



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications



➤ Refuse to consider powers

A guide for industry

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Director – Creative Services
Communication Branch
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
Canberra ACT 2601
Australia

Email: publishing@infrastructure.gov.au

Website: www.infrastructure.gov.au

Introduction

This guide sets out why the department may refuse to consider an application, how to avoid that happening and what you can do if the department refuses to consider your application.

The Road Vehicle Standards (RVS) legislation allows the Department of Infrastructure, Transport, Regional Development and Communications (the department) to refuse to consider applications in certain circumstances.

Refusing to consider an application means the application is closed without either granting or refusing to grant the requested approval.

The department has discretion to refuse to consider applications that are not submitted correctly or that are incomplete when submitted e.g. without required information, supporting documents, declarations or payment. The department may also refuse to consider an application if the applicant fails to respond, or respond appropriately to a request for further information (RFI) to support the assessment of the application.

What are the refuse to consider powers?

Under the RVS legislation, the department must make fair and merits-based decisions. Applications must meet minimum standards for the department to meet this obligation. The refuse to consider powers allow the department to close approval applications that are submitted incorrectly or are incomplete. This helps the department focus its resources on correct and complete applications that are a genuine attempt by the applicant to demonstrate they comply with the requirements to hold an approval under the *Road Vehicle Standards Act 2018*.

The Road Vehicle Standards Rules 2019 (the Rules) allow the department to refuse to consider:

- applications that are not submitted in an approved form – applications must be submitted through [ROVER](#), the department's online system
- applications that do not include information and supporting documentation as specified in the application form, or
- if an applicant fails to provide information, documents and/or declarations in response to a RFI – this means the applicant has failed to adequately respond to an RFI sent through ROVER.

The refuse to consider provisions apply to each type of approval application available under the RVS legislation. These provisions also apply to applications to vary an approval previously granted.

How will applications be assessed?

The department is committed to providing procedurally fair application assessments. This commitment influences when it may decide it is appropriate to refuse to consider an application and its communication with applicants at relevant stages of the application process.

When an application is received, an assessor will firstly determine whether the applicant has:

- made the application through the appropriate ROVER form
- paid the relevant application fee
- answered all relevant questions in the application form and provided supporting evidence where appropriate, and
- made the declarations relevant to the application.

If the applicant has not attempted to undertake some or all of these actions, the assessor may contemplate refusing to consider the application. Where the applicant has made a genuine attempt to submit a complete application, but the assessor requires further information or documents, they will request the information or documents through an RFI. Once the RFI has been responded to appropriately the assessment will continue.

The department is not obligated to send RFIs or follow-up all incomplete applications. When deciding whether it is appropriate to send an RFI, the assessor may consider:

- the degree to which the application is incomplete and whether they believe an RFI would correct the application
- whether the applicant has a history of submitting incomplete or incorrect applications
- whether the applicant has previously been given advice that, if followed correctly, would have enabled them to present an application suitable for assessment, and
- the applicant's response to previous RFIs for the application. Multiple requests will not generally be sent for the same information and/or supporting documents as part of an assessment process.

If an RFI is not responded to appropriately, the assessor may choose to refuse to consider the application.

Please note: the department is compelled to refuse to consider applications that are not submitted using the approved form (i.e. through ROVER) or where the application fee is not paid.

Notice of refusal to consider an application

Generally, the department will notify an applicant of its intention to refuse to consider an application via the ROVER RFI process. This notification will provide the applicant with the opportunity to correct identified faults with their application so that the assessment may continue.

The notice of refusal to consider RFI will clearly identify the information and/or documents being sought from the applicant and a date for providing the requested materials. The department will refuse to consider applications if an applicant fails to respond to a notice of refusal to consider RFI within the specified timeframe.

Applicants may request additional time to respond to the RFI request. When doing so, the applicant must specify the additional time required. An RFI extension will ensure the department does not refuse to consider an application while the applicant is actively working to source required information and documents.

How do I ensure my application can be assessed?

Applicants can take the following steps to ensure their application is not at risk of refusal of consideration:

- provide a complete ROVER application, answer all relevant questions and provide appropriate supporting documents
- consult guidance on application processes, as this clearly sets out what is required in each application
- respond to RFIs and advise us early if additional time is required;
- use RFIs as feedback to guide future approval applications – this will help applicants avoid repeating errors, and
- ask if unsure – guidance materials provide advice on how to seek further information.

Can application fees be refunded?

With the exception of applications to vary, suspend or revoke existing approvals, the RVS legislation requires the applicant to pay the relevant application fee when they make their application. Fees are not refunded when refusing to consider applications. The assessment fee covers the costs to consider the application, including when it is determined there is insufficient information to either grant or refuse to grant the requested approval.

What happens if my application is refused consideration?

If the department refuses to consider an application, the applicant may either:

- submit a new and more complete application through ROVER – this new application will attract an assessment fee and will be assessed within the legislative timeframes set out in the RVS legislation, or
- seek a review of the decision through the Administrative Appeals Tribunal (AAT). The AAT is independent of the department and can provide a merits review of administrative decisions. For further information see www.aat.gov.au.