

OC250578

23 July 2025



Tēnā koe 

I refer to your email 24 June 2025, requesting the following under the Official Information Act 1982 (the Act):

*“any documentation, correspondence, or records relating to the rationale for the following change made to the Land Transport Rule: Vehicle Exhaust Emissions 2007, as included in the Omnibus Amendment 2016:*

*These changes:*

*“• add vehicle emissions standard 'Japan 05' for all vehicles manufactured after 1 January 2014 so that vehicles may comply with the 'Japan 05' or the 'Japan 09' emissions standard;”*

*Specifically, I request copies of any:*

- 1. Internal or external discussions regarding this change;*
- 2. Submissions, lobbying, or arguments provided by either internal or external parties in relation to this change;*
- 3. Any other correspondence or documentation that provides justification, reasoning, or background for the inclusion of 'Japan 05' in this context.”*

On 21 July 2025, we advised you of an extension to the time period for responding to your request. The extension was due to consultations necessary to make a decision on your request being such that a proper response could not reasonably be made within the original time limit. We have now completed the necessary consultations.

On receipt of your request, the Ministry carried out key word searches on the document management system and previous employee email accounts. Eight documents are in scope of your request which are released with some information withheld. Some information has also been marked “Out of Scope”.

The document schedule attached as Annex 1 outlines how the documents have been treated under the Act. Certain information is withheld or refused under the following sections of the Act:

- |         |   |
|---------|---|
| 9(2)(a) | to protect the privacy of natural persons                       |
| 9(2)(h) | to maintain legal professional privilege                        |
| 18(d)   | the information requested is or will soon be publicly available |

With regard to the information that has been withheld under section 9 of the Act, I am satisfied that the reasons for withholding the information at this time are not outweighed by public interest considerations that would make it desirable to make the information available.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

The Ministry publishes our Official Information Act responses and the information contained in our reply to you may be published on the Ministry's website. Before publishing we will remove any personal or identifiable information.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Nick Paterson', with a long horizontal flourish extending to the right.

Nick Paterson  
**Manager, Environment**

## Annex 1: Document Schedule

Doc #	Reference number	Date	Title of Document	Decision on request
1	00454	16/03/2012	Amendments to the 2007 Vehicle Exhaust Emissions Rule	Released with some information withheld under section 9(2)(a).
2	N/A	May 2015	Policies to Reduce Harmful Emissions from Vehicles Costs and Benefits	Refused under section 18(d). The report is available on the Ministry's website here: <a href="https://www.transport.govt.nz/assets/Uploads/Report/Policies-to-Reduce-Harmful-Emissions-from-Vehicles-Costs-and-Benefits-May-2015.pdf">https://www.transport.govt.nz/assets/Uploads/Report/Policies-to-Reduce-Harmful-Emissions-from-Vehicles-Costs-and-Benefits-May-2015.pdf</a>
3	OC03236	28/08/2015	Error in the Land Transport Rule: Vehicle Exhaust Emissions 2007	Released with some information withheld under section 9(2)(a).
4	N/A	18/08/2015	Email from: Mark Frampton to Robert McIlroy Subject: RE Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)	Released with some information withheld under section 9(2)(a).
5	N/A	25/11/2015	Email from: Angela Duncan (NZTA) to Robert McIlroy Subject: RE Amendment to VEE Rule - Error in standards - Draft PIRA Attachments: Draft PIRA - Vehicle Emissions Amendment Rule - to address Error - 30-1	Released with some information withheld under sections 9(2)(a) and 9(2)(h).
6	N/A	17 July 2015 17 December 2015	Extracts from Weekly Report to the Minister of Transport 17 July 2015 and 17 December 2015	Released in full.
7	N/A	July 2016	Summary of submissions - Land Transport Rule: Omnibus Amendment, July 2016	Released in full. Some information has been marked "Out of Scope".
8	OC04456	25 October 2016	Extracts from a briefing titled : Land Transport Omnibus Amendment Rule 2016	Released in full



**MINISTRY OF TRANSPORT REPORT**

**Subject:** Amendment to the 2007 Vehicle Exhaust Emissions Rule

**Date:** 16 March 2012

**OC no.:** 00454

**Attention:** Hon Chris Tremain, Associate Minister of Transport

**Cc:** Hon Gerry Brownlee, Minister of Transport

**Priority:** Urgent

**Security level:** In-Confidence

**Deadline:** 23 March 2012

**Reason for deadline:** To enable work to begin on the amendment to the Vehicle Exhaust Emissions Rule.

**Purpose of report**

1. The purpose of this memo is to seek your agreement to a preferred government position on the proposed amendment of the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the emissions Rule) to be used as a basis for consultation.

**Contact for telephone discussion (if required)**

Name	Position	Telephone		Suggested First Contact
		Direct Line	After Hours	
Iain McGlinchy	Principal Adviser	s 9(2)(a)		✓
Marcia Oliver	Adviser			

**Minister of Transport's office actions**

☐ Noted

☐ Seen

☐ Approved

☐ Needs change

☐ Referred to

☐ Withdrawn

☐ Not seen by Minister

☐ Overtaken by events

## Executive Summary

2. In late February, Minister Brownlee agreed to include the amendment to the 2007 Land Transport Rule: Vehicle Exhaust Emissions (the emissions Rule) in the 2012 Rules Programme. The emissions Rule comes under your delegated responsibility as Associate Minister of Transport.
3. The emissions Rule sets out tables of approved minimum emissions standards that all vehicles entering the fleet must meet before they can be certified to operate on New Zealand roads<sup>1</sup>. The most recent changes to the standard were for used petrol vehicles. These standards came into force on 1 January 2012.
4. The emissions Rule does not set any minimum exhaust emission standards for used vehicles beyond 31 December 2012. Unless the emissions Rule is amended and current requirements are at least continued beyond the end of this year, it will be possible to bring vehicles into the New Zealand fleet that do not meet any emissions standard.
5. The setting of minimum emissions standards in the emissions Rule effectively places an age limit on vehicles being imported. This is a highly contentious issue which has divided the motor vehicle import industry.
6. Officials propose that the emissions Rule be amended to allow the current minimum standards for all used vehicles, which were introduced in Japan in 2005 (known as Japan 05), to continue unchanged. Officials further propose that the amendment Rule indicates that a full review of timing of updated standards would take place in 2014.
7. Changes to minimum exhaust emissions standards are also planned for the new vehicle standards. These amendments are supported by the new vehicle importers and are not expected to impose significant costs on motorists. Minor technical amendments will also be included.
8. This paper only seeks your agreement to these proposals as the basis for consultation on a draft Rule. All changes to the emissions Rule will be considered by Cabinet following consultation, as part of the normal rule making process.

## Recommendations

9. The recommendations are that you:
  - (a) **agree** to the proposal that, as an initial preferred government position for consultation, prior to making a final decision,
    - i. current minimum emissions standards for used vehicles (Japan 05) are extended beyond 2012; and

Yes/No

<sup>1</sup> The emissions standards that the emissions Rule sets relates to gases that are harmful to human health, not CO<sub>2</sub> which is a greenhouse gas.

- ii. a review should be conducted in 2014 to determine if any further standards are required for used vehicles. Yes/No No

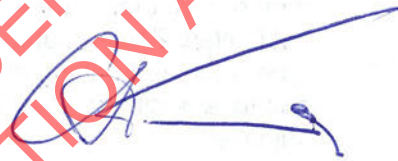


Marcia Oliver  
Adviser



Nick Brown  
Manager People and Environment

**MINISTER'S COMMENTS:**



**MINISTER'S SIGNATURE:**

**DATE:** 20/3/12

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

## Background

10. In late February 2012, Minister Brownlee agreed to include amendments to the Vehicle Exhaust Emissions Rule (the emissions Rule) in the 2012 Rules Programme. This Rule falls under your delegated responsibility as Associate Minister of Transport.
11. Although most developed countries set minimum emissions standards in the 1970's or early 1980's, New Zealand did not set minimum exhaust emission standards for all vehicles entering the fleet until the 2007 emissions Rule.
12. The setting of minimum emissions standards in the emissions Rule has been a highly contentious issue that has divided the motor industry. In general, the emissions Rule has been supported by new vehicle importers. The vehicles they import from their parent companies usually already meet or exceed the standards set in New Zealand due to the high standards in place internationally. However, more stringent minimum standards have been opposed by used vehicle importers because minimum standards effectively set an age limit on vehicles being imported.
13. In 2006, the initial consultation draft of the emissions Rule included implementation dates for a standard known as Japan 09 (i.e. implemented from 2009 in Japan). Cabinet proposed an implementation date of 2013 (a four year lag) for Japan 09 as a minimum standard for all used vehicles entering the New Zealand fleet. This was strongly opposed by the used vehicle importers. A decision over timing was not made because the Japan 09 standard had not been legally adopted in Japan at that time, but Cabinet did agree to an implementation date of January 2012 for the adoption of Japan 05 for light petrol vehicles.
14. In order to signal Cabinet's intent that the timing of the inclusion of Japan 09 would be considered again, the final table of approved standards for used vehicles did not include any minimum standards after 31 December 2012. The preamble to the emissions Rule noted that it was intended to add further standards at a later date.<sup>2</sup> Unless the current standards are at least continued beyond the end of this year, it will be possible to bring vehicles into the New Zealand fleet that do not meet any emissions standard. This would take New Zealand back to the situation that existed prior to 2007. As well as having implications for air quality, it would also adversely affect safety. Vehicles that are manufactured to comply with the current emissions requirements often have safety features beyond those mandated by New Zealand transport legislation. Absence of future standards would also create considerable uncertainty for those wishing to import vehicles.

<sup>2</sup> The preamble states: "From 3 January 2008, the revised Rule (section 2) requires compliance with more stringent standards than those in place in the 2006 Rule, with the intention that new standards (such as the proposed Euro 5 and Japan 09 standards) be progressively introduced in coming years following their adoption in their relevant jurisdictions."

## **Amendments to the Vehicle Exhaust Emissions Rule planned for 2012**

### ***Used vehicles***

15. As noted, it is necessary to amend the emissions Rule to include minimum standards for used vehicles after 2012. Officials consider that a requirement for used vehicles to meet the Japan 09 standard in 2013, as may have been intended by the previous government, is now inappropriate. It would almost certainly lead to the cessation, for several years at least, of virtually all used vehicle imports<sup>3</sup> and would be vehemently opposed by used vehicle importers. The most straightforward decision would be to continue the current minimum standard (Japan 05) until such time as it is agreed the Japan 09 standard may be appropriate. This is what is recommended.
16. The indefinite continuation of the Japan 05 standard as a minimum for used vehicles is expected to be supported (or at least not strongly opposed) by importers of used vehicles, but would not be supported by importers of new vehicles. New vehicle importers have already written to Minister Brownlee twice<sup>4</sup> to indicate they will lobby for the introduction of Japan 09 for used vehicles. These recent letters are attached as Appendix 1 and 2.
17. Although we agree that it would be ideal to include a future implementation date for Japan 09 for used vehicles in this amendment, the Ministry is unable to provide the necessary cost/benefit analysis at this time. Officials instead propose that the Rule be amended to continue the Japan 05 standard indefinitely, but that we would include text in the preamble to the amendment Rule to indicate that a review over timing of Japan 09 (along with relevant standards from other jurisdictions) would take place in 2014.
18. In addition to long-term gains to air quality, one of the reasons for implementing any further minimum standards for used vehicles would be to ensure that the average age of used vehicles imported into New Zealand does not get ever older. It is important that New Zealand continues to benefit from improvements in vehicle technologies, especially improved safety features, fitted to newer vehicles in Japan.

### ***New vehicles***

19. Changes to minimum exhaust emissions standards are also planned for new vehicles. These changes will implement existing policy (agreed by Cabinet in 2007 and set out in the Rule's preamble) to apply new vehicle emissions standards on the same day as Australia. This policy was confirmed by a letter to the new vehicle industry from Minister Joyce of 19 July 2010 (Appendix 3).

<sup>3</sup> Meeting a 2009 standard in 2013 would mean used vehicles had to be four or less years old. In 2011 less than 2% of all used vehicles entering New Zealand were four or less years old. In 2011 80 percent of all used light vehicles entering the fleet were 7 or more years old, and 50 percent were nine or more years old.

<sup>4</sup> Letters from Mr Perry Kerr, Motor Industry Association, to Hon Gerry Brownlee dated 31 January 2012 and 16 Feb 2012.

20. After some delay, Australia has now announced it will implement the first of a series of new vehicle emissions standards from 1 November 2013. The standards for new vehicles that come into force on this date are: Euro 5 and Australian Design Standard 79/03. A table of the new standards is attached as Appendix 4. These amendments are supported by the new vehicle importers and are not expected to impose significant costs on motorists. New vehicle importers are likely to import compliant vehicles anyway, as most treat New Zealand as a part of the Australian market, but have indicated they prefer the "level playing field" that a formal rule change would bring.
21. Although these amendments were included in the 2011/12 Rules programme, on the basis that they would be implemented through the Omnibus rule amendment process, it is appropriate that these changes now be included in any stand alone amendment to the emissions Rule.
22. You have accepted an invitation to meet with the Motor Industry Association which represent the new vehicle industry. This meeting is scheduled for 22 March 2012. We understand the Motor Industry Association will want to discuss the issues raised in this memo with you. A further briefing with information on the Motor Industry Association will be provided prior to this meeting.

#### **Additional technical amendments**

23. In addition to updating the standards, there are also a number of minor amendments that are being considered for inclusion. The most important of these is the need for an amendment to clarify that passing the tailpipe testing procedure set out in the Rule does not constitute proof of compliance with a standard. Despite testimony from the NZ Transport Agency that argued against this, two District Court rulings in 2011 have accepted these tests as proof of compliance.
24. This was agreed with the former Associate Minister, Hon Nathan Guy in 2010, but there has not been an opportunity to clarify this in law until now.

### Rule amendment process

25. At this time you are only being asked to agree to the intent of the Rule changes, so that officials can commence development of the draft rule for consultation and the accompanying regulatory impact assessment.
26. As part of the normal rule making process, all of the proposed changes will be considered by Cabinet, including consideration of a regulatory impact assessment, before you are asked to sign the final emissions Rule.
27. An indicative timetable for the emissions Rule amendment is outlined in the below table:

DATE (2012)	ACTION
March	Policy proposals approved by you as basis for consultation. NZ Transport Agency starts preparation of the draft Rule
Late April - early June	Ministry consults on the draft Rule. (Normally 6 week statutory minimum consultation period once draft Rule is finalised)
July	NZ Transport Agency and the Ministry prepare submission analysis, Regulatory Impact Statement and Cabinet Paper (8 – 10 weeks)
September	Cabinet approves the draft Rule and Regulatory Impact Statement
October	Following Cabinet approval, you sign the Rule (to ensure the Rule comes into force by 1 January 2013, 1 December 2012 is the final date the Rule is able to be signed by you to meet the requirement for 28 days from signing until Rule comes into force).

### Risks

28. Officials are proposing to amend the emissions Rule to enable the Japan 05 standard to continue beyond 2012 and that there be a further review of emissions policy in 2014. Officials recommend this option as the Ministry currently does not have the resources to undertake a thorough review of all the options (including the option of less stringent standards and/or setting a future date for introduction of the Japan 09 standard), in the time available. This recommendation does pose some risks.
29. As noted, a high degree of scrutiny is expected over the Rule making process by both the Imported Motor Vehicle Industry Association (which represents the used vehicle sector) and the new vehicle sector.

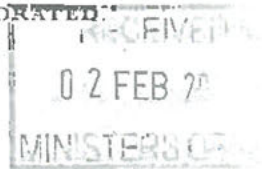
30. The Imported Motor Vehicle Industry Association (the Association) mounted a legal challenge against the Government in 2011, claiming a review of the decision to introduce the Japan 05 standard was promised by the last government, but never took place. The Association asked that the court prevent the introduction of the Japan 05 standard as the minimum until 1 January 2014 (rather than 1 January 2012 as set out in the emissions Rule). The Association were not successful in their challenge, but will be watching the process of preparing the amendments to the emissions Rule closely. Of note is that in his findings on the case, the judge said that "A new emissions Rule will be developed in 2012, giving the Association an opportunity to press its case for relaxed standards." This remark received some coverage as part of the general response to the decision in the media at that time. The Association may wish to mount a further legal challenge should they not agree with any final decision on amendments to the emissions Rule.
31. In contrast to the used vehicle sector, the Motor Industry Association have stated they want the Japan 09 standard to be introduced for used vehicles and relatively soon (2016). We expect that they will lobby to have the emissions Rule amended to include this standard. The Motor Industry Association is likely to use the media to assist their campaign to have more stringent standards implemented in New Zealand.
32. These risks can be minimised by following the full rule making process for the option proposed.



**MOTOR  
INDUSTRY  
ASSOCIATION**  
INCORPORATED

31 January 2012

Hon Gerry Brownlee  
Minister of Transport  
Parliament Buildings  
WELLINGTON



Dear Minister,

Re: **Meeting with MIA President and CEO**

Late last year we wrote to congratulate you on your appointment as Minister of Transport and seeking to meet with you early in your term as Minister for an update on the outlook of the new vehicle industry as well as to discuss current issues.

Since I wrote you may have read (copy attached) the MIA Press Release highlight the age profile of used imported vehicles registered during 2011, which according to NZTA statistics were the oldest average age on record.

I am also sure your officials will have briefed you on current issues, one of which being the updating of the Emissions Rule for both new vehicles and used imported vehicles. In anticipation of that review the MIA commissioned 'Emissions Impossible' a consultancy company specialising in air quality including transport, to prepare a paper highlighting the "technical reasons why New Zealand should continue to maintain a stringent regime of rolling exhaust emission standards requirements for new and used vehicles entering the New Zealand fleet". In this report - which we will be providing to your officials - Emissions Impossible concludes:

*Health effects of motor vehicle-related pollution in New Zealand are already significant. There is increasing concern about exposure to NO<sub>2</sub> in vehicle-impacted areas, especially in children.*

*Levels of PM<sub>10</sub> have reduced but NO<sub>2</sub> levels are stable or increasing.*

*Improving vehicle emission standards have significantly reduced average emissions for petrol vehicles but the trends are much less conclusive for diesel vehicles. However, the step change reductions in emissions that would have been expected based on the differences between the emissions test limits have not been seen in "real world" roadside monitoring data here and overseas. This is why many organisations (e.g. DEFRA in the UK) are calling for emissions test cycles to reflect on "real-world" driving conditions.*

*The upcoming review of the exhaust emission legislation by the Ministry of Transport offers the perfect opportunity to address the continuing concerns about vehicle emissions by capitalising on emissions improvements that have happened since the development of the last round of legislation in 2010.*

The President and I would like to meet with you to discuss the above report as well as to update you on the current outlook for the new vehicle sector and other issues.

I would therefore appreciate if your staff could contact me to arrange a suitable time/day.

Yours sincerely,

  
Perry Kerr  
Chief Executive Officer

s 9(2)(a)



**MOTOR  
INDUSTRY  
ASSOCIATION**  
INCORPORATED

Media Release

18 January 2012

### **2011 Used Imports – Oldest Average Age on Record**

NZTA data covering 2011 fleet and registration statistics shows the average age of a used imported vehicle was 8.64 years – the oldest on record.

"This data must be worrying for the Government and our officials charged with keeping motorists safe", said Mr Perry Kerr, Chief Executive Officer of the Motor Industry Association. "Last year the used import industry mounted a strong, but unsuccessful campaign, including a legal challenge, to halt the introduction of more up to date emission standards – which require used imports certified for use in New Zealand, from the 1<sup>st</sup> of January 2012, to meet the Japanese 2005 Emission Standard. What this data shows is that if the Government does not continue updating standards used imports will get progressively older. This has implications for the well-being of those people with respiratory problems as well as for all motorists in terms of the safety of the vehicles they drive" he said.

The data confirms what the MIA has always maintained, used imports are no longer competitive with New Zealand new equivalent vehicles, with the percentage of used imports aged five years and under dropping to an all-time record low of 8.8% of total imports. This figure has been as high as 49% in the very early days of the import trade, but has been constantly dropping since then" Mr Kerr said

Last year of the 80,852 used imports, 40,450 were nine, ten or eleven years old when registered for use on New Zealand roads, whereas just 7,127 were five years or younger.

Other data shows the number of passenger cars licensed for use on New Zealand roads declined year over year for the first time since 1995 – by 0.1% from 2,363,403 vehicles licensed in 2010 to 2,361,946 vehicles in 2011. Rental cars and taxis also declined, with motorcycle and mopeds continuing to fall. Mopeds showed the biggest drop of 9% which the MIA attributes to the ongoing effect of the high ACC levies applicable to motorcycles and mopeds.

**ENDS.**

Supporting statistics attached as a separate file

For Further Information:

Perry Kerr  
CEO, Motor Industry Association

s 9(2)(a)



**MOTOR  
INDUSTRY  
ASSOCIATION**  
INCORPORATED

16 February 2012

Hon Gerry Brownlee,  
Minister of Transport  
Parliament Buildings  
WELLINGTON



Dear Minister,

**Re: Updating of Emissions Rule**

We have read the Ministry's briefing paper to you and noted the reference to the impact of the aging fleet on vehicle safety. We also noted there was no comment in the report on the updating of the Emissions Rule which must be undertaken this year in order that the current provisions applying to used vehicles are extended past 1 January 2013.

To assist the MIA understand the technical reasons associated with updating, or not updating, the international standards cited in this Rule we commissioned "Emissions Impossible" to prepare a report focusing on this aspect. In their report they concluded central government must maintain

*"... the stringency regarding emission standards for new and used imports to address the health impacts of vehicle emissions in New Zealand."*


and that the relevant new vehicle standards (European, Australian, Japanese and American) are updated and that in a time frame consistent with that already contained in the Rule the Japan 09 standard is introduced for used vehicles.

It is interesting to note that while the emissions outputs do not differ between the Japan 05 and Japan 09 standards the drive test cycle used for compliance purposes changes from the 10-15 mode test to the JC 08 test cycle – meaning the test criteria has become harder due to a longer drive cycle.

We have also recently read comment in one of the industry magazines that the Government is likely to adopt a more hands off approach to future regulation /intervention in the vehicle market and is unlikely to proceed with further amendments to the Emissions and other Rules—for example the mandating of electronic stability control. This position if correct is at odds with advice given to the MIA by the previous Minister—refer to attached letter dated 19 July 2010. In that same letter the Minister also commented on further amendments for used vehicles by saying that *"there are no further Japanese emission standards after Japan 05 to adopt for petrol vehicles."* Obviously this was incorrect.

We would therefore be interested to learn of the Government's position on the impending amendment to the Emissions Rule and whether or not you will be proposing to introduce later standards for both new and used vehicles.

Yours sincerely,

  
Perry Kerr  
Chief Executive Officer



## Office of Hon Steven Joyce

Minister of Transport  
Minister for Communications  
and Information Technology

Associate Minister of Finance  
Associate Minister for Infrastructure

Appendix 3.

T74

19 JUL 2010

Mr Perry Kerr  
Chief Executive Officer

s 9(2)(a)

Dear Perry

Thank you for your letter of 6 May 2010 about plans to update the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the emissions rule). Please accept my apologies for the delay in replying.

My colleague Hon Nathan Guy, Associate Minister of Transport, has recently replied to correspondence from an importer of trucks built in the United States, which asked about the timing of the implementation of the US emissions standards in New Zealand. In his reply he said:

*I recognise the concerns that you raise about the continued availability of US2004 as an option to certify vehicles to in New Zealand, as it is a relatively low requirement compared to the other available options. A further amendment to the Emissions Rule is planned for 2011. The primary purpose of this upcoming amendment will be to include dates for the implementation of Euro 5 and 6 for light vehicles, once decisions have been made on the timing of their adoption in Australia. This amendment will also provide an opportunity, before 2015, to replace US2004 with US2007 in regard to existing model diesel-powered heavy vehicles. However, until that Rule has been developed and then signed by the Minister, I cannot formally state that the date will, or will not, be changed before 2015.*

I can confirm that I agree with this statement. I am advised these changes can be made relatively quickly through an omnibus amendment. Work will be able to commence reasonably soon. Depending on the outcome of the consultation process, I would expect the US 2007 standard to become the minimum emissions standard for existing model heavy diesel vehicles from 1 January 2012.

With regard to the next planned update to the emissions rule including Euro 5 and 6 for light vehicles, as you are aware, the Australian government has not finished consultation on its equivalent standards. I am advised that media reports indicate the Australian government may even decide not to proceed with these standards at this time. It does not appear sensible to commence amendments to New Zealand's rules, to include either the Australian or European standards, until the Australian government has finalised its decisions.

I note also that under our current policy of adopting standards 2 years after the parent jurisdiction, our next amendment should look to include the standard referred to as Japan 09 and possibly more recent US standards. It would, therefore, be useful to understand your organisation's preference for timing of the adoption of these various standards. In particular, it would be helpful to know if it is preferable to implement these various amendments as a series of small amendments, or as a single package at a later date. Please pass on your views to Iain McGlinchy at the Ministry of Transport: [i.mcglinchy@transport.govt.nz](mailto:i.mcglinchy@transport.govt.nz) or s 9(2)(a)

You also asked about my views on the standards applicable to imported used vehicles. The emissions rule already requires both light and heavy diesel used vehicles imported from Japan to meet the Japanese equivalent of Euro 5 (i.e. Japan 05). I have no plans to amend the emissions rule's existing requirement for Japan 05 to become the minimum standard for used petrol vehicles from 1 January 2012.

I have not given any consideration to the implementation of any future standards for used vehicles after 2012. As you are aware, there are no further Japanese emissions standards after Japan 05 to adopt for petrol vehicles. It is likely that the focus will shift from harmful emissions to the safety standards of these vehicles. The issue of policies to improve the safety of used vehicles entering our fleet will be considered in the next few years, under the wider work programme of the government's new road safety strategy, *Safer Journeys*.

I hope this information helps you understand the government's position.

Yours sincerely

  
Steven Joyce  
Minister of Transport

#### Appendix 4.

##### Australian Design Standards

Euro standard	Australian Design Standard (ADR)	Date of introduction in Australia
Euro 5 (New models)	ADR 79/03	1 November 2013
Euro 5 (All models)	ADR 79/04	1 November 2016
Euro 6 (New models)	ADR 79/05	1 July 2017
Euro 6 (All models)	ADR 79/05	1 July 2018

No date has currently been set down for the introduction of Euro VI for heavy vehicles in Australia. It is scheduled to be introduced in Europe from January 2013.

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

**BRIEFING**

## ERROR IN THE LAND TRANSPORT RULE: VEHICLE EXHAUST EMISSIONS 2007

<b>Reason for this briefing</b>	To brief you on a technical error that has been identified in the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule) and seek your agreement to amend the Rule to address the error.
<b>Action required</b>	Note the contents of this briefing and decide whether you agree to amend the Rule.
<b>Deadline</b>	N/A
<b>Reason for Deadline</b>	N/A

**Contact for telephone discussion (if required)**

Name	Position	Telephone		First Contact
		Direct Line	After Hours	
Robert McIlroy	Senior Adviser	s 9(2)(a)		
Iain McGlinchy	Principal Adviser			
Erin Wynne	Manager, People and Environment			✓

**MINISTER'S COMMENTS:**

<b>Date:</b>	28 August 2015	<b>Briefing Number:</b>	OC03236
<b>Attention:</b>	Hon Craig Foss (Associate Minister of Transport)	<b>Security level:</b>	In-Confidence

**Minister of Transport's office actions**

- |                                       |   |  |
|---------------------------------------|---|--|
| <input type="checkbox"/> Noted        | <input type="checkbox"/> Seen                 | <input type="checkbox"/> Approved            |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Referred to          |  |
| <input type="checkbox"/> Withdrawn    | <input type="checkbox"/> Not seen by Minister | <input type="checkbox"/> Overtaken by events |

## Purpose of briefing

1. On 23 July 2015, we briefed you on a technical error that was identified in the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule) and sought your agreement to amend the Rule to correct the error [OC03236 refers].
2. In a discussion on 20 August 2015, you requested we update the briefing to include further information regarding the potential issuing of exemptions to those affected by the error and related exemption fees.
3. This briefing updates the information previously provided on the error and includes the requested information on exemptions.

## Background

4. The Rule sets out the approved minimum vehicle exhaust emissions standards that vehicles must meet when entering the New Zealand fleet. The minimum standards are determined by a vehicle's import status (new or used), fuel type (petrol or diesel) and weight (light or heavy).
5. Approved minimum standards include those developed in Europe (Euro), Australia (Australian Design Rules (ADR)<sup>1</sup>), Japan (e.g. Japan 05<sup>2</sup>), and the United States (e.g. US 2007). For new vehicles, there are two implementation dates for the minimum requirements. One is for 'new models', and one is for 'existing models'.<sup>3</sup>
6. The minimum emissions standards set by the Rule have been regularly updated to incorporate more stringent standards, following their development and adoption in vehicle-source markets.
7. Although almost 70 percent of new vehicles entering the New Zealand fleet are from Japanese manufacturers, almost all new vehicles (more than 98 percent) are built to meet either Euro or ADR standards. However, a small number of new vehicles entering the fleet each year are built to meet Japanese standards (1-2 percent) and US standards (1 percent or less).
8. The Ministry of Transport (the Ministry) has recently identified a problem with the minimum standard set for imported new petrol vehicles built to meet a Japanese standard ("Japan 09").
9. The problem does not apply to diesel vehicles that are required to meet the Japanese standard of the same name, or to Japanese vehicles imported as used vehicles (which are required to meet earlier Japanese standards).

## Error in Vehicle Exhaust Emissions Amendment Rule 2012

10. In 2012, the Vehicle Exhaust Emissions Amendment Rule 2012 updated the minimum vehicle exhaust emissions standards set by the Rule.

<sup>1</sup> ADR standards are the same as Euro standards, but with different implementation dates.

<sup>2</sup> Japanese exhaust emissions standards have long, and at times, inconsistent names. For simplicity, these are referred to by the year they were introduced in Japan. Since the mid-2000s, standards for all vehicle and fuel types have been raised at the same time (Japan 05 and Japan 09). US standards follow a similar naming convention.

<sup>3</sup> 'Existing models' are vehicles that were already in production when a new standard was applied to new model vehicles. In general, these vehicles are permitted to continue to comply with the former standard for another two years. This is to ensure manufacturers are able to sell their existing stocks.

11. In that amendment, the minimum standard for new petrol vehicles built to meet Japanese standards was raised from Japan 05 to Japan 09. This applied to new models manufactured on or after 1 January 2014 and existing models manufactured on or after 1 January 2015.
12. The Ministry recently established that the scope of the Japan 09 petrol standard is different to that of earlier Japanese emissions standards. This is because the standard only applies to vehicles with a specific and relatively rare type of engine-configuration.<sup>4</sup> This is the first time the Ministry is aware of a Japanese standard applying to just one engine type, rather than all vehicles in that fuel class.
13. In Japan, most new vehicles (made for the Japanese domestic market) are still being built to meet the earlier Japan 05 standard. This means that these vehicles, if imported into New Zealand, may be unintentionally prevented from entering the fleet due to the Rule's requirements.
14. Although no importers have reported any issues with the Rule's current requirements, the error may require addressing with some urgency. This is because recent media statements have highlighted the intent of a used-vehicle importer to begin parallel importing new petrol vehicles from Japan in the next few months (see Annex 1 for recent media article).

#### **Options to address the error in the Rule**

15. The Ministry's assessment of the error, and possible options to address it, has concluded that an amendment to the Rule is necessary and should be made as soon as practical.
16. An amendment to the Rule to correct this error would constitute a minor and technical change, with no significant costs or impacts. Therefore, it could be carried out relatively quickly and with minimal disruption to the current rules programme.
17. An amendment to the Rule could be made through an individual Amendment Rule or could be included as part of an upcoming Omnibus Rule, such as those proposed in the 2015/16 Rules Programme. However, the latter are not expected to be developed and implemented for over a year, subject to their approval for inclusion in the 2015/16 Rules Programme.
18. The Ministry recommends that an individual Amendment Rule be initiated to address the error as soon as possible and avoid importers experiencing unnecessary disruption and costs when importing vehicles from Japan.
19. There is no intention to include any other changes in the proposed Amendment Rule. Any further policy matters can be addressed as part of a review of the need for further emissions standards that is planned for 2016 [OC02708 refers].

#### **Risks**

20. If agreed to, the proposed Amendment Rule will still take between 3 to 6 months to implement, as it is not on the current Rules programme. This means some importers may be affected by the error in the mean time.
21. If affected vehicles are imported before an amendment can be made there are two options importers could employ if they wish to register affected vehicles:
  - 21.1. Importers could register affected vehicles as 'used vehicles' (which are only required to meet the Japan 05 standard). However, this would require these vehicles to have been registered in Japan or another country before being imported, and may diminish

<sup>4</sup> Vehicles fitted with a direct-injection engine and equipped with a storage-type nitrogen oxide reduction catalyst.

the resale value of a vehicle once in the country, as they could no longer be advertised as new.

21.2. Importers could apply to the New Zealand Transport Agency (the Transport Agency) for an exemption from the requirement under Section 166 of the Land Transport Act 1998. One of the grounds for considering an exemption under Section 166 is that *"the prescribed requirements are clearly unreasonable or inappropriate in the particular case"* (Section 166(2)(b)). It would appear reasonable to assume this would apply. However, any decision is the responsibility of the Transport Agency, so cannot be determined in advance.

22. The Transport Agency has advised that any vehicles affected by the error are likely to be granted an exemption under Section 166, because the requirements would be unreasonable. However, vehicles would still need to demonstrate compliance with the earlier Japan 05 emissions standard (the highest standard currently available) as well as other required standards (e.g. for safety). The Transport Agency has also advised that because the need to obtain an exemption was the result of an error in the Rule, the exemption fee (\$184) will be waived. Transport Agency staff will also work with any importer to simplify any processes as far as possible.
23. Should you agree to amend the Rule, we have provided you with a set of talking points to respond to any concerns raised by vehicle importers before the amendment can be made (see Annex 2). The Transport Agency also intends to put this information on its website for vehicle emissions standards and notify the Motor Industry Association (MIA), which represents new vehicle importers.

#### **Next steps**


24. Should you agree to amend the Rule, the Ministry and the Transport Agency will begin the rule amendment process to address the error.

## Recommendations

25. The recommendations are that you:

- |     |   |   |
|-----|---|---|
| (a) | <b>agree</b> that the technical error identified in the Land Transport Rule: Vehicle Exhaust Rule 2007 (the Rule) be addressed through an amendment to the Rule   | Yes/No<br><input checked="" type="checkbox"/> |
| (b) | <b>agree</b> the Ministry of Transport initiates an individual Amendment Rule to address the error  | Yes/No<br><input checked="" type="checkbox"/> |
| (c) | <b>note</b> that the questions and answers attached as Annex 2 will be added to the NZ Transport Agency webpage for vehicle emissions standards and the Motor Industry Association (MIA), which represents new vehicle importers, will be notified. |   |

  
Robert McIlroy  
Senior Adviser

  
Erin Wynne  
Manager, People and Environment

**MINISTER'S SIGNATURE:**

**DATE:**

3/9/15

## Annex 1: Article from Autotalk regarding the parallel import of new vehicles by used-car importers

### MIA pushing for 'level playing field' on 'new' vehicles

Posted by Richard Edwards on July 9th, 2015

No Comments »

The Motor Industry Association has gone on the offensive over the use of the term 'new' on vehicles, in light of the announcement that others plan to take on its new vehicle distributor members.

**During June, used import dealer group 2Cheap Cars laid out plans to enter the new vehicle market, chief executive Eugene Williams declaring that 2Cheap has secured an arrangement with Japanese suppliers that will see popular models in the Toyota, Honda and Mazda marques parallel imported.**

These will be sold through separate outlets to the existing used import operations – Williams telling AutoTalk the first is likely to open in Auckland's Greenlane in September. Williams says vehicles will come from unsold dealer-allocated stock.

He says his vehicles will be coming from dealer stock, and will be unregistered in Japan.

Williams is targeting 10% of the new vehicle market, the same stake he claims in the used car market.

Williams claims the vehicles would be covered by factory warranty were quickly shot down, Mazda New Zealand managing director Andrew Clearwater told AutoTalk Mazda vehicles are not covered by a global warranty – and would not be covered in New Zealand.

"Where there can be confusion is that there is an industry wide policy of covering safety-related recalls."

He felt 2Cheap would struggle to source brand new Mazdas, with most dealers owned by the manufacturer. And that was a similar sentiment conveyed to AutoTalk by a number in the industry, one major used importer telling us it would be very difficult for a dealer to pass through vehicles without them being registered.

And that is one of the keys to the Motor Industry Association's argument. It has received advice from the Commerce Commission that while such vehicles could be advertised as new in terms of the Fair Trading Act, the trader would have to declare them as pre-registered on the CIN card.

"We consider that a vehicle that has been either previously registered or previously used should be defined as a 'used' vehicle for the purposes of the Motor Vehicles Sales Act 2003 (MVSA), the Commission says in its ruling. "Consequently, a vehicle that has been previously registered has the disclosure requirements set out in the Consumer Information Standards (Used Motor Vehicles) Regulations 2008."

It has sought a meeting with NZ Transport Agency officials to discuss the issue.



"The vehicles sourced from dealers means these vehicles will have been registered in Japan so the dealer can make their sales targets and then de-registered, as such when they arrive in NZ. Under the Motor Vehicle Sales Act they can't be registered as new, if they have been previously registered anywhere in the world," Crawford says in his communications to the NZTA. "The motor vehicle sales act does not, in our view, distinguish between dealer registration and registration to an owner other than the dealer."

The Association will be working to ensure the letter of the law is met.

"We are not afraid of competition, all we are asking for is a level playing field. Our take on this is that if they have been registered and then deregistered then they can't be called new," he told AutoTalk.

"Buyers need to know the history behind these cars."

"We will aggressively ensure that the Motor Vehicle Sales Act is complied with," he says.

It has been a controversial month for 2Cheap Cars – facing a legal challenge from Honda over its use of the name Jazz in some marketing, and over the use of the word Jap, with claims it is offensive to Japanese people.

Industry News

## **Annex 2: Questions and Answers – Error in the Land Transport Rule: Vehicle Exhaust Emissions 2007**

### **Q. Is there a problem with the Land Transport Rule: Vehicle Exhaust Emissions 2007?**

A. Yes. The Ministry of Transport and New Zealand Transport Agency have identified an issue with the minimum entry emissions standards set in the Land Transport Rule: Vehicle Exhaust Emissions 2007.

### **Q. What is the issue?**

A. The minimum exhaust emissions standard set for new light petrol vehicle imports that are manufactured to Japanese domestic standards is currently the Japan 09 standard. This cannot be met by the majority of these vehicles as the Japan 09 standard only applies to a specific engine technology. Most new petrol vehicles continue to meet the existing Japan 05 standard. This error may prevent these vehicles from being registered in New Zealand unless they receive a specific exemption.

### **Q. What vehicles are affected by the issue?**

A. Only new light petrol vehicles that are manufactured to meet Japanese domestic vehicle standards are affected by the issue. These are usually only imported by new-vehicle manufacturers. These vehicles typically represent 1-2 percent of annual new vehicle imports.

### **Q. What is being done to address the issue?**

A. I have instructed the Ministry of Transport to initiate an amendment to the Land Transport Rule: Vehicle Exhaust Emissions 2007 to address the error as soon as possible.

### **Q. What do I do if I have imported or am considering importing a new vehicle from Japan that is affected by the issue in the Rule?**

A. If you have imported or are intending on importing a vehicle affected by the issue before the amendment to the Rule is completed, you may be eligible for an exemption from the emission requirements and a waiver of exemption fees. To find out if you are eligible please contact the New Zealand Transport Agency on 0800 108 809.

### **Q. How do I find out more about the issue or whether my vehicle is affected?**

A. Please contact the New Zealand Transport Agency on 0800 108 809.

**Neha Pawar**

**From:** Mark Frampton <Mark.Frampton@parliament.govt.nz>  
**Sent:** Tuesday, 18 August 2015 4:15 pm  
**To:** Robert McIlroy  
**Cc:** Erin Wynne; Iain McGlinchy  
**Subject:** RE: Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

fyi, this is what I provided the Minister..

- How many vehicles does this impact?

The Ministry has discussed the error in the Rule with the NZ Transport Agency, which has advised there has been no indication that the error has caused any issues for vehicle importers (preventing the import of affected vehicles). There have also been no correspondence or exemption requests made in regards to the error. However, data supplied by the Transport Agency indicates that at least 3800 vehicles have been registered since 1 January 2015 with records showing they meet the Japan 09 standard, which they would not have been able to meet. From the records provided, all of these vehicles actually meet the Japan 05 standard. The Transport Agency, have advised us it will be investigating the error and related issues and will report back in due course.

Given the above vehicles meet the highest available Japanese standard (Japan 05) and would most likely be granted an exemption if requested, there is no practical problem with this discovery, but it highlights the need to amend the rule as soon as practical.

The second hand vehicle importer referred to in the briefing, 2Cheap Cars, has not started parallel importing new Japanese vehicles yet, so the Ministry do not know the impact this will have. Publicly 2Cheap Cars have stated it wants to import tens of thousands of these vehicles a year (10% of new vehicles sales), but the Ministry do not know if that will eventuate. It is likely though it will import some (tens or hundreds of cars) in the next few months to test the market

The Transport Agency is continuing to investigate the error.

- Para 11, because they are not aware?

There does not appear to be widespread knowledge of the error by vehicle importers and there may be issues with vehicle inspection organisations application of requirements. However, for 2Cheap it will only be a matter of weeks before it finds out, assuming they do actually go ahead with the proposal.

---

**From:** Robert McIlroy [mailto:r.mcilroy@transport.govt.nz]  
**Sent:** Thursday, 13 August 2015 12:45 p.m.  
**To:** Mark Frampton  
**Cc:** Erin Wynne; Iain McGlinchy  
**Subject:** RE: Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

Hi Mark

Further to the information on the error in the Emissions Rule and related issues provided to you below, further analysis of NZ Transport Agency data has shown the number of incorrectly registered vehicles is over 3800 (not 2000 as stated). Virtually all of these are made up of two specific vehicle makes/models (the Honda Jazz and Toyota Corolla), which suggests they would have been entry certified by vehicle manufacturer's representatives (Honda and Toyota).

The NZ Transport Agency is continuing to investigate the error.

Let me know if you need any further information.

Cheers

**Robert McIlroy**  
 Senior Advisor

**Ministry of Transport – Te Manatū Waka**

T: s 9(2)(a) | [www.transport.govt.nz](http://www.transport.govt.nz)

*Ensuring our transport system helps New Zealand thrive*

---

**From:** Robert McIlroy

**Sent:** Friday, 31 July 2015 5:03 p.m.

**To:** Mark Frampton

**Cc:** Erin Wynne; Iain McGlinchy

**Subject:** RE: Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

Hi Mark

- We have discussed the error in the Rule with the NZ Transport Agency, which has advised there has been no indication that the error has caused any issues for vehicle importers (preventing the import of affected vehicles). There have also been no correspondence or exemption requests made in regards to the error. However, data supplied by the NZ Transport Agency indicates that at least 2000 vehicles have been registered since 1 January 2015 with records showing they meet the Japan 09 standard, which they would not have been able to meet. From the records provided, all of these vehicles actually meet the Japan 05 standard. The NZ Transport Agency, have advised us they will be investigating the error and related issues and will report back in due course.
- Given the above vehicles meet the highest available Japanese standard (Japan 05) and would most likely be granted an exemption if requested, there is no practical problem with this discovery, but it highlights the need to amend the rule as soon as practical.
- The second hand vehicle importer referred to in the briefing, 2Cheap Cars, has not started parallel importing new Japanese vehicles yet, so we do not know the impact this will have. Publicly they have stated they want to import tens of thousands of these vehicles a year (10% of new vehicles sales), but we do not know if that will eventuate. It is likely though they will import some (tens or hundreds of cars) in the next few months to test the market
- Re Para 11 - Correct. There does not appear to be widespread knowledge of the error by vehicle importers and there may be issues with vehicle inspection organisations application of requirements.

Let me know if you need any further information.

Cheers

**Robert McIlroy**

Senior Advisor

**Ministry of Transport – Te Manatu Waka**

T: s 9(2)(a) | [www.transport.govt.nz](http://www.transport.govt.nz)

*Ensuring our transport system helps New Zealand thrive*

---

**From:** Mark Frampton [<mailto:Mark.Frampton@parliament.govt.nz>]

**Sent:** Tuesday, 28 July 2015 3:33 p.m.

**To:** Iain McGlinchy

**Cc:** Robert McIlroy; Erin Wynne

**Subject:** RE: Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

Good afternoon,

Hon Foss is still considering these papers and they are not required on this week's agenda.

Regards.

Mark

---

**From:** Iain McGlinchy [<mailto:i.mcglinchy@transport.govt.nz>]  
**Sent:** Friday, 24 July 2015 12:09 p.m.  
**To:** Mark Frampton  
**Cc:** Robert McIlroy; Erin Wynne  
**Subject:** RE: Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

Hi Mark

Thursday would be fine with me, but over to Erin as to who should attend.

The answers are that because 2Cheap hasn't started we don't know. Publicly they are saying they want to import tens of thousands of vehicles a year (10% of new vehicles sales), but who knows if that will eventuate. It is likely though they will import some (tens or hundreds of cars) in the next few months to test the market.

The MIA members do sometimes import new vehicles built to Japanese specs when it suits them. We have not discussed this with any of them yet as we wanted to brief the Minister first.

And on the second point it is presumably because they are not aware, but for 2Cheap it will only be a matter of weeks we assume before they find out, assuming they do actually go ahead with the proposal.

Iain

Iain McGlinchy  
Principal Adviser  
Ministry of Transport – Te Manatū Waka  
T: [s 9\(2\)\(a\)](#)

| [www.transport.govt.nz](http://www.transport.govt.nz)

---

**From:** Mark Frampton [[Mark.Frampton@parliament.govt.nz](mailto:Mark.Frampton@parliament.govt.nz)]  
**Sent:** Friday, 24 July 2015 11:47 a.m.  
**To:** Robert McIlroy; Iain McGlinchy; Erin Wynne  
**Subject:** Error in the Land Transport Rule Vehicle Exhaust Emissions 2007 (OC03236 refers)

Greetings,

Minister has seen this paper and has the following questions:

- *How many vehicles does this impact?*
- *Para 11, because they are not aware??*

Iain - as discussed, it might be better to discuss with Minister at the next officials meeting scheduled Thursday 30 July 10:00hrs.

Moreover this would be a good opportunity to talk to him about the tampering paper (OC03156 refers).

If you could prepare to address these matters I will add these 2 items for next week's meeting.

Regards.  
Mark

**Mark Frampton** | Private Secretary | Office of Hon Craig Foss | Associate Minister of Transport  
[s 9\(2\)\(a\)](#)

4.3 Beehive | Parliament Buildings | Wellington 6011 | New Zealand

**Neha Pawar**

---

**From:** Angela Duncan <Angela.Duncan@nzta.govt.nz>  
**Sent:** Wednesday, 25 November 2015 2:19 pm  
**To:** Robert McIlroy  
**Cc:** Bob Bunch; Richard O'Reilly; Bruce Currie; Andrew Allen  
**Subject:** RE: Amendment to VEE Rule - Error in standards - Draft PIRA  
**Attachments:** Draft PIRA - Vehicle Emissions Amendment Rule - to address Error - 30-1 (2).doc

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

s 9(2)(h)

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

---

**From:** Robert McIlroy [mailto:r.mcilroy@transport.govt.nz]  
**Sent:** Wednesday, 18 November 2015 1:30 p.m.  
**To:** Angela Duncan; Richard O'Reilly; Bruce Currie; Andrew Allen  
**Cc:** Bob Bunch  
**Subject:** Amendment to VEE Rule - Error in standards - Draft PIRA

Hi Team

Apologies for the delay in providing this to you, but attached you will find the draft PIRA for the amendment to the Vehicle Emission Rule (to address the Japan 09 issue) for your review and comment.

If you could review, and provide any comments by this time next week, that would be great.

Kind regards

## Preliminary impact and risk assessment

**Purpose of the PIRA:** A preliminary impact and risk assessment (PIRA) is intended to:

- Help agencies determine whether Cabinet's Regulatory Impact Analysis (RIA) requirements apply to a policy initiative for which they are responsible.
- Help agencies identify the potential range of impacts and risks that might be presented by the policy options for a policy initiative or review, in order that these can be appropriately addressed in the regulatory impact analysis undertaken.
- Provide an initial plan for RIA processes and identify milestones, timeframes, and who to consult.
- Help Treasury policy teams determine the level and sort of policy engagement they wish to have with the lead agency on this policy initiative.
- Help Treasury confirm whether the nature and size of the potential impacts and risks warrant early RIAT engagement on RIA elements and involvement in providing independent quality assurance (QA) on the quality of the regulatory impact statement (RIS) that informs the policy proposals.

**When to complete a PIRA:** It should be started as early as possible in the policy development process (as soon as policy work commences). This includes processes such as reviews of policy or legislation where it is not known at the outset whether a regulatory option will ultimately be selected or preferred, but is one of the available policy options being considered.

**How to complete it:** Provide as much information as possible given the stage of policy development. **This may not require definitive answers to all questions**, and you may need to apply your judgement. Relevant supporting information may be attached. If there is insufficient information to enable Treasury to confirm "significance" at the initial stages of the policy process, the final confirmation of this may be deferred until later in the process.

**Who to send it to:** The PIRA should be provided to your Treasury policy team and copied to RIAT (email [ria@treasury.govt.nz](mailto:ria@treasury.govt.nz)). Please also liaise with your agency's RIA team or panel (if you have one).

**Who to contact if you have any questions:** Your Treasury policy team is your first point of contact for enquiries about completing the PIRA.

## Section 1: General information

Name of the responsible (or lead) government agency:
Ministry of Transport (the Ministry)
Title of policy work programme or proposal:
<del>Amendment</del> <u>Correction</u> of error in Land Transport Rule: Vehicle Exhaust Emissions 2007
If known, the title(s) of the main Act and/or Regulations that could be amended or created:
Land Transport Rule: Vehicle Exhaust Emissions 2007
Agency contact name and phone number:
Robert McIlroy
s 9(2)(a)
Date completed:
XXXX

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

## Section 2: Do the RIA requirements apply?

Do the RIA requirements apply?	Yes/No/Not sure
Is this policy initiative expected to lead to a Cabinet paper?	No
Will this policy initiative consider options that involve creating, amending or repealing legislation (either primary legislation or disallowable instruments for the purposes of the Legislation Act 2012)?	Yes (disallowable instruments)

If you can answer "no" to **either** of these two questions, the RIA requirements do not apply. There is no need to complete a PIRA (though the questions might still provide useful prompts).

Additional exemptions from the RIA requirements	Yes/No/Not sure
If this initiative includes legislative options, are they covered by one or more of the following exemptions?	Yes
<ul style="list-style-type: none"> <li>Technical "revisions" or consolidations that substantially re-enact the current law in order to improve legislative clarity or navigability (including the fixing of errors, the clarification of the existing legislative intent, and the reconciliation of inconsistencies)</li> </ul>	Yes (fixing of error)
<ul style="list-style-type: none"> <li>Suitable for inclusion in a Statutes Amendment Bill (if not already covered by the point above).</li> </ul>	-
<ul style="list-style-type: none"> <li>Would repeal or remove redundant legislative provisions.</li> </ul>	-
<ul style="list-style-type: none"> <li>Provides solely for the commencement of existing legislation or legislative provisions (this does not include changing the existing commencement date).</li> </ul>	-
<ul style="list-style-type: none"> <li>Needs to be authorised in an Appropriation Bill, an Imprest Supply Bill.</li> </ul>	-
<ul style="list-style-type: none"> <li>Is for a Subordinate Legislation (Confirmation and Validation) Bill relating to regulations that have already been made</li> </ul>	-
<ul style="list-style-type: none"> <li>Implements Deeds of Settlement for Treaty of Waitangi claims, other than those that would amend or affect existing regulatory arrangements.</li> </ul>	-
<ul style="list-style-type: none"> <li>Brings into effect recognition agreements under the Marine and Coastal Area (Takutai Moana) Act 2011</li> </ul>	-
<ul style="list-style-type: none"> <li>Essential (the minimum necessary) in order to comply with <u>existing</u> international obligations that are binding on New Zealand.</li> </ul>	-
<ul style="list-style-type: none"> <li>Has no or only minor impacts on businesses, individuals or not-for-profit entities (such as might be the case for certain changes to the internal administrative or governance arrangements of the New Zealand government, like the transfer of responsibilities, staff or assets between government agencies).</li> </ul>	Yes (no or minor impacts)

If all the legislative options associated with this policy initiative qualify for one of these exemptions, then the RIA requirements do not apply.

If claiming a full exemption, please confirm this assessment with your Treasury policy team. You do not need to submit a PIRA for this purpose, but you will need to provide information in support of this claim.

If some aspects of the legislative options for this initiative can stand independently from the rest, and qualify for one of these exemptions, then the RIA requirements do not apply to those aspects. Since a PIRA will still need to be completed and submitted to your Treasury policy team, it should note any important aspects of the initiative for which an exemption is claimed.

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

## Section 3: Description and context

### The policy issue

What is the intended scope of the policy initiative?

To ~~address-correct~~ an error identified in ~~the~~ Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule). The error may be preventing new light petrol vehicles, manufactured to meet Japanese vehicle emissions standards, from entering the New Zealand (NZ) fleet.

An amendment to the Rule is required to address the error.

What are the main underlying policy issues/problems to which this policy initiative is responding (i.e., the root cause of the problem)?

In 2012, the Land Transport Rule: Vehicle Exhaust Emissions Amendment Rule-2012 (the 2012 Amendment) updated the accepted vehicle emissions standards required by the Rule for new vehicles entering the NZ fleet. ~~In The 2012 A~~ amendment ~~raised~~, the accepted standard for new petrol vehicles built to meet Japanese standards (i.e. those made for the Japanese domestic market) ~~was raised~~ from 'Japan 05' to 'Japan 09'. ~~This {applieds~~ to new models manufactured on or after 1 January 2014 and new existing models manufactured on or after 1 January 2015. ~~The 2012 Amendment was made on the assumption that Japan 09 applied to all vehicles with petrol engines.~~

The Ministry of Transport (the Ministry) recently established that the scope of the Japan 09 standard is different to that of the previously accepted Japanese standards, in that it only applies to vehicles with a specific and relatively rare type of engine configuration. This is the first ~~time~~ instance the Ministry is aware of that a Japanese standard ~~has applieds~~ to only one engine type, rather than all vehicles in a fuel class.

In Japan, most new vehicles (made for the Japanese domestic market) are still being built to meet the Japan 05 standard. This means that vehicle importers may be ~~unintentionally~~ prevented from importing these vehicles into NZ.

What is known about the magnitude of these policy issues/problems?

The Ministry is not aware of any vehicle importers that have been prevented from importing affected vehicles into NZ. However, 3500 new vehicles (originally made for the Japanese market) have been imported since the 2012 Amendment Rule. These vehicles were registered for use on NZ roads, despite the error in the Rule. Any decision regarding how to address these vehicles would be the responsibility of the New Zealand Transport Agency (the Transport Agency). However, although this is a matter for the ~~NZTA~~ Transport Agency, the Ministry do not expect any adverse actions to be taken against these vehicles given that they meet the Japan 05 standard (which would have otherwise been required had the error not occurred).

When the error in the Rule was first identified, there was concern regarding statements in the media by a vehicle importer that stated their intention to begin parallel-~~importing~~ new vehicles made for the Japanese market. Although this has not resulted in any issues being raised with the Ministry or the ~~New Zealand Transport Agency (the Transport Agency)~~ regarding the Rule's requirements, the error may require addressing with some urgency. This is because importers that are aware of the Rule's standards requirements (e.g. through following the guidance material provided on the Transport Agency's website) may not be electing to purchase affected vehicles as a result of the requirement to meet Japan 09 (which most vehicles can't do not).

s 9(2)(h)

### The policy issue

If What is the type or nature of the evidence supporting the problem definition?

Information sourced from the Japanese Ministry for Land, Infrastructure, Tourism and Transport (MLIT) has confirmed ~~the scope of that~~ the Japan 09 standard ~~to only apply~~<sup>ies</sup> to vehicles with a specific and rare engine configuration. The Ministry has also confirmed that most new petrol vehicles manufactured in Japan (for the Japanese domestic market) are still only required to meet the Japan 05 standard.

Data sourced from the Motor Vehicle Register was also used to identify affected vehicles<sup>s</sup> that have been imported into New Zealand since the 2012 ~~amendment~~ Amendment to the Rule (despite the error).

### The policy process

Who has commissioned this work (i.e., a portfolio Minister, an agency at the request of industry or the public, etc)? Is this initiative in your current regulatory plan? Who is responsible for its delivery?

The Ministry of Transport has commissioned this work.

The proposed policy option requires an amendment to the Rule and this has already been approved for inclusion in the 2015/16 Rules Programme by Cabinet the Associate Minister of Transport (the Minister) and is to be implemented in conjunction with the ~~New Zealand~~ Transport Agency.

What is the expected policy process, and expected timing of key milestones? *(Please indicate, as far as possible, intended timeframes for consultation, Cabinet consideration, drafting, and implementation)*

Are there any process or timing commitments, existing obligations, constraints, or previous Cabinet decisions that are relevant?

The Minister ~~Cabinet~~ has approved the amendment of the Rule to address correct the error for inclusion in the 2015/16 Rules programme. At the time, the timeframes proposed for development and implementation of the amendment were to begin in October 2015 and conclude in April 2016. It will be consulted on and completed in 2016.

What consultation process is planned, and who will be consulted?

Relevant stakeholders from the vehicle and vehicle-related industries will be notified during the development of the amendment, and the draft Rule would be made available to the public for comment.

If any established methodology or form of analysis is to be followed or incorporated, please identify

N/A

### The policy options

Are there feasible non-regulatory options to consider? Is it possible that legislation is not required?

An amendment to the Rule is required to address correct the error.

To mitigate the impacts of the error until an amendment can be implemented, the Transport Agency

### The policy options

has advised that affected vehicles are likely to be granted an exemption under section 166 of the Land Transport Act (the Act). The Act enables individual exemptions to be issued from the various vehicle requirements under a number of circumstances, including when requirements are considered unreasonable ~~to comply within the circumstances~~ (as in this case).

If the range of policy options to be considered is already constrained by existing government commitments, Ministerial directions, or previous Cabinet decisions, what are those constraints?

When Cabinet agreed to the amendment of the Rules requirements in 2007, the aim of the revised Rule was to reduce the release of harmful emissions (those that affect human health) by requiring new and used vehicles entering the NZ fleet to meet progressively stricter standards as they were developed and implemented internationally.

Since the 2012 ~~amendment~~ Amendment to the Rule, new stricter emissions standards for new vehicles from our main vehicle source markets have been periodically introduced in NZ following their development and implementation in source markets.

The current requirement for new petrol vehicles made to meet Japan 09 does not align with those required in Japan for the majority of new domestic-market vehicles.

If this involves only delegated legislation, what is the legislative authority under which it must be made?

Section 152 and 155 of the Act provides for:

1. The Minister to make ordinary rules in a number of situations, including to ensure environmental sustainability
2. Rules concerning vehicles to set standards and requirements concerning vehicles, including their construction, mass and dimensions, emissions, environmental requirements, loading requirements, identification, repair, maintenance, modification, inspection, and fuel systems.

Which groups are might be noticeably affected (either positively or negatively) by the policy options being considered?

*Individuals, families and/or households? Consumers? Employees? Businesses? Not-for-profit organisations (including charities, voluntary organisations and incorporated societies)? People who live in particular regions? Users of resources eg, recreational fishers, road-users? Members of particular groups of the population (eg, ethnicities, genders, age groups etc). Central government agencies? Local government? Other?*

None.

## Section 4: Are the significance criteria met?

A regulatory initiative is considered to trigger the significance criteria if any of the options being considered are likely to have:

- Significant direct impacts or flow-on effects on New Zealand society, the economy, or the environment, or
- Significant policy risks, implementation risks or uncertainty.

Are there significant impacts?	Yes/No/Not sure
Will any policy options that may be considered, potentially:	
• Take or impair existing private property rights?	No
• Affect the structure or openness of a particular market or industry? <i>For example, assist or hinder businesses to provide a good or service; establish or remove a licence, permit or authorisation process; create or remove barriers for businesses to enter or exit an industry?</i>	No
• Impact on the environment, such as regulations that affect the use and management of natural resources?	No
• Have any significant distributional or equity effects? <i>For example, where significant costs are imposed or significant benefits conferred on different sectors of the population?</i>	No
• Alter the human rights or freedoms of choice and action of individuals?	No
• Have any other significant costs or benefits on businesses, local or central government, individuals or not-for-profit organisations etc? <i>For example impose additional compliance costs; introduce or alter government cost recovery arrangements; impact on New Zealand's international capital flows or trade including the flows of goods, services, investment and ideas to and from New Zealand; impact on the incentives to work or the mobility of labour, or to invest in education or skills; impact on resource allocation, saving or investment, fiscal costs to government?</i>	No
For the major types of impacts you have identified, please provide brief information about the nature and likely magnitude of the impacts (in whatever dimensions seem most useful and available).	
-	

Are there significant policy, design or implementation risks?	Yes/No/Not sure
Are any of the legislative options likely to be novel, or unprecedented?	No
Is the evidence-base for the size of the problem or the effectiveness of different policy options weak or absent?	No
Are the benefits or costs of the policy options likely to be highly uncertain? Are there obvious risks that need to be managed?	No
Is the success of any of the options likely to be dependent on other policy initiatives or legislative changes?	No
Are any of the legislative options likely to have flow-on implications for the future form or effectiveness of related legislation?	No
Are there other issues with the clarity or navigability of, or costs of compliance with, the current legislation that it might be good to address at the same time?	No
Do any of the legislative options have the potential to be inconsistent with or have implications for New Zealand's international obligations?	No
Are there any issues arising in relation to New Zealand's commitment toward a single economic market with Australia?	No
Please check with the Ministry of Business Innovation and Employment. There may be, for instance, issues relevant to the Trans-Tasman Mutual Recognition Agreement (TTMRA).	
Are any of the legislative options likely create or extend a power to make delegated legislation, or grant a broad discretionary power to a public body?	No
Are any of the legislative options likely to include provisions that depart from existing legislative norms for like issues or situations?  <i>These may include Bill of Rights Act and Privacy Act issues, fundamental common law principles, retrospective rule-making, creation of strict liability offences or burden of proof reversals, and matters affecting civil or criminal immunity. Please see the <a href="#">Legislative Advisory Committee Guidelines on Process and Content of Legislation</a>.</i>	No
Are any of the options likely to create, amend, or remove offences or penalties (including pecuniary penalties), the jurisdiction of a court or tribunal, or impact on court-based procedures and workloads?	No
Has implementation testing and operational expertise been integrated into the plan for evaluating options?	No
Is there a possibility that local government will be expected to implement, administer, or enforce any options?	No
Are implementation timeframes likely to be challenging?	No
Are the actual costs or benefits highly dependent on the capability or discretionary action of the regulator?	No

## Section 5: Agency assessment and Treasury confirmation

Agency's preliminary assessment	Treasury's Assessment
Do the RIA requirements apply to this policy process or proposal?	
No	
Would any resulting regulatory proposal be likely to have a significant impact or risk and therefore require RIAT involvement?	
No	

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

Reference Number	Date	Document Description and Information in Scope		
N/A	17 July 2015	<p>Extracts from Weekly Report to the Minister of Transport – 17 July 2015</p> <table><tr><td><b>Error in the Land Transport Rule: Vehicle Exhaust Emissions 2007</b></td><td>The Ministry has identified an error in the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule) that may be preventing some new Japanese domestic-market vehicles being imported into New Zealand e.g. parallel imports. Due to the low number of vehicles expected to be impacted by the error, it would not typically be of immediate concern. However, recent media statements have indicated at least one used-car dealer is intending to start parallel importing new Japanese domestic-market vehicles in the next few months. The Ministry will provide you a briefing on the matter and the recommended option to address the issue early in the week of 20 July 2015.</td></tr></table>	<b>Error in the Land Transport Rule: Vehicle Exhaust Emissions 2007</b>	The Ministry has identified an error in the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule) that may be preventing some new Japanese domestic-market vehicles being imported into New Zealand e.g. parallel imports. Due to the low number of vehicles expected to be impacted by the error, it would not typically be of immediate concern. However, recent media statements have indicated at least one used-car dealer is intending to start parallel importing new Japanese domestic-market vehicles in the next few months. The Ministry will provide you a briefing on the matter and the recommended option to address the issue early in the week of 20 July 2015.
<b>Error in the Land Transport Rule: Vehicle Exhaust Emissions 2007</b>	The Ministry has identified an error in the Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Rule) that may be preventing some new Japanese domestic-market vehicles being imported into New Zealand e.g. parallel imports. Due to the low number of vehicles expected to be impacted by the error, it would not typically be of immediate concern. However, recent media statements have indicated at least one used-car dealer is intending to start parallel importing new Japanese domestic-market vehicles in the next few months. The Ministry will provide you a briefing on the matter and the recommended option to address the issue early in the week of 20 July 2015.			
N/A	17 December 2015	<p>Extracts from Weekly Report to the Minister of Transport – 17 December 2015</p> <table><tr><td><b>Error in Vehicle Exhaust Emissions Rule</b></td><td><p>In August 2015, you agreed to amend the Land Transport Rule: Vehicle Exhaust Emissions 2007 to address an error that may incorrectly prevent some new cars from entering the country (OC03236 refers).</p><p>This was to be carried out as an individual amendment rule due to concerns raised at the time about a media statements that highlighted the intent of a used-car importer to begin (parallel) importing vehicles that are affected by the error.</p><p>The Ministry now intends to include the amendment in the 2015 Omnibus Amendment Rule.</p></td></tr></table>	<b>Error in Vehicle Exhaust Emissions Rule</b>	<p>In August 2015, you agreed to amend the Land Transport Rule: Vehicle Exhaust Emissions 2007 to address an error that may incorrectly prevent some new cars from entering the country (OC03236 refers).</p> <p>This was to be carried out as an individual amendment rule due to concerns raised at the time about a media statements that highlighted the intent of a used-car importer to begin (parallel) importing vehicles that are affected by the error.</p> <p>The Ministry now intends to include the amendment in the 2015 Omnibus Amendment Rule.</p>
<b>Error in Vehicle Exhaust Emissions Rule</b>	<p>In August 2015, you agreed to amend the Land Transport Rule: Vehicle Exhaust Emissions 2007 to address an error that may incorrectly prevent some new cars from entering the country (OC03236 refers).</p> <p>This was to be carried out as an individual amendment rule due to concerns raised at the time about a media statements that highlighted the intent of a used-car importer to begin (parallel) importing vehicles that are affected by the error.</p> <p>The Ministry now intends to include the amendment in the 2015 Omnibus Amendment Rule.</p>			

## Summary of submissions

Land Transport Rule: Omnibus Amendment, July 2016

### Main Points

- 35 submissions were received.
- Submitters were a mix of individuals, advocacy groups, companies, professional associations and local and regional authorities.
- Of the 35 proposals:
  - 24 proposals are unchanged;
  - 9 have been amended following the assessment of submissions and further analysis;
  - 1 has been deferred; and
  - 1 has been withdrawn.
- There were requests by submitters for guidance to help with the implementation of proposals, particularly proposals 24, 25 and 31.
- There was support for publicity/education campaigns as part of the implementation of the following proposals:
  - Warning sign in which a 20km/h speed limit applies (Proposal 9)
  - Cycling related proposals (specifically Proposals 6, 7, 8, 11, 25 and 31)

RELEASED UNDER  
THE OFFICIAL INFORMATION ACT 1982

Proposal	Rule	No. of Subs	Number supported	% supported*	Change: V/N	Reason for change	Proposed change
Out of Scope							
<a href="#">29</a>	Vehicle Exhaust Emissions	7	7	100	No	N/A	N/A
<a href="#">19</a>		5	5	100	No	N/A	N/A

Out of Scope

Out of Scope

**Vehicle Exhaust Emissions:**

29. Add vehicle emissions standard 'Japan 05' for all vehicles manufactured after 1 January 2014 so that vehicles may comply with the 'Japan 05' or 'Japan 09' emissions standard.
19. Update Schedule 4 by replacing reference to the Immigration Act 1987 with reference to the Immigration Act 2009.

Out of Scope

*Vehicle Exhaust Emissions 2007*

Proposal	Sub. no.	Type	Submission	NZTA comment	Recommendation
29	Y010	Advocacy group	We support the proposed changes to Part3, Schedule 1, Table 2.2 and Table 2.4 to include Japan 05.	Noted.	No change.
	Y012	Company	Support.	Noted.	
	Y014	Association	Supports this proposal.	Noted.	
	Y016	Association	We support the proposed amendment which will correct an identified error which may result in new light vehicles which have been manufactured to meet the Japanese standards from being imported.	Noted.	
	Y028	Local Authority	Support.	Noted.	
	Y033	Advocacy group	Support.	Noted.	
	Y034	Local Authority	Support.	Noted.	
19	Y010	Advocacy group	We support the proposal to replace the Immigration Act 1987 with the Immigration Act 2009.	Noted.	
	Y016	Association	We support the proposed amendment.	Noted.	
	Y024	Association	Supports this amendment.	Noted.	
	Y028	Local Authority	Support.	Noted.	
	Y033	Advocacy group	Support.	Noted.	

OC04456	25 October 2016	<p>Extracts from a briefing titled : Land Transport Omnibus Amendment Rule 2016</p> <p><i>Section 164(2)(eb) and (f)</i></p> <p>26. Under this provision, you must have regard to New Zealand's international obligations regarding land transport safety, and the international circumstances in respect of land transport safety.</p> <p>27. Where relevant, consideration has been given to safety requirements in other jurisdictions. In particular, the proposed amendment to the Vehicle Exhaust Emissions Rule adds a "Japan 05" standard for all vehicles manufactured on or after 1 January 2014.</p> <p>34. The Vehicle Exhaust Emissions Rule already incorporates by reference the Japan 05 exhaust emissions standard for some vehicles. "Japan 05" is described in full in the Vehicle Exhaust Emissions Rule as follows:</p> <p>"Japan 05 means Japan Safety Regulations for Road Vehicles, Article 31 – Emission Control Device, as revised by the Ministry of Land Infrastructure and Transport Notification No. 1317 of 26 September 2003, as established by the relevant Japan <i>Safety Regulations for Road Vehicles</i> test procedures, technical standards and circulars".</p> <p>35. The Vehicle Exhaust Emissions Amendment Rule incorporates by reference this standard for all vehicles manufactured on or after 1 January 2014, so that vehicles may comply with the Japan 05 standard as an alternative to the Japan 09 standard (with which they must currently comply).</p>
---------	-----------------	--