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betterregulation.vic.gov.auMr Colin Radford
CEO
WorkSafe Victoria
1 Malop Street
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19 January 2022

Dear Mr Radford,

**REGULATORY IMPACT STATEMENT FOR DANGEROUS GOODS (EXPLOSIVES)
REGULATIONS 2022**

I would like to thank your staff at WorkSafe Victoria for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the *Dangerous Goods (Explosives) Regulations 2022* (the proposed Regulations).

As you know, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the 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 clearly written 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 18 January 2022 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background

In Victoria, the *Dangerous Goods Act 1985* (DG Act) regulates dangerous goods including explosives. Its purpose is to minimise harm to people and damage to property from the misuse or mishandling of dangerous goods.

Given the risks associated with the use of explosives, they are deemed by WorkSafe to be a special class of dangerous goods, warranting direct regulation. The lifecycle for explosives includes their manufacture, import, storage, sale, transport, use and

disposal. Legitimate users of explosives in Victoria include the mining, quarrying, demolition, construction, entertainment and defence industries.

The current Regulations outline compliance requirements and obligations for duty holders to ensure explosives are handled and stored safely, including licensing and training requirements.

This RIS is being undertaken concurrently with the Independent Review of the Dangerous Goods Act 1985 (the Review). Given that this Review may result in material amendments to the current Regulations in the near future, WorkSafe has not considered making material changes to the Regulations in this RIS so that multiple changes to the regulatory framework within a short period of time are avoided.

The current Regulations are due to sunset on 19 June 2022. WorkSafe explains that if the Regulations are not replaced, the legislative framework for dangerous goods will not address the specific risks to people, property and the environment posed by explosives. It explains that while incidents involving explosives are rare in Victoria, when they do occur, the consequences can be catastrophic.

Analysis

WorkSafe explains that given the broader Review and its desire to avoid multiple changes to the regulatory framework in a short period of time, it has only analysed one option in the RIS: essentially remaking the current Regulations. The proposed Regulations include only minor changes to the current Regulations, which involve the modernisation and clarification of terminology. WorkSafe explains in the RIS that the purpose of these minor changes is to clarify current processes or reflect current practice rather than make material changes.

WorkSafe has analysed the proposed Regulations against the base case where the current Regulations expire, but explosives would still be regulated by other parts of the current regulatory framework including the DG Act. It explains that there would be a lack of specific requirements if the Regulations expired, so risks from misusing or mishandling explosives would be inadequately addressed and controlled in the regulatory framework.

The proposed Regulations include the following requirements across the lifecycle, which continue requirements in the current Regulations:

- General obligations — signage must be kept in good order, and certain incidents involving explosives must be reported;
- Manufacture — a safety management plan must be prepared and minimum standards of buildings and appliances followed;
- Storage — storage must meet signage, packaging, security and cleanliness standards, buildings must be adequately maintained and stored amounts must be kept to a minimum;

- Transport — transport by land must comply with the Australian Explosives Code, and transport by sea must have an emergency plan developed and comply with berthing requirements;
- Sale — sale of explosives must only be to holders of a relevant licence and records must be kept;
- Use — users must meet competency and training requirements, a blast management plan must be prepared, explosives must be stored safely at the blasting site, and safety precautions must be taken after a blast;
- Fireworks — displays must meet distance requirements and notification periods; and
- Disposal — explosives must be disposed of, or rendered harmless, in a manner that does not cause injury or damage.

WorkSafe explains that costs to industry under the proposed Regulations will be similar to costs under the current Regulations given only minor changes are proposed. It estimates the average annual cost of the proposed Regulations to industry will be about \$3.5 million, which includes:

- \$2.1 million for manufacturing
- \$524,000 for fireworks
- \$227,000 for transporting explosives
- \$270,000 for sales of explosives
- \$220,000 for use of explosives
- \$100,000 for licensing (licence fees and administrative costs for applicants).

In addition, the Regulations are estimated to cost the Government about \$50,000 per year to administer in excess of licence fees received from industry.

A break-even analysis approach (over 10 years) is used to estimate the number of fatalities that would need to be prevented for the benefits of the proposed Regulations to equal the costs. Based on research and approaches used in other jurisdictions, WorkSafe has used a value of a statistical life of about \$6 million, WorkSafe explains that the benefits of the proposed Regulations would exceed the costs if one fatality per year were prevented.

Implementation and Evaluation

In the RIS, WorkSafe explains that since the proposed Regulations include only minor changes relative to the current Regulations, it is expected that existing approaches to implement and enforce the Regulations will continue. WorkSafe will communicate the changes to the proposed Regulations to key stakeholders and advisory committees via a range of communications channels.

WorkSafe notes that it has not developed an extensive evaluation strategy yet given that the broader Review may result in material changes to the Regulations. It commits to developing a comprehensive evaluation strategy for the Regulations once the Review is completed and any changes have been made to the dangerous goods regulatory framework.

Should you wish to discuss any 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