



21 September 2022

OC220844

Hon Michael Wood
Minister of Transport

Action required by:
Friday, 23 September 2022

PROPOSAL FOR PHASING IN THE CLEAN VEHICLE STANDARD

Purpose

To seek your agreement to a six-month phased implementation of the Clean Vehicle Standard to increase the likelihood of compliance by used-vehicle importers

Recommendations

We recommend you:

- 1 **note** that compliance with the Clean Vehicle Standard is critical to reducing the emissions of vehicles entering the light fleet and the current legislated timeline risks some used-vehicle importers not complying
- 2 **agree** to provide a phased transition for the Clean Vehicle Standard that defers from January 2023:
 - the requirement to pay charges to 1 June 2023. Charges will still be incurred from 1 January 2023 but will not be payable until 1 June 2023. There would be the flexibility for the Director of Land Transport (The Director) to allow charges to be paid at a customer's request before this date
 - the ability to transfer credits from 1 June 2023, with flexibility for the Director of Land Transport (the Director) to notify an earlier date
 - the requirement for a publicly available record of account holders to apply on and from 1 June 2023. Between 1 December 2022 and 31 May 2023, importers and the public would need to apply to the Director to access information from the record of account holders.
- 3 **note** that the phased transition can be included in the draft regulations for the Clean Vehicle Standard.

Bronwyn Turley
Deputy Chief Executive

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Hon Michael Wood
Minister of Transport

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Minister's office to complete:

- Approved
- Seen by Minister
- Overtaken by events
- Declined
- Not seen by Minister

Comments

Contacts

Name	Telephone	First contact
Bronwyn Turley, Deputy Chief Executive, System & Regulatory Design	s 9(2)(a)	✓
Gayelene Wright, Principal Adviser, Environment, Emissions and Adaptation	s 9(2)(a)	

PROACTIVELY RELEASED
TE MANATU WAKA MINISTRY OF TRANSPORT

PROPOSAL FOR PHASING IN THE CLEAN VEHICLE STANDARD

The Clean Vehicle Standard will come into effect for importers from 1 December 2022

- 1 The Clean Vehicle Standard (the Standard) is key to transitioning the light vehicle fleet to be low and ultimately zero emission. Its requirements start from 1 December 2022. From this date, section 185 of the Land Transport Act 1998 (LTA) requires every vehicle importer who imports a light vehicle to hold a CO2 account, where the carbon dioxide emissions of their vehicles will be recorded.
- 2 With the Standard vehicle importers must ensure the CO2 emissions of the light vehicles they bring in are equal to, or less than, the applicable target.
- 3 As you know the LTA provides two regimes for complying with the Standard's emission targets. These are either Category 1 or Category 2 where:
 - 3.1 Category 1 importers will pay charges and receive credits 12 months after 1 January 2023 on the basis of all the light vehicles they have imported over the year. This is known as the "Fleet Average" regime. Category 1 status is available to importers whom the Director approves as a category 1 light vehicle importer under the regulations
 - 3.2 Category 2 importers will pay charges and receive credits on a vehicle-by-vehicle basis as each light vehicle is imported. This is known as the "Pay As You Go" regime and will be the default for all vehicle importers.
- 4 Charges will be based on the per gram amount a vehicle *exceeds* the applicable carbon dioxide target for the Standard. Credits will be based on the per gram amount a vehicle's carbon dioxide emissions are less than the applicable target. Credits may be banked in a CO2 account and will be used to either offset excess emissions from other vehicles linked to the account (so charges do not apply) or transferred to another importer's CO2 account.
- 5 The ability for vehicle importers to transfer their credits, from their account to another importer's account, will be processed through the Waka Kotahi Clean Vehicle Standard IT system. However, the market for credits will be operated by the private sector.

Used-vehicle importers are concerned about the legislated timelines

- 6 The Imported Motor Vehicle Industry Association (VIA) have raised concerns about implementing the Standard within the legislated timeframes. In its view the timing between the regulations being made and coming into effect does not give the industry sufficient time to comply.
- 7 Current data suggests that across the industry this concern is unfounded. For the quarter ended 30 June 2022 the CO2 emissions of the average used-vehicle entering the fleet was 132 grams. This is well below the 2023 target of 145 grams for passenger vehicles. Targets are therefore expected to be met.
- 8 Nevertheless, the view expressed by VIA is of concern because vehicle emissions will only be reduced if the industry complies with the Standard's annual targets. Every

non-compliant vehicle entering the fleet will add to New Zealand's greenhouse gas emissions burden for, on average, 20 years for new vehicle imports and 10 years for the average used-vehicle import.

- 9 The original policy proposal sought to make compliance more likely by operating the Clean Vehicle Standard for a year without charges. This was to allow the vehicle industry time to adjust to the changed regulatory environment. The consultation document¹ stated:

In 2021, the first year of the proposed standard, only reporting obligations would apply. Vehicle suppliers would be required to report their vehicle imports, vehicle weights, CO2 emission levels, and the weighted average emissions of their fleets. However, there would be no regulatory obligation to meet an annual emissions target.

- 10 Unfortunately, the time necessary for policy approvals and legislation has meant that this 'reporting only' year is no longer an option.

We propose giving used-vehicle importers time to adjust to complying with the Standard

- 11 As compliance is critical to emission reductions, we propose a deferral akin to, but not the same as, the original proposal. This would be done by deferring, but not removing, charges and credits to 1 June 2023. Charges will still be incurred from 1 January 2023 but would not be payable until 1 June 2023. Similarly, credits will accumulate from 1 January 2023 but would not be able to be transferred until 1 June 2023. An exception to these dates, i.e. allowing earlier payment/transfers, would be possible at the discretion of the Director.

- 12 The deferral proposal ensures the requirements of Part 13 of the LTA, which establishes the core legislative framework for the Standard, are given effect to. The regulations for the Standard will still come into force on 1 November 2022, but the obligation to pay charges would not arise until 1 June 2023.

- 13 The deferral would likely increase compliance and the level of buy-in from used-vehicle importers. Although charges would still apply from 1 January 2023, a six-month deferral would give used-vehicle importers more time to:

13.1 become accustomed to meeting the new reporting requirements. These require the CO2 emissions of their vehicles to be recorded in their CO2 accounts before the vehicles may be certified for entry into New Zealand

13.2 increase the number of low- and zero-emission vehicles they import over January–May 2023 to offset the charges of any high-emitting vehicles they might also import over the same period. For some vehicle importers a deferral could improve their cash-flow relative to what it might be with no deferral.

- 14 While the original proposal provided a one-year adjustment period, in our view a six-month period is preferable now. A deferral of six-months strikes the right-balance between providing sufficient time for used-vehicle importers to adjust to the Standard, and the urgent need to transition the vehicle fleet through the Standard.

¹ <https://www.transport.govt.nz/assets/Uploads/Discussion/LEV-consultation-document-final.pdf>

- 15 If you support our deferral proposal, it could be given effect in the regulations Te Manatū Waka and Waka Kotahi have been working on to support the Standard. Specifically, we propose using these draft regulations to create a transitional period that defers:
- 15.1 the requirement to pay charges from 1 January 2023 to 1 June 2023, with flexibility for charges to be paid at a customer's request before this date if the Director approves an earlier date
 - 15.2 the ability to transfer credits from 1 January 2023 to 1 June 2023, with flexibility for the Director to notify an earlier date
 - 15.3 the requirement for a publicly available record of account holders to apply on and from 1 June 2023. Between 1 December 2022 and 31 May 2023, importers and the public would need to apply to the Director to access information from the record of account holders.
- 16 Within these regulations we could also look to streamline the Category 1 approval process to make it easier for vehicle importers to apply for the "Fleet average" regime.
- 17 We have spoken to the Parliamentary Counsel Office (PCO) about the possibility of making these changes. ^{s 9(2)(h)} [REDACTED]
- 18 With this deferral proposal:
- 18.1 light vehicle importers would open accounts and from 1 December 2022 the emissions data of vehicles would be linked to these accounts (this is the existing date in the legislation)
 - 18.2 light vehicle importers will have their emissions data recorded against the Standard's emission targets in their accounts from 1 January 2023 (this is the existing date in the legislation)
 - 18.3 Category 2 light vehicle importers would not be required to pay any charges or be able to transfer any credits until 1 June 2023. However, the Director could notify an earlier date for credit transfers and approve earlier payment of charges (the latter at importer request)
 - 18.4 Category 1 light vehicle importers would be largely unaffected, as fleet averaging is calculated on an annual basis with:
 - 18.4.1 payment of charges due 10 working days from 31 March 2024
 - 18.4.2 credits available from 1 January 2024
 - 18.5 a more efficient Category 1 approval process where less information is initially requested from applicants would be established. Importers who the Director is confident will be able to pay the charges would be approved with other applicants required to provide further information. Waka Kotahi is also investigating the use of conditions to reduce the risk of bad debts.

Deferral will create risks and resourcing costs

- 19 Deferral is not without risk. Deferring the obligation for pay-as-you-go importers (Category 2) to pay charges could result in some incurring charges over January–May 2023 they are subsequently unable to pay. As a consequence, there would be an increase in bad debts.
- 20 The charges are land transport revenue which will require Waka Kotahi to recover them. Prior to the charges being paid, they are debts due to the Crown. To mitigate this risk in due course you could consider forgiving the debt. To do this, Waka Kotahi would require an appropriation approved by the Minister of Finance for a 'non-departmental other expense'.
- 21 Also, vehicle importers who are currently importing low and zero emission vehicles will lose the ability to profit from transferring their emission credits for up to six months. This could flow through into vehicle prices, but the size of this effect can not be quantified.
- 22 As well, a six-month deferral of the publicly available record of account holders could increase transaction costs for vehicle importers. The record is intended to aid the credit of transfers of emission credits between vehicle importers. Although, vehicle importers could still apply to the Director to access information from the record, it will be more time consuming and thus costly for them.
- 23 A further significant risk concerns the resourcing implications for Waka Kotahi. It is estimated the core resource required to support the Standard is approximately 28 staff. Waka Kotahi will require additional resource to support a deferred approach. This is because it will need more labour resource through the transitional period and will face a peak of transactions to process once charges and credit become active from 1 June 2023. If you agree to the deferred approach outlined in this paper, Waka Kotahi would look at ways it could bring in additional resource to manage this expected peak.
- 24 Alongside the resourcing implications for Waka Kotahi outlined above, Waka Kotahi has separately advised you of the risks it is managing in implementing the Standard more generally.

Next steps

- 25 If you agree to the proposal in this paper we would reflect it in the draft regulations for the Standard. The draft regulations and Cabinet paper will be provided to you on 29 September 2022 for review and Ministerial consultation.
- 26 The draft regulations and Cabinet paper will need to be lodged on 13 October 2022 for Cabinet Legislation Committee on 20 October 2022. If Cabinet agrees to a waiver of the 28-day rule, the regulations will be in force on 1 November 2022. Without a waiver, the regulations will be in force on 1 December 2022.