

**MINISTRY OF TRANSPORT REPORT**

**Subject:** CORRESPONDENCE ABOUT THE LAND TRANSPORT  
VEHICLE EXHAUST EMISSIONS RULE

**Date:** 1 October 2010

**Docmin No.:** WGTA12741

**Attention:** Hon Nathan Guy

**Priority:** Routine

**Purpose of Report**

- To recommend that correspondence from individuals and businesses unable to register vehicles because of Vehicle Exhaust Emissions Rule requirements, does not warrant an amendment to that Rule.

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

Name	Position	Telephone		Suggested First Contact
		Direct Line	After Hours	
Mark Frampton	Senior Advisor	(04) 439 9377	027 288 6631	
Chris Roblett	Senior Solicitor	(04) 439 9362		
Iain M <sup>c</sup> Glinchy	Principal Adviser	(04) 439 9295	021 918 156	✓

**Minister of Transport's Office Actions**

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Withdrawn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

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## Executive Summary

1. The Land Transport Rule: Vehicle Exhaust Emissions 2007 (the Emissions Rule) is aimed at achieving improvements in air quality by reducing the levels of harmful emissions (i.e. Carbon monoxide, hydrocarbons, nitrogen oxides and particulate matter) from motor vehicles. The Emissions Rule requires imported vehicles to have been manufactured to an internationally recognised emission standard. It also requires vehicles that are in-service to meet a visible smoke test and other emission requirements.
2. Since the introduction of the Emissions Rule there has been a small but steady stream of correspondence from people unable to register vehicles because of the Emissions Rule's requirements. Concerns generally fall into three broad categories:
  - 2.1. private citizens who have usually acted in ignorance of the Emissions Rule;
  - 2.2. commercial importers who want an exception in the Emissions Rule to allow vehicles modified for use by people with disabilities and emergency vehicles;
  - 2.3. commercial importers who want an exception in the Emissions Rule to allow vehicles fitted with aftermarket devices that reduce tail pipe emissions as a means of complying with an emission standard.
3. After considering current processes, transport officials are satisfied that the relatively small number of private citizens applying for an exemption are being dealt with equitably. Therefore, further amendments to the Emissions Rule are not recommended at this time.
4. The Ministry could develop an amendment to the Emissions Rule to allow the import of disability vehicles and emergency service vehicles. However, a significant amount of work would be required to define such vehicles. We would prefer to first determine the scale of any unmet demand for these vehicle types (that is, whether the demand is from speculative importers or genuine buyers and users).
5. Commercial interests have sought exceptions for vehicles fitted with aftermarket devices to reduce tail pipe emissions as a means of complying with an emission standard. We do not consider this approach viable because supplying evidence of compliance to a standard by a third-party would set a significant legal precedent<sup>1</sup>.
6. An amendment to the Emissions Rule is proposed for 2011/12 to include further minimum emissions standards for new vehicles. This will provide an opportunity to consider other amendments to the Emissions Rule if desired at the time.

## Emissions Rule Background

7. Most developed countries set minimum emissions standards for vehicles entering their fleets, beginning in the 1970s and 1980s. New Zealand did not set legal requirements until 2003. The first such rule, the Vehicle Exhaust Emissions Rule 2003 set minimum emissions standards for new vehicles. Used vehicles were only required to be built to a 'recognised standard'.

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1 It would effectively be a new method of showing compliance with standards.

8. In 2007, the government became concerned that the age of used vehicles entering New Zealand from Japan was getting too old, and New Zealand was not getting the environmental or safety benefits of newer vehicles. It was therefore agreed to set minimum emissions standards for all vehicles entering the fleet.
9. In preparing the 2007 Emissions Rule it was recognised that it was not appropriate for all vehicles entering the fleet to meet these new minimum standards. The Emissions Rule therefore lists vehicles that do not need to meet all or some requirements. These are called 'exceptions' and include vehicles manufactured before 1 January 1990, tractors and some motorsport vehicles.
10. Exceptions are also in place for immigrants' vehicles, special interest vehicles<sup>2</sup>, mobile cranes and low volume production vehicles. These vehicles are not required to meet a minimum emissions standard, but may be required to meet other aspects of the Emissions Rule, such as an emissions test. There is also a specific exemption for Defence Force vehicles to allow them to be fitted with devices that may override emissions controls.
11. In addition, Section 166 of the Land Transport Act 1998 allows any person to apply for an exemption from any part of any Rule. The exemptions process is intended for one-off situations. Before granting an exemption the New Zealand Transport Agency (NZTA) must be satisfied in the circumstances of each case that the risk to safety<sup>3</sup> will not be significantly increased by the granting of the exemption and that:
  - (a) *the requirement has been substantially complied with and that further compliance is unnecessary; or*
  - (b) *the action taken or provision made in respect of the matter to which the requirement relates is as effective or more effective than actual compliance with the requirement; or*
  - (c) *the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or*
  - (d) *events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case.*
12. The NZTA advises that about 50 vehicles per annum are exempted from the Emissions Rule, because they had 'substantially complied' under Section 166(a).
13. Emissions standards are progressively updated based on international requirements and generally New Zealand's requirements for new vehicles lag by about two years. An amendment to the Emissions Rule is planned for 2011/12 to update emissions standards for new vehicles. Because this amendment is triggered by decisions taken by the Australian government, and these decisions

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2 A special interest vehicle must:

a) be owned as a collector's item (as determined by the NZ Transport Agency); and b) be of historic value; or c) meet three of the following four criteria. 1)The vehicle is and was manufactured as a two-door coupe or convertible, 2)The vehicle is and was manufactured as a high performance vehicle, 3)The vehicle's make and model has been (or was) manufactured in annual volumes of 20,000 units or less, 4)The vehicle (or its make, model and sub-model is identified as being a collector's item in one of a NZTA recognised magazines (or its respective website).

3 NZTA does not consider non-compliance with the Emission Rule as a risk to safety but, would decline the exemption based on one of the other four requirements.

are released late in 2010, work on the Amendment Rule will not commence until mid 2011.

## **The issues**

### **People who have (usually) acted in ignorance of the Emission Rule (Item 2.1)**

14. About 200 used vehicles are imported each year that do not meet emission or other requirements. The main reason for the importation of a non-compliant used vehicle is that someone has failed to check the regulatory requirements, or has been misinformed about requirements before importing their vehicle. Inevitably, many of the people with a non-compliant vehicle apply for an exemption under Section 166 of the Land Transport Act 1998.
15. On balance, we are satisfied that the relatively small numbers of private citizens applying for an exemption to the Emissions Rule are being dealt with equitably. Nevertheless, the NZTA is currently seeking further legal clarification on a range of exemption scenarios under s166(a) surrounding the Emissions Rule. Further amendments to the Emissions Rule are not recommended at this time.
16. In terms of people claiming misinformation, the NZTA continues to promote its website, which has extensive information about importing a vehicle to Immigration New Zealand, shipping companies, Ministry of Agriculture and Forestry (MAF) and New Zealand Customs to ensure information is available to vehicle importers.
17. [WITHHELD UNDER SECTION 9(2)(A) OF THE OIA]

### **Commercial importers wanting to import used disability vehicles and used emergency service vehicles that do not meet Emission Rule requirements (Item 2.2)**

18. There has been correspondence from the Imported Motor Vehicle Industry Association (IMVIA) advocating an exception in the rule to allow the import of used disability vehicles (vehicles modified for use by people with disabilities) and used emergency service vehicles that do not comply with current emission standards. The IMVIA contend that the Emissions Rule should allow these vehicles because they are more affordable than emission-compliant vehicles.
19. This issue has not been raised by groups representing disability groups or emergency services. We also do not have any indication of the scale of any unmet demand for these vehicle types.
20. At first glance, these requests appear reasonable and both groups of vehicles are relatively easily identified. Allowances for these vehicle types are therefore unlikely to lead to a 'back door' method of importing older non-compliant used vehicles.
21. However, if these vehicles were to be allowed work would be required to clearly define them. We would also need to consider whether there should be any criteria for the types of organisations or individuals that could qualify for such exceptions. Transport officials currently consider that this work is not a priority.

### **The addition of after-market devices to reduce tail pipe emissions as a means of complying with an emission standard**

22. Commercial interests have sought exceptions for vehicles with aftermarket devices (usually some form of filter), which are claimed to reduce the vehicle's tailpipe

emissions to a level that would meet more recent standards<sup>4</sup> than the vehicle or engine were originally designed to meet.

[WITHHELD UNDER SECTION 9(2)(a) OF THE OIA]

### Recommendations

23. It is recommend that you:

- (a) **agree** that further amendments to the Emissions Rule are not recommended at this time (in response to private citizens, who have usually acted in ignorance of the Emissions Rule or people who want to fit aftermarket devices as a means complying with an emission standard). Yes/No
- (b) **agree** that transport officials determine the scale of any unmet demand for 'disability' vehicles and emergency service vehicles and to investigate what the definition parameters for these vehicles might look like. Yes/No
- (c) **note** that work in this area is not currently considered a priority by transport officials.

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<sup>4</sup> These devices have been fitted in places such as London where their low emissions zone provides discounts for vehicles fitted with approved filters.

- (d) **sign**, if you agree, the attached letter to Mr Childs advising him that you do not intend to amend the Emissions Rule to allow vehicles to comply with the Rule by modification.

Mark Frampton  
Senior Advisor

Leo Mortimer  
Manager Safety Road and Rail

**MINISTER'S COMMENTS:**

**MINISTER'S SIGNATURE:**

**DATE:**

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