

Vehicle Standard (Australian Design Rule 42/04 – General Safety Requirements) 2005 Amendment 1

Made under section 7 of the Motor Vehicle Standards Act 1989

Explanatory Statement

Issued by the authority of the Minister for Transport and
Regional Service

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1. LEGISLATIVE CONTEXT

Vehicle Standard (Australian Design Rule 42/04 - General Safety Requirements) 2005 Amendment 1 was made under the *Motor Vehicle Standards Act 1989* (the Act). The Act enables the Australian Government to establish nationally uniform standards for road vehicles when they are first supplied to the market in Australia. The Act applies to such vehicles whether they are manufactured in Australia or are imported as new or second hand vehicles.

The making of the vehicle standards necessary for the Act's effective operation is provided for in section 7 which empowers the Minister to "determine vehicle standards for road vehicles or vehicle components".

Australian Design Rule (ADR) 42/04 was originally determined under subsection 7 (1) of the *Motor Vehicle Standards Act 1989* on 29th November 2005.

2. CONTENT AND EFFECT OF ADR 42/04 - GENERAL SAFETY REQUIREMENTS AND AMENDMENTS

2.1. Overview of the ADR

ADR 42/04 addresses a number of miscellaneous safety requirements including:

- Exhaust Outlets – stipulates positioning and geometric requirements aimed at preventing exhaust gases from entering the occupant compartment as well as ensuring that the gas is directed away from pedestrians.
- Wheel Guards – addresses geometric requirements to ensure prevention of contact with moving parts and to ensure that debris thrown up from the wheels is brought to ground within a reasonable distance from the emitting vehicle so as not to present a hazard to following traffic and pedestrians.

2.2. Effect of the ADR amendment

Exhaust Outlets. The proposed amendment will have the effect of deleting exhaust outlet requirements for passenger cars, passenger vans and off-road vehicles.

Wheel Guards. The current ADR applies one set of requirements to passenger cars and a different set to passenger vans and off road-vehicles. The proposed amendment will allow all vehicles with a Gross Vehicle Mass (GVM) up to 4.5 tonnes to comply with the same requirements currently applicable to passenger cars.

In addition, there is an amendment to correct an error in a Figure 1 that occurred when the standard was first being remade to comply with the requirements of the *Legislative Instruments Act 2003* (LIA) and to enable its registration in accordance with the requirements of the Federal Register of Legislative Instruments.

3. CONSULTATION ARRANGEMENTS

3.1. General Consultation Arrangements

It has been longstanding practice to consult widely on proposed new or amended vehicle standards. For many years there has been active collaboration between the Federal and the State/Territory Governments, as well as consultation with industry

and consumer groups. Much of the consultation takes place within institutional arrangements established for this purpose. The analysis and documentation prepared in a particular case, and the bodies consulted, depend on the degree of impact the new or amended standard is expected to have on industry or road users.

Depending on the nature of the proposed changes, consultation could involve the Technical Liaison Group (TLG), Transport Agencies Chief Executives (TACE), and *the Australian Transport Council (ATC)*.

- TLG consists of representatives of government (Australian and State/Territory), the manufacturing and operational arms of the industry (including organisations such as the Federal Chamber of Automotive Industries and the Australian Trucking Association) and of representative organisations of consumers and road users (particularly through the Australian Automobile Association).
- TACE consists of the chief executives of Australian and State/Territory departments of transport and road vehicle administrations.
- ATC consists of the Australian, State/Territory and New Zealand Ministers with responsibility for transport issues.

Editorial changes and changes to correct errors are processed by the Department of Transport and Regional Services.

Changes resulting in relaxations or the introduction of alternative arrangements that do not affect the overall intent of the existing standards are discussed with the TLG in the first place and if unanimously supported may be determined without further consultation. TLG may request further consultation with TACE where determination would only proceed if unanimously supported. These proposals need to be supported by a Regulation Impact Statement approved by the Office of Best Practice Regulation.

New standards, or significant changes that increase the stringency of existing standards, may be subject to a vote by ATC Ministers following public comment and consultation with TACE. Unless disapproved by a majority of ATC Ministers, the Minister for Local Government, Territories and Roads, can then determine the new or amended standards, under the authority of the Minister for Transport and Regional Services. Proposals that are regarded as significant need to be supported by a Regulation Impact Statement approved by the Office of Best Practice Regulation.

However, ATC has agreed that proposals relating to internationally harmonised standards (harmonised with the regulations adopted by the United Nations Economic Commission for Europe) that are broadly supported by stakeholders, could proceed directly to determination following public comment.

3.2. Specific Consultation Arrangements for this Vehicle Standard

The minor amendments to relating to exhaust outlets and wheel guards were put to the TLG at its last meeting on 25 July 2007. TLG voted unanimously in favour of the proposed amendments.

TLG members also agreed that no further consultation was necessary. The State and Territory representatives were confident that they represented the views of their jurisdictions and that further consultation with agency chief executives or transport ministers was not necessary.

The corrections to Figure 1 are in the category of typographical errors and therefore not subject to consultation outside DOTARS.

The RIS is attached at Appendix A. The Figure 1 correction is not addressed in the RIS.

APPENDIX A



Australian Government

Department of Transport and Regional Services

Regulation Impact Statement for
Minor Amendments to Vehicle Standard
(Australian Design Rule 42/04 – General Safety
Requirements) 2005

Exhaust Outlets and Wheel Guards

Version 1 - 17 September 2007

Prepared by: Vehicle Safety Standards
Department of Transport and Regional Services

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1. Introduction

Australian Design Rule 42/04 – General Safety Requirements (ADR 42) addresses a number of miscellaneous safety requirements including:

- Exhaust Outlets – stipulates positioning and geometric requirements aimed at preventing exhaust gases from entering the occupant compartment as well as ensuring that the gas is directed away from pedestrians.
- Wheel Guards – addresses geometric requirements to ensure prevention of contact with moving parts and to ensure that debris thrown up from the wheels is brought to ground within a reasonable distance from the emitting vehicle so as not to present a hazard to following traffic and pedestrians.

This Regulation Impact Statement examines a proposal for making minor amendments to the above requirements. The amendments were discussed with the Technical Liaison Group (TLG) at its 25 July 2007 meeting where the proposed amendments were unanimously supported. The TLG is the consultative committee for advising in ADR developments and includes members for the Australian, State and Territory governments, the vehicle manufacturing and operating industries and consumer groups.

1.1. International Standards

There are no internationally recognised regulations that address these two issues. The United Nations Economic Commission for Europe (UNECE) does not regulate but makes recommendations relating to wheel guards published in a document called Consolidated Resolution No 3 (CRE 3); none such for exhaust outlets. CRE 3 is a useful guide and contracting parties of the UNECE 1958 Agreement (Australia is a signatory) are encouraged to follow the recommendations in CRE 3.

Exhaust Outlets. In relation to exhaust outlets, there is no UNECE regulation, European Directive, US or Japanese regulation. The proposed amendment will have the effect of deleting exhaust outlet requirements for passenger cars, passenger vans and off-road vehicles. The requirements will remain for all other vehicles until the comprehensive review of ADR 42 is completed (possibly by the end of 2007).

Wheel Guards. The current ADR requirements for passenger cars are based on the European Directive 78/549/EEC requirements for M1 category vehicles. In Europe, M1 Category is a broad classification including passenger cars, passenger vans and off-road vehicles. In Australia these three categories are identified separately and for reasons which have become lost in time, it was decided to apply one set of requirements to passenger cars and a different set to passenger vans and off road-vehicles.

The UN/ECE recommendations for mudguards in CRE3 are not prescriptive. Clause 2.5 simply states:

"Mudguards. The bodies of motor vehicles (other than special-purpose vehicles, agricultural or forest tractors and vehicles with a maximum rated speed not exceeding 20 km/h), and the bodies of all trailers coupled thereto, shall be equipped with effective mudguards, at least for their rear wheels."

The proposed amendment will allow all vehicles with a Gross Vehicle Mass (GVM) up to 4.5 tonnes to comply with the same requirements currently applicable to passenger cars.

2. Options

The available options are:

- **Option 1** - Taking no action
- **Option 2** – Make the minor amendments agreed by the TLG
- **Option 3** – Delete or harmonise with the UNECE where possible.

3. Analysis

3.1. Taking No Action

Vehicles would be required to continue to comply with the current ADR 42 requirements and in some cases would have to be modified in respect of exhaust outlets and wheel guards.

3.2. Make The Minor Amendments Agreed By The TLG

Industry and regulatory agencies are fully supportive of the agreed amendments as an interim measure pending a more thorough analysis of the need to retain any requirements. This option will relieve industry of the cost burden of modifying vehicles to enter the relatively small Australian market.

3.3. Delete Or Harmonise With The UNECE Where Possible

In relation to **exhaust outlets**, there are no UNECE regulations or any recommendations in CRE 3. Also, since there are no US or Japanese regulations for exhaust outlets, it would appear that the global vehicle manufacturing industry is quite capable of meeting the safety objectives mentioned above, given that no significant problems have come to light elsewhere in the world, notwithstanding the lack of regulations.

However, the on-going review of this and other aspects of ADR 42 has not concluded and until then the suggested amendments under Option 2 are the limit of what can be agreed for the time being.

There are no expected adverse safety impacts from deleting the prescriptive requirements for exhaust outlets for passenger cars, passenger vans and off-road vehicles. There are no regulations in the rest of the world, yet no concerns have been raised in this area.

In the case of **wheel guards**, while there is no UNECE regulation, a recommendation is included in CRE 3, albeit of a subjective nature. In any future review of ADR 42 it is highly unlikely that the CRE 3 recommendation would be considered as a replacement for the current requirements because its subjective nature makes it entirely inappropriate as a legal requirement.

There is an EU Directive upon which the ADR requirements were loosely based however; this is an example of what can happen when countries do not adhere strictly to the vehicle category codes recommended by the UNECE in CRE 3. In CRE 3 passenger cars are included in vehicle category M1 (as used by the EU), which is defined as:

Category M₁:

Vehicles used for the carriage of passengers and comprising not more than eight seats in addition to the driver's seat (see also paragraph 8.1. below).

The paragraph 8.1 referred to in the definition goes on to list the body types that fall within the scope of the definition of M1, including sedans, coupes, station wagons, vans and off-road passenger vehicles.

In Australia, category M1 has been subdivided into three separate categories, namely passenger cars (MA), passenger vans (MB) and off-road vehicles (MC). Mostly, these three categories have been treated as one and the ADRs have been uniformly applied across all three categories. However, wheel guards is one example where the general plan has not been followed and one set of requirements apply for MA category vehicles, while a different set applies for MC and MB categories which have been included with heavy vehicles.

The proposed amendment would effectively apply the MA wheel guard requirements to MC and MB vehicles. The proposal goes a bit further and would also apply passenger car requirements to buses and commercial vehicles up to 4.5 tonnes GVM.

No adverse safety impacts are expected from extending the passenger car wheel guard requirements to vehicles up to 4.5 tonnes as it would be difficult to argue a case for treating these vehicles differently. There is a remaining question over whether the current passenger car requirements are overly prescriptive and whether they should be deleted; this is a question that will be dealt with during the comprehensive review of ADR 42.

3.4. Non-Regulatory Options

There are no long-term viable non-regulatory options.

The established regulatory framework makes it an offence to offer non-compliant road vehicles to the Australian market. Under the *Motor Vehicle Standards Act 1989* the Minister may determine national standards and must approve road vehicles that comply with the applicable national standards. Vehicles of a particular type as defined under existing vehicle category codes contained in the ADRs must comply with the relevant ADRs before the Minister can approve them for supply to the Australian market.

However, Section 10A(2) of the Act provides for the Minister to approve non-complying vehicles if the Minister is satisfied that such non-compliance is only in minor and inconsequential respects. Currently, these provisions are only invoked for limited numbers of vehicles and where there is a clear expectation that the relevant standards are about to be amended so that such vehicles would no longer be noncompliant.

In this case, a more enduring strategy is required.

3.5. Cost to Business

The current new vehicle certification system administered by DOTARS imposes several costs on industry. Before a new vehicle can be issued an identification plate (allowing it to be supplied to the market) evidence must be provided to prove that the vehicle meets all relevant ADRs. Primarily this evidence is summaries of tests performed on various components or the whole vehicle.

Option 2 will result in significant savings to industry by removing the need to modify those vehicles imported from markets where different requirements apply, before entry to the Australian market.

Option 1 would perpetuate costly modifications for entry to the Australian market. This option has not been costed in any detail because it is not the favoured option. However, it is bound to be significant compared to the reduced cost represented by option 2.

Option 3 would result in similar cost savings as option 2 but has yet to be fully considered by stakeholders.

Business fully supports option 2.

3.6. Trade Facilitation

Option 2 will have a positive effect on trade facilitation.

4. Consultation

The minor amendments to ADR 42 were put to the TLG at its last meeting on 25 July 2007. TLG voted unanimously in favour of **Option 2**.

TLG members also agreed that no further consultation was necessary. The State and Territory representatives were confident that they represented the views of their jurisdictions and that further consultation with agency chief executives or transport ministers was not necessary.

5. Conclusions and Recommendations

Options 2 and 3 are both deliver similar outcomes. However, Option 2 is regarded as the most effective short-term solution. Option 3 will be further considered in the comprehensive review of ADR 42. Furthermore, the TLG agreed that option 2 is the best option.

6. Implementation and Review

The amendment to the relevant ADRs would be determined by the Minister for Local Government Territories and Roads under section 7 of the *Motor Vehicle Standards Act 1989*.

ADR 42 is scheduled for further review, to be completed in 2007.

7. References

Australian Design Rules are available from

http://www.dotars.gov.au/roads/motor/design/adr_online.aspx

- *Motor Vehicle Standards Act 1989*
- Vehicle Standard (Australian Design Rule – Definitions and Vehicle Categories) 2005
- Vehicle Standard (Australian Design Rule ADR 42/04 – General Safety Requirements) 2005
- UNECE Consolidated Resolution Number 3 (CRE 3) – see Annex 7 - can be found at

<http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29re3.html>
