



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

Road Vehicle Standards

RVSA Implementation Consultation Framework

Discussion Paper – Component Type Approval - Test Reports
not completed by an RVS Approved Testing Facility

April 2020



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Introduction

The Road Vehicle Standards Legislation Amendment Act 2019 has postponed the commencement of the substantive provisions of the Road Vehicle Standards (RVS) legislation to a date to be fixed by Proclamation, or 1 July 2021 if not fixed before this date. In preparation for commencement of the legislation, the department is currently undertaking policy and procedures development to ensure an effective transition.

The department has continued to consult with stakeholders and is aware that some industry participants remain concerned about how certain aspects of the legislation will work in practice.

Issue

One of the criteria in the Road Vehicle Standards Rules 2019 (the Rules) for a component type approval is that the road vehicle component complies with national road vehicle standards. If the road vehicle component does not fully comply with the national road vehicle standards, a component type approval may be granted if the non-compliance is only in minor and inconsequential respects or to a minor and inconsequential extent.

The Rules require that the Secretary may only consider certain matters for the purposes of assessing compliance with national road vehicle standards in relation to a road vehicle component. It does not allow the Secretary to take into account any other matter. The results of testing is one of the matters that can be considered¹ however the testing must be conducted under a testing facility approval.

This means where the registered test facility no longer exists or is unable to become an approved testing facility under the RVS legislation, holders of CRNs and SARNs may be required to have their previously tested components retested by an approved testing facility in order to meet the criteria for the grant of a component type approval.

The Secretary may also consider an approval from a contracting party to the 1958 agreement, an example of this is a United Nations Economic Community for Europe (ECE) approval. An application for a component type approval that is covered by an ECE approval is governed by the issuing party for that approval. Part of gaining an ECE approval includes having the testing witnessed by the issuing party, therefore the testing does not need to be performed by an approved testing facility. The application would require part of the ECE approval document that identifies the components covered by the approval.

¹ Subsection 177(2) of the Rules also allows the Secretary to consider:

- an approval or other document, issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement, and that indicates that the type of road vehicle component complies with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the Secretary decides the application;
- in respect of road vehicle components used in the type of road vehicle component—whether the road vehicle components are approved road vehicle components;
- any declaration made by the person;
- any matter or thing specified in an applicable national road vehicle standard to be acceptable as evidence of compliance with that standard, or an element of that standard, as in force at the time the Secretary decides the application;
- any information about whether the matters mentioned above demonstrate that road vehicle components of the type to which the application relates comply with the applicable national road vehicle standards;
- any information relevant to assessing the accuracy of a matter mentioned above.

Through ongoing consultation with industry stakeholders, concerns have been raised that, it would be a significant cost and regulatory burden if testing of a component is required to be undertaken where the test evidence remains relevant, correct and current but the test facility registered in RVCS no longer exists. For example, it was identified that for some heavy vehicle mechanical connections, the design of the component and manufacturing process for the component has not changed since the original testing was completed and the facility that performed the original testing no longer exists. We understand the length of time required for some of these tests may be many months and even if testing capability exists in approved testing facilities – there will not be sufficient time or capacity to test all components covered by CRNs or SARNs.

Discussion

The Rules express the Government's position when it comes to assessing evidence of compliance with national road vehicle standards: results of testing should come from an approved testing facility (regardless of when the testing was conducted).

This approach allows the department to confirm with the organisations that are providing the testing evidence that a vehicle complies with the national road vehicle standards. This helps ensure that evidence is not only accurate, but that someone is accountable for the accuracy of that evidence. From this perspective, the department reaffirms its commitment to ensuring that results of testing must come from an approved testing facility.

There is, however, some flexibility to consider other types of evidence. The Rules allow consideration of a declaration made by an applicant when deciding whether a component type approval should be granted. Consideration can also be given to any information about the accuracy of that declaration and the extent to which it can be relied upon to be satisfied that a road vehicle component complies with the national road vehicle standards.

The department recognises that there may be specific situations where it would be appropriate to rely upon a declaration from the applicant.

Department's proposed solution

Given the above information, the department is willing to consider, on a case by case basis, accepting results of testing conducted by a test facility that was not conducted under a testing facility approval or does not hold a testing facility approval. This consideration will only be afforded to applicants for a component type approval relating to heavy vehicle mechanical connections covered by a CRN if the applicant can demonstrate:

- the test facility that performed the testing is unlikely to be able to obtain a testing facility approval (e.g. because it no longer exists);
- the design of the component tested is identical to the component to be covered by the component type approval;
- there would be no safety benefit in re-testing the component;
- the test report provided as part of the application demonstrates the component complies with the current national road vehicle standards;

- the applicant can demonstrate the cost and estimated timeframe for testing are **both** significant.

This consideration will only apply to road vehicle components that are already covered by a CRN. This is to ensure that going forward, there is a sufficient assurance that all test evidence is current and demonstrates compliance with the national road vehicle standards. This is also in line with the Government's expectation as set out in the Rules.

Proposed process

To apply for a component type approval, an applicant must make an application in ROVER.

For an application that relates to heavy vehicle mechanical connections covered by a CRN, where the applicant is relying upon the results of testing that was not conducted under a testing facility approval or by a person who holds a testing facility approval, the applicant will make a declaration that:

- the information in the test report is current and includes all the information required by the relevant national road vehicle standard; and
- the road vehicle component complies with the national road vehicle standards (or substantially complies and the non-compliance is only in minor and inconsequential respects or to a minor and inconsequential extent); and
- the component currently produced is identical to the component tested in the test report.

Before making such a declaration, the applicant should give due consideration to whether they are able to accurately make the declaration².

The applicant will also be required to supply:

- evidence that the test facility that performed the testing no longer exists or is otherwise unable to meet the criteria to become an approved testing facility; and
- a copy of the test report from the facility that conducted the testing; and
- evidence that there is a significant financial and administrative burden to the organisation by being required to undertake testing of the component by an approved testing facility. For example, if the cost of testing cannot be amortised due to the number of components likely to be provided under the approval; and
- justification that testing of the component by an approved testing facility, in addition to the results of testing already undertaken, would not provide any additional safety, environmental, or anti-theft benefits. For example, no identified safety or non-compliance issues identified in product history and no changes in stringency of the relevant national road vehicle standard(s).

A copy of the full quality management system documentation may be requested by the Department to show how the applicant meets the requirements of paragraphs 177(1)(b, c and d) of the Rules.

² Note, it is an offence or contravention under:

- section 31 of the *Road Vehicle Standards Act 2018* to make a false or misleading declaration
- section 32 of the *Road Vehicle Standards Act 2018* to provide false or misleading information

An approval will only be granted under the RVS legislation if the evidence of compliance with the national road vehicle standards is assessed as acceptable, and the remaining criteria for deciding to grant a component type approval (paragraphs 177(1) (b)-(g)) are satisfied.

A condition will be specified in the approval (if granted) to require the approval holder to participate in compliance activities undertaken by the department to:

- verify the accuracy of the declarations and information submitted as part of the application and
- verify that the road vehicle component complies with the national road vehicle standards.

If the outcome of the compliance activity is that the delegate cannot be satisfied that documentation is available to support the declarations included in the application, or that the component complies with national road vehicle standards then enforcement action may be taken.

Where the submitted information does not provide a sufficient assurance of compliance with the national road vehicle standards or does not support the accuracy of the declaration, the applicant will be required to demonstrate compliance with the national road vehicle standards by any of the following means:

- results of testing conducted under a testing facility approval or conducted by a person who holds testing facility approval (whether or not at the time the testing was conducted); or
- an approval or other document, issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement, and that indicates that the type of road vehicle component complies with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the Secretary decides the application; or
- if the component type approval is made up of other approved components then, referencing the component type approval numbers in relation to the road vehicle components used in the type of road vehicle component.

Consequences of not obtaining a component type approval

Vehicle type approval opt-in

Holders of identification plate approvals granted under sections 10A(1) (standard road vehicles), 10A(2) (minor or inconsequential non-standard road vehicles) or 14A (non-standard road vehicles) of the *Motor Vehicle Standards Act 1989* (MVSA) will have the ability to opt-in to have their existing approval taken to be a road vehicle type approval, in force for 5 years. Opt-in allows the evidence (such as a CRN or SARN) currently supporting an identification plate approval to continue to be used. Exceptions to the use of existing evidence include where:

- the evidence is found to be false, misleading or omits relevant information
- a variation to the new approval is sought – the existing evidence used for the MVSA approval will not be sufficient to the extent of the variation.

New vehicle type approval application under RVS legislation

Applicants for a type approval under the RVS legislation (including applications for an approval after the 5 year period noted above has expired) may use road vehicle components covered by a component type approval to demonstrate compliance with the national road vehicle standards.

Similar to the requirements for the grant of a component type approval, when deciding whether to grant a type approval, the Secretary may only take into account certain matters when considering whether the vehicle complies with national road vehicle standards³. For the purposes of a type approval under the RVS legislation, a reference to a CRN or SARN will not and cannot be taken into account when deciding if a component complies with the national road vehicle standards.

³ The Secretary may take into account only the following matters:

- the results of testing, conducted under a testing facility approval, conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
- an approval or other document issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement; and that indicates that the type of vehicle complies with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the Secretary decides the application;
- in respect of road vehicle components used in the type of vehicle—whether the road vehicle components are approved road vehicle components;
- any declaration made by the person;
- any approved Model Report that relates to the type of vehicle;
- any existing road vehicle type approval that relates to the vehicle;
- any matter or thing specified in an applicable national road vehicle standard to be acceptable as evidence of compliance with that standard, or an element of that standard, as in force at the time the Secretary decides the application;
- any information about whether the matters mentioned above demonstrate that vehicles of the type to which the application relates comply with the applicable national road vehicle standards;
- any information relevant to assessing the accuracy of a matter mentioned above.