

Land Transport Rule Vehicle Equipment (Noise) Amendment [2009]

Rule 32017/4

Overview

Land Transport Rules are law produced by the New Zealand Transport Agency for the Minister of Transport. Rules are drafted in plain language to reach a wide audience. Draft Rules go through an extensive consultation process and are refined in response to consultation.

*This overview accompanies, and sets in context, the yellow (public consultation) draft of **Land Transport Rule: Vehicle Equipment (Noise) Amendment [2009]** (Rule 32017/4). This draft legislation will update the requirements for the noise output of vehicles in the New Zealand fleet.*

*If you wish to comment on this draft amendment Rule, please see the 'Making a submission' information at the start of this document. The deadline for submissions is **17 September 2008**.*

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What are Land Transport Rules?

The New Zealand Transport Agency (which was established from 1 August 2008 by the *Land Transport Management Act 2003*, as amended by the *Land Transport Management Amendment Act 2008*) is responsible for managing land transport funding and for promoting safe and sustainable land transport. One of its tasks is to produce Land Transport Rules under an agreement for Rule development services made with the Secretary for Transport, for signature by the Minister for Transport Safety (the Minister) under the *Land Transport Act 1998* (the Act).

Rules are made in respect of a wide range of matters covered by the New Zealand Transport Strategy. These include safeguarding and improving land transport safety and security, improving access and mobility, assisting economic development, protecting and promoting public health and helping to ensure environmental sustainability.

Land Transport Rules aim to:

- clarify
- consolidate, and
- create

land transport law.

Rules are developed by means of extensive consultation, and each Rule is drafted so as to be understood by a wide audience and to help ensure compliance with its requirements.

Consultation process

The Government is committed to ensuring that legislation is sound and robust and that the consultation process takes account of the views of, and the impact on, people affected by changes proposed in Rules.

This publication, for your comment, has two parts:

- the overview, which sets proposed changes in context; and
- the yellow draft of *Land Transport Rule: Vehicle Equipment (Noise) Amendment [2009]* (the proposed amendment Rule) for public comment.

Please read the overview carefully and consider the effects that the proposed amendment Rule would have on you, your business, or the members of your organisation. In particular, consider any benefits and costs that would result from the Rule's implementation.

Background

You will notice that the proposed amendment Rule sets out only the changes to be made to *Land Transport Rule: Vehicle Equipment 2004* (the Vehicle Equipment Rule). If you do not have a copy of the Vehicle Equipment Rule, please read the information in *Publication and Information* (p. 23) about obtaining Land Transport Rules. The proposed amendment Rule has been linked to the Vehicle Equipment Rule on the NZ Transport Agency website at www.nzta.govt.nz/consultation/vehicle-equipment-noise-amendment, so that the amendments can be seen in the context of that Rule.

The issues that are raised in submissions on the yellow draft will be analysed and taken into account in redrafting the proposed amendment Rule.

Following completion of the public consultation phase, the draft Rule will be submitted to the Ministry of Transport and to the Regulations Review Committee for scrutiny. The final draft Rule will then go to Cabinet for noting and, finally, will be submitted for signature by the Minister.

Proposed timetable for implementation of the Rule

Subject to government approval, it is proposed that the amendment Rule will be signed and come into force in the first half of 2009.

Making a submission

The deadline for submissions is **17 September 2008**.

What is the purpose of the proposed amendment Rule?

The problem of excessive vehicle noise

Excessively noisy vehicles are a public nuisance and can have a negative impact on health, for example, by disturbing people's sleep. Sleep deprivation and associated stress can cause loss of productivity, which has negative economic and social impacts.

There are two aspects to excessive vehicle noise – the manner in which a vehicle is operated (eg, 'burn-outs', drag racing, using loud stereos), and levels of exhaust noise (eg, vehicles fitted with excessively noisy, modified exhaust systems). Although the Police have powers to deal with the noisy operation of vehicles, there is public concern about excessively noisy exhaust equipment being fitted to vehicles. The 2007 amendment to the Vehicle Equipment Rule (which came into force on 1 June 2008) allowed for additional controls to be put in place.

Modification of exhausts

New Zealand has a legislative regime that allows for vehicle modifications within reasonable tolerance and ensures that appropriate standards are maintained. However, some vehicle owners have modified their exhausts outside the legal requirements, to create excessively noisy vehicles.

Exhaust fitters (ie, the vehicle owner or the company providing the service) are legally obliged to ensure the vehicle still complies with the requirements in the Vehicle Equipment Rule. However, given the large range of exhaust suppliers, including private sales, this is a difficult area of law to monitor and enforce.

Vehicle noise legislation

This proposed amendment to the Vehicle Equipment Rule is part of a package of measures to control vehicle exhaust noise.

Vehicle Equipment Amendment Rule 2007

Land Transport Rule: Vehicle Equipment Amendment 2007, signed in December 2007, carried over drive-by test limits from the *Traffic Regulations 1976* for vehicles entering into service. These limits correlate to a maximum of 95 decibels for light vehicles, and a maximum of 100 decibels for motorcycles, in the objective stationary tailpipe noise test.

From 1 June 2008, the 2007 Amendment allowed warrant of fitness (WoF) and certificate of fitness (CoF) inspectors to refer a light vehicle¹ for an objective noise test if the vehicle was fitted with a modified exhaust and had failed the subjective (opinion-based) noise test. The amendment also changed the wording relating to the subjective noise test.

The 2007 Amendment required owners of vehicles with modified exhausts that increase the vehicle's noise output to repair the vehicle's exhaust, or undergo (at the owner's expense) an objective (metered) noise test to certify that the exhaust noise is within the applicable limits.²

Light vehicles (excluding motorcycles) manufactured before 1 January 1985, or registered before 1 June 2008, are subject to an objective stationary tailpipe noise test limit of 95 decibels. Vehicles manufactured on or after 1 January 1985 and registered on or after 1 June 2008 must comply with a lower limit of 90 decibels.

Road User Rule penalties amendment 2008

In addition, new penalties for operating a vehicle in a noisy manner came into force on 26 June 2008 to support *clause 7.4(1)* of the *Land Transport (Road User) Rule 2004* (the Road User Rule). Penalties for excessive vehicle noise were reduced to a fine of \$50 (previously \$250) and increased to 25 demerit points (previously 10).

Some young drivers, in particular, are known to be building up large amounts of unpaid fines and refusing to pay the fines. However, accumulating demerit points means those drivers now run the risk of losing their licence if they continue to break the law.

¹ Generally, vehicles with a gross vehicle mass (GVM) of 3500 kg or less – eg, motorcycles, cars, light trucks and light omnibuses.

² Except where the increased exhaust noise output is clearly below the prescribed maximum level.

The proposed amendment Rule

The reasons for amending the Vehicle Equipment Rule are:

- to further tighten the controls on noisy modified vehicles;
- to introduce updated vehicle noise requirements; and
- to ensure vehicles meet tighter noise restrictions when they enter New Zealand.

The intention is to target those vehicles that continue to exceed the noise limits set in the Vehicle Equipment Rule.³

³ By the time these proposed amendments come into force, most vehicles in the fleet would have undergone at least one WoF/CoF test since the 2007 Amendment, and there would be no excuse for a vehicle with a legally modified exhaust to exceed 95 dBA.

What changes does the amendment Rule propose?

The amendment to the Vehicle Equipment Rule proposes three main changes.

The changes would:

- update vehicle noise requirements for entry to the New Zealand fleet;
- update objective noise test requirements for light vehicles with modified exhausts in service by introducing:
 - a lower decibel limit for vehicles that continue to exceed current noise limits; and
 - mandatory objective noise tests after failing a subjective test;
- prohibit the use, in light and heavy vehicles, of externally vented or un-muffled types of compressor pressure relief (or 'blow-off') valves used with internal combustion engines.

Update noise requirements for entry to the fleet

1 Drive-by test

The current drive-by test limits have been prescribed since 1985 and do not completely reflect the limits now in place in other jurisdictions. In general, there is a difference of about five decibels between the limits in New Zealand and limits overseas (although there is no evidence that vehicles supplied to New Zealand do not meet the higher standards applied elsewhere).

It is desirable to ensure that vehicles entering New Zealand are built to the standards applying in their country of origin or of first registration. The standards applied in other jurisdictions vary greatly and it is not possible to create a concise table of updated noise decibel limits.

The proposed amendment Rule would update the current requirements to ensure that vehicles entering New Zealand have met noise standards that are in line with the maximum limits allowed in other jurisdictions. Vehicles manufactured from [1 May 2009] would have to meet the new drive-by limits set out in the table on the next page.

Older vehicles would continue to be subject to the current decibel limits.

Proposed new maximum decibel levels – drive-by test

Vehicle class	Maximum noise levels (dBA)	
	Vehicles manufactured on or after 1 May 2009	Vehicles manufactured before 1 May 2009
LC, LD, LE (with engine capacity of 125 cm ³ or less)	75	82
LC, LD, LE (with engine capacity of more than 125 cm ³)	77	86
MA	74	81
MB, MC	76	81
MD1, MD2, and NA	79	81
MD3, MD4, ME, NB, and NC (with power output of 150 kW or less)	79	86
MD3, MD4, ME, NB, and NC (with power output of more than 150 kW)	83	88

2 Overseas standards compliance

Subject to certain exceptions, vehicles must currently comply with drive-by or objective noise test limits to enter into service in New Zealand.

As an alternative to compliance with the drive-by or objective noise test limits, it is proposed that vehicles that enter into service in New Zealand be accepted if they can establish compliance with the vehicle (or exhaust) noise standard that applied at the time of the vehicle's manufacture for it to be operated in Australia, the European Union, Japan or the United States of America.

Your comments are welcomed on this new proposal and, in particular, as to:

- (i) whether a list of standards should be prescribed in the Rule; and
- (ii) which standards should be accepted.

Update objective noise test requirements for light vehicles in service

1 Vehicles with modified exhausts that fail a subjective noise test at WoF or CoF inspection

The proposed amendment Rule would tighten the current requirements aimed at noisy vehicles by requiring that a light motor vehicle with a modified exhaust undergo an objective noise test if it fails a subjective noise test at WoF or CoF inspection, *without allowing a re-test*. The proposed decibel limits for the objective noise test are set out in the table on page 13.

This proposal would remove the option of repairing the exhaust and re-taking the subjective test.

There would be several consequences of adopting this proposal.

- The current inspection systems do not include a reporting process that can track vehicles that fail a subjective noise test and can highlight to subsequent inspectors that evidence of an objective test pass is required. The systems would require updates to achieve this, and so increase the cost of implementation.
- Modified vehicles that are returned to original condition would still be required to undertake an objective noise test.
- A vehicle with a modified exhaust that failed the subjective noise test would have to pass the objective noise test. If the vehicle's exhaust noise output exceeded 95 decibels when fitted with its original (unmodified) manufacturer's exhaust, the modified exhaust system would have to be made quieter than the original system in order to pass the objective test.

Your comments are sought on whether such vehicles should be permitted to be fitted with an original exhaust system or equivalent, and whether proof of suitability should be required. Comment is also sought on whether all vehicles (not just those with modified exhausts) should be required to have an objective noise test, if they fail the subjective noise test, without the option of being repaired and re-taking the subjective noise test.

Proposed decibel limits – stationary tailpipe noise test

Vehicle class	Maximum noise levels (dBA)
LC, LD, LE (with engine capacity of 125 cm ³ or less)	96
LC, LD, LE (with engine capacity of more than 125 cm ³)	100
MA, MB, MC, MD1, MD2, and NA	
(a) manufactured* before 1 January 1985	95
(b) manufactured* on or after 1 January 1985 and first registered in New Zealand on or after 1 June 2008	90
(c) manufactured* on or after 1 January 1985 and first registered in New Zealand before 1 June 2008:	
(i) not a vehicle in paragraph (ii) below	95
(ii) vehicle, with a modified exhaust system, that has either exceeded 95dBA when tested in accordance with subclause 3.1(3), or been prohibited from driving in accordance with a direction under section 115 of the Act regarding compliance with subclause 2.7(5)	90

* If the date of manufacture cannot be ascertained, the date of first registration (outside New Zealand) is deemed to be the date of manufacture.

2 Vehicles with modified exhausts that fail a subjective noise test at WoF or CoF inspection and either subsequently fail an objective noise test at 95dBA, or were directed to the inspection by an enforcement officer.

If the noise output of a vehicle exceeds the applicable decibel limit in the objective test then the vehicle must be repaired and re-tested.

However, in the case of a vehicle of Class MA, MB, MC, MD1, MD2 or NA, it is proposed that if the vehicle's noise output exceeds 95 decibels, or if the vehicle has been prohibited from driving in accordance with a direction under section 115 of the Act regarding compliance with exhaust noise, the vehicle must be repaired to a new lower limit of 90 decibels before a WoF or CoF pass can be issued. (Note that vehicles in these classes that were registered from 1 June 2008 and manufactured on or after 1 January 1985 will already be subject to a 90-decibel limit.)

There are several consequences arising from this proposal.

- The objective noise test is carried out by a third party tester, not the WoF inspector. The record of pass or fail of the first objective test would need to be logged by the tester so that the appropriate decibel limit could be applied on subsequent tests. The current systems in place would require alteration to achieve this and so increase the cost of implementation.
- Some vehicles may exceed the 90-decibel limit with the original manufacturer's exhaust. The proposal would require these vehicles to be modified to a condition that is quieter than the original exhaust.

Comments are sought on whether such vehicles should be permitted to be fitted with an original exhaust system or equivalent, with proof of suitability required.

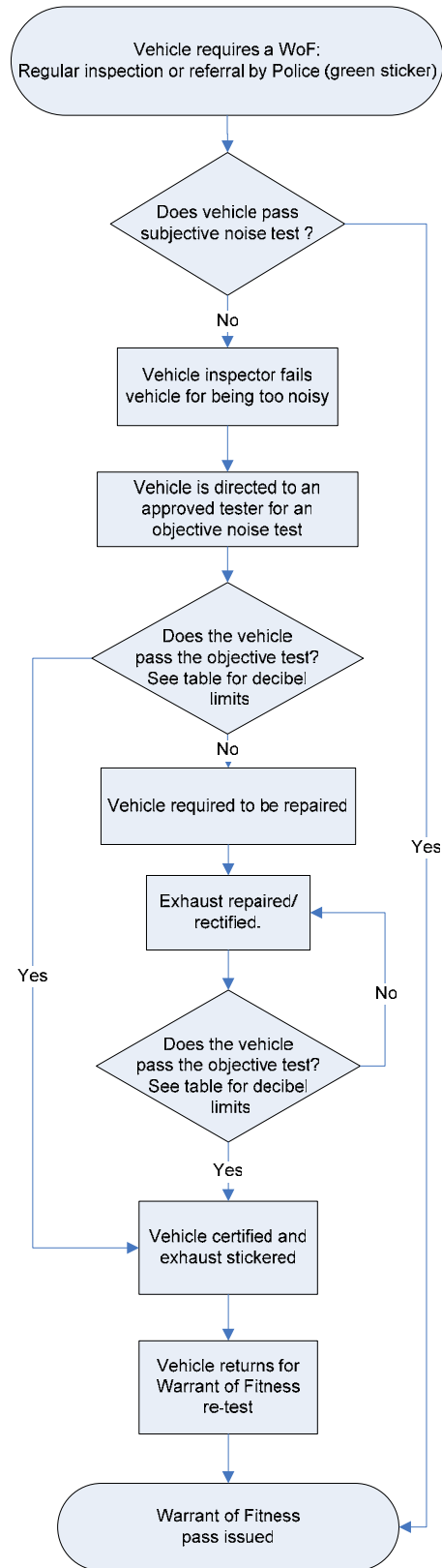
- Once a vehicle has been required to pass an objective noise test at 90 decibels, this requirement could extend to the life of the vehicle and prohibit the subsequent fitting of a modified exhaust with a noise level between 90 and 95 decibels. The current systems would require alteration to achieve this, and this would increase the cost of implementation.
- The same reduction of five decibels could also be applied to motorcycles, meaning that a motorcycle with an engine capacity of over 125 cc could be required to comply with a 95-decibel limit instead of 100 decibels. Similarly, a motorcycle of 125 cc or under could be required to comply with a 91-decibel limit rather than 96 decibels.

3 Vehicles manufactured before 1 January 1985 not to be subject to the lower 90-decibel limit

Vehicles manufactured before 1 January 1985 are less likely to have met a 90-decibel limit with the manufacturer's standard exhaust system.

It is proposed that if a Class MA, MB, MC, MD1 or MD2 vehicle manufactured before 1 January 1985 fails a subjective noise test at WoF or CoF inspection, and subsequently fails an objective noise test, it would not have to be repaired to the new, lower 90-decibel limit. These vehicles would be allowed to be repaired to 95 decibels.

The following flow chart shows the proposed process for in-service inspection:



Prohibition of 'blow-off' valves

It is a popular trend to replace the manufacturer's standard pressure relief valve with after-market valves that are much louder. These so-called blow-off valves make a distinctive "pssshhht" sound when the accelerator pedal is released (usually during gear changes).

This noise can be very loud and sharp, disturbing pedestrians and even affecting people in nearby buildings. Many vehicles are fitted with these loud valves just to create noise. The cause of the noise is often attributed to the exhaust system but is actually produced by air that has been pressurised by a turbocharger or supercharger and is expelled under certain conditions to relieve the pressure.

The fitting of an after-market relief valve can provide a slight gain in maximum performance, but often the extra noise created is unnecessary. Many versions of relief valve operate without creating additional noise, either by recirculation of air back into the engine or through a muffler. Recirculating types can even provide better performance than the non-recirculating types (which can also have a detrimental effect on the vehicle's exhaust emissions).

In parts of the USA and Europe, un-muffled relief valves are considered to affect emissions and so are illegal for street use. Some Australian states also ban valves that vent to the atmosphere, because of the excessive noise they emit.

During the public consultation phase of the 2007 Amendment, a number of submissions cited blow-off valves as contributing to the vehicle noise problem. Some letters to the Minister from the public have also suggested that these valves should be banned.

The proposed change would apply to all vehicles, not just light vehicles, and could be followed up at in-service inspections as well as on-road enforcement.

The proposal would permit externally-venting valves that are sufficiently muffled. This is to allow for devices fitted to vehicles as standard.

There are a significant number of these types of valve fitted to vehicles. A delay in the entry into force of the blow-off valve provision may be justified to allow time for modifications to be made legal.

Matters to be taken into account

The Act provides the legal framework for making Land Transport Rules.

Section 161 of the Act states the procedures by which the Minister makes 'ordinary rules'. These include the obligation to consult, which has been developed into a series of formal and informal discussion procedures.

Application of Rule-making criteria

Section 164 of the Act sets out the matters that the Minister must take into account when making a Rule. The Act was amended in 2004 to reflect the overarching importance of the government's New Zealand Transport Strategy (NZTS). The NZTS envisages that, by 2010, New Zealand will have an affordable, integrated, safe, responsive and sustainable transport system.

Proposed activity or service

Section 164(2)(b) of the Act requires that appropriate weight be given to the nature of the proposed activity or service for which the Rule is being established. The 'proposed activity or service' that is covered by the proposed amendment Rule is to further tighten noise requirements for vehicles that continue to operate in the New Zealand vehicle fleet without meeting the current noise limits, and thereby help to reduce noise pollution from vehicle exhausts.

Risk to land transport safety

Section 164(2)(a) and *(c)* requires the Minister to take into account the level of risk to land transport safety in each proposed activity or service; and the level of risk existing to land transport safety in general in New Zealand.

Vehicles fitted with excessively modified exhausts are not, in isolation, a safety issue. However, behaviour associated with the illegal modification of vehicles (ie, purposefully increasing the noise output of a vehicle) is sometimes linked to safety issues, for example 'boy racer' behaviour such as burn-outs, vehicle convoys and drag racing. Excessive noise can also be threatening on a personal level, with a detriment to perceived safety.

Achieving strategic objectives for transport

Maintain and improve safety and personal security

Section 165(2)(d) requires the Minister to have regard to, and give such weight as he or she considers appropriate in each case to, the need to maintain and improve land transport safety and security.

Excessive noise can be perceived by a person as being threatening to their personal safety. By reducing excessive noise, this proposed amendment is expected to reduce this detriment to perceived safety.

Economic development, access and mobility, public health and environmental sustainability

Section 164(2)(e) requires that the Minister must have regard, and give such weight as he or she considers appropriate in each case, to whether a proposed Rule:

- (i) assists economic development;
- (ii) improves access and mobility;
- (iii) protects and promotes public health; and
- (iv) ensures environmental sustainability.

Assists economic development

The proposed amendment Rule aims to minimise excessive vehicle noise, which can contribute to sleep deprivation and cause associated stress, leading to loss of productivity. Minimising loss of productivity will have a positive impact on assisting economic development.

The proposed amendment would not have a negative impact on economic development as it would not disrupt the supply of vehicles from overseas jurisdictions, nor preclude the fitting of modified exhausts.

Improves access and mobility

The proposed amendment would not impact negatively on access and mobility as it would not result in someone suddenly losing the use of their vehicle with its associated social impact, and it would not cause any unexpected (and unavoidable) spikes in the cost of living.

The majority of vehicles likely to fail the proposed maximum decibel limits are vehicles that have been purposefully modified to increase noise output (ie, vehicles fitted with after-market, modified exhaust systems). These vehicles make up a small proportion of the overall vehicle fleet.

The proposed amendments would not affect the vast majority of vehicle owners in New Zealand. The amendments target only those vehicles with modified exhausts and those people who continue to use a vehicle that exceeds the noise limits set out in the Vehicle Equipment Rule.

Protects and promotes public health

It is difficult to quantify the public health implications of excessive vehicle noise on New Zealanders. However, research undertaken for the Ministry of Transport⁴ has shown there is a significant potential for traffic noise to cause adverse health effects for people located in certain affected environments, mainly as a contributor to stress-related disorders and in certain vulnerable groups (eg, older people, people who are ill, and young children).

The intrusion of excessive noise during normal activities (including, among other things, sleeping, listening and teaching) can affect individual health and well-being as well as impact on important human activities such as learning.

Reducing excessive vehicle noise on New Zealand's roads would benefit those people who are directly affected by excessive vehicle noise, and assist in protecting and promoting public health.

Ensures environmental sustainability

The health and environmental impacts of excessive vehicle noise are closely linked. The proposed amendment aims to reduce excessive vehicle noise (a form of noise pollution) and will, therefore, assist in ensuring environmental sustainability.

Benefits and costs of the proposed changes

Section 164(2)(ea) of the Act requires that the Minister must have regard to the costs of implementing measures proposed in a Rule.

⁴ *Noise Impacts of Land Transport - Stage 3 - Policies for the Management of Noise from Road Traffic and Rail Sources*, Malcolm Hunt Associates, 2004.

Benefits

The 2007 Amendment, which came into force on 1 June 2008, targets the noisiest vehicles in the fleet, and is aimed at reducing the number of grossly noisy vehicles on our roads. Those vehicles frequently annoy and cause distress to the public and can cause detrimental economic and health effects, particularly those associated with sleep deprivation and stress.

The aim of this proposed amendment Rule is to take the next step in improving the vehicle fleet over time. It would actively target those who do not comply with the current Rule. The proposed amendment Rule would also tighten-up the entry standards for vehicles joining the New Zealand fleet. The proposed amendment Rule should help reduce the number of noisy vehicles on our roads and allow the Police more scope to deal with noisy vehicles.

The additional requirement to silence blow-off valves moves further to reduce noise from the vehicle fleet.

Costs

The proposed changes may increase the costs of compliance for some vehicle owners.

- The changes to vehicle noise requirements on entry to the New Zealand fleet are not intended to create additional compliance costs.
- The change of requirements to blow-off valves may entail a cost in modifying or replacing components. This would only affect vehicles that have been modified and would necessitate returning the vehicle to standard condition or modifying the components to comply.
- If a light vehicle with a modified exhaust failed the objective noise test it would have to be repaired, then undergo a further test to ensure that it complied with the 90-decibel limit. The vehicle owner would incur the costs of an additional test. It may also be necessary to make additional component changes, at greater (possibly considerable) cost, to achieve the lower decibel limit.
- The proposal to create a lower, 90-decibel limit for a selection of vehicles will require changes to the tracking systems for vehicle inspection purposes, and thus would impose additional implementation costs on the Government.

International considerations

Sections 164(1) and 164(2)(f) of the Act require that Rules may not be inconsistent with New Zealand's international obligations concerning land transport safety, and that international circumstances in respect of land transport safety be taken into account in making a Rule. In developing this proposed amendment Rule, consideration has been given to best practice in overseas jurisdictions.

In particular, the changes to vehicle noise requirements for entry to the New Zealand fleet have been compiled with regard to such limits in overseas jurisdictions.

How the proposed amendment Rule fits with other legislation

Under *section 115* of the Act, the Police can “green sticker” a vehicle that they believe does not comply with the requirements of Land Transport Rules, directing that it should not be driven on the road until it has been inspected by an authorised person and that person is satisfied that the vehicle complies with the Rules. At that point, a new WoF or CoF will be issued for the vehicle.

If a vehicle is “green-stickered” for noise, because the Police believe on reasonable grounds that it does not comply with the Vehicle Equipment Rule, the vehicle would have to undergo a WoF check and may be referred for an objective noise test under the proposed amendment Rule.

Clause 7.4 of the Road User Rule provides for on-road enforcement of excessive vehicle noise caused by the manner in which a vehicle is operated. Under that Rule, the Police can issue an instant infringement offence notice and impose demerit points if a person operates a vehicle that creates noise that, having regard to all the circumstances, is excessive. This includes noise from stereos and ‘boom boxes’.

This power of the Police under the Road User Rule addresses the behaviour aspect of vehicle noise. This proposed amendment to the Vehicle Equipment Rule is aimed at dealing with vehicles that are excessively noisy due to their exhaust equipment and the manner in which that equipment has been fitted.

Revised penalties for operating a vehicle in a noisy manner came into force on 26 June 2008. (See *page 8*)

Offences and penalties

The draft amendment Rule does not propose any change to the current offence provisions, which are contained in the *Land Transport (Offences and Penalties) Regulations 1999*.

Publication and information

Copies of this document may be obtained by contacting the NZ Transport Agency Contact Centre on 0800 699 000. It is also available at: www.nzta.govt.nz/consultation/vehicle-equipment-noise-amendment.

If you have not registered your interest to receive drafts of this proposed amendment Rule (or other draft Rules in the Rules programme), you can do so by contacting the NZ Transport Agency, or on the website at: www.landtransport.govt.nz/rules/reg-interest-rules.html.

Information about the Rules programme and process can be found on the website at: www.landtransport.govt.nz/legislation/. This includes an on-line form for registering an interest in Rules.

Final published Land Transport Rules can be purchased from bookshops throughout New Zealand that sell legislation. Queries about the availability and price of Rules can be made to the Rule publishers, Wickliffe Ltd, on (06) 358 8231.

Final Rules, together with related information, are also available at www.landtransport.govt.nz/rules/.