



Australian Government

Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts



Recalls of automated vehicles

This paper **expands** on previous policy work

April 2024

Overview

When an Automated Driving System (ADS) or an ADS component presents a safety concern or does not comply with applicable standards, it may need to be recalled. Including recall provisions in the Automated Vehicle Safety Law (AVSL) will ensure that all ADSs are covered, and that ADS recalls can be managed by the new in-service safety regulator.

This paper sets out the proposed recall provisions for the AVSL.

Key points

Recalls for conventional road vehicles are overseen by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department).

Recalls of vehicles that are not road vehicles but are consumer products, aftermarket parts or accessories that are consumer goods and other consumer goods inside vehicles are overseen by the Australian Consumer Competition and Consumer Commission (ACCC) under the Australian Consumer Law (ACL).

With the introduction of automated vehicles, the new automated vehicle in-service safety regulator (the new regulator) will have lead a role in conducting recalls where an ADS or ADS component is faulty or noncompliant to standards.

Recall provisions in the AVSL would be similar to those already in the Road Vehicle Standards (RVS) legislation and the ACL.

An Automated Driving System Entity (ADSE) or supplier would need to notify the new regulator of a voluntary recall. The AVSL would also include a power for the Commonwealth minister administering the AVSL to require a compulsory recall of an ADS or ADS component.

New measures in the AVSL are intended to complement existing recalls arrangements. Coordination of recalls across the 3 regulators could be supported by a formal agreement between regulators that outlines which regulator is to take the lead in different situations.

Existing recall arrangements

Under existing RVS legislation, there are processes for vehicles or their components to be recalled by the supplier if there is a safety issue that may cause injury, or if the vehicle or component does not comply with applicable standards. Recalls require action from the manufacturer to fix the fault in affected vehicles or, in rare cases, to remove the vehicles from service. Recall information is also publicly available so people can see if their vehicle is affected by any recalls.

Recalls may be voluntary or compulsory. A **voluntary recall** is an action taken by a vehicle or component supplier to fix a potential safety or noncompliance issue with a road vehicle or component. A **compulsory recall** occurs when the responsible Commonwealth minister issues a compulsory recall notice to suppliers if it appears that they have not taken satisfactory action to either:

- prevent injury
- fix a noncompliance issue with applicable standards.

A notice for a compulsory recall without delay may be issued where the vehicle or component poses an imminent risk of serious illness, injury or death.

Management of recalls

RVS legislation covers recalls of road vehicles and approved road vehicle components that are unsafe or do not comply with applicable standards. These recalls are overseen by the department.

The ACCC administers and enforces consumer product safety laws contained in the ACL. It oversees recalls of:

- vehicles that are not road vehicles but are consumer products (for example golf carts, miniature motor bikes and quad bikes)
- aftermarket parts or accessories that are consumer goods (for example child car restraints)
- other consumer goods inside vehicles (for example fridges and stoves in caravans).

The ACCC also deals with safety issues arising from noncompliance with a safety standard, information standard or ban under the ACL. It shares responsibility for product safety regulation of general consumer products with state and territory ACL regulators, who play a role in resolving disputes between consumers and traders as well as monitoring, promoting and overseeing product safety.

The ACL recall powers sometimes overlap with the RVS laws. While the ACL contains recall powers that are similar in structure and operation to the RVS legislation, these powers are each exercised by a different responsible minister.

One vehicle could have some elements that are categorised as a road vehicle or components under the RVS and other elements that are 'consumer goods' under the ACL, so would be covered by both the ACCC and the department's powers.

For example, a caravan or camper trailer will be made up of components that allow it to function as a road vehicle, such as braking systems, couplings and lighting. These components will be covered by RVS legislation and must meet the relevant Australian Design Rules. Where such components are noncompliant, a recall would be overseen by the department.

The same caravan or camper trailer will also have components that are separate to its driving function as a road vehicle and are consumer goods. For example, a fridge, cooking appliances, or a sink would all be considered 'consumer goods' that are fitted to the vehicles, and therefore would be handled by the ACCC if the primary purpose of the good (that is, the part or accessory) relates to human occupation, rather than the vehicle itself.

The department and the ACCC have a [Memorandum of understanding](#) to support clarity of roles, including where a vehicle or component could be covered by both.

New recall powers in the AVSL

The AVSL will establish a new regulator focused on the in-service safety of ADSs. The new regulator will monitor and audit ADSEs to ensure that they uphold their safety duties.

While existing powers under the RVS legislation could cover many instances in which an ADS would need to be recalled, they would not cover scenarios in which it has been installed aftermarket and a recall of this ADS or one of its components is required. This gap needs to be addressed.

Including recall powers in the AVSL will also allow the new regulator to lead any recalls in relation to an ADS. It will be the most suitable regulator to manage such recalls, due to its specialist knowledge of automated vehicle safety, and ongoing regulatory relationship with ADSEs. In most cases the ADSE will be the organisation undertaking a recall of an ADS.

The new regulator will also have other powers that can be used alongside, or instead of, recalls to manage circumstances when an ADS or ADS component poses a safety risk. These are outlined in the [Regulator powers and functions](#) paper.

ADS recalls process

The provisions for recalls in the AVSL would mirror those already in the RVS legislation and the ACL, supporting the 3 regulators to take a consistent approach to recall management. The powers in the AVSL would not limit the concurrent operation of recall provisions in the RVS legislation and the ACL, and would cover both voluntary and compulsory recalls.

Voluntary recalls

A voluntary recall would begin when an ADSE or other relevant supplier identifies a safety concern and determines that the affected ADS or ADS components need to be fixed.

Reporting obligations for a voluntary recall would apply to suppliers broadly, not just ADSEs, recognising that a supplier may be recalling a part that is used across vehicles with an ADS and conventional vehicles (for example, if a steering system component is part of the ADS, but the same component is also used in conventional vehicles).

Under the AVSL, a supplier, including an ADSE, that takes voluntary action to recall an ADS or part of an ADS will be required to notify the new regulator of the recall if it is due to any of the following:

- The ADS may cause injury.
- A reasonably foreseeable use or misuse of the ADS may cause injury.
- The ADS does not comply with applicable vehicle standards.
- The ADS is recalled in conjunction with or after making a notification in accordance with other safety reporting obligations under the AVSL (more information is in the [Automated Driving System Entity in-service obligations](#) paper).
- The ADS has been recalled to otherwise facilitate or ensure compliance by an ADSE with its safety duties and obligations under the AVSL.

The supplier would need to give the new regulator notice of a voluntary recall within 2 days of taking recall action. This notice would include information such as:

- that the ADS is subject to a recall
- the details of the defect or dangerous characteristics
- any circumstances where a use or misuse of the ADS is dangerous
- how the ADS is noncompliant with road vehicle standards
- the reasons why the recall is necessary to facilitate or ensure ADSE compliance with safety duties or other AVSL obligations

- any additional action to repair, refund or replace an ADS, or otherwise address a safety issue or defect.

After receiving notice of a recall action, the new regulator would publish the notice on its website. It may also notify the department of the recall, with this detail likely to be included in agreements between the regulators.

Compulsory recalls

The AVSL will also include compulsory recall powers that may be exercised by the responsible Commonwealth minister. This is likely to be the same minister that administers the RVS legislation, which would enable one minister to compulsorily require the recall of an ADS and coordinate the compulsory recall action by an ADSE or other suppliers. It will also provide a more seamless avenue for the compulsory recall of components that are used across conventional and automated vehicles, as the minister could potentially issue one legislative instrument requiring a compulsory recall under both the AVSL and RVS legislation recall provisions.

Compulsory recalls are a last resort measure, one that is not intended to be used often. A compulsory recall would be used where the issue has a high risk of injury or death if not rectified, and an ADSE or supplier has not taken sufficient action. We need compulsory recall powers so a supplier or multiple suppliers can be required to take action to remedy safety issues or noncompliance with the national road vehicle standards.

The powers would enable the minister to compulsorily require one or more suppliers (including an ADSE) to undertake recall action in the following circumstances:

- A person supplies or has supplied an ADS or ADS component of a particular kind, or an ADSE is certified for an ADS.
- It appears to the minister that either:
 - the ADS may cause injury
 - a reasonably foreseeable use or misuse of the ADS may cause injury
 - there is, or it is likely there is, substantial noncompliance of the ADS with the applicable national road vehicle standards or
 - the operation of the ADS would result or is likely to result in a breach of an ADSE’s safety duties or obligations under the AVSL.
- It appears to the minister that the ADSE or one or more suppliers of the ADS have not taken satisfactory action to:
 - prevent the ADS from causing injury to any person
 - rectify the noncompliance of the ADS with the relevant standards or
 - in the case of an ADSE, otherwise comply with its safety duties or other obligations.

The actions that a supplier, including an ADSE, may be required to take under a compulsory recall include:

- recalling the ADS or ADS component and repairing or addressing the defect
- telling the public or the relevant group of people about:
 - the nature of the defect or dangerous characteristic
 - the circumstances where a foreseeable use or misuse of the ADS is dangerous
 - procedures for disposing of the ADS.

The AVSL would include procedures for requiring a compulsory recall action. These procedures would include the following:

- The minister would issue a proposed recall notice, published on a website. The proposed recall notice would include an invitation to relevant ADSEs and other ADS component suppliers to request, in writing, a conference about the recall notice being issued.

- If a conference is required, the new regulator would conduct the conference and provide the minister with a recommendation to either:
 - issue the recall notice on the same terms as the proposed recall notice
 - issue the recall notice with modifications
 - not issue the recall notice.
- The minister could then accept the regulator’s recommendation or take a different course of action.
- If no conference is required, the regulator would inform the minister, who would issue a recall notice.
- A recall notice would be a legislative instrument made by the minister specifying the recall action required and, potentially, how or when the recall action must be taken.
- The minister would provide a copy of the notice to every relevant supplier the minister is aware of within 2 days after the publication or issue of the notice, or as soon as practicable after the end of that period.

Interactions between parties with recall powers

With the introduction of the AVSL there would be 3 different regulators and at least 2 different ministers exercising oversight of recalls related to vehicles with an ADS. The AVSL recall provisions would not exclude the use of existing recall provisions in the RVS legislation and the ACL. Similarly, the current approach includes concurrent recall provisions in RVS legislation and the ACL. This enables these provisions to be used where appropriate, comprehensively covering all potential recall scenarios.

However, these powers need to be exercised consistently and in a coordinated way to ensure safety and manage the impact on industry. This could be managed through a formalised agreement such as a memorandum of understanding (MOU) between responsible government agencies. The agreement would clearly establish which regulator should take the lead on recall processes in different situations.

Broadly, our intent is that the new regulator would be the lead regulator for recalls related to an ADS or ADS components, and the department will continue to lead other recalls related to road vehicle safety. Where a recall relates to something that is used both as an ADS component and in a conventional vehicle (such as a brake assembly), the relevant regulators would work cooperatively to administer the recall, likely under the guidance of an MOU. The MOU could detail things like how the publication of a recall notice on the regulators’ websites would be coordinated to ensure effective communication of a recall to the public, or which regulator would lead the management of the conferencing requirements for a compulsory recall.

From a consumer’s point of view, vehicle owners will be able to publicly search for details of recalls. This information is available for conventional vehicles at www.vehiclerecalls.gov.au. Information about recalls of an ADS or ADS component would be posted on the new regulator’s website, and subject to any agreements between the relevant regulators, may be linked to on the department’s website.