

Preliminary Assessment Form

Overview

Name of department/agency

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

Name of proposal

Australian Design Rule 109/00 - Electric Power Train Safety Requirements

Australian Design Rule 110/00 - Hydrogen-Fuelled Vehicle Safety Related Performance

Description of the problem

The Australian government is implementing a range of policies designed to increase the uptake of zero emission vehicles (ZEVs). ZEVs provide a range of benefits, including reducing air and noise pollution in urban air areas. They also help reduce air pollution and climate change causing greenhouse gases which are resulting in existential threats to humanity.

Based on international experience, and direct requests from the vehicle industry and State and Territory in-service vehicle regulators it is expected that ZEVs will create a range of safety problems, such as battery fires, exploding hydrogen tanks, chemical spills and the potential for electrocution. While it is not expected that these occurrences will be frequent, they are often serious and may impact the public perception and therefore limit the uptake of ZEVs in Australia.

These problems will become more common as the proportion of ZEVs in the Australian fleet grows. Data provided by industry¹ and accumulated² by the Department show a steadily increasing number of ZEVs being supplied to the Australian market.

The Australian Design Rules (ADRs) and the current Australian Standards (AS) framework are yet to address safety issues in these areas, particularly in regard to both the high voltage areas applicable to all ZEVs, as well as the high-pressure storage systems associated with hydrogen fuel systems. The primary reason for this being that the road safety benefits derived through a Cost Benefit Analysis have not been sufficiently high due to the low number of ZEVs in the fleet. However, since industry is supportive of introducing regulation for ZEVs, the Department is proposing to examine the case. Furthermore, the need for regulation in vehicle safety in the past has most often been driven by the need to solve problems that are already evident in the community³ rather than being proactive and preventing potential problems due to the global shift in the way vehicles are powered.

The current gap in vehicle regulation for ZEVs is creating increasing concern not only for manufacturers and suppliers of these types of vehicles, but it is also creating uncertainty for purchasers, and is potentially creating safety issues for operators, technicians, first responders and consumers. In addition to the concerns raised by manufacturers and first responders⁴, the Department has been informed by the peak vehicle industry body (FCAI) of activity at the state and jurisdictional level in regulating in the electrical and/or liquid and gas fuel space that may deviate from a national approach to ensuring the safety of ZEVs. Industry has raised concerns that through this jurisdictional approach there is a high likelihood there would be no guarantee of mutual recognition when moving vehicles across borders (heavy vehicles) and/or registering them (heavy or light vehicles).

It is becoming more likely that global vehicle manufacturers will no longer design and manufacture ICE vehicles beyond a certain year. Public announcements on cessation dates largely lie in years between 2030 through to 2040. Setting up standards for ZEVs in advance of this change ensures that consumer confidence in ZEVs is not undermined.

¹ Federal Chamber of Automotive Industries (FCAI), Truck Industry Council (TIC) and Bus Industry Confederation (BIC) supplied data

² Australian Bureau of Statistics (ABS) Motor Vehicle Census data

³ Road trauma for a specific crash type, vehicle type, etc.

⁴ EV Firesafe / Australian Building Code Board (ABCB)

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Background:

The Australian Government has announced plans aimed at increasing the prevalence of ZEVs in the Australian fleet and some states and territory regulators have indicated intentions to mandate ZEVs⁵ in the future. A report⁶ by the Commonwealth Scientific and Industrial Research Organisation's (CSIRO) notes that in their Current Trajectory scenario short-range electric vehicle (SREV) costs are assumed to reach upfront cost parity with ICE light vehicles in 2030 and remain at that level thereafter. Heavy SREVs are assumed to reach up front cost parity in 2040 due to their delayed development relative to light vehicles and higher duty requirements (both load and distance). Up front cost parity may be reached earlier in other countries where vehicle emissions standards are expected to increase the cost of internal combustion vehicles over time. The modelling considers SREV adoption across five vehicle classes: light, medium and large cars, rigid trucks and buses.

Industry views:

The main organisations in Australia representing vehicle manufacturers have made representations to the Department requesting that a national approach to ZEV safety be implemented through the ADRs as soon as possible. They consider it to be very important to provide for internationally harmonised certification pathways for Electric Vehicles (EVs) and Hydrogen-fuelled Fuel Cell Vehicles (HFCVs) through UN Regulations No. 100 and No. 134. The FCAI has expressed support for fast tracking of these UN Regulations as ADRs on a "must comply, if fitted" basis.

The FCAI is the peak body representing suppliers of over 99 per cent of new light duty vehicles to the Australian market. The urgency for a national approach is based on work progressed by the Resources Safety & Health Queensland (RSHQ)⁷ which is the independent regulator of worker safety and health in Queensland's mining, quarrying, petroleum, gas and explosives industries to implement safety measures for ZEVs. The FCAI has indicated that there is a risk of different approaches by various jurisdictions if this becomes the common way to address safety concerns for alternatively powered vehicles.

The Bus Industry Confederation (BIC) is the lead organisation representing bus and coach manufacturers and suppliers on national policy and regulation issues. The Truck Industry Council (TIC) is the peak body representing suppliers of over 98 per cent of new heavy vehicles to the Australian market. BIC and TIC are collectively developing industry advisories to initially help mitigate risks due to regulation gaps, however, they both consider it appropriate to adopt ADRs to ensure that the appropriate safety and environmental outcomes are achieved with the ongoing introduction of heavy ZEV's. BIC and TIC have also raised a similar issue to the FCAI relating to hydrogen fuel storage and distribution systems found on HFCVs. The state and territory regulators intend to treat the hydrogen high pressure gas requirements as a "gas appliance" under "WorkSafe" type legislation. While the particular treatment may be appropriate, these regulations are not national, which therefore does not guarantee mutual recognition when moving vehicles across borders and/or registering them.

Electric Vehicles (EVs):

Electric propulsion technology is quite mature, but recent advances in energy storage (batteries, capacitors, flywheels) have largely improved EV performance and made them a valid choice for consumers today. There is considerable potential for further developments in automotive energy storage. Many governments, including the Australian Government⁸, considers EVs, like hydrogen and fuel cell vehicles, represent a promising technology to address climate change, improving air quality and cutting oil dependency. The current regulatory pressure to lower

⁵ ACT Zero Emissions Vehicles Strategy 2022-2030

⁶ Electric vehicle projections 2021, CSIRO

⁷ Hydrogen safety regulation in Queensland

⁸ National Electric Vehicle Strategy: consultation paper

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CO₂ and pollutant emissions is helping to drive an increasing market penetration of EVs. Furthermore, many governments support the development and deployment of EVs by financing research or offering incentives for consumers⁹. Consequently, the automotive industry is investing in research and development, as well as the production capacity for EVs, at a scale not seen in the past.

Together with support measures for industry development, many governments have already started to define their regulatory framework for EVs, mostly in order to ensure their safety and thus gain consumer confidence, but also in consideration of environmental performance measures.

Because of the relatively small volume of EVs and their components currently produced, any degree of convergence between regulatory obligations can result in economies of scale and cost reductions for automotive manufacturers and therefore the consumer– critical in the context of economic recovery and the general cost-sensitiveness of the industry.

Hydrogen-Fuelled Fuel Cell Vehicles (HFCVs):

Hydrogen has emerged as one of the most promising alternatives due to its vehicle emissions being virtually zero. Scientists, researchers and economists have pointed to hydrogen, in both compressed gaseous and liquid forms, as a possible alternative to petroleum and diesel as a vehicle fuel. Ensuring the safe use of hydrogen as a fuel is a critical element in successful transitioning to a global and local hydrogen economy. By their nature, all fuels present an inherent degree of danger due to their energy content. The safe use of hydrogen, particularly in the compressed gaseous form, lies in preventing catastrophic failures involving a combination of fuel, air and ignition sources as well as pressure and electrical hazards.

Internationally, governments have identified the development of regulations and standards as one of the key requirements for commercialisation of hydrogen-fuelled vehicles. It is expected that internationally agreed standards will help overcome technological barriers to commercialisation, facilitate manufacturers' investment in building hydrogen-fuelled vehicles and facilitate public acceptance by providing a systematic and accurate means of assessing and communicating the risk associated with the use of hydrogen vehicles, be it to the general public, consumer, emergency response personnel or the insurance industry.

Hydrogen fuelled vehicles can use either internal combustion engine (ICEs) or fuel cells to provide power; however, hydrogen-fuelled vehicles are typically powered by fuel cell power systems. HFCVs have an electric drivetrain powered by a fuel cell that generates electric power electrochemically using hydrogen.

Outline of the objectives of government action

The ADRs are national standards for vehicle safety, anti-theft and emissions. The ADRs apply to vehicles supplied to the Australian market for use in transport (i.e. road vehicles), including vehicles newly manufactured in Australia, imported as new or second-hand vehicles.

The general objective of the Australian Government is to ensure that the most appropriate measures for delivering safer vehicles to the Australian community are in place. The most appropriate measures will be those which provide the greatest net benefit to society and are in accordance with Australia's international obligations.

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 Commonwealth 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.

⁹ Powering Australian Plan

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Justification for introducing national vehicle standards for ZEVs:

The justifications for introducing ADRs for ZEVs are that they provide a national certification pathway; as the ADRs will be incorporating UN regulations, align with international standards and most importantly because industry has requested the Department to consider them as a matter of urgency.¹⁰

Industry, first responders and safety experts agree that standards for ZEVs are necessary to ensure the transition to a higher proportion of ZEVs in the fleet should not compromise on safety of the fleet.

The Australian Government's objective is to mandate two new ADRs on a "if fitted, must comply" basis to ensure new vehicles equipped with these emerging technologies are as safe as conventional Internal Combustion Engine (ICE) vehicles in use as well as before, during and after a collision.

This proposal also provides certainty for vehicle manufacturers, technicians and emergency services workers by setting nationally consistent regulatory requirements to support the introduction of alternatively powered vehicles in Australia. Furthermore, this proposal aligns with the Department's role in supporting the Australian Government to reach its emissions reductions targets and achieve net zero.

Outline of the options available

Option 1: Create two new ADRs for EVs and HFCVs (preferred option)

Under this option, two new ADRs would be made requiring all new light and heavy EVs and HFCVs to meet a range of requirements aimed at reducing risks associated with these vehicles.

The key safety features introduced by ADR 109/00 would cover:

- Protection against electric shock and direct contact
- Determination of hydrogen emissions during normal charge procedures
- Vibration, mechanical impact (crash), thermal shock and cycling tests to ensure none of the below occurs:
 - Electrolyte leakage
 - Rupture of battery
 - Venting
 - Fire
 - Explosion
- Fire resistance and protection against water effects
- Overcharge, over-discharge, over-temperature, low-temperature, over-current protection
- Thermal event within battery management
- Post-crash battery system integrity

The key safety features introduced by ADR 110/00 would cover:

- Vibration, mechanical impact (crash), thermal shock and cycling tests
- Pressure tests on hydrogen storage systems
- Surface damage, chemical exposure, high and extreme temperature tests on hydrogen storage systems
- Fire resistance

¹⁰ BIC/TIC SVSEG paper SVSEG 24-8a

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- Labelling of storage systems
- Salt corrosion resistance, stress corrosion cracking, drop and vibration tests
- Hydrogen leakage tests
- Overcharge, over-discharge, over-temperature, low-temperature, over-current protection
- External short circuit protection
- Post-crash fuel system integrity

This is the preferred option, it provides manufacturers with a nationally consistent, federally led approach to ensuring the safety of these vehicles for consumers, technicians and first responders through internationally harmonised certification pathways for EVs and HFCVs through UN Regulations.

The proposed ADRs will be aligning with international vehicle regulations developed through the World Forum for Harmonization of Vehicle Regulations (WP.29). Thereby fulfilling a long standing policy objective by the Australian Government. This option is fully supported by the FCAI, BIC and the TIC, is cost effective, future focused and achieves the objective of government action.

Option 2: Create two new ADRs for EVs and HFCVs including alternative United States standards:

Under this option, two new ADRs including US standards as alternative certification pathways would be made requiring all new light and heavy EVs to meet a range of requirements aimed at reducing risks associated with these vehicles.

This option is similar to the new ADRs proposed in option 1 except that the ADRs would also include US Federal Motor Vehicle Safety Standards as alternative standards manufacturers may certify vehicles to.

Option 3: No intervention (Business as Usual)

Under this option, manufacturers could choose to manufacture vehicles in accordance with internationally harmonised standards (related to EVs and HFCVs) or to manufacture these vehicles in a different way.

It is expected that in the absence of an ADR, various other regulators will seek to control the risks that these vehicles create as has been raised earlier in this Pre-RIS Assessment. Under section 78 of the *Road Vehicle Standards Act 2018* vehicle manufacturers may not be obliged to comply with such standards. Manufacturers would need to enforce these provisions themselves.

As discussed above, the impact of the proposed new ADRs are minor in nature and it is feasible that the regulatory framework could continue to function without the new ADRs being made. However, as a better practise regulator, the Department seeks to ensure its legislation is appropriately maintained and aligned with government policy and up to date with internationally agreed standards.

Without these new ADRs vehicle manufacturers would still be able to supply EVs and HFCVs to the Australian market however ongoing activity in the State and Territory governments in regulating in the electrical and/or liquid and gas fuel space would most likely result in an inconsistent national approach to certification of emerging vehicle propulsion technologies. This option may increase the cost to manufacturers and eventually the consumer if a national certification pathway is not established.

This option may increase the burden to manufacturers in administration and monitoring of certification pathways in the absence of a national approach therefore negatively impacting operational efficiency and costs.

Other elements of your proposal (including consultation undertaken or proposed)

The Australian Design Rules form part of vehicle type approval arrangements established under the RVSA. Vehicle manufacturers are familiar with the vehicle type approval arrangements and the new ADRs would work effectively within the existing framework. The two new ADRs in option 1 and 2 will incorporate United Nations Regulations No.

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100 and 134.

UN Regulation No. 100 would be incorporated into ADR 109/00 - Electric Power Train Safety Requirements and UN Regulation No. 134 would be incorporated into ADR 110/00 - Hydrogen-Fuelled Vehicle Safety. These regulations are made by the United Nations World Forum for the Harmonisation of Vehicle Regulations (WP.29) and represent the views of a significant number of nations.

Introducing these new ADRs in this proposal will clarify the requirements for vehicle manufacturers intending to supply alternatively powered vehicles to the Australian market and provide a national certification pathway to ensure the safety of these vehicle propulsion systems.

Consultation:

Option 1 was presented through a Department consultation paper¹¹ on EVs and HFCVs by the Department to the key consultative forum for vehicle standards the Strategic Vehicle Safety and Environment Group (SVSEG) on 27 July 2022, at meeting 24. The proposal to adopt the UN regulations through new ADRs was endorsed by SVSEG members.

The Department has consulted with industry on the compliance status of their products already being supplied to the market. This was to ascertain if there would be any additional cost to manufacturers seeking to comply with the new ADRs. The light vehicle industry (FCAI) claim 100 per cent of their ZEVs already comply with the requirements in the UN regulations or are built to comply with the UN Regulations. This means that there will be no additional cost for this (light vehicle) segment in introducing new ADRs.

The heavy truck and bus industry (TIC and BIC) made it clear to the Department through their paper¹² that the current lack of vehicle regulatory control is creating increasing concern not only for manufacturers and suppliers of these types of vehicles, but it is also creating uncertainty for purchasers, and is potentially creating safety issues for operators, maintainers, first responders, and ultimately the users of these vehicle types. One of the recommendations in their paper was to address the gap in regulatory oversight as a matter of urgency. TIC notes that operators will only embrace Low and ZEV heavy vehicles if they are commercially viable, which requires setting of standards early to ensure their supply to the Australian market.¹³ The heavy vehicle industry notes European and Japanese sourced vehicles would comply or already be certified to these UN Regulations however their United States sourced vehicles may need to be locally certified to these UN Regulations. For locally manufactured vehicles, the TIC and BIC are reviewing test requirements in the UN regulations prior to engaging with industrial electrical/environmental/pressure system test facilities in Australia to determine if R100 and R134 testing could be undertaken here. TIC and BIC have advised the Department that whether the ADR requirements are "if fitted", or "mandated", the end result is the same, the testing and certification must be done to ensure the safe design and operation of heavy ZEVs.

Members of the SVSEG include the National Heavy Vehicle Regulator, state and territory vehicle registration authorities, the Federal Chamber of Automotive Industries, the Truck Industry Council, the Australian Trucking Association, the Bus Industry Confederation, Heavy Vehicle Industry Australia and the Caravan Industry Association of Australia.

The Department intends publishing drafts of the new ADRs and Explanatory Statements to seek feedback from industry on implementation and applicability based on vehicle types.

Who will the decision maker be?

Senator the Hon Carol Brown, Assistant Minister for Infrastructure and Transport

¹¹ Paper SVSEG 24-8b at SVSEG 24 held on 27 July 2022

¹² Paper SVSEG 24-8a at SVSEG 24 held on 27 July 2022

¹³ TIC Presentation Developments in Truck Technologies to 2030 and Beyond, Asia Pacific Fuel Industry Forum 5-7 September 2022.

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Likely impact on businesses, community organisations and individuals

Is your proposal likely to have any regulatory impacts? If so, please specify. (Further advice on regulatory impacts, can be found at the end of this [document](#).)

This proposal is expected to generate trauma savings, regulatory savings and enhance productivity gains by ensuring a nationally led certification pathway for EVs and HFCVs. While market penetration of these emerging technologies is still low industry considers the impact of the new ADRs as minor and administrative in nature as discussed above for the light and heavy vehicle industry. The new ADRs will remove uncertainty and ambiguity for affected manufacturers providing or intending to supply ZEVs (EVs and HFCVs) to the Australian market.

What is your assessment of the significance of the likely impacts of the proposed regulation? Why?

The Department undertook consultation through the Strategic Vehicle Safety and Environment Group (SVSEG) in order to establish cost impacts for EVs and HFCVs associated with the proposed new ADRs.

Feedback through consultation revealed the impacts are minor and administrative in nature; they are not expected to increase the regulatory burden but may have a minor reduction in regulatory burden.

The light and heavy vehicle industry preference is for the Department to nationally regulate EVs and HFCVs as soon as possible to avoid increases in certification costs in the event that a jurisdictional approach is developed.

The heavy vehicle industry is supportive of the proposal to mandate UN regulations for EVs and HFCVs. Feedback through consultation revealed the impacts are minor; for example, the Federal Chamber of Automotive Industries has indicated that close to 100 per cent of new light EVs will already comply with the proposed ADR and 100 per cent of the new HFCVs being supplied comply. This means that the change will not require additional testing or modification of these vehicles. There may be costs for future models not yet being sold in Australia, but it is not possible to anticipate which models will be sold here and manufacturers considering supply can choose to supply vehicles that have been designed for the global market and already comply with the proposed ADRs.

TIC has advised that most European and Japanese sourced heavy vehicles will already comply with the proposed standards, but have sought consideration of a US standard as an acceptable alternative for vehicles originally designed for that market. TIC raised concerns about certification costs associated with locally manufactured trucks with the lack of testing facilities available in Australia to cater to the local heavy vehicle manufacturing industry. TIC and BIC are progressing work in this regard to accommodate the locally manufactured heavy vehicles.

The light and heavy vehicle industry preference is for the Department to nationally regulate EVs and HFCVs as soon as possible to avoid increases in certification costs in the event that a jurisdictional approach is developed. An important point on the introduction of these new ADRs is that the drivetrain and features in these ADRs are fundamental to the design of the vehicle's propulsion system, therefore it is not a cost to fit the feature and rather it is a choice of the manufacturer whether to supply the vehicle or not.

Have you considered whether small businesses should have different obligations from larger businesses in relation to the operation of the possible regulation? Yes No

The national vehicle standards form part of a larger regulatory framework that includes various pathways through which vehicles can be supplied to the market.

Have you designed the operation of the possible regulation taking into account the impact on small businesses?

Yes No

The [Australian Small Business and Family Enterprise Ombudsman's \(ASBFEO\)](#) office should be contacted to help assess this (contact: regulation@asbfeo.gov.au)

Through the implementation of the RVSA the pathways discussed above consider the impact on small business.

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If you answered
yes above:

1. Have you contacted the ASBFEO's office? Yes No
2. How does the design of the proposed regulation take into account the impact on small businesses?

Is your proposal likely to have any international trade and investment law impacts? Yes No

The Trade and Investment Law Branch at the Department of Foreign Affairs & Trade (trade.law@dfat.gov.au) can help you assess these impacts.

Timing

Key dates and timeline:

The peak bodies representing the heavy and light vehicle Industry fully support mandating the proposed new ADRs for EVs and HFCVs (Option 1) and would prefer these to be made as soon as possible, including to reduce regulatory costs, ensure continuity in market supply and increase safety.

The Department would therefore prefer to progress the proposed new ADRs to the responsible Minister in in early 2023 following consultation with industry on timing of the new ADRs, without the need for a Regulation Impact Statement (RIS), as this would (if required) significantly delay the realisation.

Contact information (Please enter your contact information below)

Name:

Email and Phone:

Date: 24 November 2022

Please forward the completed form to OBPR at Helpdesk-OBPR@pmc.gov.au or call (02) 6271 6270 to discuss your proposal with an OBPR officer.

Overview

Description of the problem

Describe the problem that the proposed regulation is intended to solve:

- Do not confuse the problem with a 'symptom' of the problem. Identify the underlying cause of the problem. Is the problem the consequence or the cause?
- What is the nature of the problem? What loss, harm or other adverse consequences are being experienced, and by whom?
- How significant is the problem? What is its magnitude? If your proposal is intended to mitigate risk of an adverse event, what is the likelihood of that event occurring? What evidence do you have to support that assessment?
- How is the problem currently regulated by Australian Government, state, territory or local government regulations, or by governments overseas? Are there deficiencies in the existing regulatory system?
- Is there a case for government intervention or is the problem of purely private interest?
- Why does current regulation not properly address the problem?

- If the problem relates to existing legislation or regulation, is it caused by faulty design, implementation, or both?
- What are the consequences of not taking any action?
- Could relying on the market in conjunction with the general application of existing laws and regulations solve the problem? If not, why not?
- Will the problem self-correct within a reasonable timeframe?

Outline of the policy objectives

Clearly identify why there is a legitimate reason for the Government to intervene. Demonstrate that the Government has the capacity to intervene successfully, and identify alternatives to government action. List objectives, outcomes, goals or targets that are sought in relation to the problem, and constraints or barriers to achieving them.

A common error is to confuse the desired final outcome of a proposal with the outputs, or means of obtaining it. The aim is not to pre-justify a preferred solution, but to specify the objective broadly enough so that all relevant alternative solutions can be considered.

Outline of the options

Outline a range of genuine and viable alternative policy options available to address the problem and achieve the policy objectives. Identify a minimum of three options¹⁴, of which at least one option must always be non-regulatory.

Other elements of your proposal

Include any additional information that is relevant to the proposal. For example: have there been recent proposed regulations similar or related to this proposal, or is it a new regulation, an amendment to an existing regulation, or a replacement for sunset regulation.

State whether any consultation has already been undertaken, and what consultation is proposed.

Likely impact on businesses, community organisations and individuals

Impacts may include:

- changes to the number or type of products that businesses can offer, such as:
 - banning products or industry practices
 - changing the way products can be offered
- impacts on consumer demand for certain products, such as:
 - increasing prices through the regulation's requirements
 - changing the information available to consumers
- impacts on the ability of businesses to compete in the market or on their incentives to compete, such as:
 - creating a self-regulatory or co-regulatory regime
 - changing the requirements for a licence, permit or other authorisation

¹⁴ In certain circumstances, fewer than three options can be considered in a RIS. See the [Regulation Impact Statement Policy Options](#) guidance note for more information.

- influencing the price or quantity of goods that are sold
- setting standards for product or service quality
- changing the prices or types of inputs available to businesses.

Regulatory costs are a subset of broader impacts, and include:

- compliance costs:

- administrative costs
 - costs incurred by regulated entities mainly to demonstrate compliance with the regulation (usually record keeping and reporting costs)
 - costs incurred through complying with government taxes, fees, charges and levies, beyond the amount paid (for example, the time taken to pay a licence fee).
- substantive compliance costs
 - costs that lead directly to the regulated outcomes being sought (usually purchase and maintenance costs for plant and equipment to meet regulatory requirements, fees paid to training providers, costs of providing information to third parties, and costs of operation—for example, energy costs).

- delay costs:

- expenses and loss of income incurred by a regulated entity through one or both of:
 - an application delay—the time taken to complete an administrative application requirement that prevents the party from beginning its intended operations
 - an approval delay—the time taken by the regulator to communicate a decision on the administrative application that prevents the party from beginning its intended operations (this includes the time taken to assess and consider an application).

Small Business Impacts

Small businesses make up over 98% of businesses in Australia and often operate in a fundamentally different way to large or medium businesses. When a policy proposal is judged to have an impact on small businesses, this should be described in the preliminary assessment. The Small Business Guidance Note will assist with the identification and understanding of impacts affecting small businesses: <https://www.pmc.gov.au/resource-centre/regulation/small-business-guidance-note>.

The Office of the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) was established under the *Australian Small Business and Family Enterprise Ombudsman Act 2015* to undertake advocacy and assistance functions. This includes the review of proposals in relation to relevant legislation to ensure that policies and regulation do not have unintended consequences that adversely impact the small business sector.

The ASBFEO's office should be contacted to help determine whether there are likely to be impacts on small businesses and whether they should have different obligations from larger businesses in relation to the operation of the possible regulation. The ASBFEO's office can provide assistance with effective consultation with the small business sector and key stakeholders.

The ASBFEO's office can be contacted on 1300 650 460 or advocacy@asbfeo.gov.au.

International Trade and Investment Law Impacts

Reducing the risk of implementing measures inconsistent with international trade and investment law requires that government agencies:

- develop a basic understanding of Australia's trade and investment law obligations; and
- seek advice as early as possible in the policy cycle.

Australia's international trade and investment law obligations are contained in the multilateral World Trade Organization Agreements, Australia's bilateral and plurilateral Free Trade Agreements, and Australia's bilateral investment Agreements. Our obligations exist in relation to trade in goods, services, investment and intellectual property.

Ensuring consistency with Australia's trade and investment law obligations is an important consideration when developing policy proposals in order to mitigate the risk of a dispute being brought against Australia for allegedly breaching these obligations. In this context, it is worth noting that the cost of defending Investor-State Dispute Settlement (ISDS) proceedings is generally borne by the agency with the relevant policy interest at stake.

The Trade and Investment Law Branch at the Department of Foreign Affairs & Trade (trade.law@dfat.gov.au) or the Office of International Law within the Attorney-General's Department (oil.coordinator@ag.gov.au) can help you understand how your proposed policy may interact with Australia's trade and investment law obligations.

Timing

Outline key dates and give an indicative timeline.

More information on the RIS process

More information on the RIS process is in the [Australian Government Guide to Regulatory Impact Analysis](#).