

# **Vehicle Standard (Australian Design Rule 35/02 – Commercial Vehicle Brake Systems) 2007 Amendment 1**

Made under section 7 of the Motor Vehicle Standards Act 1989

## **Explanatory Statement**

Issued by the authority of the Minister of Infrastructure, Transport, Regional  
Development and Local Government

**February 2009**

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## **1. LEGISLATIVE CONTEXT**

*Vehicle Standard (Australian Design Rule 35/02 — Commercial Vehicle Brake Systems) 2007* is made under the *Motor Vehicle Standards Act 1989* (the Act). The Act enables the Australian Government to establish nationally uniform standards for road vehicles when they are first supplied to the market in Australia. The Act applies to such vehicles whether they are manufactured in Australia or are imported as new or second hand vehicles.

The making of the vehicle standards necessary for the Act's effective operation is provided for in section 7 which empowers the Minister to "determine vehicle standards for road vehicles or vehicle components".

Vehicle Standard (Australian Design Rule 35/02 – Commercial Vehicle Brake Systems) 2007 (ADR 35/02) was originally determined in 2007.

## **2. CONTENT AND EFFECT OF ADR 35/02 AND THE AMENDMENT**

### **2.1. Overview of the ADR**

The function of this vehicle standard is to ensure safe braking for commercial vehicles and large passenger vehicles under normal and emergency conditions.

### **2.2. Changes to the ADR**

This amendment adds an option to allow NA category (utilities and other light commercial vehicles) to instead comply with the international standard Regulation No. 13-H– UNIFORM PROVISIONS CONCERNING THE APPROVAL OF PASSENGER CARS WITH REGARD BRAKING as adopted by the United Nations Economic Commission for Europe (UNECE). This follows a similar change to Regulation No. 13-H by the UNECE in November 2007. It reflects the fact that Regulation No. 13-H is generally more stringent than the related commercial vehicle brake standards for these lighter types of vehicles.

The amendment will reduce the cost of testing for industry, without any adverse safety impacts or any compromise of the intention of the MVSA regarding safety, emissions or anti-theft initiatives. Provision has been made to ensure that vehicles built prior to the amendment coming into force would be considered to continue to comply with the ADR after the amendment takes effect. The amendment does not constitute any barrier to trade.

## **3. BEST PRACTICE REGULATION**

### **3.1. Business Cost Calculator**

There is no additional cost incurred by this amendment as it offers an optional path for compliance. There is a reduction in cost where manufacturers have already tested to UNECE Regulation No. 13-H for other markets and wish to use the test results to show compliance for the Australian market as well.

### **3.2. General Consultation Arrangements**

It has been longstanding practice to consult widely on proposed new or amended vehicle standards. For many years there has been active collaboration between the

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Federal and the State/Territory Governments, as well as consultation with industry and consumer groups. Much of the consultation takes place within institutional arrangements established for this purpose. The analysis and documentation prepared in a particular case, and the bodies consulted, depend on the degree of impact the new or amended standard is expected to have on industry or road users.

Depending on the nature of the proposed changes, consultation could involve the Technical Liaison Group (TLG), Transport Agencies Chief Executives (TACE), and the Australian Transport Council (ATC).

- TLG consists of representatives of government (Australian and State/Territory), the manufacturing and operational arms of the industry (including organisations such as the Federal Chamber of Automotive Industries and the Australian Trucking Association) and of representative organisations of consumers and road users (particularly through the Australian Automobile Association).
- TACE consists of the chief executives of Australian and State/Territory departments of transport and road vehicle administrations.
- ATC consists of the Australian, State/Territory and New Zealand Ministers with responsibility for transport issues.

The Department of Infrastructure, Transport, Regional Development and Local Government process editorial changes and changes to correct errors without reference to other agencies. This approach is only used where the amendments do not vary the intent of the vehicle standard.

New standards, or significant changes that increase the stringency of existing standards, may be subject to a vote by ATC Ministers. In cases where an ATC vote is sought, a simple majority is required before the Minister for Infrastructure, Transport, Regional Development and Local Government can determine the new or amended standards. Proposals that are regarded as significant need to be supported by a Regulation Impact Statement meeting the requirements of the Office of Best Practice Regulation as published in *Best Practice Regulation Handbook* and the Council of Australian Governments *Principles and Guidelines for National Standard Setting and Regulatory Action for Ministerial Councils and Standard-Setting Bodies*.

In November 2005, the ATC endorsed a recommendation to streamline the ADR development process by leaving decisions on all non-contentious, harmonised (with the UNECE Regulations) ADR proposals to the Federal minister responsible for administering the MVSA. In such cases, where the Federal minister would make the final decision without reference to ATC, the RIS would have to conform to the requirements established by the Office of Best Practice Regulation (OBPR) in relation to regulatory proposals where the decision maker is the Australian Government's Cabinet, the Prime Minister, minister, statutory authority, board or other regulator.

### 3.3. Specific Consultation Arrangements for this Vehicle Standard

These draft amendments were discussed and unanimously supported by the TLG. Furthermore, TLG members agreed that further consultation with TACE and ATC was not necessary.

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A RIS has been prepared and is included at Appendix A. Since the decision is made by the Minister for Infrastructure, Transport, Regional Development and Local Government without reference to the ATC, it conforms to the requirements established by the Office of Best Practice Regulation (OBPR) in relation to regulatory proposals where the decision maker is the Australian Government's Cabinet, the Prime Minister, minister, statutory authority, board or other regulator. The OBPR reference number is 10067.

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## **APPENDIX A**

### **REGULATION IMPACT STATEMENT FOR A**

### **MINOR AMENDMENT TO AUSTRALIAN DESIGN RULE 35/02**



**Australian Government**

**Department of Infrastructure, Transport,  
Regional Development and Local Government**

# **Regulation Impact Statement for**

## **Minor Amendments to Vehicle Standard**

### **(Australian Design Rule 35/02 – Commercial Vehicle Brake Systems) 2007**

**Alternative standards for NA category vehicles**

**Version 2 – February 2009**  
**OBPR Ref No. 10067**

Prepared by: Vehicle Safety Standards  
Department of Infrastructure, Transport, Regional Development and  
Local Government

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## **1. Introduction**

The Australian Government provides protection for new vehicle consumers through the *Motor Vehicle Standards Act 1989* (C'th) (MVSA).

The MVSA provides mandatory vehicle safety, emission and anti-theft standards which apply when new vehicles are supplied to the Australian market. These are national standards and are known as the Australian Design Rules (ADRs).

Australian Design Rule 35/02 – Commercial Vehicle Brake Systems prescribes the requirements for brakes on commercial motor vehicles and large passenger vehicles to ensure safe braking under normal and emergency conditions.

Currently, new commercial vehicles that meet international regulations for passenger cars are not accepted as meeting ADR 35/02. This can lead to additional costs to the consumer or restriction of the supply of models into the Australian market.

Industry has proposed minor amendments to ADR 35/02 to allow utilities and other light commercial vehicles (the ADR category of NA) the option of meeting international regulation UNECE R 13-H for passenger car braking to show compliance to this ADR.

This Regulation Impact Statement (RIS) examines the case for government intervention.

## **2. Background**

### **2.1. The Problem**

ADR 35/02 and ADR 31/01 are braking standards for commercial vehicles and passenger cars respectfully.

Both are based on international regulations adopted by the United Nations Economic Commission for Europe (UNECE), although ADR 35/02 also allows for unique Australian requirements as one of the ways of demonstrating compliance.

The international regulation UNECE R 13-H forms the basis of ADR 31/01 Brake Systems for Passenger Cars. This regulation has recently been amended to allow N1 category utilities and other light commercial vehicles (in Australia known as NA category) the option of complying with it instead of the corresponding commercial vehicle braking regulation UNECE R 13.

This amendment means that some new vehicles that are imported into Australia may only have been tested to meet the international passenger car braking regulation UNECE R 13-H and not the commercial vehicle braking regulation UNECE R 13. As the ADRs currently require testing of commercial vehicles to commercial vehicle requirements, these vehicles must be re- tested before being supplied to the Australian market. This adds a cost to the vehicles and may reduce the availability of some models due to a reduction in their profit margin.

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This is because manufacturers are unable to use brake test results to UNECE regulations for passenger cars to show compliance of utilities and other light commercial vehicles to ADR 35/02.

## **2.2. International Standards**

Both ADR 31/01 and ADR 35/02 are based on international standards as adopted by the UNECE, ADR 31/01 exclusively, and ADR 35/02 as one of its two alternatives. These standards are:

Regulation No. 13-H– UNIFORM PROVISIONS CONCERNING THE APPROVAL OF PASSENGER CARS WITH REGARD BRAKING; and

Regulation No. 13 – UNIFORM PROVISIONS CONCERNING THE APPROVAL OF VEHICLES OF CATEGORIES M, N AND O WITH REGARD TO BRAKING.

In November 2007, under supplement 5 of the 00 series, Regulation 13-H was amended by the UNECE to allow NA category (the ADR equivalent to the UNECE N1) vehicles to be tested to Regulation 13-H in lieu of Regulation 13.

Currently, ADR 35/02 (clause 2.4) allows forward control passenger vans (category MB) and four-wheel drives (category MC) to comply with ADR 31/01 in lieu of the ADR 35/02. This is because the passenger car standard is generally more stringent for these lighter types of vehicles.

## **2.3. Objectives**

The first objective regarding the identified problem is to allow manufacturers more options in testing utilities and other light commercial vehicles to the ADRs related to braking, without compromising road safety.

The second objective is to ensure that utilities and other light commercial vehicles complying with the latest revisions of the internationally based UNECE regulations for braking will be allowed into the Australian market without impediment.

## **3. Options**

### **3.1. Option 1: Take No Action**

Under this option, vehicles would be required to continue to comply with the current ADR 35/02 requirements.

Some vehicles that have already been tested to the stringent UNECE passenger car brake regulations would have to be re-tested to the *less* stringent requirements of the commercial vehicle braking standard, before being able to be supplied to the Australian market.

### **3.2. Option 2: Adopt the Proposed Minor Amendments**

Under this option, there would be a relaxation in the ADR requirements in that vehicles would not be required to continue to comply exclusively with the current ADR 35/02 requirements.

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Some vehicles would be saved the necessity of having to be re-tested to *less* stringent requirements, before being able to be supplied to the Australian market. This currently occurs where a utility or light commercial vehicle that is already tested to the passenger car braking standard UNECE R13-H must be re-tested to the commercial vehicle braking standard ADR 35/02.

### **3.3. Option 3: Delete the ADR**

Under this option, commercial vehicles would no longer be required to continue to comply with ADR 35/02 requirements.

As Australian Government regulations, ADRs are subject to a full review every ten years. This ensures that they remain relevant, cost effective and do not become a barrier to the importation of safer vehicles and vehicle components. The broader issue of whether to retain or delete the entire ADR, or any of the requirements therein, has already been considered and rejected as part of the full review which led to the 2007 heavy vehicle package. At this time it was recommended that the ADR be retained as it contributed to the overall safety of road users. Conditions have not changed since then and there have not been any particular issues raised (other than this proposal which was not considered at the time of the full review as the relevant international standard at the time had not been amended), nor have there been any calls for an urgent review of ADR 35/02. Any subsequent review of the ADR would be undertaken as part of a comprehensive review of the ADRs in general and would involve extensive consultation with a broad range of stakeholders. A comprehensive review of this kind is beyond the scope of the current proposal for a minor amendment.

Therefore, this option has not been considered any further in this RIS.

### **3.4. Option 4: Non-regulatory Options**

Under this option, non-regulatory options such as suasion (publicity, social pressure etc), pure market approaches (property rights) and economic approaches (taxes, charges, fees or subsidies) would be considered that would have the same effect as the proposal for this minor amendment. As with Option 3, non-regulatory options are to be considered at the appropriate time as part of the broader review of ADRs. Therefore, this option has not been considered any further in this RIS.

## **4. Analysis**

### **4.1. Option 1: Take No Action**

Under this option there would be re-testing of some vehicles, (those that have already been tested to UNECE R13-H) to *less* stringent requirements (in ADR 35/02) in order to allow particular vehicle models to enter the relatively small Australian market. This testing would be redundant as the vehicles would have already been tested to the more stringent requirements of UNECE R13-H.

The established regulatory framework makes it an offence to offer non-compliant road vehicles to the Australian market. Under the MVSA the Minister may determine, and must approve road vehicles that comply with, the applicable national standards for the relevant category of vehicle. These vehicles may then be supplied to the Australian

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market. Section 10A(2) of the Act also provides for the Minister to approve non-complying vehicles if the Minister is satisfied that such non-compliance is only in minor and inconsequential respects. However, these provisions are only invoked for limited numbers of vehicles and generally only where there is a clear indication that the relevant ADR is expected to be amended to suit. This would not be the case under this option and so is not a mechanism that could be used for testing or approval of vehicles tested to UNECE R13-H.

This option would not meet either of the objectives set out above.

#### **4.2. Option 2: Adopt the Proposed Minor Amendments**

Under this option, utilities or other light commercial vehicles tested to UNECE R13-H would be able to use these test results towards showing compliance with the requirements in ADR 35/02, which is the Australian standard that is applicable to commercial vehicles. There would be no adverse safety impacts or any compromise of the intention of the MVSA regarding safety, emissions or anti-theft initiatives because the requirements in UNECE R13-H are more stringent for these types of vehicles. UNECE R13-H is often the preferred test method for vehicles being sourced from Europe as it is widely accepted in other markets.

In implementing this option, the nature of the amendment would ensure that vehicles built prior to the amendment coming into force would be considered to continue to comply with the ADR after the amendment takes effect.

This option would meet all of the objectives set out above.

### **5. Impacts**

#### **5.1. Cost to Business**

The current new vehicle certification system administered by the Department of Infrastructure, Transport, Regional Development and Local Government imposes costs on industry. Before a new vehicle can be issued an identification plate (which allows it to be supplied to the market) evidence must be provided to prove that the vehicle meets all relevant ADRs. This evidence is primarily a summary of the tests performed on various components of a vehicle or on a whole vehicle.

Option 1 would continue to impose moderate costs to industry of re-testing some vehicles for the Australian market. These costs would be in the order of \$10-20 000 per vehicle model. In all cases they would be greater than those for Option 2.

Option 2 would reduce these costs by eliminating the need to re-test some vehicles imported from markets where UNECE R13-H requirements apply.

#### **5.2. Benefits**

In comparison to Option 1, Option 2 would be safety neutral and so would not change the level of road trauma in Australia. This is because Option 2 affects which standard a vehicle is tested to rather than which standard a vehicle is designed to.

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Option 2 would have a positive effect on trade facilitation. By eliminating the requirement to re-test some vehicles for the Australian market, the proposed amendment may make more viable the importation of some models. It may also speed the certification and approval process in Australia. In doing so, consumers would be expected to have earlier access to new models provided to the market.

## **6. Consultation**

Development of the Australian Design Rules (ADRs) under the *Motor Vehicle Standards Act 1989* (C'th) (MVSA) is the responsibility of the Vehicle Safety Standards Branch of the Department of Infrastructure, Transport, Regional Development and Local Government. It is carried out in consultation with representatives of the Australian Government, state and territory governments, manufacturing and operating industries, road user groups and experts in the field of road safety.

The Department undertakes public consultation on significant proposals. Under Part 2, section 8 of the MVSA the Minister may consult with state and territory agencies responsible for road safety, organizations and persons involved in the road vehicle industry and organizations representing road vehicle users before determining a design rule.

The Technical Liaison Group (TLG) is the consultative committee for advising on ADR development and includes members for the Australian, state and territory governments, the vehicle manufacturing and operating industries and consumer groups. The full membership of TLG is shown at Appendix 1.

The proposed amendment was discussed within the TLG at its 30<sup>th</sup> meeting in December 2007, where Option 2 was unanimously supported.

As the amendment is minor in nature, and does not raise the stringency of ADR 35/02, TLG members also agreed that further consultation was not necessary through the public comment process. The state and territory representatives were also confident that they represented the views of their jurisdictions and that there was no need for further consultation through the Transport Agency Chief Executives (TACE) or the Australian Transport Council (ATC).

## **7. Conclusions and Recommendations**

Option 2, to adopt the proposed minor amendment, is regarded as the most effective solution in terms of achieving the objectives established earlier. Under Option 2 ADR 35/02 would be amended to accommodate the latest revision of UNECE 13-H as an alternative means of compliance for NA category vehicles. Additionally, the nature of the amendment would be such that vehicles built prior to the amendment coming into force would be considered to continue to comply with the ADR after the amendment takes effect.

Option 1, Take No Action, does not meet the objectives and so continues the current problem of the existing ADR. It not regarded as a viable solution.

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The TLG agreed that Option 2 is the best option. As industry and regulatory agencies are fully supportive of the minor amendment under Option 2 and there are no disadvantages to consumers, this is the option that is recommended.

## **8. Implementation and Review**

Amendments to the ADRs are determined by the Minister for Infrastructure, Transport, Regional Development and Local Government under section 7 of the *Motor Vehicle Standards Act 1989*. At the time that the amendment is signed by the Minister, registered subscribers to the ADRs are e-mailed directly notifying them of the amendment to the ADR. Registered subscribers to the ADRs include but are not limited to various industry groups such as vehicle manufacturers, designers and test facilities as well as vehicle user organisations.

As Australian Government regulations, the ADRs are subject to review every ten years. This ensures that they remain relevant, cost effective and do not become a barrier to the importation of safer vehicles and vehicle components. ADR 35/02 will be scheduled for a full review on an ongoing basis and in accordance with the Australian Government's Business Review Agenda. The time for the next review is yet to be determined.

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## **9.     References**

Australian Design Rules are available from

[http://www.dotars.gov.au/roads/motor/design/adr\\_online.aspx](http://www.dotars.gov.au/roads/motor/design/adr_online.aspx)

- *Motor Vehicle Standards Act 1989.*
- Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005.
- Vehicle Standard (Australian Design Rule ADR 35/02 – Commercial Vehicle Brake Systems) 2007.

UNECE Vehicle Regulations are available from

<http://www.unece.org/trans/main/wp29/wp29regs.html>

- Regulation No. 13-H– UNIFORM PROVISIONS CONCERNING THE APPROVAL OF PASSENGER CARS WITH REGARD BRAKING.
  - Regulation No. 13 – UNIFORM PROVISIONS CONCERNING THE APPROVAL OF VEHICLES OF CATEGORIES M, N AND O WITH REGARD TO BRAKING.
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## **10. APPENDIX 1**

### **Membership of the Technical Liaison Group (TLG)**

#### *Manufacturer and Industry Representatives*

Australian Road Transport Suppliers Association  
Commercial Vehicle Industry Association  
Federal Chamber of Automotive Industries (including the Federation of Automotive Product Manufacturers)  
Australian Trucking Association  
Bus Industry Confederation  
Truck Industry Council

#### *Consumer Representatives*

Australian Automobile Association  
Motorcycle Council of Australia

#### *Government Representatives*

Australian Government Department of Infrastructure, Transport,  
Regional Development and Local Government  
Department of Transport , South Australia  
Queensland Transport  
Roads and Traffic Authority, New South Wales  
VicRoads, Victoria  
Department for Planning and Infrastructure, Western Australia  
ACT Office of Transport  
Department of Planning and Infrastructure, Northern Territory  
Department of Infrastructure, Energy and Resources, Tasmania

#### *Intergovernmental Agency*

National Road Transport Commission

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