safe work australia

Explosives Regulation in Australia

Decision Regulation Impact Statement

July 2016

Safe Work Australia is an Australian Government statutory agency established in 2009. Safe Work Australia consists of representatives of the Commonwealth, state and territory governments, the Australian Council of Trade Unions, the Australian Chamber of Commerce and Industry and the Australian Industry Group.

Safe Work Australia works with the Commonwealth, state and territory governments to improve work health and safety and workers' compensation arrangements. Safe Work Australia is a national policy body, not a regulator of work health and safety. The Commonwealth, states and territories have responsibility for regulating and enforcing work health and safety laws in their jurisdiction.

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Executive Summary

In December 2012, the Council of Australian Governments (COAG) decided national consistency in explosives regulation be progressed where there are clear benefits to be derived. In March 2015, COAG senior officials agreed Work Health and Safety (WHS) ministers take forward work on nationally consistent explosives regulation. Ministers asked Safe Work Australia to undertake this work on their behalf.

For the development of this decision Regulation Impact Statement (RIS), the Agency conducted a public comment process between July and September 2015. Interviews with businesses took place September to November 2015. Targeted consultation on implementation of options was conducted during January 2016.

This RIS analyses options for reform of jurisdictional explosives legislation to achieve national consistency in the regulation of explosives across Australia. In accordance with the COAG Best Practice Regulation guidelines, the RIS recommends the option which provides the greatest net benefit to the community.

Nature and extent of the problem posed by differences in explosives regulation

Each jurisdiction, that is states, territories and the Commonwealth, has its own system for regulating the lawful use of commercial explosives in Australia.

Evidence from businesses operating across different jurisdictions indicates variations in regulations have a negative impact on their administrative business practices and on the free flow of explosives products and workers across jurisdictions. This impact is felt by businesses in relation to commitment of resources, including staff time and associated costs, impacts on productivity and the ability to compete for jobs in different jurisdictions.

In particular, during the public comment process the explosives industry identified that inconsistencies among jurisdictions in the definition of explosives, licensing arrangements, notification processes and explosives authorisation processes pose significant administrative problems for businesses. Further, some respondents also noted that managing the differences in jurisdictional explosives legislation can take up resources that might otherwise be allocated to safety and security matters within their businesses.

Variable laws may also impose a cost or administrative burden for state and territory governments through duplicative processes. Explosives regulators consistently expressed a view that national consistency in explosives legislation and the associated administrative processes would deliver efficiency and greater convenience for businesses through a reduction in red tape. It would also provide businesses with greater certainty regarding their compliance activities.

As at 8 March 2016, there were approximately 10 555 occupational licences and 4 869 activity-based licences across all jurisdictions. Based on information provided through public consultation activities, the Agency estimates that approximately 46 per cent of businesses in the explosives industry are small businesses, 19 per cent are medium sized businesses and 35 per cent are large businesses.

Statement of options

The objective of this decision RIS, in accordance with the COAG agreement in December 2012, is to pursue national consistency in explosives regulation where there are clear benefits to be derived. The primary objective of the reform is to develop an agreed national approach to the regulation of explosives in Australia which delivers:

- reduced uncertainty and administrative burden for businesses
- improved business competition and cross jurisdictional business outputs, and
- consistent regimes for licensing and authorising explosives.

The overall target of government action as outlined in this decision RIS is to significantly reduce the administrative burden imposed on businesses by the legislative variations across jurisdictions. The reforms aim to reduce compliance costs to businesses by approximately 60 per cent.

There are two feasible options presented in this decision RIS:

- Option 1 – the status quo, or
- Option 2 – national consistency in four areas in existing explosives legislation.

Option 1: Status quo

The first option considered in the decision RIS involves retaining existing jurisdictional explosives legislation without any amendments. This means the current variations in legislative arrangements would remain and businesses would continue to be impacted by the administrative burden associated with inconsistent requirements.

Option 2: National consistency in four areas in existing explosives legislation

The second option considered in the decision RIS involves reform to achieve national consistency in four areas: the definition of explosives[1]; the licensing framework, underpinned by a nationally consistent security checking processes and competency requirements; the notification process and the explosives authorisation process. National consistency in these areas would reduce complexity and confusion created by cross-jurisdictional differences in explosives legislation, improve efficiency for businesses and reduce the areas of most significant administrative burden on business in terms of staff time and cost.

Impact analysis of options and preferred option

Option 1: Status quo – not preferred

The Agency's analysis revealed that this option would not result in any changes to existing jurisdictional explosives regulations and would not address the administrative problems identified by stakeholders. There would be no opportunity to reduce uncertainty or the administrative burden arising from variations in jurisdictional regulations, improve business competition and cross jurisdictional business outputs or provide consistent regimes for licensing, explosives notifications and authorisations. Consequently, the objectives of government action would not be met. Regulators

[1] In this decision RIS, references to a nationally consistent definition of explosives are in the context of a definition for the purpose of explosives legislation.

would also continue to carry out explosive related regulatory activities that could duplicate activities carried out by other regulators on behalf of the same businesses in other jurisdictions.

The Agency estimates the total cost impact on businesses to operate in the current explosives regulatory environment in terms of administrative processes is approximately $22.76 million per annum.

The Agency has concluded that maintaining the status quo is not the recommended option and its continuation would not deliver clear benefits for the community.

Option 2: National consistency in four areas in existing explosives legislation - preferred

The Agency's analysis supported a targeted approach to reduce industry's administrative burden by achieving national consistency in four areas of explosives regulation identified by the explosives industry. These four areas are: the definition of explosives, the licensing framework, underpinned by a nationally consistent security checking process and competency requirements; the notification process and the explosive authorisation process. Reforms in these areas could be achieved through amendments to administrative arrangements in existing jurisdictional legislation which continues to provide flexibility for jurisdictions to regulate explosives within their existing frameworks and will minimise transition costs for businesses.

The Agency estimates the total cost impact on businesses to operate in the current explosives regulatory environment in terms of administrative processes is approximately $22.76 million per annum. National consistency in the four areas could result in an estimated saving of $13.83 million per annum for businesses. On-going compliance costs after reforms are implemented, including transition costs to businesses, are approximately $8.93 million per annum.

A summary of the savings associated with achieving national consistency in each reform area is in Table 1.

Table 1: Estimated savings associated with achieving national consistency in each reform area

Reform area	Savings ($ million)
Nationally consistent definition of explosives	$8.73
Nationally consistent licence framework	$3.48
Nationally consistent notification process	$1.36
Nationally consistent authorisation process	$0.26
Total savings	$13.83

The Agency has concluded that reform in the four areas will deliver the greatest net benefit for the community. It will potentially deliver savings for businesses of approximately 61 per cent by reducing uncertainty and administrative burden. These reforms will also deliver a range of intangible benefits to businesses and explosives regulators, such as the removal of barriers to trade across jurisdictional borders and improvement in business practices. Further, this may also improve safety and security for those people working with explosives, as national consistency in these areas may reduce inadvertent non-compliance arising from different jurisdictional requirements and free up a business' resources for safety and security matters.

Implementation and review

Should WHS ministers agree to the preferred option in this decision RIS, Safe Work Australia will undertake the next stage of achieving nationally consistent explosives legislation in the four reform areas on behalf of WHS ministers.

Safe Work Australia will report to WHS ministers via their senior officials on progress in developing example provisions for each area. Once these are developed, WHS senior officials will monitor jurisdictional progress in implementing the reforms in the four areas.

A post-implementation external review assessing the efficiency, effectiveness and appropriateness of the implementation of the example provisions as adopted in jurisdictions will take place in mid-2022. This timeframe will ensure an adequate amount of time has elapsed to assess the impact of the reforms within each jurisdictional environment.

1. Nature and extent of the problem posed by differences in explosives regulation across Australia

In December 2012, the Council of Australian Governments (COAG) decided that national consistency in explosives regulation be progressed where there are clear benefits to be derived. In March 2015, COAG Senior Officials agreed Work Health and Safety (WHS) ministers take forward work on nationally consistent explosives regulation. Ministers asked Safe Work Australia to undertake this work on their behalf.

Each jurisdiction, that is states, territories and the Commonwealth, has its own system for regulating the lawful use of commercial explosives in Australia.

Jurisdictional explosives laws cover administrative arrangements such as how an explosive is defined, the licensing requirements for the use of explosives (blasting and pyrotechnics) and explosives activities (manufacture, supply, storage, import/export and transport); the process for authorising an explosive product and notifications of explosives events and incidents.

Explosives legislation also addresses how explosives are to be used and how activities are to be carried out through regulated technical requirements. For example, jurisdictional explosives legislation sets out the technical requirements for the storage, manufacture, transport and use of explosives, such as blast planning, the management of sites where explosives are used and risk management strategies for the use of explosives.

Variations exist within jurisdictional explosives regulations, including differences in the way they are administered by jurisdictional regulators, and these variations impact how business is conducted in the explosives industry.

To examine the effect of the variations of explosives regulation on businesses involved in the explosives industry, Safe Work Australia conducted a public comment process in 2015 with the release of the *Explosives Regulation in Australia: Discussion Paper and Consultation Regulation Impact Statement* (consultation RIS). The purpose of the public comment process was to gather information about issues, if any, the differences in jurisdictional explosives legislation may raise for businesses in the explosives industry and members of the public. As part of this information gathering, Safe Work Australia also sought evidence of the extent of these impacts on businesses and members of the public and to discover from respondents if there were ways by which to resolve problems arising through the variability in jurisdictional explosives regulations, including identifying any areas where there may be clear benefits to be gained from regulatory reform.

Safe Work Australia also engaged consultants to conduct interviews with businesses and with jurisdictional explosives regulators on their experience of explosives legislation across Australia and any ramifications differences in explosives legislation may have for them. Further, Safe Work Australia conducted a targeted consultation process with businesses, industry groups and regulators to gather information on possible implementation options for reform identified in the public comment process. Additional information on all aspects of information gathering conducted by Safe Work Australia is provided in Appendix B.

This decision regulation impact statement (RIS) has been prepared by the Agency supporting Safe Work Australia (the Agency) and meets the requirements for the Council of Australian Governments (COAG) best practice regulation guidelines for a COAG decision RIS.

1.1 Statement and extent of the problem

Evidence gathered through consultation activities with businesses operating across different jurisdictions indicates that variations in the administrative requirements and processes, under jurisdictional explosives regulations, have a negative impact on their business.

Businesses identified that the problem is largely the administrative burden arising from navigating the differences in explosives legislation when operating across state and territory borders. This impact is felt by businesses in relation to commitment of resources, including staff time and associated costs, impacts on productivity and business growth, the ability to compete for jobs in different jurisdictions and barriers to the free flow of explosives products and workers across jurisdictions.

Further, information gathered through submissions to the consultation RIS, interviews with businesses and regulators and results from a targeted consultation process indicate that inconsistencies among jurisdictions in the key areas of the definition of explosives, licensing arrangements, notification processes and explosives authorisation processes pose significant administrative problems for businesses. The Agency's analysis indicates that a large proportion of businesses spend considerable staff time and money on complying with the administrative requirements and processes of the various explosives regulatory regimes across multiple jurisdictions.

Evidence suggests the extent and significance of the administrative burden may vary with the size of the business. Larger businesses reported they experience increased administration costs to manage regulatory differences between jurisdictions, while noting they are better able to absorb these administrative costs and disperse the extra workload across their staff. In comparison to larger businesses, smaller businesses considered the administrative burden to be more significant. Smaller businesses reported they do not have the same amount of staffing and financial resources as larger businesses to manage compliance associated with different jurisdictional requirements. The disproportionate effect on businesses of managing various legislative requirements across jurisdictions creates a distortion in the market and may provide an unfair advantage to larger businesses when competing for contracts that require work to be undertaken in more than one jurisdiction.

Overwhelmingly, the problems raised by businesses operating in the explosives industry relate to the administrative burden arising from complying with multiple sets of jurisdictional requirements when working across state and territory borders. However, some respondents also considered that differences in jurisdictional explosives regulations could also have an impact on safety and security matters. During consultation, peak industry associations and some of the largest businesses in the explosives industry commented that there is the potential for jurisdictional differences in administrative aspects of explosives legislation to affect the safety and security of commercial explosives. For example, the definitions of explosives products determine how they are regulated. It was raised that inconsistent definitions create unnecessary confusion within the industry, and this may lead to inadvertent non-compliance.

From the jurisdictional explosives regulators' point of view, regulatory differences between jurisdictions are not a major issue. Variable laws across jurisdictions may however impose a cost or administrative burden for state and territory governments through carrying out duplicative processes. Regulators consistently expressed a view that national consistency would deliver efficiency and

greater convenience for businesses through a reduction in red tape and provide businesses with greater certainty regarding compliance. Regulators considered the reduction of administrative burden would relieve the current frustration experienced by businesses operating in the explosives industry that move across state and territory borders.

The quantitative and qualitative analysis of evidence provided by businesses and regulators shows there is a need for government action to implement reforms to achieve national consistency in explosives legislation to address the problems identified by the explosives industry. The explosives industry and regulators suggest that by removing these variations there would be a reduced administrative burden on businesses. This could also lead to other intangible benefits such as improving innovation, productivity and competition, reducing inadvertent non-compliance and freeing up resources for safety and security matters.

1.2 Size of explosives industry

Australia primarily uses commercial explosives for mining-related activities. Explosives are also used for quarrying, construction, demolition and defence purposes, as well as for agricultural blasting, rock breaking, industrial tools, life-saving devices, fireworks and special effects in the entertainment industry. The explosives industry itself is an essential component in the supply chain of other industries such as mining, construction, road and bridge construction, site preparation services, agricultural blasting and heavy industry and other non-building industries.

The Agency's analysis of submissions to the explosives consultation RIS found the explosives industry to have high workforce mobility needs as it is estimated that 79 per cent of licences are held in multiple jurisdictions. The remaining 21 per cent of licences are held in a single jurisdiction.

Public comment respondents indicated a desire to expand their operations into additional jurisdictions should barriers to trade created through variations in jurisdictional explosives legislation be reduced.

Identifying the number of businesses involved in the explosives industry is difficult. In part, this is due to a general lack of data on the industry itself. The Australian Bureau of Statistics does not collect data on businesses specifically involved in explosives, with the exception of explosives manufacturing. The difficulty in determining the number of businesses involved in explosives is compounded by a lack of visibility of businesses in the industry. This lack of visibility may be due to businesses operating as part of other industries, such as mining and construction, rather than being specifically identified as explosives businesses.

Jurisdictional regulators reported there were approximately 10 555 occupational licences and 4 869 activity-based licences across all jurisdictions (as at 8 March 2016). A table showing the breakdown of these licences by industry sector and jurisdiction is in Appendix A.

Based on information provided through public consultation activities, the Agency estimates that approximately 46 per cent of businesses in the explosives industry are small businesses, 19 per cent are medium sized businesses and 35 per cent are large businesses.

Throughout this decision RIS, a business is considered to be a person, partnership, or corporation engaged in the explosives industry.

2. Statement of options

The objective of this decision RIS, in accordance with the COAG agreement in December 2012, is to pursue national consistency in explosives regulation where there are clear benefits to be derived. The primary objective of the reform is to develop an agreed national approach to the regulation of explosives in Australia which delivers:

- reduced uncertainty and administrative burden for businesses
- improved business competition and cross jurisdictional business outputs, and
- consistent regimes for licensing and authorising explosives.

The target of government action in this decision RIS is to significantly reduce the administrative burden imposed on businesses by the legislative variations across jurisdictions by a significant amount (approximately 60 per cent).

During the preparation of a decision RIS, government agencies are required to consider all feasible policy options to address the identified problems. A decision RIS generally considers a minimum of three feasible policy options, including maintaining the status quo. Additionally, the feasibility of policy options considered in this decision RIS must also be considered in the context of the 2012 COAG directive which requires WHS ministers to pursue national consistency where there are clear benefits to be derived.

The Agency, through extensive consultation with businesses operating in the explosives industry, has established the lack of national consistency in explosives regulation across Australia is imposing an unnecessary regulatory burden on businesses that operate on a multi-jurisdictional basis. The problem identified by the Agency's analysis of the evidence provided by stakeholders shows that this regulatory burden is administrative and relates to the duplicative administrative processes and documentation required to operate under the existing legislative framework of each jurisdiction in which the business operates. For example, a business which wants to operate in multiple jurisdictions must make separate licence applications to each jurisdiction in which it intends to operate. Each licence application also requires that similar security checking processes be undertaken separately for each jurisdiction. Proof of competencies must also be demonstrated separately in each jurisdiction, as relevant. Applying for licences, undergoing security checking and demonstrating competencies are, on the one hand, very repetitive across jurisdictions and, on the other hand, very particular to each jurisdiction. This is because, while each jurisdiction requires the same type of information, the application processes and application forms are different in each jurisdiction.

There are two feasible policy options for consideration. The feasible policy options are:

- Option 1 – the status quo, or
- Option 2 – national consistency in four areas in existing explosives legislation.

In line with RIS requirements, the status quo must be one of the feasible options analysed in a RIS.

Option 2 was developed and refined by the Agency from the information gathered through the submissions to the explosives consultation RIS and targeted rounds of consultation with stakeholders in the explosives industry and explosives regulators. This policy option has been designed to directly address the identified problem by easing the regulatory administrative burden imposed on businesses operating on a multi-jurisdictional basis. Option 2 will deliver a range of

administrative benefits to businesses that will overwhelmingly outweigh the minimal transition costs associated with the reform. Importantly, Option 2 will have a negligible impact on businesses that operate in a single jurisdiction who are not currently impacted by the differences in explosives legislation between jurisdictions.

A single national law was another option arising from consultation with stakeholders as a way to remove differences in explosives regulation in Australia and address the administrative burden on businesses.

The Agency carried out a qualitative analysis to determine whether a single national law was a feasible policy option when considered against the nature and extent of the problem identified by stakeholders, and given that all governments agree it would be possible.

The Agency recognises the enactment of a single national law would deliver benefits for businesses, notwithstanding the mechanism for enforcing the law. For example, a single national law could be enforced by a new national regulator or alternatively through state and territory regulators.

A single national law would streamline the administrative processes that are undertaken by businesses when operating across state and territory borders, including removing the administrative burden associated with the definition of explosives, licensing, notifications and the authorisation of explosives. The enactment of a single national law, as with the implementation of Option 2, would also potentially deliver a range of other intangible benefits, such as opening cross jurisdictional business opportunities for businesses currently operating in a single jurisdiction, creating a more level playing field amongst small and large businesses and improving business practices.

In addition to the benefit of uniform administrative processes, a single national law would also establish one set of regulated technical requirements. Jurisdictional explosives legislation sets out the technical requirements for the storage, manufacture, transport and use of explosives, such as blast planning, the management of sites where explosives are used and risk management strategies for the use of explosives. For businesses operating in multiple jurisdictions, one set of regulated technical requirements could free up a business' staff time which is currently spent complying with different jurisdictional explosives regulations.

While noting these potential benefits, the Agency's qualitative research shows the benefits to businesses of a single national law are likely to be overwhelmingly outweighed by the magnitude and cost of the regulatory changes associated with moving from eight separate legislative frameworks to one. A single national law would entail a holistic reform to all aspects of explosives regulation, which would require agreement by all governments. It would inadvertently trigger legislative amendments to technical regulatory requirements that were not identified as a problem for businesses during consultation for this decision RIS. These regulatory amendments would likely impose considerable transitional costs on all businesses operating in the explosives industry. This would disturb the business practices of both businesses operating in multiple jurisdictions and businesses operating in a single jurisdiction. All businesses would need to review and update their business practices, update management systems and train and educate their staff in the new technical requirements, over and above that which would be required under Option 2.

The magnitude of the impact or cost burden on businesses arising from standardised technical requirements is difficult to estimate as transitional costs will vary based on the jurisdiction(s) a business operates in and the current compliance requirements in those jurisdictions. It is likely that

considerable transition costs could arise from potential legislative amendments in the following areas:

- Storage – for example, design requirements for magazines and storage distances (separation and segregation distances) for explosives magazines.
- Manufacture – for example, location, design and construction of manufacturing facilities and equipment and manufacturing processes could result in changes to existing infrastructure and/or equipment.
- Transport – for example, vehicle/receptacle (container) design and construction and general transport requirements.
- Technical requirements in relation to the use of explosives and pyrotechnics could result in changes to blast planning, management of sites where explosives and pyrotechnics are used and risk management strategies.

In this context, the transition costs that would stem from a single national law would considerably outweigh the benefits for businesses when considered against the administrative nature of the problem identified by stakeholders in this process. Further, unlike Option 2, a single national law would impose additional transitional costs on businesses that operate in a single jurisdiction that are not currently impacted by the differences in explosives legislation between jurisdictions. These businesses would be required to transition to a new regime of technical legislative requirements with minimal benefits.

During consultation for this decision RIS, some businesses also suggested there could be benefits to establishing a national regulator to enforce a single national law. A national regulator could regulate and enforce a single national law at a national level. This arrangement would have the benefit of allowing businesses operating in multiple jurisdictions to engage with one authority for the regulation of explosives. A national regulator would also provide a mechanism for making decisions on the regulation of explosives at a national level.

Alternatively, a national regulator could enter an arrangement with jurisdictional regulators to carry out compliance and enforcement of the national law. However, the introduction of a national level of bureaucracy in addition to the existing jurisdictional regulators would detract from any benefits of this approach.

Unlike Option 2, which proposes minimal changes as it is targeted to addressing the problem identified by business in this RIS process, the creation of a single national regulator would be of disproportionate cost when compared to the benefits to be gained by industry. A single national regulator would be of considerable cost to Commonwealth and state and territory governments to establish and maintain (as demonstrated by the establishment of a national regulator for the heavy vehicle industry[2]). This option would also require agreement, and implementation of that agreement, by all governments to be established.

As required by COAG best practice regulation guidelines, government action should be effective and proportional to the issue being addressed and be commensurate with the magnitude of the problem, its impacts or the level of risk without action.

[2] National Heavy Vehicle Regulator *Annual Report 2014-2015, pages 57 and 71*

Because the Agency considers that the option of a single national law is not a feasible or practical option at this time, this option is not considered in the decision RIS. Based on the evidence from stakeholders, a single national law would 'overreach' and extend into amending legislative areas well beyond addressing the administrative burden identified as a problem (as outlined in section 1).

The objective of government action and addressing the administrative burden can be achieved through implementing the reforms outlined in Option 2, which is targeted toward addressing the problems raised by industry. This is explored further in section 3.

Non-regulatory options are also not considered feasible and as such are not considered in this decision RIS. The hazardous nature of the explosives industry requires close regulation and this is acknowledged by the industry itself. Explosives use and activities, including import/export, manufacture, transport, storage and supply, are all subject to regulation by jurisdictions. The problem identified by business is directly related to variations in administrative arrangements in jurisdictional explosives legislation. Options to effect legislative change are required to remove variations in administrative arrangements in jurisdictions' existing explosives legislation. Therefore, non-regulatory methods are not viable.

2.1 Option 1: Status quo

Option 1 is to maintain the status quo. The existing regulations administered by each jurisdiction for the lawful use of commercial explosives would be maintained in their current form with no changes.

2.2 Option 2: National consistency in four areas in existing explosives legislation

During the public comment process, the explosives industry identified four areas where clear benefits could be derived from reform for businesses involved in the explosives industry. These four areas for reform are the definition of explosives, the licensing framework, the notification process and the explosives authorisation process.

Option 2 is reform to achieve national consistency in these four areas within existing jurisdictional legislative frameworks.

2.2 (i) Nationally consistent definition of explosives

The definition of explosives is central to the ability of a business to comply with regulatory requirements in the jurisdictions in which they operate. If businesses do not know how an explosive is defined and classified in a particular jurisdiction, they will not know how the explosive should be treated in that jurisdiction.

A single national definition of explosives would assist in achieving national consistency in explosives legislation across jurisdictions. A single definition of explosives could be provided through reference to a definition of explosives provided in a trusted standard.

2.2 (ii) Nationally consistent licence framework

Licensing explosives occupations and activities is central to a business' ability to operate in a jurisdiction. Currently, businesses must be licensed separately in each jurisdiction in which they intend to operate. A nationally consistent licence framework would eliminate complexities and inconsistencies around obtaining multiple licences to work in multiple jurisdictions.

A nationally consistent security checking process and nationally consistent competency requirements would underpin a nationally consistent licence framework. Explosives regulators recognise that achieving national consistency in security checking processes is complex, as they are not the only authorities that have an interest. Achieving national consistency would require further discussion with various parties, such as local police and security agencies, to progress reform in this area.

2.2 (iii) Nationally consistent notification process

Businesses are currently required to provide jurisdictions with notifications of when and how they will use explosives, including pyrotechnics. Businesses are also required to provide notification of specific events, such as serious injuries and fatalities, the theft or loss of explosives and import and export of explosives. Variations in jurisdictional notification processes and what is required to be notified can create confusion for businesses and result in delays for businesses being able to carry out their business in a specific jurisdiction.

A nationally consistent notification process would assist businesses by reducing the administrative burden. This reduction would be achieved by removing variations in notification requirements between jurisdictions.

2.2 (iv) Nationally consistent authorisation process

To enable an explosive to be manufactured, imported and/or possessed, it first needs to be authorised as an explosive by the regulator. Authorisation is the process carried out by the explosives regulator to assess whether the explosive is fit for its stated purpose and safe to apply to that purpose. It confirms the classification code and United Nations number assigned to the explosive product by the applicant seeking the authorisation.

Under current jurisdictional legislation, the authorisation process must be repeated in each jurisdiction that the explosive is manufactured, imported, stored, transported or used. These duplicative processes can lead to delays in explosives products being authorised and impede a business' ability to operate across jurisdictions while authorisation applications are pending. Each jurisdiction also has a different set of administrative requirements for processing authorisation requests which can lead to inconsistent decisions being made by regulators on authorisation applications.

A nationally consistent process for the authorisation of explosives, conducted once, would assist businesses by reducing the administrative burden. A national list of authorised and prohibited explosives could support a nationally consistent authorisation process. A national list would provide a single source document for authorised and prohibited explosives and eliminate any confusion on what is or is not an authorised explosive in Australia.

3. Impact analysis

The impact on the community of the two feasible options outlined in section 2, including businesses and regulators, has been analysed by the Agency. Each impact analysis takes into account results from information gathered through submissions to the consultation RIS, results of independent interviews with businesses and regulators, results from the targeted consultation process conducted on how each option might be implemented and findings from the Agency's desktop research.

Background information on the public comment process, business and regulator interviews and the targeted consultation is in section 4.

To conduct the impact analysis, the Agency used qualitative and quantitative evidence gathered through the information sources identified as part of the decision RIS process. The Agency has developed administrative costs and/or savings estimates for businesses at a national level, as appropriate. The Agency acknowledges there will be costs and benefits to governments, however the focus of this decision RIS is on costs and benefits to businesses from a national perspective.

Estimates of the costs of current business practice, the status quo, provides baseline compliance costs for businesses. The focus of this decision RIS is primarily on costs to businesses. The Agency calculated compliance costs, including administrative, transitional, substantive and delay costs by analysing the cost categories applicable to businesses operating in the explosives industry in accordance with the Australian Government's Regulatory Burden Measurement framework.

The cost categories identified included costs associated with:

- notifications - for example, reporting relevant information to authorities
- education - for example, keeping up to date with regulatory requirements and communicating these to staff
- permissions - for example, licensing and authorisation activities
- purchasing - for example, product and source material
- recordkeeping - for example, supporting documents for applications, and
- delays - for example, administrative delays resulting in expenses and loss of income associated with waiting times for approvals, such as time spent waiting for licence applications, authorisations and renewals to be approved.

The Agency's calculations provide an estimate of the costs and/or savings to businesses and are not intended to provide exact costs and/or savings.

Data for costing and/or savings calculations was gathered through submissions in response to the consultation RIS, interviews with business and regulators, responses to the targeted consultation, from publicly available sources (including annual reports of regulators and regulator websites) and from industry reports. The characteristics of the explosives industry were based on this information. The industry characteristics include an analysis of business size, location, industry segment and degree of multijurisdictional operations.

Note, consistent with the Australian Government's Regulatory Burden Measurement framework for determining regulatory costs imposed on businesses, the Agency did not include direct financial costs associated with charges attached to a regulation that are payable to government, in the costs and/or savings provided in this decision RIS.

The OBPR has agreed to these costs and/or savings estimates. The impact analysis in this section has been developed by the Agency based on this qualitative and quantitative evidence, as appropriate.

3.1 Status quo (Option 1)

Continuing the status quo for multijurisdictional businesses would not ease the current administrative burden faced by these businesses when complying with different jurisdictional administrative requirements.

Retaining the status quo would continue to absorb business' staff and financial resources in order to manage and comply with jurisdictional administrative differences when operating across jurisdictional borders. The status quo would continue to limit productivity and restrict the free flow of explosives products, equipment and workers across jurisdictions.

The administrative burden of the status quo would also continue to inhibit the expansion of some businesses, including single jurisdiction businesses, into interstate markets. Smaller businesses would continue to be at a competitive disadvantage due to the need to invest resources, both staff and financial, to manage administrative differences in compliance between jurisdictions, rather than utilising those resources to seek out new business opportunities to grow the business and increase productivity.

Since the variations in jurisdictional legislative frameworks would remain, the objectives of government action would not be met. There would be limited opportunity to reduce uncertainty and administrative burden, improve business competition and cross jurisdictional business outputs, provide consistent regimes for licensing, explosives notification and authorisation and improve business practices. Regulators would also continue to carry out explosive related regulatory activities that could duplicate activities that are also being carried by regulators on behalf of the same businesses in other jurisdictions.

The Agency estimates the total cost impact on businesses to operate in the current explosives regulatory environment in terms of administrative processes is approximately $22.76 million per annum. Note, the costs associated with the current variations across jurisdictions have been focused on the primary concerns raised in the *Explosives Regulation in Australia: Discussion Paper and Consultation Regulation Impact Statement*.

3.2 National consistency in four areas in existing explosives legislation (Option 2)

In general, the current system of jurisdictional regulation is working well, apart from the administrative differences raised by the explosives industry during the public comment process.

The Agency considers reform to achieve national consistency in the administrative arrangements of the following four areas, as identified by the explosives industry, to be a targeted solution to address industry's concerns about inconsistent administrative processes:

- definition of explosives
- licensing of explosives use and activities, including security checking and competencies
- notification of explosives activities, events and incidents, and
- authorisation of explosives products.

The Agency considers reforms in these areas to be an effective and proportionate method to achieve national consistency to reduce the identified administrative burden borne by businesses. Reforms in these areas would achieve the greatest net benefit for the community by reducing

confusion, complexity and costs arising from differences in current jurisdictional administrative processes.

The impact of implementing reforms in these four areas would provide a significant benefit for businesses operating in multiple jurisdictions as they would streamline administrative processes associated with relevant components of explosives legislation. Some small businesses operating in a single jurisdiction would also receive a benefit from these reforms as they would help remove existing barriers to trade across jurisdictions. Addressing industry's concerns over inconsistent administrative processes may also provide intangible benefits, such as improved safety and security outcomes by reducing the potential for inadvertent non-compliance.

The Agency estimates the current total cost impact on businesses to operate in the current explosives regulatory environment in these four reform areas is approximately $22.76 million per annum. The Agency's methodology used to calculate the estimates for the total cost impact is outlined in the sections below on each of the reform areas.

While national consistency in the four reform areas could result in an estimated saving of $13.83 million per annum for businesses, there would continue to be on-going costs to business to comply with a nationally consistent definition of explosives, obtain the relevant explosives licences, notify regulators of particular explosives use, events or incidents and apply for authorisations for explosives products. The contribution made by achieving national consistency in each of these four areas is shown in the table below:

Table 1: Estimated savings associated with achieving national consistency in each reform area

Reform area	Savings ($ million)
Nationally consistent definition of explosives	$8.73
Nationally consistent licence framework	$3.48
Nationally consistent notification process	$1.36
Nationally consistent authorisation process	$0.26
Total savings	$13.83

The Agency has estimated on-going compliance costs after reforms are implemented, including transition costs to businesses, as approximately $8.93 million per annum. These on-going compliance costs are required due to the hazardous nature of explosives which requires regulation of explosives use and activities. The Agency's methodology used to calculate the estimates for the total savings is outlined in the sections below on each of the reform areas.

3.2 (i) Nationally consistent definition of explosives

A nationally consistent definition of explosives would provide all businesses with the same definition in each jurisdiction and ensure that all explosives are regulated appropriately for safety and security purposes. How an explosive is defined is central to how it is regulated. The definition of an explosive affects how it is classified, which in turn affects how that explosive is treated; for example, in transport or storage.

The use of the same definition of explosives in each jurisdiction would ensure the same explosive products are subject to the authorisation process, which in turn should ensure consistency in classifications across jurisdictions. Businesses advised that if each jurisdiction used the same classification for the same explosive, businesses would no longer need to change labels on

transport vehicles at state or territory borders to accommodate a different classification when transporting the explosive in that state or territory.

A nationally consistent definition would provide businesses with the confidence that what is considered to be an explosive in one jurisdiction is also considered to be an explosive in all other jurisdictions. This would help alleviate the resource drain experienced by businesses under the current arrangements which require businesses to research and understand what is an explosive in each individual jurisdiction in which they operate.

Businesses involved in manufacturing, importing and/or transporting explosives and operating on a multijurisdictional basis are likely to receive the maximum benefit from a nationally consistent definition of explosives. The definition of an explosive and the consequent classification of explosives have a direct impact on the daily operation of these industry sectors because they produce, import or move explosives across jurisdictions. It is these groups that are most directly affected by the administrative burden associated with the current jurisdictional differences in the definition used by explosives regulators.

Businesses operating in a single jurisdiction are also likely to benefit from the reform as a nationally consistent definition of explosives would provide a level playing field across jurisdictions. This would provide single jurisdiction businesses scope to grow their businesses into other jurisdictions by removing disincentives and removing the barrier to trade arising from different jurisdictional definitions. For small single jurisdiction businesses, managing compliance with different jurisdictional definitions could impose too great an administrative burden which precludes these businesses from expanding into other markets.

From a jurisdictional perspective, in the short term, single jurisdictional operators could be disadvantaged if the nationally consistent definition of explosives differs markedly from what applies now. The Agency has estimated the average transitional costs for all businesses across all options to be $0.78 million within the first year following implementation, or transitional costs over ten years of $0.08 million per annum.

To achieve a nationally consistent definition of explosives, regulators would need to adopt the agreed definition of explosives. Adoption would require consequential amendments to jurisdictions' relevant legislation, corresponding changes to jurisdictional business practices and systems, education of jurisdictional employees and communication of new compliance requirements to businesses operating in their jurisdictions. For these reasons, jurisdictional explosives regulators are the group considered to be least advantaged by a move to a nationally consistent definition for explosives. Jurisdictional regulators could experience some transitional costs to move to a nationally consistent definition of explosives, but the Agency has not costed this since transitional costs would be different for regulators as each jurisdictions' definition of explosives may vary and for businesses as each business may have different business practices to comply with various definitions.

There are three possible trusted standards which could provide the basis of the definition of explosives: the United Nation's document *Globally Harmonised System of Classification and Labelling of Chemicals* (GHS), the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (UNMR) and the *Australian Code for the Transport of Explosives by Road and Rail* (AE Code). The Agency notes a trusted standard would provide a nationally consistent definition for explosive substances, mixtures and articles. The Agency recognises that businesses could also benefit from a nationally consistent approach to the regulation

of some explosives-related materials where, for certain purposes, it could be appropriate to bring these related materials within scope of jurisdictional explosives legislation. Regulators would agree the scope of regulation required for those explosives-related materials. Jurisdictions would retain flexibility to regulate other explosives-related materials that are not defined as explosives.

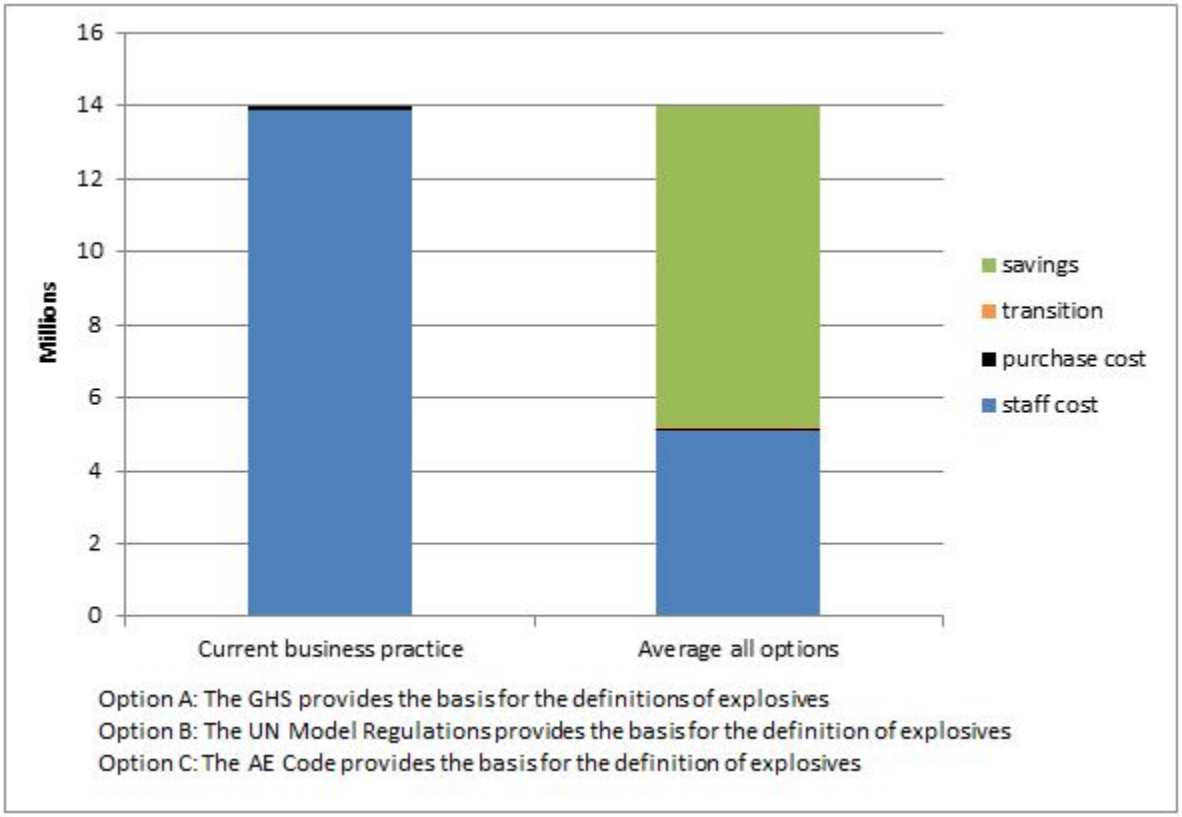
The Agency determined that costing the use of the identified standards provided appropriate parameters as they were identified by industry in the public comment process. However, during this process industry also noted that further consultation would need to be undertaken to determine the actual implementation option.

Therefore, the Agency calculated an average of potential savings that could be achieved by businesses through jurisdictional adoption of a nationally consistent definition of explosives.

The Agency has estimated the total cost to businesses to comply with differences in jurisdictional explosives definitions to be approximately $13.96 million per annum. Moving to a nationally consistent definition of explosives across all jurisdictions would represent savings of $8.73 million per annum. This represents an estimated saving of approximately 63 per cent, leaving businesses with an estimated cost of approximately $5.24 million in relation to transition costs and on-going costs associated with complying with regular updates to a single definition of explosives.

The savings estimate identified by the Agency incorporates a number of assumptions. Please see the list of assumptions in Appendix A.

Figure 1: Costing estimate of current business practice and average cost of single national definition of explosives



To estimate the potential savings to businesses from having a nationally consistent definition of explosives, the Agency developed a costing methodology to arrive at an average saving for

implementing a nationally consistent definition through the use of a trusted standard such as the GHS, UNMR and the AE Code. The Agency has estimated savings for businesses that could be delivered by adopting any one of these trusted standards as an average across the three standards. This average is shown in the table below:

Table 2: Savings associated with the use of a trusted standard for an explosives definition

Trusted Standard	Savings ($ million)
GHS (Option A)	$8.63
UNMR (Option B)	$8.75
AE Code (Option C)	$8.80
Average Savings	**$8.73**

The following table summarises the estimated regulatory burden on businesses engaged within the explosives industry as an average annual regulatory cost from business as usual. There are no costs estimated for community organisations or individuals as the activities of these populations do not interact with, and are not directly affected by, explosives legislation. Note that individuals who work in the explosives industry are included within the business sector. A reduction in regulatory burden is entered in the table in brackets to indicate a saving to business.

Table 3: Average regulatory burden associated with the use of a trusted standard for an explosives definition

Change in costs ($ million)		Business	Community Organisations	Individuals	Total change in costs
Average of options	Total, by sector	($8.73)	$0	$0	($8.73)

3.2 (ii) Nationally consistent licence framework

Licensing of explosives use or activities, such as transport, storage, manufacture, supply, import and export, is central to the regulation of the lawful use of commercial explosives in Australia. Explosives licences are issued for occupations, such as shotfirers, pyrotechnicians and explosives vehicle drivers. Explosives licences are also issued for activities such as transport, manufacture, supply, storage, import and export of explosives.

National consistency in explosives regulation can be achieved in part through a nationally consistent licence framework. The aim of a nationally consistent licence framework is to provide administrative relief to businesses by removing jurisdictional administrative red tape associated with differences in licence applications among jurisdictions.

To achieve a nationally consistent licence framework, regulators would need to adopt the agreed licence framework, including national consistency in security checking processes and competency requirements, along with technical requirements. The adoption of this framework would require consequential amendments to jurisdictions' relevant legislation, corresponding changes to jurisdictional business practices and systems, education of jurisdictional employees and communication of new compliance requirements to businesses operating in their jurisdictions.

A single national explosives licence for each occupation or activity would eliminate the complexity and inconsistencies around obtaining multiple occupational and activity licences to work in multiple jurisdictions. The use of a single national explosives licence for an occupation or activity would be recognised in all jurisdictions (Option A). Under Option A, businesses currently requiring multiple licences to allow them to operate in different jurisdictions would benefit most significantly. This option would involve one regulator carrying out the licensing activities nationally.

A single national explosives licence would reduce businesses' administrative time and cost needed to maintain licences, including managing variable renewal periods, for the same occupation or activity in multiple jurisdictions.

Under Option A, businesses currently requiring multiple licences to allow them to operate in different jurisdictions would only require one single national licence per occupation or activity that would allow them to operate in all jurisdictions. The number of times businesses have to apply and pay for relevant licences, including competency assessments and security clearances, would be limited to only one application and payment to one regulator for a single national licence.

There are likely to be transitional costs for all businesses under Option A due to the need to become familiar with a single national licence application process. The Agency has estimated the average transitional costs for all businesses for Option A to be $0.60 million in the first year following implementation or transitional costs over ten years would be $0.06 million per annum.

From a jurisdictional regulator perspective, the extent of the changes are expected to be equally felt in all jurisdictions as the changes would be brought about by the implementation of a single national licence. This regulatory function could be devolved to an existing jurisdictional explosives regulator acting on behalf of all other explosives regulators. Therefore, jurisdictional regulators would experience some transitional costs under Option A, but the Agency has not costed this since one jurisdictional regulator may take on the role of a national administrator on behalf of all regulators for a single national licence.

The complexity and confusion of multiple licensing requirements could also be reduced under current licensing systems, if all occupational licences and relevant activity-based licences in each jurisdiction were automatically recognised in other jurisdictions (Option B). For occupational licences subject to current mutual recognition arrangements, this would mean that the mutual recognition of those licences in other jurisdictions would become automatic. For activities crossing borders, and not subject to mutual recognition arrangements, licences would also be automatically recognised in other jurisdictions.

Under Option B, businesses currently requiring multiple licences to allow them to operate in different jurisdictions would benefit by only having to be licensed in their home jurisdiction. A person would submit an application for the relevant licence in their home jurisdiction which, if granted, would allow them to operate in all other jurisdictions. The number of times businesses would have to apply and pay for relevant licences, including competency assessments and security clearances, would be reduced to a one-time cost per licence application and associated renewals.

Transport companies and explosive vehicle drivers that move explosives and pyrotechnics across borders, pyrotechnicians conducting fireworks displays in multiple jurisdictions and shotfirers carrying out blasting operations in multiple jurisdictions would experience significant benefits in not having to apply and pay for multiple licences or for applications to have their licence mutually recognised in multiple jurisdictions.

Further benefits of Option B for relevant businesses operating in multiple jurisdictions would be that a person would only need to demonstrate their competency once, when the relevant licence is being applied for in the home jurisdiction. Option B would also result in applicants only being subject to one security check when applying for a relevant licence in their home jurisdiction. The security clearance would be valid for the duration of the licence.

The majority of businesses operating in a single jurisdiction would also benefit from Option B as their occupational or relevant activity-based licence would be recognised in other jurisdictions without additional cost. Transitional costs are unlikely for all businesses under Option B as businesses will apply for their licence through their home jurisdiction's current licensing process.

Option B would result in a slight disadvantage for regulators in that they would have to alter their approach to licensing and current licensing systems to allow for automatic recognition of licences issued in other jurisdictions. Therefore, jurisdictional regulators could experience some transitional costs under Option B, but the Agency has not costed this since transitional costs would be different in each jurisdiction as each jurisdiction's licensing processes vary. However, there would be a significant reduction in jurisdictions' administrative processes given that applications for mutual recognition would be eliminated as recognition of all other jurisdictions' occupational licences would be automatic and would not require an application. This reduction in administrative processes could offset some of the transitional costs to regulators. However, regulators are likely to experience a decrease in licence fees should automatic recognition be implemented for those activity-based licences crossing jurisdictional boundaries currently licensed separately by each jurisdiction, such as transport.

Alternatively, some complexity and confusion in licensing could be alleviated if regulators were to develop a consistent application process for use in each jurisdiction (Option C). A consistent application process would help to reduce variability in processes and requirements and provide business with a standardised process. However, Option C would still require businesses to apply for a licence in each jurisdiction in which they want to operate and would therefore not deliver any savings to businesses.

For each option, a nationally consistent process for security checking and nationally agreed competency requirements would be required to underpin a single national explosives licence, automatic recognition across jurisdictions of all licences or a consistent application process. Achieving national consistency in the security checking process would be at an agreed standard across jurisdictions.

To estimate the potential savings to businesses of having a nationally consistent licence framework, the Agency costed reforms associated with the approach identified in Option A and Option B. The Agency was unable to cost Option C as there is no information about a consistent application process which might be developed by regulators under Option C and any consequential impact on licence categories and recognition of licences.

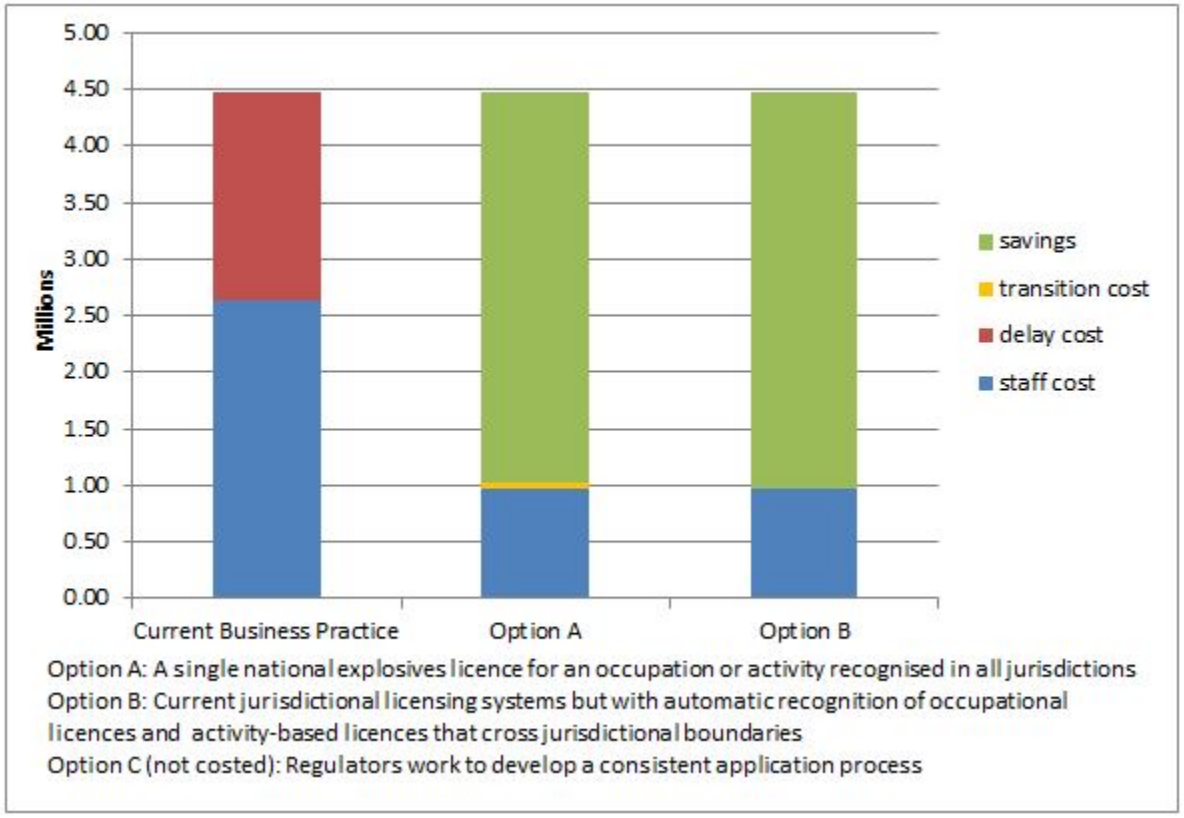
The Agency has estimated the total cost to businesses to comply with differences in licensing frameworks to be approximately $4.48 million per annum. These costs include delay costs associated with down-time while waiting for relevant licences to be issued across multiple jurisdictions.

Moving to a nationally consistent licensing framework across all jurisdictions would represent a saving of $3.48 million per annum. This represents an estimated saving of approximately

78 per cent, leaving businesses with an estimated cost of approximately $1.00 million in relation to on-going costs associated with complying with licensing requirements.

The savings estimate identified by the Agency incorporates a number of assumptions. Please see the list of assumptions in Appendix A.

Figure 2: Costing estimate of current business practice (status quo) and savings estimates of implementing a nationally consistent licence framework



Note, Option C was not costed by the Agency as there is no information about a consistent application process which might be developed by regulators under Option C.

The following table summarises the estimated regulatory burden on businesses engaged within the explosives industry as an average annual regulatory cost from business as usual. There are no costs estimated for community organisations or individuals as the activities of these populations do not interact with, and are not directly affected by, explosives legislation. Note that individuals who work in the explosives industry are included within the business sector. A reduction in regulatory burden is entered in the table in brackets to indicate a saving to business.

Table 4: Average regulatory burden associated with a nationally consistent licence framework

Change in costs ($ million)		Business	Community Organisations	Individuals	Total change in costs
Option A	Total, by sector	($3.45)	$0	$0	($3.45)

Change in costs ($ million)		Business	Community Organisations	Individuals	Total change in costs
Option B	Total, by sector	($3.51)	$0	$0	($3.51)
Average of Options	Average total, by sector	($3.48)	$0	$0	($3.48)

3.2 (iii) Nationally consistent notification process

Businesses are currently required to provide some regulators with notifications of when and how they will use explosives or pyrotechnics. Businesses are also required to provide notification of specific events, such as serious injuries and fatalities, the theft or loss of explosives and import and export of explosives.

Notifications are jurisdiction specific. For example, in relation to the use of pyrotechnics, one state requires notification in advance of and also after pyrotechnic use. Other jurisdictions do not have the requirement to notify regulators after the pyrotechnics are used. An additional example is the requirement of one state for notification of the movement of explosives into the state from another state, as this is treated as an import activity.

A nationally consistent process for notifications would assist in reducing the administrative burden on businesses. This could eliminate variations in notification requirements between jurisdictions for the same category of notification. Note, a nationally consistent process for notifications would apply only to those notifications required under explosives legislation.

One option to achieve this is a nationally consistent notification process in each jurisdiction (Option A) which would streamline processes for businesses and regulators, while continuing to provide for the jurisdiction-specific nature of notifications themselves. This option would require uniformity for notification categories, timeframes, and documentation including a consistent notification form. This option applies only to those notifications required under explosives legislation. These requirements for explosives notifications would be consistent across all jurisdictions. Option A could be supported by an online notification form for notifications, utilised by all jurisdictions.

Another option is a nationally consistent notification processes in jurisdictions with streamlined jurisdictional explosives notifications limited to notifications of explosives activities which could raise safety or security concerns (Option B). From this perspective, notifications of explosives use or incidents might be directly related to ensuring safety or security; for example, international import or export of explosives, explosives transport, and serious explosives incidents, such as injuries, fatalities and theft. This option would result in a reduction in the number of incidents or events that are subject to notification requirements which, in turn, should translate into less administrative burden for businesses.

Businesses which operate in multiple jurisdictions and are currently required to provide notifications for explosives activities or events would benefit most through Option B, as it would involve a nationally consistent notification process and adopt a focused approach to notification categories on the basis of those notifications with safety or security concerns. Multijurisdictional businesses would only need to understand and comply with one consistent set of requirements, as opposed to the current variations in notification requirements, and train staff in the use of one system. This would

also alleviate problems currently encountered with varying notification timeframes across jurisdictions which can impact business productivity and be a barrier to trade.

From a jurisdictional perspective, current business practices for operators in single jurisdictions or in multiple jurisdictions could change depending on the types of notifications required and the format of notifications, for example if an online system is implemented. In some jurisdictions this could mean an increase in notifications or a decrease, depending on what is currently required to be notified in that jurisdiction. However, the number of notifications required could be fewer if safety and security concerns are the basis for determining which notifications are required under a nationally consistent explosives notification process.

There are likely to be transitional costs for all businesses under Option A and Option B due to the need to become familiar with a new explosives notification process. The Agency has estimated the average transitional costs for all businesses for either option to be $0.71 million within the first year following implementation or transitional costs over ten years would be $0.07 million per annum.

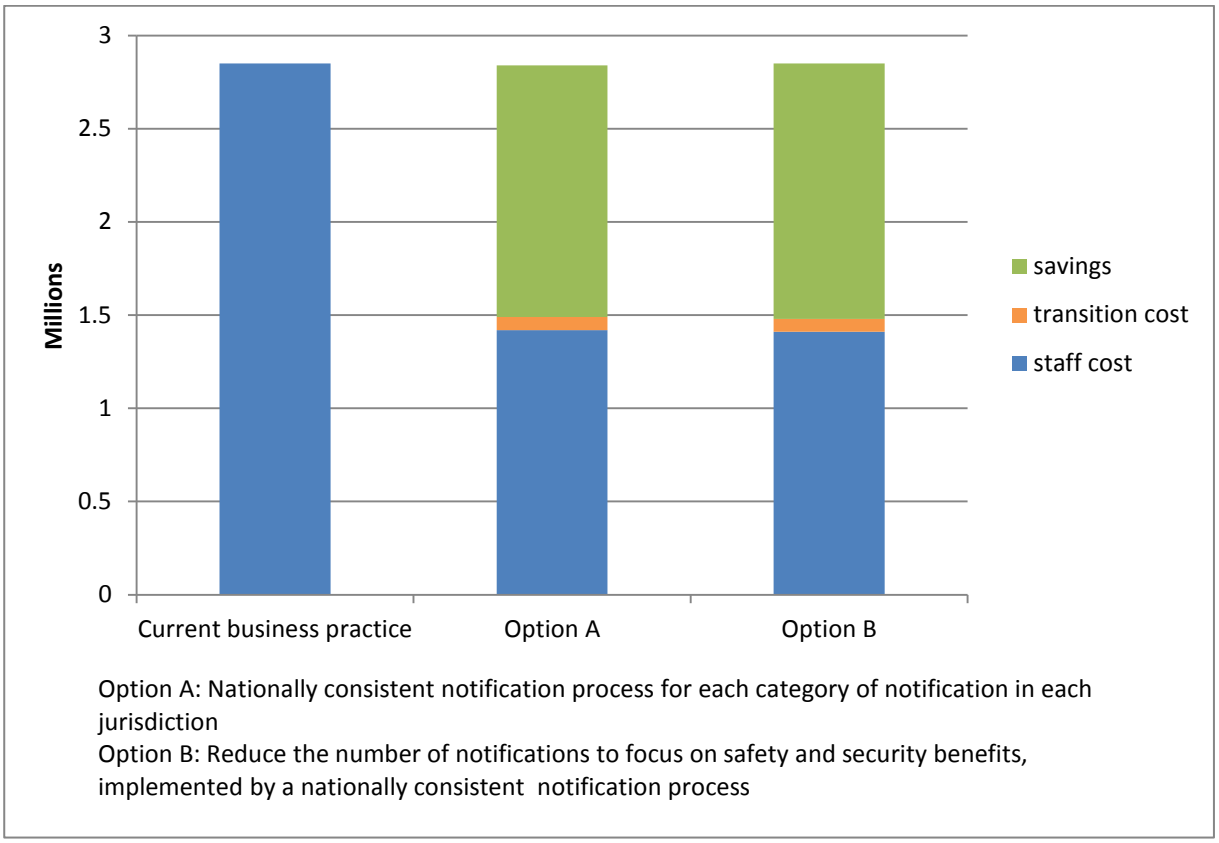
To achieve a nationally consistent notification process, regulators would need to adopt the agreed notification process. Adoption of either Option A or Option B would require consequential amendments to jurisdictions' relevant legislation, corresponding changes to jurisdictional practices and systems, education of jurisdictional employees and communication of new compliance requirements to businesses operating in their jurisdictions. Therefore, jurisdictional regulators could experience some transitional costs under both options, but the Agency has not costed this since transitional costs would be different in each jurisdiction as each jurisdiction's notification process and notification categories vary. However, there could be a reduction in jurisdictions' administrative processes should notification categories be reduced to those with safety or security concerns.

To estimate the potential savings to businesses of having a nationally consistent notification process, the Agency costed reforms associated with each identified approach.

The Agency has estimated the total cost to businesses to comply with differences in jurisdictional explosives notification processes to be approximately $2.85 million per annum. Moving to a nationally consistent notification process across all jurisdictions would represent a saving of $1.36 million per annum. This represents an estimated saving of approximately 48 per cent, leaving businesses with an estimated cost of approximately $1.49 million in relation to transition costs and on-going costs associated with complying with notification requirements.

The savings estimate identified by the Agency incorporates a number of assumptions. Please see the list of assumptions in Appendix A.

Figure 3: Costing estimate of current business practice (status quo) and savings estimates of implementing a nationally consistent notification process



The following table summarises the estimated regulatory burden on businesses working in the explosives industry as an average annual regulatory cost from business as usual. There are no costs estimated for community organisations or individuals as the activities of these populations do not interact with, and are not directly affected by, explosives legislation. Note that individuals who work in the explosives industry are included within the business sector. A reduction in regulatory burden is entered in the table in brackets to indicate a saving to business.

Table 5: Average regulatory burden associated with a nationally consistent notification process

Change in costs ($ million)		Business	Community Organisations	Individuals	Total change in costs
Option A	Total, by sector	($1.35)	$0	$0	($1.35)
Option B	Total, by sector	($1.37)	$0	$0	($1.37)
Average of Options	Average total, by sector	($1.36)	$0	$0	($1.36)

3.2 (iv) Nationally consistent authorisation process

To enable an explosive to be manufactured, imported and/or possessed, it first needs to be authorised as an explosive by the regulator. This process must be repeated in each relevant jurisdiction. Each jurisdiction has a different set of administrative requirements for processing authorisation requests.

The existing authorisation process is inefficient and time-consuming for businesses since the process must be repeated in each relevant jurisdiction and through differing application processes. This could also result in inconsistent decisions being made by regulators on authorisation applications across jurisdictions.

The current authorisation process is inefficient for all businesses regardless of whether they operate on a single or multijurisdictional basis and does not provide a single national list of authorised and prohibited explosives. Single jurisdiction businesses are unable to utilise authorisations which have already been approved in another jurisdiction and must undertake a duplicative authorisation process in their own jurisdictions. A multijurisdictional business is required to authorise each explosives product in each jurisdiction in which it intends to use or otherwise handle that explosives product.

A single authorisation process (Option A) would reduce the administrative burden experienced under the current authorisation process and remove inefficiencies and inconsistencies from the current system. Option A would also include a national list of authorised and prohibited explosives. There are likely to be transitional costs for all businesses under Option A due to the need to become familiar with a single national authorisation process. The Agency has estimated the average transitional costs for all businesses under Option A to be $0.30 million within the first year following implementation or transitional costs over ten years would be $0.03 million per annum.

Option A could involve one jurisdictional regulator carrying out the authorisation process on behalf of other jurisdictions and managing authorisation processes, including a national list of authorised and prohibited explosives. Therefore, jurisdictional regulators could experience some transitional costs under Option A, but the Agency has not costed this since transitional costs would be different in each jurisdiction as each jurisdiction’s authorisation processes may vary.

Retaining the current jurisdictional authorisation processes combined with automatic recognition of those explosives authorised or prohibited in other jurisdictions (Option B) would achieve the same benefits as Option A. Under Option B, businesses would apply for authorisation of an explosives product in one jurisdiction and the outcomes of that application would automatically be recognised in all other jurisdictions. Option B would also include a national list of authorised and prohibited explosives.

Automatic recognition of authorised explosives would eliminate the current need for businesses to make multiple authorisation applications, including testing arrangements, in each jurisdiction. It would not significantly change current authorisation requirements for businesses or regulators as the focus would be on removing unnecessary duplication arising from the same application process for the same explosive product being conducted in all jurisdictions.

Those businesses which are required to seek an authorisation of an explosive product in multiple jurisdictions, primarily explosive manufacturers and importers, would benefit the most under Option B. Current business practices would not change, however, this option would reduce the

number of applications a business would need to prepare to have the explosive product authorised across Australia through automatic recognition. The Agency does not anticipate transitional costs.

Option B would require consequential amendments to jurisdictions' relevant legislation. The automatic recognition of outcomes of jurisdictional authorisation processes would also result in benefits to regulators as duplicative processes would no longer need to be conducted by each jurisdiction to determine authorisation outcomes.

The administrative burden for the majority of explosives regulators under either Option A or Option B would be significantly reduced. Should one regulator carry out authorisation processes and/or maintain a national list of authorised and prohibited explosives on behalf of other regulators, there may be an increased burden which could be offset by cost recovery practices.

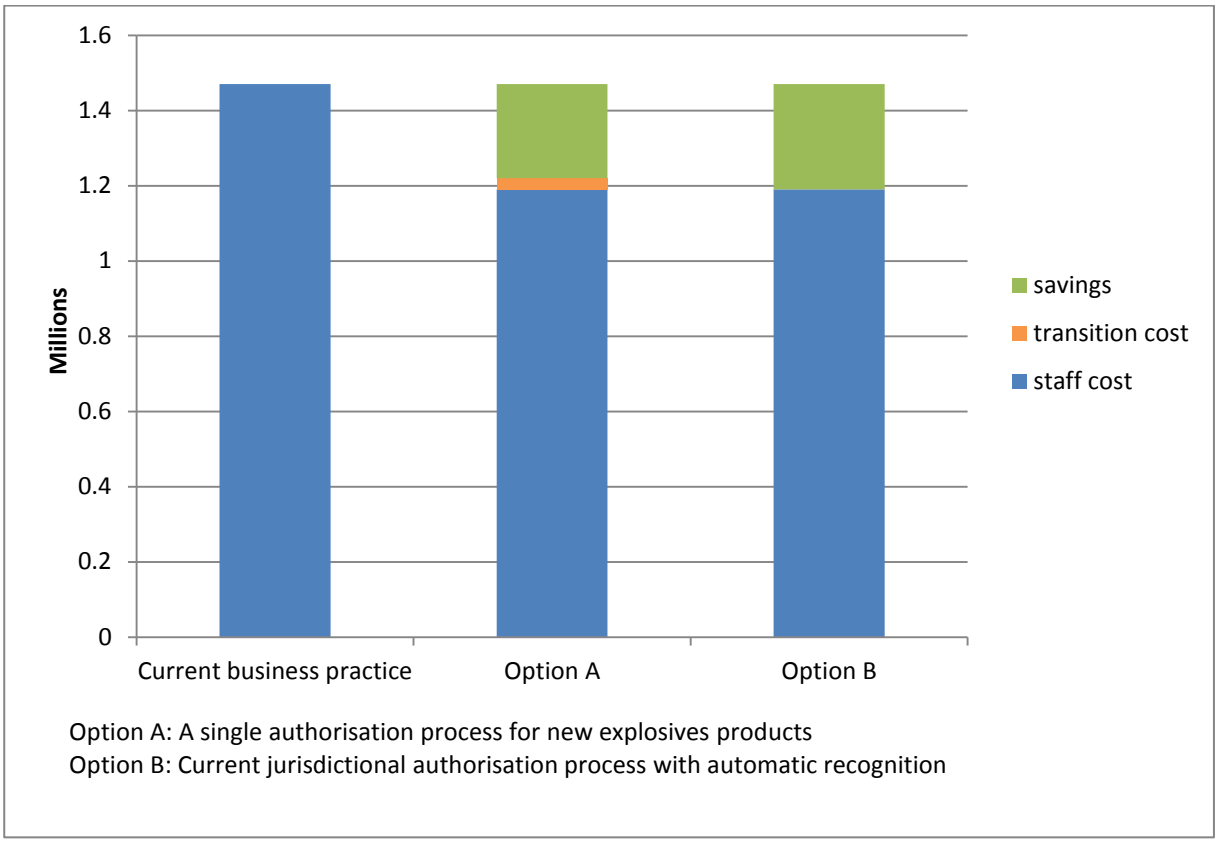
However, jurisdictional regulators could experience some transitional costs under both options, but the Agency has not costed this since the transitional costs would be different in each jurisdiction as each jurisdiction's authorisation processes may vary.

To estimate the potential savings to businesses of having a nationally consistent authorisation process, the Agency costed reforms associated with each identified approach.

The Agency has estimated the total cost to businesses to comply with differences in jurisdictional authorisation processes to be approximately $1.47 million per annum. Moving to a nationally consistent authorisation process across all jurisdictions would represent an average saving of $0.26 million per annum. This represents an estimated saving of approximately 18 per cent, leaving businesses with an estimated cost of approximately $1.21 million in relation to transition costs and on-going costs associated with complying with authorisation requirements.

The savings estimate identified by the Agency incorporates a number of assumptions. Please see the list of assumptions in Appendix A.

Figure 4: Costing estimate of current business practice (status quo) and savings estimates of implementing a nationally consistent authorisation process



The following table summarises the estimated regulatory burden on businesses engaged within the explosives industry as an average annual regulatory cost from business as usual. There are no costs estimated for community organisations or individuals as the activities of these populations do not interact with, and are not directly affected by, explosives legislation. Note that individuals who work within the explosives industry are included in the business sector. A reduction in regulatory burden is entered in the table in brackets to indicate a saving to business.

Table 6: Average regulatory burden associated with a nationally consistent authorisation process

Change in costs ($ million)		Business	Community Organisations	Individuals	Total change in costs
Option A	Total, by sector	($0.25)	$0	$0	($0.25)
Option B	Total, by sector	($0.28)	$0	$0	($0.28)
Average of Options*	Average total, by sector	($0.26)	$0	$0	($0.26)

* Note: average of options reflects rounding.

3.4 Conclusion

In conclusion, the Agency's analysis of the feasible options has determined that Option 2—reform to achieve national consistency in four key areas within existing explosives legislation—is the most effective option to address the administrative burden on the explosives industry and will provide the greatest net benefit to the community. This aligns with the COAG directive that national consistency be pursued where there are clear benefits to be derived.

Option 2 proposes achieving national consistency in these four reform areas through amendments to existing jurisdictional explosives legislation. This option minimises transition costs for businesses and does not alter existing technical requirements, which industry has not identified as a problem. Reform in these four areas would also provide businesses with greater certainty around use and activity requirements for explosives, promote increased productivity and create a more level playing field amongst small and large business. Individual occupational licence holders would benefit through increased workforce mobility. Consistency in these four areas may also provide intangible benefits, for example improved safety and security outcomes through limiting inadvertent non-compliance with different jurisdictional requirements and freeing up a business' resources to focus on safety and security matters.

This option for reform is targeted to address the problem identified by the explosives industry and regulators. It would also allow regulators to retain responsibility and accountability for the regulation of explosives at the jurisdictional level and maintain the necessarily local aspect of regulation, for example in relation to location/site-based activities (such as manufacturing, storage and disposal).

4. Consultation

The public comment process was conducted between July and September 2015. Interviews with businesses took place between late September and November 2015. During this period the Agency actively sought input from businesses operating in the commercial explosives industry. The Agency received 60 submissions to the consultation RIS from businesses involved in the explosives industry across Australia. In addition, after extensive canvassing of all available information, including referrals from other businesses or industry groups, 52 businesses that had not made submissions to the consultation RIS were interviewed. This has resulted in a total of 112 unique businesses that have provided input for this decision RIS. Seven submissions were also received from industry groups and submissions were received from two regulators.

After reviewing the submissions and results of the interviews with businesses and regulators, the Agency considered it necessary to undertake a targeted consultation process to gather additional information regarding implementation of options associated with the four reform areas identified during the public comment process and interviews. The Agency contacted all jurisdictional regulators, industry groups which had made a submission to the consultation RIS and small, medium and large businesses selected on the basis of having made detailed, comprehensive submissions to the consultation RIS. A total of 48 people were asked to participate in the targeted consultation, comprising nine regulators, nine industry groups and 30 businesses, of which 45 per cent were small businesses, 17 per cent were medium businesses and 38 per cent were large business. This proportion of small, medium and large businesses is proportional to the sample size of businesses interviewed by EY Sweeney. Of the 48 people contacted, 24 participants agreed to be contacted for the targeted consultation.

A breakdown of the submissions by location, size and industry sector is provided in Appendix C. Respondents represented the import, export, manufacture, storage, transport, supply, use and regulation of explosives. Appendix D provides a full list of the activities represented by respondents.

4.1 Summary of information from submissions and additional research

This section provides a summary of information from submissions to the consultation RIS, interviews with businesses and regulators and the targeted consultation. Having defined the nature and extent of the problem raised for businesses by jurisdictional legislative variations, the Agency determined that some of the options proposed by respondents were either not feasible or not proportionate to the scope of the problem. Other options proposed by respondents were in relation to issues that were either specific to a small number of respondents, for example, disposal of marine flares, or were specific to a single jurisdiction, for example, fireworks in Tasmania.

The Agency weighted the views of respondents by majority and took them into account when analysing options to address the problem identified by respondents.

4.2 National consistency in explosives legislation across jurisdictions

The majority of businesses supported a nationally consistent approach to the regulation of the lawful commercial use of explosives within their own jurisdictions' legislation.

Businesses advised maintaining the knowledge of the different requirements from state to state is time consuming and diverts resources which could be directed toward growing the business, supervising staff and managing safety. In businesses' opinion, where there are variations in jurisdictional regulations, there is often no obvious rationale, nor are there additional safety or security benefits realised.

Businesses and regulators agreed there would be benefit in achieving national consistency in four reforms areas. These are summarised below.

4.2 (i) Definition of explosives

The definition of an explosive is central to explosives regulation as it determines the type of products and substances that are regulated as explosives.

The consensus view of businesses was a preference for a common, Australia-wide definition. The majority felt that a national definition for explosives would promote greater compliance by removing areas of confusion and uncertainty. It would also eliminate administration costs involved in understanding and documenting differences in definitions between jurisdictions.

As there is no nationally consistent definition of explosives, respondents commented that the same materials could be managed differently depending on which jurisdiction they were located, resulting in inconsistent safety and security across Australia.

In contrast, a small number of businesses were of the view that inconsistent definitions were a minor administrative issue for them. For these respondents, differences in definitions are managed by having detailed risk management processes to mitigate any variations in the regulations and investment in resources to manage and monitor these processes. The Agency took this view into account, but considered the majority position outweighed this minority view.

The majority of regulators were of the view that differences in definitions of explosives did not create any difficulties for them, but could create difficulties for businesses.

Explosives precursors, generally termed “Chemicals of Security Concern”, are currently addressed through a Code of Practice developed by the Commonwealth Attorney-General’s Department. A respondent noted that explosives precursors should not be regulated under any nationally consistent explosives regulation since they do not meet a definition of explosives. Other respondents recommended that Security Sensitive Ammonium Nitrate (SSAN) should be included in nationally consistent explosives legislation. The Agency took the view that the regulation of SSAN is outside the scope of the explosives reform project directed by COAG in 2012 and this decision RIS.

4.2 (ii) Licensing arrangements

Licensing underpins the regulation of explosives in Australia. Part of the licence application process includes demonstration of relevant competencies or training and a current security clearance. Most respondents were of the view that requirements for individual state licences represent a significant administrative and cost burden with no perceived benefit to either safety or security.

Further, some respondents noted the current lack of a co-ordinated approach toward managing active, expired and cancelled individual security clearances and the movement of people and clearances across jurisdictions is deficient from a safety and security perspective.

Businesses considered different licence application processes, documentation requirements and validity periods across jurisdictions lead to extra administrative work for business in order to provide the same information but in different formats and at different times required by different jurisdictions. Complying with this administrative complexity was time consuming and, for some businesses, cost prohibitive, making it difficult for some businesses to take up opportunities in other jurisdictions.

While this applies primarily to businesses operating in multiple jurisdictions, businesses operating in a single jurisdiction would also realise benefit in standardised licensing criteria and application processes for site-based activity licences, such as manufacturing, storage and supply. Such standardisation would also assist in removing a barrier to trade. For example, standardised licence criteria and application processes for site-based activity licences would benefit those businesses seeking to expand their operations into another jurisdiction.

Licensing the transport of explosives was consistently provided as an example by businesses of the negative effect of various licensing requirements across jurisdictions. To transport explosives across Australia, licences must be held by the transporter, and in some jurisdictions, the driver of the vehicle. However, for the purposes of licensing the transporter, some jurisdictions review/inspect the prime-mover of a semi-trailer vehicle, others review/inspect the trailer, and others review/inspect the combination i.e. prime-mover and trailer configuration. To add further complexity, some jurisdictions issue licences per vehicle, while others issue one licence with several vehicles nominated under the one licence. In practice, an explosives transporter with several vehicles on the road would need hundreds of explosives licences to operate nationally and would need to monitor which part of a particular vehicle is licensed in particular states or territories.

The majority of businesses recommended a nationally consistent approach to licensing explosives activities. There were no significantly divergent views on the value of national consistency in explosives licensing.

All regulators were in support of a nationally consistent licence framework, with some regulators noting that security checking and competency issues would need to be dealt with in any national licensing system. The Agency acknowledged regulators' comments on security checking and competency issues and noted that national consistency in security checking criteria and competencies would underpin a nationally consistent licensing framework.

Many respondents commented that differences in explosive licensing arrangements have a significant impact on the explosives industry for both large and small businesses operating across borders, particularly in relation to mutual recognition of occupational licences and activity-based licences. Views of businesses and regulators on these topics are provided below.

Mutual recognition of occupational licences

One aspect of the current explosives licensing framework involves licensing the individual occupations of shotfirers, pyrotechnicians and explosives vehicle/transport drivers. Each state and territory administers its own application process by which licensees may request mutual recognition of their occupational licences in other jurisdictions. For example, a shotfirer licenced in Victoria is able to apply for mutual recognition of this licence in New South Wales.

The majority of respondents found the granting of mutual recognition of occupational licences by jurisdictions inconsistent, with little recognition of licences between jurisdictions, despite provisions for mutual recognition in each jurisdiction's legislation. A number of businesses considered the absence of mutual recognition as the main problem that companies face by limiting workforce mobility. Workers licensed in one state are restricted from providing the same service in another state if they are not licensed in that state or their licence is not recognised.

The majority of businesses were in favour of either a single national licence or automatic mutual recognition of occupational licences as a means to address administrative burden and costs associated with multiple mutual recognition applications or multiple licence applications. The Agency took these views into account and has retained occupational licences in its consideration for a nationally consistent licence framework in sections 3.3 (ii) and 5.3 (ii).

Activity-based licences

Respondents also provided comment on the level at which licences were issued, either based on an explosives activity, for example, the manufacture, transport or storage of explosives, or at the level of the individual, for example for the occupations of shotfirers, pyrotechnicians or explosives vehicle drivers.

Several submissions supported eliminating occupational licences and requiring individuals to operate under the authority of an activity licence held by the relevant business. These respondents suggested that existing licensing requirements for individual competency, medical fitness and security clearances should remain, but the primary obligation for compliance with these prerequisites should be up to the business to manage.

From this point of view, having one activity-based licence would eliminate the need for individual licences for employees with a consequent reduction in costs and administrative burden for businesses. For example, operators of Mobile Processing Units in some states are required to have one licence for the driver of the vehicle. If there are 100 employees capable of driving that vehicle,

then 100 licences would be required. Under an activity-based licence, only one licence would be required.

However, most businesses were of the view that individual occupational licences should be retained. Despite difficulties in achieving mutual recognition under the current arrangements, businesses noted that occupational licences promote workforce mobility by allowing individuals to move from state to state and from employer to employer, which could be circumscribed under activity-based licences. For example, under activity-based licences, if a worker is released or made redundant from a business, the worker would have no licence and would not be able to move easily into another job in either the same jurisdiction or in another jurisdiction.

Notwithstanding the obligation on businesses to ensure safety and security at a business level, in many businesses' view, an occupational licence also enhanced safety and security oversight of explosives users and enhanced accountability by making the responsibility for security clearances and training the direct responsibility of the individual. Some businesses were concerned that, if occupational licences were removed, businesses might compromise on skill and training levels of employees in response to commercial opportunities.

Other respondents placed their concerns in the context of compliance and considered that the increased compliance requirements placed on businesses for employee training, qualifications and security clearances might result in some businesses cutting corners, jeopardising safety and standards. Another submission considered individuals operating under the authority of activity-based licences would increase administrative costs and increase compliance requirements for business by putting the obligation on businesses to ensure employees are competent and have security clearances.

Other respondents considered that a move to only activity-based licences could disadvantage small to medium size businesses. In their view, larger businesses would be more likely to have systems in place to manage and control the tasks to be performed by qualified and trained employees which were formerly managed by individual licence holders themselves. Small and medium sized businesses would not have these management systems and could sustain a cost to acquire them. Increases in responsibility and compliance could also make it more difficult for smaller business or sole traders to remain viable.

Regulators in general considered activity-based licences might either be better for larger businesses or for particular types of activities, but that the occupations of shotfirer and pyrotechnician should remain subject to individual licences. Like businesses, several regulators were also concerned that security and competency might be compromised in a move to only activity-based licences.

The majority of respondents, both businesses and regulators, wanted occupational licences to remain. The Agency considered all views of respondents, but considered the majority position to retain occupational licences outweighed other minority views on expanding the authority of activity-based licences for this purpose.

4.2 (iii) Notification requirements

Explosives licensees, both individuals and businesses, are required to provide notifications to each jurisdictional regulator for various activities and events, such as explosives transport, pyrotechnic displays or explosives incidents. Notifications are jurisdiction specific and each jurisdiction has different requirements for what, how and when notifications are to be made.

Many businesses commented that understanding the various notification requirements across each state and territory is complex and confusing, imposing regulatory and cost burdens on both industry and regulators which may not be associated with any benefit or improved safety outcome. Since notification requirements are inconsistent, businesses operating nationally need to operate multiple systems to meet legislative requirements.

These differences can make it difficult for businesses to fulfil their customers' expectations. For example, one pyrotechnic business cited the difficulty in explaining to their customer, who provided two weeks' notice for a production in one jurisdiction that the same production could not proceed in another jurisdiction because four or more weeks' prior notice was required.

Another business commented on the significant differences in the amount of notification fees across different locations. For some jurisdictions, the increased costs are often prohibitive and prevent businesses from delivering an affordable option for their customers in those jurisdictions. A pyrotechnic business commented that its customers do not understand the cost differential for a production staged in different states or territories, when it is the same production in the different locations. Customers then complain when the same production is quoted at two completely different costs simply because of the jurisdiction in which it is occurring.

In relation to incident notifications, one company noted that notifications of an incident are a complex undertaking, in which up to five different authorities may need to be separately notified. Inconsistent definitions of an explosives incident and the inconsistent interpretation of the severity of an explosives incident make managing notifications more difficult for business. One business considered the difficulty to be so great that it employed a part-time employee to handle the notification process in order to save technicians from spending time performing administrative work.

The majority of businesses indicated they would welcome a nationally consistent notification process which would simplify reporting requirements. Some businesses were of the view that compared to other regulatory requirements, notification requirements were a minor issue which do not significantly impact their business. Given the evidence of the complexity and confusion for businesses generated by jurisdictional differences in notifications, the Agency determined that the majority view proposing a nationally consistent notification process outweighed the minority view.

From a regulator's perspective, one regulator noted that notifications are important for the regulation of explosives as they contribute to safety and security. Notification requirements, including notifications to multiple authorities, remain necessary and should continue.

Some businesses also suggested a national notification database be established. Businesses were generally unconcerned with the form or purpose of a database beyond the online notification portal it could provide. Businesses preferred the concept of electronic notification lodgement over a paper-based system.

Some regulators considered there may be some value in a national notification database, but noted that a national notification database would be of limited use as most notifications in one jurisdiction are not of direct relevance to other jurisdictions. The Agency considered the views of businesses and regulators on the use of a national notification database and determined that the use of a national notification database was unwarranted, given the jurisdiction specific nature of notifications.

4.2 (iv) Authorisation of explosives

The authorisation of explosive products is administered on a jurisdictional basis. Businesses apply to a jurisdictional regulator to have explosive products authorised in that jurisdiction. The requirements regarding authorisation applications vary in each jurisdiction.

Businesses identified issues around excessive time and cost spent on administration to address what are perceived as minor differences in requirements for authorising explosives in different jurisdictions.

Businesses also commented that even though an explosive product may only be intended for use in one jurisdiction, the product may still need to be authorised in multiple jurisdictions. Currently, an explosive product cannot be moved around the country until authorised by each jurisdiction through which it might be transported. An example was provided of a product manufactured in New South Wales for use in Western Australia. The product needed to be authorised in New South Wales, Western Australia and also Victoria and South Australia in order for the product to be transported through those states into Western Australia.

Two businesses suggested that authorisation of explosives by jurisdictions was no longer necessary and should no longer apply. However, the majority of businesses preferred a single national system for authorisation of explosives which would provide a consistent application process, make use of the same authorisation criteria and provide a national database of authorised explosives. Given the evidence of the expense and administrative time and effort generated by jurisdictional differences in authorisations, the Agency determined that the majority view proposing a nationally consistent authorisation process outweighed the minority view.

Most regulators considered a single national system for the authorisation of explosives had merit. One regulator considered authorisations of explosives should be addressed through industry classifying explosives and should not require a national authorisation system. Another regulator considered that a national authorisation system administered by one body would not be a timely process and considered automatic recognition of authorisations to be a better approach. Most regulators also agreed that a national panel of experts would be appropriate for managing a national authorisation system.

4.3 Single national explosives law

A single national explosives law, administered by a national regulator, was also suggested by respondents as a way to remove differences in explosives regulation in Australia.

Some submissions suggested that a single national law would need a national regulator to maintain standards for licensing, otherwise gaps in quality of skills may appear over time.

A number of regulators saw value in implementing a national explosives law for businesses. In general, regulators considered that a national regulator would have value in particular areas, for example, in a national system for the authorisation of explosives.

5. Preferred option

In this section, the Agency puts forward a view on the two feasible options presented in this decision RIS. The impact analysis conducted by the Agency in section 3 underpins the recommendations set out in this decision RIS.

To address the administrative burden in terms of staff time and costs, businesses have consistently requested national consistency in explosives legislation across Australia. In particular, during public consultation with industry and governments, four key areas of explosives legislation were raised as areas where benefits would be gained from national consistency: definition of explosives, licensing arrangements (including a national security checking process and nationally agreed competencies), notification processes and authorisation processes for explosives products.

Following the impact analysis of each feasible option in section 3 of this decision RIS, the Agency has identified in this section the option which is preferred and the option which is not preferred to achieve national consistency in explosives regulation where reform would have clear benefits for the community.

5.1 Option 1 – status quo – not preferred

The status quo would perpetuate jurisdictional differences in explosives regulation and would not achieve national consistency in explosives regulation for businesses. Continuing the status quo would not address the problem, as the explosives industry and governments have identified that the status quo is the problem—that is, the existing variations in administrative requirements among jurisdictional explosives regulation place an unnecessary administrative burden on businesses. The Agency has concluded that the status quo is not recommended as an option and its continuation would not deliver clear benefits for the community.

5.2 Option 2 – national consistency in four areas in existing explosives legislation- preferred

National consistency in explosives legislation and the associated administrative processes can be achieved through reforms in four key areas of existing explosives legislation. Reform in these areas was identified by the explosives industry and regulators in the public comment process. Under this option, businesses would benefit through reduced administrative burden, greater certainty for compliance and a removal of trade barriers, which in turn could increase business productivity and promote growth. Reforms in these areas could be achieved by targeted adjustments to administrative requirements in current jurisdictional legislation.

The Agency has concluded that reform to achieve national consistency in four areas within each jurisdiction's legislative framework will deliver the greatest net benefit for the community. It will potentially deliver savings for businesses of approximately 61 per cent by reducing uncertainty and administrative burden.

These reforms will also deliver a range of intangible benefits to businesses and explosives regulators. These intangible benefits could include the removal of barriers to trade to open cross jurisdictional business opportunities, improvement in business practices, a reduction in inadvertent non-compliance and freeing up resources for safety and security matters.

5.2 (i) Nationally consistent definition of explosives

A nationally consistent definition of explosives would provide businesses operating across jurisdictions with the same definition in each jurisdiction. The use of the same definition of explosives in each jurisdiction would ensure the same explosive products are subject to the authorisation process, which in turn would ensure consistency in classifications across jurisdictions. With each jurisdiction using the same level of classification for the same explosive, businesses would no longer need to replace labels on transport vehicles at state or territory borders to accommodate a different classification in use in that state or territory.

A nationally consistent definition of explosives would overcome the existing confusion and result in a reduction in administrative burden for businesses currently imposed by the need to comply with and monitor differences in explosives definitions in use in jurisdictions.

While a national definition for explosives would benefit many businesses by standardising what is or is not an explosive and the classification of explosives, businesses importing or exporting explosives or transporting explosives interstate on arrival at ports would not necessarily benefit. Explosives arriving in Australia from other countries are defined and classified with reference to an international standard.

There are several possible trusted standards which could provide a basis for a definition of explosives: the United Nations *Globally Harmonised System of Classification and Labelling of Chemicals* (GHS), the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (UNMR) and the *Australian Code for the Transport of Explosives by Road and Rail* (AE Code).

The Agency notes a trusted standard would provide the basis for a nationally consistent definition for explosives. The Agency recognises that businesses could also benefit from a nationally consistent approach to the regulation of some explosives-related materials where, for certain purposes, it could be appropriate to bring these related materials within scope of jurisdictional explosives legislation. Regulators would agree the scope of regulation required for those explosives-related materials. Jurisdictions would retain flexibility to regulate other explosives-related materials that are not defined as an explosive.

With potential savings for businesses following the implementation of a nationally consistent definition of explosives across jurisdictions estimated at 63 per cent, this option would deliver the greatest net benefit to the community. Regulators would also benefit through the use of a nationally consistent definition by removing potential impediments across jurisdictions for the automatic recognition of authorisations since all explosives would have the same classifications across Australia.

This decision RIS recommends a nationally consistent definition of explosives be achieved by referencing a definition of explosives provided in a trusted standard. The scope of the nationally consistent definition in jurisdictional legislation could be supplemented with nationally consistent additional legislative definitional inclusions within each jurisdiction’s legislative framework.

Agreement to the preferred option under section 5.2 (i) is an undertaking to progress the development of a nationally consistent definition of explosives within each jurisdiction's legislative framework by referencing a definition of explosives from a trusted international or national standard with additional legislative definitional inclusions to supplement the trusted standard. This option will deliver the greatest net benefit for the community by delivering potential savings for businesses estimated at $8.73 million per annum (63 per cent) and by reducing uncertainty and administrative burden.

5.2 (ii) Nationally consistent licence framework (Option B)

The preferred option to implement a nationally consistent licence framework is option B in section 3.3 (ii) which would standardise licence criteria and application processes for all licences, together with automatic recognition of those licences with the potential to cross jurisdictional boundaries. This would be achieved through:

- standard criteria and application processes for all explosives-related licences, including types and categories, suitability criteria, required supporting material and application and assessment protocols
- automatic recognition of occupational licences and of those activity licences with the potential to cross jurisdictional boundaries.

Standardised criteria and a standard application process for all explosives-related licences would eliminate jurisdictional differences in licensing for occupational licences, such as pyrotechnicians, explosives vehicle drivers and shotfirers. Further, standardised criteria and a standard application process would also be implemented for activity-based licences, such as manufacturing, supply, storage, transport, import and export. This approach would include standardising licence types and related categories, suitability criteria, required supporting material and application processes and associated assessment protocols.

Under automatic recognition of occupational and relevant activity-based licences, such as transport, businesses would no longer need to meet jurisdiction specific variations in order to have their occupational or activity-based licences accepted in other jurisdictions. For example, an occupation, such as a shotfirer, licensed in one jurisdiction would automatically be recognised in another jurisdiction. The shotfirer would not have to apply in the other jurisdiction to have the shotfirer licence recognised. This would be similar for a relevant activity-based licence. For example, a transport licence would be automatically recognised in other jurisdictions through which the explosive is transported. No separate licence or application would be required in other jurisdictions.

The approach to achieving a nationally consistent licence framework would be supported by national consistency in security checking processes and national consistency in competency requirements.

National consistency in security checking processes could be achieved through standardising the criteria and process within each jurisdiction, noting that explosives regulators are only one body with an interest in security. Other bodies, such as the local police and security agencies, also have an interest. Achieving a nationally consistent security checking process would require further discussion with various parties to progress national consistency, subject to agreement that a nationally consistent licence framework is appropriate.

Achieving national consistency in competency requirements would also provide assurance to both businesses and regulators that all staff undertaking activities or use of explosives are competent to

the same standard. This in turn, would enhance public safety by ensuring all licensed users of explosives have met nationally agreed competency requirements.

Within a nationally consistent licence framework, this approach would reduce the administrative burden for businesses created by current jurisdictional differences in licensing. These variations have meant businesses have had to expend resources on managing administrative details in application processes across jurisdictions. With potential savings for businesses following the implementation of a nationally consistent licence framework across jurisdictions estimated at 78 per cent, this option would deliver the greatest net benefit to the community.

Regulators would also benefit from these two approaches under a nationally consistent licence framework. Benefits would be gained by streamlining their own administrative processes for licence applications, assessment of applications and automatic recognition of occupation-based and relevant activity-based licences. The proposed processes for security checking and competency assessments would further contribute to streamlining administration of the licensing framework.

Agreement to the preferred option under section 5.2 (ii) is an undertaking to progress the development of a nationally consistent licensing framework within each jurisdiction's legislative framework through the use of:

- standard criteria and application processes for all licences, and

- automatic recognition of occupational licences and activity-based licences for relevant activities that cross jurisdictional boundaries.

Agreement on this nationally consistent licence framework is also an undertaking to progress national consistency in security checking processes and competency requirements. This option will deliver the greatest net benefit for the community by delivering potential savings for businesses estimated at $3.51 million per annum (78 per cent) and by reducing uncertainty and administrative burden. Jurisdictional regulators would benefit by reducing the need to repeat licensing already undertaken in another jurisdiction.

5.2 (iii) Nationally consistent notification process (Option B)

A nationally consistent notification process would be achieved through the development of standard notification requirements for use in each jurisdiction. Notification categories would be streamlined to focus on those explosives notifications relating to safety or security. Businesses would continue to be responsible for notifications to other authorities.

A nationally consistent notification process would include uniform requirements for notification categories, timeframes and documentation including a consistent notification form. This option would continue to provide for the jurisdiction-specific nature of notifications themselves, for example a notification of a pyrotechnic display in Queensland.

This option would streamline business operations. Businesses would benefit through reduced administrative burden, greater certainty for compliance, which in turn could increase businesses productivity and promote growth. With potential savings for businesses following the implementation of a nationally consistent notification process across jurisdictions estimated at 48 per cent, this option would deliver the greatest net benefit to the community.

Agreement to the preferred option under section 5.2 (iii) is an undertaking to progress the development of a nationally consistent notification process within each jurisdiction's legislative framework through the development of standard notification requirements for use in each jurisdiction, with notification categories streamlined to those explosives notifications which could raise safety or security concerns. This option will deliver the greatest net benefit for the community by delivering potential savings for businesses estimated at $1.37 million per annum (48 per cent) and by reducing uncertainty and administrative burden.

5.2 (iv) Nationally consistent authorisation process (Option B)

The preferred approach is a nationally consistent authorisation process, based on the current jurisdictional authorisation processes, and the automatic recognition of an explosive authorisation. This approach would be supported by a national list of authorised and prohibited explosives.

The automatic recognition of the result of any authorisation process conducted in any jurisdiction would remove duplication from the system. Rather than businesses having to apply for the authorisation of the same explosives product in each jurisdiction, businesses would only make one application in one jurisdiction through a nationally consistent process recognised by each jurisdiction in order to have the explosive authorised across Australia.

This removal of unnecessary duplication would reduce administrative costs in terms of staff time, record keeping and fees for business. A single process would also eliminate delays currently experienced by businesses through waiting for authorisations to be assessed and approved by each jurisdiction, which can limit a business' ability to take up opportunities for work in other jurisdictions.

A national list of authorised explosives would eliminate confusion and provide businesses with certainty around what is or is not authorised across Australia. A single national list would eliminate confusion as to what can and cannot be used throughout Australia as opposed to the current situation in which an explosive authorised in one jurisdiction may not be authorised in another.

With potential savings for businesses following the implementation of a nationally consistent authorisation process and automatic recognition across jurisdictions estimated at 19 per cent, this option would deliver the greatest net benefit to the community.

This implementation option would also represent minimal change for regulators as it would be based on current authorisation processes. Those jurisdictions which are unable to assess authorisation applications due to a lack of resources would continue to send their authorisation requests to other jurisdictions for assessment.

Agreement on the preferred option under section 5.2 (iv) is an undertaking to progress the development of a nationally consistent authorisation process and automatic recognition of explosives authorisations within each jurisdiction's legislative framework. This would be supported by a national list of authorised and prohibited explosives. This option will deliver the greatest net benefit for the community by delivering potential savings for businesses estimated at $0.28 million per annum (19 per cent), reducing uncertainty and administrative burden. There would be a benefit to jurisdictional regulators by removing the need to repeat an authorisation process already undertaken in another jurisdiction.

6. Implementation and Review

Section 6 of this decision RIS discusses the strategy to achieve national consistency in the four reform areas.

Should Work Health and Safety (WHS) ministers agree to the preferred option in this decision RIS, this would provide the authority to progress the proposed reforms. The Agency's approach to progress, monitor and review the proposed reforms is set out in the following sections.

6.1 Implementation

Once WHS ministers agree to progress the preferred option in this decision RIS in their jurisdictions, Safe Work Australia will undertake the next stage of achieving nationally consistent explosives legislation in the four reform areas on behalf of WHS ministers. The Strategic Issues Group on Explosives (SIG-Explosives), established to progress this work under Safe Work Australia's governance arrangements, will continue for the purpose of developing example provisions to achieve national consistency in the four reform areas. Jurisdictions would implement these example provisions in their respective explosives legislation. Once this work is endorsed by Safe Work Australia Members, it will be provided to WHS ministers for them to progress within their jurisdictions.

Safe Work Australia is in a position to commence the development of example provisions for each reform area immediately on the decision of the WHS ministers. It is envisaged example provisions in the four reform areas will be available to jurisdictions for amending their explosives legislation by mid-2017.

6.2 Monitoring

Safe Work Australia would report to WHS ministers via their senior officials on progress in developing the example provisions for each area. Once the example provisions are developed, endorsed by Safe Work Australia Members and presented to WHS ministers, jurisdictions will be responsible for implementing reforms within their own jurisdictional laws. WHS senior officials would monitor jurisdictional progress in implementing the reforms in the four areas.

6.3 Review

A post implementation external review of progressing the preferred option in this decision RIS will take place in mid-2022. This timeframe will ensure an adequate amount of time has elapsed to assess the impact of the reforms within each jurisdictional environment.

The external review will assess the efficiency, effectiveness and appropriateness of the implementation of the example provisions as adopted in jurisdictions in implementing the reforms in the preferred option in this decision RIS, including an assessment of the benefits delivered to businesses operating in the explosives industry. Achieving national consistency in four areas could serve to provide initial reforms in explosives legislation, with the opportunity to consider additional reforms at a later date.

Appendix A: Assumptions for costings and/or savings in sections 3.2 and 3.3

Assumptions for costings and/or savings in section 3.2: National consistency in four areas in existing explosives legislation

During the development of the costings in this decision RIS, the Agency reviewed a number of sources to identify statistical information on the characteristics of the explosives industry in Australia. The Agency found*:*

- the Australian Bureau of Statistics does not collect data on the explosives industry
- IBISWorld Australia in their annual industry reports only report on the manufacture of explosives in Australia, and
- annual reports of government agencies which incorporate information from jurisdictional explosives regulators do not uniformly report on characteristics of licence holders and activities.

Therefore, information used to underpin the costings was gathered through the public comment process, interviews with businesses and regulators, the targeted consultation process, and the Agency's desktop research into operational matters available from websites maintained by regulators, registered training organisations and international bodies, as required.

Data relating to the number of notifications, authorisations and licence applications in each jurisdiction over a 12 month period has been used to calculate the costing and/or savings information for each option. This data is derived from information provided by regulators during the public comment process and interviews.

The table below shows the licensing information as at 8 March 2016 which was provided by jurisdictional regulators in March 2016.

Table 7: Explosives industry licence data as at 8 March 2016 (except where indicated)

Licence Type	VIC	NSW	ACT	WA	TAS	QLD	SA	NT	Total
Pyrotechnician	332	420	5	62	15	178	69	63	1144
Fireworks (single use)		1170		63					1233
Blasting user/shotfirer	805	2120	5	2315	208	1523	873	329	8178
Import/export	51	66	7	34	64	126	114	20	482
Storage	179	179	2	318	59	184	364	50	1335
Transport	81	38		30	10	707	560	237	1663
Manufacture (fixed site)	22	42		11	4	29	122	1	231
Mobile manufacturing unit				44	4	253	79		380
Supply	216	22	4	35	20	305	162	14	778
Total	1686	4057	23	2912	384	3305	2343	714	15424

WorkSafe Victoria data regarding activity-based licences is current as at 30 June 2015.

The licence numbers provided by the regulators were used by the Agency in developing the costing estimate for the areas of definitions and licensing. In the absence of quantifiable data, for the purpose of the costings in this decision RIS, the Agency considered whether the total number of licences would be equal to the total number of businesses. The Agency acknowledges that this

assumption does not provide an accurate reflection of the total number of actual businesses operating in the explosives industry, as the Agency is aware that it is possible for a business to hold multiple licences across various categories.

The Agency determined the proportion of licence holders operating in multiple jurisdictions from information provided by respondents to the consultation RIS regarding the jurisdictions in which they operate. This analysis showed that 79 per cent of licences are held by businesses operating in multiple jurisdictions and 21 per cent of licences are held by businesses operating in a single jurisdiction. Of those licences held in multiple jurisdictions, on average they are held in five jurisdictions.

The following assumptions underpin the Agency's costings for each of the implementation options under each reform area:

- For each costing estimate, the impacted population or relevant number of transactions (for example, with notifications or authorisations) was estimated based on available data from regulators for the relevant reform area.
- Not every constraint of Appendix C of the Council of Australian Governments (COAG) best practice regulation guidelines is directly applicable to each of the reform areas.
- The Agency determined that some sub-sets of licences (definition of explosives) or transactions (licencing, notification and authorisation processes) were more appropriate to estimate the costs and/or savings.
- Transition costs have been included where data is available and relevant.
- The Agency has calculated the costing estimates on a per annum basis and on-going savings have not been calculated as the ratio of savings per annum is expected to remain unchanged. Note a full cost benefit analysis for this decision RIS was not required.
- Where the Agency could not extrapolate from data provided, the Agency did not seek to estimate costs and/or savings across the four reform areas

Definition of explosives (section 3.3 (i))

The following assumptions underpin the costings in relation to examining the current business practice (status quo) used in this decision RIS considered in relation to the definition of explosives:

- The Agency has considered that not every sector of the explosives industry operates across jurisdictions, for example manufacture (in a fixed location), storage and supply, as these licence types are less likely to cross jurisdictional boundaries and therefore would be less likely to be affected by differences in definitions of explosives between jurisdictions.
- Based on industry input to the public comment process, the Agency considers that the manufacturing activities which cross jurisdictions (for example, mobile manufacturing units), transport and import sectors are predominantly impacted by the proposed reforms regarding a nationally consistent definition of explosives.
- If the licence holder obtains one licence to undertake an activity in their 'home' or a 'single' jurisdiction, for the purpose of this costing estimate, it has been called a 'primary licence'. If the licence holder obtains a licence in an additional jurisdiction to undertake an activity for which a 'primary licence' has already been issued, this has been called a 'subsequent licence'.
- If the licence holder possesses a 'primary licence' and a 'subsequent licence' they are considered to be a multi-jurisdictional licence holder.

- For the purposes of the costings, in the absence of other data, the Agency has assumed the number of primary licences is equivalent to the number of licence holders.
- During targeted consultation, multi-jurisdictional licence holders estimated they spent eight hours per week on average on the following activities:
    - recordkeeping - for example, business practices to manage variations in explosives definitions across jurisdictions, and
    - education - for example, keeping up to date with variations in explosives definitions and communicating these to staff.
- Based on the information provided by multi-jurisdictional licence holders, the Agency has determined that licence holders operating in a single jurisdiction spend 1.6 hours per week on average on recordkeeping and education activities relating to the definition of an explosive.
- Not all jurisdictions currently require licence holders to purchase source material related to the definition of explosives. Currently, of the nine jurisdictions three jurisdictions call up the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (UNMR). The UNMR costs licence holders approximately A$250 per edition and is updated every two years. Therefore, the Agency estimated licence holders operating in those jurisdictions would have an average cost per annum on source material relating to the definition of explosives. Note, licence holders must pay to purchase a hard copy of the UNMR. However, online copies are freely available.

The following assumptions relate to developing costings for implementation options to achieve a nationally consistent definition of explosives in order to arrive at an average cost:

- If the United Nations *Globally Harmonised System of Classification and Labelling of Chemicals (*GHS) were used as the source definition, it is assumed that all licence holders would need to purchase it as currently no jurisdictions use the GHS as its source for a definition of explosives in their explosives regulations. The GHS costs licence holders approximately A$204.50 per edition and is updated every two years. Therefore, the Agency estimated licence holders would have an average cost per annum on source material relating to the definition of explosives. Note, licence holders must pay to purchase a hard copy of the GHS. However, online copies are freely available.
- If the UNMR were used as the source definition it is assumed that :
    - only those licence holders that don’t currently use the UNMR would be required to purchase it, and
    - the cost of the UNMR and its publication frequency would be as assumed in relation to the calculations for the current business practice (status quo).
- If the AE Code were used as the source definition, there would be no purchase costs as the AE Code is freely available.

Licensing framework (section 3.3 (ii))

The following assumptions underpin the costings in relation to examining the current business practice (status quo) used in this decision RIS considered in relation to the licensing framework:

- Using the data provided by regulators, the Agency calculated an annual estimate of licence numbers, taking into account the licence renewal terms of each jurisdiction's licensing regime.

- The Agency has considered that not all licences held within the explosives industry are impacted by activities that cross jurisdictional borders.
- The Agency decided not to include information in the costings on the number of licence transactions in relation to site-based activity licences, for example manufacture (in a fixed location), storage and supply as these licence types are less likely to be impacted by jurisdictional boundaries.
- During targeted consultation, licence holders estimated they spent 10 hours per licence application on average which includes the following activities:
    - recordkeeping - for example, business practices to support the application process for licensing, and
    - permissions - for example, administrative activities associated with obtaining a licence.
- During targeted consultation, licence holders estimated a delay cost associated with obtaining the required licensing for each vehicle in jurisdictions in which licensing was required and in which it was going to be used. In relation to calculating delay costs, the Agency has assumed that a 'primary licence' is the first time a vehicle is licensed in any Australian jurisdiction (this is likely to be the 'home' jurisdiction in which the licence is held). Further, the Agency considered a 'subsequent licence' to apply when a vehicle, which has already been licensed in one jurisdiction, is licensed in other jurisdictions.
- Note security checking and competency requirements have not been costed. While national consistency in security checking processes and competency requirements underpin the licensing options, they are supplementary to the option and are not determiners of the preferred option.

The following assumptions relate to developing costings for the implementation options to achieve a nationally consistent licence framework:

- The Agency determined that the impact on licence holders of implementing options A and B is the same following transition. Whether a single national licence is implemented, or automatic recognition of existing jurisdictional licences is implemented, licence holders will only need to apply for a licence once. Therefore the Agency used the same costing methodology for both options.
- Transition costs have been included for option A because the Agency has assumed that the implementation of a single national licence framework will result in new forms which licence holders will need to complete to obtain a single national licence. Transition costs have not been included for option B because the Agency has assumed that the use of the existing jurisdictional licence framework may not result in new forms.
- The delay costs estimated in the current business practice are not applicable for options A and B as the delay associated with obtaining multiple licences for each vehicle to operate in multiple jurisdictions will no longer occur as only one licence will be required.
- Note security checking and competency requirements have not been costed. While national consistency in security checking processes and competency requirements underpin options A and B, they are supplementary and are not determiners of which option might be preferred.
- Note the Agency has not undertaken a costings estimate for option C as there is no information available about what processes might be developed and the subsequent impact such processes would have on licence categories and recognition of licences by jurisdictional regulators. As a

result, the Agency was not able to estimate costs and/or savings to licence holders for this option.

Notification process (section 3.3 (iii))

The following assumptions underpin the costings in relation to examining the current business practice (status quo) used in this decision RIS considered in relation to the notification process:

- Regulators provided data on the number of fireworks displays and explosives movement notifications as relevant to their jurisdiction that were processed over one year. However, not all regulators reported the numbers of incident or planned explosives use notifications. Therefore, information regarding incident notifications and planned use of explosives notifications has not been included in the costings.
- The Agency considers that neither implementation Option A or B would change the requirement for businesses to notify incident or planned explosives use as these are important notification activities. Therefore, staff time in relation to the lodging of these notifications was not included in the costings as it was considered a 'business-as-usual' cost.
- Different terminology is used by jurisdictions for some categories of notification, for example, fireworks display notifications versus fireworks display permits. The Agency has assumed that from the perspective of the licence holder, the time required to complete a notification or permit form for the same activity will be similar because the level of detail required in the forms regarding the activity is similar. This assumption is based on a review of the forms required to undertake the activity. Therefore, for the purposes of this costing estimate, the numbers of notifications or permits for an activity have been combined to assess the impact to licence holders for undertaking the activity
- During the targeted consultation, licence holders estimated they spent on average three hours per fireworks notification transactions. The Agency estimated that licence holders spent on average 15 minutes for fireworks post-display notifications (only required in two jurisdictions), and 15 minutes for explosives movement notifications (includes transport, import and export). These estimates include the following activities:
    - notifications and permissions – for example, time required reporting relevant information to regulators and other authorities, such as local councils and law enforcement agencies, and
    - recordkeeping - for example, business practices to support the notification process

The following assumptions relate to developing costings for the implementation options to achieve a nationally consistent notification process.

- Note, the national notifications database has not been included in costings for Option A and B because regulators and licence holders did not provide sufficient details for how such a database would be used or maintained.
- The Agency determined the number of notifications for each option:
    - Option A is the same number as currently reported under current business practice (status quo), and
    - Option B proposes a reduction in notification categories to those directly relating to safety and security. For this reason, Option B is the same number as currently reported under current business practice, excluding post-display fireworks notifications.

- During targeted consultation, licence holders estimated that there would be a 50 per cent reduction in staff time if a single notification process was implemented based on estimates from licence holders.

Authorisation process (section 3.3 (iv))

The following assumptions underpin the costings in relation to examining the current business practice (status quo) used in this decision RIS considered in relation to the authorisation of explosives products:

- The first time a product is authorised in any Australian jurisdiction is called a 'new authorisation' for the purpose of the costing estimate. When the product is authorised in other jurisdictions this is called an 'additional authorisation' for the purpose of the costing estimate.
- Regulators provided data on the number of new authorisations that were processed over one year. Not all regulators provided data on the number of additional authorisations and the Agency estimated the number of additional authorisations for those jurisdictions that did not provide data.
    - To estimate the number of additional authorisations, the Agency assumed that 80 per cent of all new authorisations in Australia are authorised in all jurisdictions. The Agency's assumption is based on information provided by regulators and businesses operating in the explosives industry during the targeted consultation process. From this information, it was apparent that the majority of all new explosives products are authorised for use in all jurisdictions since businesses could not accurately determine where an explosive would be either transported or used.
- During the targeted consultation, licence holders estimated they spent 70 hours per new authorisation transaction on average which includes the following activities:
    - recordkeeping - for example, business practices to support the application process for new authorisations, and
    - permissions - for example, authorisation activities, including liaising with regulators.
- During the targeted consultation, licence holders estimated they spent on average five hours per additional authorisation transaction.

The following assumptions relate to developing costings for the implementation options to achieve a nationally consistent authorisation process:

- The number of authorisations for new products per annum is assumed to be the same as the estimate of new authorisations under the current practice.
- The time required by licence holders to prepare an authorisation application for a new explosives product is the same as that currently estimated for new authorisations under the current practice.
- For Option B, automatic recognition is assumed to mean that only one application for authorisation in one jurisdiction is required for a new explosives product, which is then automatically recognised in the other jurisdictions, with no further applications required to achieve this recognition in other jurisdictions.

Appendix B: Details of consultation processes and summaries of results

On 31 July 2015, the consultation RIS was published on OBPR's website, including a post with details of the consultation RIS process.[3]

A number of regulators and the Agency's social partners promoted the consultation RIS. On 30 July 2015, NT WorkSafe posted the article *Explosives Regulation in Australia – Public Comment Period Now Open*.[4] NT WorkSafe also sent electronic mail outs to all explosive business and individual licence holders and the public comment process was promoted on the NT Department of Business Facebook page. On 4 August 2015, the Western Australian Department of Mines and Petroleum promoted the consultation RIS in its Resources Safety Alerts and posted letters to 250 licence holders shortly after the Alert. The Queensland Government emailed licence holders to advise of the release of the consultation RIS and provided a link to the consultation RIS on the Agency's website if they wished to make comments. On 19 August 2015, SafeWork NSW conducted a webinar describing the consultation RIS, including information on how to make a submission and also sent over 7 500 emails or letters to stakeholders, included a feature box on its website and released three Facebook posts and three Twitter posts. On 31 July 2015, WorkSafe Victoria emailed key industry stakeholders notifying them of the consultation process and inviting submissions. WorkSafe Tasmania advertised the consultation RIS on its website and directly emailed key industry stakeholders.

The Australian Chamber noted the consultation period for explosives to its WHS member network regularly in its fortnightly updates, on its website, CEOs in its network of over 300 000 organisations and to its Explosives Reference Group. Ai Group advised all members of the public comment process via its Safety and Workers' Compensation Compliance Advice service. The Australian Explosives Industry and Safety Group (AEISG) distributed the consultation RIS to its member explosives companies and sought comments for inclusion in its formal written response to the Agency on behalf of the explosives industry generally. Individual explosives companies were also encouraged to make their own submissions on particular matters of concern.

On 4 August 2015, the Australian Mine Safety Journal also published an article promoting the consultation RIS to its members.[5] On 11 August 2015, the Australian Retailers Association published a news story on its website promoting the consultation RIS with a link to Safe Work Australia's public submissions website[6]. Other organisations, such as Safety Solutions and Personal Protective Equipment,[7] also promoted the consultation RIS to their members. Articles also appeared in OHS Alerts.

** Office of Best Practice Regulation. 31 July 2015. *Explosives Regulation in Australia: COAG Consultation Regulation Impact Statement – Safe Work Australia*

[4] NT WorkSafe. 30 July 2015. *Explosives Regulation in Australia – Public Comment Period Now Open*

[5] Australian Mine Safety Journal. 4 August 2015. *Have your say on explosives regulation future*

[6] Australian Retailers Association. 11 August 2015. *Have your say on future explosives regulation*

[7] Personal Protective Equipment. 30 July 2015. *Have your say on the future of explosives regulation*. The link to the Safety Solutions article is no longer active.

Additional research

Interviews with businesses and regulators

To supplement feedback from the public comment process, the Agency engaged two consultants to conduct interviews with businesses involved in the explosives industry and with jurisdictional explosives regulators.

During late September and October 2015, EY Sweeney conducted interviews with businesses involved in the explosives industry. Initial plans were to conduct interviews with 100 businesses. After extensive research, a total of 77 interviews were able to be conducted in the time available. Twenty-five of these interviews were conducted with businesses who, when they had made submissions to the consultation RIS, also agreed to be contacted for additional research. The remaining 52 businesses were sourced either through an external database, directories, industry association websites or through referrals from businesses interviewed.

A range of small, medium and large businesses working in multiple jurisdictions or in single jurisdictions were represented in the sample. Businesses covered the major activities of explosives industries: import/export, transport, manufacture, storage, supply and use. All jurisdictions, with the exception of the ACT, were represented in the sample. A profile of the sample is provided below.

The Agency also engaged Mr Bryan Russell to conduct interviews during October and November 2015 with all jurisdictional explosives regulators. Mr Russell's background as a former head of SafeWork South Australia and former Chair of Safe Work Australia's Strategic Issues Group on Explosives made Mr Russell uniquely qualified to undertake this work.

Outcomes from these interviews have allowed the Agency to gain a more comprehensive understanding of the experience of regulating explosives from the points of view of businesses and regulators. Results from both sets of interviews have informed the content of this decision RIS.

Table 8: Profile of the sample of businesses interviewed by EY Sweeney

Business size	
Small	46%
Medium	21%
Large	33%
Main business activity	
Import/export	6%
Manufacture	14%
Transport	4%
Storage	4%
Wholesale	6%
Use	65%
Pyrotechnics	18%
Main business location	
New South Wales	21%
Victoria	22%
Queensland	29%
South Australia	12%
Western Australia	9%
Tasmania	5%
Northern Territory	3%
Australian Capital Territory	0
Multijurisdictional/Single jurisdiction	
Multijurisdictional	68%
Single jurisdiction	32%

Targeted consultation

After reviewing the submissions and results of the interviews with businesses and regulators, the Agency considered it necessary to undertake a targeted consultation process to gather additional information regarding implementation of options associated with the four reform areas identified during the public comment process and interviews. Accordingly the Agency contacted all jurisdictional regulators, industry groups which had made a submission to the consultation RIS and small, medium and large businesses selected on the basis of having made detailed, comprehensive submissions to the consultation RIS. A total of 48 people were asked to participate in the targeted consultation, comprising nine regulators, nine industry groups and 30 businesses, of which 45 per cent were small businesses, 17 per cent were medium businesses and 38 per cent were large business. This proportion of small, medium and large businesses is proportional to the sample size of businesses interviewed by EY Sweeney. Of the 48 people contacted, 24 participants agreed to be contacted for the targeted consultation.

Findings from this targeted consultation have allowed the Agency to obtain greater evidence around implementation options for achieving a nationally consistent definition of explosives, a nationally consistent licence framework and nationally consistent processes for notifications and authorisations. This information has assisted in the development of the impact analysis, including costing and/or savings estimates, in the decision RIS.

Summary of information from submissions and additional research

This section provides a summary of information from submissions to the consultation RIS, interviews with businesses and regulators and the targeted consultation. Having defined the nature and extent of the problem raised for businesses by jurisdictional legislative variations, the Agency determined that some of the options proposed by respondents were either not feasible or not proportionate to the scope of the problem. Other options proposed by respondents were in relation to issues that were either specific to a small number of respondents, for example, disposal of marine flares, or were specific to a single jurisdiction, for example, fireworks in Tasmania. The majority of businesses supported a nationally consistent approach to the regulation of the lawful commercial use of explosives across Australia. Businesses would benefit from national consistency through administrative simplicity by streamlining regulatory processes, providing greater certainty around requirements for use and activities of explosives by industry, promoting productivity and creating a more level playing field.

Businesses advised maintaining the knowledge of the different requirements from state to state is time consuming and diverts resources which could be directed toward growing the business, supervising staff and managing safety. In business' opinion, where there are variations in jurisdictional regulations, there is often no obvious rationale, nor are there additional safety or security benefits realised.

Businesses and regulators agreed there would be benefit in achieving national consistency in four reforms areas and these are summarised below.

Definition of explosives

The definition of what is an explosive is central to explosives regulation. In addition to identifying an explosive product, the definition of explosives also underpins the classification of explosives and how they are to be treated for use and activities involving explosives.

Views of businesses

Most respondents commented that, from a business perspective, complying with different explosives definitions is administratively time consuming, complex and creates confusion which can inadvertently lead to non-compliance.

The consensus view of businesses was a preference for a common, Australia-wide definition. The majority felt that a national definition for explosives would promote greater compliance by removing areas of confusion and uncertainty. It would also eliminate administration costs involved in understanding and documenting differences in definitions between jurisdictions.

Respondents considered that a single national definition of explosives could be provided through reference to a definition of explosives provided in a trusted international standard. Respondents cited the United Nations *Globally Harmonized System of Classification and Labelling of Chemicals* (GHS) and the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (UNMR) as suitable international documents for this purpose.

Alternatively, respondents considered the use of a current national standard could also provide a consistent definition of explosives. The *Australian Code for the Transport of Explosives by Road and Rail* (AE Code) was regularly cited as providing a suitable definition of explosives.

In contrast, a small number of businesses were of the view that inconsistent definitions were a minor administrative issue for their business. For these respondents, differences in definitions are managed by having detailed risk management processes to mitigate any variations in the regulations and investment in resources to manage and monitor these processes. A minority of respondents considered that a consistent definition of explosives would also need to have agreed and consistent definitions for activities associated with the full life cycle of explosives, for example defining ‘manufacturing’ and ‘misfire’.

Views of regulators

The majority of regulators were of the view that differences in definitions of explosives did not create any difficulties for them. One regulator did find differences in definitions of explosives to have an impact across the border with a neighbouring state. Another regulator considered that differences in definitions can limit the capacity of some officials to participate in meetings of explosives regulators.

Some regulators noted the definition of explosives should be broad enough to cover substances outside the UNMR Class 1 explosives and which could allow for new substances, or take a risk management approach in defining explosives.

Licensing arrangements

Licensing underpins the regulation of explosives in Australia. Part of the licence application process includes demonstration of relevant competencies or training and a current security clearance. Most respondents were of the view that requirements for individual state licences represent a significant administrative and cost burden with no perceived benefit to either safety or security.

Different licence application processes, documentation requirements and validity periods across jurisdictions lead to extra administrative work for business in order to provide the same information but in different formats and at different times required by different jurisdictions. Complying with this administrative complexity was time consuming and, for some businesses, cost prohibitive, making it difficult for some businesses to take up opportunities in another jurisdiction.

While this applies primarily to businesses operating in multiple jurisdictions, businesses operating in one jurisdiction would also benefit through standardised licensing criteria and application processes for site-based activity licences, such as manufacturing, storage and supply. Such standardisation would also assist in removing a barrier to trade. For example, standardised licence criteria and application processes for site-based activity licences would benefit those businesses seeking to expand their operations into another jurisdiction.

Licensing the transport of explosives was consistently provided as an example by businesses of the negative effect of various licensing requirements across jurisdictions. To transport explosives across Australia, licences must be held by the transporter, and in some jurisdictions, the driver of the vehicle. However, for the purposes of licensing the transporter, some jurisdictions review/inspect the prime-mover of a semi-trailer vehicle, others review/inspect the trailer, and others review/inspect the combination i.e. prime-mover and trailer configuration. To add further complexity, some jurisdictions issue licences per vehicle, while others issue one licence with several vehicles nominated under the one licence. In practice, an explosives transporter with several vehicles on the road would need hundreds of explosives licences to operate nationally and would need to monitor which part of a particular vehicle is licensed in particular states or territories.

Many respondents commented that differences in explosive licensing arrangements have a significant impact on the explosives industry for both large and small businesses operating across borders, particularly in relation to mutual recognition and workforce mobility, training and security checking. Views of businesses and regulators on these topics are provided below.

Mutual recognition of licences and workforce mobility

One aspect of the current explosives licensing framework involves licensing the individual occupations of shotfirers, pyrotechnicians and explosives vehicle/transport drivers. Each state and territory administers its own application process by which licensees may request mutual recognition of their occupational licences in other jurisdictions. For example, a shotfirer licenced in Victoria is able to apply for mutual recognition of this licence in New South Wales.

Views of businesses

The majority of respondents were of the view that the granting of mutual recognition of licences among jurisdictions is inconsistent, with little recognition of licences between jurisdictions, despite provisions for mutual recognition in each jurisdiction's legislation. A number of businesses considered the absence of mutual recognition as the main problem that companies face by limiting workforce mobility. Workers licensed in one state are restricted from providing the same service in another state if they are not licensed in that state or their licence is not recognised.

Businesses also found inconsistencies between jurisdictions in recognising experience and qualifications. For example, an experienced shotfirer licensed in one jurisdiction was unable to have his licence mutually recognised in another jurisdiction until he had performed that role under supervision in that second jurisdiction for 12 months.

In general, businesses were in favour of a single national licence or automatic mutual recognition as a means to address administrative burden and costs associated with multiple mutual recognition applications or multiple licence applications.

Views of regulators

From one regulator's perspective, variations in shotfiring licences issued by other jurisdictions have an adverse administrative impact when granting licences under mutual recognition. To accommodate the different classes of shotfirer licence issued in other jurisdictions, the regulator had to place conditions on mutually recognised licences in order to restrict the scope of the licence to that imposed by the original jurisdiction. In terms of processing mutual recognition applications, regulators reported that the number of mutual recognition applications ranged from 1 to 10 per cent of total explosives licence applications received per year and processing ranged from 20 minutes per application to approximately an hour for some applications that required additional information.

All regulators were in support of a nationally consistent licence framework, with some regulators noting that security checking issues would need to be dealt with in any national licensing system.

Competency and training

To be eligible for a licence, an applicant must provide evidence of relevant competencies or training. Each jurisdiction has its own requirements for how competencies are demonstrated. While national training standards exist for shotfirers, fireworks operators/pyrotechnicians, operators of Mobile Processing Units and transport drivers, these are not universally adopted by jurisdictions.

Inconsistencies in training requirements across jurisdictions can have an effect on whether mutual recognition of occupational licences is granted.

Views of businesses

In general, businesses were in favour of a national training standard, particularly in regard to achieving mutual recognition of occupational licences and, therefore, increasing the mobility of workers.

Training organisations also commented on the lack of consistency among jurisdictions and the difficulties this inconsistency presented for their training of explosives personnel, particularly in relation to calling up the same standards and codes in jurisdictional legislation. This inconsistency also created challenges in keeping up-to-date with jurisdictional legislative changes on competencies.

Views of regulators

Most regulators also saw merit in improved training arrangements, noting that the different standards for explosives training across jurisdictions had an impact on granting mutual recognition of occupational licences in some cases.

Security checking

To be eligible for a licence, an applicant must go through a security checking process. Security checks are conducted on a jurisdictional basis. With the exception of recent amendments to Western Australia's explosives legislation, there is little cross-jurisdictional recognition of the outcomes of another jurisdiction's security checking. As a result, the ability of workers to move across borders is significantly delayed while security checks are repeated in the next jurisdiction. Demonstration of security clearance varies from jurisdiction to jurisdiction, with some providing security cards, while others do not. No mechanism exists for sharing security information across jurisdictions.

Views of businesses

Businesses object to the cost, administrative duplication and excessive amount of staff time involved in obtaining security clearances in multiple jurisdictions. Businesses agreed that a national system with a consistent approach to security checking and performed once was the ideal.

Views of regulators

Regulators agreed with a single national security checking process, but expressed concern over the level of security checking, including the need to ensure local law enforcement knowledge and how a single national security checking system would be managed.

Activity-based licences

Respondents also provided comment on the level at which licences were issued, either based on an explosives activity, for example, the manufacture, transport or storage of explosives, or at the level of the individual, for example for the occupations of shotfirers, pyrotechnicians or explosives vehicle drivers.

Views of businesses

Several submissions supported eliminating occupational licences and requiring individuals to operate under the authority of an activity licence held by the relevant business. These respondents suggested that existing licensing requirements for individual competency, medical fitness and security clearances should remain, but the primary obligation for compliance with these prerequisites should be up to the business to manage. The cost and administrative burdens on both industry and the regulators would be significantly reduced.

From this point of view, having one activity-based licence would eliminate the need for individual licences for employees with a consequent reduction in costs and administrative burden for businesses. For example, operators of blast loading equipment in some states are required to have one licence for the driver of the vehicle. If there are 100 employees capable of driving that vehicle, then 100 licences would be required. Under an activity-based licence, only one licence would be required.

Other submissions in favour of the use of only activity-based licences thought that activity-based licences should be a single business licence, categorised to cater for different sized businesses, which would cover all locations in a single jurisdiction in which a business has its operations. Alternatively an activity-based licence could be a company-based licence covering a range of activities.

Other businesses opted for a mix of the two types of licences, essentially the status quo.

However, most businesses were of the view that individual occupational licences should be retained. Businesses noted that occupational licences promote workforce mobility by allowing individuals to move from state to state and from employer to employer, which could be circumscribed under activity-based licences. For example, under activity-based licences, if a worker is released or made redundant from a business, the worker would have no licence and would not be able to move easily into another job in either the same jurisdiction or in another jurisdiction.

In many businesses' view, an occupational licence also enhanced safety and security oversight of explosives users and accountability by making the responsibility for security clearances and training the direct responsibility of the individual. Some businesses were concerned that, under activity-based licences, businesses might compromise on skill and training levels of employees in response to commercial opportunities.

Other respondents placed their concerns in the context of compliance and considered that the increased compliance requirements placed on businesses for employee training, qualifications and security clearances might result in some businesses cutting corners, jeopardising safety and standards. Another submission considered individuals operating under the authority of activity-based licences would increase administrative costs and increase compliance requirements for business by putting the obligation on businesses to ensure employees are competent and have security clearances.

Other respondents considered that a move to only activity-based licences could disadvantage small to medium size businesses. In their view, larger businesses would be more likely to have systems in place to manage and control the tasks to be performed by qualified and trained employees which were formerly managed by individual licence holders themselves. Small and medium sized businesses would not have these management systems and could sustain a cost to acquire them.

Increases in responsibility and compliance could also make it more difficult for smaller business or sole traders to remain viable.

Views of regulators

Regulators in general considered activity-based licences might either be better for larger businesses or for particular types of activities, but that the occupations of shotfirer and pyrotechnician should remain subject to individual licences. Several regulators were also concerned that security clearances and competency might be compromised in a move to only activity-based licences.

The majority of respondents, both businesses and regulators, wanted occupational licences to remain. Concerns were raised that transferring responsibility for security clearances and training to businesses through an activity licence could significantly increase the complexity of safety management systems, quality control and on-going training.

Authorisation of explosives

The authorisation of explosives products is administered on a jurisdictional basis. Businesses apply to a jurisdictional regulator to have explosive products authorised in that jurisdiction. The requirements regarding authorisation applications vary in each jurisdiction.

Views of businesses

Businesses identified issues around excessive time and cost spent on administration to address what are perceived as minor differences in requirements for authorising explosives in different jurisdictions.

Businesses also commented that even though an explosives product may only be intended for use in one jurisdiction, the product may still need to be authorised in multiple jurisdictions. The explosive product cannot be moved around the country until authorised by each jurisdiction through which it might be transported. An example was provided of a product manufactured in New South Wales for use in Western Australia. The product needed to be authorised in New South Wales, Western Australia and also Victoria and South Australia in order for the product to be transported through those states into Western Australia.

Businesses preferred a single national system for authorisation of explosives which would provide a consistent application process, make use of the same authorisation criteria and provide a national database of authorised explosives.

Views of regulators

Most regulators considered a single national system for the authorisation of explosives had merit. One regulator considered authorisations of explosives should be addressed through industry classifying explosives and should not require a national authorisation system. Another regulator considered that a national authorisation system administered by one body would not be a timely process and considered automatic recognition of authorisations to be a better approach. Most regulators also agreed that a national panel of experts would be appropriate for managing a national authorisation system.

Notification requirements

Explosives licensees, both businesses and individuals, are required to provide notifications to each jurisdictional regulator for various activities and events, such as explosives transport, pyrotechnic displays or explosives incidents. Notifications are jurisdiction specific and each jurisdiction has different requirements for how and when notifications are to be made.

Views of businesses

A number of businesses commented that understanding the various notification requirements across each state and territory is complex and confusing, imposing regulatory and cost burdens on both industry and regulators, which may not be associated with any benefit or improved safety outcome. Since notification requirements are inconsistent, businesses operating nationally needed to operate multiple systems to meet legislative requirements.

These differences can make it difficult for businesses to fulfil their customers' expectations. For example, one pyrotechnic business cited the difficulty in explaining to their customer, who provided two weeks' notice for a production in NSW that the same production could not proceed in the ACT because four or more weeks' notice was required.

Another business commented on the significant differences in the amount of notification fees across different locations. For some jurisdictions, the increased costs are often prohibitive and prevent businesses from delivering an affordable option for their customers in those jurisdictions. A pyrotechnic business commented that its customers do not understand the cost differential for a production staged in different states or territories, when it is the same production in the different locations. Customers then complain when the same production is quoted at two completely different costs simply because of the jurisdiction in which it is occurring.

In relation to incident notifications, one company noted that notifications of an incident are a complex undertaking, in which up to five different authorities may need to be separately notified. Inconsistent definitions of an explosives incident and the inconsistent interpretation of the severity of an explosives incident make managing notifications more difficult for business. One submission provided the example of different types of notification required in New South Wales: a Blast Management Plan to the Secretary of the Department of Planning and Environment for approval, a Blast Schedule to provide the public with up-to-date information on proposed blasting activities and notification to WorkCover NSW seven days in advance of blasting activities.

One business considered the difficulty to be so great that it employed a part-time employee to handle the notification process in order to save the time of technicians from performing administrative work. Other businesses were of the view that compared to other regulatory requirements, notification requirements are a minor issue which do not significantly impact their business.

Some businesses suggested a national notification database be established. Businesses were generally unconcerned with the form or purpose of a database beyond the online notification portal it could provide. Businesses preferred the concept of electronic notification lodgement over a paper-based system.

In general, businesses indicated they would welcome a nationally consistent notification process which would simplify reporting requirements. One respondent also pointed out that national

consistency would allow for more meaningful extrapolation and interpretation of trends in safety and security in the explosives industry.

Views of regulators

From a regulator's perspective, one regulator noted that notifications are important for the regulation of explosives as they contribute to safety and security. Notification requirements, including notifications to multiple authorities, remain necessary and should continue.

Regulators in favour of a single notification process recognised there may be some value in a national notification database, but the nature of the database would require further discussion before the benefits could be clearly identified. Regulators noted that a national notification database would be of limited use as most notifications in one jurisdiction are not of direct relevance to other jurisdictions. A clear exception to this would be notification of the interstate transportation of explosives.

Single national explosives law

A single national explosives law, administered by a national regulator, was also considered by some respondents as a way to remove administrative differences in jurisdictional explosives regulation in Australia. Businesses considered a single national law only in the context of removing their administrative burden and did not comment on what a single national law might entail or the extent of the effects of a single national law on the explosives industry.

Views of businesses

Some businesses preferred a single national law with a national regulator, administered by jurisdictions, to achieve their desired outcomes including:

- reducing multiple licences and authorisations and address different transport and storage requirements
- improving safety as industry would work to one set of requirements
- improving security of explosives, and
- establishing a committee to make decisions and represent Australia in international fora.

Some submissions suggested that a single national law would need a national regulator to maintain standards for licensing, otherwise gaps in quality of skills may appear over time.

Views of regulators

A number of regulators saw value in implementing a national explosives law for businesses. One regulator noted national explosives law would provide businesses with the opportunity for improved efficiency and effectiveness. Other regulators considered that a consistent approach to the regulation of explosives would also have merit, with jurisdictions adopting consistent policies for explosives within their own jurisdictions' legislation.

National regulator

Views of businesses

A number of businesses were in favour of a single national explosives regulator, provided either at the Commonwealth level or by a state or territory, with jurisdictional regulators serving as its agents,

potentially under service level agreements. One respondent suggested a staged approach to implementing a national regulator which would focus initially on achieving national consistency in the identified four areas.

Another respondent noted that a national regulator might provide a mechanism for making decisions on a national level; something which the explosives industry, unlike other dangerous goods industries, cannot currently obtain.

Several respondents put forward the National Heavy Vehicle Regulator as a possible model for an explosives national regulator.

Views of regulators

In general, regulators considered that a national regulator would have value in particular areas. For example, a national regulator could have a role in a national system for the authorisation of explosives. Some regulators considered that, since the classification of explosives is central to explosives regulation, the use of a representative national regulator could create a role for the Commonwealth Government in classifying explosives.

Safety and security matters

Views of businesses

Some businesses commented that the administrative burden resulting from variations in jurisdictional regulations has prevented businesses directing their resources to addressing safety and security matters and other matters related to the growth of their businesses.

It was also commented that removing these variations may enhance safety and security through limiting inadvertent non-compliance with different jurisdictional administrative procedures.

Views of regulators

One regulator commented that harmonising legislation may provide an opportunity to improve the safety and security of the public and workers. It was also commented that existing safety and security standards that operate for explosives must not be reduced and should be improved where possible.

Other matters

Chemicals of security concern

One respondent noted that explosives precursors, generally termed “Chemicals of Security Concern” are already regulated[8], but should not be regulated under any nationally consistent explosives regulation since they do not meet a definition of explosives. Four respondents recommended that Security Sensitive Ammonium Nitrate (SSAN) should be included in nationally consistent explosives legislation. Some respondents put forward a view that SSAN should be included in nationally consistent legislation as a relevant precursor only where it is necessary to provide for national security.

[8] The Agency notes that some chemicals of security concern are addressed through a Code of Practice developed by the Commonwealth Attorney-General’s Department.

In June 2004, COAG agreed to a set of principles to achieve a nationally consistent approach to control access to security sensitive ammonium nitrate (SSAN). Each state and territory undertook to implement legislation and/or regulations to give effect to the COAG agreement. However, a subsequent 2008 Productivity Commission's *Chemicals and Plastics Regulation Research Report* recognised that national consistency has not yet been achieved in this area.

In relation to explosives precursors, SSAN is already controlled. Regulators could not reach a consensus position on whether SSAN should be defined as an explosive.

Major Hazard Facilities

A very small number of respondents noted that Major Hazard Facilities (MHFs) are licensed separately in most jurisdictions and in parallel with explosives and dangerous goods licensing requirements, imposing a dual licensing regime on those MHFs that are explosives facilities. One respondent considered that a more flexible approach should be adopted in designating explosives facilities in remote locations as MHFs.

Jurisdiction specific issues

Jurisdiction specific submissions were received in relation to the use of fireworks in Tasmania and prior notifications for explosives transport, import and export notifications, and lack of adoption by South Australia of the AE Code. These jurisdiction-specific issues will be forwarded to the relevant jurisdiction as appropriate.

Form of laws

The Agency also sought comment on ways nationally consistent regulation might be given effect, if the problem for businesses warranted a greenfields approach to explosives regulation.

Views of businesses

Many businesses considered national applied law as the best option for ensuring legislative consistency across jurisdictions because, once enacted, amendments in the original jurisdiction automatically apply in other participating jurisdictions. However, without the adoption by all jurisdictions, businesses considered the current situation of jurisdictional variations would continue. Commonwealth legislation was the second choice for the majority of businesses. While Commonwealth legislation would create nationally consistent legislation, concern was expressed that this would create another bureaucracy which could have a long establishment time and no guarantee of longevity when the Commonwealth Government changes. The majority of businesses did not support national model law, since the implementation of model laws relies on the commitment of all governments to adopt and maintain the model law consistently over time. Other respondents were in favour of implementing reform within state and territory jurisdictions' current legislative frameworks.

Views of regulators

Interviews with state and territory regulators found unanimous support for nationally consistent laws for explosives, although there was no shared view on the form of laws and how that might be achieved.

A small number of jurisdictions commented that given explosives activities are a matter of national significance, there is potential for them to be managed with a single regulator under the direction of the Commonwealth. However, regulators recognised the political and practical difficulties that such a proposal entails and accepted that in the current climate the referral of powers by all states and territories to the Commonwealth is unlikely and unrealistic.

One regulator raised strong concerns with national applied laws or Commonwealth legislation, commenting that explosives issues are often localised or specific only to a relevant state, requiring a local level of knowledge or expertise. It was also commented that it would be difficult to achieve agreement by all states to refer powers to the Commonwealth for explosives matters.

Appendix C: Location, size and industry sector represented in submissions

Total number of submissions per location	
NSW	20
VIC	10
QLD	12
WA	6
SA	8
TAS	1
ACT	2
NT	0
No jurisdiction specified	4
Business size	
Small	48%
Medium	18%
Large	34%
Industry sector[9]	
Agriculture, Forestry and Fishing	4
Arts and Recreation Services	6
Information Media and Telecommunications	1
Manufacturing	2
Mining	22
Other Services	10
Professional, Scientific and Technical Services	5
Public Administration and Safety	4
Retail Trade	1
Transport, Postal and Warehousing	6
Wholesale Trade	2

Note: There were 69 submissions received to the explosives consultation RIS. Not all submitters completed the demographic information before submitting their submission. Therefore the numbers above will not add up to 69.

[9] Categories are from the Australian and New Zealand Standard Industrial Classification (ANZSIC) codes. Respondents selected the code which best applied to their business.

Appendix D: Explosives and fireworks activities represented in submissions

Respondents to *Explosives Regulation in Australia: Discussion Paper and Consultation Regulation Impact Statement* identified which area or areas they or their business are involved with in the explosives industry. Respondents could select more than one option. The list below is drawn from their responses and demonstrates the range of areas within the explosives industry from which submissions were received.

FIREWORKS:

- fireworks import: 12
- fireworks export: 6
- fireworks manufacture: 4
- fireworks transport: 19
- fireworks storage: 18
- fireworks retail: 9
- other fireworks professional use: 15
- fireworks other: 6. *Includes:*
    - *other fireworks film special effects: 1*
    - *other fireworks improvised pyro seized: 1*
    - *other fireworks training: 1*
    - *other fireworks educational purposes: 1*
    - *other fireworks disposal of expired marine emergency pyrotechnics: 1*
    - *fireworks professional use of pyrotechnics for the production ?: 1*

EXPLOSIVES:

- explosive import: 20
- explosive export: 15
- manufacture explosives: 19
- manufacture products: 16
- manufacture others: 8. *Includes:*
    - *other manufacturing ammunition: 1*
    - *other manufacturing plant & storage facilities: 1*
    - *other manufacturing SSAN: 1*
    - *other manufacturing immediate use: 1*

    - *other manufacturing mixing, blending home-made explosives, primary: 1*
- explosive transport: 34
- explosive storage: 31
- explosive general retail: 10
- explosive retail class 1: 16
- explosive retail others: 7. *Includes:*
    - *other retail explosives precursors: 1*
    - *other retail class 5.1 (SSAN) & other chemicals: 1*
    - *other retail SSAN: 1*
    - *other retail pyrotechnicians: 1*
    - *other retail sale of smokeless powder for use in relo?: 1*
- explosives demolition: 8
- use blasting: 29
- use demolition: 9
- use quarrying: 18
- use seismic blasting: 13
- use shotfiring: 27
- use others: 19. *Includes:*
    - *other use manufacture of dental prostheses: 1*
    - *other use specialised blasting: 1*
    - *other use as per police bomb technician tasks, dictation by: 1*
    - *other use specialised blasting: 1*
    - *other use special effects & scientific & educational purpose: 1*
    - *other use numerous others: 1*
    - *other use collection, recording & study for historic purposes: 1*
    - *other use defence explosives import, product, storage & transport: 1*
    - *other use disposal: 1*
    - *other use black powder & smokeless propellant powder: 1*
    - *other use mining, construction & fundamental research: 1*
    - *other use testing & disposal activities: 1*
    - *other use training courses: 1*
    - *other use explosives for the production of film & television: 1*
    - *other use testing & disposal activities: 1*

- *other use research & testing: 1*
- *other use professional services: 1*
- *other use opal mining: 1*