

Vehicle Standard (Australian Design Rule 38/04 – Trailer 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 38/04 – Trailer 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 38/04 – Trailer Brake Systems) 2013 (ADR 38/04) is being made to replace Vehicle Standard (Australian Design Rule 38/03 – Trailer Brake Systems) 2007 (ADR 38/03), which was originally determined in 2007. It is necessary to make a new standard rather than an amendment as the requirements have increased in stringency and the text as last determined has been substantially altered.

ADR 38/04 complements the new standard ADR 35/05 – Commercial Vehicle Braking Systems. This was made in October 2013 and contains similar technical requirements to ADR 38/04, thus ensuring the ongoing compatibility of braking systems between truck and trailer.

2. CONTENT AND EFFECT OF ADR 38/04 – TRAILER BRAKE SYSTEMS

2.1. Overview of the ADR

The function of this vehicle standard is to ensure safe braking for heavy trailers under normal and emergency conditions.

2.2. Effect of the ADR

This vehicle standard is being made to implement part of Phase I of the National Heavy Vehicle Braking Strategy (NHVBS). It mandates Antilock Braking Systems (ABS) or Variable Proportioning Brake Systems for new heavy trailers.

ABS is a driver assistance system designed to prevent wheels from locking when the vehicle is braked in an emergency situation. Research has shown that ABS increases the directional stability of heavy vehicles under braking and so reduces crash related fatalities and injuries, with an estimated effectiveness of between 3 and 8 per cent. Variable Proportioning Brake Systems (also known as Load Proportioning) is a simpler, (usually) non-electrical means of adjusting braking to the loaded condition of a truck, trailer or bus.

Under the ADR, ABS or Variable Proportioning Brake Systems will be mandated for heavy trailers of greater than 4.5 tonnes Aggregate Trailer Mass (Australian vehicle categories TC and TD). This requirement will start from 1 July 2014 for new vehicle models and 1 January 2015 for all vehicle models.

Overall, this new standard is expected to reduce road trauma and associated costs from crashes involving heavy commercial vehicles and their trailers.

3. BEST PRACTICE REGULATION

3.1. Business Cost Calculator

There are costs associated with mandating ABS for heavy trailers but the related Regulation Impact Statement (RIS), which considers changes for both truck and buses under ADR 35 and trailers under ADR 38, shows that there will be positive net benefits. Overall, the standard will provide towards a reduction in road trauma, estimated at a total of 36-57 lives over a period of 30 years for ADR 35 and ADR 38 combined. This includes 4 years of operation of the standards before the next Phase of the NHVBS, with around \$46-73 million in net benefits. ABS for trucks and buses under ADR 35/04 was mandated in August 2013 and subsequently incorporated into ADR 35/05 in October 2013.

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), Australian Motor Vehicle Certification Board (AMVCB), 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 agencies (Australian and state/territory), the National Transport Commission and the National Heavy Vehicle Regulator, 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).
- AMVCB consists of technical representatives of government regulatory authorities (Australian and state/territory) that deal with ADR and other general vehicle issues, and the National Transport Commission and the National Heavy Vehicle Regulator.
- TLG consists of technical representatives of government agencies (Australian and state/territory), the National Transport Commission and the National Heavy Vehicle Regulator, 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

The consultation process has been ongoing in nature. It has followed on from a full review of ADRs 35 and 38 beginning in 2006, with one of the outcomes being the NHVBS. A detailed public consultation process was carried out initially in forming the NHVBS and this was subsequently supported through the public comment process for the National Road Safety Strategy 2011-20. The proposal has been discussed a number of times at SVSEG and TLG meetings and no objections were raised regarding ADR 38.

A consultation RIS and draft ADR was released for industry comment in April 2013. Where appropriate, comments from this process were incorporated into revision of the proposal and the final RIS. The RIS conforms 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 OBPR reference number for the RIS is 14546.

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 38/04 is being made to replace ADR 38/03. It introduces requirements for ABS or Variable Proportioning Brake Systems to be fitted to heavy trailers.

4.2. Human Rights Implications

ADR 38/04 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 38/04 is compatible with human rights as it does not raise any human rights issues.