a journey, who has been, is or will be sharing the task of driving the vehicle or combination during the journey or part; and*
>
> *(ii) a person who is driving the vehicle or combination as a driver under instruction or under an appropriate learner licence or learner permit; and*
>
> *(iii) where the driver is a driver under instruction, the holder of a driver licence occupying the seat in the vehicle or combination next to the driver.*

In relation to EWDs, drivers must be driving a fatigue-regulated heavy vehicle.

Drivers of fatigue-regulated heavy vehicles primary obligation is to not drive while impaired by fatigue. To do this, the HVNL stipulates:

- maximum work and minimum rest requirements
- recording of work and rest in a work diary
- retention of the records by a record keeper.

EWDs are designed as a voluntary alternative to paper-based work diaries and manual transfer and retention of duplicate records.

In terms of the EWD function, drivers are responsible for:

- maintaining a secure single unique identifier for all their work and rest under the HVNL
- operating an approved EWD in compliance with all conditions of approval and use to record their work and rest activities
- notifying their record keeper or the NHVR of issues when the EWD is not working properly where they are aware that the EWD is not working properly
- cooperating with authorised officers investigating the driver's compliance with fatigue management obligations under the HVNL.

More information on the role of driver is found in the *EWD Guideline for Drivers*.

3.2.5 Record keepers

Record keepers must keep a record of specific fatigue management information for drivers of fatigue-regulated heavy vehicles.

According to the HVNL, a driver's record keeper is either the:

- employer of employed drivers
- accredited transport operator of drivers working under Basic Fatigue Management or Advanced Fatigue Management
- driver themselves—if self-employed.

A driver's record keeper must keep:

- the driver's name, licence number and contact details
- the dates fatigue-regulated heavy vehicles were driven
- the registration number of the vehicle(s) driven
- the total of each driver's work and rest times for each day and each week
- copies of duplicate work diary daily sheets (if applicable)
- driver's rosters and trip schedules (including changeovers)
- driver timesheets and pay records
- any other information as required as a condition of an accreditation or exemption (such as driver training and health assessments).

Employers, accreditation holders and drivers may appoint third parties (including technology providers) to undertake record keeping functions. When this occurs, the law stipulates that both the record keeper and third party provider are legally responsible for the compliant execution of the record keeping function.

In terms of the EWD function, the primary role of record keepers is to manage and retain EWD information and ensure that the EWD operations of their drivers comply with the conditions of approval and use set by the NHVR.

Record keepers are responsible for:

- receiving and storing of EWD information for drivers they are responsible for
- managing the EWD in proper working order including notifying the NHVR of any issues and arranging for the EWD to be repaired or replaced
- providing reports of EWD information to drivers and authorised officers as required by the HVNL
- cooperating with the NHVR in operations and investigations relating to EWD operational activities.

More information on the role of record keeper is found in the *EWD Guideline for Record Keepers*.

3.2.6 Authorised officers

Under section 5 of the HVNL, authorised officers are:

> *(a) a police officer declared by a law of a participating jurisdiction to be an authorised officer for the purposes of this Law; or*
>
> *(b) a person who holds office under this Law as an authorised officer.*

In terms of the EWD function, the primary role of an authorised officer is to monitor, investigate and enforce compliance with NVNL Chapter 6 requirements about fatigue management.

Authorised officers may also use EWD information to investigate and enforce the primary duty of parties in the chain of responsibility, where that information is relevant to a risk to public safety.

Authorised officers may be specialist employees of the NHVR, sub-contractors of the NHVR employed by State and Territory authorities or police officers independent to the NHVR.

Typically, authorised officers will encounter EWDs in road-side interceptions. However, authorised officers may access EWD information for a driver or number of drivers from the driver's record keeper.

Authorised officers are responsible for:

- inspecting drivers' EWD information to determine compliance with work and rest and record keeping obligations
- collecting evidence of potential transgressions of work and rest obligations and maintaining the chain of custody of evidence (which may include EWD information)
- presenting evidence of non-compliance to courts or briefing prosecutors on potential non-compliance for presentation to courts.

3.2.7 State and Territory authorities

State and Territory authorities refer to the agencies in participating jurisdictions that assist the NHVR to administer the HVNL. This includes both agencies providing services to the NHVR on a fee paying basis, as well as those represented by a Responsible Minister as defined in the HVNL.

The primary role of these authorities is to support authorised officers and the NHVR in the execution of their responsibilities. This may include:

- receiving and managing EWD information and other evidence related to potential breaches
- presenting matters to courts for determination.

3.2.8 Courts

Courts, and more generally, the judiciary, administer justice in accordance with the HVNL and other laws. In terms of the EWD function, courts will use EWD information to settle disputes about compliance with Chapter 6 of the HVNL (and the primary duty for chain of responsibility parties) and to punish any transgressions.

Courts are responsible for determining the:

- admissibility of EWD information in relation to specific allegations of non-compliance with work and rest and record-keeping requirements
- facts and making judgements on allegations of transgression made by authorised officers and prosecutors
- facts and making judgements on allegations of transgression made by the NHVR relating to EWD operations and compliance with conditions of approval and use.

3.3 Components in the EWD end-to-end process

3.3.1 EWD Standards

The EWD Standards are the set of performance based minimum and essential requirements for electronic recording systems used by the NHVR to determine whether candidate EWD systems can be approved.

The standards set out technical requirements for the equipment, interfaces and data management which, if complied with, allow the NHVR to be satisfied that candidate EWD systems will overcome legislative restrictions on approval.

Accordingly, the NHVR will only approve electronic recording systems that meet the minimum requirements specified in the EWD Standards. Additional conditions may be set by the NHVR based on the characteristics of the system or its implementation and the level of risk that the proposed approach will incur.

3.3.2 The NHVR's EWD web page

The NHVR's EWD web page is the NHVR's official web presence for EWDs. The EWD web page will:

- outline EWD system requirements (publishing the approved EWD Policy Framework and subsequent updates)
- list all approved EWDs (including contact details for technology providers)
- provide industry guidance on the regulatory requirements for using EWDs
- allow industry to notify the NHVR of EWD system issues.

3.3.3 Technology provider back office

The technology provider back office (or more correctly 'back offices' as there are multiple technology providers each with their own back office) is the system used by the technology provider:

- to check, create and promulgate unique driver identifiers
- for retrieval of drivers' EWD information
- to communicate with their approved EWD in-vehicle units to send and receive drivers' EWD information and other data
- to provide EWD information to drivers' record keepers for long term storage.

The primary aim of this arrangement (a shared data system) is to provide drivers, who move between transport operators or who have different record keepers, with a continuous record of their work and rest. This is essential to allowing drivers and their record keepers to comply with their record keeping obligations but has the added benefit (when combined with compliance view on the EWD display unit) of reducing the time spent at on-road intercepts by allowing compliance checking of EWD information.

3.3.4 EWD in-vehicle unit

The EWD in-vehicle unit is the electronic device used by the driver to record their rest and work activities. EWD in-vehicle units do not have to be permanently fitted or physically tethered to a fatigue-regulated heavy vehicle but are generally intended for use within a fatigue-regulated heavy vehicle. The EWD Standards set specific requirements for EWD in-vehicle units covering:

- communication with technology providers' back office
- recording of location, time and work and rest activities
- system checks and status
- compliance checking.

3.3.5 EWD display

The EWD display is the component of the approved EWD that allows drivers and authorised officers to input and review EWD information and other data. The EWD display may be a separate component of the EWD linked to the EWD in-vehicle unit or integrated into the EWD in-vehicle unit as a single device.

3.4 Interactions in EWD operations

Appendix D sets out the interactions between different roles and components for each of the five key functions set out in this document.

4 EWD Standards

The EWD Standards published by the NHVR set out the minimum performance-based requirements for electronic recording systems under the NHVR's EWD Policy Framework. Only electronic recording systems that comply with these EWD Standards (that is, are able to meet all the performance requirements specified) will be approved by the NHVR for use as part of an EWD.

The minimum requirements include:

- requirements needed to satisfy the legislative constraints on approving electronic recording systems specified in section 343 of the HVNL
- requirements that will allow EWDs to operate based on the end-to-end process described in Section 3 of this document.

EWDs will provide like-for-like functionality or better, with the written work diary.

Unlike like other national standards for heavy vehicle monitoring technology, wherever possible, the EWD Standards do not include functional requirements for technology providers. The HVNL provides the NHVR with authority to set conditions of approval and use when approving electronic recording systems. Failing to comply with a condition of approval or use is a breach of the HVNL and penalties apply. Where appropriate, the NHVR will incorporate functional requirements as specific conditions of approval or use when deciding to approve a candidate electronic recording system used as part of an EWD.

Appendix C (C.1) in this document provides a list of potential requirements considered by the NHVR for inclusion in the EWD Standards. These potential requirements are described in further detail in the following sections.

4.1 Legislative requirements

Section 343(2) of the HVNL restricts the NHVR from approving any electronic recording system that:

- is not suitable for use in heavy vehicle
- does not warn users of malfunctions
- is not capable of accurately monitoring and recording drivers' work and rest
- is unable to distinguish records of one driver from another
- allows drivers to repeatedly alter their work and rest information
- cannot transmit or otherwise make drivers' work and rest information available to record keepers
- prevents or does not allow authorised officers to view drivers' work and rest information.

The NHVR has accepted these requirements for as essential requirements for the EWD Standards. This includes listed requirements 1, 5, 8, 10, 17-20, 26-29, 31-33 and 36-37.

Data elements to be recorded under requirement 10 are specified in Appendix C (C.2).

4.2 Policy requirements

After consultation with industry and technology providers, the NHVR has developed additional requirements for electronic recording systems. These requirements are necessary for EWDs to be able to operate in accordance with the end-to-end process specified in the NHVR's EWD Policy Framework, or to meet the NHVR's policy outcomes of providing like-for-like functionality to the written work diary and improved compliance checking.

The accepted 'policy' requirements are 12, 15-16, 21, 23.

4.3 Additional features

The NHVR recognises that there are other standards for heavy vehicle monitoring technology and that Transport Certification Australia (TCA) administers the requirements for the Intelligent Access Program (IAP). The NHVR is also aware that transport operators are looking to use heavy vehicle monitoring systems for corporate management and quality assurance processes as well as regulatory processes.

To allow transport operators to fit one monitoring device for multiple purposes, the NHVR will accept electronic recording devices that contain multiple regulatory and commercial applications.

The NHVR has reviewed several possible requirements for other regulatory and commercial applications. Requirements that are permitted but not mandated for EWDs are 2-4, 6-7, 9, 11, 13-14, and 30.

5 Approving electronic recording systems

Division 7, Chapter 6 of the HVNL gives the NHVR authority to approve an electronic recording system for use as or as part of an EWD. A system submitted for approval is known as a 'candidate electronic recording system' (candidate system). This section outlines how the NHVR will decide whether to approve candidate systems or not, including the:

- application requirements
- NHVR's assessment process
- NHVR's approval process.

5.1 Applications

A person may apply to the NHVR for approval of an candidate system.

An application for approval of a candidate system must include:

- a complete application form (in the required format)
- a detailed technical description of the candidate system including its system design, installation and maintenance documentation, software and back-office
- a description of the applicant's operations manual (where these are relevant to the EWD operations)
- any pre-application assessment results for the candidate system
- any fee specified by the NHVR.

The NHVR may ask for additional information during the assessment.

The NHVR may also ask for a demonstration and testing of the candidate system, or a test unit of the candidate electronic recording system during the assessment. If this occurs, ownership of the test unit remains with the applicant and the NVHR will not be responsible for it.

Apart from progressive applications (covered later in this document) an application will not proceed to assessment until the application is complete.

5.1.1 Who may apply

The HVNL does not specify who may apply to have their electronic recording system approved for use as part of an EWD. Accordingly, the NHVR will accept applications for candidate electronic recording systems from:

- transport operators (including owner-drivers) proposing EWD systems for their own use
- technology providers proposing commercially available EWD systems
- technology providers proposed commercially available EWD systems integrated with other regulatory applications.

The NHVR will treat the candidate electronic recording systems of each type of applicant as potential different EWD types, with different operational contexts and system requirements and different levels of approval. The types of EWDs are provided in Table 3 (below).

	EWD Type		
	Transport operator EWD system for sole use	Commercially available 'EWD Only' system	Commercial available EWD system integrated with other regulatory applications
System Requirements	**Level 1 Approval**	**Level 2 Approval**	**Level 3 Approval**
Essential EWD requirements (covering standard data collection, data transfer, Compliance View, and evidentiary quality)	✔	✔	✔
Additional commercial integrity requirements		✔	✔
Additional regulatory telematics requirements			✔

Table 3: Type of EWD approvals

Where an electronic recording system submitted by a transport operator for their own use is approved by the NHVR, the transport operator will be deemed to have two roles: transport operator and technology provider. The transport operator must accept to be bound by the same conditions that apply to all other technology providers with approved EWDs.

Technology providers proposing commercially available EWD systems may offer additional applications using components of the electronic recording systems. The applicant in this situation must stipulate any components or software in the additional applications that may affect the EWD operations and describe how these will be managed to prevent disruption to EWD operations.

5.1.2 Progressive applications

Persons with potential candidate electronic recording systems may approach the NHVR for assistance in preparing their applications. This assistance may be in the form of:

- information and general guidance
- provision of test data and rule sets to facilitate system development and allow self-assessment
- advance NHVR consideration and assessment of potential candidate system components.

Where the NHVR informally assesses components of candidate systems, it may provide advice of the capacity of the potential system to meet the EWD Standards. This advice is not approval or endorsement by the NHVR of the candidate system, rather it is regulatory guidance on the requirements for approval should the technology provider proceed with an application. However, information obtained during informal consideration of a potential candidate system may be used by the NHVR during the assessment of an application.

An application is not complete until the NHVR has received a completed application with all necessary supporting information specified by the NHVR and any fee specified by the NHVR.

5.2 Assessment

When the NHVR receives a complete application for approval of a candidate electronic recording system, it will assess if:

- the candidate system complies with the requirements of the EWD Standards
- there are any risks to EWD operations, based on the EWD end-to-end process and how those risk can be managed.

5.2.1 Compliance with the EWD Standards

Only candidate electronic recording systems that comply with the EWD Standards (that is, are able to meet all the performance requirements specified) will be approved by the NHVR for use as part of an EWD. This is the first stage of assessment.

During this stage of assessment, the NHVR may:

- assess and/or test the candidate system directly
- engage a suitably qualified third party to assess and/or test the candidate system
- consider third party assessments of the candidate system made by suitably qualified prior to the application
- consider overseas approvals for systems already approved to similar standards.

The NHVR may request further information from the applicant at this stage, to support their application.

Candidate electronic recording systems that do not comply with the EWD Standards will not progress to the risk assessment stage. The NHVR will advise the applicant that the application for approval has been refused and, in accordance with the HVNL, the applicant will be provided with an information notice outlining the reasons for refusal.

5.2.2 Risk assessment

When satisfied that the candidate electronic recording system is capable of meeting the EWD Standards, the NHVR will assess the system in relation to risks of the system not operating in accordance with the EWD end-to-end process, and determine potential controls for these risks. This is the second stage of assessment and will be conducted in accordance with the *NHVR's Corporate Risk Management Framework*[6] .

During this stage, the NHVR will systematically review the proposed operations of the candidate system in the context proposed by the applicant at each step of the EWD end-to-end process. The NHVR will determine potential failure points, the risk and likelihood of failures and suitable controls.

The NHVR may discuss potential controls with the applicants and seek further information to verify or support their application. The NHVR will use the controls as the basis for setting conditions of approval and use.

If the NHVR believes that the candidate system can deliver the EWD end-to-end process, with or without controls, it may approval the electronic recording system for use as an EWD.

5.3 Approval

The NHVR will approve candidate systems when it is satisfied that:

- it complies with the EWD Standards
- it allows EWD operations to be conducted in accordance with the EWD end-to-end process
- there are no legal impediments to doing so.

In addition to the certificate of approval, the NHVR may issue an approval instrument setting conditions of approval and use. Depending on the EWD type, the approval may be limited to one of three levels as shown in the table below.

Level	Approved for use . . .
Level 1 Approval	within the transport operators' own operations
Level 2 Approval	across all transport operations
Level 3 Approval	across all transport operations (subject to continued operations of other regulatory functions)

Table 4: Approval levels

Companies may request the NHVR review their approval if they wish for their approved electronic recording system to be approved for operations in a different level.

Approvals issued by the NHVR are 'type approvals' and are valid for all identical systems as long as they are used in accordance with the conditions of approval and use specified in the approval instrument.

[6] NHVR Corporate Risk Management Policy

5.4 Setting condition of approval and use

If the NHVR decides to grant approval to a candidate electronic recording system, the NHVR may set conditions about the use or maintenance of the electronic recording system to which the approval relates. These are referred to as 'conditions of approval and use' on the approval instrument and apply to all identical systems to which the approval applies.

Where appropriate, the NHVR will incorporate functional requirements as specific conditions of approval or use. The NHVR has proposed three types of conditions of approval and use as described in the table below.

Type	When conditions are required . . .
Core conditions	For all approved candidate systems and stipulate the key functional requirements upon which the EWD end to end process is based. Examples of core conditions include the requirements for: • generating unique driver identifiers • data governance and system up-time • reporting system changes and support EWD assurance activities.
Approval level conditions	For approved candidate systems in the same approval level and (1) limit use of the approved system to that approval level and (2) address common risks and issues for that approval level. Examples of approval level conditions include restrictions on interactions between the Level 3 approved electronic recording system and other regulatory applications, such as a disruption of service in the other application.
System conditions	Only apply to the candidate systems and are designed to assess the specific operational risks identified during the assessment process. For example, approved devices relying on engine connections will be checked periodically by users to ensure the connection is firmly attached

Table 5: Types of conditions of approval and use

The technology provider who holds the approval is responsible for ensuring users of their approved system are aware of, and capable of, fulfilling the conditions that are applicable to them (that is, drivers, record keepers and transport operators). Depending on its seriousness, failure to comply with a condition of approval or use may:

- constitute a breach of the HVNL for which penalties apply

  and/or
- result in a review of the approval for the electronic recording system, including amendment or cancellation of the approval.

5.5 Review of approvals

Under the HVNL, certificates of approval for electronic recording systems do not expire or approval end. However, the NHVR may amend or cancel approvals subject to the requirements in the HVNL.

In addition to the HVNL provisions, prior to amending or cancelling an approval, the NHVR will review the current approval to determine what changes, if any, are needed or if the approval should continue.

The NHVR may review an approval:

- at the request of the technology provider holding the approval
- when the technology provider holding the approval changes the electronic recording system subject to the approval
- after an issue relating to the approval is identified during an NHVR assurance activity.

Technology providers may request the NHVR cancel their approval or alter the terms or conditions of use. A technology provider who requests a cancellation must submit a termination plan that covers notification of users, distribution of existing EWD data to record keepers and drivers, and successional planning for record keepers holding EWD information.

In addition to the notification requirements specified in the HVNL, the NHVR will publish any changes to EWD approvals on the NHVR's website.

6 Monitoring and assurance

6.1 EWD Assurance Framework

The EWD Assurance Framework is the way in which the NHVR will demonstrate that EWD operations are undertaken in compliance with the law and the EWD Policy Framework.

The EWD Assurance Framework is based on a safety management system (SMS) approach underpinned by a philosophy of mutual responsibility and accountability, as opposed to a more prescriptive approach aimed exclusively at regulatory compliance. This increases the responsibility on technology providers and industry participants, who have day-to-day control over the installation and maintenance of the EWD operating environment, to focus on meeting EWD obligations throughout the organisation's structures, policies, procedures and activities.

However, the NHVR and our partner agencies retain a critical role in maintaining quality assurance of the broader EWD system. This includes performance oversight, auditing and evaluation, as well as investigation and management of identified issues.

6.1.1 Key aspects

Figure 4 shows the three key aspects of the EWD Assurance process.

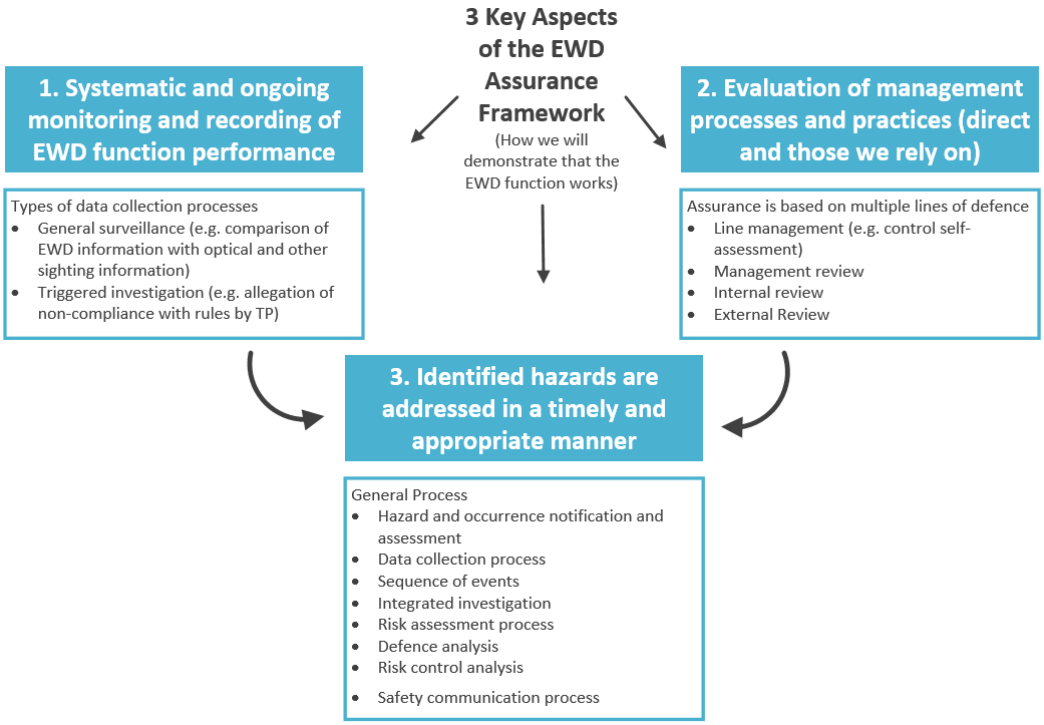

Figure 4: EWD Assurance Framework process

6.1.2 Types of information

The EWD Assurance Framework is based on three types of information:

- Day-to-day reporting – drivers, record keepers and/or technology providers will notify the NHVR when EWDs are not working properly. It is a legal requirement that these parties notify the NHVR of an issue with an EWD as soon as they become aware of the issue.
- General surveillance – intelligence reports from authorised officers and intelligence stemming from discrepancies between EWD information and other compliance data sets.
- Triggered investigation – investigations into EWD operations of technology providers undertaken in response to allegations, incidents and feedback from the judiciary and other expert stakeholders.

6.2 EWD system performance monitoring and measurement

Performance measurement and monitoring are the means by which the performance of the EWD system is described and evaluated. Through analysis of data and information, areas of emerging risk will be highlighted and used to inform decisions regarding appropriate interventions and the subsequent assessment of effectiveness of those interventions.

6.2.1 Scope of the performance monitoring and measurement

The scope of the performance monitoring and measurement undertaken by the NHVR includes the following four components:

- the NHVR's and service partners' implementation of the HVNL and EWD Policy Framework and standards
- technology providers' implementation of approved electronic recording systems for use as EWDs including driver identification processes
- the management of EWD technical issues
- the application of EWD information for forensic uses by the NHVR and service partners and for safety management by transport operators.

6.2.2 Three tier approach

A number of high-level EWD technical performance indicators (Tier 1) have been identified as markers for monitoring performance. These indicators consist of measures of different types of notifications that EWDs are not working properly and roadside checks of EWD functionality (taking into consideration exposure based on transport operators' level of operations).

Recognising the limited ability of this technical performance indicator to aid in the proactive identification of emerging risks, the NHVR will monitor two additional indicators:

- technology provider performance indicators (Tier 2) – include EWD alarms, EWD back office service reliability and compliance with conditions of approval and use
- regulator and service partner performance indicators (Tier 3) – feedback and reports relating to the implementation of the HVNL and EWD Policy Framework and the admissibility of EWD information.

This approach allows the NHVR to capture the role of, and relationship between, the activities of technology providers, service partners and the NHVR in contributing to adverse operational outcomes. The approach also provides greater insight into the nature of those conditions that underlie potential adverse outcomes.

The acceptable levels of operational performance across the performance monitoring and measurement scope defined above are incorporated into the NHVR's EWD work procedures.

6.3 Surveillance of management processes and practices (direct and those we rely upon)

Surveillance is an important component of the NHVR's EWD Assurance Framework, and is listed with other important components below:

- qualified and trained technical staff – with specific experience and training in relation to electronic recording systems
- documented procedures and guidance – for assessment, approval , management of notifications and other operational data and audit and investigations processes
- assessment and approval based on risk assessment and corresponding controls through legally binding conditions of approval and use
- surveillance activities – including regular planned and unplanned audits and inspections, data collection and exchange, analysis, workflow management and information management.

Surveillance is the primary mechanism by which NHVR monitors the ongoing operational status and maturity of technology providers of approved electronic recording systems used as part of EWDs.

6.3.1 Operations of technology providers

Whilst traditional compliance models focus on the surveillance of work and rest hours, the NHVR takes a broader perspective by including the operations of technology providers, as they execute key functions for the validity and accessibility of EWD information including:

- identifying and generating the unique identifier for drivers
- installing EWDs in fatigue-regulated heavy vehicles
- providing the back office that allows a continuous history of work and rest activities for the past 28 days
- providing drivers' record keepers with EWD information.

The primary objective then of conducting surveillance is to determine whether a technology provider is fulfilling the obligations under the HVNL. The NHVR adopts a systems and risk-based surveillance approach, utilising product checks and audits as required, to assess the risk mitigation and compliance levels of approval holders.

Surveillance will assess technology providers' ability to:

- manage its operational risks for the level of operations it is engaged in
- comply with legislation
- comply with conditions of approval and use set for all approved electronic recording systems.

6.3.2 Surveillance activities

Surveillance activities may be scheduled or unscheduled, opportunity based, random or targeted across all facets of the transport industry.

This approach to surveillance aims to encourage the development of technology providers' systems and guide the transport industry to better understand its responsibility for EWD operations.

If continued surveillance indicates that there are deliberate and persistent issues with the technology providers, the NHVR may use its legislative powers to amend or cancel approvals of electronic recording systems. This can include changing the conditions of approval to include more and more frequent reporting of defined events.

The surveillance activities are regularly reviewed and updated.

6.4 Identified hazards are addressed in a timely and appropriate manner

6.4.1 Monitoring trends

The rate of technology advancement is increasing with time and this has the potential to affect EWD operations. The NHVR will use performance and surveillance data to determine how prevalent certain types of vulnerabilities are in the different types of EWD operations, and proactively look for emerging trends. By monitoring trends, the NHVR will be able to proactively identify and analyse issues of concern and take corrective action to prevent EWD system failures.

Proactive trend monitoring is a data-driven process. The NHVR will review all reported occurrences in the three indicator sets to determine whether there are subtle changes that may point to a larger issue. The NHVR will then monitor potential issues and share observations with the transport industry, technology providers and/or our service partners, as required.

These trends can also point to the need for the NHVR to target particular types of occurrences for investigation.

Depending on the nature of the issue, the NHVR may require corrective actions to be taken by the most appropriate people to prevent these issues resulting in disruptions to EWD operations. This may include using its legislative powers to amend approvals of affected electronic recording systems to change the conditions of approval and use.

6.4.2 General investigative process

The aim of the NHVR's investigative process is to find systemic causes and implement corrective actions, not to blame or punish individuals. This is consistent with the principles of a 'just culture'[7].

The NHVR's general investigative process when a potential issue is identified is made up of the following stages:

#	Stage	Description
1	Hazard and occurrence notification and assessment	Assess information and decide whether to investigate or not.
2	Data collection	Identify relevant occurrences and underlying factors.
3	Sequence of events	Reconstruct logical progression of events that led to the occurrence.
4	Integrated investigation	Analyse relevant facts and determine findings regarding underlying factors and hazards.
5	Risk assessment	Estimate the risk to EWD operations and determine whether the risk is acceptable or tolerable.
6	Defence analysis	Identify missing or inadequate defences and fix, replace or strengthen them.
7	Risk control analysis	Identify and evaluate risk control options.
8	Communication	Communicate operational messages to stakeholders.

Table 6: NHVR's general investigative process

6.4.3 Initiating the investigations process

The NHVR's Executive Director (Productivity and Safety) is responsible for initiating investigations and will determine:

- the scope of the investigation
- the responsible officer to undertake the investigation (including any specialised assistance (if required))
- the nature of the report to be generated
- a timeframe for completion.

The extent of the investigation will depend on the actual and potential consequences of the event or hazard. The NHVR will determine this through an initial risk assessment. Information that demonstrates a high potential risk will be investigated in greater depth than those with low potential.

The investigative process will attempt to address the factors contributing to the reported occurrence (is generally referred to as the active failure), rather than simply focusing on the occurrence itself. Active failures are the events that took place immediately before the occurrence and directly affect the reliability of EWD operations.

Having identified the active failures associated with an occurrence, the NHVR will undertake a further, more detailed analysis to establish the structural or organisational factors that contributed to the occurrence. This analysis is necessary as the active failures may not be the root cause of the occurrence or, even where it is, may not be possible to address through corrective actions.

At the conclusion of the investigation, the NHVR may publish the investigation findings and distribute supplementary regulatory guidance to stakeholders.

Alternatively, if the investigation identifies specific actions relating to individuals, the NHVR will notify the affected individual and commence bilateral communications. The NHVR will ensure these activities and the parties involved in these activities comply with the HVNL.

[7] An organisational perspective that discourages blaming the individual for an honest mistake that contributes to an accident or incident.

Appendix A Description of components in the EWD Policy Framework

Component	Purpose	Key Elements
EWD Policy Framework	Establishes the link between the EWD function and the NHVR's strategic direction and explains the service delivery strategy for the EWD function.	• Defines the purpose of the EWD function and links between this and the NHVR's strategic directions. • Defines the end-to-end to process for the EWD function, key issues and risks, and the NHVR's approach to managing these. • Defines key roles and responsibilities. • Adopts the EWD Standards as the performance and technical guideline for the NHVR. • Sets requirements for the approval of electronic recording systems, monitoring and assurance of the EWD function.
Operational Policy	Set the NHVR's policy and business rules for day-to-day operations of EWDs (internal NHVR documents)	• Establishes the assessment and approvals function and processes • Defines the NHVR's approach to the receipt and management of operational notifications. • Creates a risk based approach to setting timeframes for notifiable events to be rectified.
Privacy Policy	Set the NHVR's policy for protecting the privacy of EWD users.	• Creates privacy by design approach for protecting privacy. • Sets policy of protecting privacy through conditions on the approval and use of EWDs.
Compliance Policy	Set the NHVR's approach to using EWD data for enforcement and safety assurance.	• Outlines the overarching principle of proportional enforcement. • Sets priority offences for monitoring using EWD data. • Defines the NHVR's position on extraterritoriality. • Defines evidentiary considerations for EWD information. • Outlines general processes for access and use of EWD data for enforcement including warrant processes.
EWD Standards	Set the technical requirements for approval of Electronic Recording Systems as part of EWDs.	Outlines requirements for: • equipment and interface • technology provider back office and data collection • technology provider interoperation • fatigue management support.
Regulatory Guidelines (multiple)	Provide guidance on the rules and regulatory requirements for each role within the EWD system.	One each for: • drivers • record keepers • transport operators • technology providers
Training Standards (multiple)	Set out the key regulatory and operational training needs for each role within the EWD system.	One each for: • transport operators • record keepers • drivers • authorised officers (internal NHVR document).
Instrument of delegation	Give agents performing regulatory functions legal authority to do so under the HVNL.	• Delegates' authority to approve electronic recording systems (internal NHVR document).

Appendix B The EWD Policy Framework consultation process

	Stage	Description
1	**Identify change requirement**	When a review of the EWD Policy Framework leads to a proposal for change, the NHVR will appoint a responsible party from within the NHVR, who will manage consultation, development and implementation of any amendments to the EWD Policy Framework. The responsible person will begin the consultation process by defining the issue(s) and potential amendments that will resolve the issue(s). To do this they may consult with: • industry reference forums • industry members and industry associations • policy and maintenance group members • technical working groups. At the end of this stage, the NHVR will have developed options for amendments to the EWD Policy Framework, the feasibility of which can be tested through informal consultation.
2	**Informal consultation**	During informal consultation, the NHVR will consult with affected stakeholders to determine the feasibility of the potential amendments to achieve the desired outcome. In this stage, the NHVR may conduct research, talk with the heavy vehicle community, distribute information through the NHVR website and social media, and advertise through industry publications to identify and collect relevant information. Stakeholders will be given at least 14 days to provide feedback on any requests made during the informal consultation stage. After analysing the information, the NHVR may publish a discussion paper (DP) on the NHVR's website outlining why the EWD Policy Framework should be amended and proposes a preferred option for change. The NHVR may skip this stage and go directly to formal consultation where the proposed amendment(s) is either: • well defined and unambiguous • broadly supported • reflects legislative changes • urgently needed to allow continued operation of the EWD function. The informal consultation process should allow all interested parties to comment on the issue and amendment options. The informal consultation process will facilitate development of a draft rule or policy position for formal consultation.
3	**Formal consultation**	The heavy vehicle community will have been extensively consulted with and be well aware of the proposed amendment/policy. The NHVR will be aware of any dissenting views held by stakeholders and the feasibility of progressing with the amendment. At this point, the NHVR will publish a Notice of Proposed Rule Making (NPRM) or Consultation Draft (CD) on the NHVR's website. • The NPRM is a statement that elaborates on the preferred approach to implementing the proposed amendment. The NHVR will use the NPRM to allow formal collection of feedback from the heavy vehicle community. • The CD will include: **(1)** a summary of the proposed amendment, including the key issue(s) that the NHVR intends to address and the impacts and benefits of the amendment as well as **(2)** a draft of the amended EWD Policy Framework. The NHVR will accept comments on these documents for a period of four weeks after their publication on the NHVR's website. The consultation period may be extended at the discretion of the Chief Executive Officer of the NHVR.

	Stage	Description
4	**Summary of responses**	After the formal consultation period ends, the NHVR will evaluate all of the comments received in response to the NPRM. The NHVR may publish comments received as well as the NHVR's responses to the comments on the NHVR website. Based on the comments received, the responsible party in the NHVR will decide whether to return to informal or formal consultation with an amended proposal or proceed with a Notice of Final Rule Making (NFRM). If the NHVR decides to amend the proposal, it may also publish an overview of any key policy changes and amendments to the proposed rules made in response to the comments received and the next steps it will take toward further consultation and/or rule making.
5	**Develop final rule**	If the NHVR determines to proceed with the proposed amendments, it will publish a NFRM on the NHVR website. The NFRM will include: • a summary of the responses received • how the proposals in the NPRM were resolved • the final amendments to the EWD Policy Framework to be approved by the NHVR Board • the date of commence of the final amendments, if it is different from the date of NHVR Board approval. All amendments to the EWD Policy Framework will be issued with a release number and date which will be included on the title page and in the footer of the document, and on the NHVR website. The final rule may include development of or amendment to another administrative instrument (e.g. an exemption notice). If this is the case, the NHVR will publish this revised instrument with the NFRM.
6	**Implement final rule**	Once the amended EWD Policy Framework is approved by the NHVR Board, the NHVR may do one or more of the following: • Establish or update any systems required to support the changes to the EWD Policy Framework. • Notify affected stakeholders of the amendment and impacts the amendment has on their obligations under the EWD Policy Framework. • Develop and deliver appropriate education and regulatory guidance regarding the amendment. At a minimum, this will include revising public facing content on the NHVR's website. • Assist effected parties successfully transition to the new rule. • Determine a method of evaluating the effectiveness of the amendment at the next scheduled review.

Appendix C Possible requirements for approval of electronic recording systems for use as an EWD

C.1 Requirements

The NHVR worked with Transport Certification Australia to assess 37 potential requirements for electronic recording systems to be approved for use as an EWD. Requirements that matched specific restrictions in the HVNL or that were purposively implied because the restrictions in the HVNL could not be discounted otherwise, are mandated for inclusion in the EWD Standards. Other potential requirements, whilst not mandated, may be permitted on candidate electronic recording systems. Some potential requirements have been rejected by the NHVR.

Ref	Requirement	Mandatory/Permitted
1	Suitable for fitting to OR for use in a vehicle	Yes
2	In-vehicle telematics	No (Permitted)
3	Tethering to vehicle	No (Permitted)
4	VIN checks	No (Permitted)
5	Alerts the driver when not working properly (part or whole system)	Yes
6	Alerts record keeper when not working properly	No[1] (Permitted)
7	Alert the service provider when not working properly	No [3] (Permitted)
8	Accurately monitors and records driver's work and rest times	Yes
9	Measure and record the date and time	No[2] (Permitted)
10	Accurately record all information required for the national driver work diary	Yes[3]
11	GPS quality shall be measured to the satisfaction of the EWD System Manager	No (Permitted)
12	GPS shall determine latitude and longitude position of the vehicle	Yes[4]
13	GPS receiver shall accurately determine direction of travel of the vehicle	No (Permitted)
14	Distance Travelled	No (Permitted)
15	Odometer reading from the User Interface, vehicle or some other way	Yes[5]
16	Allows drivers to swap from EWD to WWD and vice versa	Yes[6]
17	IF fitted to a vehicle, records work and rest of each driver using the shared device	Yes
18	IF fitted to a vehicle, clearly differentiates the information recorded for each driver using the shared device	Yes
19	IF fitted to a vehicle, displays the driver's name when in record mode and whenever records are accessed	Yes
20	IF fitted to a vehicle, ensures a driver cannot make entry under another drivers record	Yes
21	Unique driver identification	Yes[7]

[1] There are no explicit legal obligations for the system to do this but this capability may help record keepers and service providers manage their other legal obligations.
[2] There is no explicit legal requirement for the system to 'measure and record' date and time for the EWD. However, recording the date and the time of changes of activity are required under item #9 and for completing a written work diary. Whilst this is not considered an essential requirement, the NHVR recognises that this capability may help drivers manage their other legal obligations.
[3] A detailed list of data elements is shown in *C.2 Data elements*
[4] The HVNL states that GNSS location records meets location recording requirements for EWDs and that a driver must confirm the record is correct. GPS is the most widely available form of GNSS. Whilst the HVNL does not explicitly set GNSS as a requirement for electronic record keeping systems, the NHVR recognises that GPS may help drivers make records on their location and is commonly available in current heavy vehicle monitoring system and even more widely available in mobile telephony.
[5] The NHVR recognises that there may be other methods of achieving this integrity measure.
[6] Whilst there is no explicit requirement for electronic recording systems to allow drivers to swap between, the structure of the HVNL allows for combinations of WWD and EWD and the NHVR believe that this is an implied requirement. The NHVR is aware that swapping from a WWD to an EWD may lead to a discontinuity in the electronic record that may complicate compliance checking or forecasting for the longer counting periods.

Ref	Requirement	Mandatory/Permitted
22	Driver authorisation by regulatory agency	No
23	Driver registry	Yes[8]
24	Driver deregistration	No
25	Driver restrictions on EWD technology providers	No
26	Allows drivers to confirm accuracy of the information once	Yes
27	Does not enable the driver to edit records once they have been confirmed	Yes
28	Allows a driver to send records to their record keeper	Yes
29	Indicates to the driver whether information has or has not been sent to their record keeper at least daily	Yes
30	Information is transmitted to technology provider every 15 minutes	No (Permitted)
31	Allows records to be accessed and reproduced by the driver's record keeper	Yes
32	EWD information is readily accessible by an authorised officer on road	Yes
33	EWD information is reasonably capable of being understood by an authorised officer	Yes
34	CAS presents a standardised view of EWD information, annotations and audit information	No
35	Standardised graphical representation	Yes[9]
36	EWD Information can be used as evidence	Yes
37	Capacity for authorised officers to make annotations	Yes

[7] Whilst not a legislative requirement, the NHVR believes that a unique identification for each driver using an EWD is essential. The unique identification will act as the key, linking the driver to the EWD information and allowing information to follow the driver from one EWD to another EWD.

[8] The Driver Registry is not a centralised, government registry of driver details. Rather it is a registry of unique identifiers created and shared by each technology provider of an approved electronic recording system that links the unique identifier to a driver and records the information used by the technology provider to verify a driver's identity.

[9] A 'Standardised Compliance View' using a graphical grid representation will be required in the EWD Standards.

C.2 Data elements

Ref ID	Data element	WWD method of collection	EWD method of collection	When	Rules
1	**Day of the week**	Self-declared	Self-declared/automatically derived from system	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
2	**Date**	Self-declared	Self-declared/automatically derived from system	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
3	**Registration number**	Self-declared	Self-declared	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work. Does not have to be repeated if data does not change from previous work/rest change.
4	**Driver's name**	Self-declared	Self-declared/pre populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
5	**Driver's current driver licence**	Self-declared	Self-declared/pre populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
6	**Work and rest option**	Self-declared	Self-declared	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
7	**Solo or two-up**	Self-declared	Self-declared	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
8	**Fatigue management accreditation number**	Self-declared. Declaration in accreditation list on separate page. List is only updated when information is changed.	Self-declared/pre populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
9	**Driver's base**	Self-declared. Declaration in Driver's base list on separate page. List is only updated when information is changed.	Self-declared/pre populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.

Ref ID	Data element	WWD method of collection	EWD method of collection	When	Rules
10	**Driver's record location**	Self-declared. Declaration in Driver's record location list on separate page. List is only updated when information is changed.	Self-declared/pre populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
11	**Time zone of the Driver's base**	Self-declared	Self-declared/pre-populated from secure access method	Immediately after starting work on a day	(2) earliest of 1) before first change from work to rest or 2) after first change from rest to work.
12	**Type of work - rest change**	Self-declared - graphic - vertical line	Self-declared/automatically derived from system	At time of work rest change	Immediately before or after the change or as soon as practicable after the later time if records weren't originally being kept for that day
13	**Time of work - rest change**	Self-declared - graphic - vertical line	Self-declared/automatically derived from system	At time of work rest change	Immediately before or after the change or as soon as practicable after the later time if records weren't originally being kept for that day
14	**Place of work - rest change**	Self-declared	Self-declared/automatically derived from system	At time of work rest change	A) 1) Immediately before or after the change or 2) as soon as practicable after the later time if records weren't originally being kept for that day B) Unless 1) the start and end of rest time are on the same day and 2) the place/odometer resting shave not changed since the driver recorded them at the start of the rest time.
15	**Odometer reading for work - rest change**	Self-declared	Self-declared	At time of work rest change	A) 1) Immediately before or after the change or 2) as soon as practicable after the later time if records weren't originally being kept for that day B) Unless 1) the start and end of rest time are on the same day and 2) the place/odometer resting shave not changed since the driver recorded them at the start of the rest time.

Ref ID	Data element	WWD method of collection	EWD method of collection	When	Rules
16	**Registration number of Fatigue Regulated Heavy Vehicle for work - rest change**	Self-declared	Self-declared or vehicle list in mobile unit	At time of work rest change	A) 1) Immediately before or after the change or 2) as soon as practicable after the later time if records weren't originally being kept for that day B) Unless registration number has already been recorded and the driver has not changed vehicles.
17	**Work since last work - rest change**	Self-declared – graphic - horizontal line	Self-declared/automatically derived from system	At time of work rest change	Immediately before or after the change or as soon as practicable after the later time if records weren't originally being kept for that day
18	**Rest since last work - rest change**	Self-declared – graphic - horizontal line	Self-declared/automatically derived from system	At time of work rest change	Immediately before or after the change or as soon as practicable after the later time if records weren't originally being kept for that day
19	**Work since last work - rest change on preceding day.**	Self-declared – graphic - horizontal line	Self-declared/automatically derived from system	At time of work rest change	Only if, (a) the start of the day and, (b) the preceding day was a day for information to be recorded and, (c) the last work and - rest change for the day was from rest to work
20	**Two-up driving for work - rest change**	Self-declared – graphic - horizontal line	Self-declared/automatically derived from system	At time of work rest change	Only if, (a) the start of the day and, (b) the preceding day was a day for information to be recorded and, (c) the last work and - rest change for the day was from rest to work
21	**Two-up other driver's name**	Self-declared	Self-declared/automatically derived from system	Immediately before or after (a) the driver becomes party to a two-up arrangement on a day OR (b) the first work and rest change on a day in which the driver is part to a two-up driving arrangement the driver entered into on the preceding day.	
22	**Two-up other driver's current driver licence number**	Self-declared	Self-declared/automatically derived from system	Immediately before or after (a) the driver becomes party to a two-up arrangement on a day OR (b) the first work and rest change on a day in which the driver is part to a two-up driving arrangement the driver entered into on the preceding day.	

Ref ID	Data element	WWD method of collection	EWD method of collection	When	Rules
23	**Two-up other driver's current driver licence jurisdiction**	Self-declared	Self-declared/automatically derived from system	Immediately before or after (a) the driver becomes party to a two-up arrangement on a day OR (b) the first work and rest change on a day in which the driver is part to a two-up driving arrangement the driver entered into on the preceding day.	
24	**Unique page ID from other driver's work diary**	Self-declared	Self-declared/automatically derived from system	Immediately before or after (a) the driver becomes party to a two-up arrangement on a day OR (b) the first work and rest change on a day in which the driver is part to a two-up driving arrangement the driver entered into on the preceding day.	
25	**Driver's base change date**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes their driver base
26	**Driver's base change new base**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes their driver base
27	**Driver's record location change date**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes their driver record location
28	**Driver's record location change new location**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes their driver record location
29	**Accreditation number change date**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes fatigue management accreditation
30	**Accreditation number change new number**	Self-declared (on separate page in instructions)	Self-declared/pre-populated from secure access method	As soon as practicable after a change	If driver changes fatigue management accreditation
31	**Time of work diary form change**	Self-declared	Self-declared	Before using the second form of work diary	If a driver stops using one form of work diary and starts using another form
32	**Location of work diary form change**	Self-declared	Self-declared/automatically derived from system	Before using the second form of work diary	If a driver stops using one form of work diary and starts using another form
33	**Security number of WWD in work diary change**	N/A	Self-declared	Before using the second form of work diary	If a driver stops using one form of work diary and starts using another form

Ref ID	Data element	WWD method of collection	EWD method of collection	When	Rules
34	**Total work time on a day**	Self-declared	Self-declared/automatically derived from system	before or at the time the earlier happens of: (a) the first work - rest change on the day after the relevant day OR (b) the driver is required to commence making records in a WWD.	
35	**Total rest time on a day**	Self-declared	Self-declared/automatically derived from system	before or at the time the earlier happens of: (a) the first work - rest change on the day after the relevant day OR (b) the driver is required to commence making records in a WWD.	
36	**Time of Daily Check**	Self-declared		not specified	
37	**Free Text Comments**	Self-declared	Self-declared	not specified	

Appendix D EWD function roles, responsibilities and interactions matrix

Position	Responsibilities/interaction				
	Setting Standards	**Deployment**	**Day-to-Day Operations**	**Fatigue Management Assurance/Enforcement**	**EWD Assurance**

NHVR	• Specify Standards – develop, approve and publish EWD Standards
	• Manage approvals
	  ○ assess applications for approval of candidate Electronic Recording Systems received from technology providers
	  ○ test candidate Electronic Recording Systems (dependant on assessments done prior to lodgement)
	  ○ determine to approve candidate Electronic Recording Systems, determine suitable conditions of approval and use and issue approval instrument
	• Publish approvals – register approved EWDs on the EWD web page
		Nil	• Notifications sent –
			  ○ receives notifications from drivers, record keepers or technology providers about EWDs that are not working properly
			  ○ assesses the notification and advises of a suitable timeframe for the EWDs to be brought back into working order
				• Present to Court – assist prosecutors to present matters to Court by certifying aspects of EWD operations and providing access to case precedents	• Monitors trends in EWDs reported as not working properly and initiates investigations of systemic failures
					• Periodically assess a sample of EWD information against other forms of sighting data (e.g. NCIS)
					• Conduct operations and investigations into apparent systemic failures or non-compliance with conditions of approval and use
					• Generate new rule sets when required and push these rulesets to technology providers

Technology provider	• Develop EWD system – develop their candidate Electronic Recording Systems to comply with the EWD Standards
	• Manage approvals –
	  ○ pre-assess candidate Electronic Record Systems compliance with EWD Standards (optional)
	  ○ apply to the NHVR for approval of their candidate Electronic Record Systems (optional)
		• Install EWDs – fit in-vehicle units into fatigue-regulated heavy vehicles nominated by the transport operator or supply approved EWD systems to the transport operator in accordance with the installation procedure for the approved EWD
		• Register Driver – based on supplied drivers' credentials, check previously registered drivers and if not previously registered, establish a unique identifier and secure method of access for the driver
		• Prepare Driver – advise the driver of their secure method of access and train them on the use of the approved EWD, including operational requirements set by conditions of approval and use and by the legislation
			• Retrieve past EWD information –
			  ○ on receipt of an authorised request for EWD information associated with a driver's unique identifier, relay that request to other technology providers
			  ○ on receipt of an authorised request for EWD information associated with a driver's unique identifier, identify relevant records and transfer them to the requestor/in-vehicle unit
			• EWD information transmitted – receive new EWD information from the IVU and stores it in long term storage
			• EWD report promulgated – transmit the entire record of EWD information for drivers to their record keepers
			• Notifications sent – at the request of record keepers, restores the EWD to full working order within the timeframe nominated by the NHVR
				• Provide expert testimony on the operation of the approved EWD	• Comply with conditions of approval and use and maintain records to demonstrate compliance
					• Cooperate with NHVR operations and investigations into EWD operations

Transport operator	Nil	• Identify approved EWDs – consult the NHVR's EWD web page to identify approved EWDs and their suppliers • Commit to EWDs – research available approved EWD with technology providers and assess offerings against business needs • Negotiate contract – negotiate contract for installation of approved EWDs into nominated vehicles and provision of monitoring services with the preferred technology provider • Nominate drivers – provide the technology provider details of drivers to be registered to use the EWDs	Nil	Nil	• Cooperate with NHVR operations and investigations into EWD operations

Position	Responsibilities/interaction				
	Setting Standards	**Deployment**	**Day-to-Day Operations**	**Fatigue Management Assurance/Enforcement**	**EWD Assurance**
Driver	Nil	• Prepare driver – undertake training on the use of EWDs, including any conditions of approval and use specific to the approved EWD	• Log into EWD – drivers use their secure method of access to commence monitoring • Retrieve past EWD information – ○ having verified the secure method of access, the in-vehicle unit requests all past EWD information associated with the driver's unique identifier from the technology providers' back offices ○ accept all available EWD information associated with the unique identifier as a true and correct continuous record for the driver OR • Retrieve past EWD information – correct EWD information that the driver believes is not correct • Record EWD information – enter work and rest changes and/or validate pre-populated information using the EWD display unit • EWD information transmitted – new EWD information is transmitted from the IVU to the technology provider for storage • Alerts and warnings issued – EWD display unit publishes alerts of upcoming potential breaches and time to maximum work and minimum rest limits and warnings of EWD system failures • Log off EWD – drivers use the EWD's display unit to discontinue monitoring. • Notifications sent – driver notifies the record keeper of EWDs that are not working properly and starts using the *National Driver Work Diary* or supplementary records to record work and rest	• Identify issue – stop for an intercept, provide driver licence and EWD when requested to do so by an authorised officer • Confirm breach – respond to questions put by the authorised officer • Issue sanction – receive sanction issued by an authorised officer	• Cooperate with NHVR operations and investigations into EWD operations
Record keeper	Nil	Nil	• EWD report promulgated – receives report from technology provider containing the complete record of EWD information for nominated drivers • Notifications sent – ○ receives notification of EWDs that are not working properly from drivers ○ notifies the NHVR of EWDs that are not working properly ○ receives advice of rectification requirements from NHVR and arranges for technology provider to restore the EWD to full working order within the timeframe nominated by the NHVR	• Retrieve info – ○ receive request for drivers' EWD information under section 568 from an authorised officer ○ provide relevant EWD information relating to a driver to the authorised officer	• Cooperate with NHVR operations and investigations into EWD operations

Position	Responsibilities/interaction				
	Setting Standards	**Deployment**	**Day-to-Day Operations**	**Fatigue Management Assurance/Enforcement**	**EWD Assurance**

Authorised officer (roadside/back office)	Nil	Nil	Nil	• Identify issue – intercept fatigue-regulated heavy vehicle, request the driver's driver licence and EWD and bring up Compliance View on the EWD Display unit
				• Retrieve information –
				  ○ where the Compliance View indicates a breach has occurred during an intercept, request EWD information related to the breach to be displayed on the EWD Display unit
				  ○ where there are grounds to believe a breach has occurred relating to a driver using an EWD, request the driver's EWD information from their record keeper under section 568
				• Confirm breach – review the EWD information and confirm the presence of a breach, capture the EWD information (if during a roadside intercept) and question the driver
				• Issue sanction – if a sanction is appropriate based on the EWD information, determine the nature of the sanction and issue it to the driver through existing channels
				• Annotate EWD – input annotations relevant to authorised officers, via the Compliance View on the EWD Display unit
				• Transmit to Jurisdiction – provide details of the sanction and EWD information collected to the relevant jurisdictional authority for entry into current prosecutions processes
					• Cooperate with NHVR operations and investigations into EWD operations

Authority	Nil	Nil	Nil	• Issue sanction – maintain current infrastructure for issuing of sanctions • Transmit to Jurisdictions – accept sanction requests from authorised officers and maintain current infrastructure for ensuring admissibility of EWD information. • Present to Court – make representations to Court on the admissibility and meaning of EWD information collected by authorised officers	Nil
Courts	Nil	Nil	Nil	• Present to court – make determinations on the admissibility of EWD information collected by authorised officers	• Make determinations on the NHVR proposed sanctions relating to the use of EWDs