



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications



➤ Recalls Policy

Road Vehicles and Approved
Road Vehicle Components

June 2021

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Introduction

Purpose of this policy

The purpose of the Road Vehicles and Approved Road Vehicle Components Recalls Policy (the Policy) is to assist Suppliers in planning for, and conducting a voluntary recall in accordance with Commonwealth law. This policy applies to road vehicles and approved road vehicle components, (hereafter also referred to as vehicles or components), including automated vehicles.

An approved road vehicle component is a component that is the subject of a component type approval under the [Road Vehicle Standards \(RVS\) legislation](#). Please refer to the [Guide to component type approvals](#) on the Department's website for more information on what is, and what is not, eligible for a component type approval.

The Policy has been developed by the Department of Infrastructure, Transport, Regional Development and Communications (the Department) in consultation with Commonwealth and industry stakeholders.

Scope of this policy

The *Road Vehicle Standards Act 2018* (the RVSA), the *Road Vehicle Standards Rules 2019* (the Rules) and associated legislation (together, the RVS Legislation) provides for the voluntary and compulsory recall of:

- road vehicles; and
- approved road vehicle components.

This Policy focuses on the requirements for a Supplier who takes voluntary action to recall a road vehicle or approved road vehicle component. This Policy has been developed to assist Suppliers during the recall process of a road vehicle or approved road vehicle component. This is done by outlining:

1. the legal requirements and roles and responsibilities of Suppliers in relation to a vehicle or components recall;
2. the strategy for Suppliers in relation to a vehicle or components recall; and
3. the process for conducting a voluntary recall.

What is not covered under this policy?

The RVS Legislation does not apply to recalls of vehicles that are not road vehicles, such as quad bikes and mobility scooters or components that are not approved road vehicle components. A Supplier who recalls these vehicles or components must notify the Australian Competition and Consumer Commission (ACCC) if the vehicle or component is a consumer good. For more information refer to section 1.3.5. Notifications received by the Department in relation to consumer goods that are not road vehicles or approved road vehicle components will be redirected to the ACCC.

Background

The Department is responsible for the administration of the RVS Legislation, which prescribes matters relating to the regulation of road vehicles and approved road vehicle components. From 1 July 2021, this includes recommending to the responsible Commonwealth Minister that a compulsory recall of road vehicles and approved road vehicle components be initiated when it appears that a Supplier has not taken satisfactory action to voluntarily recall vehicles or components which may not comply with applicable road vehicle standards or may cause injury to a person. Where this occurs, the recall notice issued by the Minister will specify the manner in which the compulsory recall is to occur, and all relevant persons must comply with the notice. In practice, the Department administers the compulsory recall (including enforcement measures if needed) on behalf of the Minister. If a compulsory recall notice is issued to a Supplier, there are very substantial criminal and civil penalties for refusing or failing to comply with the recall notice.

The RVS Legislation also requires a person, including a supplier of road vehicles and approved road vehicle components, who voluntarily takes action to recall road vehicles or approved road vehicle components to give notice of the recall to the Minister and also to persons outside of Australia who were supplied the affected vehicle or component.

Voluntary recall action is usually undertaken by the entity, whether an individual in business or a company, responsible for the supply of a road vehicle or approved road vehicle component (the Supplier). Consequently, in Chapters 2, 3 and 4 of this Policy, the term 'Supplier' is used, although in principle persons other than Suppliers can undertake voluntary recalls of road vehicles or approved road vehicle components and are similarly required to notify the Minister if they do so.

The objective of the RVS Legislation is to ensure that there is a framework for recalling road vehicles and approved road vehicle components that are unsafe or are non-compliant with national road vehicle standards. Suppliers should seek to resolve recall action in a timely and effective manner. The RVS Legislation does not deal with consumer protection matters. The ACCC regulates product safety of consumer goods under the Australian Consumer Law (ACL). The range of goods covered under the ACL is broad and covers any product that is put to personal, domestic or household use. This includes consumer products that are not road vehicles, such as quad bikes and golf-carts.

Chapter 1: Legal Requirements, Roles and Responsibilities

1.1 Definitions

1.1.1 What is a road vehicle?

A road vehicle is a motor vehicle or trailer designed for use in transport on public roads, including a partly completed or unassembled vehicle. In determining whether a road vehicle is designed solely or principally for use in transport on public roads, regard is to be had only to the physical and operational features of the motor vehicle.

1.1.2 What is not a road vehicle?

Classes of vehicles that would generally *not be* road vehicles include:

- | | |
|--------------------------------|------------------------------------|
| a) agricultural machines; | b) golf carts; |
| c) light utility vehicles; | d) miniature motorbikes; |
| e) motorised mobility devices; | f) motorised recreational devices; |
| g) personal mobility devices; | h) power-assisted pedal cycles; |
| i) quad bikes; | j) tracked vehicles. |

1.1.3 What is an approved road vehicle component?

An approved road vehicle component is a component to be used in the manufacture of a road vehicle, including an assembly to which a road vehicle component type approval applies.

Determinations and specifications of road vehicles and road vehicle components made by the Secretary of the Department may be found on the Federal Register of Legislation (www.legislation.gov.au).

1.1.4 What is voluntary recall action?

While recall action is not defined under the RVS Legislation, the Department considers that voluntary recall action has been taken at the point in time that a Supplier decides to 'rectify' a potential safety or non-compliance issue in relation to a road vehicle or an approved road vehicle component.

1.2 Legal requirements

1.2.1 Voluntary recalls

Where a Supplier takes action to recall road vehicles or approved road vehicle components because they may cause injury or they may not comply with applicable standards, this will constitute a voluntary recall of the defective vehicles or components for the purposes of the RVS Legislation.

The Rules require that a person (which includes a Supplier) conducting a voluntary recall must notify the Minister and persons outside Australia to whom they have supplied the affected road vehicle or approved road vehicle component. The circumstances in which notifications for voluntary recalls are required are set

out in section 211 of the Rules. These circumstances are broadly defined, and may exist even if the Supplier does not label its actions a 'recall'.

Where notification to the Minister is required, the person must do so in writing within two days after taking recall action. The Minister may publish a copy of the recall notice on the internet. To comply with the requirements of the legislation the notice must:

- a) state that the road vehicles or approved road vehicle components are subject to recall; and
- b) if the road vehicles or approved road vehicle components contain a defect or have a dangerous characteristic – set out the nature of that defect or characteristic; and
- c) if a reasonably foreseeable use or misuse of the road vehicles or approved road vehicle components is dangerous – set out the circumstances of that use or misuse; and
- d) if the road vehicles or approved road vehicle components were recalled on the basis of non-compliance or likely non-compliance with applicable standards:
 - i. identify the standards with which the road vehicles or components do not comply, or it is likely that they do not comply; and
 - ii. set out the nature of the non-compliance or likely non-compliance with those standards.

Sections 212(4), (5), and (6) of the Rules set out further requirements that apply if the road vehicle or approved road vehicle component have been supplied to persons outside of Australia. Suppliers should be aware of these requirements for compliance with the RVS Legislation.

1.2.2 Compulsory recalls

The Commonwealth Minister responsible for administering the RVSA (the Minister) has the power to issue a recall notice to a Supplier to recall road vehicles or approved road vehicle components if it appears to the Minister that one or more Suppliers have not taken satisfactory action to prevent those road vehicles or approved road vehicle components from causing injury, or that one or more Suppliers have not taken satisfactory action to rectify non-compliance with national road vehicle standards. The Department will provide advice to the Minister on whether satisfactory action has been taken, based on the Department's monitoring of the recall and the information that a Supplier provides to the Department about the recall over the course of recalling the affected vehicles or components. While compulsory recalls are usually issued as last resort, a notice can be issued without delay if the vehicle or component poses an imminent risk of death, serious illness or serious injury. The Minister has broad powers under the Rules to require Suppliers to take action in relation to a recall. The action chosen is at the discretion of the Supplier, as is the remedy.

There are very substantial criminal and civil penalties for Suppliers refusing or failing to comply with a compulsory recall notice or for continuing to supply a defective or dangerous vehicle or component after a compulsory recall notice has been issued for that vehicle or component.

If a Supplier of an affected vehicle or component has supplied the vehicle or component to persons outside Australia, then section 210 of the Rules requires the Supplier to notify those persons of the compulsory recall.

1.2.3 Disclosure notices

Section 41 of the RVSA empowers the Minister, Secretary and Senior Executive Service (SES) employees of the Department to issue a disclosure notice to the holder of a road vehicle or component type approval or a person (Supplier) who, in trade or commerce, supplies road vehicles or approved road vehicle components, if they reasonably believe that:

- a) vehicles or components of that kind will or may cause injury to any person; or
- b) a reasonably foreseeable use, including a misuse, of vehicles or components of that kind will or may cause injury to any person; or
- c) vehicles or components of that kind do not, or it is likely that they do not, comply with the applicable national road vehicle standards;

and that the Supplier is capable of giving information, producing documents or giving evidence in relation to those vehicles or components.

This means that upon receipt of such a notice the Supplier is compelled by law to give specified information and documents, or to give evidence on oath or affirmation, to the Minister or Department. A disclosure notice may be issued for either a compulsory or voluntary recall, or for the purpose of the Department or the Minister forming a view on whether a voluntary or compulsory recall should be initiated. A person commits an offence for refusing or failing to comply with a disclosure notice, or for giving false or misleading information in response.

1.2.4 Failure to notify the Department

A person contravenes their notification requirements if:

- a) the person is required by the Rules to give a notice, or a copy of a notice, to the Minister in relation to a recall of road vehicles or approved road vehicle components; and
- b) the person refuses or fails to give the notice, or the copy of the notice, as required by the Rules.

There are significant penalties for contravening notification requirements.

1.3 Roles and responsibilities

1.3.1 Who is a Supplier?

A Supplier is the entity that supplies (or agrees to supply, or resupplies) by way of sale, exchange, lease, hire or hire-purchase a road vehicle or approved road vehicle component. Suppliers can include manufacturers, importers, distributors, and retailers. There can be more than one Supplier responsible for a particular road vehicle or approved road vehicle component.

An approval is required to import a road vehicle to Australia. In addition, generally, vehicles must be entered on the Register of Approved Vehicles (RAV) before being provided to the Australian market. Road vehicles that are entered on the RAV are subject to the compulsory and voluntary recall provisions of the RVS Legislation.

There are two pathways for entry on the RAV:

- A vehicle type approval; or
- A concessional RAV entry approval.

As Suppliers of road vehicles or approved road vehicle components, an original equipment manufacturer (OEM), or the OEM's Australian representative, for vehicles that have been entered onto the RAV via the vehicle type approval pathway, will usually be responsible for taking voluntary recall action. For the purposes of the recall provisions of the RVS Legislation, concessional vehicle importers will also be required to undertake recall action if they meet the definition of a 'Supplier'.

Each entity in the supply chain is responsible for assessing, and if necessary, rectifying potential safety hazards presented by the road vehicle or approved road vehicle component. All Suppliers in the supply chain should also be able to demonstrate due diligence in the procurement and supply of the road vehicle or approved road vehicle components. The responsibility to initiate and manage the recall in connection with the recall of the road vehicle or approved road vehicle components may not be discharged to other parties in the supply chain, whether they be domestic or overseas manufacturers, Suppliers or distributors. Once a Supplier has determined that voluntary recall action is necessary, a Supplier should negotiate with the parties in the supply chain about who is going to conduct the recall.

Usually a safety-related hazard will be detected by the Supplier, who then undertakes the recall. Where the Department detects or becomes aware that a road vehicle or approved road vehicle component presents a risk of injury or does not (or it is likely that it does not) comply with relevant standards, the Department will attempt to identify the Supplier at the highest level in the supply chain. This is to assist in ensuring that all relevant stakeholders, including overseas stakeholders, are identified and advised of the issue relating to the road vehicle or approved road vehicle component.

A potentially unsafe road vehicle or approved road vehicle component may result from a manufacturing or production error – that is, where the manufacture of the road vehicle or approved road vehicle component deviated from its design or material specifications during production.

An unsafe road vehicle or approved road vehicle component may also result from a design defect – that is, a vehicle or component may be unsafe even if it is manufactured exactly in accordance with its design specifications. A design defect may also be implicated if the risk of injury results from the operation of the vehicle or component, the reasonably foreseeable misuse of the vehicle or component, or the failure of the vehicle or component to operate as intended.

1.3.2 Supplier of approved road vehicle components

In the case of approved road vehicle components, while a component type approval holder may be considered to be the Supplier, they may not be best placed in the supply chain to take effective and efficient recall action. If you are a component type approval holder contemplating recall action, please contact the Recalls Manager for advice first via recalls@infrastructure.gov.au

1.3.3 Concessional vehicles

Concessional vehicle importers of new and used road vehicles in Australia sell legal, non-counterfeit vehicles outside normal distribution channels and may have no relationship to the manufacturer of the vehicle. For the purposes of the recall provisions of the RVS Legislation, concessional vehicle importers and Registered Automotive Workshops (RAW) have an obligation to undertake recall action if they meet the definition of a 'Supplier'.

If a concessional RAV entry approval holder supplies vehicles to the Australian market for example, by way of sale, they will be expected to take any voluntary recall action should the vehicles they import for sale be subject to a recall. This includes vehicles that the importer has modified by a RAW and later on-sells.

Unless you have imported a road vehicle for personal use, the Supplier subject to the RVS Legislation recall provisions could be:

- the importer, where affected road vehicles are imported for sale; or
- the RAW (company), where affected road vehicles are imported by the RAW with the intention of selling them after modification; or
- the car dealer, where affected road vehicles are imported by the car dealer for sale after being modified by a RAW.

In some circumstances, the Department may contact other entities in the supply chain if it appears that a concessional RAV entry approval holder is not going to be able to undertake timely and effective recall action. However, where the concessional RAV entry approval holder is responsible for progressing any voluntary recall of a road vehicle, the Department expects in the first instance, that this will occur in a timely manner. As the Department has approved the importation of the vehicle, the Department also expects the approval holder to fulfil its legislative obligations including the undertaking of a vehicle recall where necessary.

In the event of a voluntary recall for road vehicles, concessional vehicle importers and RAWs should identify if they have supplied or added to the RAV affected road vehicles and if they were a supplier of those road vehicles subject to the recall.

Where a concessional vehicle importer or the RAW is a Supplier, they should:

- have a communications strategy, which includes how they intend to advise affected consumers that a voluntary recall has been initiated;
- ensure any voluntary recall of those affected vehicles they have supplied, is undertaken in a timely manner;
- seek assistance from the original vehicle manufacturer (or their Australian representative) in identifying affected vehicles and developing rectification options.

If the concessional vehicle importer or RAW is not a Supplier of road vehicles subject to the voluntary recall, the Department will seek assistance from these entities in identifying the Supplier of the affected vehicles.

If a concessional vehicle importer merely imports a road vehicle on behalf of a person, they will not be considered to be a Supplier unless they sell, exchange, lease, hire or hire-purchase the vehicle to them. If a vehicle is imported by a concessional vehicle importer and a RAW performs a modification service on it, the RAW performing the modification service is not a 'Supplier' of the vehicle.

1.3.4 Department's role

Under the RVS Legislation, the Department is responsible for administering the framework for the recall of road vehicles and approved road vehicle components that are unsafe or do not comply with applicable standards, and administering and enforcing that framework. Under the RVS Act and RVS Rules:

- a) the Minister has the function of receiving notifications of voluntary action taken to recall road vehicles or approved road vehicle components;
- b) the Minister may initiate a compulsory recall of road vehicles or approved road vehicle components by issuing a recall notice under section 206 of the RVS Rules;
- c) the Minister, Secretary, an SES employee or acting SES employee in the Department may require Suppliers to give information, produce documents or give evidence in relation to road vehicles or approved road vehicle components of a particular kind that are unsafe or do not comply with the national road vehicle standards.

1.3.5 Interaction with the Australian Consumer Law

Voluntary recall notices

Road vehicles and approved road vehicle components under the RVS Legislation may also be 'consumer goods' under the ACL. For example, a passenger car is usually a consumer good but a semi-trailer is not.

Suppliers who voluntarily recall road vehicles or approved road vehicle components that are also 'consumer goods', should complete the Department's notification form (refer to section 2.2), and not the online form on the ACCC's Product Safety Australia website.

The ACL requires Suppliers who voluntarily recall consumer goods for safety-related reasons to notify the Commonwealth ACL Minister (section 128). Suppliers do this by submitting an online form to the ACCC. However, under an Australian Government arrangement, the Department may receive notices under section 128 of the ACL for voluntary recalls of road vehicles and approved road vehicle components, recognising the need for government agencies to avoid duplication. The Department is the lead agency for these recalls.

Where this occurs, notification to the Department is under section 128 of the ACL. This is because sections 212(8) and (9) of the Rules provide that if a person has made a notification under sections 128(2) and (4) of the ACL in relation to the voluntary recall of road vehicles or approved road vehicle components, then the person is taken to have provided notifications under section 212(2) and (4) of the Rules. To provide simplicity and clarity for Suppliers and other parties, this Policy applies to these recalls, and not the ACCC's guidelines.

Notifications received by the Department in relation to consumer goods that are not road vehicles or approved road vehicle components will be redirected to the ACCC.

Mandatory injury reports

Mandatory injury reports are distinct from recall notifications to the Department. It is mandatory, under the ACL, for Suppliers to report to the Commonwealth ACL Minister any product-related death, serious injury or serious illness associated with a consumer product (sections 131 and 132 of the ACL). There are a number of exemptions from this requirement including where the report is required under State and Territory coroner and road transport legislation. There is no reciprocal provision under the RVS Legislation. However the Department could obtain such information or documents by way of issuing a disclosure notice to a Supplier should the Supplier not provide it to the Department voluntarily.

Chapter 2: Voluntary recalls

2.1 Objectives of a recall

The objectives of a voluntary recall undertaken by a Supplier are to:

- a) Ensure that a potential safety issue, or non-compliance with applicable standards, in relation to a road vehicle or approved road vehicle component is resolved in a timely and effective manner;
- b) Stop the distribution and sale of the affected road vehicle or approved road vehicle component as soon as possible;
- c) Inform the public of the issue;
- d) Remove the affected road vehicles or approved road vehicle components from the market;
- e) Make the process as easy for the consumer as possible; and
- f) Prevent any further distribution of unsafe vehicles or components.

In accordance with the RVS Legislation, Suppliers must notify the Minister when voluntary recall action has been initiated. In practice, the Department accepts notification on the Minister's behalf. Most voluntary recalls are initiated by Suppliers when they become aware of a potential safety issue or non-compliance concerning a road vehicle or approved road vehicle component they supply.

The word 'voluntary' is not intended to suggest that a Supplier may choose not to remove or rectify vehicles or components that may cause injury. The goal of recall action is for all of the vehicles or components that are the subject of the recall to be removed from the market or rectified.

The majority of recalls in Australia are initiated by the Supplier, on the basis that they are best placed in the supply chain to undertake timely and effective recall action. The Department will monitor any recall action undertaken by a Supplier and may, at times, negotiate a recall with a Supplier.

2.2 Notifying the Department

If a Supplier has taken voluntary recall action in relation to a road vehicle or approved road vehicle component because of a potential safety issue or non-compliance with applicable standards, in accordance with the legislative provisions of the Rules, the Supplier must notify the Minister within two days after taking recall action. The Department will receive notifications of voluntary recall actions on behalf of the Minister and a copy of the notice may be published on the internet. Failure to notify the Minister is an offence under section 40 of the RVSA and may result in a civil penalty.

The Supplier can notify the Department by lodging a recalls notice through the Department's recalls website, which can be accessed at www.vehiclerecalls.gov.au. The website contains a link that will take a Supplier directly to the Department's [Road Vehicle Regulator \(ROVER\) system](https://rover.infrastructure.gov.au). Alternatively, the Supplier can directly access ROVER at <https://rover.infrastructure.gov.au>. ROVER is the IT system that supports applications under the RVS Legislation and where the Supplier will submit a recall notice to the Department. The Supplier will need to create a user account to use ROVER prior to accessing it for the first time.

Where the vehicle or component was supplied outside of Australia, the Supplier must also notify the overseas person to whom it supplied as soon as practicable and provide the Minister with a copy of the notice within 10 days after giving notice to the overseas person (this too can be done by providing it to the Department through its recalls website or directly through ROVER).

Alternatively, if the Department believes that recall action should be taken, the Department will contact the Supplier and explain why it believes that recall action might be necessary and request a response. If the Supplier does not provide a response or requested information to the Department, it may be necessary to rely on enforcement action such as disclosure notices or the recommendation of a compulsory recall to the Minister if in the Department's view there is an imminent risk of death, serious illness or serious injury.

2.2.1 Industry Codes

Suppliers may use an Industry Code to guide their notification and recall process if they consider it provides the necessary information, in line with this Policy. If the Department considers that further information is required the Department reserves the right to request that further information and also has the power to issue disclosure notices to obtain information or documents to assist it in monitoring recalls.

2.3 Undertaking a voluntary recall

The RVS Legislation does not limit who can undertake voluntary recall action. In most cases it will be a Supplier. A voluntary recall should be implemented in accordance with the Supplier's recall strategy. The Supplier can also consult with the Department on whether recall action should be taken.

The Supplier is responsible for initiating and conducting an effective recall which includes undertaking their own risk assessment as part of the voluntary recall. It is the Supplier's responsibility to monitor the recall they have initiated and, should the risk assessment change, the Supplier should notify the Department of the change and update their recall strategy, including the communications strategy, accordingly.

In order for a voluntary recall to meet its objectives and that Suppliers take satisfactory action to prevent injury and rectify non-compliance, Suppliers undertaking a voluntary recall should complete the sequence of steps listed below. The steps are not in a strict order and some may be completed at the same time:

- a. **submit a recall notice notifying the voluntary recall to the Department (as required by the Rules)**
- b. **prepare a recall strategy (including a communications strategy) and submit it to the Department, based on the Supplier's risk assessment**
- c. **conduct the recall on road vehicles or approved road vehicle components to eliminate potentially defective product from the market, or determine other suitable remedies based on the circumstances**
- d. **submit regular progress reports to the Department. The frequency of progress reports to be provided to the Department will be based on the level of risk that the defect or dangerous characteristic of the road vehicle or approved road vehicle component poses to the safety of a person.**

2.4 What information is provided in a notification to the Department?

A notification of a voluntary recall must:

- a) state the road vehicles or approved road vehicle components that are subject to recall:
 - For a vehicle, the Supplier should include the make, model, variant, vehicle identification number (VIN) list, and production dates;
 - For components, the Supplier should include the manufacturer, make, model, year of manufacture, serial or part number list, component type approval (CTA) number, and traders (distribution list); and
- b) set out the nature of the defect or dangerous characteristic of the vehicle or component (if any); and

- c) include details on the number of vehicles or components that are subject to the voluntary recall; and
- d) set out the circumstances where it is reasonably foreseeable use or misuse of the vehicle or component is dangerous; and
- e) identify the standards with which the vehicles or components do not comply or are likely to not comply (if applicable); and
- f) set out the nature of the non-compliance or likely non-compliance with those standards (if applicable); and
- g) set out the proposed rectification method.

In addition to the statutorily required information that a Supplier must provide in a recall notice, the Department relies on the cooperation of a Supplier to submit additional information with their notice, including a recall strategy and communications strategy. Some details of the recall strategy are expected to be supplied to the Department at the time of initiating the recall. However, other necessary details will not become evident until the recall has progressed, and these are to be provided at agreed intervals. The Department will accept a recall strategy that is in line with an Industry Code of Practice if it provides sufficient information, in accordance with this Policy. A Supplier should expect to negotiate the content of the recall strategy with the Department following submission. This information enables the Department to review the adequacy of a Supplier's recall strategy to ensure it is compliant and to ensure a timely and effective resolution of a recall. It is important to note that the commencement of a voluntary recall by a Supplier is not subject to approval by the Department. Further information on the submission of a recall strategy can be found in Chapter 3.

The Department may seek to negotiate changes to the presentation of a recall notice or a Supplier's recall communication products to ensure those affected by the recall understand the nature of the risk associated with the road vehicle or approved road vehicle component, and what they need to do.

The benefit of Suppliers providing information to the Department is that it assists both the Department and the Minister to prioritise recall matters. While it is for the Supplier to ensure that their recall is resolved in a timely manner, the Department and the Minister also monitor how a Supplier's recall is progressing. If they do not have this information, it will be difficult to assess whether satisfactory action has been undertaken to recall the affected vehicles or components and it may be necessary to issue disclosure notices to obtain information or consider a compulsory recall, which attracts significant penalties for Suppliers should they not comply.

2.5 What happens after a notification has been provided to the Department?

When the Supplier notifies the Department of a voluntary recall, it should also provide a recall strategy and communications strategy to demonstrate how the Supplier intends to take recall action; whether the recall will be conducted in a timely and effective way; and whether the Supplier is taking satisfactory action to prevent injury or rectify non-compliance with applicable standards.

The Department will generally publish a notice on the Department's website for each recall notice received. A recall notice is one of the tools for reaching those affected by a voluntary recall. The notice assists the Supplier's recall strategy by communicating what action needs to be taken and who a consumer/operator can contact if they have questions or concerns about the recall. The content of the notice is drawn from information provided by the Supplier at the time of notification. Where practicable, the Department will request that the Supplier review a draft of the notice before it is published on the Department's website.

Where this is not possible and the Department considers a notice should be published without delay, a disclaimer will be included on the notice identifying that the contents of the notice are the view of the Department.

The Supplier is responsible for conducting a recall in a manner that is appropriate to the risk being addressed and ensuring communications will result in the most effective recall possible.

When the Department reviews a Supplier's recall notice, the matters the Department considers include whether you have complied with the reporting requirements under the RVS Legislation and set out an appropriate strategy for the recall.

2.6 Monitoring voluntary recalls

The Supplier will provide progress reports at regular intervals to enable the Department to monitor the performance of the voluntary recall. Details of what should be in the report are set out in Chapter 4 of this Policy. The progress report enables the Department to form a view on the effectiveness of the recall and communication strategies, and to determine whether there is action that the Department can take to support the Supplier's actions to voluntarily recall the vehicles or components. Any change to the particulars of a recall (e.g. the number of affected vehicles, the risk assessment has changed and what prompted a reassessment of the risk) must be reported and explained by the Supplier to the Department.

The Department will monitor the progress of the recall through to completion to ensure that Suppliers effectively remove from the marketplace, or rectify, unsafe vehicles or components. If the Department is not satisfied with the progress of the recall, the Department may consider other action such as the issuing of disclosure notices to obtain information, or recommending compulsory recall action to the Minister. The Department will liaise with the relevant Supplier(s) before taking such action.

When the Department assesses the effectiveness of a recall, the following is considered:

- how many vehicles or components have been rectified;
- any complaints or injury reports received;
- the Supplier's communication strategy, and the wording on the Supplier's consumer communications; and
- the level of risk to the consumer.

2.7 Escalating a voluntary recall to a compulsory recall

The Department considers a number of factors to determine when to escalate a voluntary recall to a compulsory recall including:

- the Supplier hasn't provided the progress report requested by the Department;
- fatality, injury or incident reports;
- consideration of risk factors such as injury severity, likelihood and availability of the affected vehicle or component;
- the Supplier is not responding to the Department's communications;
- the Supplier's recall is performing poorly, e.g. when only a small number of vehicles or components have been rectified;
- the Supplier has not communicated to consumers in accordance with the agreed recall strategy or as the Department has subsequently requested;

- the Supplier's recent past performance in relation to recalls;
- the Department has received and been advised of a Mandatory Injury Report or a complaint – and the Department's assessment indicates that the recall scope or risk has changed or recall communication may be ineffective; or
- any development that indicates serious concerns about the effectiveness of the recall.

In situations where the Department determines that intervening in a recall may be necessary, the Department may request that the Supplier:

- revise the recall strategy which may include revisions to advertisement and consumer communications to ensure it is consistent with the recall notice;
- change their remedy, including adding extra incentives for consumers to have the vehicle or component the subject of the recall rectified;
- ask the Supplier to review their recall and communications strategy which may include repeating their recall message, including advertising, social media posts, emails to consumers; or
- meet with the Department to discuss the strategy.

As a result of the assessment, the Department may change the frequency of progress reports.

However, if after all efforts are exhausted by the Department in progressing a voluntary recall, the Department may recommend that the Minister take compulsory action.

Chapter 3: What is a recall strategy and why is it important?

A Supplier should submit a recall strategy to the Department upon initiating a recall. A recall strategy is important as it provides the Department with relevant information as to whether satisfactory action has been taken to prevent injury or rectify non-compliance. In particular it allows the Department to assess whether the safety risks associated with the road vehicle or approved road vehicle components would be adequately addressed under the strategy.

The Department will accept a recall strategy that accords with an Industry Code of Practice if it provides sufficient information, in line with this Policy. A Supplier should expect to negotiate the content of the recall strategy with the Department following submission and provide additional information where requested. As noted in Chapter 2 the commencement of a voluntary recall, including any negotiation concerning the content of a recall strategy, by a Supplier is not subject to approval by the Department. Where the Department considers that all requested information has not been provided or if appropriate action has not been taken the Department may issue a disclosure notice to obtain that information.

The submission and review of a recall strategy does not delay any recall action taken by a Supplier. A recall strategy can be submitted or updated at any time in ROVER by the Supplier after initial notification to the Department. If the Supplier updates its recall strategy it must provide an explanation to the Department for the update. It should be noted that some details of the recall strategy are expected to be supplied to the Department at the time of initiating the recall. Some details may not become evident until the recall has progressed, and these are to be provided to the Department at agreed intervals.

3.1 Elements of a recall strategy

A Supplier's recall strategy should include, **where applicable**:

- a) an explanation of the issue, including the hazard associated with the vehicle or components and the Supplier's assessment of the level of risk presented to the consumer;
- b) the Supplier's assessment of how the defect occurred, including detailed identification of the affected vehicles or components at fault and at which stage of supply the fault occurred (whether during the design, testing, manufacturing, packing, inspection or transport stages);
- c) the number of affected vehicles and components supplied to consumers and other entities within the supply chain;
- d) details of any known injuries or incidents associated with the affected vehicle or component;
- e) information about the life cycle of the affected vehicle or component;
- f) a summary of the proposed communication with consumers, including the method of communication, how frequently it will be repeated and details of the message;
- g) a dispute resolution process to address consumer complaints;
- h) information about the manner in which the affected vehicles or components will be collected, destroyed or rectified;
- i) the Supplier's instructions and support provided to its dealership network to implement the recall strategy;

- j) contact details of the manufacturer and/or importer of the affected vehicle or component;
- k) contact details of other entities in the domestic supply chain to whom the affected vehicles or components have been supplied;
- l) contact details of overseas recipients of the affected vehicles or components (such as distributors or retailers);
- m) a summary of actions taken by the Supplier to identify and correct the cause of the hazard, including the outcome of any root cause analysis or the time period in which analysis will occur.

3.2 Communications strategy

3.2.1 Review of a Supplier's Communications Strategy

A communications strategy is a Supplier's plan to reach affected owners/operators as quickly and as effectively as possible in order to complete a recall. The purpose of communicating with consumers about a recall is to ensure that injuries related to road vehicles and approved road vehicle components are prevented by either removing or rectifying unsafe vehicles or components. It is a 'living' plan that should be updated over the course of a recall to reflect changes in circumstances and progress with the recall.

The Department expects the Supplier to develop a strategy for each voluntary recall. The strategy should be appropriate to the level of risk that the Supplier has identified, and be designed to enhance the performance of the recall. It is important to match the communication medium to the consumer in order to achieve the objectives of a recall as efficiently as possible. Communications regarding the recall should therefore be directed towards the particular consumer demographic for the recalled vehicle or component by using an appropriate communication method.

A recall communication strategy must be developed by the Supplier for contacting, communicating and engaging with consumers to maximise the effectiveness of the recall. The purpose of a Supplier's communication strategy is to ensure that the Supplier achieves timely and effective rectification of vehicles and components affected by the recall. The Department will accept a communication strategy that accords with an Industry Code of Practice if it provides sufficient information, in line with this Policy.

Review of the Supplier's communications strategy is initially done following the Supplier providing it to the Department when notifying of a voluntary recall. The communications strategy will be periodically reviewed by the Department throughout the voluntary recall process, in conjunction with regular monitoring activities to ensure it meets the objectives of the recall at any point in time.

3.2.2 What should be included in a Communications Strategy?

Suppliers' communications should be direct and personalised, not focused on the technical aspects of the recall, and should encourage consumers and operators to respond to the recall with the appropriate degree of urgency. A good communications strategy is key to alerting consumers to the risk. Direct contact with the consumer should always be used when achievable by the Supplier, as this is the most effective way to alert consumers to a recall.

There are a number of means by which a Supplier can communicate a recall notice to consumers. For a written recall notice, the communications strategy should include, **where applicable**:

- a) **Supplier details** – a clear description of the Supplier's branding elements, including the name, logo, branding, phone number and website details.

- b) Vehicle or component description** – information that clearly identifies the affected vehicles or components.
- i. For a vehicle, as a minimum, the Supplier should include the make, model, variant, vehicle identification number (VIN) list, production dates.
 - ii. For components, as a minimum, the Supplier should include the manufacturer, make, model, year of manufacture, serial or part number list, component type approval (CTA) number, traders (distribution list), a graphic of the components.
- c) Number of affected vehicles or components** – the number of vehicles or components affected by the recall should be provided.
- d) Description of the defect** – a clear description of what the defect is and who is at risk of injury. The defect (or potential defect) should be described using simple language so those affected by the recall can understand the problem. Suppliers should refrain from using technical terminology. The description should also outline in what conditions the problem is likely to occur and why the problem occurs.
- e) Description of the hazard and what can happen** – the Supplier should use simple language that accurately identifies the hazard or non-compliance. A description of the type of use or misuse that might lead to injury should be used. The Supplier should ensure that the likelihood of the injury occurring is accurately conveyed.
- f) Statement on what to do** – the Supplier should provide information that explains the immediate action the consumer/operator should take. Suppliers should ensure they minimise the inconvenience to the consumer/operator wherever possible in order to encourage compliance with the recall notification. When explaining what to do, the Supplier should include the following:
- i. **Contact details** – phone number, email address, website details, where to present their vehicle for rectification and store location.
 - ii. **Description of the plan for rectification** – including what will be fixed, how long it will take, and what consumer support services will be made available.
 - iii. **Statement of costs** – noting that in most cases rectification should be at no cost to the consumer/operator.
- g) Accessibility and translation** – communication should be made available in multiple languages wherever possible, accommodate culturally and linguistically diverse audiences, be suitable for audiences with a disability (for example, those with a hearing or vision impairment) and provide details of the National Relay Service. Suppliers should consider providing transcripts, translations, captions and/or screen readers where the format for communication is digital (internet, social video, audio).
- h) Language and tone** – language and tone are crucial for increasing the response to a recall. The language and tone of the Supplier’s communication should reflect the degree of risk and should be easy to understand. For example, it should:

- i. give the consumer/operator the appropriate sense of urgency to respond to the recall.
- ii. use specific words and phrases such as URGENT SAFETY RECALL, DANGER, STOP DRIVING YOUR VEHICLE, AND KILL where appropriate.
- iii. use specific words that reflect the maximum hazard such as SERIOUS INJURY, DEATH, KILL, etc.
- iv. accurately convey the likelihood that the injury will occur by avoiding using language such as *this recall is precautionary only or in very rare circumstances*.
- v. not use the word *voluntary* in communication as it may confuse the consumer/operator.

Utilising multiple communication channels to promptly contact those consumers affected by a vehicle or component recall, including advertising in online and offline mass media, information on the affected business' website, as well as more direct forms of communication such as social media may also assist a Supplier in communicating to consumers. Other online forms of communication such as SMS, web forums, blogs and other social networking sites may prove effective and should also be considered.

Communications should include the words '*see www.vehiclerecalls.gov.au for further recall information.*' Suppliers should place information prominently on their websites. The best practice for this is to display an image of the affected vehicle or component and the words *Vehicle Safety Recall* (or similar) in a clearly visible position on the homepage. The image or words should be hyperlinked to a page that displays the recall notification.

3.2.3 Department's role in communicating recalls

The Department's dedicated vehicle recalls website is the main source of information on recalls for road vehicles and approved road vehicle components. Recall notifications are published on the Department's website, which can be accessed at www.vehiclerecalls.gov.au. Content may also be posted to the Department's social media platforms, which will include a link to the published notice on the website. Updates and alerts in relation to recalls are also published on the Department's recalls website.

A recall notice is a key communication tool in reaching affected owners/operators to help them to understand what action they need to take, and who they can talk to if they have questions or concerns about a recall. For this reason, the Department will generally publish a recall notice on the Department's recalls website for every recall notified.

The content of a recall notice is drawn from information submitted by the Supplier in their notification. Where practicable the Department will ask the Supplier to review a draft of the notice before publishing it. The Department will generally not change the content of a notice unless:

- a) the Supplier requests a change and the Department agrees that the change is likely to improve the performance of the voluntary recall; or
- b) an error needs to be fixed; or
- c) the scope of the recall has changed.

The Department prioritises recall matters in considering when to intervene in the progress of a voluntary recall. Escalatory action can include:

- contacting the Supplier to discuss changes to a recall notice, or

- when the Department publishes a Supplier's recall notice on the Department's website, including its view of the risk to consumers.

As the Department's focus is on consumers being notified as quickly as possible of a recall, the Department may also publish a Supplier's recall notice before all aspects of the recall strategy or communication strategy have been finalised.

Chapter 4: Reporting on the voluntary recall

4.1 Progress reports

In order for the Department to be able to monitor the progress of a recall and assess its effectiveness, a Supplier should provide progress reports at regular intervals. The Department may alter the reporting schedule based on performance of the recall or reassessment of the level of risk associated with the recall.

All reporting will be based on a risk assessment. In order to monitor, Suppliers will be asked to report at regular intervals. Over the course of a recall, the timeframes may change, in line with the changing risk associated with the recall.

The Department will develop a reporting schedule with a Supplier at the beginning of a voluntary recall that appropriately reflects the risk being addressed. The information that the Department requires will depend on the specifics of the recall and will therefore be negotiated on a case-by-case basis. Examples of the types of information that **may be** required include:

- a) Fatality, injury or incident reports;
- b) risk factors such as injury severity, likelihood and availability of the affected vehicle or component;
- c) The number of road vehicles or approved road vehicle components returned from within the supply chain and from consumers;
- d) The number of complaints and inquiries that have been received regarding the affected vehicles or components and the nature of these complaints;
- e) The number of inquiries that have been received from consumers regarding the recall and the nature of these inquiries;
- f) Whether the Supplier has deviated from the original plan as described in the agreed communications strategy and if so, the reasons why;
- g) Barriers to recall effectiveness (for example, ongoing parts unavailability or consumer response to notifications); and
- h) Where the Supplier is aware of recall action in other countries.

4.2 Process for a recall to become inactive

When a Supplier has taken all reasonable steps to effectively mitigate the risk posed by the unsafe road vehicle or approved road vehicle components, the recall can be made inactive. A recall with an inactive status does not affect the statutory rights of consumers and the public may continue to access information about the recall through the recalls website at www.vehicle recalls.gov.au. However, when a recall becomes inactive, the Supplier no longer needs to actively promote the recall and the Department's reporting expectation ceases. Should additional vehicles be remediated after the recall has closed, it must be reported to the Department.

The Supplier should submit a letter to the Department requesting that a recall be made inactive. The letter should include **where applicable**:

- a) Confirmation of the total number of affected vehicles or components supplied and the final number of units recovered from consumers and from within the supply chain;

- b) Evidence to demonstrate that all relevant entities from within the domestic supply chain were notified of the recall;
- c) Information about the communication strategy, including copies of any data relating to its effectiveness (for example, the number of visitors accessing the relevant webpage);
- d) Action taken by the Supplier to identify and correct the cause of the safety hazard presented by the vehicle or component, including the outcome of any root cause analysis, whether the defect was caused by a design, testing, manufacturing, packaging, transportation, or other fault, and the steps the Supplier has taken to remedy the defect;
- e) Information about any known injuries or incidents associated with the affected vehicle or component;
- f) The number of complaints or inquiries that have been received regarding the recall and/or the vehicle or components; and
- g) Information about the means by which the recalled vehicle or components have been destroyed or rectified, including evidence of the destruction or rectification of the unsafe vehicle or components.