



**FEDERAL
CHAMBER OF
AUTOMOTIVE
INDUSTRIES**

FCAI submission in response to:

New Vehicle Efficiency Standard (Exempt Vehicles) Determination 2024 Consultation

8 OCTOBER 2024





Re: Submission on the New Vehicle Efficiency Standard (Exempt Vehicles) Determination 2024 Consultation Draft

The Federal Chamber of Automotive Industries (FCAI) welcomes the opportunity to provide a submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) in regard to the draft New Vehicle Efficiency Standard (Exempt Vehicles) Determination.

The FCAI is the peak industry body representing the Australian importers and distributors of passenger motor vehicles, SUVs, LCVs, motorcycles and Off Highway Vehicles. FCAI members supply about 96 per cent of new vehicles to the Australian market each year, with in excess of 60 brands offering more than 350 models of light vehicles into the Australian market.

The FCAI has significant concerns with the draft exemption determination as follows:

- the exemption seeks to use ADR 81/02, *Fuel Consumption Labelling for Light Vehicles*, for a purpose outside the scope of the Rule;
- the exemption relies on as yet undrafted amendments to ADR 81/02;
- the Department proposes to amend ADR 81/02 in a manner inconsistent with the accepted and consultative process for ADR development that has been in place and operative for many years;
- the exemption does not adequately cater for military, law enforcement and emergency services vehicles; and
- the exemption does not address the inequality between the NVES treatment of type approval and concessional type approval vehicles.

The FCAI does not believe that the draft determination meets the Department's objective to establish an exemption framework that is administratively simple and transparent.

The FCAI believes that rather than artificially manipulate an existing ADR to fit a purpose it was not designed to address, a new ADR should be drafted. The scope of the new ADR would specifically include the methodology for the determination of a CO₂ emissions number for covered vehicles under the NVES, bringing all appropriate vehicle categories into scope. The creation of the new ADR would follow the standard regulatory process.

Further, the FCAI believes the exemption should explicitly cover military, law enforcement and emergency services vehicles, consistent with the Explanatory Memorandum (refer page 19). The FCAI would also support an alignment of the treatment of type and concessional type approval vehicles in relation to exposure to the targets established in the NVES.

Department's objectives

The FCAI understands the effect of the exemption determination as currently drafted will be to exempt 'Any vehicle to which an ADR on Carbon Dioxide Emissions does not apply'. This would have the effect of exempting NB1 category vehicles which fall into two broad groupings as follows:

1. Medium Duty Pickup Trucks and Vans – Vehicles which are intended to be captured by the NVES, but which do not currently have test protocols to determine CO₂ emissions.
2. Trucks between 3.5 and 4.5 Tonne GVM which have been designed to be driven on a light vehicle car licence but that were not intended to be captured under the NVES given they are not considered 'light-duty vehicles'.

The FCAI notes the Department's is seeking an outcome which is simple to understand and administer and which is consistent with both the objectives of the NVES Act and the NVES exemptions guiding principles published in August 2024.

The FCAI does not believe that the draft exemption determination as currently drafted achieves this objective. The FCAI does not believe the exemption determination will minimise the administrative burden on regulated entities. Nor does it present a transparent outcome given there remains elements which are yet to be finalised.

- ***The exemption seeks to use ADR 81/02, Fuel Consumption Labelling for Light Vehicles, for a purpose outside the scope of the Rule***

ADR 81/02 specifically relates to "[Fuel Consumption Labelling for Light Vehicles](#)". The Rule was never intended to be used as a mechanism to report CO₂ emissions for a fuel efficiency standard, or to be a mechanism for exempting vehicles from NVES regulatory obligations. Neither it, nor its referenced international United Nations regulations were intended to apply to vehicles over 3.5 tonnes. The current exemption draft seeks to amend ADR 81/02 so as to capture Medium Duty Pickup Trucks and Vans which have utilised a voluntary noxious emissions certification pathway within ADR 79/04. This amendment is an expansion of scope of an existing ADR which would normally require an entirely new version of the ADR.

Commercial dependencies¶

The effect on vehicle manufacturers to redesign existing models to comply with new ADRs would present a burden and be a costly and onerous exercise. Manufacturers should not be expected to continually go back to redesign existing vehicles. Furthermore, ongoing product recalls to comply with new ADRs would undermine consumer confidence with significant financial impact to manufacturers. This exemption allows vehicle manufacturers to focus their efforts to ensure new models supplied to the market continue to comply.¶

Ref: draft ADR 81/02 Explanatory Statement provided to the NVES Emissions Testing Working Group

If implemented in this manner, the increased scope and implementation timing of the 'amended' ADR 81/02 will have a material effect on existing vehicle models which are already being supplied to the market, often under business plans developed before the NVES was contemplated. The fact that these variables are undetermined at this time, and not likely to be settled for in a reasonable timeframe, introduces uncertainty and an increased risk of significant unintended costs and consequences for regulated entities.

Military, Law Enforcement and Emergency Services Vehicles

The FCAI notes that the draft exemption determination is silent on all other categories of vehicles which were considered in the Explanatory Memorandum and the Impact Analysis relating to the NVES.

Through the Impact Analysis, the Government indicated that various categories of vehicles and vehicle uses would be exempt, or should be assumed to be exempt for the purposes of the analysis.

*For the purposes of this document, readers should assume that heavy vehicles and vehicles subject to heavy vehicle emissions tests (i.e. large trucks), **military vehicles, law enforcement vehicles, emergency service vehicles**, agricultural, construction or mining equipment, motorhomes, horse trucks and motorcycles, would be exempt.*

(ref. pg 28-29, *Cleaner, Cheaper to Run Cars: The Australian New Vehicle Efficiency Standard, Impact Analysis March 2024*)

*The Australian NVES will apply to light vehicles, light goods vehicles and some medium goods vehicles for the purposes of the Road Vehicle Standards Act 2018. Some exemptions will apply. Heavy vehicles and vehicles subject to heavy vehicle emissions tests (i.e. large freight, service or utility trucks), **military vehicles, law enforcement vehicles, emergency service vehicles**, agricultural, construction or mining equipment, motorhomes, horse trucks and motorcycles, would be exempt.*

(ref. pg 43, *Cleaner, Cheaper to Run Cars: The Australian New Vehicle Efficiency Standard, Impact Analysis March 2024*)

It is of concern to the FCAI that these categories have all been excluded from the draft exemption determination.

The FCAI believes that there is a valid and important rationale for each of these exemption categories to be expressly included in the draft determination, consistent with the original commentary from the Government in their Impact Analysis and the NVES Explanatory Memorandum.

In many instances military vehicles, law enforcement vehicles and emergency service vehicles are sourced through supply arrangements with regulated entities based on stringent performance requirements to ensure that the vehicles are fit for purpose.

Where these vehicles sourced are light duty the FCAI does not believe that there should be any risk of penalty, to the consumer or to regulated entities, given the vehicles are critical to the public interest through the services they provide.

The FCAI recommends that vehicles supplied for these applications should be fully exempt from the requirements of the NVES. In instances where a regulated entity can provide proof of the supply of the vehicle to an entity which falls within those categories (military, law enforcement and emergency services), the vehicles should be removed from the registry. This could either be developed through an exemption instrument to adjust the registry account, or through other mechanisms available to the Department and the Regulator to amend the relevant registry account before the interim emission value is finalised for any particular year.



Small Volume Manufacturers

FCAI believes that there is a case for exempting certain categories of vehicles provided in low volume under the Government's guiding principle of Equity, and in line with the Impact Analysis.

A low volume importer/manufacturer exemption would apply.

(ref. pg 43, Cleaner, Cheaper to Run Cars: The Australian New Vehicle Efficiency Standard, Impact Analysis March 2024)

Under clause 12 of the NVES Act, the NVES applies to Type Approval pathway vehicles, while Concessional RAV entry approval pathway vehicles are only captured if and when the Minister determines, by legislative instrument, that they are 'Covered Vehicles'. The Minister has not currently made such a determination.

When the RVSA was implemented, it relaxed the volume restrictions for Concessional RAV entry vehicles and, as a result, Small Volume Manufacturers (SVM) were effectively provided with two pathways for bringing product to the Australian market. By capturing Type Approval Pathway models under the NVES and not capturing Concessional RAV Entry pathway models, the Government has established an inequity between small volume brands who choose either pathway. Clearly these certification pathway decisions were made without the knowledge of the NVES.

A simple solution to overcome this inequity can be found in the international example of the European CO₂ regulation which provides SVMs with the following provisions. Manufacturers responsible of fewer than 10,000 new passenger cars registered in the Union per calendar year may apply for a derogation defining specific CO₂ targets until 2035 included. Manufacturers responsible of fewer than 1,000 new passenger cars registered in the Union per calendar year are exempted from CO₂ standards.

The United Kingdom provides similar arrangements for SVMs in their recent 2023 Vehicle Emissions Trading Schemes Order albeit with its own thresholds for their smaller market.

Understanding that a volume threshold would need to be appropriate to the Australian market, with consideration of a target such as 500 vehicles per year, the FCAI recommends that the exemptions determination allows for SVM either by setting derogations or exempting them completely from the NVES.

This could be implemented in a similar fashion to an exemption for emergency service vehicles, and allow for regulated entities to be exempted from obligations at the point in which an interim emissions value is determined if they have sold less than the identified thresholds.



Conclusion

The FCAI recognises and supports the notion of ensuring as many vehicles as practicable are captured under the NVES to provide the largest potential abatement of CO₂ emissions over time. The FCAI believes that the exemption mechanism provided in the NVES Act provides a valuable mechanism to ensure a limited number of vehicles are exempt where appropriate. This would include where appropriate testing protocols do not exist, specific purpose military, emergency service and law enforcement vehicles are excluded, and similar categories of vehicles are treated equitably.

The FCAI believes the current draft exemption determination does not adequately address these categories and urges the Government to work with the FCAI to amend the exemption determination to best achieve these outcomes.

Yours sincerely,

Philip Skinner

Director – Policy & Advocacy

Ashley Sanders

Technical Director



There are no dates provided in the exposure drafts for ADR 81/02 amendments. This is a concerning omission. It is essential that Government provide adequate implementation lead time for any new or amended ADR.

Over many years, the FCAI has consistently advocated that a minimum of 24 months lead time from the publication of an ADR, its supporting regulations and administrative arrangements is essential to allow suppliers to prepare for the introduction of compliant 'New Model' product to the Australian market. A further 24 months is required to allow for the development, testing, validation, compliance and production preparation for the introduction of 'All models' date for any existing product already supplied to the Australian market.

Specific to our responses related to recent Environmental ADRs, FCAI has previously provided a detailed account of the actions required to introduce a new model to market as Appendix B of our response to the [Light Vehicle Emissions Standards for Cleaner Air](#) Regulatory Impact Statement and as Appendix A of our response to the [Euro 6d Exposure Drafts](#). For your convenience, it is replicated as Appendix B to this submission.

The final year of preparation includes

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| Launch - 1 year | <ul style="list-style-type: none">• Confirm production preparation with system and parts suppliers.• Build certification pre-production vehicles.• Undertake certification testing¹.• Undertake certification processes and obtain certification approval from authorities.• Obtain Australian Vehicle Type Approval through ROVER• Quality process confirmation.• Authorise start of production• Production build.• Logistics to bring to market.• Sales launch |
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The process of attaining Australian domestic Vehicle Type Approval (VTA) is a critical consideration since the introduction of the Road Vehicle Standards Act (RVSA) and the Road Vehicle Regulator (ROVER) IT system.

The RVSA and ROVER has increased the time required to obtain a VTA. In addition, the restrictive nature of the legislation and ROVER does not allow for multiple submissions to exist concurrently effectively limiting the number of VTA applications that can be made in any calendar year. The implementation of multiple new and revised ADRs in a short time frame forces suppliers to consolidate VTA submissions and incorporate additional lead time into production preparation plans further restricting design, development and validation time available.

FCAI reiterates its request that the Commonwealth provides a minimum of 24 months lead time from the date of their publication to the implementation of any 'New Models' date and a further 24 months prior to the implementation of any 'All Models' date for the new or amended ADRs that are published to bring NVES into effect.



Time to market	Actions
5 to 7 years	<ul style="list-style-type: none"> • Design of vehicle structure, architecture • Work with Tier 1 suppliers to specify, design and develop sub-systems
4+ years	<ul style="list-style-type: none"> • Design and development of the major sub-systems that are not part of the vehicle structure, e.g. brake systems. • Build of prototypes and installation of new systems in model prototype. • Initial calibration and laboratory testing.
3 years	<ul style="list-style-type: none"> • Undertake on-road vehicle calibration. • Undertake initial seasonal variation testing (i.e. summer/winter).
2 years	<ul style="list-style-type: none"> • Finalise on-road vehicle calibration. • Additional seasonal variation testing. • Supply preparation, contracts, advanced orders. • Commence production preparation including tooling, parts approval including PPAP.
1 year	<ul style="list-style-type: none"> • Confirm production preparation with system and parts suppliers. • Build certification pre-production vehicles. • Undertake certification testing.¹ • Undertake certification processes and obtain certification approval from authorities. • Quality process confirmation. • Australian domestic certification • Production build. • Logistics to bring to market. • Sales launch.

¹ Typical sequence for obtaining a UN Regulatory approval

n -12 (months)	Compile specification information for selection.
n -11	Selection of Test vehicle(s) from specification.
	Negotiate test program with Technical Service.
n -9	Procurement of test part(s) and vehicle(s).
n -6	Build Test vehicle(s).
n -3	Type Approval Testing.
n (months)	Approval issued.



CONTACT

For more information contact:

Philip Skinner

Director – Policy & Advocacy

[Redacted contact information]

Ashley Sanders

Technical Director

[Redacted contact information]

FCAI.COM.AU