



20 October 2022

OC220792

Hon Michael Wood
Minister of Transport

Action required by:
Friday, 21 October 2022

LAND TRANSPORT (CLEAN VEHICLE STANDARD) REGULATIONS 2022 AND PHASE-IN OF THE CLEAN VEHICLE STANDARD

Purpose

To provide you with a paper to the Cabinet Economic Development Committee seeking authorisation to submit to Executive Council the Land Transport (Clean Vehicle Standard) Regulations 2022, and agreement to drafting and progressing under urgency a Bill amending the Clean Vehicle Standard to provide a six-month phase-in and to exclude mopeds and motorcycles.

Key points

- The Clean Vehicle Standard (the Standard) is designed to achieve a rapid reduction in carbon dioxide (CO₂) emissions from light vehicles imported into New Zealand. The attached Land Transport (Clean Vehicle Standard) Regulations 2022 (the Regulations) prescribe the procedural and operational requirements to support the Clean Vehicle Standard.
- The Regulations need to be made before 1 December 2022 when importers of light vehicles are required to hold a CO₂ account and record the emissions of the vehicles they import. To support the December start date, it is proposed a waiver of the 28-day rule be sought. This will enable the Regulations to come into force on 1 November 2022.
- The Cabinet Economic Development Committee (DEV) paper seeks the necessary approvals to progress the Regulations. It also seeks approval to amend the Land Transport Act 1998 to provide a six-month phase-in of the Standard and to exclude mopeds and motorcycles. s 9(2)(h)

Recommendations

We recommend you:

1. **note** the feedback from the vehicle industry during the targeted consultation on the Regulations emphasised the importance of having a phased implementation of the

Standard, the exclusion of mopeds and motorcycles and for an automated system to support operation of the Standard

2. **note** the Standard should be adjusted to provide a six-month phase-in and to exclude mopeds and motorcycles, and primary legislation will be required to achieve this
3. **agree** to sign and lodge the attached Cabinet Economic Development Committee (DEV) paper and Advice sheet for the Regulations in line with the late lodging secured by your Office, enabling them to be considered by DEV on 26 October 2022
4. **agree** to proactively release this paper subject to any necessary redactions consistent with the Official Information Act 1982.



Carmen Mak
Policy Director
 20 / 10 / 2022

Hon Michael Wood
Minister of Transport
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- Minister's office to complete:**
- Approved Declined
- Seen by Minister Not seen by Minister
- Overtaken by events

Comments

Contacts

Name	Telephone	First contact
Carmen Mak, Policy Director	s 9(2)(a)	✓
Gayelene Wright, Principal Adviser, Environment, Emissions & Adaptation	s 9(2)(a)	
Chris Roblett, Principal Solicitor	s 9(2)(a)	

LAND TRANSPORT (CLEAN VEHICLE STANDARD) REGULATIONS 2022 AND PHASE-IN OF THE CLEAN VEHICLE STANDARD

The attached draft Cabinet paper is critical to support different start dates for the Standard

- 1 The attached Cabinet paper seeks –
 - 1.1 authorisation to submit to Executive Council the Land Transport (Clean Vehicle Standard) Regulations 2022
 - 1.2 agreement to drafting and progressing under urgency a Bill amending the Clean Vehicle Standard to provide a six-month phase-in and to exclude mopeds and motorcycles.
- 2 The paper, Advice sheet and Regulations must be signed and lodged with the Cabinet Office to enable them to be considered at the Cabinet Economic Development Committee meeting on 26 October 2022. Your Office has arranged for a late lodging.

The Land Transport (Clean Vehicle Standard) Regulations 2022

- 3 The Regulations are made under section 167C of the LTA for the purposes of Part 13 (Clean Vehicle Standard). The Regulations:
 - 3.1 Describe how carbon dioxide credits accrue, expire and may be offset or transferred
 - 3.2 Declare excluded vehicles
 - 3.3 Prescribe how carbon dioxide emissions are to be determined for the purposes of the Clean Vehicle Standard
 - 3.4 Prescribe the formulas that apply to light vehicle importers for the purposes of determining and complying with their obligations under the Clean Vehicle Standard
 - 3.5 Prescribe the application procedures to open and close carbon dioxide accounts
 - 3.6 Prescribe the information to be contained in carbon dioxide accounts and the manner in which accounts are to be operated
 - 3.7 Prescribes procedures and requirements for deferring an obligation to meet carbon dioxide emission targets
 - 3.8 Prescribes the process and criteria for approving a carbon dioxide account holder as a Category 1 light vehicle importer, sets out the conditions that apply to the approval, and the criteria for revoking approval

- 3.9 Provides for the information related to the Clean Vehicle Standard that will be publicly available, information that may be requested, and the information and data that must be collected and kept.

A waiver of the 28-day rule is sought to support the opening of CO2 accounts prior to 1 December 2022

- 4 A waiver of the 28-day rule will allow the regulations to be in force on 1 November 2022. This is important given that from 1 December 2022 importers are required to hold a CO2 account in order to have vehicles entry certified. The waiver will confer only benefits on the industry and facilitate the processing of applications necessary to meet the 1 December timeframe set out in section 185 of the LTA.

Targeted Consultation

- 5 The Ministry undertook targeted consultation with members of the vehicle industry over 15 August to 2 September 2022. Sixteen organisations were consulted.

- 6 Waka Kotahi and the Ministry have also been recently engaging with the industry on implementation of the Clean Vehicle Standard. Industry feedback on the need for phased implementation and exclusion of motorcycles has been reinforced through this engagement.

- 7 The key themes from feedback are as follows

7.1 Seeking an overall delay to implementation

The Imported Motor Vehicle Industry Association (VIA) sought a delay to the commencement date of four to five months. It described needing a delay together with a need to improve accuracy of CO2 emissions values on used import vehicles as 'VIA's and the industry's biggest objection to the Clean Car Programme'. The MIA did not seek a delay in their written submission but have indicated in other communications that the timeframe between publicly releasing the regulations and them being in force is too short. The Motor Trade Association (MTA) also sought a time extension to enable their members more time to understand obligations. The MTA queried what the timeframe, or payment terms, Category 2 importers had to pay charges on high emission vehicles.

7.2 Seeking deferral or removal of obligations on Motorcycles

Motorcycle importers are not subject to CO2 targets or charges but are required to hold a CO2 account and record emissions. The MIA set out a range of concerns, including that this requirement could block all legal imports of motorcycles. The VIA noted that the obligation comes as a surprise and sought more time to give notice to relevant importers. The MTA submitted that motorcycles should have no obligations.

7.3 Seeking a reduced compliance burden on signing up as a Category 1 importers

The MIA and European Motor Distributors submitted that some of the criteria for approval as a category 1 light vehicle importer should be simplified. The MIA submitted that where importers have already provided financial information to

support Customs Accounts, or have existing material produced by auditors, that this be sufficient evidence of financial stability and related matters, rather than having to produce original and new evidence for approval as a category 1 light vehicle importer.

The MIA stated that some of their members only import, but do not sell vehicles (as sales are delegated to regional franchise holders) and thus should not be required under this regulation to be registered under the Motor Vehicle Sales Act 2003.

The draft Regulations require certain information to be provided to support an application for approval as a category 1 light vehicle importer and provides for the Director to request further information. In practice the approval process for new vehicle importers will be streamlined so that they will not be required to provide the same level of information as will be expected of used vehicle importers. This recognises the default status intended for new vehicle importers and the lower risk of non-payment of charges.

7.4 Overall support, with some tweaks, to how future weight-adjusted targets are set

The MIA strongly supported the approach taken by the draft regulations that actual vehicle emissions and weight data are used to set future weight adjusted targets, updated on a two-yearly cycle

Hyundai and other technical submitters such as Juno Jupiter stated the duration of data used in the analysis (the 'reference period') be doubled to two years, and, that the slopes for commercial vehicles could pose a risk of perverse outcomes in the future once significant levels of battery electric utes/vans sales are occurring (because the relationship to weight and emissions will be so different from today).

The MIA and other importers also sought that the emission weight floors (1200kg) and ceilings (2000/2200 kg) automatically rise or fall along with the average weights over time.

The MIA sought that a nine-month notice rather than a six-month period be given via the Gazette on updating the slope and other relevant information.

We have extended the notice period provided in the draft regulations from six to eight months (meaning that the government has the period 1 January to 31 April to automatically calculate then publish appropriate figures). We have not doubled the length of the reference period, as that would make the data more out of date. We have not proposed an automated change to weight floors, ceilings, or the slope calculation of commercial vehicles, as this warrants periodic expert analysis, which can only be done after we start recording material changes to the proportion of electric vehicles in our fleet.

7.5 Seeking vehicle forecast information be reduced and kept confidential

The MIA, VIA, the MTA, and several other submitters rightly note that forecasted vehicle volumes is confidential. The launch dates for electric vehicle

models, and potential supply volumes is particularly closely guarded between competitors. The purpose of collecting this information was to determine how likely importers are to meet their next year's emissions target, and as a consequence, what the potential financial liability might be if they did not achieve it. The industry appeared supportive of providing information to enable this assessment, but sought to reduce the specificity and sought assurances such information would be kept confidential. Some submitters stated that used importers, if approved for Category 1 compliance, may find it difficult to assess and compile this information as they have less resources and do not have relationships with manufacturers to get CO₂ and weight information.

The proposed regulations no longer seek specific make and model forecasts but rather, unit volumes categorised by fuel type for both Type A and B vehicles, together with estimates of CO₂ and weight for those categories. This change will make it easier for importers to compile the information and will reduce the level of commercial sensitivity it contains. The regulations explain such forecast information is confidential.

7.6 *Submitters made a wide range of other requests.*

Submitters expressed a range of other issues outside the scope of the regulations. The rental car and motorhome industry body and Financial Service Federation described the CO₂ targets enacted by the Land Transport Act as difficult to achieve. A number of submitters stated technical details in the Land Transport Rule: Vehicle Efficiency and Emissions Data 2022 need attention.

Two technical submitters sought standardisation on the calculations of CO₂ values via adopting the Worldwide Harmonised Light Vehicles Test Procedure (WLTP). MTA noted this should not occur so quickly as to constrain vehicle supply. Standardisation on WLTP is planned and is part of the proposal for light vehicles to meet the Euro 6d harmful emissions standard.

Submitters also made operational requests of Waka Kotahi or gave feedback on other policies such as the Government's proposed Clean Car Upgrade. Juno Jupiter requested that overachievers be paid cash from the Government instead of using the provisions provided for by the Act.

An international viewpoint was sought to review our weight-adjustment target values:

- 8 To provide balance alongside the domestic vehicle industry stakeholders, the International Council on Clean Transportation (ICCT) was also consulted. They previously provided advice on the design of the Standard. The ICCT reiterated the overall design of the Standard was sound, including the inclusion of used vehicles and adjusting vehicle CO₂ targets by weight. They also confirmed that New Zealand's weight adjustment figures do not apply stricter targets on any part of the vehicle market than what are already imposed in other key markets (Europe, Japan) in the short term.

Amendments are required to the clean vehicle legislation

- 9 Officials at Te Manatū Waka and Waka Kotahi have considered the outcome of consultation and recommend:

- 9.1 giving used-vehicle importers time to adjust to complying with the Standard through a 6-month phase-in
- 9.2 clarifying the Land Transport Act 1998 to exclude importers of mopeds and motorcycles from the clean vehicle standard's account and reporting requirements
- 9.3 correcting a technical matter to enable unpaid charges to be recovered as a debt to the Crown.

Six-month phase-in of the Clean Vehicle Standard

- 10 As discussed with you previously, the phase-in would defer from 1 January 2023:
 - 10.1 the requirement to pay charges to 1 June 2023. Charges will still be incurred from 1 January 2023 but would not be payable until 1 June 2023
 - 10.2 the ability to transfer emission credits from 1 June 2023. Credits will still be accrued from 1 January 2023
 - 10.3 the requirement for a publicly available record of account holders to apply 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.

11 s 9(2)(h)



Excluding mopeds and motorcycles from the account and reporting obligations

- 12 CO2 emissions targets apply only to some light motor vehicles, defined in the Land Transport Act 1998 as Type A vehicles and Type B vehicles. Both categories of vehicle have either at least four wheels or are three wheeled vehicles with a gross vehicle mass exceeding 1,000 kilograms. These definitions exclude mopeds and motorcycles.
- 13 However the obligation in sections 185 and 187 of the Land Transport Act 1998 to open a CO2 account and provide emissions data in order to entry certify a vehicle applies to importers of light vehicles (any motor vehicle that has a gross vehicle mass of not more than 3,500 kg) and so catches importers of mopeds and motorcycles. A Bill provides an opportunity to avoid unnecessary compliance by vehicle importers, vehicle certifiers and Waka Kōtahi by clarifying that the obligation to open a CO2 account and provide emissions data only applies to importers of Type A and Type B vehicles.

Next steps

5. Once the Attorney-General has approved your request in your letter of 20 October 2022, PCO will commence drafting the amendment bill. As the draft bill is finalised, we will prepare a Cabinet paper seeking agreement that the bill is introduced and

considered under urgency to ensure it is enacted and assented to by the end of November 2022.

PROACTIVELY RELEASED BY
TE MANATU WAKA MINISTRY OF TRANSPORT