



Ms Beth Jones
Deputy Secretary, Rural and Regional Victoria
Chief Executive of Regional Development Victoria
Department of Jobs, Precincts and Regions
111 Armstrong St North,
BALLARAT VIC 3350

27 July 2021

Dear Ms Jones

REGULATORY IMPACT STATEMENT FOR THE PETROLEUM REGULATIONS 2021

I would like to thank your staff at the Department of Jobs, Precincts and Regions (the Department), for working with the team at Better Regulation Victoria (BRV) on the preparation of a Regulatory Impact Statement (RIS) for the proposed Petroleum Regulations 2021 (the proposed Regulations).

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be written clearly so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 26 July 2021 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background

In 2012, the previous Victorian Government placed a five-year moratorium on all onshore gas exploration and production. In 2017, the Government extended the moratorium until 30 June 2020 and undertook the Victorian Gas Program (a research program exploring the potential for new onshore conventional gas development). The Government decided to allow an 'orderly restart' of the onshore conventional gas industry with enhanced legislative and regulatory requirements and amended the *Petroleum Act 1998* (the Act) allowing for a restart from 1 July 2021.

The Petroleum Regulations 2011 (the existing Regulations), the principal Regulations for onshore petroleum, were due to sunset in May 2021. Interim Regulations were made for a short time to cover the period until the new Regulations are made (anticipated to be September 2021). The Department explains that the proposed Regulations are intended to support amendments to the Act and the Government's decision to restart the petroleum industry with changes aimed at improving community confidence in the onshore conventional gas industry.

Options analysis

The Department analyses four options in the RIS for restarting the industry:

1. **Base Case:** the existing Regulations are assumed to sunset and not be replaced. The Act would then operate without the proposed Regulations.
2. **Status Quo:** the existing Regulations are remade as they currently are for the next 10 years.
3. **Option 1 – Outcomes focused regulations:** the Regulations would be more outcomes and objectives focused than the Status Quo.
4. **Option 2 – Standards based regulations (the proposed Regulations):** the Regulations would be more prescriptive than both the Status Quo and Option 1. This Option would also include making a legislative Code of Practice on the construction, operation and decommissioning of petroleum wells in Victoria.

Impact Analysis

The Department uses a Multi Criteria Analysis (MCA) to assess the impacts of Options 1 and 2, and the Status Quo, relative to the Base Case. It explains that a MCA has been used because there is limited information available to quantify impacts as a result of the industry being subject to a moratorium for several years. The MCA has the following criteria, with benefits and costs weighted evenly:

Benefit Criteria:

- Encourage onshore conventional petroleum resource exploration and development in Victoria (*16.7 per cent weighting*)
- Build community social licence in the onshore conventional petroleum resource sector (*16.7 per cent weighting*)
- Minimise risk to the environment, public safety and amenity as they relate to petroleum development in Victoria (*16.7 per cent weighting*)

Cost Criteria:

- Cost to industry – mostly compliance costs (*25 per cent weighting*)
- Cost to government – mostly administrative costs (*25 per cent weighting*)

The Department explains that the Status Quo is superior to the Base Case across all criteria as the Act is not specific enough to operate without supporting regulations. It also explains that both Options 1 and 2 are superior to the Status Quo across all criteria as the Status Quo is not consistent with amendments to the Act to facilitate an orderly restart of the industry. The Department notes that these Options provide the industry with more certainty, provide greater transparency to the community, and provide the Government with more information, making them less costly to administer.

Overall, Option 2 (the proposed Regulations) is the preferred Option. The Department explains that it outperforms Option 1 on the three benefits criteria.

- Option 2 is more prescriptive, so provides the industry with greater certainty, which means it performs slightly better on encouraging industry development.
- Option 2 has stronger consultation requirements and more prescriptive licensing and application requirements, which means it better builds social licence and minimises risk.

Option 2 is also slightly less costly for the Government to administer. However, Option 2 will impose moderately higher costs on industry.

Implementation and Evaluation

The Department explains in the RIS that the Regulations were set to expire on 24 May 2021 and were extended for a short period of time to allow sufficient time to consult with the community and industry on this RIS and draft regulations. Once this process is completed, the new Petroleum Regulations will be finalised, and are anticipated to commence in September 2021.

The Department explains that the following actions also need to be completed to support the new Regulations:

- Create guidance material for the transition to the proposed Regulations;
- Establish the code of practice to accompany the proposed Regulations;
- Recruit and train staff to administer the new requirements in the proposed Regulations; and
- Develop a process for the collecting and publishing new data required under the proposed Regulations.

The Department explains that the proposed Regulations will be evaluated by looking at indicators measuring how well they address the problems identified in the RIS, such as:

- the level of investment into Victoria's onshore conventional petroleum industry;

- the number and extent of disputes between the industry and community following the restart; and
- the number and extent of environmental incidents related to the industry.

Should you wish to discuss any of the issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation