

Fact sheet: How the AEMC makes rules

The Australian Energy Market Commission (AEMC) makes rules for energy markets under the National Electricity Law, the National Gas Law and the National Energy Retail Law.

These rules impact on how market participants can operate in the competitive generation and retail sectors; provide specific protections for consumers to whom energy is sold and supplied; and also govern the economic regulation of electricity transmission and distribution services – the ‘poles and wires’ – and gas pipelines.

The AEMC cannot propose rules (except for minor changes such as corrections). Any stakeholders, including governments, industry and consumers can request rule changes.

Rule-making test: serving the long-term interest of consumers

The rule making test that we apply, and must follow under the national energy laws, is whether making a rule will, or is likely to, contribute to the achievement of the national energy objectives, which serve the long-term interests of consumers with respect to price, quality, safety, reliability and security of supply of energy.

There are typically five stages in the process:

1. Initial consideration of a rule change request prior to initiation
2. Initiation of the rule change process and consultation on the rule change request
3. AEMC develops and publishes a draft rule determination (which may include a draft rule)
4. Public consultation on the draft rule determination
5. AEMC develops and publishes a final rule determination and final rule (if made)

Rule-making timeframes

We seek to complete rule change processes as quickly as possible while recognising the importance of appropriate consultation with stakeholders to achieve the right outcomes for consumers.

The rule change process must be undertaken within the statutory timeframes required by the national energy laws.

The standard timeframe under law for a rule change is approximately 6 months from initiation. Before we start the statutory process we make practical decisions on whether standard timeframes are achievable given the request’s scope and competing work priorities. We can also extend the timeframe to provide, for instance, longer consultation periods and proper consideration of the issues and implications.

The rule-making process can be expedited if the request is for a ‘non-controversial’ or ‘urgent’ rule (as defined in the national energy laws). The expedited process is 6 weeks from initiation. We can also fast track rule changes where there has been adequate previous public consultation by a market regulatory body or if the request arises from an AEMC review. Under the fast-track process there is no consultation period before the AEMC makes a draft rule determination. This fast-tracked process is approximately 4 months from initiation.

Notification of a rule change project

Upon initiating a rule change request the AEMC publishes:

- the rule change request that the AEMC received;
- a notice of the request for the making of a Rule; and
- a consultation paper that sets out the issues raised by the rule change request.

The notice for standard or expedited rule change processes includes:

- an invitation for any person to make written submissions to the AEMC on the proposed rule change;
- the closing date for any submissions to the AEMC – giving stakeholders at least four weeks from the date the notice is published to respond; and
- information about whether the AEMC intends to expedite or extend the rule making process.

Any person may make a submission to the AEMC on the proposed rule change.

Consultation

Effectively engaging with people and organisations with an interest in Australia's energy market provides valuable input to our rule making. While we do not always expect stakeholders to agree with us, they should feel they are listened to and understand how we have come to our decisions.

To elicit effective engagement in our rule change processes, we aim to communicate with stakeholders in a clear and understandable way through the information and materials we produce. We prepare summaries, information sheets, infographics, fact sheets and other accompanying materials to make our work more easily understood and accessible for stakeholders, including those who may not have prior knowledge of the relevant issues.

The AEMC is not required by law to hold a public forum on a proposed rule before it makes a draft rule determination. However, we regularly arrange public forums, meetings, workshops and advisory groups where these help us to build stakeholder awareness and understanding, and provide an avenue for meaningful input to help us make better decisions.

Determinations, reports, supporting publications, submissions and the proceedings of public forums, workshops and advisory group meetings are published on our website – subject to confidentiality claims. We update stakeholders through regular emails, and anyone can sign up to our email alerts.

Draft determinations

Consultation on the AEMC's draft determination on a rule change request is a key opportunity for stakeholders to consider and respond to our detailed reasoning for proposing to make or not make a rule.

Stakeholders are encouraged to make submissions and can also discuss our analysis with the project team.

Final determinations

We maintain regular dialogue with our stakeholders to build an understanding of the reasons for decisions and the impact of changes that we make.

Our reasons for making (or not making) a rule, including how our decision serves the long-term interest of consumers, are published in the final rule determination for each rule change on our website.

Stakeholders are welcome to discuss the reasons for our decisions with AEMC staff.

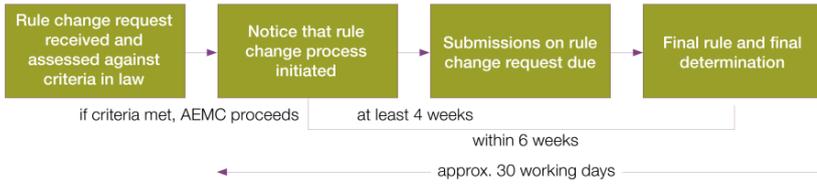
Decisions of the AEMC are subject to judicial review by the Supreme Court of each jurisdiction that participates in the national energy markets.

Managing rule making timeframes

Standard rule change process



Expedited rule change process



Fast track rule change process

