

CODE OF PRACTICE

Fatigue Management in the Canada – Newfoundland and Labrador Offshore Petroleum Industry

January, 2018

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2100, 350 – 7 Avenue S.W.
Calgary, Alberta
Canada T2P 3N9
Tel 403-267-1100
Fax 403-261-4622

1000, 275 Slater Street
Ottawa, Ontario
Canada K1P 5H9
Tel 613-288-2126
Fax 613- 236-4280

1004, 235 Water Street
St. John's, Newfoundland and Labrador
Canada A1C 1B6
Tel 709-724-4200
Fax 709-724-4225

360B Harbour Road
Victoria, British Columbia
Canada V9A 3S1
Tel 778-265-3819
Fax 403-261-4622

1 Overview

This Code of Practice entitled *Fatigue Management in the Offshore Petroleum Industry – Newfoundland and Labrador (the “Code of Practice”)* is the culmination of a joint effort among offshore industry Operators, contracting companies, workers and the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB).

This *Code of Practice* summarizes the requirements for defining and managing Fatigue and the roles and responsibilities of Operators, Employers, Supervisors and Employees. This *Code of Practice* also summarizes the applicable regulatory requirements and provides information on the process for requesting an exemption to the day of rest provision in section 22 (1) of the Newfoundland and Labrador *Labour Standards Act*. This *Code of Practice* does not apply to Workplace parties administered under a collective agreement. That said, it is the acknowledged intention of Operators subject to such collective agreements to incorporate the principles of this *Code of Practice* into their Workplace.

This *Code of Practice* is designed to complement individual Operator documents. This *Code of Practice* is not intended to be a Fatigue Management program development guide as individual Operators, as part of their respective safety management systems, have *Fatigue Management Programs* in place.

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2 Purpose and Scope

This *Code of Practice* focuses on defining Fatigue; summarizes the regulatory requirements applicable to, and the processes employed by Operators for, managing Fatigue (including documentation and reporting of approved variances); and identifies the roles and responsibilities of Operators, Employers, Supervisors and Employees with respect to *Fatigue Management*. This *Code of Practice* is intended to be applied in conjunction with the regulations and guidelines outlined by the C-NLOPB and applies to all Workplaces under authorization granted by the C-NLOPB. This *Code of Practice* does not apply to Workplace parties administered under a collective agreement. It is also intended to complement individual Operator documents and provide practical guidance to industry as well as legislative and regulatory requirements. This *Code of Practice* is not intended to be a *Fatigue Management Program* development guide as individual Operators, as part of their safety management systems, each have *Fatigue Management Programs*.

Please refer to section 12 of this *Code of Practice* for additional resources in developing *Fatigue Management Programs* such as the Enform *Fatigue Risk Management: A Program Development Guide and Managing Fatigue in the Workplace* and the IPIECA, OGP *Guide for Oil and Gas Industry Supervisors and Occupational Health Practitioners*.

3 Terms and Definitions

For the purpose of this document, the following terms and definitions apply.

Accord Act	Refers to the <i>Canada-Newfoundland and Labrador Atlantic Accord Implementation Act</i> and, the <i>Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act</i> . ¹
Ad-hoc, Temporary or Casual Employee	An Employee assigned to be offshore for a specified period of time to execute a defined scope of work and/or to meet increased workloads.
Authorization	As defined in Section 205.001 (1) of the <i>Accord Act</i> .
Canada - Newfoundland and Labrador Offshore Petroleum Industry	The Newfoundland and Labrador Offshore Petroleum Industry refers to companies, areas and activities associated with the exploration, production and development of petroleum resources in the Newfoundland and Labrador Offshore Petroleum Area as defined by the <i>Accord Act</i> .
Employee	As defined in section 205.001 (1) of the <i>Accord Act</i> .
Employer	As defined in section 205.001 (1) of the <i>Accord Act</i> .
Fatigue	Fatigue ² is the state of feeling very tired, weary or sleepy which may be a result of insufficient sleep, prolonged mental or physical work, or extended periods of stress or anxiety.

¹ All references made to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and, the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* reflect the *federal version*

² Canadian Centre for Occupational Health and Safety, "OHS Answers Fact Sheets: Fatigue," <https://www.ccohs.ca/oshanswers/psychosocial/fatigue.html>, (August 2017)

Fatigue Management	Strategy or process for managing the risks that can be caused by Fatigue, as part of overall safety management.
First Aid Attendant	A medic or a qualified person who holds an emergency first aid certificate, a standard first aid certificate, a mariner's first aid certificate or an advanced first aid certificate of a registered nurse's certificate recognized under the laws of Newfoundland and Labrador pursuant to Part 1 of <i>Canada – Newfoundland and Labrador Offshore Marine Installations and Structures Occupational Health and Safety Transitional Regulations</i> .
Imminent Hazard	A situation which, if not addressed in a timely manner, could result in potential impact to people, environment, or asset. This includes corrective maintenance of key systems that can affect safety of the Marine Installation or Structure.
Labour Standards Act	Any regulations made under the <i>Labour Standards Act</i> applies to and in respect of a workplace in accordance with Section 205.007 of the <i>Accord Act</i> .
Marine Installation or Structure	As defined in Section 205.001 of the <i>Accord Act</i> .
Marine Employees	Employees holding <i>STCW Certificate of Competence</i> as referred by the minimum manning document.
Minister	Provincial Minister means the minister of the government of the province who is responsible for the <i>Labour Standards Act</i> .
Offshore Installation Manager (OIM)	As defined/referenced in section 193.2 of the <i>Accord Act</i> .
Operator	As defined in section 205.001 (1) of the <i>Accord Act</i> .

Regular Rotational Employee	An Employee who is working a designated set rotational schedule.
Short Shift Change	Where an Employee moves from day shift to night shift, or vice versa, within a 24 hour period, where the Employee does not have a minimum of 8 hours off in between shifts and works more than 12.5 hours in a 24 hour period.
Short Term Program	Any Program lasting less than six (6) months.
Supervisor	As defined in section 205.001 (1) of the <i>Accord Act</i> .
Variance Report	A report, including a description of the work, the names of the persons performing the work, the hours/days worked and the risk assessment, prepared by the Operator in the event a person is permitted to work in excess of the hours/days worked or without the rest period required by <i>Section 73 of Newfoundland Offshore Petroleum Drilling and Production Regulations, S.O.R./2009-73(1)</i> or required by an approved exemption of the Minister.
Workplace	As defined in section 205.001 (1) of the <i>Accord Act</i> .

4 Regulatory Requirements

This section of this *Code of Practice* highlights the legislative and regulatory requirements that apply to Operators, Employees, Employers and Supervisors in the Canada-Newfoundland and Labrador offshore area (Can-NL Offshore Area) pertaining to the development of Codes of Practice and Fatigue.

- *s. 205.016 (1) of the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*
- *Labour Relations Act*
- *Newfoundland and Labrador Labour Standards Act and Regulations*
- *Newfoundland Offshore Petroleum Drilling and Production Regulations*
- *Canada – Newfoundland and Labrador Offshore Marine Installations and Structures Occupational Health and Safety Transitional Regulations*

In accordance with s.205.007 (1) of the *Accord Act*, Newfoundland and Labrador social legislation, including the *Labour Standards Act*, apply to and in respect of a Workplace in the Can-NL offshore area.

Sections 22, 23, and 24 of the *Labour Standards Act* outlines the requirements for days of rest, daily maximum hours and rest periods for all provincially regulated Employees.

The *Labour Standards Act (Part III)*, subsection 22(5) outlines the requirements for days of rest, daily maximum hours and rest periods for all Employees in the Province. In general, that section provides that Employees are to be granted 24 consecutive hours of rest per week and, where possible, that 24 hour period should be a Sunday.

In accordance with paragraph 22(3)(c) of the *Labour Standards Act*, the Minister may upon request grant an exemption against the requirements of subsection 22(5).

Historically, any exemption granted by the Minister has been in accordance with recommendations from C-NLOPB to permit work on a regular rotation due to the logistics of working in a remote offshore location. Although exemptions are approved on a case by case basis, this *Code of Practice* outlines the principles upon which C-NLOPB will provide recommendations to the Minister.

5 Fatigue Management

Fatigue may affect a person's ability to work safely and must be identified and managed just like any other hazard in the Workplace. Operators, Employers, Supervisors and Employees each have a role to play in making sure any risks associated with Fatigue are minimized.

Impairment due to Fatigue can create a safety hazard or risk. Therefore, *Fatigue Management* is a component of the Operator's overall safety management system and is designed to identify, assess and minimize or mitigate the risks associated with Fatigue in the Workplace.

Implementing a strategy to prevent and reduce Fatigue may lead to:

- Improved health and safety outcomes;
- Fewer Workplace incidents and injuries;
- Reductions in absenteeism and staff turnover; and
- Better performance and productivity.

Employees should be made aware of signs of Fatigue as well as the elements of the Operator's *Fatigue Management Program*. This awareness includes the causes and symptoms that impact performance, the methods of recognizing signs of Fatigue in oneself and in others, as well as the processes for reporting Fatigue.

As part of their *Fatigue Management Programs*, Operators identify:

- a. Clear requirements to ensure no Employee works when their ability to function is impaired by Fatigue.
- b. The requirement to report any circumstance that could be hazardous to the health and safety of Employees, including Fatigue, based upon self-assessment or observation of others.
- c. The role of Supervisors to take all reasonable precautions to protect the health and safety of Employees and how this relates to *Fatigue Management*.
- d. The effects, signs, symptoms and associated risks of Fatigue.
- e. Identification of possible causes of Fatigue in the Workplace.
- f. Fatigue prevention strategies like adequate breaks, exercise, healthy eating goals, tips for getting better sleep, stress management programs etc.
- g. Reference to this *Code of Practice* and the roles and responsibilities contained therein.

When managing Fatigue in the Workplace, consideration should be given to the following:

- a. Transportation to or from a Marine Installation or Structure via passenger craft (vessel or helicopter) including waiting time, disrupted sleep schedule, motion sickness, and the use of medication.
- b. An individual's level of Fatigue and the impact of jet lag, shift schedules, environmental factors (including noise levels, lighting levels, temperature) and sleeping environments.
- c. Workloads and type of activities being performed, sedentary positions, repetitive tasks, high risk activities etc.
- d. Fatigue as a potential factor for incident investigation.

6 Work Rotations and Hours of Rest

Labour Standards Act exemption approvals from the Minister have traditionally been granted in respect of offshore Employees' work schedules which stipulate an equal time rotation of 21 days-on and 21 days-off, with a work shift of up to 12.5 hours within a 24-hour period.

Work should be scheduled and organized such that Employees can avail of this schedule.

Short shift changes are not permitted. In the case where an Employee moves from day shift to night shift or vice versa, the Employee is given a minimum of 8 hours off between shifts and will not work more than 12.5 hours in a 24 hour period.

7 Variances

In the event Employees engaged in work of an emergency nature that necessitates immediate remedial action or in the event of an Imminent Hazard, the *Labour Standards Act* exemption approval and the *Drilling and Production Regulations* may allow an Employee to work in excess of the hours or without the rest period.

In these circumstances, the Operator must assess the risk associated with the Employee working the extra hours and determine that such work can be carried out without increased risk to safety or to the environment. If an Operator allows an Employee to work in excess of the hours or without the rest period referred to above, the Operator shall ensure that a Variance Report, including a description of the work, the names of the Employees performing the work, the hours worked and the related risks are recorded. All Variance Reports must be reviewed and approved by the Offshore Installation Manager (OIM). The OIM will approve such shift or rotation variations upon considering associated risks and *Fatigue Management* strategies.

Examples of Variances which are not tracked or reported to the Minister include:

- a. Participation in emergency response drills, exercises or actual events regarding hours of work variances.
- b. Participation in departmental safety meetings or participation in occupational health and safety related meetings provided that they do not occur more frequently than weekly.
- c. For the purpose of Employee scheduling and the transition from day to night shift and vice versa, when no other resource exists, an Employee may work up to 16 hours split between two shifts with 8 hours of rest in a 24 hour period once per year.

Examples of Variances that are required to be tracked and reported in summary form to the Minister include:

- a. Imminent Hazard.
- b. Any other situations beyond the control of the Operator (e.g. unplanned Employee scheduling requirements such as illness, family emergency).
- c. Delays due to weather or transportation.

8 Reporting to Minister

Operators should have a process in place to manage deviations to the regular work schedule while taking into account *Fatigue Management*. Operators will ensure a report summarizing the Variances are submitted to the applicable regulatory authority (*i.e. Minister and C-NLOPB*) at the following frequencies:

- Short-Term Projects – monthly.
- All other projects – quarterly.

Reports summarizing the Variances are to be submitted to the applicable regulatory authority within 30 days of the end of the period being reported on.

9 Rest Day Requirements for Ad Hoc, Temporary, or Casual Employees

It is recognized that situations, circumstances, and abbreviated work scopes arise when it is not practical to apply an equal-time rotation (*e.g. 21 days-on, 21 days-off*). The purpose of establishing Minimum Rest Days is to ensure *Fatigue Management* in these circumstances while affording Employees the flexibility to work during peak activity or demand periods and providing the flexibility to avail of special technical services.

Ad-hoc, Temporary or Casual Employees are permitted to accumulate 182 working days within a period of 12 consecutive months, after which, it is expected that Employees will receive equal time on / off.

Table 1 – Minimum Days of Rest of Marine Installation or Structure

Offshore Days Worked	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Minimum Days of Rest	1				2				4				6		7							

Rest days for Ad hoc, Temporary or Casual Employees means that an Employee is expected to receive rest and should not spend time working onshore or in training. Rest day count begins the day the Employee arrives onshore.

10 Short-Term Programs (lasting up to 6 months)

Employees assigned to Short-Term Projects generally have well-established existing rotations of different lengths that take into consideration Fatigue Management and should not be disrupted.

The typical shift duration/time off on a marine vessel is 4 weeks on / 4 weeks off. However, the C-NLOPB may consider support for an equal time rotation of up to 6 weeks on / 6 weeks off, provided the workforce on the Marine Installation or Structure have been consulted and agreed to the schedule prior to issuance of the Authorization.

Evidence of this must be included with the exemption application to the Minister.

10.1 Marine Employees on Vessels for Short Term Programs

Typically, Marine Employees on Marine Installation or Structures (that are marine vessels) operate under the concurrent jurisdiction of the flag state (i.e. Transport Canada) and the requirements for daily/weekly work/rest periods as defined in the International Maritime Organization International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

Marine Employees subject to flag state requirements for marine employees and/or STCW are required to meet those requirements in addition to the regulatory requirements highlighted herein. In recognition of the above, the C-NLOPB may support an application to the Minister for an exemption against the regulatory requirements to follow the STCW convention for daily/weekly hours of rest requirements for marine employees only.

If the marine vessel is sailing under the flag of a non-signatory to the STCW Code, the above condition does not apply and the marine employees are subject to the requirements of this Code of Practice.

10.2 Non-Marine Employees on Vessels for Short Term Programs

Non-Marine Employees or “technical” crew on marine vessels operating as Marine Installation or Structure are subject to regulatory requirements outlined in this *Code of Practice* or as otherwise approved by the Minister.

11 Responsibilities of Operators, Supervisors, Employers and Employees

11.1 Operators

As part of overall safety planning and management, Operators:

- Provide *Fatigue Management* awareness training to Employees.
- Manage Variance Reports in accordance with section 7 of this *Code of Practice*.
- Develop, maintain, and ensure Employers, Employees and Supervisors are compliant with the *Operator's Fatigue Management Program*.
- Ensure adequate resources are available for implementation of program.
- Ensure Fatigue hazards and risks are assessed, controlled and monitored.

11.2 Employers

Employers are required by Operators to meet all regulatory requirements pursuant to section 205.018 of the *Accord Act*.

Employers are responsible for:

- *Fatigue Management* of its Employees and other individuals at a Workplace under its control.
- *Fatigue Management* of its Employees at a Workplace that is not under its control, to the extent that it controls their activities at the Workplace.
- Advise Employees of their right to refuse work where they feel Fatigue may factor into safe performance of their required duties.
- Track rest day requirements for Ad-hoc, Temporary or Casual Employees pursuant to Section 9, including Table 1 – Minimum Days of Rest on a Marine Installation or Structure.

11.3 Supervisors

Supervisors are required by Operators to meet all regulatory requirements pursuant to sections 205.024 and 205.025 of the *Accord Act*.

Every Supervisor shall take all reasonable measures to ensure that Fatigue is managed for Employees and other individuals that they supervise at a Workplace.

Supervisors are responsible for:

- Identify and assess Fatigue in Employees that may lead to impediment in performing work safely.
- Anticipate situations where Employees may be subject to shift/rotation variations and identify preventative measures to eliminate or minimize the necessity for requiring a variation.
- Mitigate Fatigue using the Operator's safety management system, policies and programs.

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- Support and promote Fatigue prevention strategies

11.4 Employees

Employees are required by Operators to meet all regulatory requirements pursuant to sections 205.026 and 205.027 of the *Accord Act*.

Employees are responsible for:

- Considering Fatigue in pre-job planning.
- Identifying and assessing Fatigue in self and other Employees.
- Reporting Fatigue or any impediment/impairment to performing work safely to their immediate Supervisors.
- Complying with Operator's safety management system, policies and programs.
- Reporting the use of any medications to medic or First Aid Attendant.
- Initiate their Right-to-Refuse work where they have reasonable cause to believe the variation may present a risk to health, safety, environment or property.
- Support and participate in Fatigue prevention strategies.

11.5 First Aid Attendants or Medics

First Aid Attendants or Medics are required by Operators to meet all regulatory requirements pursuant to sections 205.026 and 205.027 of the *Accord Act*.

The First Aid Attendant or Medic is responsible for making Supervisors aware of any Employee who may be impaired due to Fatigue or otherwise.

Consideration should also be given to the impact of sleep disorders, shift schedules, environmental factors and sleeping environment.

12 Other Useful Resources

- Canada-Newfoundland and Labrador Offshore Petroleum Board
www.cnlopb.ca
- Enform
www.enform.ca
- Government of Newfoundland and Labrador
www.gov.nl.ca
- Government of Canada
www.gc.ca
- Canadian Association of Petroleum Producers
www.capp.ca