



Australian Government

Department of the Prime Minister and Cabinet
Office of Best Practice Regulation

Document 7

Guidance Note

AUSTRALIAN GOVERNMENT REGULATION IMPACT STATEMENT PRELIMINARY ASSESSMENT FORM: IS A RIS REQUIRED?

July 2014

The Government has introduced the *Australian Government Guide to Regulation*, which outlines the process for developing a regulatory proposal, including a Regulation Impact Statement (RIS).

All Cabinet submissions require a RIS. RISs are also required for all decisions made by the Australian Government and its agencies that are likely to have a regulatory impact on businesses, community organisations or individuals, unless the proposed change is a minor or machinery change.

It is your responsibility to contact OBPR for advice on whether a RIS is required for your proposal. OBPR conducts a Preliminary Assessment to determine whether one is needed, based on the information that you provide in the form discussed in this guidance note.

Contacting OBPR early during policy development will help you to:

- progress the proposal through decision making forums, such as Cabinet, in a timely manner
- ensure full compliance with the Government's requirements.

Early advice to your Deregulation Unit will also allow you to take into account any portfolio or agency specific requirements.

The Preliminary Assessment form

When you have a rudimentary set of answers to the seven RIS questions listed in the *Guide to Regulation*, give a written summary to OBPR in the form shown on the following page. If you provide enough information to help OBPR understand the nature of the proposal, you should receive a response within five working days confirming whether or not a RIS is required and, if so, what type. This is known as a Preliminary Assessment.

While filling in this form is not compulsory, it will help you identify the key features of your regulatory proposal. This will allow OBPR to quickly assess whether a RIS is required.

If you have any questions about completing the form, contact the OBPR at helpdesk@obpr.gov.au or call (02) 6271 6270.

A different Preliminary Assessment form is required for COAG regulatory proposals.

Preliminary Assessment Form

Overview

Name of department/agency

Department of the Environment

Name of proposal

Treat specimens of African lion as though they are listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This will ban the import and export of African lion specimens to and from Australia (with minor exceptions including for research and vintage specimens).

Description of the problem

The Australian Government is considering a proposal to further regulate the trade in African lion specimens in response to concerns about the impacts of trade, including the impacts of 'canned hunting' where an animal does not have a reasonable chance of escape.

African lion specimens are currently listed under Appendix II of CITES which allows trade in personally owned specimens and those intended for commercial trade, provided appropriate permits have been issued.

For the period 2003-2012, approximately 285 African lion specimens were imported into Australia¹. Of these, it is estimated that 114 were hunting trophies². South Africa was the country of origin for 177 (62 per cent) of African lion specimens imported to Australia. Kenya and the Central African Republic account for 40 specimens in total (20 specimens, or 7 per cent, each). Over the 10 years, an average of 28 specimens per year was imported. For the period 2008-2012, the average number of specimens imported per year was 41.

Outline of the objectives of government action

Further restrict the import and export of African lion specimens to and from Australia.

Outline of the options available

CITES allows for Parties to implement domestic measures that are stricter than the requirements of the Convention. This capacity is given effect through Australia's national environmental law, the *Environment Protection and Biodiversity Conservation Act 1999*, which allows the Minister to declare a stricter domestic measure by legislative instrument. The following options have been identified towards potential declaration of a stricter domestic measure to treat specimens of African lion as though they are listed on Appendix I of CITES:

1. Restrict trade in African lion specimens. This is the preferred option. Of the potential options to restrict trade, this option is the least susceptible to gaming and the most straightforward administratively.
2. Restrict trade in all African lion specimens from South Africa.
3. Restrict trade in the import of 'canned hunted' lion specimens. This option would be challenging to implement

¹ Using CITES Trade database data, reported imports to Australia. This includes 34 live specimens.

² Total figure based on: 104 specimens recorded as 'trophies' in the 'term' field (which constitutes the specimen description); and ten of the specimens that were imported under the purpose code 'H' (for Hunting Trophy) that did not describe the specimen as a trophy (4 skins, 5 skulls and 1 bone).

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due to difficulties in confirming whether an African lion specimen has been obtained from a canned hunting operation.

4. Restrict trade in African lions to prevent the import of captive bred lion specimens. This option would potentially encourage captive bred specimens to be 'laundered' as wild sourced specimens through misreporting on CITES permits.

Non-regulatory options have also been considered. There are a number of non-regulatory actions Australia could take to discourage the international trade in African lions, particularly those obtained through unethical hunting practices. These measures alone are unlikely to have the same scale of effect in the short to medium term as up-listing the African lion to Appendix I of CITES through a stricter domestic measure and are much more difficult as it would involve working with foreign companies who are undertaking their activities legally within their jurisdiction.

1. Work with African lion range states to encourage trophy hunting operators to adhere to best-practice hunting and encourage range states to only issue CITES export permits where it can be demonstrated that best-practice hunting has been observed.
2. Work with South Africa to encourage ethical hunting of captive bred specimens through engagement with the Professional Hunters' Association of South Africa and the South African Predator Association, South Africa's primary predator hunting and breeding representative bodies.
3. Strongly support the introduction of stricter domestic measures by the two largest importers of African lion specimens - the United States and the European Commission - both of which are currently considering introduction of import permit requirements for African lion trophies that will enable greater discretion regarding the source of imported specimens.

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

Consultation was undertaken during the period of September to November 2014, with:

- Australian businesses involved in guiding lion hunts in Africa, hunting outfitters, freight forwarders and taxidermists who service Australian hunters
- Hunting representative groups in Australia and Africa
- Lion range states in Africa
- The Australian public
- Non-government organisations.

Will Cabinet be the decision maker? ☐ Yes ☒ No

Likely impact on businesses, community organisations

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

How has this been incorporated?

Australian businesses involved in safari hunting operations and associated industries are generally small enterprises

Preliminary Assessment Form

(i.e. under 20 staff) so that there is no need or ability to differentiate obligations.

Is your proposal likely to have any regulatory impacts? If so, please specify.

Yes. The proposal will likely have a minor impact. Based on the consultations undertaken, we estimate that the proposal will impact fewer than 15 Australian businesses.

s47G(1)(a)

s47G(1)(a)

The potential impact on hunting outfitters is unquantified but is expected to be minor.

Regulatory impacts have been assessed on the basis of implementation of restrictions for all African lion specimens. All other identified options are less restrictive and allow a greater degree of trade so that any regulatory impacts would be less than the more comprehensive restriction of trade in African lion.

Live specimens are included in the proposed restriction so trade for exhibition and zoological purposes would be impacted. Live lions would no longer be permitted to be imported/exported as part of circuses and travelling exhibitions, and could only be traded for zoological purposes as part of a cooperative conservation breeding program between zoological facilities. Requirements for live lions traded for the purposes of scientific research or education would remain unchanged

s47G(1)(a)

s47G(1)(a)

In the period 2003-2012, 34 live specimens have been imported to Australia.

Is your proposal likely to affect regulatory costs (including administrative, substantive compliance costs and delay costs)? If so, how?

Commercial imports and exports of recently harvested African lion specimens would no longer be possible so there would be a net benefit as regulatory costs would be removed. Requirements for the import and export of personal items and vintage commercial items would not change.

Should the option to prohibit specimens from South Africa, or captive bred specimens be implemented, existing

³ Note this estimate is based on CITES Trade Database trade data 2008 to 2012 – impact is likely to be higher based on increasing trade trends.

Preliminary Assessment Form

requirements for CITES permits would continue to apply and would have no regulatory impact. If the option to exclude 'canned hunted' specimens is implemented, a small increase in regulatory costs would be incurred by businesses and government.

A calculation of regulatory burden costs is yet to be completed.

Timing

Key dates and timeline

March 2015: Decision brief to the Minister

2015: Implementation of restrictions (if required)

Once Ministerial decision is made: Advice to stakeholders and enforcement agencies of the new requirements.

Contact information

Please enter your contact information below.

Name: s22

Email: s22@environment.gov.au

Phone: 02 6274 s22

Date: 27/11/14

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

Overview

Description of the problem

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

- Do not confuse the problem with a 'symptom' of the problem. Identify the underlying cause of the problem. Is the problem the consequence or the cause?
- What is the nature of the problem? What loss, harm or other adverse consequences are being experienced, and by whom?
- How significant is the problem? What is its magnitude? If your proposal is intended to mitigate risk of an adverse event, what is the likelihood of that event occurring? What evidence do you have to support that assessment?
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- How is the problem currently regulated by Australian Government, state, territory or local government regulations, or by governments overseas? Are there deficiencies in the existing regulatory system?
- Is there a case for government intervention or is the problem of purely private interest?
- Why does current regulation not properly address the problem?
- If the problem relates to existing legislation or regulation, is it caused by faulty design, implementation, or both?
- What are the consequences of not taking any action?
- Could relying on the market in conjunction with the general application of existing laws and regulations solve the problem? If not, why not?
- Will the problem self-correct within a reasonable timeframe?

Outline of the policy objectives

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

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

Outline of the options

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

Other elements of your proposal

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

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

Likely impact on businesses, community organisations and individuals

Impacts can be thought of as either regulatory impacts or compliance costs.

Regulatory impacts

Regulatory impacts may include:

- changes to the number or type of products that businesses can offer, such as:

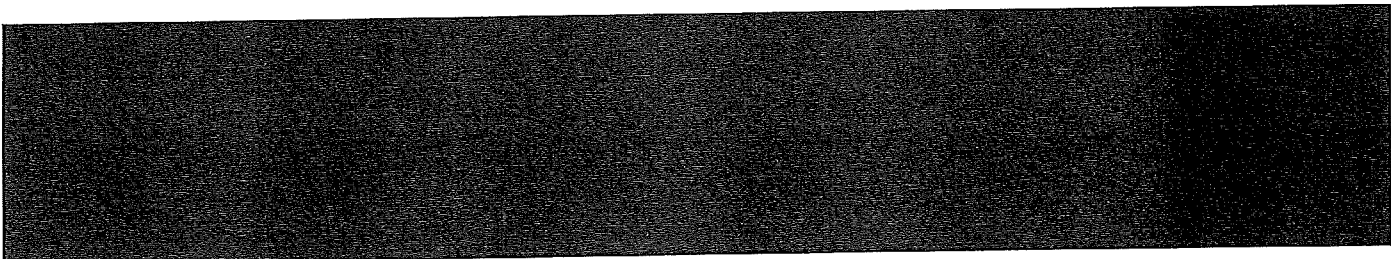
- banning products or industry practices
- changing the way products can be offered
- impacts on consumer demand for certain products, such as:
 - increasing prices through the regulation's requirements
 - changing the information available to consumers
- impacts on the ability of businesses to compete in the market or on their incentives to compete, such as:
 - creating a self-regulatory or co-regulatory regime
 - changing the requirements for a licence, permit or other authorisation
 - influencing the price or quantity of goods that are sold
 - setting standards for product or service quality
 - changing the prices or types of inputs available to businesses.

Regulatory Compliance costs

All RISs must quantify the regulatory costs of new regulations to businesses, community organisations and individuals and identify (in dollar terms) measures that offset the cost imposed by the new regulation.

Regulatory costs include:

- compliance costs:
 - administrative costs
 - costs incurred by regulated entities mainly to demonstrate compliance with the regulation (usually record keeping and reporting costs)
 - costs incurred through complying with government taxes, fees, charges and levies, beyond the amount paid (for example, the time taken to pay a licence fee).
 - substantive compliance costs
 - costs that lead directly to the regulated outcomes being sought (usually purchase and maintenance costs for plant and equipment to meet regulatory requirements, fees paid to training providers, costs of providing information to third parties, and costs of operation—for example, energy costs).
- delay costs:
 - expenses and loss of income incurred by a regulated entity through one or both of:
 - an application delay—the time taken to complete an administrative application requirement that prevents the party from beginning its intended operations

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- an approval delay—the time taken by the regulator to communicate a decision on the administrative application that prevents the party from beginning its intended operations (this includes the time taken to assess and consider an application).

Timing

Outline key dates and give an indicative timeline.

More information on the RIS process

More information on the RIS process is in the *Australian Government Guide to Regulation* (<http://www.cuttingredtape.gov.au>).