



Stakeholder Discussion Paper

VSS Reg Review Project

Action statement

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Document sign off

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Contents

1	Executive Summary	6
2	Introduction	7
3	Vehicle Standards	8
3.1	Application of Vehicle Standards	8
3.1.1	Restructure	8
3.2	Defective Vehicles	10
3.2.1	Installation of Odometers	10
3.2.2	De-Registering of Vehicles with Defects	11
3.2.3	Approval of Codes of Practice	12
3.2.4	Defining Defective Vehicles	13
3.3	Modified Vehicles	15
3.3.1	Removal of Modification Plates	15
3.3.2	Speed Limiting	16
3.3.3	Unauthorised Lights	17
3.3.4	Silencing Devices	18
3.3.5	Obligations of Authorised Officers	19
3.3.6	Modification Terminology	20
3.3.7	Availability of Codes of Practice	21
3.4	Guidelines and Permits	22
3.4.1	Permits for Class of Vehicle	22
3.4.2	Issue Permit for Life of Vehicle	23
4	Vehicle Inspections	24
4.1	Safety Certificate Scheme	24
4.1.1	Exempt Vehicles Sold Outside Exempt Areas	24
4.2	Certificate of Inspection Scheme	26
4.2.1	Inspection by Approved Examiners	26
4.2.2	Identification by Engine Number	27
4.2.3	NHVAS Operators Exempt from COI for Sale of Vehicle	28
4.2.4	Currency of Safety Certificates	29
4.2.5	Extension of time for COI	30
4.2.6	Disaster Management Policy	31
5	AIS and Approved Persons/Examiners	33
5.1	Accreditation Application and Approval	33
5.1.1	Identified Sections Also Required in VSS Regulation	34
5.1.2	Mobile AIS	34
5.1.3	Term of AIS Accreditation	35
5.1.4	Return of AIS Documents to QT	36
5.1.5	False or Misleading Documents	36
5.2	Schedule 3A – Statutory Conditions of AIS Approval	38
6	Transitional Provisions	39
6.1	AIS Transitional Provisions	39
6.2	Vehicle Standards Transitional Provisions	39
7	VSS Regulation Schedules	40

7.1	Schedule 1 – Vehicle Standards	40
7.1.1	Relationship with ADRs	40
7.1.2	Personally Imported Vehicles	41
7.1.3	Shape of Rear Vision Mirror Surfaces	42
7.1.4	Visual Display Units	43
7.1.5	Window Tinting	44
7.1.6	Alternative Tyres for Emergency	45
7.1.7	Chain Guards	45
7.1.8	Engine Identification Numbers	46
7.1.9	Left-Hand Drive Signs for Heavy Vehicles	47
7.1.10	Dipping of headlights.....	47
7.1.11	Brightness of Daytime Running Lights	48
7.1.12	Reversing Lights	48
7.1.13	Location of Indicator Lights	49
7.1.14	Lights and Reflectors	50
7.1.15	Rear Marking Plates.....	50
7.1.16	Brakes for Trailers Under GTM 0.75t	51
7.1.17	Exhaust System Requirements for Light Vehicles	51
7.1.18	Stationary Noise Levels	52
7.1.19	Requirements for CNG Vehicles	53
7.1.20	Speed Limiting and Exemptions	53
7.1.21	Hybrid-Combinations Involving Light and Heavy Vehicles	54
7.1.22	Drawbar Couplings	55
7.2	Schedule 2 – Exempt Areas	56
7.3	Schedule 3 – Fees	57
7.4	Schedule 4 – Dictionary	58
8	Conclusion.....	59
	Appendix A - Proposed VSS Regulation Layout.....	60

1 Executive Summary

Queensland Transport's Vehicle Access and Engineering Unit is undertaking a project to review and remake the Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 1999 prior to its expiry in September 2010. The VSS Reg Review Project includes an intermediate review of provisions identified as requiring attention by stakeholders during an initial round of consultation consisting of workshops and consultation response forms.

This discussion paper culminates the initial round of consultation, collating feedback received from stakeholders and presenting Queensland Transport's initial positions on the issues raised after considering the benefits to industry and the public, the complexity and degree of effort required, and timing and resource constraints of the project.

In summary, the majority of issues raised relate to the application of the vehicle standards, including defective vehicles and modification of vehicles, and Schedule 1 – Vehicle Standards' consistency with national model legislation and respective Australian Design Rules. Another significant component of the project is the proposed transference of provisions dealing with accreditation of approved inspection stations, approved persons and examiners to the Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2005.

Queensland Transport believes that by concentrating on the identified issues relating to the application of the vehicle standards, including defective vehicles and modification of vehicles, the VSS Regulation can be substantially improved upon. Furthermore, where applicable and in the best interests of Queensland consistency with national vehicle standards is likely to ensure the safety of Queensland's vehicle fleet and road users remains uniform with other Australian jurisdictions.

2 Introduction

The Transport Operations (Vehicle Standards and Safety) Regulation 1999 (VSS Regulation) Review Project is one of a series of similar projects that aim to remake existing legislative instruments provided under the *Transport Operations (Road Use Management) Act 1995* (TORUM Act). The VSS Regulation will expire on 1 September 2010 by virtue of the *Statutory Instruments Act 1992*. The purpose of automatically expiring regulations is to:

- a Reduce the regulatory burden on the people of Queensland without compromising law and order and essential economic, environmental and social objectives;
- b Ensure subordinate legislation is relevant to the economic, social and general wellbeing of the people of Queensland; and
- c Otherwise ensure the part of the Queensland statute book consisting of subordinate legislation is of the highest standard.

The VSS Reg Review Project will include an intermediate level review of provisions identified as requiring attention by stakeholders. Key objectives of the project are to:

- Increase clarity surrounding the application of the vehicle standards;
- Ensure the integrity of vehicle inspection and certification schemes; and
- Maintain consistency with national vehicle standards.

This discussion paper collates feedback received from stakeholders through the submission of consultation response forms. This information culminated the initial round of consultation, which sought to identify issues that may be considered as part of the VSS Reg Review Project. Furthermore, this discussion paper presents Queensland Transport's (QT) initial positions on the issues raised after considering the benefits to industry and the public, the complexity and degree of effort required, and timing and resource constraints of the VSS Reg Review Project. Issues that are not to be progressed as part of the project will be added to a running issue log and may be considered separately by QT or forwarded to appropriate persons/agencies where required.

3 Vehicle Standards

The topics considered in this section relate to construction and safety standards applicable to vehicles that are to be driven or parked on Queensland roads. This includes the application of standards as provided for in Schedule 1 – Vehicle Standards, defective vehicles (those deemed non compliant or otherwise unsafe), modifications to vehicles, and guidelines and permits for the safe movement on a road of particular vehicles or types of vehicle.

3.1 Application of Vehicle Standards

Consultation with stakeholders has identified strong support for the revision of sections of the VSS Regulation that provide for the application of vehicle standards. Although this includes sections relating to defective and modified vehicles, for the purposes of this paper only the following section is uniquely identified as applying the vehicle standards.

- Section 5 Vehicles must comply with vehicle standards.

QT recognises there are issues relating to the interpretation of this aspect of the legislation and agrees that the provisions relating to the application of the vehicle standards may be enhanced by undergoing a revision. The key objective of this process would be to improve clarity regarding the identification and application of relevant vehicle standards, facilitating an increase in understanding and operation of the legislation. It is thought that this can be achieved without significant change in policy through the restructuring of the above stated provisions. Success of this action would be evaluated based on a decrease in the number of suspected defective vehicles, successful actions against owners of defective vehicles and positive feedback received from industry.

It is worth mentioning at this point that many of the issues raised during the initial consultation period may be the result of misinterpretation of the application of the vehicle standards. This is especially the case when considering the vehicle standards provided in Schedule 1 and their relationships with corresponding national vehicle standards (Australian Vehicle Standards Rules 1999 (AVSR)) and Australian Design Rules (ADRs).

This discussion paper includes a short description of this relationship in part 7.1.1 to reiterate the application of Queensland's vehicle standards.

3.1.1 Restructure

Reference

All sections of the VSS Regulation.

Issue description

Consultation has identified that users of the VSS Regulation have trouble understanding the application of the vehicle standards. In particular, provisions relating to defective vehicles, the modification of vehicles and relationship between the AVSRs and ADRs.

Findings

QT acknowledges that the current layout of particular sections of the VSS Regulation may cause confusion as to the application of the vehicle standards.

Suggested action

QT proposes two amendments to the VSS Regulation.

- a Redraft the VSS Regulation so that similar and related sections are presented in a logical sequence. Appendix A provides the proposed new layout of the VSS Regulation.
- b Provide more introductory/explanatory information regarding the application of the ADRs/vehicle standards in Part 1 of Schedule 1. Schedule 1 is based on the AVSRs, which includes general information regarding the applicability of the ADRs and AVSRs.

By implementing these two changes, a clearer, more user friendly version of the VSS Regulation that facilitates a better understanding of the vehicle standards can be drafted.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- Improved training for approved persons may enhance their understanding of the VSS Regulation and application of the vehicle standards; and
- Correct interpretation of the VSS Regulation requires a thorough working knowledge of not only the legislation in question but also all supporting or contributory legislation including the TORUM Act, ADRs, AVSRs and other Australian Standards.

In response to these comments the following information can be provided:

- Whilst training for approved persons is outside the scope of the VSS Reg Review Project, the relevant area within QT will be informed of this comment.

QT proposes that the suggested actions to reorder and add explanatory information to the remade VSS Regulation will be progressed.

3.2 Defective Vehicles

As with other provisions relating to the application of the vehicle standards, sections relating to defective vehicles were also identified by stakeholders as requiring attention. These sections include:

- Section 13 When a vehicle is defective;
- Section 14 Defect notices; and
- Section 15 Defective vehicle label.

As part of QT's process of reviewing the provisions relating to the application of vehicle standards, an assessment of the impact of subsequent changes and the interrelationships between the sections listed above may enhance the operation of the legislation. QT believes this can be achieved by providing clearer, more direct references to sections outlining the relevant vehicle standards to be applied without differing substantially from the existing policy. In particular, issues regarding reference to codes of practice without specific approval processes in the regulation and the concept of an 'unsafe' vehicle have been identified as being critical to the interpretation of defective vehicles and successful execution of associated practices. Success of this action would be evaluated based on decreased costs to society caused by unintended breaches of the legislation by members of the public and efforts of various institutions involved in compliance and enforcement.

3.2.1 Installation of Odometers

Reference

Section 13 of the VSS Regulations states that a vehicle is defective if its odometer does not, or can not, reasonably be relied upon to perform its intended function.

Issue description

QT has noted an apparent inconsistency between the VSS Regulation and the respective ADR that outlines instrumentation to be equipped to a vehicle.

Findings

The respective ADR no longer requires a vehicle to have an installed and working odometer. It should be noted that Queensland did not support this omission when the ADR was last updated. This means that vehicles now complying with the ADR may be considered defective in Queensland.

However, further investigation into the issue has found that current industry practices do not allow vehicles to be without odometers. This is especially the case for production vehicles that rely on odometer readings when considering warranty periods and maintenance programs. Such arguments were considered when the ADR was last updated.

Suggested action

QT accepts that in this instance the legislation is not in alignment with the respective vehicle standards. However, QT still considers odometers to be a required vehicle component, a view obviously supported by industry. Otherwise a rapid influx of production vehicles manufactured without odometers would have been witnessed. QT therefore is likely to retain the status quo and not remove this provision from the VSS Regulation.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- The relevant ADR is acknowledging that the presence of an odometer is not a legitimate safety related feature;
- A suggestion that a partial exemption from the requirement to have a functional odometer for older vehicles (example 10 year or older); and
- A suggestion that the relevant subsection could be worded so that a vehicle is only considered defective in this regard if the vehicle was manufactured with an odometer.

In response to these comments the following information can be provided:

- QT acknowledges that an odometer may not be directly related to the safety of a vehicle. However, various maintenance and performance processes may rely on the information recorded by a vehicle's odometer. Furthermore, various other aspects of transport regulation require odometer readings such as safety certificates and statutory warranties;
- Providing an exemption for vehicle's that have an odometer after reaching a specified age will not be considered for the reasons outlined above; and
- QT believes that the current wording of Section 13 (c) is interpreted that a vehicle can only be considered defective due to its odometer if the vehicle was manufactured/has an odometer. If a vehicle does not have an odometer then this provision does not apply.

QT proposes that the suggested action to retain these provisions in the remade VSS Regulation will be progressed.

3.2.2 De-Registering of Vehicles with Defects

Reference

Section 14 of the VSS Regulation provides for the issuing of defect notices if a vehicle is deemed defective or otherwise is in contravention of section 5.

Issue description

Subsection (4) states that a person need not comply with a defect notice if the vehicle's registration is cancelled. Concerns were raised over the currency of defect notices, with vehicles being de-registered to void defect notices and then re-registered without the defect being repaired.

Findings

Currently, a defect notice may be voided if the registration of a vehicle is cancelled. The vehicle must then be inspected and issued with a vehicle inspection certificate (certificate of inspection (COI) or safety certificate) before it can be registered.

QT believes that current vehicle inspection and registration requirements are adequate in identifying vehicle defects. Vehicle inspection practices are supported by the VSS Regulation's codes of practice and guidelines, which must be accessible/owned by approved persons as part of their accreditation requirements. Section 17A provides that a vehicle may be reinspected without a fee if the chief executive reasonably believes an approved examiner has by issuing the certificate contravened the TORUM Act. This protects the vehicle owner from further expense.

QT acknowledges that some vehicle owners, after being issued a defect notice, will restore the vehicle so that it complies with the vehicle standards and have it inspected. After the vehicle is re-registered some vehicle owners may then modify the vehicle so that it may be deemed non-compliant. This practice is hard to identify at the point of inspection. However, specific compliance and enforcement action can be undertaken to identify suspect vehicles and require a follow up inspection of the vehicle.

Suggested action

QT believes the integrity of the vehicle inspection and certification schemes in operation is not affected by this alleged practice. The VSS Regulation supports vehicle owners, industry and compliance agencies in maintaining Queensland's vehicle fleet. Therefore QT is not likely to progress this issue as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- A further issue regarding the clearance of defect notices is apparent policy inconsistencies for determining who is able to clear a particular type of defect;
- If a vehicle is given a defect notice by a transport inspector to be cleared by another person, it is very difficult for that other person to determine the quality of the repairs; and
- A suggested option is to record the defect against the vehicle registration number and the vehicle identification number on the system to keep a permanent trail and allow follow up of deregistered vehicles and repeat offenders.

In response to these comments the following information can be provided:

- QT has extensive compliance policies that clearly outline the processes for clearance of defect notices. The current policy has been in place since 2004;
- Defect notices to be cleared by third parties have been identified as minor or major (excluding public passenger transport vehicles) as per QT policy. Defects that have been determined as being dangerous are always inspected by QT. An appropriately qualified person is to form an opinion as to whether or not the defect has been rectified; and
- Defects are currently recorded against vehicle identification numbers on QT systems. This provides a historical record that can be used by compliance. In any event, if a defective vehicle is de-registered then a new vehicle inspection certificate is required before it can be re-registered. Obtaining a vehicle inspection certificate requires a vehicle to be inspected by an accredited person.

QT proposes that the suggested action to not progress this issue will be upheld.

3.2.3 Approval of Codes of Practice

Reference

Section 13 of the VSS Regulation outlines when a vehicle is defective and refers to codes of practice. Also, section 30 of the VSS Regulation refers to codes of practice for the approval of vehicle modifications.

Issue description

The VSS Regulation currently has no provision for the approval of codes of practice. Furthermore, compliance and enforcement agencies have expressed their desire for codes of practice to be able to be entered as evidence in proceedings.

Findings

Previously the VSS Regulation included specific provisions for the chief executive's approval of codes of practice. This included the approved codes of practice being admissible as evidence in proceedings. This section was omitted from the VSS Regulation in 2000. Since this time, the codes of practice for vehicle modifications have been provided for in the TORUM Act.

Suggested action

QT believes that similar provisions for the approval and use of codes of practice in evidentiary proceedings should be reinstated in the VSS Regulation. QT is likely to progress this issue as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- It is anticipated that VSB14 (National Code of Practice for Light Vehicle Modifications) will be adopted in the foreseeable future.

In response to these comments the following information can be provided:

- QT is continuing to provide input into the development of VSB14. QT expects VSB14 to be finalised and ready for implementation in Queensland in late 2009.

QT proposes that the suggested action to provide approval and evidentiary provisions to the remade VSS Regulation will be progressed.

3.2.4 Defining Defective Vehicles

Reference

Section 13 of the VSS Regulation defines when a vehicle is defective. Section 5 refers to 'defective' when outlining how vehicles are to comply with the vehicle standards.

Issue Description

It has been suggested that the interpretation of Sections 5 and 13 regarding when a vehicle is defective can be improved by addressing the references to 'unsafe' and 'defective' in the respective sections.

Findings

Section 5 states that a person must not drive or park a vehicle on a road if it does not comply with the vehicle standards. Subsections (d) and (e) specify that a vehicle does not comply with the vehicle standards if its parts or equipment are not in a safe condition or the vehicle is not unsafe but is otherwise defective. Section 5 provides an offence for non compliance.

Section 13 does not constitute an offence but supports policy regarding the application of defect notices that are issued in order to have minor and major vehicle defects rectified by the vehicle owner. It is important to note that by definition not all defective vehicles are unsafe. However, all unsafe vehicles are defective. For example, a vehicle can be considered defective if its exhaust does not perform its intended function although the vehicle could still be considered safe.

The relationship between these two sections may be considered difficult to interpret if the objectives of the respective sections are not considered. In essence, Section 13 is to apply whenever a vehicle does not comply with Section 5 so as to provide a means in which non compliance can be rectified.

Suggested action

QT is likely to propose an amendment to the VSS Regulation so that the relationship between the respective sections allows for clearer interpretation. Also, QT is likely to have Section 13 redrafted so that any vehicle that does not comply with the vehicle standards can be considered as being defective.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to redraft Section 13, to clarify the relationship between defective vehicles and the vehicle standards, in the remade VSS Regulation will be progressed.

3.3 Modified Vehicles

As with provisions relating to the application of vehicle standards, sections relating to the modification of vehicles were also identified by stakeholders as requiring attention. These sections include:

- Section 6 Modifying vehicle;
- Section 7 Modifying motor vehicle after speeding conviction;
- Section 8 Unauthorised lights;
- Section 9 Modifying silencing devices
- Section 30 Approval of modified vehicle.

The interrelationship between provisions dealing with the application of vehicle standards, defective vehicles and the modification of vehicles is likely to affect the sections listed above. QT acknowledges the issues raised during consultation relating to the identification of modifications that require, or do not require, approval by authorised officers or approved persons. To reduce the ambiguity surrounding modifications, these sections will be included in the review as discussed in part 3.1. Additionally, reference material will continue to be developed and implemented, such as the National Code of Practice – Light Vehicle Construction and Modification planned for implementation in Queensland in 2009. Although this is set to occur before the VSS Regulation is remade, the effect it has on vehicle modifications will be taken into account during the VSS Reg Review Project. Success of this action would be evaluated based on data received from industry for the number and type of modifications seeking approval, as well as the reduction in actions taken against unapproved modifications by compliance and enforcement institutions.

3.3.1 Removal of Modification Plates

Reference

Section 6 of the VSS Regulation provides general offences relating to the modification of vehicles.

Issue description

Section 6 states that it is an offence to alter, deface or remove an identification plate from a vehicle without approval. It has been requested that an offence for the removal of a modification plate be added to this section.

It has also been identified that the offence for altering, defacing or removing an identification plate is very similar to an offence relating to identifying numbers found in the TORUM Act.

Findings

Section 30 of the VSS Regulation makes it an offence for a person to alter or remove a modification plate from a vehicle without approval. This provision is currently in a section relating to the approval of modifications.

The offence relating to identifying numbers in the TORUM Act, although similar, does not make the offence relating to identification plates in section 6 of the VSS Regulation obsolete. The difference in the object and delegation of the respective provisions makes both offences unique and should not be considered the same offence.

Suggested action

A review of sections dealing with modifications of vehicles is expected to provide a more logical sequence of offences relating to the alteration or removal of vehicle modification plates.

It is unlikely that QT will progress the issue relating to the offence for identification plates.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- It is recognised that extensive use of modification plates are used in the heavy vehicle sector and that an offence for removal of a plate is warranted.

QT proposes that the suggested action to review sections dealing with modification offences in the remade VSS Regulation will be progressed.

3.3.2 Speed Limiting

Reference

Section 7 of the VSS Regulation, in conjunction with sections 138 and 139 of Schedule 1, provide for the fitment and use of speed limiting devices.

Issue description

Vehicles that must comply with ADR 65/00, Part 11 of the vehicle standards or have a gross vehicle mass of more than 15t are subject to Section 7 of the VSS Regulation. This section requires the owner of a vehicle recorded as travelling in excess of 115km/h to be modified to comply with the respective standards (speed limiting). However, due to the current wording of Section 7 the owner of a vehicle is not required to modify the vehicle until the person driving at the time of the infringement either pays the fine or is otherwise convicted of the infringement. This can result in these vehicles continuing to operate on roads for many weeks before being modified.

Also noted are several requests for a change in policy relating to the installation and correct use of speed limiting devices, including a change in focus to prevent tampering. The urgency of this issue is especially relevant to new chain of responsibility requirements.

Findings

QT supports the comments received during consultation and advises that national uniform regulations addressing speed limiting are being progressed. Once approved, these provisions will most likely be adopted in Queensland legislation.

Suggested action

QT believes this issue should be progressed as part of a separate project due to the sensitivities surrounding speed related issues and the extensive consultation necessary to progress this issue. It is also considered most probable that these issues can be addressed in advance of the remade legislation if undertaken as a separate project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- The introduction of any standardised national regulations should incorporate provisions relating to the speed limiter rectification following the recording of a speeding offence in excess of 115km/h;
- To require an owner to modify a vehicle prior to establishing guilt is usurping judicial authority;
- Urban speeding, a practice arguably more dangerous than speeding in rural/remote areas, is likely to be unaffected by speed limiting; and
- It is suggested that effort would be better utilised identifying and dealing with repeat offenders.

In response to these comments the following information can be provided:

- QT considers all forms of speeding to be a threat to road safety and considers a broad range of enforcement in this area. Heavy vehicles travelling at high speed can result in catastrophic incidents and lead to multiple injuries/deaths and severe damage to infrastructure and the environment; and
- QT has regulations and internal policies and processes in place for repeat speeding offenders, which include double demerit points and anti-speeding campaigns.

QT proposes to consider this issue as part of a separate project with consideration of national developments.

3.3.3 Unauthorised Lights

Reference

Section 8 of the VSS Regulations, in conjunction with section 104 of Schedule 1, provides an offence for the unauthorised fitment of particular lights and reflectors.

Issue description

QT has noted the apparent contradiction between section 8 and section 104 of Schedule 1, which provides standards for other lights, reflectors, rear marking plates or signals. More specifically, section 8 states that a person must not fit a light or reflector unless it is permitted by the vehicle standards that apply to that vehicle, or a guideline or permit. However, subsection (3) of section 104 allows a vehicle to be fitted with any light or reflector not mentioned in the standards.

Further comments received during consultation relate to reflective signage being used on commercial vehicles and headlights that produce a blue/whiter light. There have been instances where compliance and enforcement actions have been made against operators that consider these items to be allowable. Clarification of compliance with respective vehicle standards is sought.

Findings

Section 104 of Schedule 1 is inconsistent with the national vehicle standards. Although this section requires additional provisions for special vehicles specific to Queensland, there are still significant differences in the manner in which this section is drafted compared to the respective section of the AVSRs.

In simple terms, whereas the national vehicle standards allow for another law of that jurisdiction to provide for other lights and reflectors, in Queensland the VSS Regulation provides for all lights to be fitted to a vehicle used on a road. Instead of listing all the lights that can't be used, section 104 is somewhat open ended. This is necessary so there are no complications with lights such as taxi, pizza, work and spot lights fitted to vehicles for genuine purposes. Other vehicle standards also apply, such as section 57 that states lights must not dazzle other drivers.

On the issue of blue/whiter lights, respective ADRs outline the types of lights and reflector materials able to be used on vehicles. It is possible that these ADR requirements are being misinterpreted by members of the public or compliance and enforcement agencies.

Suggested action

As part of the revision of sections outlined in part 3.1, QT is likely to ensure that no contradictions exist between section 8 and section 104 of Schedule 1. However, from investigations conducted so far, it would seem that section 104 satisfactorily provides for the use of other lights and reflectors fitted to vehicles. In this case, QT is unlikely to alter the status quo.

Improving the comprehension of specific vehicle requirements provided in respective ADRs is not within the scope of this project. This issue may be progressed separately.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Reading the VSS Regulation in conjunction with relevant ADRs covers this issue adequately.

QT proposes that the suggested action to ensure no contradictions exist between the two related sections in the remade VSS Regulation will be progressed.

3.3.4 Silencing Devices

Reference

Section 9 of the VSS Regulation makes it an offence for a person to modify a vehicle's silencing device to reduce its effectiveness.

Issue description

QT has noted an apparent contradiction between section 9 and corresponding vehicle standards for vehicle noise emission levels, including sections 136 – 136F of Schedule 1. More specifically, the wording 'to reduce, or be likely to reduce, the effectiveness of the device' would seem to lead to confusion regarding what constitutes the device being made less effective.

Findings

During consultation compliance and enforcement agencies noted the advantages of these provisions. In summary, action against the operator of vehicle that has had its silencing device modified can be commenced without the need for specialised testing of noise levels. Also, Section 9 allows for a person who conducts the modification to be charged with an offence. However, there seems to be ongoing conjecture as to what constitutes a silencing device being made less effective.

Respective vehicle standards outline the procedures and apparatus that are required to test vehicle noise emission levels. These standards are believed to be the most appropriate measure for particular vehicle types. It is thought that these noise testing procedures provide a defence for persons charged with an offence under section 9. Furthermore, consultation with police and other QT staff inform that these offences are aimed at special modifications of manufactured exhaust systems, such as blower valves, and that it would be unusual for an officer to charge a person with this offence unless a breach of the relevant vehicle standards is obvious.

Suggested action

QT is in the process of amending section 136 of the VSS Regulation to provide new noise testing procedures for in-service vehicles. These new noise testing procedures have been developed at a national level. Refer to part 7.1.18 for more information regarding this amendment. QT is unlikely to progress this issue any further.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to provide for new noise testing procedures for in-service vehicle as detailed in part 7.1.18 is adequate in for this issue and will be progressed.

3.3.5 Obligations of Authorised Officers

Reference

Section 30 of the VSS Regulation outlines the obligations of particular persons for the approval of a modified vehicle.

Issue description

During consultation it was noted that the powers and obligations of authorised officers required clarification. More specifically, it is believed that the delegated powers of authorised officers may be better utilised if they were able to approve modifications at the time and place of inspection.

Findings

Section 30 provides the ability for an authorised officer to approve a modification that is included in a code of practice. Historically, this practice was undertaken by authorised officers where the services of adequately qualified approved persons were not available. However, as the number of approved persons has grown over recent years authorised officers very rarely carry out this task.

In instances where it would be advantageous for an authorised officer to approve a modification, it would most likely be impractical to affix a modification plate as required by Subsection (3) due to logistical and legal implications.

Suggested action

QT believes that the legislation is adequate on this matter. It has been identified however that supporting systems and processes could be reviewed to assist authorised officers in fulfilling the objectives of the legislation.

As this issue does not involve amendment of the VSS Regulation, this issue will not be considered as part of the project. However, QT is likely to progress a related project to address issues with the supporting systems and processes.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- There may be implications if individuals are allowed to approve modifications without formal qualifications or relevant experience.

In response to these comments the following information can be provided:

- Authorised officers must hold relevant qualifications and undertake specialised training to assist or undertake vehicle inspections on behalf of QT. It is not current practice for authorised officers to conduct vehicle modification processes. In most cases certification is sought from an appropriate approved person or engineer.

QT proposes that the suggested action to not amend related sections in the remade VSS Regulation will be upheld.

3.3.6 Modification Terminology

Reference

Schedule 4 of the VSS Regulation defines the term 'modify' as changing a vehicle (including by adding something to the vehicle) from the manufacturer's specifications for the vehicle. Modifications and the fitting of equipment are provided for in sections 5, 6 and 30.

Issue description

There is continued confusion within the industry of what modifications require approval. QT has developed guidance material on the issue, such as the brochure 'All About Modifications'. However, several issues still exist, least of which is the legality of available guidance material. It has been suggested that amending the terminology used for modifications could alleviate the current confusion.

Findings

The national vehicle standards and federal motor vehicle legislation do not include definitions relating to vehicle modifications. New South Wales' has similar provision to that of the VSS Regulation for the modification of vehicles, requiring vehicles to continue to comply with the vehicle standards and have the modification certified by an authorised person. Furthermore, the development and implementation of national codes of practice relating to vehicle modifications is expected to increase clarity with respect to which modifications require approval.

Suggested action

As a priority of the VSS Reg Review Project, QT aims to address the issues surrounding modifications. It is thought that the review of provisions dealing with modifications and the application of vehicle standards, in addition to the adoption of national codes of practice, will improve clarity regarding what modifications require approval.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- The adoption and implementation of VSB14 is strongly supported; and
- It is suggested that QT conduct an industry advertising campaign to raise awareness of VSB14 and VSB6 for the benefit of both the light and heavy vehicle sectors.

In response to these comments the following information can be provided:

- QT is continuing to provide input into the development of VSB14. QT expects VSB14 to be finalised and ready for implementation in Queensland in late 2009. As part of the implementation process QT will ensure adequate awareness of VSB 14 and associated vehicle standards to stakeholders.

QT proposes that the suggested action to review provisions dealing with modifications and adopting national codes of practice in the remade VSS Regulation will be progressed.

3.3.7 Availability of Codes of Practice

Reference

Section 30 outlines codes of practice to be used in determining approval for the modification of a vehicle.

Issue description

The footnotes provided for section 30 of the VSS Regulation are not accurate and the Code of Practice – Light Vehicles is not able to be found on the QT website.

Findings

Copies of the respective codes of practice are no longer available from Goprint. These publications are now to be obtained from SDS (Sales and Distribution Services) Publications.

The QT website currently has electronic copies of the codes of practice for commercial vehicles and heavy vehicles but not light vehicles.

Suggested action

QT aims to have current codes of practice relating to vehicle standards made available electronically on its website, with hard copies available from SDS Publications. The footnotes are to be amended accordingly.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- It is critical that consumers have easy access to and understanding of the vehicle standards.

In response to these comments the following information can be provided:

- QT will endeavour to make all codes of practice relating to vehicle standards freely available on the QT website in early 2009.

QT proposes that the suggested action to ensure codes of practice are made available and updating of footnotes in the remade VSS Regulation will be progressed.

3.4 Guidelines and Permits

Under the VSS Regulation QT currently permits the movement, on a road, of various vehicles that may not meet the vehicle standards as provided for by way of a guideline or permit. These are provided by the following sections:

- Section 10 Guidelines and permits for vehicles;
- Section 11 Permit contents and conditions; and
- Section 12 Driving under permit or guideline.

Consultation with key stakeholders did not identify any significant issues with the current guideline and permit schemes. QT will however be reviewing the timeframes provided for in the listed sections to ensure they are appropriate and remain consistent with QT policy. QT will also be reviewing the interaction between the VSS Regulation and conditional registration processes provided for under Queensland vehicle registration legislation. However, this is unlikely to have an impact on the guideline and permit schemes currently in operation under the VSS Regulation.

3.4.1 Permits for Class of Vehicle

Reference

Section 11 of the VSS Regulations outlines the contents to be included in a permit and conditions that can be imposed.

Issue description

The requirement for a person's name and address to be included on a permit restricts the use of permits for types (class) of vehicles, since they must be assigned to a particular individual. It is suggested that this requirement be removed.

Findings

Subsection (1) requires all permits to include the name and address of the person the permit is issued to. Other TORUM regulations provide for permits to be issued for a class of vehicle. For example, the Transport Operations (Road Use Management – Mass, Dimensions and Loading) Regulation 2005 allows for alternative arrangements for permits.

Suggested action

QT believes there could be advantages in being able to issue permits for types of vehicles. QT is likely to consider amending section 11 so that if a permit is issued for a type of vehicle, the permit need not include the name and address of the permit holder. A 'type' or 'class' permit would be generic in nature and able to be provided to any person with ownership of the type of vehicle provided for by the permit. This permit would therefore also be made transferable to a subsequent owner of the vehicle, so long as the vehicle still complies with the permit.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to provide for a 'type' or 'class' permit in the remade VSS Regulation will be progressed.

3.4.2 Issue Permit for Life of Vehicle

Reference

Section 11 of the VSS Regulation sets a maximum duration of a permit at five years.

Issue description

During consultation it was suggested that QT review the maximum length of time a permit can be issued. In some instances a permit could be issued for the life of a particular vehicle. This would benefit the person seeking the permit and QT by reducing administrative costs.

Findings

Subsection (1) prohibits a permit being issued for a period in excess of five years. Other TORUM regulations do not provide for such a restriction.

QT has identified that if a permit is issued for the life of a vehicle, the expiry of such a permit may be synonymous with the legislative lifecycle of Queensland regulations. This means that transitional provisions may apply upon expiry of the existing regulation (which has a lifecycle of 10 years) allowing a permit to continue to have effect. However, it is unlikely that the permit would continue to be recognised in the following transitional arrangement. This would mean a permit has a maximum lifecycle of up to 19 years.

Suggested action

QT believes there could be advantages in being able to issue permits for the life of a vehicle. QT is likely to consider this issue as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to enable a permit to be issued for the life of a vehicle in the remade VSS Regulation will be progressed.

4 Vehicle Inspections

The processes for ensuring Queensland's vehicle fleet comply with the prescribed vehicle standards are included in this section on vehicle inspections. As is the case in other Australian jurisdictions, Queensland operates under a certification regime that requires a used vehicle, upon sale or as required, to have a current safety certificate or COI. These certify that a vehicle is not defective and is otherwise safe to be driven or parked on Queensland roads.

4.1 Safety Certificate Scheme

A complete review of the safety certificate scheme is outside the scope of VSS Reg Review Project. However, stakeholders were provided an opportunity to comment on any issues that may be affecting the integrity of the scheme. For the purposes of this discussion paper, the following sections are considered pertinent to safety certificates:

- Section 20 SC vehicles for sale; and
- Section 38 Seizing certain vehicles for sale – Act, s 46A.

The following comments were offered:

- The vast majority of the public believe safety certificates and COIs guarantee a vehicle is in good mechanical condition;
- It is suggested that QT alerts the public that whilst a vehicle can be safe and not defective, it may not necessarily be in good mechanical condition; and
- It is suggested that a disclaimer be prominently displayed on safety certificates, COIs or other labels to alert public that the vehicle may not be in good mechanical condition before committing to buy the vehicle.

In response to these comments the following information can be provided:

- QT acknowledges that some members of the public continue to consider vehicle inspection certificates as relating to the mechanical condition of the vehicle. QT has undertaken several campaigns since the inception of safety certificates to clarify the purpose of such vehicle inspection certificates; and
- The review of forms and other vehicle standards publications is outside the scope of the VSS Reg Review Project.

4.1.1 Exempt Vehicles Sold Outside Exempt Areas

Reference

Section 20 of the VSS Regulation outlines the requirement to have a safety certificate for the sale of a vehicle.

Issue description

QT has registered an issue that may decrease the integrity of the safety certificate scheme. This issue relates to vehicles not requiring a safety certificate due to the owner living in an exempt area. There have been instances where such a vehicle travels outside the exempt area and is on-sold without a safety certificate. This practice is also being done vice versa, with persons establishing an address in an exempt area and then selling a vehicle in a non-exempt area without a safety certificate. This practice is not in alignment with the objectives of the policy.

Findings

Subsection (3) exempts the owner of a vehicle, who lives in an exempt area stated in Schedule 2, from requiring a safety certificate. The intention of this exemption is to allow a vehicle to be sold without a safety certificate if it is deemed impractical for the owner to obtain a safety certificate. However, if the owner drives or transports a vehicle to an area requiring a safety certificate this action would nullify the reasoning for the exemption.

Current systems and processes do not support compliance with this exemption for persons who claim to reside in an exempt area. Although evidence of the stated address must be produced to QT, it is acknowledged that this may not be sufficient in preventing pseudo addresses being used to claim the exemption.

Further investigation and data analysis does not provide clear evidence of the exemption's misuse. A more complex investigation of the data may possibly isolate instances where the exemption is being misused for commercial gain. However, this data is not available at this stage.

Suggested action

QT initially developed a suggested amendment to the policy to resolve this issue. This included voiding the exemption afforded to owners who live in exempt areas if the vehicle is not within an exempt area when offered for sale or is sold to a person who is unlikely to use the vehicle within the exempt area. That is, the exemption would only apply to owners who live (or have the vehicle garaged) in an exempt area and sell the vehicle within and to a person that lives (or is to garage the vehicle) in an exempt area.

However, without sufficient evidence as to the extent of the problem QT is reluctant to make changes to the policy that would affect a great number of people who live in remote locations. QT is therefore unlikely to progress this issue as part of this project. Refer to part 7.2 for more information regarding exempt areas.

Discussion and proposed action

No comments were made on this issue.

QT proposes that the suggested action to not change current policies relating to exempt areas in the remade VSS Regulation will be upheld.

4.2 Certificate of Inspection Scheme

A complete review of the COI scheme is outside the scope of the VSS Reg Review Project. However, stakeholders were provided an opportunity to comment on any issues that may be affecting the integrity of the scheme. For the purpose of this discussion paper, the following sections are considered pertinent to COI:

- Section 16 Inspections by authorised officers for certificate of inspection;
- Section 16A Identifying vehicle before inspection;
- Section 17 Inspections by approved examiners for inspection certificate;
- Section 17A Issue of replacement certificate if registration refused;
- Section 18 Reinspection by approved examiners for inspection certificate;
- Section 19 Action more than 14 days after inspection report issued;
- Section 21 Disposal of registered vehicle;
- Section 22 Registered COI vehicles always require certificate of inspection;
- Section 23 Currency of certificates;
- Section 24 Extension of time to comply; and
- Section 49 Alternative Compliance scheme – maintenance.

4.2.1 Inspection by Approved Examiners

Reference

Section 17 of the VSS Regulation outlines what vehicles are able to be inspected by approved examiners.

Issue description

It has been suggested that QT review the type (size, mass) of registered vehicles able to be inspected by approved examiners to allow for a possible increase in size.

Findings

Currently approved examiners are able to inspect any unregistered vehicle, registered vehicles with a gross vehicle mass of 16t or less, and registered trailers with an aggregate trailer mass of 10t or less.

Suggested action

Changes to the type of vehicles able to be inspected by approved examiners would require extensive consultation and policy development. QT believes this issue would be best progressed separate from the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Consultation indicates widespread industry support for an increase in the gross vehicle mass of trucks and aggregate trailer mass of trailers able to be inspected.

In response to these comments the following information can be provided:

- QT's Services Division is currently undertaking a project that considers outsourcing vehicle inspections performed by compliance officers to private industry. QT will ensure comments received as part of the VSS Reg Review Project are forwarded to the relevant business unit.

QT proposes that the suggested action to consider this issue separately from the remake of the VSS Regulation will be upheld.

4.2.2 Identification by Engine Number

Reference

Section 16A of the VSS Regulation requires an approved examiner to determine the identity of a vehicle before it is inspected, including the identification of the engine number.

Issue description

QT has noted an issue regarding the identification of engine numbers that are not visible without the use of tools and removal of vehicle parts. This issue also relates to section 48 of Schedule 1.

Findings

The respective ADR requires engine numbers to be permanently marked on the main part of the engine, and that the number is readily visible when the engine is fitted to the vehicle. However the vehicle is deemed to comply with the ADR if the engine number is repeated on a supplementary label placed in a conspicuous position in the engine compartment. A great majority of vehicles that do not have readily viewable engine numbers comply with the ADR.

For vehicles that need not comply with the ADR, section 48 of Schedule 1 applies. However, the legislation as it currently reads may not require the engine number to be readily visible if the vehicle identification number is visible.

Suggested action

QT accepts the alternative requirements for engine identification provided in the respective ADR. If a vehicle is modified so that the engine number is not readily viewable, then the engine number must be provided in a way that complies with the ADR at the time.

For vehicles that need not comply, QT is reluctant to change the requirement to have engine numbers readily visible as this would be inconsistent with current national requirements and retrospective in nature.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- Industry feedback indicates that many non-compliant vehicles are encountered where the engine number can only be verified by removal of parts;
- Only a handful of instances where an engine number wasn't visible and the majority of these were not readable because they were inaccessible to clean;
- Labels used to show engine identifiers are not durable and do not address the issue of engine changes;

- There is a more serious problem with heavy trailer identifiers caused by a lack of knowledge of locale;
- It is suggested that where appropriate, examiners be allowed to charge for extra time taken to view engine identifiers;
- It is suggested that when numbers are not accessible the owner should be made to obtain a surrogate identifier; and
- It is suggested that knowledge of locale of heavy trailer identifiers be collated and made available to industry.

In response to these comments the following information can be provided:

- From comments received, it would seem that there is a difference in opinion regarding the commonality of this issue. This could be due to different roles and/or vehicle categories inspected by respondents;
- Alternative methods of displaying an engine number, such as a label, must continue to be legible;
- Trailer identifiers are unrelated to the issue of engine identifiers and therefore not within the scope of the VSS Reg Review Project;
- The fees associated with vehicle inspections are not being reviewed as part of the VSS Reg Review Project; and
- The use of surrogate identifiers is only to be followed in the event that the original identifier is non-existent or illegible due to being damaged. QT does not support obtaining surrogate identifiers in instances where an engine number is not accessible. It is unlikely that such a practice would rectify the current challenges associated with this issue.

QT proposes that the suggested action to retain the status quo in the remade VSS Regulation will be upheld. However, QT is willing to consider this issue further following the completion of the VSS Reg Review Project.

4.2.3 NHVAS Operators Exempt from COI for Sale of Vehicle

Reference

Section 21 of the VSS Regulation states that the owner of a vehicle must not dispose of a vehicle unless the owner possesses a current COI.

Issue description

During consultation industry representatives proposed that National Heavy Vehicle Accreditation Scheme (NHVAS) operators be exempt from the requirement to have a current COI when on-selling a vehicle to another NHVAS operator.

Findings

Section 22 of the VSS Regulation does not require vehicles operating under an alternative compliance scheme to have a current COI. These operators are considered to have appropriate systems in place to ensure their vehicles are constructed and maintained in accordance with the vehicle standards.

However, Section 21 requires the owner of a registered vehicle to have a current vehicle inspection certificate upon its disposal. These two sections are not in alignment for alternative compliance scheme operators. It is essential for scheme credibility that alternative compliance operators are able to dispose of vehicles to another HHVAS operator without requiring an independent vehicle inspection and current vehicle inspection certificate.

Suggested action

QT is considering providing the ability to exempt alternative compliance scheme operators from requiring a current vehicle inspection certificate upon disposal, if the vehicle is being disposed of to another alternative compliance scheme operator.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to provide an exemption for alternative compliance scheme operators when selling a vehicle to another alternative compliance scheme operator in the remade VSS Regulation will be progressed.

4.2.4 Currency of Safety Certificates

Reference

Section 23 of the VSS Regulation outlines the currency of safety certificates and COI.

Issue description

QT has noted public interest in the currency of safety certificates if the registration of a vehicle is cancelled. More specifically, it has been suggested that this provision be reviewed as the safety of a vehicle is unlikely to change within the lifecycle of a safety certificate.

Findings

Subsection (3) states that a vehicle's inspection certificate ceases to be current if the vehicle's registration is cancelled. QT believes that this provision is required as a number of processes are linked to a vehicle's registration, such as defect notices as discussed in part 3.2.2. Furthermore, the requirement to obtain a safety certificate when a vehicle is unregistered is a key component of the vehicle inspection and certification schemes and should not be removed.

Suggested action

QT is unlikely to progress this issue as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- A vehicle that has a current safety certificate should be issued with a defect notice if an aspect of the vehicle relating to its safety/condition has changed since the issuing of the safety certificate.

In response to this comment the following information can be provided:

- Section 23 of the VSS Regulation states that a vehicle inspection certificate ceases to be current if the vehicle is modified and the modification is not approved or there has been a significant change in the condition or construction of the vehicle. In a case where a defect notice would be issued, a vehicle inspection certificate would be void.

QT proposes that the suggested action to retain the status quo in the remade VSS Regulation will be upheld.

4.2.5 Extension of time for COI

Reference

Section 24 of the VSS Regulation allows a person to apply for an extension of time to comply with a defect notice or requirement to have a current COI.

Issue description

When a person is granted an extension of time to have a current COI, the vehicle inspection is often carried out many weeks after the original expiry date. This results in significant time creep between the original expiry date and the date when the new COI is obtained.

Findings

Currently there is nothing in the legislation fixing the expiry date of a COI. QT has identified that significant time creep can be achieved by owners of vehicles if an extension of time to comply, provided under Section 24, is approved. This can add up to an extra two months to the life of a COI. Considering some vehicles require a new COI every 6 months, the extension period could result in a 33 percent time creep. This could result in potentially unsafe vehicles continuing to operate on Queensland roads.

Also this requirement disadvantages those operators who obtain a COI prior to expiry of their current COI. If a person has their vehicle inspected before the COI expires (such as public transport providers) the new period of currency is based on when the inspection is carried out. This increases the regularity of them requiring their vehicles to be inspected. It also means that the person has two current COIs for the same vehicle.

Suggested action

QT is considering an amendment to the legislation that would base the currency of a COI on an 'anniversary date', similar to the current business processes for vehicle registration. This would allow vehicles inspected up to one month before the due date to retain the original 'anniversary date'. Similarly, vehicles that have an approved extension of time would not benefit as the new COI would be back dated to the 'anniversary date'.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- Vehicle owners have little understanding of the currency of COIs and often get caught out when not able to provide the existing (current) COI for the vehicle; and
- It is suggested that the renewal notice should prominently display the fact that a current COI is required before renewal can be processed.

In response to these comments the following information can be provided:

- Owners of COI vehicles are required to know the conditions on which their vehicle/s can be registered. The COI requirements in transport legislation are well established;
- QT believes the issuing of a renewal notice is adequate in increasing owners' awareness of COI currency and inspection requirements. A COI has the expiry date clearly stated; and
- The review of forms and other vehicle standards publications is outside the scope of the VSS Reg Review Project.

QT proposes that the suggested action to provide for a new system for determining COI expiry be adopted in the remade VSS Regulation will be progressed.

4.2.6 Disaster Management Policy

Reference

Sections 23, 24 and Schedule 3 of the VSS Regulation may be affected by the adoption of a disaster management policy.

Issue description

Customers that have been affected by a disaster event may encounter loss of essential services. Many basic facilities may be temporarily out of action, for example, Australia Post facilities, public transport, financial institutions and other essential services. Loss of all or some of these services can contribute to the customer experiencing financial hardship as well as being unable to attend to QT business on time.

Findings

The disaster management policy seeks to align with contemporary disaster risk management processes, which aim to:

- Help communities to decrease their vulnerability to the impact of hazard events,
- Effectively prepare for managing the effects of such an event, and
- Effectively respond to and recover from an event.

There are several options being considering for the disaster management policy that may require amendments to the VSS Regulation. Included are options relating to COI exemptions/extensions and waiving of particular vehicle inspection and booking fees.

Suggested action

The disaster management policy requires further consideration from QT and respective agencies as there are a number of outstanding issues. A preliminary project to coordinate this process is being undertaken. Until further development and agreement is achieved, these options are for consideration only and may not be included as part of the VSS Reg Review Project.

However, it is proposed that the current maximum extension of time (two months) provided for in Section 24 be amended so that a longer extension can be provided for persons in exceptional circumstances.

Discussion and proposed action

No comments were made on this issue.

It is proposed that the VSS Regulation will not be amended to provide for specific disaster management policies as part of the VSS Reg Review Project. However, QT proposes that the maximum two month extension of time period will be increased to allow for exceptional circumstances as part of the VSS Reg Review Project.

5 AIS and Approved Persons/Examiners

AIS provide for the inspection of certain types of vehicles by approved examiners and the issuing of certificates by approved persons. AIS services can be provided at fixed premises or by mobile workstations operated as an extension to a fixed premises business.

As part of the VSS Reg Review Project, QT is aiming to transfer provisions relating to the accreditation of AIS, approved persons and examiners from the VSS Regulation to the Transport Operations (Road Use Management – Accreditation and Other Provisions) Regulation 2005 (Accreditation Regulation). It is thought that this will provide a clearer delineation between legislation pertinent to vehicle standards and safety, to legislation relating to accreditation and ongoing requirements of accreditation. As well as reducing the size of the VSS Regulation and making it more consistent with national vehicle standards legislation, it is hoped that this separation of provisions will allow for clearer interpretation of the legislation for involved parties.

5.1 Accreditation Application and Approval

The VSS Regulation currently provides for the application and approval of AIS accreditation. Also, the VSS Regulation includes many provisions relating to the obligations and responsibilities of accredited persons during the course of carrying out their business. For the purposes of this discussion paper, the following sections are considered pertinent to AIS applications, accreditation approval and ongoing requirements directly relating to the accreditation of related persons:

- Section 25 AIS approvals;
- Section 26 Nominees;
- Section 27 Exhibiting AIS approval;
- Section 28 Keeping and maintaining equipment at AIS;
- Section 29 Inspections permitted at an AIS;
- Section 31 Notification of change;
- Section 32 Notification if certificate or plate destroyed, lost or stolen;
- Section 33 Returning unused forms and plates;
- Section 34 Document keeping;
- Section 35 Making, possessing or using false or misleading documents;
- Section 37 Prescribed approvals-Act, ss 17B and 18(c)(ii)
- Section 39 Applying for approval;
- Section 40 Deciding application;
- Section 40A Statutory conditions;
- Section 41 Discretionary conditions;
- Section 42 Granting of approvals;
- Section 43 Refusing to grant approval;
- Section 44 Review of decisions;

- Section 44A waiver of additional application fee; and
- Section 44B Refund of additional application fee for AIS approval.

These sections are likely to be transferred to the Accreditation Regulation. Sections 46 and 47 are considered in part 6.1 of this paper, Schedule 3A is considered in part 5.2 of this paper, and respective fees in part 7.3.

5.1.1 Identified Sections Also Required in VSS Regulation

The above list of sections relating to AIS, approved persons and examiners represents a significant portion of the VSS Regulation. However, not all of these sections will be removed from the VSS Regulation as they are required for other aspects of the legislation. This includes sections relating to approvals, which are required to administer the guidelines and permit schemes provided for by sections 10, 11 and 12. The following is a list of sections that have been identified as needing to be retained in the VSS Regulation:

- Section 35 Making, possessing or using false or misleading documents;
- Section 39 Applying for approval;
- Section 40 Deciding application;
- Section 41 Discretionary conditions;
- Section 42 Granting of approval;
- Section 43 Refusing to grant approval; and
- Section 44 Review of decisions.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- There are concerns regarding what impact the transference of provisions will have on current issues raised with the Accreditation Review (related project); and
- There are concerns of possible delays in resolution of raised issues and implementation of possible amendments.

In response to these comments the following information can be provided:

- Consultation with relevant business units has been undertaken. It is unlikely that transitioning the selected provisions from the VSS Regulation to the Accreditation Regulation will impact on related projects.

QT proposes that the suggested action to transfer selected provisions to the Accreditation Regulation and retain other provisions in the remade VSS Regulation will be progressed.

5.1.2 Mobile AIS

Reference

Section 25 of the VSS Regulation allows for approved persons to operate fixed and mobile AIS to inspect particular vehicles.

Issue description

The legislation and respective codes of practice only allow one mobile AIS to operate from a fixed AIS premises. There are currently many approved persons who operate multiple mobile AIS to service their constituents.

Findings

QT acknowledges the use of multiple mobile AIS by approved persons. Legal advice has been sought on a number of issues relating to mobile AIS.

Feedback during consultation supports a scaled reduction in the number of mobile AIS in operation.

Suggested action

Amendments to AIS provisions are unlikely to be considered as part of this project due to the considerable effort already allocated to the transference of these provisions to the Accreditation Regulation. However, issues relating to AIS are likely to be considered by QT following the conclusion of the VSS Reg Review project.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- Several industry bodies wish to take part in any project relating to this issue; and
- Any changes to current regulations may have serious impacts on business.

In response to these comments the following information can be provided:

- Upon transference of accreditation type provisions to the Accreditation Regulation this issue may be considered by the applicable business unit of QT. Comments received during the VSS Reg Review Project on this issue will be available to this work unit upon consideration of this issue.

QT proposes that this issue may be considered by the relevant business unit and not as part of the VSS Reg Review Project.

5.1.3 Term of AIS Accreditation

Reference

Section 25 of the VSS Regulation states that the chief executive may grant an AIS approval.

Issue description

It has been suggested that a maximum term for an AIS approval be set and for this term to be included in the approval notice provided to the proprietor.

Findings

Currently the maximum term of an AIS approval is not stated in the legislation. The term of an AIS accreditation is detailed through the application form and approval notice. This amendment would be unlikely to have any negative impact on AIS accreditation.

Suggested action

Amendments to AIS provisions are unlikely to be considered as part of this project due to the considerable effort already allocated to the transference of these provisions to the Accreditation Regulation. However, issues relating to AIS are likely to be considered by QT following the conclusion of the VSS Reg Review project.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Several industry bodies wish to take part in any project relating to this issue.

In response to this comment the following information can be provided:

- Upon transference of accreditation type provisions to the Accreditation Regulation this issue may be considered by the applicable business unit of QT. Comments received during the VSS Reg Review Project on this issue will be available to this work unit if and when consideration is given.

QT proposes that this issue may be considered by the relevant business unit and not as part of the VSS Reg Review Project.

5.1.4 Return of AIS Documents to QT

Reference

Section 34 of the VSS Regulation outlines the documents to be kept by the proprietor of a business and includes requirements if that person ceases business.

Issue description

It has been suggested that this section be reviewed so that documents required to be returned to the chief executive are done so in a way that reduces administrative effort.

Findings

QT has noted the significant administrative effort required to process and archive documents received from AIS after they cease to conduct business.

Suggested action

Amendments to AIS provisions are unlikely to be considered as part of this project due to the considerable effort already allocated to the transference of these provisions to the Accreditation Regulation. However, issues relating to AIS are likely to be considered by QT following the conclusion of the VSS Reg Review project.

Discussion and proposed action

No comments were made on this issue.

QT proposes that this issue may be considered by the relevant business unit and not as part of the VSS Reg Review Project.

5.1.5 False or Misleading Documents

Reference

Section 35 of the VSS Regulation makes it an offence to make, possess or use a document that contains information the person knows is false or misleading.

Issue Description

It has been suggested that this section be amended so that the word 'knows' is removed.

Findings

Provisions similar to Section 35 can be found in other Queensland legislation. One such example is Section 37 of the TORUM Act. In this section, the word 'knows' is used.

Suggested Action

QT is reluctant to deviate from the current wording of Section 35 as it is consistent with similar provisions found in transport legislation.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to retain the status quo in the remake of the VSS Regulation will be upheld.

5.2 Schedule 3A – Statutory Conditions of AIS Approval

Schedule 3A contains statutory conditions for AIS in addition to those specified in the body of the VSS Regulation. As it is proposed that all provisions relating to AIS accreditation be transferred to the Accreditation Regulation, provisions within Schedule 3A are likely be removed from the VSS Regulation and added to the Accreditation Regulation.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to transfer provisions within this schedule to the Accreditation Regulation will be upheld.

6 Transitional Provisions

The VSS Regulation has existing transitional provisions relating to guidelines, permits, approvals, accreditation and defects. The following is a list of sections allowing for transitional provisions:

- Section 45 Existing guidelines and permits;
- Section 46 Existing approvals;
- Section 47 Existing approved examiners and persons; and
- Section 48 Existing defect notices

Similar provisions will be required in the VSS Regulation and Accreditation Regulation to provide for the transition to the remade legislation.

6.1 AIS Transitional Provisions

As is the case with a number of other sections of the VSS Regulation, provisions relating to the accreditation of AIS, approved persons and examiners are to be transferred to the Accreditation Regulation. It has been identified that sections 46 and 47 relate to AIS accreditation, approved persons and examiners.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to replicate AIS transitional provisions in the Accreditation Regulation will be upheld.

6.2 Vehicle Standards Transitional Provisions

The VSS Regulation will be required to have transitional provisions for a variety of requirements and processes involved with its operation. A similar section to section 45 will need to be included to provide for guidelines and permits already in effect. Similarly, provisions provided for in section 46 will be required for any approvals already in place. Finally, section 48 will need to be replicated so that existing defect notices remain valid under the remade legislation.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to replicate transitional provisions relating to vehicle standards in the remake of the VSS Regulation will be upheld.

7 VSS Regulation Schedules

The following schedules are included in the VSS Regulation:

- Schedule 1 Vehicle Standards – based on Australian Vehicle Standards Rules 1999;
- Schedule 2 Exempt areas – outlines exempted areas for certificates of inspection;
- Schedule 3 Fees – includes various fees relating to the operation of the VSS Regulation;
- Schedule 3A Statutory conditions of AIS approval – statutory conditions for AIS; and
- Schedule 4 Dictionary – lists terms and definitions found in the VSS Regulation.

7.1 Schedule 1 – Vehicle Standards

Schedule 1 is heavily based on the national vehicle standards (Australian Vehicle Standards Rules 1999) that has been implemented by each Australian jurisdiction. The schedule provides for a set of minimum requirements in relation to vehicle standards and also refers to the application of Australian Design Rules (ADRs) and other adopted standards.

The National Transport Commission has recently completed a project to evaluate the implementation of the vehicle standards reform. A report containing the Commission's findings has been considered by the Australian Transport Council and approved at its meeting in November 2008. In this report the Commission proposes to refer inconsistencies with ADRs and other jurisdictions to the Vehicle Standards Maintenance Group for consideration.

The National Transport Commission has also released a draft AVSR amendment package which seeks to update the AVSRs based on feedback received from industry and governments. QT plans to be involved throughout this process and, where appropriate for Queensland, will seek to update Schedule 1 to correspond with the national vehicle standards. Such updates are likely to be undertaken separately to this project due to timing of the proposed amendments and QT's legislative forward program.

7.1.1 Relationship with ADRs

ADRs are rules for designing and building vehicles. Schedule 1 of the VSS Regulation requires a vehicle that is subject to an ADR when built or imported to continue to comply with the ADRs throughout its life. The ADRs do not cover:

- Vehicles built before 1969;
- Combinations of vehicles of any age; and
- Every safety feature for vehicles built between 1969 and 1988.

ADRs therefore have a critical role to play in the application of Schedule 1. In essence, the particular vehicle standards provided for in Schedule 1 only apply to a small proportion of vehicles and equipment not already covered by the ADRs.

For the purposes of the VSS Reg Review Project, when considering the comments received during the initial consultation period, many of the apparent inconsistencies between the vehicle standards and ADRs are not likely to be considered for amendment. QT's reasoning for this is based on the number of identified inconsistencies versus available time and resources of the project, applicability to only a small proportion of the vehicle fleet outside the scope of the ADRs, and the National Transport Commission's proposed maintenance activities resulting from its review of the national vehicles standards as outlined in part 7.1. This does not preclude amendments being made that are deemed either critical or Queensland centric in nature.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- There is concern regarding potential Queensland variances with the current AVSRs;
- Inconsistencies between ADRs and the VSS Regulation would provide useful agenda items for related government-industry forums; and
- It is suggested that QT develop an annual maintenance regime to ensure consistency with ADRs.

In response to these comments the following information can be provided:

- Schedule 1 of the VSS Regulation is heavily based on the AVSRs, with very few variances from the national vehicle standards. The National Transport Commission's report regarding the implementation of the AVSRs (published in 2005) acknowledges Queensland's adoption of the AVSRs;
- The VSS Reg Review Project proposes to rectify several variances from the AVSRs as part of the remake of the VSS Regulation;
- QT continues to acknowledge the benefits of its relationships with lead industry and government agencies and will continue to raise important issues relating to vehicle standards in the various forums currently in place;
- QT supports the National Transport Commission in the development of regular updates to the AVSRs. QT is committed to adopting these updates following approval from the Australian Transport Council; and
- Amendments to ADRs are automatically implemented in all jurisdictions as national vehicle standards. QT is therefore not required to establish an annual maintenance regime to ensure consistency.

7.1.2 Personally Imported Vehicles

Reference

Section 11 of Schedule 1 allows for a partial exemption to compliance with ADRs for personally imported vehicles.

Issue description

QT has noted an apparent inconsistency with the federal criteria for a personally imported vehicle.

Also, it has been suggested that QT consider the specific vehicle standards that a personally imported vehicle must comply, as provided in subsection (1). More specifically, it is suggested that left-hand drive personally imported vehicles be made to have their headlights dipped as per the respective ADR requirements.

Findings

The Motor Vehicle Standards Regulations 1989 states that a personally imported vehicle must be owned and used by a person for a continuous period of at least three months for vehicles owned before 9 May 2000 or 12 months in any other case. The VSS Regulation and national vehicle standards provide for only a period of 3 months.

Section 57 of Schedule 1 requires lights on a vehicle to be adjusted so that they are able to provide the necessary light for driving without dazzling the driver of another vehicle. Furthermore, sections 59-65 apply to all personally imported vehicles.

Suggested action

QT believes the definition/criteria of personally imported vehicles is outside the jurisdiction of Queensland as it is a federal matter provided for in the Motor Vehicle Standards Regulations. QT believes the VSS Regulation should be nationally consistent and do this by providing a reference to the federal legislation, as updated from time to time, in this instance. This issue may be progressed as part of this project.

Vehicle standards are provided for all personally imported vehicles that need not comply with ADRs. QT is therefore unlikely to make it a specific requirement for left-hand drive personally imported vehicles to comply with the respective ADR requirements. QT may however support a review of specific requirements for personally imported vehicles to be considered by the relevant agency.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Application of Sections 59-65 of Schedule 1 to personal imported vehicles is of interest.

In response to these comments the following information can be provided:

- Personally imported vehicles receive partial exemptions from to compliance with ADRs. However, these vehicles are required to comply with the vehicle standards provided in Schedule 1 of the VSS Regulation. This includes requirements regarding lights and reflectors.

QT proposes that the suggested action to adopt the definition provided in the federal legislation in the remake of the VSS Regulation will be progressed. QT will not progress a review of requirements/vehicle standards relating to left-hand drive personally imported vehicles at this time.

7.1.3 Shape of Rear Vision Mirror Surfaces

Reference

Section 25 of Schedule 1 states that a vehicle with a gross vehicle mass over 3.5t must have a flat reflecting surface.

Issue description

QT has noted an apparent inconsistency between the VSS Regulation, and the respective ADR and code of practice relating to the shape of rear vision mirror surfaces

Findings

Section 25 is consistent with the national vehicle standards, despite being inconsistent with the respective ADR. This does not prohibit vehicles from fitting a mirror that complies with the respective ADR.

Suggested action

It is unlikely that this issue will be progressed as part of this project. However, this issue is likely to be considered as part of a future review of the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders, for the most part, supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- The National Transport Commission advises that this issue has been added to the AVSR maintenance agenda; and
- There is strong support from industry representatives for QT to action inconsistencies with the VSS Regulation and relevant national vehicle standards directly.

QT proposes that the suggested action to forward this issue for national consideration will be upheld.

7.1.4 Visual Display Units

Reference

Section 31 of Schedule 1 provides for the use of television receivers and other visual display units.

Issue description

It has been suggested that a definition of 'visual display unit' or 'driver's aid' be developed due to the increasing range of these type devices being used in vehicles.

Findings

Currently the VSS Regulation provides examples of driver's aids that do not apply to the requirements, which are consistent with the national vehicle standards. The VSS Regulation does not allow such devices to be mounted in a position that obscures the driver's vision or impede the movement of a person in the vehicle.

Suggested action

As this issue relates to the rapid development of electrical aids and is not specific to Queensland, it is unlikely QT will deviate from the national vehicle standards. This issue is likely to be progressed as part of a future review of the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that this issue has been added to the AVSR maintenance agenda.

QT proposes that the suggested action to forward this issue for national consideration will be upheld.

7.1.5 Window Tinting

Reference

Section 33 of Schedule 1 outlines the minimum requirement for vehicle window tinting.

Issue description

On 30 November 2007 the National Transport Commission released a draft review of the AVSR Rule 44 regarding window tinting. The review assesses the impact of tinting on road safety and forms recommendations on regulatory amendments to the AVSR. The review recommends a combination of two options including, full harmonisation with the respective ADR light transmittance levels and/or maintain the current minimum light transmittance levels.

Findings

Comments received during consultation support QT's position to retain the status quo, which allows a window or interior partition to be coated to achieve a luminous transmittance of not less than 35%. The Queensland rule currently reflects that of the AVSRs, despite the AVSRs having provision for another law of the jurisdiction to allow less luminous transmittance. It has been suggested by representatives of the window tinting industry that all coating of windscreens be prohibited. Also, there are concerns relating to the application of external films that, over time, reduce visibility.

Suggested action

QT is likely to retain the status quo. Therefore this issue is unlikely to be progressed as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that the ADRs do not have a rule for window tinting, only light transmittance through the glazing component of a window; and
- The National Transport Commission also advises that comments from representatives of the window tinting industry regarding prohibiting coating of windscreens have been added to the AVSRs maintenance agenda.

QT proposes that the suggested action to retain the status quo in the remake of the VSS Regulation will be upheld.

7.1.6 Alternative Tyres for Emergency

Reference

Section 44 of Schedule 1 provides for the use of alternative tyres, rims and wheels other than those required in an ADR if they are within the requirements provided.

Issue description

During consultation various industry representatives noted issues relating to the fitment of alternative wheels and tyres to vehicles. The issue relates to the use of spare tyres for emergency applications. These wheels and/or tyres may be outside the vehicle or tyre manufactures' specifications and could be deemed noncompliant with the VSS Regulation.

Findings

Subsections (1) and (2) prohibit the use of rims and tyres that are mismatched across an axle. The use of a temporary use spare tyre could be a breach of these vehicle standards. Section 41 of Schedule 1 contains an exemption for these types of tyres from speed limiting rating requirements.

Suggested action

QT is considering an amendment to this aspect of the VSS Regulation in advance of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that the AVSRs provide exemption for temporary replacement tyres; and
- It is suggested that the regulations allow passenger tyres to be fitted in place of light truck tyres on two-wheel drive utilities, where the load rating requirement was increased by ten percent.

In response to these comments the following information can be provided:

- QT has recently released a guideline that allows selected commercial/utility vehicles to fit alternative rims and tyres. However, this issue is not within the scope of the Reg Review Project; and
- Clarification of the term 'alternative' for Section 44 of Schedule 1 may be required to provide for the use of emergency/temporary tyres on a vehicle. This amendment would exempt emergency/temporary use tyres from these requirements.

QT proposes that the suggested action to amend the VSS Regulation in advance of the remake be progressed.

7.1.7 Chain Guards

Reference

Section 47 of Schedule 1 requires a chain guard to be fitted to a motorcycle if the engine power is transmitted to the rear wheel by a chain.

Issue description

It has been identified that the current requirements for a guard to be fitted to a motorcycle are limited to vehicles where the power is delivered via a chain. Many vehicles use a belt drive, which has similar safety risks to that of chain drive.

Findings

This section is consistent with the equivalent national vehicle standard. The respective ADR does not provide for belt drives.

Suggested action

QT is unlikely to progress this issues as part of the VSS Reg Review Project as an amendment to the VSS Regulation would make it inconsistent with national vehicle standards whilst also only providing for a small number of vehicles. Instead, QT is likely to forward this issue to relevant agencies for national consideration.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to forward this issue for national consideration will be upheld.

7.1.8 Engine Identification Numbers

Reference

Section 48 of Schedule 1 outlines the requirement to have, and placement of, vehicle and engine identification numbers.

Issue description

This issue is related to section 16A of the VSS Regulation that is discussed in part 4.2.2 of this paper. It has been identified that there is an inconsistency with the respective ADR for the placement of engine numbers. More specifically, the issue relates to the VSS Regulation requiring an engine number to be visible without having to use tools to remove part of the vehicle.

Findings

Subsection (4) of section 48 states that a vehicle or engine number must be visible where it can be read easily without the use of tools or removal of parts. This could be interpreted as only requiring one of the two identification numbers to be visible, contrary to the understanding of a majority of stakeholders.

Suggested action

QT accepts the alternative requirements for engine identification provided in the respective ADR. For vehicles that need not comply, QT is reluctant to change the requirement to have engine numbers readily visible as this would be inconsistent with ADR requirements and retrospective in nature.

Discussion and proposed action

This issue was also addressed in part 4.2.2 of this paper and the comments made have been noted.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.9 Left-Hand Drive Signs for Heavy Vehicles

Reference

Section 53 of Schedule 1 requires a left-hand drive vehicle with a gross vehicle mass over 4.5t to display a sign with the words 'left hand drive'.

Issue description

A comment received during consultation questioned the need for provisions for left-hand drive heavy vehicles, since section 16 of Schedule 1 states that vehicles over 4.5t must have a right-hand drive.

Findings

QT believes that this requirement does not preclude a heavy vehicle from having left-hand drive, as long as the vehicle is also able to be driven from a right-hand drive position. A Garbage truck is an example of such a vehicle.

Suggested action

It is unlikely that QT will progress this issue as part of this project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.10 Dipping of headlights

Reference

Section 60 of Schedule 1 provides for how headlights are to be fitted to a vehicle.

Issue description

This issue is also considered in part 7.1.2

It has been suggested that a provision be added to this section to require vehicles, not applicable to ADRs, to ensure their headlights are dipped so as to not affect other road users. More specifically, it is suggested that a requirement to ensure left-hand drive personally imported vehicles have their headlights dipped appropriately as to not affect other drivers.

Findings

Section 57 of Schedule 1 requires lights on a vehicle to be adjusted so that they are able to provide the necessary light for driving without dazzling the driver of another vehicle. Furthermore, sections 59-65 apply to all personally imported vehicles.

Suggested action

Vehicle standards are provided for all vehicles that need not comply with ADRs. QT is therefore unlikely to make it a specific requirement for left-hand drive vehicles.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.11 Brightness of Daytime Running Lights

Reference

Section 67 of Schedule 1 provides requirements for daytime running lights.

Issue description

It has been suggested that provision should be made for LED lights as they require much less power to give a bright light.

Findings

Subsection (4) provides that daytime running lights not use over 25 watts. This requirement is consistent with the national vehicle standards. Respective ADRs include requirements relating to the use of LED and the photometric requirements of daytime running lamps.

Suggested action

QT is unlikely to progress this issue as part of the VSS Reg Review Project. Instead, QT is likely to forward this issue to the relevant agencies for national consideration. QT would recommend, at the very least, the 25 watts requirement be specified as a standard for filament globes only.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- It is suggested that all lights that nominate wattage should be regulated for; and
- It is suggested that a review of rotating beacon regulations is needed.

In response to these comments the following information can be provided:

- ADRs provide comprehensive vehicle standards relating to lights and reflectors that are fitted to vehicles. Only lights and reflectors not provided for in ADRs are subject to the respective provisions within the VSS Regulation; and

QT proposes that the suggested action to forward this issue for national consideration will be upheld.

7.1.12 Reversing Lights

Reference

Section 84 of Schedule 1 outlines the requirements for fitment and operation of reversing lights.

Issue description

This section does not indicate a minimum or maximum number of reversing lights to be fitted to a vehicle that need not comply with the respective ADR. A vehicle that need not comply with the respective ADR could have none or many reversing lights fitted.

Finding

This section is consistent with the equivalent national vehicle standard. Vehicles outside the scope of the ADRs are not required to have reversing lights.

Suggested action

This issue is unlikely to be progressed as part of this project as the requirements are consistent with the national vehicle standards. Also, an amendment to have reversing lights fitted to all vehicles would require extensive consultation with various motoring groups as it would affect special interest vehicles. This is outside the scope of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises experience has shown that veteran/vintage groups are likely to vigorously oppose amendments that affect old vehicles, such as when not built with reversing lights.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.13 Location of Indicator Lights

Reference

Section 87 of Schedule 1 provides requirements for the fitment of indicator lights.

Issue description

QT has noted an apparent inconsistency with the respective ADR. More specifically, the ADR allows for closer separation of indicator lights. It has been suggested that this section be amended to reflect the ADR.

Finding

It has been identified that this section is consistent with the national vehicle standards but not in alignment with the respective ADR. This inconsistency does not prohibit particular vehicles from complying with the ADR.

QT advises that requirements outlined in ADRs are often controlled by other requirements in corresponding ADRs. For example, in this instance the reduction in distance between indicator lights may be coupled with new requirements for the brightness/contrast with other lights of the vehicle.

Suggested action

This issue is unlikely to be progressed as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that unless AVSRs are specifically worded to take precedence over the ADR, it won't prohibit compliance with the ADR. By default, any applicable ADR requirement should take precedence. However, NTC does comment that it may not hurt to relax the AVSR requirement in this case.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.14 Lights and Reflectors

Reference

Section 104 of Schedule 1 provides for the installation and use of particular lights, reflectors, rear marking plates or signals.

Issue description

Refer to part 3.3.3 for discussion of this issue.

Findings

Refer to part 3.3.3 for discussion of this issue.

Suggested action

Refer to part 3.3.3 for discussion of this issue.

7.1.15 Rear Marking Plates

Reference

Section 106 of Schedule 1 requires particular heavy vehicles and trailers to have rear marking plates fitted.

Issue description

QT has noted an apparent inconsistency between the requirements of this section and the respective ADR. It has also been suggested that this section is unnecessary and could be removed.

Findings

The national vehicle standards refer to vehicle standards bulletin VSB 12 unlike the VSS Regulation that refers to a section of the respective ADR. QT acknowledges the reference to the ADR is no longer valid.

Suggested action

QT is likely to amend this section of Schedule 1 to be consistent with the national vehicle standards as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to amend this section of Schedule 1 for the remake of the VSS Regulation will be progressed.

7.1.16 Brakes for Trailers Under GTM 0.75t

Reference

Section 119 of Schedule 1 outlines what brakes a trailer with a gross mass over 0.75t, a semitrailer and a sugar cane trailer, must have.

Issue description

It has been suggested that a safety issue exists for trailers under 0.75t, which do not require brakes to be fitted despite the manufacturer's recommendations.

Findings

This section is in alignment with national vehicle standards. This section does not prevent brakes being fitted to a trailer.

Suggested action

It is unlikely that this issue will be progressed as part of the VSS Reg Review Project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to retain the status quo for the remake of the VSS Regulation will be upheld.

7.1.17 Exhaust System Requirements for Light Vehicles

Reference

Section 135 of Schedule 1 provides requirements for exhaust systems of vehicles with a gross mass over 4.5t.

Issue description

During consultation a stakeholder questioned the lack of requirements provided by this section for vehicles with a gross mass under 4.5t. More specifically, for vehicles with a gross mass under 4.5t that need not comply with the ADRs there seems to be limited requirements for the exhaust system of that vehicle.

Findings

There are variations between section 135, and the equivalent section of the national vehicle standards. It would seem that the general provision for exhausts to be fitted to all vehicles provided by the national vehicle standards is not replicated in the VSS Regulation.

Suggested action

QT is likely to progress this issue and seek consistency with the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Vehicle Standards Bulletin 6 Section A4 allows for exhaust modifications to 'commercial vehicles' as opposed to 'heavy vehicles'.

In response to these comments the following information can be provided:

- Vehicle Standards Bulletin 6 is outside the scope of the VSS Reg Review Project and does not relate to the issue at hand which refers to light vehicles. This comment will be forwarded to the relevant agency.

QT proposes that the suggested action to adopt respective provisions of the AVSRs for the remake of the VSS Regulation will be progressed.

7.1.18 Stationary Noise Levels

Reference

Section 136 of Schedule 1 provides for the measurement of stationary noise levels in accordance with the prescribed procedures and instruments.

Issue description

In September 2006 the National Transport Commission on behalf of the Land Transport Environment Committee prepared the 'National Stationary Exhaust Noise Test Procedures for In-Service Motor Vehicles – September 2006' superseding the previous 'National Stationary Exhaust Noise Test Procedures for In-Service Motor Vehicles'. The procedures are referred to in the national Roadworthiness Guidelines issued under the National Transport Commission (Road Transport Legislation – Vehicle Standards) Regulations 2006, with the intent that they should be used by all environment and transport agencies when testing for compliance with Australian vehicle standards.

Findings

The Queensland Police Service and Queensland Transport compliance and enforcement officers are currently unable to take action against operators of vehicles not complying with the 2006 procedures as the VSS Regulation refers to the superseded procedures published in the year 2000. As a consequence, Queensland is not in alignment with national vehicle standards in this regard. This may also lead to adverse societal and environmental consequences caused by increased levels of vehicle noise emissions.

Suggested action

QT is seeking to amend the VSS Regulation in advance of the VSS Reg Review Project to refer to the updated document containing the procedures for the measurement of stationary noise levels of vehicles and any subsequent updates.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that the respective section of the AVSRs is in the process of being updated to refer to the 2006 noise testing procedures and that QT could progress this amendment with minimal risk of inconsistent implementation with the AVSRs; and

- Ambient noise levels are of concern to the community. It is evident that compliance and enforcement of vehicle standards relating to noise levels (ADR 83/00) are contrasted with the simplicity of stationary noise levels provide in Section 136D.

QT proposes that the suggested action to provide for the 2006 noise testing procedures will be progressed.

7.1.19 Requirements for CNG Vehicles

Reference

Section 137 of Schedule 1 outlines requirements for vehicles fitted with liquefied petroleum gas (LPG) fuel systems, including compliance with relevant Australian Standards and vehicle markings.

Issue description

During consultation it was suggested that specific requirements for vehicles using compressed natural gas (CNG) fuel systems be added.

Findings

QT acknowledges the potential gap for vehicles powered by this type of fuel.

Currently the national vehicle standards do not provide for CNG vehicles. However, standards for CNG fuel systems are being developed and are expected to be included in the national vehicle standards.

Suggested action

This issue is unlikely to be progressed as part of this project. However, QT is likely to adopt requirements for CNG fuel systems when they are provided for in the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- The National Transport Commission advises that the draft AVSR proposal also covers liquefied natural gas, under the impending new version of AS 2739 for natural gas.

QT proposes that the suggested action to provide for nationally consistent CNG fuel system requirements will be progressed.

7.1.20 Speed Limiting and Exemptions

Reference

Sections 138 and 139 of Schedule 1 outline vehicles that must have speed limiting devices installed and provides exemptions for vehicles of particular types.

Issue description

QT has noted an apparent inconsistency between the national vehicle standards and subsection (3) of section 138 relating to speed limiting of road trains. More specifically, the VSS Regulation allows a maximum speed capacity of 100km/h whereas the national vehicle standards only allow 90km/h.

Another suggestion received during consultation is for the removal of the exemption for buses fitted with hand grips or similar equipment for standing passengers.

Findings

Although section 138 allows for a maximum speed capacity of 100km/h for a road train, which is inconsistent with the national vehicle standards, other Queensland transport related legislation does not allow a road train to be driven in excess of 90km/h. The 100km/h speed limiting allows transport operators to maximise fleet usage through inter operability of prime movers between road trains and other combinations. This is especially applicable when road trains have to breakdown to access non road train routes.

In relation to the exemption of certain buses from speed limiting, this section is consistent with the national vehicle standards. The respective ADR applies to all heavy omnibuses over 5t GVM built after July 1991. QT notes that the exemption in question only applies to a small number of buses that are not required to comply with the respective ADR.

Suggested action

QT is not likely to change the maximum speed capacity of road trains in the VSS Regulation as this is referenced from the applicable ADR. Noting that Queensland road rules apply a maximum speed of 90km/h for this type of vehicle.

QT wishes to maintain consistency with national vehicle standards. It is therefore unlikely that the exemption for certain buses will be progressed as part of this project. However, QT is likely to pursue this issue as part of any review of the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to maintain national consistency for speed related issue will be upheld.

7.1.21 Hybrid-Combinations Involving Light and Heavy Vehicles

Reference

Section 140 of Schedule 1 provides for general coupling requirements for all types of vehicles.

Issue description

During consultation it was suggested that this section should be amended to include provisions relating to the connection of a fifth wheel trailer to a light vehicle.

Findings

This section is consistent with the equivalent section of the national vehicle standards. QT acknowledges the issues surrounding heavy trailers, for example fifth wheeler caravan trailer, in combination with light towing vehicles. At present, if each vehicle in a combination complies with respective vehicle standards the combination is deemed compliant. QT advises this is an issue for national consideration.

In addition to the issues surrounding vehicle standards for this type of combination, it is also recognised that driver licensing for this type of combination needs to be reviewed.

Suggested action

QT is unlikely to progress this issue as part of this project. However, QT is continuing to provide input at a national level for the development of a national policy position for this type of combination. Also, issues relating to driver licensing are outside the scope of this project but may be progressed as a separate project.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comments were made and noted:

- General industry concern expressed at potential safety issues in this area; and
- Section P of VSB6 does not provide for the tow/fifth wheel couplings for light vehicles, although the increasing popularity of gooseneck trailers and towing capacity of light vehicles means these types of connections should be inspected and certified.

QT proposes that the suggested action to provide input at a national level will be upheld.

7.1.22 Drawbar Couplings

Reference

Section 141 of Schedule 1 outlines requirements relating to drawbar couplings.

Issue description

QT has noted an apparent inconsistency with the respective ADR in relation to the materials able to be used to connect the towing vehicle. More specifically, the ADR only provides for the use of a chain whereas section 141 allows for chain, cable or other flexible device.

Finding

This section is consistent with the equivalent section of the national vehicle standards. Upon investigation of the respective ADR it would seem there is no inconsistency. Section 14.3.1.2.1 of ADR 62/02 provides for the use of other suitable devices. QT is aware of this issue being considered at a national level.

Suggested action

QT is unlikely to progress this issue as part of the VSS Reg Review Project. However, QT is likely to adopt subsequent requirements associated with drawbar couplings to remain consistent with the national vehicle standards.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- Chains are preferred as determining the discard point for cable or webbing requires professional competence, whereas evidence of damage to chains is evident to operators.

QT proposes that the suggested action to remain nationally consistent in this regard will be upheld.

7.2 Schedule 2 – Exempt Areas

Reference

Schedule 2 provides an exemption from the requirement to acquire a safety certificate or certificate of inspection before the sale of a vehicle for those residing in remote locations or locations that are not serviced by fixed or mobile AIS.

Issue description

The areas in which the exemption applied were affected by the local government reform that changed various shire boundaries and the name of the servicing councils.

Findings

Section 22A has been inserted into the VSS Regulation until a review of the legislation can be undertaken and Schedule 2 amended as appropriate to reflect the intent of the exemption policy.

Suggested action

QT is likely to review the exempt areas as set out in Schedule 2 of the VSS Regulation following the completion of the VSS Reg Review Project. Such a project is likely to consider changes to local councils, shire boundaries and the services available in respective localities. Such a review may result in changes to the exempt areas and address issues such as the safety certificate exemption discussed in part 4.1.1.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to review exempt areas following completion of the VSS Reg Review Project will be upheld.

7.3 Schedule 3 – Fees

The fees provided for by the VSS Regulation relate to vehicle inspections, AIS approvals, alternative vehicle compliance schemes and supply of certificates. Current fees are adjusted in line with the Brisbane consumer price index. New fees introduced are subject to Cabinet Budget Review Committee approval.

A review of fees will not be undertaken as part of the VSS Reg Review Project.

Fees relating to AIS accreditation will be transferred to the Accreditation Regulation so that all AIS accreditation related provisions remain within the one regulation.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

In addition, the following comment was made and noted:

- It is requested that the current fee adjustment procedure be retained.

QT proposes that the suggested action to not review fees will be upheld.

7.4 Schedule 4 – Dictionary

The VSS Regulation dictionary contains many vehicle related terms including types, combinations and parts. Also, there are terms that relate to various approvals, certificates, defects and references to other standards and codes of practice. It is expected that the VSS Reg Review Project will require minor amendments to the dictionary. For example, terms relating to AIS may be removed as part of the transference from the VSS Regulation to the Accreditation Regulation. Other terms that may be affected include:

- Minor defect;
- Major defect;
- Modify;
- COI vehicle;
- Off-road passenger vehicle; and
- AIS related definitions.

Discussion and proposed action

Feedback received from stakeholders supports the suggested actions relating to this issue.

No additional comments were made on this issue.

QT proposes that the suggested action to make minor amendments to the dictionary where necessary will be upheld.

8 Conclusion

This is the final version of the Stakeholder Discussion Paper for the VSS Reg Review Project, which sought to provide an opportunity for stakeholders to comment on issues identified during formal consultation. In general, the findings and suggested actions provided by QT have been supported by stakeholders.

Throughout this process QT has sought to improve consistency with national vehicle standards so as to increase the effectiveness and efficiencies to industry, government and the general public. QT has noted some instances where Queensland's alignment with the AVSRs and ADRs can be improved and will endeavour to amend such provisions. For issues that may require changes to national vehicle standards QT will ensure details of these issues are forwarded to the relevant national agencies.

QT will now initiate business activities to carry out the proposed actions included in this paper. The actions and resources required to remake and implement the new VSS Regulation with the proposed amendments constitute a significant work package for QT. Formalisation of policy positions and business requirements has already begun.

Stakeholders will be informed as to the progress of the VSS Reg Review Project as required. QT would like to thank all stakeholders who have already contributed to the VSS Reg Review Project and appreciates your continued support.

For further information regarding this discussion paper or the VSS Reg Review Project, please contact Neil Gurnett (A/Advisor) on (07) 3253 4337 or at neil.p.gurnett@transport.qld.gov.au.

Additional General/Overall comments

In general, the suggested actions to be undertaken by QT as part of the VSS Reg Review Project are supported by representatives that commented on the discussion paper. QT therefore plans to progress these amendments to the VSS Regulation as part of the remake.

Issues that have been identified but are not to be progressed as part of the VSS Reg Review Project have been logged and will be considered by QT in due course. Those issues to be considered at a national level will be forwarded to respective agencies.

Other comments received by stakeholders include:

- Industry place a high priority and importance on consistency of the VSS Regulation with the national vehicle standards;
- It is strongly suggested that government-industry forums be utilised to discuss and incorporate outcomes within the review process; and
- In general, the TORUM Act and the VSS Regulation are excellent pieces of legislation as they have been crafted to evolve as contributory legislation changes and that the introduction/redrafting of the VSS Regulation should consider this during the remaking of the legislation.

Appendix A - Proposed VSS Regulation Layout

Note that section numbering is indicative of current regulation. It is expected that the incorporation of the new structure would require sections to be renumbered. For example, Sections 13, 14 and 15 currently relate to defective vehicles. Under the proposed layout they would likely to be numbered Sections 6, 7 and 8.

Chapter 1 – Preliminary

Part 1 - Introduction

Sections 1 and 2

Part 2 – Interpretation

Sections 3 and 4

Chapter 2 – Vehicle standards

Part 1 – Application of vehicle standards

Section 5

Part 2 – Defective vehicles

Sections 13, 14 and 15

Part 3 – Modification of vehicles

Sections 6, 7, 8, 9, 30

Part 4 – Codes of Practice

Sections X (list of CoP), Y (approval of CoP) and Z (CoP as evidence)

Note that Sections Y and Z will include provisions similar to the omitted Section 36

Chapter 3 – Guidelines and Permits

Part 1 – Guidelines and Permits

Sections 10, 11 and 12

Part 2 – Approvals

Sections 39, 40, 41, 42, 43, 44 and 37

Chapter 4 – Vehicle safety

Part 1 – Vehicle Inspections

Sections 16, 16A, 17, 17A, 18 and 19

Part 2 – Vehicle Certification

Sections 20, 21, 22, 22A, 23, 24, 38 and 49

Chapter 5 – Miscellaneous and Transitional Provisions

Part 1 - Miscellaneous

Section 35

Part 2 – Transitional Provisions

Sections 45, 46 and 48

Schedule 1 – Vehicle Standards

Schedule 2 – Exempt Areas

Schedule 3 – Fees

Schedule 4 - Dictionary