



ROAD VEHICLE REGULATION

Road vehicle regulatory approach

Regulating under the Road Vehicle Standards Act 2018 and the New Vehicle Efficiency Standard Act 2024

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Purpose and context

Our road vehicle regulatory approach (regulatory approach) describes how we support and enable regulated entities to comply with their obligations under the *Road Vehicle Standards Act 2018* (the RVSA), the *Road Vehicle Standards Rules 2019* (the Rules) and the *New Vehicle Efficiency Standard Act 2024* (NVES).

The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (the department) is responsible for administering the *Road Vehicle Standards Act 2018*, the *Road Vehicle Standards Rules 2019* (together the RVS legislation) and the *New Vehicle Efficiency Standard Act 2024* (NVES). These pieces of legislation work together to set nationally consistent performance-based standards for road vehicles being provided to the Australian market for the first time, while providing Australian consumers with a choice of vehicles that are safe, meet environmental expectations, can make use of technological advancements and incentivise the provision of vehicles that emit less carbon dioxide.

Our regulatory approach sets out an escalating compliance response to escalating risk and non-compliant behaviours. It shows the relationship between non-compliant behaviour, and the corresponding regulatory response guides our compliance activities and enforcement responses.

A fundamental principle for the regulatory approach is to ensure there is a degree of flexibility in addressing non-compliance issues and risks as they arise.

Our legislation

The RVS legislation modernises the process for importing and supplying vehicles in Australia, taking into account major developments in the automotive industry since the previous legislation was introduced in 1989.

The RVS legislation includes a framework to recall road vehicles and approved road vehicle components that are unsafe or do not comply with national road vehicle standards. It also allows for the triggering of certain provisions of the *Regulatory Powers (Standard Provisions) Act 2014* (RPA), enhancing the department's regulatory powers and allowing for a range of compliance and enforcement responses.

The NVES works in unison with the RVS legislation. The NVES sets carbon dioxide (CO₂) emissions targets (emissions targets) for new passenger cars and light commercial vehicles, such as utility vehicles (utes) and vans, entering the Australian market from 1 July 2025. The NVES applies to all new passenger and light commercial vehicles up to 4.5 tonnes gross vehicle mass (GVM).

The RVS legislation supports voluntary compliance by linking current industry practices to clear, relevant, and objective legislative criteria for importing and providing road vehicles to the Australian market. To be compliant with the NVES Act, entities must enter data on the Register of Approved Vehicles (RAV) under the RVS legislation.

A risk-based approach to regulation

A risk-based approach to regulation means that we manage risks proportionately and maintain essential safeguards while minimising regulatory burden. We provide proportionate, prompt and consistent regulatory responses.

Where the non-compliance risk is considered high, there is a greater or stronger compliance and enforcement response to that risk. Conversely, where the non-compliance risk is considered low, there is a lesser or lighter compliance and enforcement response.

This risk-based approach helps ensure that our activities focus on regulated areas and regulated entities that pose the greatest risk, without impeding the regulated industry's ability to operate.

A risk-based approach does not mean eliminating all risks, or taking a 'no-touch' approach to lower-risk regulated entities or behaviours.

A risk-based approach utilises the following elements:

- **Risk identification:** actively identifying and documenting historical, current and emerging risks in our regulatory environment.
- **Risk assessment:** assessing the likelihood and consequence of identified risks, considering the effectiveness of any controls.
- **Risk prioritisation:** prioritising the risks, together with the risk assessment, informing the design of compliance activities, allocation of resources to compliance activities and selection of the most appropriate compliance or enforcement response.
- **Control assessment:** identifying and assessing the effectiveness of controls currently used to modify or prevent the likelihood or consequence of the risk.
- **Allocation of resources to compliance activities:** allocating resources to compliance activities in proportion to the risk and guided by the risk priority.
- **Tailoring of the enforcement response:** tailoring enforcement or compliance responses based on the severity and behavioural drivers of the non-compliance.

A risk-based approach aims to deliver better regulatory outcomes, while minimising the regulatory burden on low-risk regulated areas or entities. The implementation of an effective risk-based approach supports:

- a flexible, yet consistent approach to the monitoring and management of compliance.
- the efficient and effective allocation of limited resources proportionate to the identified risk.
- direction of the 'cost' of compliance and enforcement activities to higher-risk areas or entities.
- lower-risk entities being subject to a lighter touch compliance approach (not no touch), with any intervention designed to provide an incentive to voluntarily comply with obligations.
- higher-risk entities being subject to greater regulatory scrutiny and intervention.
- proportionate responses to non-compliance.
- flexibility to adapt to changing circumstances and changing priorities resulting from new or evolving risks, changes in stakeholder expectations, or the behaviour and motivations of regulated entities.

We are committed to maintaining an effective regulatory framework that is fit-for-purpose, proportionate to risk, and reviewed for continuous improvement.

Our relationships with stakeholders also help us to achieve our purpose and objectives, with open discussions seen as critical. It is important to us that we understand the different perspectives of our stakeholders, even where we may not agree.

Our compliance model

The compliance model does the following:

- reflects our approach to regulating.
- sets out an escalating regulatory response to escalating risk and non-compliant behaviours.
- shows the relationship between non-compliant behaviour and the likely corresponding regulatory response.
- guides our compliance activities and enforcement responses while supporting industry.
- allows flexibility in addressing non-compliance issues and risks as they arise.

Compliance types

The compliance model recognises there are varying degrees of compliant and non-compliant behaviour. Each behaviour requires a different compliance and enforcement approach to respond to any non-compliance, encourage a return to compliance, or enforce compliance. We use four main types when considering non-compliance and responding to non-compliance:

- voluntary compliance.
- assisted compliance.
- directed compliance.
- enforced compliance.

This concept is commonly illustrated as a pyramid. Most regulated entities follow the rules willingly, aided by educational materials that help them stay compliant. At the pyramid's upper level, deliberate or ongoing failure to comply will be met with suitable and progressively stricter compliance and enforcement actions.



The Compliance Model

Voluntary compliance

The compliance model recognises that industry largely attempts to operate within the law and strives to be compliant. The department will assist industry by providing high quality explanatory guidance materials, streamlined processes and points of contact for assistance with issues or concerns.

The department's website, along with the NVES website, contains easily accessed compliance-related information addressing a wide range of areas to assist industry in identifying changes to the regulated operating environment and the regulated entities' obligations.

All public information is subject to frequent reviews and updates, and industry is encouraged to regularly check the department's website and the NVES website and provide feedback through relevant consultative forums.

Assisted compliance

When non-compliance occurs through error or inability to comply with an aspect of an entity's obligations, our aim is to assist. We will provide targeted guidance and education to assist in achieving, or re-establishing compliance. If this proves unachievable, previously issued approvals may be varied, suspended, or revoked, as appropriate, initiated either by the department or the approval holder.

Assistance may also be provided through inspection and monitoring activities to identify compliance and/or potential or actual non-compliance. These activities may be conducted either using remote technology or onsite. It is important to note that initial assistance is provided through education about compliance obligations and how to meet them. However, regulatory consideration of non-compliance which falls within this second tier recognises an escalation in seriousness which may also justify proportionate enforcement action.

Monitoring allows us to assess whether the legislation is being followed, as well as verify the accuracy of any provided information. To conduct monitoring activities, an authorised person may enter premises either with the consent of the occupier, or under a monitoring warrant.

Monitoring powers

The monitoring powers that may be used include:

- searching premises and anything on premises.
- examining or observing an activity conducted on the premises.
- make any still or moving images or recording of the premises or anything on the premises.
- inspecting any document on the premises.

In addition to these monitoring powers, inspectors have additional monitoring powers to sample anything on the premises and the power to remove and test such samples.

It is important to note that assisted compliance does not aim to help individuals avoid meeting regulatory requirements.

Directed compliance

The likelihood of detection is seen as a strong deterrent to deliberate non-compliance. We will conduct inspections and regular compliance monitoring in conjunction with planned targeted compliance activities that target identified risks and suspected deliberate non-compliant behaviours.

Our regulatory activities in this category may involve varying, suspending or revoking approvals or executing monitoring and investigation warrants, issuing infringement notices, accepting enforceable undertakings, or

seeking court issued injunctions. Depending on how long or how serious any detected non-compliance is, matters may also be referred for prosecution.

Investigation powers

An investigation is different from compliance monitoring. An investigation is important because its purpose is to compile a Brief of Evidence, which is then submitted to the Commonwealth Director of Public Prosecutions (CDPP) for a possible prosecution decision.

Investigation activities may also result in other enforcement decisions such as the issuing of infringement notices.

Infringement notices

An infringement notice is a lesser penalty than could be applied for via a civil penalty order and may be appropriate for less severe contraventions of the RVS legislation.

An infringement officer can issue an infringement notice to someone if they reasonably believe that the person has violated a provision covered by such notices.

A person who receives an infringement notice can choose to pay the penalty amount as an alternative to having court proceedings brought against them for a contravention.

Civil Penalty

Civil penalty provisions are enforceable and allows an authorised applicant (i.e. the Minister, the department Secretary, an Senior Executive Service (SES) employee or acting SES employee of the department), to apply to a relevant court for an order that a person - including a body corporate - who is alleged to have contravened a civil penalty provision of the RVS legislation, pay the Commonwealth a pecuniary penalty (a monetary penalty).

If the relevant court is satisfied that person has contravened a civil penalty provision of the RVS legislation, the court may order the person to pay a penalty that the court determines is appropriate.

A single civil penalty order may be made by the court for multiple contraventions of a civil penalty provision.

Enforceable undertakings

The RVS Act prescribes that a civil penalty provision is enforceable under Part 6 of the RPA. This part of the RPA creates a framework for accepting and enforcing undertakings made by a person about compliance with relevant RVS legislation provisions. An authorised person can accept enforceable undertakings.

For acceptance, undertakings need to be written and clearly identified as an undertaking under section 114 of the RPA, stating that the individual will:

- take specified action to comply with a provision that is enforceable.
- refrain from taking specified action to comply with a provision that is enforceable.
- take specified action towards ensuring that they do not contravene a provision that is enforceable.

A notice of a decision to accept an undertaking, and the name of the person who gave it, will be published on the department's website.

Injunctions

An injunction can be used to prevent someone from violating an RVSA provision or to require them to comply with it. There are two types of injunctions.

1. Restraining injunctions. If a person has engaged, is engaging, or is proposing to engage in conduct that contravenes an RVSA provision, a court, on application by an authorised person may grant an injunction:
 - restraining a person from engaging in conduct; and
 - if desirable in the court’s opinion, require the person to do a thing.
2. Performance injunctions. If a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail to do a thing; and the refusal or failure was, is, or would be a contravention of an RVSA provision, a court, on application by an authorised person may grant an injunction:
 - requiring the person to do that thing.

Enforced compliance

In cases involving deliberate or repeated serious non-compliance we are prepared to apply all relevant enforcement options provided under the law, including seeking prosecution. RVS legislation sets out a range of criminal offences that on conviction can result in significant financial penalties. When considering the actions to take, we will consider an entity’s compliance history and responses to any previous interactions with us.

Glossary

For the full list of terms, refer to the [RVS legislation glossary of terms](#) on the department’s website.

Term	Definition
Civil penalty order	A court-issued pecuniary penalty order i.e. fine, imposed when a civil penalty provision of the RVSA has been breached. Taken to be a ‘judgement debt’, the Commonwealth may enforce the order as if it were an order made in civil proceedings against the person to recover a due debt.
Compliance monitoring	A broad term referring to any form of information collection, or contact with a regulated entity for the purposes of identifying issues relating to that entity’s compliance with the legislation and/or any conditions of an approval they hold.
Enforceable undertaking	A written, court-enforceable undertaking given by a regulated entity to comply with provisions of the RVSA, accepted by an authorised person. Breaches of an accepted undertaking may result in a court making a compliance, financial and/or any other order that it considers appropriate.
Infringement notice	A pecuniary penalty notice given to a regulated entity by a infringement officer who believes on reasonable grounds that the person has contravened a provision of the RVSA.
Injunction	Court issued document restraining a person from engaging in non-compliant conduct (restraining injunction); or requiring the person to do a thing they have refused or failed to do (performance injunction).
Inspection	Inspections may be conducted to assess whether or not a regulated entity complies with the legislation and any conditions of the approval they hold.
NVES	<i>New Vehicle Efficiency Standard Act 2024</i>

Term	Definition
RVS inspector	A person appointed as an inspector under s.49 of the RVSA
Register of Approved Vehicles (RAV)	A publicly accessible online database of vehicles that comply (or substantially comply) with applicable national road vehicle standards or are otherwise permitted for use on public roads under a concessional scheme. Generally, vehicles must be entered on the RAV with a vehicle type approval or concessional RAV entry approval before they are provided to the Australian market.
Regulated entity	An individual or organisation engaged in the provision of road vehicles or components to the Australian market, as authorised through a Licence/Approval issued by the Department of Infrastructure, Transport, Regional Development Communications, Sport and the Arts in accordance with the legislation.
RPA	<i>Regulatory Powers (Standard Provisions) Act 2014</i>
The department	Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
Warrant	Court-issued document authorising an inspector ('authorised person'), entry to a premises and the seizure of things relevant to the purpose of the warrant. A warrant may be issued for monitoring or investigative purposes.