



National Heavy Vehicle Regulator

Approved Guidelines for Granting Vehicle Standards Exemptions

Version 1.0

February 2014

Table of Contents

1	Introduction.....	4
2	Purpose.....	4
3	Guidance on public safety risk	6
3.1	What is public safety?	6
3.2	What is a significant safety risk?	6
3.3	NHVR and significant safety risk.....	7
3.4	Public amenity considerations	8
4	Roles and responsibilities.....	9
4.1	Vehicle standards exemption model.....	9
4.2	National Heavy Vehicle Regulator	9
4.3	Registration authority	11
4.4	Road managers.....	11
5	Assessment principles for exemption decisions	12
5.1	Safety is paramount	12
5.2	Prefer notices over permits.....	12
5.3	Minimise the number of notices	12
6	Guidance on process	13
6.1	Timing of NHVR decisions.....	13
6.2	Information to applicants.....	13
6.3	Information sheet for an exemption notice.....	14
6.4	Information notice for an exemption permit.....	14
6.5	Reviews and appeals of an exemption decision.....	14
6.6	Amendment, cancellation and suspension of an exemption.....	15
6.7	Vehicle standards exemptions granted prior to commencement of the HVNL.....	19
7	Effect of amendment, cancellation and suspension on other exemptions	19
7.1	Amendment or cancellation (notice or permit)	20
7.2	Suspension (notice or permit).....	20

8	Vehicle standards interaction with access exemptions	20
9	Using conditions to manage safety risks	22
9.1	Managing the risk of significant infrastructure deterioration.....	22
9.2	Managing public amenity	23
9.3	Managing harm to the environment.....	23
10	Conditions.....	24
10.1	Driver and vehicle conditions.....	24
10.2	Road and travel conditions.....	25
10.3	Conditions about consultation	26
11	Importing heavy vehicles.....	26
12	Special purpose vehicles built in Australia	27

© National Heavy Vehicle Regulator (2014)

Version 1.0



<http://creativecommons.org/licenses/by-sa/3.0/au>

This work is licensed under a Creative Commons Attribution-ShareAlike 3.0 Australia Licence. To attribute this material, cite National Heavy Vehicle Regulator, *Approved Guidelines for Granting Vehicle Standards Exemptions*.

1 Introduction

These Approved Guidelines have been approved by the responsible Ministers under section 653 of the *Heavy Vehicle National Law (HVNL)* as in force in each participating state and territory. Sections 62 and 70 of the HVNL require that the National Heavy Vehicle Regulator (NHVR) established under section 656 of the HVNL must have regard to the Approved Guidelines in deciding whether to grant a Vehicle Standards Exemption Notice or Permit.

Unless otherwise stated, words and expressions used in these Approved Guidelines have the same meanings as in the HVNL or regulations made under the HVNL.

The HVNL provides that heavy vehicles may only be used on a road if the vehicle complies with the heavy vehicle standards applying to the vehicle, or it has been granted a vehicle standards exemption by the NHVR.

Heavy vehicles that are exempt from vehicle standards may be subject to conditions to ensure that their use will not pose a significant safety risk, to protect road infrastructure and the environment from damage.

There are two types of HVNL vehicle standards exemption:

1. Vehicle Standards Exemption (Notice) – for a category of heavy vehicles.
2. Vehicle Standards Exemption (Permit) – may apply to one (1) or more heavy vehicles and is issued to a person.

Only the NHVR may grant vehicle standards exemptions under the HVNL. In granting a vehicle standards exemption notice [s62(2)] or permit [70(2)], the NHVR must have regard to the approved guidelines for granting vehicle standards exemptions. The broad philosophy underpinning these guidelines is for the NHVR to have utmost regard to public safety and minimise the impact of exempt heavy vehicles on road infrastructure, public amenity or the environment.

The HVNL is not intended to prohibit the use of non-complying heavy vehicles that have a genuine reason for using the road but to facilitate the use of such vehicles provided that their impact is fully considered.

2 Purpose

The purpose of the guidelines is to:

1. Demonstrate in a transparent manner how the NHVR is satisfied that the use of heavy vehicles operating under an exemption from the vehicle standards does not pose a significant safety risk (refer s62 notices and s70 permits of the HVNL); and
2. Demonstrate that vehicle standards exemption permits and notices are granted through the adoption of consistent policy and processes by the NHVR and road authorities acting on behalf of the NHVR under Service Agreements.

The NHVR has processes in place to consult with relevant state and territory registration authorities so that vehicle standards exemptions will be consistent with registration requirements.

These guidelines cover the following matters:

- guidance on significant safety risk and public safety
- the role and responsibilities of the NHVR, road authorities, road managers and registration authorities
- guidance on the process the NHVR will follow when considering a vehicle standards exemption under the HVNL
- guiding principles on vehicle standards exemption decision making
- guidance on imposing conditions in granting a vehicle standards exemption
- guidance on using conditions to manage risks.

It is expected that these guidelines will also be used by the heavy vehicle transport industry and other persons interested in the vehicle standards exemption decision making process to understand how and why exemptions are granted or refused. The three primary audiences for the guidelines are:

1. the heavy vehicle industry and potential applicants, as an explanation as to how the NHVR will perform its role in granting or refusing vehicle standards exemptions
2. road authorities, road managers and registration authorities as an explanation of the various functions and roles of each of the stakeholders involved in the process of granting or refusing access to the road network to a heavy vehicle that does not comply with the vehicle standards. This includes describing such things as driver, vehicle, travel and road conditions and registration matters that may form part of the granting of an exemption
3. the NHVR, as it must have regard to the guidelines in deciding whether to grant a vehicle standards exemption.

The guidelines provide applicants and stakeholders with information about the various factors considered in making decisions about applications for vehicle standards exemptions.

In broad terms there are three circumstances where a vehicle standards exemption would be considered:

1. an exemption is required for the heavy vehicle to operate for the purpose which the vehicle was built or modified

2. the heavy vehicle is an experimental or prototype vehicle and could not reasonably comply with the vehicle standards regulations
3. the heavy vehicle has previously not been required to comply to a similar standard under a jurisdiction law prior to the commencement of the HVNL.

Users of these guidelines are encouraged to provide feedback to the NHVR about any other matters that they believe may be included in future versions of the guidelines.

The NHVR acknowledges that the terms vehicle, road and travel conditions are defined terms used in granting access exemptions. As an administrative practice for assessing vehicle standards exemptions the NHVR, for the purpose of transparency and consistency, has adopted the same method to categorise the types of conditions that may be imposed on a vehicle standards exemption. This does not restrict the types of conditions that may be imposed in mitigating safety risks (refer to section 3.2 on significant safety risk) as the NHVR can impose any conditions on a vehicle standards exemption.

These guidelines should be read in conjunction with the HVNL. Compliance with the guidelines by the NHVR may be taken into account in reviews or appeals against a vehicle standards exemption decision under the HVNL.

3 Guidance on public safety risk

The NHVR is required to consider public safety when granting vehicle standards exemptions. This section of the guidelines provides guidance to the NHVR about considering public safety risk when assessing a vehicle standards exemption application for a heavy vehicle.

3.1 What is public safety?

The HVNL defines public safety as being the safety of persons or property. This includes, but is not limited to:

- the safety of drivers and passengers of vehicles
- the safety of persons such as pedestrians and people near the road
- the safety of property such as vehicles, loads and property on or near the road reserve.

Public safety is about ensuring that the use of an exempt heavy vehicle does not cause harm to other people using the roads or to property on or near the road. All road users have a legitimate expectation that they can use the road without being put at risk of harm by another road user.

3.2 What is a significant safety risk?

The HVNL defines safety risk as:

- a risk to public safety; or

- of harm to the environment.

A safety risk is significant if it is important or of consequence to the safety of persons, property or the environment. A risk that an event is unlikely to occur or will have a minor consequence is not a significant safety risk. A risk that an event is likely to occur or will have a major consequence is a significant safety risk.

A crash involving heavy vehicles may cause death or serious injury to a person or major damage to property. The size and mass of heavy vehicles often makes the consequences of crashes more serious than crashes involving light vehicles.

3.3 NHVR and significant safety risk

Under the HVNL, the NHVR must be satisfied that a heavy vehicle will not pose a significant safety risk (refer section to 3.2 for a definition) before it grants the vehicle standards exemption. The NHVR will consider whether the heavy vehicle can be used safely in known road and traffic environments.

When the NHVR is deciding whether there is a significant safety risk due to exempting a heavy vehicle from a vehicle standard, it needs to consider both the likelihood that the potential event will occur and the consequences of the event. A risk is not significant simply because it may happen. When considering if a safety risk is significant the types of assessment criteria the NHVR will consider include:

- the number and length of trips a heavy vehicle may make
- the area and roads on which the heavy vehicle will operate, e.g., traffic density, urban and rural or remote areas of operation
- interaction with other road users
- the effect a heavy vehicles use may have on the environment
- the effect of night and/ or reduced visibility on the heavy vehicle's ability to travel safely.

When assessing the risk posed by a non-compliant heavy vehicle, the NHVR may consider:

- the design and construction of the heavy vehicle
- security of couplings
- dynamic stability and tracking characteristics
- acceleration and braking performance
- manoeuvrability
- visibility to other road users
- noise and emissions

- the risk of rollover posed by the distribution of mass or the type of load being carried.

The NHVR needs to be satisfied that the exemption will not pose a significant safety risk arising from the heavy vehicle's use and the vehicle's interaction with the road infrastructure.

When considering the impact a heavy vehicle may have on road infrastructure, the NHVR may consider:

- the heavy vehicle's ability to interact with the infrastructure and road environment
- dimensions of the road such as its width and its horizontal and vertical curvature
- location of infrastructure on or near the road pavement
- usual traffic conditions of the road, such as what types of vehicles use the road
- the use of properties near the road, e.g., the road passes a property used by vulnerable road users such as children
- sight distances for other road users
- clearance zones for the road, etc.

3.4 Public amenity considerations

The HVNL does not specifically require the NHVR to consider public amenity issues when deciding whether to grant a vehicle standards exemption to heavy vehicles. However, the NHVR may consider any issues it deems appropriate.

The NHVR acknowledges that the term public amenity is a defined term used in granting access exemptions. As an administrative practice for assessing vehicle standards exemptions the NHVR, for the purpose of transparency and consistency, believes that it is also important to consider issues of public amenity when considering exempting heavy vehicles from the vehicle standards. This does not limit the types of public amenity issues that the NHVR may consider or the conditions that can be imposed to mitigate risks associated with public amenity.

The NHVR may decide not to consent to a vehicle standards exemption if public amenity from the use of the heavy vehicle under the proposed approval poses a significant concern for the community and it is not possible to mitigate these effects by imposing conditions, e.g., dust and traffic congestion.

In all cases, consideration must be given to the relative difference between the current state of the heavy vehicle, the proposed non-compliance, the vehicle's ability to comply with heavy vehicle standards and also the effect the operation of the vehicle will have on public amenity.

4 Roles and responsibilities

This section of the guidelines explains the role and responsibility of each of the parties involved in the process of granting or refusing a vehicle standards exemption.

4.1 Vehicle standards exemption model

For heavy vehicles that do not comply with the applicable heavy vehicle standards and which are not covered by a vehicle standards exemption notice, there will be a three part process to gain access to the road network. The NHVR does not currently have responsibility for the registration of heavy vehicles and this function remains the responsibility of the jurisdictional authorities. The three steps include:

1. The operator of a heavy vehicle that is not compliant with the heavy vehicle standards must apply to the NHVR for a vehicle standards exemption permit. The HVNL allows the NHVR to place conditions for use or access for an exempted heavy vehicle.
2. Once the exemption permit is granted by the NHVR, the operator is required to approach the jurisdictional registration authority with it to apply for registration or if the heavy vehicle is already registered to update the details relating to the vehicle's registration. The registration authority may impose additional conditions on the vehicle's use.
3. There may also be a requirement to apply for a mass and dimension authority permit, which is granted by the NHVR. The NHVR requires consent from the road managers (which may include local government). The access permit will contain conditions of use and access (road and travel conditions).

4.2 National Heavy Vehicle Regulator

In assessing vehicle standards applications, the NHVR will determine if, for convenience and practicality of industry, it is appropriate to create a vehicle standards exemption notice.

The HVNL provides that the NHVR may only grant a vehicle standards exemption notice if the category of heavy vehicle will not pose a significant safety risk and one of the following applies:

- a. the exemption enables the heavy vehicles to operate in the intended way or for the purpose for which it was built
- b. the heavy vehicles are experimental or a prototype
- c. a road authority has made a request for a category of heavy vehicles to be exempt (restricted to use in that jurisdiction)
- d. a category of heavy vehicles, that immediately before the commencement of the HVNL were; previously exempt, registered or operating under an unregistered

vehicle permit or exemption from registration and did not need to comply with a similar standard

- e. the heavy vehicle is a category of heavy vehicle prescribed in national regulations.

The HVNL provides that the NHVR may only grant a person a vehicle standards exemption permit if they have made an application on the approved form, paid the prescribed fee and if one of the following applies:

- a. the exemption enables the heavy vehicle to operate in the intended way or for the purpose for which it was built
- b. the heavy vehicle is experimental or a prototype
- c. a heavy vehicle, that immediately before the HVNL commenced, was previously exempt, was registered or operating under an unregistered vehicle permit or exemption from registration.

The NHVR can request any additional information that it requires to make a decision to grant a vehicle standards exemption permit. The types of additional information that might be requested can be diverse and varied depending on the extent of the non-compliance for which an exemption is being sought. It may include diagrams, tests of componentry or additional information from the manufacturer about the changes made and the effect this may have on the vehicle's specifications and overall performance.

The NHVR must also be satisfied that the use of a heavy vehicle under an exemption will not pose a significant safety risk (refer to section 3.2 for a definition).

The NHVR will require applicants for vehicle standards exemptions to provide detailed information if the heavy vehicle(s) have been modified, including the specific modifications carried out.

The NHVR is responsible for deciding whether a heavy vehicle will be subject to any conditions.

4.2.1 Final Responsibility

The NHVR is responsible for deciding an application for a vehicle standards exemption permit under Section 70 and may decide not to grant the application.

The NHVR is responsible for deciding applications to grant an exemption notice under Section 62(1)(a)(iii). The NHVR may decide not to grant the vehicle standards exemption notice requested by a road authority. If the NHVR is not satisfied that the category of heavy vehicles can be used safely then it will not grant the vehicle standards exemption notice. A road authority will not allow a category of heavy vehicles to operate in a manner that poses a significant safety risk, endangers public safety, road infrastructure, or the environment.

4.3 Registration authority

The registration function in the HVNL has not been activated at this stage. The registration authority in each jurisdiction continues to be responsible for its registration laws. Jurisdictions are registration authorities (under their own laws), road authorities and road managers under the HVNL.

Within each jurisdiction, the registration authority is responsible for deciding whether to consent to the registration or an exemption from registration for exempt heavy vehicle. The NHVR will consult with registration authorities on the granting of vehicle standards exemptions to identify jurisdictional registration requirements for exempt heavy vehicles. Registration authorities may require additional conditions to enable the vehicle's registration or exemption from registration.

The NHVR will respect the role of the registration authority, outlined in jurisdictional registration law, in consenting to the registration or exemption from registration of a heavy vehicle that has been granted an exemption and its assessment of whether it is safe for a particular heavy vehicle to use their roads

This will ensure that conditions imposed on a heavy vehicle for a vehicle standards exemption will not contradict one another nor impose similar conditions on the same topic, e.g., lighting or signage.

Registration authorities may choose to record information relating to a vehicle standards exemption, such as the conditions imposed on the vehicles operation under a vehicle standards exemption, on their vehicle registers.

4.4 Road managers

A heavy vehicle and its load must comply with the mass and dimension requirements in the HVNL.

If it does not comply with these requirements it must have an exemption to travel by an access permit from the NHVR, who must obtain consent from the relevant road managers. (Refer to the Approved Guidelines for Granting Access for information on the process for access decision making by road authorities, road managers and the NHVR).

Both the NHVR and road authorities must have regard to their respective roles and responsibilities as explained in these guidelines when making a decision about vehicle standards exemptions.

The road authority will respect the role of the NHVR to make decisions about whether it is safe for a heavy vehicle to be exempt from the vehicle standards in general, and whether any conditions are appropriate.

5 Assessment principles for exemption decisions

There are a number of guiding principles that the NHVR will consider when making vehicle standards exemption decisions. This section of the guidelines explains the principles the NHVR will use in determining whether to grant a vehicle standards exemption. These principles include:

- Safety of the heavy vehicle and all other road users is paramount.
- Grant notices rather than permits.
- Try to minimise the number of notices.

5.1 Safety is paramount

It is recognised that there will be many factors affecting the decision to provide an exemption under a notice or a permit. This includes consideration of harm to the environment, damage to road infrastructure and risk to public safety through the use of vehicles on public roads. Conditions can be used to manage safety risks to ensure that a vehicle standards exemption is safe to grant (refer to section 3 for further guidance).

5.2 Prefer notices over permits

The HVNL does not specify when an exemption for a category of heavy vehicles will be granted by way of a notice or a permit. An efficiency gain sought by the NHVR is the reduction of the administrative burden on the heavy vehicle industry. Therefore the streamlining and harmonisation of the exemption decision making process is desirable. In this context the use of notices for categories of heavy vehicles is preferred over the granting of multiple individual permits.

When deciding whether a vehicle standards exemption notice will be granted, preference will be given to considering if an existing notice can be used or if a new notice can be granted. The grant of a permit will be directed towards individual or low volume heavy vehicle exemptions.

If a significant number of permits are being granted for similar heavy vehicles across multiple jurisdictions the NHVR will consider creating an exemption notice which would have effect across all participating jurisdictions and/ or may be limited to a geographic boundary.

5.3 Minimise the number of notices

One long term objective of the NHVR is to reduce the number of vehicle standards exemption notices that apply to heavy vehicles. The NHVR will consider whether an existing notice can be amended to include a further exemption rather than granting a new notice.

If a proposed exemption decision can be accommodated by making minor amendments to an existing notice then this is preferred over making a new notice.

When the NHVR is deciding whether an exemption notice will be granted it will seek to include the proposed heavy vehicle(s) in an existing notice.

The NHVR may grant a new notice if the inclusion of the proposed exemption will complicate the existing notice due to different conditions of the exempt heavy vehicles subject to the notices.

6 Guidance on process

The operators of exempt heavy vehicles and the public have an expectation that decisions will be made in a timely and efficient manner with careful assessment of the matters required by the HVNL. This section of the guidelines explains what processes the NHVR will adopt in assessing vehicle standards exemptions.

6.1 Timing of NHVR decisions

The HVNL does not impose time limits on the NHVR's role in the exemption decision making process. The NHVR will aim to encourage and promote productive, efficient, innovative and safe business practices. The NHVR will approve applications as quickly as possible.

Reasons for the HVNL not expressly imposing time limits on the NHVR include:

- a. The NHVR is not able to make its exemption decision until it has all the relevant information and this may take some time to gather.
- b. Many applications will be straight forward and can be turned around very quickly whilst others will be extremely complex and require more detailed assessment.
- c. The NHVR will make decisions within a reasonable time to minimise the impact of delays on operators. However, many applications for exemption will not be routine transactions and it is expected that in some instances applications may not be processed quickly. The NHVR will provide applicants with an estimate of the time that an assessment and approval may take as soon as the NHVR has all relevant information.

6.2 Information to applicants

Applicants will be given sufficient information so that they can have realistic expectations about the processing of the application. Upon receipt of a vehicle standards exemption permit application, the NHVR will provide the following information to applicants:

- Advice that the applicant may require other exemptions from the NHVR or a registration authority before the proposed use of an exempt heavy vehicle can be allowed under the HVNL and jurisdiction registration laws.
- If the NHVR will need to consult with a road manager or registration authority.
- An estimate of how long it may take to decide whether to grant an exemption.

- If applicable, what alternative arrangements are already in place that may be useful to the applicant.

6.3 Information sheet for an exemption notice

An information sheet is an explanatory document that the NHVR publishes on its website about each vehicle standards exemption notice granted. It informs drivers of heavy vehicles about the notice and its conditions. A notice may include a condition requiring drivers to keep a copy of the information sheet in their possession when driving under that exemption.

6.4 Information notice for an exemption permit

An information notice is a document that explains to an applicant what decision has been made, why the decision has been made and explains the applicant's review and appeal rights. The HVNL only requires that an information notice for permits be provided to applicants if:

- the period of the permit is less than 3 years, or the period is less than that requested by the applicant; or
- conditions have been imposed on the permit; or
- the exemption permit application is refused.

6.5 Reviews and appeals of an exemption decision

6.5.1 Internal review

The HVNL (Chapter 11) provides circumstances where a person who is dissatisfied with a decision by the NHVR (dissatisfied person is defined in section 641 of the HVNL) can ask the NHVR to review a decision it has made, including if the NHVR decides to:

- a. not grant a vehicle standards exemption (permit)
- b. grant a vehicle standards exemption (permit) for a period less than the period (of not more than 3 years) sought by the applicant
- c. impose on a vehicle standards exemption (permit) a condition not sought by the applicant
- d. not make a decision sought in an application for amendment or cancellation of a vehicle standards exemption (permit)
- e. amend or cancel a vehicle standards exemption (permit)
- f. immediately suspend a vehicle standards exemption (permit)
- g. not give a replacement permit for a vehicle standards exemption (permit)

A person who requests an internal review of an NHVR decision must apply in writing:

- a. stating the grounds on which they want a decision reviewed

- b. within 28 days of being notified about the decision; or
- c. within 28 days after receiving a statement of reasons, if an information notice (permit) had not been provided and a statement of reasons has been requested.

Once the review decision has been made the NHVR will provide the applicant with a review notice. The review notice must state:

- a. the reason for the decision if the review decision was not the one sought by the applicant
- b. appeal rights of the applicant
- c. how they are to appeal.

6.5.2 Appeals

A person may appeal an internal review decision (a decision made above in section 6.5.1) to the relevant appeal body in:

- a. the jurisdiction where one or more of the heavy vehicles is garaged; or
- b. if there are two or more than two heavy vehicles with garage addresses in two or more participating jurisdictions one of these jurisdiction chosen by the operator; or
- c. a jurisdiction of residence.

For example, the Queensland Civil and Administrative Tribunal is the relevant appeal body for Queensland.

The appeal can be made within 28 days after:

- a. the NHVR has given them a review notice; or
- b. the end of the internal review period, if the internal reviewer does not make a review decision within the period mentioned in the review notice.

The period for an appeal can be extended by the relevant appeal body but the review notice decision remains in effect until the appeal has been heard or the appeal body places a stay on the review decision e.g. the exemption is suspended or remains cancelled.

6.6 Amendment, cancellation and suspension of an exemption

There is no legal requirement for the NHVR to provide guidance on the amendment, cancellation or suspension of vehicle standards exemptions. This section of the guidelines provides clarity and transparency about how the NHVR will administer these functions of the HVNL.

6.6.1 Amendment or cancellation – exemption notice

The HVNL provides that the NHVR may amend or cancel an exemption notice on either of the following grounds:

- a. the use of heavy vehicles on a road under the exemption notice has caused, or is likely to cause, a significant safety risk; or
- b. since the exemption notice was granted, there has been a change in circumstances that were relevant to the NHVR's decision to grant the exemption and, had the changed circumstances existed when the exemption notice was granted, the NHVR would not have granted the exemption, or would have granted the exemption subject to conditions or different conditions.

The amendment can include providing additional conditions or increasing the category of heavy vehicles that are covered by the exemption notice.

If it is considered that there are grounds to amend or cancel an exemption notice, the NHVR may consider:

- technical (safety), economic, or environmental matters
- if the benefits and costs justify the proposed action
- the consequences for heavy vehicle operators affected by the proposal to amend or cancel.

The need to amend an exemption notice is likely to arise, but is not limited to, a significant change in the condition of the category of heavy vehicles covered by the notice or as a result of a technological advance that reduces the need for the exemption or the conditions within the exemption.

The power to cancel an exemption notice is likely to be used only rarely as the result of a change in the condition of vehicle covered by the notice such as a technical fault causing the vehicles to be subject to a product recall, a technological advance that renders the notice redundant or a natural disaster that prevents vehicles safely operating.

Amendment or cancellation due to heavy vehicle technological advances would be carefully considered as the consequences could be wide-ranging. The NHVR will need to be convinced that the heavy vehicles covered by the notice have all (or mostly) been replaced by the newer heavy vehicles. This can be particularly relevant in regional and remote areas where the cost of replacement of older heavy vehicles could be prohibitive, such as for farming communities where heavy vehicles are used periodically during harvest or unique mining equipment such as those used for opal mining.

The NHVR will consult with affected jurisdictions prior to making a decision to amend or cancel an exemption notice. To amend or cancel an exemption notice the NHVR must publish:

- a. the ground/s for amending or cancelling the notice
- b. the relevant facts and circumstances for amending or cancelling the notice
- c. the proposed action to be taken by the NHVR (amend or cancel)

- d. an invitation to persons affected by the proposed action to make written representations to the NHVR about why the proposed action should not be taken.

The NHVR must place a notice containing these considerations in the Commonwealth Gazette, in a newspaper circulating generally in participating jurisdictions and on the NHVR's website.

After considering all written submissions the NHVR may:

- cancel the exemption; or
- amend the exemption, including the imposition of additional conditions on the exemption in a way that is not substantially different from the proposed action.

The final amendment or cancellation must be published in a newspaper circulating generally in participating jurisdictions and on the NHVR's website. The amendment or cancellation takes effect 28 days after the Commonwealth Gazette notice is published or a later time if specified in the Commonwealth Gazette notice.

6.6.2 Immediate suspension – exemption notice

The NHVR may immediately suspend an exemption notice if it is necessary to prevent or minimise serious harm to public safety or significant damage to road infrastructure. The most likely reasons to invoke the immediate suspension are:

- identification of a safety fault in a significant number of similar heavy vehicles covered by the exemption notice; or
- a natural disaster such as flooding affecting road infrastructure.

Before deciding to immediately suspend an exemption notice, the NHVR will consider if there are alternative means of achieving the same outcome without the need to suspend the exemption notice. Where time allows, the NHVR will make every effort to consult with affected road and registration authorities but they should be advised of the NHVR's intentions and the decision as soon as practicable.

The suspension takes effect by publishing a notice in the Commonwealth Gazette and in a newspaper circulating generally in participating jurisdictions and on the NHVR's website. The suspension takes effect immediately after the relevant Commonwealth Gazette notice is published.

6.6.3 Amendment or cancellation – exemption permit

A vehicle standards exemption permit holder may apply to the NHVR for an amendment or cancellation of a permit. The application must:

- a. be in the approved form
- b. be accompanied by the prescribed application fee

- c. if the application is for an amendment, state the amendment sought and the reasons for the amendment
- d. be accompanied by the permit to which the amendment is sought.

If the NHVR agrees with the amendment, a replacement exemption permit must be issued. If the exemption permit is cancelled it has no effect and a person must not use it once notified that it has been cancelled. The person issued the exemption permit will be requested to return the original permit to the NHVR.

Under the HVNL, the NHVR may amend or cancel an exemption permit, without an application from a permit holder only if:

- a. the permit was granted because a document or representation made by an applicant was false or misleading or obtained or made in an improper way;
- b. the holder of the exemption permit has contravened a condition of the exemption permit;
- c. the use of a heavy vehicle has caused, or is likely to cause, a significant safety risk;
- d. since the exemption was granted, there has been change in the circumstances that were relevant to the NHVR's decision to grant the exemption and, had the changed circumstances existed when it was granted, the NHVR would not have granted the exemption, or would have granted the exemption subject to conditions or different conditions.

If any of the above grounds exist, the NHVR must give the exemption permit holder a notice:

- a. stating the proposed action
- b. stating the reasons why the proposed action is being taken
- c. outlining the facts and circumstances forming the basis for the action indicating any proposed amendments
- d. inviting submissions from persons effected by the proposed action about why the proposed action should not be taken.

After considering all written submissions, the NHVR may:

- a. cancel the exemption permit; or
- b. amend the exemption permit, including the imposition of additional conditions on it in a way that is not substantially different from the proposed action.

The NHVR will notify the registration authority of the jurisdiction in which the heavy vehicle (or vehicles) is registered so that the registration records can be adjusted to the changed conditions of the exemption permit or the cancellation of the exemption permit.

6.6.4 Immediate suspension – exemption permit

An exemption permit may be immediately suspended if the NHVR considers it necessary to prevent or minimise serious harm to public safety or significant damage to road infrastructure. There are no additional grounds for immediate suspension of an exemption permit. The most likely reasons to invoke the immediate suspension are:

- a. the holder of the exemption permit has contravened a condition of the exemption permit;
- b. identification of a safety fault in the heavy vehicle (or vehicles) covered by the exemption permit; or
- c. a natural disaster such as flooding affecting road infrastructure.

Should immediate suspension be necessary, it is achieved by giving an immediate suspension notice to the exemption permit holder. The jurisdiction of registration will be notified of the suspension.

The immediate suspension notice should state the reason for the immediate suspension and any other issues relevant to the suspension, including the means by which the suspension can be lifted. The NHVR has no legal obligation to give a reason for an immediate suspension but for the purpose of transparency and clarity the NHVR will generally advise the permit holder why the immediate suspension notice has been issued.

The immediate suspension applies for 56 days unless at an earlier time the NHVR cancels the suspension or gives the permit holder an information notice advising that the permit has been amended or cancelled.

6.7 Vehicle standards exemptions granted prior to commencement of the HVNL

The HVNL provides that instruments under repealed road transport laws that correspond to HVNL vehicle standards exemptions are to be treated as exemptions granted under the HVNL. If they were granted prior to the commencement of the HVNL they will have effect:

- a. for an exemption notice, the period specified in the notice or 5 years from the date of commencement of the HVNL whichever is the sooner
- b. for an exemption permit, the period specified in the permit or 3 years from the date of commencement of the HVNL whichever is the sooner; or
- c. until the NHVR replaces the exemption notice or exemption permit.

7 Effect of amendment, cancellation and suspension on other exemptions

There will be circumstances where a vehicle standards exemption will need to be amended, suspended or cancelled. This can have consequences for both an access exemption and the heavy vehicle's ability to comply with registration requirements.

This section of the guidelines explains the role and responsibility of each of the parties involved in the process when the NHVR is considering an amendment, cancellation or suspension of a vehicle standards exemption.

7.1 Amendment or cancellation (notice or permit)

The NHVR can only consider an amendment or cancellation to a vehicle standards exemption where the use of a heavy vehicle has caused or is likely to cause a significant safety risk or there has been a change in circumstance since the exemption was granted. This might include a modification to the heavy vehicle to bring the vehicle back into compliance with the heavy vehicle standards.

Where a vehicle standards exemption is to be amended or cancelled, the NHVR will consult with relevant (affected) road managers and registration authorities to determine the impact on vehicles utilising the exemption, in terms of access and registration. Consideration will also be given to the consequences of the amendment or cancellation on other instruments such as an access exemption.

Before making a decision to cancel an exemption, the NHVR will consider whether it is possible to mitigate the safety risk by imposing additional conditions. If this is possible, the NHVR will seek to amend the exemption to include the new conditions. If, however it is not possible to mitigate the risk by including new conditions, the NHVR may then cancel the exemption.

7.2 Suspension (notice or permit)

The NHVR can immediately suspend a vehicle standards exemption to prevent or minimise serious harm to public safety or damage to road infrastructure. Where a vehicle standards exemption is to be suspended the NHVR will consider the consequences on other instruments such as an access exemption.

Before making a decision to suspend an exemption, the NHVR will consider whether it is possible to mitigate the safety risk by imposing additional conditions. If this is possible, the NHVR will seek to amend the exemption to include the new conditions.

Where a decision has been made to suspend, additional conditions to mitigate the safety risk will then be considered to enable the exemption to be amended if appropriate.

If it is not possible to mitigate the risk by imposing new conditions, the NHVR may then suspend the exemption.

8 Vehicle standards interaction with access exemptions

Circumstances exist under the HVNL where both a vehicle standards exemption and an access exemption will be required prior to the heavy vehicle being granted approval to use

the road. This section of the guidelines explains the interaction between the vehicle standards exemption and the access exemption application processes.

Vehicle standards and access applications are assessed on their own merits according to the vehicle standards and access exemptions requested. The assessments will be undertaken in accordance with the requirements of HVNL and respective NHVR Approved Guidelines.

Despite their separate assessment being on the merits within the respective applications, the two are linked and this is where the NHVR must be clear about how decisions are made.

Where an applicant has applied for access, if there is a heavy vehicle standards matter that also requires an exemption, the applicant must also complete an application for a vehicle standards exemption. The NHVR will inform the applicant of the requirement to apply for a vehicle standards exemption.

The vehicle standards exemption permit application will be considered before the access application. In order to minimise turnaround times, if an initial examination of the heavy vehicle standards application does not highlight any obvious concerns, i.e. it is likely to be approved, the NHVR will proceed with the access application process in parallel with the detailed assessment of the heavy vehicle standards exemption application. The applicant will be notified of the progress of both applications.

An access application may not receive consent from road managers on the grounds that the infrastructure or amenity may be at risk. If the assessment of the access application is finalised, despite whether approval is granted or refused, before the vehicle standards exemption application, the assessment of the vehicle standards exemption application shall continue on its own merits.

An access application may be refused on the grounds of the heavy vehicle posing a significant risk to public safety (refer to the Approved Guidelines for Granting Access) involving the heavy vehicle itself, the load being transported or the route intended to be used. The vehicle standards exemption application will continue on its own merits. It may be that the vehicle standards exemption application can be used on a different route with a different load, and therefore will continue to be assessed on its own merits.

An access exemption for a specific heavy vehicle shall not be granted if a linked vehicle standards exemption application is refused on the grounds that the heavy vehicle would pose a significant risk to public safety.

Where an applicant receives an access exemption for prescribed mass or dimension requirements, those requirements no longer apply to the heavy vehicle. A heavy vehicle is not required to have a separate vehicle standards exemption for an exemption from dimensions under the heavy vehicle standards, as this will be included with the access exemption. Where possible, one exemption document will be issued if both a heavy vehicle standards and access exemption permit are required to operate.

Where a vehicle standards exemption permit application concerns a heavy vehicle operating under an existing access exemption permit, the applicant must notify the NHVR of the

existing permit. If the vehicle standards exemption application is refused, the access exemption may also be suspended, amended or cancelled.

An amendment, suspension or cancellation of a vehicle standards exemption will require the NHVR to assess the impact on any access exemption the same heavy vehicle may be operating under, using the principles described in this document.

If an access exemption is amended, suspended or cancelled, no action need to be taken on an existing vehicle standards exemption (permit), unless a specific condition of the access exemption is expressly linked to the vehicle standards exemption.

9 Using conditions to manage safety risks

The HVNL allows for the NHVR to impose conditions on a heavy vehicle standards exemption. The NHVR will only allow for exempt heavy vehicles to operate once safety risks (refer to section 3), damage to infrastructure and harm to the environment have been properly managed. The NHVR will consider what conditions are appropriate to manage these risks.

A decision by the NHVR to refuse a vehicle standards exemption because the exemption would pose a significant safety risk will be accompanied by an explanation in an information notice or sheet about why conditions would not appropriately manage this risk.

This section of the guidelines explains how the NHVR will use conditions to manage risks when granting a vehicle standards exemption.

9.1 Managing the risk of significant infrastructure deterioration

The NHVR may decide not to grant a vehicle standards exemption if the proposed exemption would cause damage to road infrastructure and it is not possible to avoid or significantly minimise this risk by conditions.

Examples of conditions that may be appropriate for the NHVR to mitigate significant infrastructure risks include:

- All projections must be minimised to reduce the likelihood of injury to any person or vehicle being exposed to the heavy vehicle during road use.
- The heavy vehicle must only be operated from the left hand driving position while actually engaged, in for example street sweeping operations.
- Restricting the speed of the heavy vehicle, and may include a requirement for a sign to be displayed at the rear of the heavy vehicle showing the restricted speed limit.
- Imposing certain operating requirements, such as a requirement to only travel in a particular lane, to negotiate certain structures (e.g. culverts) in a particular way.

9.2 Managing public amenity

The NHVR may decide not to grant an exemption if it is satisfied that the proposed vehicle standards exemption will impose adverse effects on the community and it is not possible to avoid or significantly minimise this risk by conditions.

When deciding what type of condition may be appropriate the NHVR could consider imposing conditions such as:

- Prohibiting the use of the exempt heavy vehicle in poor weather conditions to prevent the vehicle adding to traffic congestion or posing a risk to other vehicles.
- To reduce dust from heavy vehicle movements spray dirt roads or works sites with water to retard excessive dust.
- An approved transport management plan is followed during the course of the journey.

The NHVR may impose a vehicle condition that requires equipment to be fitted to the exempt heavy vehicle. The following types of condition may be considered:

- Requiring that the heavy vehicle display particular signage, delineators or have rotating warning lights operating during travel.
- Camera's be installed to assist the driver have clear vision of sight for left hand drive or over width heavy vehicles, or to the rear of over length heavy vehicles.
- That the heavy vehicle, when not involved directly in its intended function, only travel with equipment in a secure or raised position such as booms, attenuators or lifting arms to be fully retracted.

9.2.1 Traffic congestion

Traffic congestion should not be used as sole grounds for refusing an exemption to a heavy vehicle seeking a vehicle standards exemption. Consideration should be given to the impact that the heavy vehicle may have on traffic congestion for other road users, e.g., time of day travel conditions on a heavy vehicle to reduce peak hour traffic congestion.

9.3 Managing harm to the environment

The NHVR may decide not to grant an exemption if it is satisfied that the proposed vehicle standards exemption will harm the environment. In considering whether to grant the exemption it will consider how to avoid or significantly minimise the risk of harm to the environment by using conditions.

When deciding what type of condition may be appropriate, the NHVR may consider imposing conditions such as:

- Restricting the use of engine brakes on certain roads or at certain times to prevent excessive noise adversely affecting residents.

- Preventing the operation of the exempt heavy vehicle at certain times of the day to avoid peak hour traffic conditions and the heavy vehicle aggravating traffic congestion or adding to emissions from other traffic.

9.3.1 Noise

The noise from a heavy vehicle should not be used as the sole ground for refusing an exemption unless the level is considered extreme and the risk of an adverse impact from noise on the community cannot be managed by conditions.

Noise could, however, be one of a number of reasons for refusing an exemption notice or an exemption permit. In order to justify a refusal the NHVR would need to demonstrate that there had been an analysis of the likely noise and that all possible mechanisms for minimising noise had been considered, e.g., alternate routes, lower speed limits near built up areas, muffling of engine brake noise.

9.3.2 Emissions

Emissions (gaseous and particle) from a heavy vehicle should not be used as sole grounds for refusing an exemption. The forecast traffic volumes would need to be very high and consideration also given to whether the route passes sensitive areas such as schools, aged care facilities, hospitals, etc.

10 Conditions

The NHVR may impose any type of condition on a vehicle standards exemption. Conditions are intended to ensure that the exempt heavy vehicle is able to operate safely on a public road.

The NHVR will only impose conditions if it believes that:

- a. the condition is necessary to manage or mitigate a significant safety risk
- b. the condition is necessary to protect road infrastructure from damage
- c. the condition is required to protect the environment.

Conditions may be categorised as driver, vehicle, road and travel conditions. They are intended to ensure that the exempt heavy vehicle is able to operate safely on a public road.

10.1 Driver and vehicle conditions

A driver condition may, for example, require the driver to carry the exemption or place some obligation on having particular qualifications or training to operate particular heavy vehicles, e.g., left hand drive vehicles.

A vehicle condition may, for example, require that the heavy vehicle:

- be configured in a certain manner

- be subject to particular mass or dimension requirements
- have certain components or equipment installed
- be limited to a particular speed
- have noise mitigation equipment fitted
- have particular safety features, etc.

Some examples of vehicle conditions the NHVR may apply include:

- Configuring cranes and drilling equipment in specific ways (e.g. the direction the boom faces, with or without certain equipment attached). In these circumstances it is legitimate for the NHVR to place a condition on the heavy vehicle that it must be configured in a certain manner before it can be moved to manage safety risks.
- Requiring a heavy vehicle which does not meet mass or dimension requirements to have an access permit or only travel on gazetted routes i.e. made a restricted access vehicle.
- Requiring marking and specifying travel requirements in situations where a piece of equipment integral to the vehicle's purpose is not compliant. These can include lifting arms on tow trucks which may protrude excessively beyond the rear of the vehicle, or crash attenuators where the attenuator may exceed the width of the vehicle.
- Applying a speed restriction where the braking system is non-standard or, the vehicles stability or suspension is of concern. A reduction in speed can mitigate rollover risk and potential infrastructure damage.
- Fitting noise mitigation equipment fitted to machinery which does not normally operate in urban environments but may need to travel on the road network. The NHVR may request that noise mitigation equipment be fitted to an exempt heavy vehicle to prevent the vehicle imposing adverse impacts on the community.
- Fitting fire suppression equipment for hazardous heavy goods vehicles.

There are many other circumstances where the NHVR can define conditions to ensure safe vehicle operation. If the NHVR imposes a vehicle condition, it will provide reasons to explain why it believes that the condition is necessary.

This will include an explanation about what relevant risk will be addressed by the proposed vehicle condition and how that condition will manage that risk.

10.2 Road and travel conditions

Road conditions are intended to ensure that the use of an exempt heavy vehicle on the roads does not endanger road infrastructure, impose adverse effects on the community or pose

significant risks to public safety. A road condition may for example require that the heavy vehicle:

- not use particular bridges or sections of the otherwise approved route
- only carry particular loads
- be limited to a particular speed
- travel at a speed under the posted speed limit
- operate in a specified position on the road, e.g., travel in certain lanes may be restricted
- have the operator participate in an intelligent access program.

Travel conditions may require that the movement of exempt heavy vehicles are undertaken at stated times or in a stated direction.

The NHVR will consult with relevant road authorities before granting a vehicle standards exemption to ensure that the risk of damage to road infrastructure is managed. If the NHVR imposes a road or travel condition without consulting a road authority it will notify the relevant road authority of its decision and the reasons for this decision.

10.3 Conditions about consultation

The NHVR considers the interests of road authorities and registration authorities and will consult with those affected by the application regarding conditions before a vehicle standards exemption is granted.

The NHVR will seek to standardise these conditions. Road authorities may have legislation allowing them to impose additional conditions.

Once an exemption is granted by a notice, road authorities have no further opportunity for consultation about the operations of exempt heavy vehicles. It is recognised that operating environments may change i.e., changes to infrastructure or where new infrastructure is created.

In such circumstances consultation between the NHVR and road authorities regarding the use of exempt heavy vehicles will be required to identify if action is necessary to prevent damage or disruptions. Road authorities may request that a notice be amended to accommodate the change in circumstance to mitigate a significant safety risk or include the new or changed infrastructure.

11 Importing heavy vehicles

The vast majority of heavy vehicles are imported. The Australian heavy vehicle manufacturing industry is involved primarily in the assembly and second stage fit out of heavy vehicles. This

section of the guidelines explains how the NHVR will work with stakeholders when importing heavy vehicles.

There are many circumstances where it is necessary to import heavy vehicles to meet the specific operating needs of the transport industry. Many of these heavy vehicles are designed for specialised tasks and have been manufactured accordingly. As a result they may not meet Australian heavy vehicle standards and require an exemption (or In-principle Support) from the NHVR to be imported.

To import a heavy vehicle into Australia, prior approval must be granted by the Commonwealth Department of Infrastructure and Regional Development (DIRD). If the heavy vehicle meets the heavy vehicle standards there are established processes to obtain import approval. Applicants intending to apply to DIRD for approval to import a heavy vehicle will be required to complete and In-principle Support Application from the NHVR, prior to applying to the Commonwealth.

If the heavy vehicle is a Special Purpose Vehicle (SPV) and does not meet the heavy vehicle standards, e.g. mobile cranes, mobile drilling rigs and mobile plant, an individual heavy vehicle import approval is necessary under the DIRD's Special Purpose Vehicles import program. Conditions for approval under this option include the need for approval that the heavy vehicle can be used on public roads.

Prior to approaching the DIRD, the potential importer must seek In-principle Support from the NHVR for use of the heavy vehicle in participating jurisdictions.

Before issuing the In-principle Support, the NHVR will liaise with the affected road authorities and registration authorities where the heavy vehicle would be registered and/ or operated to determine any conditions on access and registration.

If the NHVR considers that the heavy vehicle would be able to operate on the road network without or subject to conditions minimising risks to safety, infrastructure and the environment, it will issue an In-principle Support for a vehicle standards exemption including the likely conditions and areas of operation. This In-principle Support can then be used to support the application to import the heavy vehicle.

12 Special purpose vehicles built in Australia

Generally heavy vehicles are imported into Australia in either semi knocked down kit form for custom assembly, or as a rolling chassis. Heavy vehicles that have been designed and manufactured from the wheels-up to perform a special function, e.g. cranes, road sweepers, etc. are generally considered a SPV. This section of the guidelines explains the process for obtaining In-principle Support for a locally manufactured SPV from the NHVR.

Where this type of heavy vehicle has been demonstrated as meeting requirements under the *Motor Vehicle Standards Regulations 1989* (Cwlth), they are not required to comply with all the relevant Australian Design Rules).

However, while the Commonwealth regulations allow the supply of a SPV to the Australian market, it is generally a requirement that where the vehicles can meet certain ADR's that they comply with them.

Applicants intending to construct a SPV are required to complete and In-principle Support Application from the NHVR, prior to applying to DIRD. The NHVR will liaise with the affected road authorities and registration authorities where the heavy vehicle would be registered and/ or has nominated as its area of operation to determine any conditions and if the heavy vehicle would be registered. The NHVR will advise the applicant of any conditions that may be imposed.

Where the NHVR considers that the heavy vehicle would be able to operate on the road network without or subject to conditions minimising risks to safety, infrastructure and the environment, it will issue In-principle Support for a vehicle standards exemption including the likely conditions and areas of operation that can be attached to the application for registration. The NHVR will grant a vehicle standards exemption enabling the heavy vehicle to obtain registration in its home jurisdiction or nominated jurisdiction of operation.

When making an application for an exemption for a locally manufactured SPV, a copy of the In-principle Support must be provided. (Refer to the *Motor Vehicle Standards Act 1989* (Cwlth) for the definition of a 'locally manufactured vehicle').



PO Box 492
Fortitude Valley
QLD 4006

Ph: 1300 MYNHVR (1300 696 487)
Fx: (07) 3309 8777
Email: info@nhvr.gov.au

www.nhvr.gov.au