

19 December 2016

Mr Don Hough  
Director, Pipeline Regulation  
Department of Environment, Land, Water and Planning  
1 Spring Street  
Melbourne VIC 3000



COMMISSIONER FOR  
BETTER REGULATION

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Dear Mr Hough

I would like to thank the staff of the Energy, Environment and Climate Change group of the Department of Environment, Land, Water and Planning (the Department) for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Pipelines Regulations 2017*. These Regulations are being proposed as the current arrangements sunset on 27 March 2017.

Under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RIS prepared in Victoria. In doing so, the Commissioner's role is to advise on the adequacy or otherwise of the analysis presented in the RIS rather than the merits or otherwise of policy or regulatory proposals. To be adequate, the RIS must contain analysis that is logical, draws on relevant evidence, is transparent about assumptions used, and is proportionate to the proposal's expected effects. The RIS must also provide a suitable basis for public consultation.

I am pleased to advise you that the final version of the RIS received by us on 19 December 2016 meets the adequacy requirements of the Act.

The proposal provides for the regulation of pipelines which carry hazardous and combustible gaseous and liquid substances. The RIS states that the objective of the proposal is to 'ensure that industry participants construct and operate pipelines in a way that is compatible with the economic, social and environmental objectives of Victoria' (p. 4).

The Department notes that in addition to prescribing forms, infringements and procedures authorised by the Act, the proposal will prescribe:

- standards for the construction and operation of pipelines;
- information required in an application for, or change to, a licence to operate a pipeline;
- forms to be used to notify the public of an application for a pipeline licence or an intention to enter land for a survey;
- reporting requirements for pipeline operators in the event of a safety or environmental incident;
- matters to be contained in Safety Management Plans (SMPs) and Environmental Management Plans (EMPs); and
- fees charged to recover the costs of administering the regulations.

The proposal is expected to provide safety and environmental benefits by ensuring that:

- current high standards of managing risks to safety and the environment are maintained; and
- those standards are not lowered by new, inexperienced entrants to the industry or financially challenged operators.

The RIS includes an estimate of the costs of the proposal of \$2.7 million per year, including:

- an illustrative estimate of the administrative costs to pipeline operators associated with submitting information to Government of \$2.1 million; and

- the cost to Government of administering these regulations of around \$575,000 (to be recovered through fees).

The Department notes that the actual administrative costs are 'difficult to quantify in the absence of specific stakeholder feedback' (p.10), and has invited 'specific feedback on these assumptions and methods, and on whether these estimates are likely to be an accurate representation of the costs to businesses' (p.11).

The estimated costs of \$2.7 million per year do not include estimates of:

- activities undertaken by pipeline operators specifically due to a requirement in the proposal (compliance costs);
- any delays experienced by pipeline operators while submitting information to Government or waiting for Government to review the information (delay costs).

Compliance costs have not been included because the Department understands that pipeline operators "would already undertake the activities required by regulation as part of their usual business" and that the compliance costs attributable to the regulations are therefore negligible. For the same reason the Department assumes that the compliance costs associated with the additional requirements to be prescribed under the proposal would also be negligible. The Department has invited stakeholders to provide specific feedback on the assumptions made about these costs (p.46).

Delay costs have not been quantified due to 'limited feedback from stakeholders about the nature and scale of these delay costs', but the Department notes that 'some stakeholders suggest they may be substantial' (p.10). The Department has 'committed to reviewing the extent and causes of delay costs, and opportunities to reduce them'. Further detail on this commitment is outlined in the proposed evaluation strategy (p.68). Consultation undertaken between the release of this RIS and 10 February 2017 will provide an opportunity for stakeholders to provide further detail regarding these costs.

The proposed changes to fees will remove a one-off fee for issuing a licence, and create four new fees for specific activities involved in administering the regulation of pipelines (e.g. a fee for making alterations to pipeline routes). The Department explains that these changes are being made 'to promote greater cost reflectivity and the user-pays approach', in line with the Victorian Government's *Cost Recovery Guidelines* (p.80).

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin  
**Commissioner for Better Regulation**