



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

Road Vehicle Standards

RVSA Implementation Consultation Framework

Position Paper — Component Type Approval — test reports not
completed by an RVS approved testing facility

June 2021



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Introduction

The substantive provisions of the Road Vehicle Standards (RVS) legislation will commence on a date to be fixed by Proclamation, or 1 July 2021 if not fixed before this date.

In preparation for commencement of the RVS legislation, the department is currently developing operational policy and procedures to ensure effective implementation of the Government's decisions and a smooth transition from arrangements under the Motor Vehicle Standards Act 1989.

The department's consultation with stakeholders as part of its implementation work has identified that some industry participants remain concerned about how certain aspects of the legislation will work in practice.

In particular, concerns have been raised about the cost and regulatory burden of ensuring that road vehicle components are tested by an RVS approved testing facility (whether or not approved at the time of testing) where:

- results of testing are relied upon to demonstrate compliance with the national road vehicle standards and
- the component is covered by a Component Registration Number (CRN) or Sub-assembly Registration Number (SARN).

The department met stakeholders on 30 April 2020 to discuss a proposed position on the acceptance of test evidence not submitted by an RVS approved testing facility. *Discussion Paper — Component Type Approval — Test Reports not completed by an RVS Approved Testing Facility* outlined the proposed position.

This position paper outlines the department's position following consideration of feedback on the discussion paper. A copy of this paper will be made available on the department's website and the position will be incorporated into the guidance material on component type approvals.

Secretary's satisfaction that a road vehicle component is eligible for a component type approval

The Road Vehicle Standards Rules 2019 (the Rules) set out the objective criteria that the Secretary (or delegated decision maker) must be satisfied are met for a component type approval to be granted.

The Rules require an application for a component type approval to, amongst other things, be "in the approved form", be accompanied by such documents as are required by the form, and include certain declarations¹. "Approved forms" are approved in writing by the Secretary². Approved forms set out the minimum information requirements for the Secretary to be able to assess eligibility for

¹ Subsection 174(2) of the Rules.

² Section 236 of the Rules.

an approval under the Rules. The Department's ROVER IT system functionality is being developed to give effect to the terms of the approved forms.

The approved form for an application for a component type approval will set out information, documents and declarations, relevant to the eligibility criteria for a component type approval.

Under general principles of administrative law, in deciding whether or not to exercise the discretion to grant a component type approval the Secretary must take into consideration the information relevant to the exercise of that power (including the information provided in the approved form and any guidance published for applicants) and must not take into account irrelevant considerations. Any guidance cannot, however, direct the Secretary to make a specific decision in any particular case, and the Secretary will need to weigh up all information provided by the applicant in each application in order to decide whether a component type approval should be granted.

Demonstrating that a road vehicle component complies with the national road vehicle standards

A key eligibility criterion for a component type approval is that the Secretary is satisfied that the road vehicle component complies with the national road vehicle standards. The Rules require that only certain matters can be considered when assessing compliance with the national road vehicle standards in relation to a road vehicle component³. The Rules specifically prohibit the Secretary from taking into account any other matter.

Results of testing

The results of testing is one of the matters that can be considered. The testing must be conducted under a testing facility approval or by a person who holds a testing facility approval but did not at the time the testing was conducted⁴. This approach allows the decision maker to have the appropriate level of assurance that:

- the road vehicle component complies with the national road vehicle standards

³ Subsection 177(2) of the Rules allows the Secretary to consider only:

- the results of testing:
 - conducted under a testing facility approval; or
 - 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 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 in paragraphs (a) to (e) 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.

⁴ Subparagraph 177(2)(a)(ii) of the Rules.

- the results of testing are accurate
- the testing facility approval holder is accountable under their approval for the accuracy of the results of testing.

ECE Approvals

The Secretary may also consider an approval from a contracting party to the 1958 agreement, an example of this is a United Nations Economic Commission 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 for a component type approval will require the applicant to attach to their application, part of the ECE approval document that identifies the approval number and the road vehicle components covered by the approval, an upload of the ECE approval document is not required where the approval is shown on the Database for the Exchange of Type Approval documentation (DETA).

Declarations

The results of testing and ECE approvals, as outlined above, are the primary methods set out in the Rules for demonstrating compliance of road vehicle components with the national road vehicle standards. The Secretary, in exercising the discretion whether or not to grant a component type approval, may also be satisfied that a road vehicle component complies with the national road vehicle standards on the basis of a declaration made by an applicant⁵. This provides flexibility to deal with unusual or exceptional circumstances or to support other information provided by the applicant.

This position paper sets out the information and declarations that will be required by the approved form for a component type approval, and the matters that the Secretary will be required to consider when exercising this discretion, in circumstances where results of testing are not from an RVS approved testing facility⁶. The Secretary will weigh up the factors set out in this position paper, to form a view of whether they are satisfied that the road vehicle component complies, or substantially complies, with the national road vehicle standards.

⁵ Paragraph 177(2)(d) of the Rules.

⁶ This position does not relate to ECE approvals.

The department's position

The Secretary may be satisfied that a road vehicle component complies with the national road vehicle standards on the basis of a declaration where testing has previously been completed by an RVCS registered test facility, however, that facility no longer exists or is not otherwise eligible for a testing facility approval.

To satisfy the Secretary that the road vehicle component complies with the national road vehicle standards, the approved form for a component type approval application will require the applicant to declare 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
- the information in the test report is current and includes all the information required by the relevant national road vehicle standards
- 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)
- the road vehicle component being produced at the time of the application is identical to the component tested in the test report
- there is no safety benefit in re-testing the road vehicle component

Before making such a declaration, the applicant should give due consideration to whether they are able to accurately make the declaration⁷.

The approved form will also require the applicant to provide the following supporting documentation at the time of application:

- A copy of the test report from an RVCS registered test facility.
- Information that demonstrates that the test facility that performed the testing is no longer operational or is otherwise unable to meet the criteria to become an approved testing facility.
- Information that demonstrates that for the elements of the design that are relevant to compliance with the ADRs, the design of the road vehicle component tested is identical to the component to be covered by the component type approval.
- Information that demonstrates that testing of the road vehicle 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. This information must include a record of all field service feedback in relation to the road vehicle component and rectification action taken.
- Details of the cost and estimated timeframe for testing by an RVS approved testing facility.

⁷ Note, it is an offence or contravention under section 31 of the *Road Vehicle Standards Act 2018* to make a false or misleading declaration and section 32 of the *Road Vehicle Standards Act 2018* to provide false or misleading information.

If the Secretary is not satisfied of the accuracy of the declaration, or is not satisfied on the basis of the declaration that the road vehicle component complies with the national road vehicle standards, the Secretary may:

- request further information to assist in deciding whether to grant a component type approval – this may be results of testing from an RVS approved testing facility⁸ or additional information relevant to the matters declared in the declaration or
- refuse to grant a component type approval

Factors weighing in favour of the Secretary being satisfied that the road vehicle component complies (or substantially complies) with the national road vehicle standards

The Secretary may be satisfied that the road vehicle component complies (or substantially complies) with the national road vehicle standards in the circumstances where results of testing are not from an approved testing facility if all of the following apply:

- The road vehicle component is covered by a CRN or SARN registered in RVCS.
- A copy of a test report from an RVCS registered test facility is provided by the applicant at the time of applying for the component type approval.
- The test report demonstrates the road vehicle component complies with the applicable national road vehicle standards in force at the time of the Secretary is deciding the application.
- The cost and estimated timeframe for testing by an RVS approved testing facility outweighs the risks resulting from the testing not being conducted by an approved testing facility.
- The applicant has made the declaration set out in this position paper.
- The applicant has provided all the supporting documentation set out in this position paper.

Example 1: A manufacturer of a mechanical connection for a heavy trailer that is covered by a CRN:

1. Had the component tested by an RVCS registered test facility several years ago prior to obtaining the CRN. The test report is provided to the department at the time of application for the component type approval.
2. Has attempted contact with the test facility using the contact details on the test report. The contact details are no longer valid. This information is provided to the department at the time of application for the component type approval.
3. Has records of internet searches that show that there is no website for the test facility and no other contact details available. This information is provided to the department at the time of application for the component type approval.
4. Has checked records of design changes. There is one design change notice that has been issued. This design change added a liner to a fifth wheel skid plate without changing strength. The engineering

⁸ Or other relevant sources of information that demonstrate compliance with the applicable national road vehicle standards such as an ECE approval or component type approval.

assessment at the time of the design change confirmed that the changes are not relevant to the ADR requirements.

5. Confirms that there has been no change in the ADR requirements since the component was tested that would impact on the results of testing.

6. Checks all field service records related to the component and the records show that there have been no safety issues identified. A copy of those records for the component is provided to the department.

7. Seeks quotes for testing by an RVS approved testing facility. The estimated cost is \$25,000 per component and would take approximately 2 months to complete. The quote is provided to the department.

On the basis of the above circumstances and records, the manufacturer makes the declaration as set out in this position paper.

Example 2: A manufacturer of lights has approximately 200 different lights that are covered by CRNs. The manufacturer:

1. Had the component tested by an RVCS registered test facility several years ago prior to obtaining the CRN. The test report is provided to the department at the time of application for the component type approval.

2. Has attempted contact with the test facility using the contact details on the test report. The contact details are no longer valid. This information is provided to the department at the time of application for the component type approval.

3. Has records of internet searches that show that there is no website for the test facility and no other contact details available. This information is provided to the department at the time of application for the component type approval.

4. Has checked records of design changes. There is one design change notice that has been issued. This design change changed the mounting option for a light fitting but did not change light performance. The engineering assessment at the time of the design change confirmed that the changes are not relevant to the ADR requirements.

5. Arranges for testing of a random selection of the lights to provide confidence that the original test results are accurate. The testing of that sample returns almost identical results to the previous tests.

6. Checks all field service records and the records show no safety issues identified for the component. A copy of those records for the component is provided to the department.

7. Provides information about the cost and time delay to perform the testing, although the cost of each test is not high, the number of components means a large cost and can take time to complete without a reasonable safety benefit.

On the basis of the above circumstances and records, the manufacturer makes the declaration as set out in this position paper.

Factors weighing against the Secretary being satisfied that the road vehicle component complies (or substantially complies) with the national road vehicle standards

The Secretary may not be satisfied that the road vehicle component complies (or substantially complies) with the national road vehicle standards in the circumstances where results of testing are not from an approved testing facility if any of the following apply:

- The road vehicle component is not covered by a CRN or SARN registered in RVCS.
- A copy of a test report from an RVCS registered test facility is not provided by the applicant at the time of applying for the component type approval.
- The required declaration as set out in this paper is not made by the applicant.
- Testing of the road vehicle component was not completed by an RVCS registered testing facility.
- The results of testing do not demonstrate compliance with the applicable national road vehicle standards in force at the time the Secretary is deciding the application.
- Design elements that are relevant to compliance with the ADRs are not the same as the design when the road vehicle component was tested.
- The ADR has been amended since the testing was undertaken and there are new requirements that would impact on the validity of the testing.
- Field service feedback has identified potential non-compliance indicating the results of testing may not be accurate. For example, a component fails early in its lifetime when the testing to the ADR is a durability test.

Example 3 – examples of where a declaration would not be able to be accurately made

1. The manufacturer cannot locate the original test report, and they only hold a summary of the test report; or
2. An examination of the test report identifies that the testing was performed with equipment that was either not within calibration or the report does not identify when the equipment was calibrated or next due for calibration; or
3. An examination of the original test report identifies that the testing was performed incorrectly; or
4. The manufacturer identifies that there have been design changes that do affect ADR compliance and cannot be considered under a worst case comparison for testing against the ADR requirement (such as a different material used in the brake lining for a foundation brake system); or
5. The manufacturer's field service records indicate that issues have been identified for the component that may have been caused by the component not meeting the ADR requirement (such as the failure of a component early in the life of the product that the ADR requirement include deterioration testing).

Additional matters – Risk-based approach

The department takes a risk-based approach to the regulation under the RVS legislation. Applications for a component type approval where the results of testing are not from an approved

testing facility will be treated as higher risk as the department will not be in a position to confirm the testing method and results with the testing facility.

This means that as part of the assessment of the application the applicant may be more likely to be requested to:

- provide further information that demonstrates how the applicant has control over all stages of the design, componentry and manufacturing process, and ensures that process will consistently produce the type of road vehicle component
- allow or arrange an inspection of premises or components used in the design or manufacture of the component

If the Secretary decides to grant an approval, it will be more likely that the approval holder will be requested to participate in compliance activities 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.

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

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 standards⁹. 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 road vehicle component complies with the national road vehicle standards.

Applying in ROVER for a component type approval with a test report not from an approved testing facility

For an application which is in accordance with the position outlined in this paper, you may enter the exemption code TFA 924328 as the testing facility number in the compliance information form in ROVER, shown below.

Test report details

VTA-2021-0001233

[Return without saving](#)

Test report date (dd/mm/yyyy) * 6/04/2021

Test report number * TEST001

Testing facility approval number * TFA - 020020

[Validate](#)

Valid testing facility approval number

Testing facility name * Test Facility name

Testing facility address * Testing facility address

☐ Provide any further related supporting information

⁹ Section 19(2) of the Rules provide that 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.