Vehicle Standard (Australian Design Rule 35/05 – Commercial Vehicle Brake Systems) 2013

Made under section 7 of the Motor Vehicle Standards Act 1989

Explanatory Statement

Issued by the authority of the Assistant Minister for Infrastructure and Regional Development

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1. LEGISLATIVE CONTEXT

Vehicle Standard (Australian Design Rule 35/05 – Commercial Vehicle Brake Systems) 2013 is made under the *Motor Vehicle Standards Act 1989* (the Act). The Act enables the Australian Government to establish nationally uniform standards that apply to new 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 imported.

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 35/05 – Commercial Vehicle Brake Systems) 2013 (ADR 35/05) is being made to replace Vehicle Standard (Australian Design Rule 35/04 – Commercial Vehicle Brake Systems) 2013 (ADR 35/04), which was determined in 2013 to mandate Antilock Braking Systems for heavy vehicles. It is necessary to make a new standard rather than an amendment as the requirements for some categories of light vehicles have increased in stringency and the text as last determined has been substantially altered.

2. CONTENT AND EFFECT OF ADR 35/05 – COMMERCIAL VEHICLE BRAKE SYSTEMS

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. The standard also contains provisions for some light passenger vehicles.

2.2. Effect of the ADR

In 2009, the Australian Government mandated Electronic Stability Control (ESC) for new light passenger vehicles through ADR 35/03, commencing in 2011. ADR 35/05 is now being made to extend the requirement to have ESC to light commercial vehicles. It is also being made to introduce a requirement for Brake Assist Systems (BAS) to be fitted to light passenger vehicles and light commercial vehicles.

ESC is an advanced vehicle stability system that automatically brakes individual wheels to help drivers steer in the intended direction during a skid. Research has shown that ESC in light commercial vehicles is likely to be around 30 per cent effective at averting single vehicle crashes.

BAS is a driver assistance system that detects when a driver is attempting emergency braking and then maximises braking performance to help stop the vehicle in the quickest possible time. It has been shown to have potential to reduce the number and severity of crashes involving vulnerable road users such as pedestrians and cyclists, with an overall effectiveness of around 8 per cent. Although beneficial for vulnerable road users, BAS is likely to have broader application to other types of crashes where braking is a factor, such as rear-end collisions, intersection collisions and collisions with obstacles.

Under the ADRs, light passenger vehicles are classed as MA (passenger cars), MB (passenger vans) and MC (four-wheel drives or sports utility vehicles) categories. Light commercial vehicles fall under the ADR category of NA and include utilities and goods vans of up to 3.5 tonnes.

The requirements for ESC and BAS are taken from the latest version of the international standard UN Regulation No. 13-H, as adopted by the United Nations. The requirements for BAS will apply to ADR vehicle categories of MA, MB, MC and NA. The requirements for ESC, which already apply to MA, MB and MC categories, will be extended to the NA category.

The vehicle categories of MB, MC and NA will be required to comply with either this standard or Vehicle Standard (Australian Design Rule 31/03 – Brake Systems for Passenger Cars) 2013 (ADR 31/03), which is also being made to implement requirements for ESC and BAS. The vehicle category of MA will be required to comply with ADR 31/03. Although ADRs 31/03 and 35/05 will apply to other vehicle categories, these will remain unaffected by these new standards and will continue to have the option of complying with earlier versions of ADRs 31 and 35. A complementary explanatory statement has been prepared for ADR 31/03.

This standard will require ESC to be fitted to new light commercial vehicles and BAS to be fitted to new light passenger and light commercial vehicles starting from 1 November 2015 for all new vehicle models, 1 November 2016 for all new vehicles of MB or MC category and 1 November 2017 for all new vehicles of NA category.

Overall, this new standard is expected to reduce road trauma and associated costs from single vehicle crashes involving light commercial vehicles and from collisions between vehicles and pedestrians or cyclists.

3. BEST PRACTICE REGULATION

3.1. Business Cost Calculator

There are costs associated with mandating ESC and BAS but the related Regulation Impact Statements (RISs) show that there are expected to be positive net benefits. It is estimated that mandating ESC for light commercial vehicles will save up to 29 lives over a 15-year period of regulation, generating net benefits of $79m. Mandating BAS for light passenger and light commercial vehicles will provide a reduction in road trauma involving vulnerable road users, estimated at up to 10 lives and over 200 serious injuries saved over a 15-year regulation period, and generate net benefits of $30m.

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 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 Strategic Vehicle Safety and Environment Group (SVSEG), Technical Liaison Group (TLG), Transport and Infrastructure Senior Officials' Committee (TISOC) and the Standing Council on Transport and Infrastructure (SCOTI).

- SVSEG consists of senior 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).

- TLG consists of technical representatives of government (Australian and state/territory), the manufacturing and operational arms of the industry and of representative organisations of consumers and road users (the same organisations as represented in SVSEG).

- TISOC consists of state and territory transport and/or infrastructure Chief Executive Officers (CEO) (or equivalents), the CEO of the National Transport Commission, New Zealand and the Australian Local Government Association.

- SCOTI consists of the Australian, state/territory and New Zealand Ministers with responsibility for transport and infrastructure issues.

Editorial changes and changes to correct errors are processed by the Department of Infrastructure and Regional Development. This approach is only used where the amendments do not vary the intent of the vehicle standard.

Proposals that are regarded as significant need to be supported by a RIS meeting the requirements of the Office of Best Practice Regulation (OBPR) 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.*

3.3. Specific Consultation Arrangements for this Vehicle Standard

During their development, the proposals were discussed at a number of SVSEG and TLG meetings where they were broadly supported, with no objections raised. Two consultation RISs, for ESC and for BAS, were released in April 2013 for a two-month public comment period. In parallel with this, the detailed structure of the draft ADRs was developed in consultation with industry.

The RISs conform to the requirements established by the 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 RISs for this standard are identical to the RISs for ADR 31/03. The OBPR reference numbers are 14535 and 14497 for the ESC and BAS RISs respectively.

4. STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The following Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

4.1. Overview of the Legislative Instrument

ADR 35/05 is being made to replace ADR 35/04. It introduces requirements for ESC to be fitted to light commercial vehicles and BAS to be fitted to light passenger vehicles and light commercial vehicles.

4.2. Human Rights Implications

ADR 35/05 does not engage any of the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

4.3. Conclusion

ADR 35/05 is compatible with human rights as it does not raise any human rights issues.