

***Criteria for Accepting International Standards and
Risk Assessments for Product Safety***
ACCC Consultation Paper

**Swimming Pool and Spa Association of Australia
Submission**



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Director
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About SPASA AUSTRALIA

The Swimming Pool and Spa Association of Australia (SPASA AUSTRALIA) is Australia's Peak Swimming Pool & Spa Industry body and is committed towards advancing the integrity, promotion and professionalism of our industry in the eyes of consumers, regulators and government.

SPASA AUSTRALIA has a robust and active membership made up of SPASA Queensland, SPASA South Australia, SPASA Victoria, SPASA Western Australia and SPASA New South Wales & ACT, National Pool and Spa Suppliers and Distributors and the pool and spa retail chains of Poolwerx, Swimart and Poolside.

As the only peak industry Association of its kind in Australia, our charter is to advocate and respond on national issues by proactively creating and executing strategies to assist government meet policy, planning, leadership and advocacy objectives and outcomes that affect our industry.

The Federal Government's initiative to align regulatory processes as much as possible to eliminate or minimise regulatory compliance burden by exploring "*Criteria for Accepting International Standards and Risk Assessments for Product Safety.*" is welcomed by SPASA AUSTRALIA.

In response to your invitation, SPASA AUSTRALIA has consulted with members from the industry and we request that the Australian Competition and Consumer Commission (ACCC) give appropriate consideration to the following submission.

SWIMMING POOL & SPA INDUSTRY OVERVIEW

Owning a swimming pool or spa is part of Australia's social fabric.

Swimming pools and spas are an excellent way to learn to swim, lose weight, and maintain health as well as being the preferred setting for family and friend gatherings.

There are approximately 1.2 million constructed residential pools, 500,000 portable pools and 350,000 portable spas in Australia.

The swimming pool and spa industry contributes in excess of \$1.4 billion dollars into the Australian economy annually and is an employer of in excess of 40,000 people nationwide.

Australia’s costly and duplicated regulatory system for assessment processes remains a big concern for industry.

Supplier and manufacturer members of SPASA Australia range from Small Business Enterprises to National, Multinational and International organisations. The level of product safety regulation varies for these organisations depending on the country of manufacture, international markets, volumes, costs of compliance and timing.

The Swimming Pool and Spa Industry is diverse. It includes but is not limited to the following sectors:

Manufacturers of Equipment & Chemicals	Suppliers of Equipment & Chemicals
Pool Builders	Pool and Spa Service Technicians
Pool Shops	Consultants
Online Retailers	Portable Spa Retailers
Prefabricated Pool Manufacturers & Retailers	Tiling/Paving Suppliers & Retailers
Pool and Spa Heating Manufacturers & Retailers	Pool Cover Manufacturers & Retailers
Ancillary Retailers	Other Sub Trades

Manufacturers and suppliers of swimming pool and spa products in Australia are facing a progressively challenging operating environment.

The structure of the regulation has not shifted and evolved to cater for international standards and risk assessments that may mirror Australia’s requirements or for such material to be considered as part of a broader Australian assessment process.

Members continue to raise concerns at the ongoing loss of innovation and business opportunities as a consequence of Australian regulators not considering accepted international standards and risk assessments. This creates duplication in cost, process and timeframe - *all for a small market*.

Industry’s competitiveness and capacity to maintain local production now and into the future is heavily dependent on reducing the regulatory burden on Australian swimming pool and spa businesses. Of particular importance is the need to align regulatory processes as much as possible to eliminate or minimise regulatory duplication requirements.

REGULATORY PRINCIPLES

SPASA AUSTRALIA supports the government’s principle that if a system, service or product has been approved under a trusted international standard or risk assessment, then Australian regulators should not impose any additional requirements, unless there is a good and demonstrable reason to do so.

The principal benefit to Australia on seeking to align regulatory processes as much as possible with approved and trusted international standard or risk assessment processes is the benefit to the Australian economy by facilitating the international exchange of goods and services.

Recommendations

- a) Government to embrace a risk management approach to forming and administering international standards or risk assessments
- b) Australian standards and risk assessments be compatible with International standards and risk assessment, where possible
- c) Regulators and agencies to be flexible, less prescriptive and compatible with the business operating environment
- d) Standardise the exercise of administrative discretion; and be developed in consultation with the groups most affected

BETTER CONSULTATION

Consultation with business and other key stakeholders is essential when developing regulations, both in relation to the options being considered and at the design and implementation stage. Once regulations are in place, it is vital that two-way communication is maintained and embraced with the view of identifying ongoing refinements.

At the review stage, such communication is essential to the performance of regulators, particularly with respect to minimising compliance costs.

A common landscape is the duplication of consultation between regulators and agencies with outcomes not being shared or acknowledged. In this regard, there is a real need to for regulators and agencies to better coordinate consultations.

Recommendations

- a) Better coordination of engagement by regulatory agencies to alleviate some of the regulatory burdens imposed on industry
- b) Improved information sharing processes with local and international regulators and agencies
- c) Better alignment of international standards and risk assessment processes
- d) Regulatory bodies implement a consultation process that involves industry in decision making.

Criterion 1 - Addressing safety concerns

- Do any international standards or risk assessments adequately address the consumer product safety concerns?

INTERNATIONAL BODIES

There are a number of international bodies that are credible, trusted and adequately address consumer product safety concerns in their country.

A small sample of International Bodies include:

- Standards New Zealand (NZS)
- International Organization for Standardization (ISO)
- International Electrotechnical Commission (IEC)
- American National Standards Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- Standards Council of Canada
- British Standards Institute (BSI)
- European Committee for Standardization (CEN)
- Food and Drug Administration (FDA)
- Food Standards Agency (FSA)
- International Laboratory Accreditation Cooperation (ILAC)
- etc

Regulatory and standards objectives in different jurisdictions and countries may be the same but the process upon which they are applied is fragmented. Benchmarking as a tool can provide useful information on safety, performance, practices and models for reform.

Regulators and agencies have different views on the actual and perceived risks.

One important question is to understand what is the “agreed” risk in any particular “area” rather than risks as identified by the many and various regulators and agencies.

Additional testing should only be required where a comprehensive assessment of an international standard and/or risk assessment reveal a demonstrable and unacceptable level of risk to human health and safety, and even then, the extent of the additional testing should be limited to that required to bring the level of risk down to an acceptable level.

Recommendations

- a) Develop and promote a framework which allows international standards and risk assessments to be mapped to Australian requirements.
- b) Develop a process to deal with “risks” that international standards and/or risk assessments have not addressed rather than require a full Australian regulatory review.

Criterion 2 - Comparable jurisdiction to Australia

- Is the international standard or risk assessment published or developed by a legitimate standards body or government agency from an economy or nation with comparable economic and regulatory processes to Australia?

Australia's participation in the international market requires observance to international approved standards or assessment processes, wherever possible.

Reliance or the development of Australian specific safety standards or assessment processes may be required where certain geographic and regulatory issues or climatic variability mean that international assessment processes are not applicable or require amendment.

Many Australian companies have a presence both here and overseas markets and may wish to rely on either Australian or credible and trusted International Bodies for their assessment processes.

Reasons for choice may include:

- Cost of process
- Speed of process
- Country of origin for product(s)
- Familiarity
- International acceptability of standards (for other markets)

One of the most important ways Australian Regulators can reduce red tape and duplication is to not impose any additional requirements where a product or service has been approved under a trusted international standard or risk assessment.

Additionally, Australian Regulators should develop an *International Policy of Alignment* to share and accept assessment processes with credible international organisations and partners which reflect the same product safety outcomes that would be expected if such testing was conducted in Australia.

These arrangements would benefit industry in various ways, including:

- greater consistency & predictability in decision-making across relevant countries
- harmonised approaches to assessment
- single dossier preparation
- co-ordinated access to new markets
- cost efficiencies for industry and government regulators

Recommendations

- a) Develop an "International Policy of Alignment" to consider, share and accept assessments
- b) Develop a Register highlighting existing international accepted standards/assessments
- c) Register with international accepted standards/assessments available on a government website

AUSTRALIA'S INTERNATIONAL ROLE AND OBLIGATION

The development and international harmonisation of standards and other testing assessment processes play a vital role in the economic growth and development of a small, open economy like Australia's.

The global nature of trade and manufacturing makes it imperative that assessment processes are comparable across the world.

Accordingly, Australian Regulators must ensure that conformity assessment procedures are not more trade restrictive than necessary by participating proactively within the international standardisation movement.

Recommendations

- a) Regulators and agencies to build and maintain international connections
- b) Proactive dialogue and ongoing collaboration between the international standardisation community
- c) Regulators to align processes (where possible) with international regulators

CULTURAL CHANGE

SPASA AUSTRALIA believes that substantial government effort must go into improving the culture of regulatory agencies.

Without this emphasis on improved regulatory culture, the government's objective to align regulatory processes and eliminate or minimise regulatory compliance burden is likely to achieve its target.

Recommendations

- a) Promotion of openness, candour and contestability to all stakeholders
- b) Develop a culture that consults with industry on a regular basis ensuring industry is involved in decision making.
- c) Improve the culture of compliance with regulatory impact analysis requirements at the Commonwealth level through a commitment that will endure changes of government and changes at the senior levels of the

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