

# **Vehicle Standard (Australian Design Rule 42/04 — General Safety Requirements) 2005 Amendment 2**

Made under section 7 of the Motor Vehicle Standards Act 1989

## **Explanatory Statement**

Issued by the authority of the Parliamentary Secretary for Infrastructure and Transport

**November 2010**

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## CONTENTS

1.	LEGISLATIVE CONTEXT.....	3
2.	CONTENT AND EFFECT OF ADR 42/04 — GENERAL SAFETY REQUIREMENTS .....	3
2.1.	OVERVIEW OF THE ADR .....	3
2.2.	EFFECT OF THE ADR AMENDMENT .....	3
3.	BEST PRACTICE REGULATION .....	3
3.1.	BUSINESS COST CALCULATOR.....	3
3.2.	GENERAL CONSULTATION ARRANGEMENTS.....	4
3.3.	SPECIFIC CONSULTATION ARRANGEMENTS FOR THIS VEHICLE STANDARD .....	4
3.4.	REGULATION IMPACT STATEMENT .....	5
	APPENDIX .....	6

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## **1. LEGISLATIVE CONTEXT**

*Vehicle Standard (Australian Design Rule 42/04 — General Safety Requirements) 2005* Amendment 2 is 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".

*Vehicle Standard (Australian Design Rule 42/04 — General Safety Requirements) 2005 (ADR 42/04)* was originally determined in 2005 and was subsequently amended in 2007.

## **2. CONTENT AND EFFECT OF ADR 42/04 AND AMENDMENTS**

### **2.1. Overview of the ADR**

The function of this Australian Design Rule is to specify design and construction requirements to ensure safe operation of vehicles.

### **2.2. Effect of the ADR Amendment**

This amendment makes provision for environmentally friendly gearboxes and remote operated power windows and corrects an omission of a standard for brake hoses. The changes are as follows:

- Currently, power operated windows can be closed but not opened by remote control. This amendment allows remote opening and closing of power windows.
- Some vehicles are equipped with a feature built into the gearbox/transmission that automatically switches off the engine when the vehicle is brought to a stop and re-starts it when the driver depresses the accelerator pedal when ready to move off. This will result in reductions in fuel consumption and exhaust emissions particularly in heavy traffic conditions where much time is spent idling.
- This amendment adds to the list of acceptable alternative hydraulic brake hose standards by including the one adopted by the United States of America; Federal Motor Vehicle Safety Standard FMVSS 106 - Brake Hoses.
- Corrects a typographical error in clause 19.3.2.6.4.

## **3. BEST PRACTICE REGULATION**

### **3.1. Business Cost Calculator**

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There is no expected increase in cost to manufacturers, as the proposed amendments do not affect the requirements of the ADR.

### 3.2. General Consultation Arrangements

It has been longstanding practice to consult widely on proposed new or amended vehicle standards. For many years there has been active collaboration between the Federal Government 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), Standing Committee on Transport (SCOT), 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).
- SCOT 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.

Although at the time of writing the TLG is in the process of being reconstituted under a higher level Strategic Vehicle Safety and Environment Group (SVSEG), its role in ADR development will continue as before.

Editorial changes and changes to correct errors are processed by the Department of Infrastructure and Transport. This approach is only used where the amendments do not vary the intent of the vehicle standard.

Proposals that are regarded as significant need to be supported by a Regulation Impact Statement meeting the requirements of the Office of Regulation Review as published in *Best Practice Regulation Handbook* and the Council of Australian Governments *Principles and Guidelines for National Standard Setting and Regulatory Action for Ministerial Councils and Standard-Setting Bodies*.

### 3.3. Specific Consultation Arrangements for this Vehicle Standard

The proposed minor amendments were discussed within the TLG and were agreed to by all members.

As the amendments are minor in nature, and do not raise the stringency of the ADR, TLG members agreed that further consultation was not necessary through the public comment process. The state and territory representatives were also confident that they

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represented the views of their jurisdictions and that there was no need for further consultation through the Standing Committee on Transport (SCOT) or the Australian Transport Council (ATC).

#### 3.4. Regulation Impact Statement

A RIS has been prepared and is included at Appendix A. Since the decision is made by the Parliamentary Secretary for Infrastructure and Transport without reference to the ATC, it conforms to the requirements established by the Office of Best Practice Regulation (OBPR) in relation to regulatory proposals where the decision maker is the Australian Government's Cabinet, the Prime Minister, minister, statutory authority, board or other regulator. The amendments relating to power windows and automatic starting/stopping of the engine have been addressed in the RIS. The OBPR reference number is 10389. Since the amendments relating to brake hoses and clause 19.3.2.6.4 are typographical corrections only, they do not require a RIS.

## **APPENDIX A**

### **REGULATION IMPACT STATEMENT FOR**

### **MINOR AMENDMENTS TO AUSTRALIAN DESIGN RULE 42/04**



**Australian Government**

**Department of Infrastructure and Transport**

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

**General Safety Requirements**

Final – June 2009  
OBPR Ref 10389

Prepared by: Vehicle Safety Standards  
Department of Infrastructure and Transport

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## CONTENTS

1.	INTRODUCTION.....	9
2.	BACKGROUND.....	9
2.1.	The Problem .....	9
2.2.	International Standards.....	9
2.3.	Objectives.....	10
3.	OPTIONS .....	10
3.1.	Option 1: Take No Action .....	10
3.2.	Option 2: Adopt the Proposed Minor Amendments.....	10
3.3.	Option 3: Delete the ADR.....	10
3.4.	Option 4: Non-regulatory Options .....	11
4.	ANALYSIS .....	11
4.1.	Option 1: Take No Action .....	11
4.2.	Option 2: Adopt the Proposed Minor Amendments.....	11
5.	IMPACTS.....	11
5.1.	Cost to Business .....	12
5.2.	Benefits.....	12
6.	CONSULTATION .....	12
7.	CONCLUSIONS AND RECOMMENDATIONS.....	13
8.	IMPLEMENTATION AND REVIEW .....	13
9.	REFERENCES .....	14
10.	APPENDIX 1 .....	15

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## **1. INTRODUCTION**

The Australian Government provides protection for new vehicle consumers through the *Motor Vehicle Standards Act 1989* (C'th) (MVSA).

The MVSA provides mandatory vehicle safety, emission and anti-theft standards which apply when new vehicles are supplied to the Australian market. These are national standards and are known as the Australian Design Rules (ADRs).

Australian Design Rule 42/04 – General Safety Requirements (ADR 42/04) addresses the design and construction requirements for road vehicles in order to ensure their safe operation. This Regulation Impact Statement (RIS) examines proposals for making minor amendments to ADR 42/04 for the accommodation of environmentally friendly gearboxes and remote opening of windows.

## **2. BACKGROUND**

### **2.1 The Problem**

While most of the ADRs are harmonised with the international regulations adopted by the United Nations Economic Commission for Europe (UNECE), ADR 42 stands out as a collection of general safety requirements that in some cases have no equivalent in the regulations adopted by the UNECE. The ADR 42 requirements existed prior to the introduction of the *Motor Vehicle Standards Act 1898* (MVSA), in various state and territory legal instruments and were transferred by agreement of all Australian jurisdictions to the Commonwealth as part of the handover of new vehicle regulation to the Commonwealth in 1989.

Many of the requirements in ADR 42 are of a prescriptive nature which have been found to inhibit the introduction of innovative technologies. The current proposal concerns two innovative developments which would not be allowed under the current ADR 42.

The first is the introduction of environmentally friendly gearboxes which can automatically shut down the engine when the vehicle is at a standstill and re-start the engine when the driver depresses the accelerator when wanting to move on. This feature is expected to deliver significant improvements in fuel economy since it avoids wasting fuel when idling, particularly in congested city traffic. It would also deliver benefits for the environment from reduced exhaust emissions. The current ADR 42 requirement does not allow for this feature.

The second is to provide for the remote opening of power operated windows. ADR 42/04 requires that the operation of power windows must be possible only with the key in the ON position. There are exceptions to this, but while remote closing is listed as an exception, remote opening is not.

The consultative committee responsible for ADR development agreed that there were no safety concerns relating to both these proposed amendments

### **2.2 International Standards**

The Australian Design Rules (ADRs) are generally harmonised with the UNECE regulations. However, there are no internationally recognised regulations that address some of the issues included in ADR 42, in particular, environmentally friendly

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gearboxes and power operated windows. ADR 42/04 includes a number of unique regulations for Australian road vehicles.

### **2.3 Objective**

The objective of this statement is to examine options for ensuring that vehicles equipped with the features mentioned above would not be denied entry to the Australian market.

## **3 OPTIONS**

### **3.1 Option 1: Take No Action**

Under this option, vehicles would be required to continue to comply with the current ADR 42/04 requirements.

Vehicles built with environmentally friendly gearboxes and power operated windows capable of being opened by remote control would not comply with this regulation. Since ADR 42/04 is a unique Australian standard, this represents a barrier to the provision of vehicles with these features. Additionally, it would perpetuate the current inadequacies in the regulation and inhibit innovation.

### **3.2 Option 2: Amend ADR 42/04 To Allow for Environmentally Gearboxes and Remote Operated Power Windows**

Under this option, vehicles equipped with these features would not be denied entry to the Australian market.

After amending the ADR, manufactures can include these new features which would improve fuel efficiency, vehicle emissions and power operated window control systems. Consumers would have greater selection of models being offered to the market place.

In implementing this option, provisions will be made to ensure that vehicles built prior to the amendment taking place would continue to comply with the ADR after the amendment takes effect.

### **3.3 Option 3: Delete the ADR**

Under this option, vehicles would no longer be required to continue to comply with the current ADR 42/04 requirements or alternatively, the particular section dealing with transmission systems and power operated windows.

The broader issue of whether to retain or delete ADR 42/04 is currently under review. Therefore, the ADR should be retained as a package of general safety requirements, which contributed to the overall safety of road users until the current review is completed.

Any subsequent review of the ADR would be undertaken as part of a comprehensive review of the ADRs in general and would involve extensive consultation with a broad range of stakeholders. A comprehensive review of this kind is beyond the scope of the current proposal for minor amendments. This option will not be given any further consideration.

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### **3.4 Option 4: Non-regulatory Options**

Under this option, non-regulatory approaches such as suasion (publicity, social pressure etc), pure market approaches (property rights) and economic approaches (taxes, charges, fees or subsidies) would be considered. However, the features which are the subject of this proposal are optional and it is up to manufactures to gauge the demand and determine where they fit in the market. The purpose of the amendments is not to compel the take up of such features but to remove any regulatory obstacles. Therefore, non-regulatory approaches are not necessary and will not be given further consideration.

## **4 ANALYSIS**

### **4.1 Option 1: Take No Action**

As stated previously, under this option, vehicles would be required to continue to comply with the current ADR 42/04 requirements.

The established regulatory framework makes it an offence to offer non-compliant road vehicles to the Australian market. Under the MVSA the Minister may determine national standards and must approve road vehicles that comply with the applicable national standards for the relevant category of vehicles. These vehicles may then be supplied to the Australian market.

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. However, these provisions are only invoked for limited numbers of vehicles and generally only where there is a clear indication that the relevant ADR is expected to be amended to suit. Therefore under this option, vehicles equipped with these features would not be approved for supply to the Australian market.

This option does not meet the objective of this statement.

### **4.2 Option 2: Adopt the Proposed Minor Amendments**

Under this option there are no expected adverse safety impacts. The acceptance of the new technologies will provide for fuel efficiencies and reduced vehicle emissions which will have a positive impact on vehicle running costs and the environment. Remote opening of windows will provide greater functionality of power window operations.

Vehicle manufacturers will have greater flexibility for innovation in vehicle design with the result of a greater selection of vehicle models for Australian consumers. It will also enable those vehicle manufacturers who have these options in their current vehicles to supply them to the Australian market without having to modify their vehicles.

Industry and regulatory agencies are supportive of the proposed minor amendment set out in Option 2.

This option meets the objective of this statement.

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## **5 IMPACTS**

### **5.1 Cost to Business**

The current new vehicle certification system administered by the Department imposes 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 summary of tests performed on various components or on the whole vehicle.

Option 1 is likely to impose additional cost to the industry because vehicles equipped with these new technologies will have to be modified before entry to the Australian market or not offered for sale. New vehicles would not be able to adopt the new environmentally friendly devices and remote opening system of windows.

Option 2 would not impose additional cost to industry as there would be no need to modify them for entry to the Australian market. Vehicles equipped with environmentally friendly gearboxes would be more fuel efficient and produce less vehicle emissions. The ability to open power operated windows remotely will provide a level of functionality equivalent to that which is available in other markets. In any case there is no compulsion for manufacturers to incorporate these devices and therefore, it could not be argued that this proposal imposes any additional costs.

Industry fully supports Option 2.

### **5.2 Benefits**

Option 2 would have a positive effect on trade facilitation by allowing new technologies and including the option for remote opening of windows. This Option will allow more fuel efficient, environmentally friendly vehicles with fully functional power operated window system into the Australian market which will provide a greater selection of vehicles for the consumer to choose from.

## **6 CONSULTATION**

Development of the Australian Design Rules (ADRs) under the *Motor Vehicle Standards Act 1989* (C'th) (MVSA) is the responsibility of the Vehicle Safety Standards Branch of the Department of Infrastructure and Transport. It is carried out in consultation with representatives of the Australian Government, state and territory governments, manufacturing and operating industries, road user groups and experts in the field of road safety.

The Department undertakes public consultation on significant proposals. Under Part 2, section 8 of the MVSA the Minister may consult with state and territory agencies responsible for road safety, organizations and persons involved in the road vehicle industry and organizations representing road vehicle users before determining a design rule.

The Technical Liaison Group (TLG) is the consultative committee for advising on ADR developments and includes members for the Australian, state and territory governments,

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the vehicle manufacturing and operating industries and consumer groups. Although at the time of writing the TLG is in the process of being reconstituted under a higher level Strategic Vehicle Safety and Environment Group (SVSEG), its role in ADR development will continue as before. The full membership of TLG is shown at Appendix 1.

The proposed minor amendments were discussed within the TLG at its 22 May 2008 meeting, where Option 2 was unanimously supported.

As the amendments are minor in nature, and do not raise the stringency of the ADR, TLG members agreed that further consultation was not necessary through the public comment process. The state and territory representatives were also confident that they represented the views of their jurisdictions and that there was no need for further consultation through the Standing Committee on Transport (SCOT) or the Australian Transport Council (ATC).

## **7 CONCLUSIONS AND RECOMMENDATIONS**

Option 2, to adopt the proposed minor amendment, is regarded as the most effective solution in terms of achieving the outcomes suggested previously. Under Option 2 the ADR will be amended to reword Clause 7.2 to accommodate the new technologies and rewrite Clause 19.3.2.1.1 for including the remote opening system of windows. Additionally, the amendments will be implemented such that vehicles compliant with the regulation prior to the amendment being made will continue to comply after the fact without the need for minor and inconsequential non-compliant approvals.

Option 1, taking no action, does not meet any of the objectives previously outlined and continues to perpetuate the current inadequacies of the current ADR. Therefore, this option is not regarded as a viable solution.

The TLG agreed that Option 2 is the best option. As industry and regulatory agencies are fully supportive of the minor amendments under Option 2 and that there are no disadvantages to consumers, this is the option that is recommended.

## **8 IMPLEMENTATION AND REVIEW**

Amendments to the ADRs are determined by the Minister for Infrastructure and Transport under section 7 of the *Motor Vehicle Standards Act 1989*. At the time that the amendment is signed by the Minister, registered subscribers to the ADRs are e-mailed directly notifying them of the amendment to the ADR. Registered subscribers to the ADRs include but are not limited to; various industry groups such as vehicle manufacturers, designers and test facilities, and vehicle user organisations.

As Australian Government regulations, ADRs are subject to review every ten years. This ensures that they remain relevant, cost effective and do not become a barrier to the importation of safer vehicles and vehicle components. ADR 42/04 will be scheduled for a full review on an ongoing basis and in accordance with the Australian Government's Business Review Agenda. The time for the review is yet to be determined.

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## **9 REFERENCES**

Australian Design Rules are available from  
[http://www.dotars.gov.au/roads/motor/design/adr\\_online.aspx](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 Regulation can be found at <http://www.unece.org/trans/main/wp29>
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## **10 APPENDIX 1**

### **Membership of the Technical Liaison Group (TLG)**

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#### Organisation

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##### *Manufacturer Representatives*

Australian Road Transport Suppliers Association  
Commercial Vehicle Industry Association  
Federal Chamber of Automotive Industries  
Federation of Automotive Product Manufacturers  
Truck Industry Council  
Bus Industry Federation

##### *Consumer Representatives*

Australian Automobile Association  
Australian Trucking Association  
Australian Motorcycle Council

##### *Government Representatives*

Department of Infrastructure and Transport, Australian Government  
Department of Transport, Energy and Infrastructure, South Australia  
Queensland Transport  
Roads and Traffic Authority, New South Wales  
VicRoads, Victoria  
Department of Planning and Infrastructure, Western Australia  
Office of Transport, Australian Capital Territory  
Department of Infrastructure, Energy and Resources, Tasmania  
Department of Planning and Infrastructure, Northern Territory  
Land Transport Safety Authority of New Zealand

##### *Inter Governmental Agency*

National Transport Commission

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