

Jennifer DeJong
Deputy Secretary, People, Operations, Legal and Regulation
Department of Health
50 Lonsdale Street
Melbourne VIC 3000

8 April 2025

Dear Ms DeJong,

REGULATORY IMPACT STATEMENT FOR THE SAFE DRINKING WATER REGULATIONS 2025

I would like to thank your staff at the Department of Health (the Department) for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the *Safe Drinking Water Regulations 2025* (the proposed Regulations).

The Commissioner for Better Regulation is required to provide independent advice on the adequacy of RISs in accordance with the Subordinate Legislation Act 1994 Guidelines (the Guidelines). However, as the office of the Commissioner for Better Regulation is currently vacant, the Secretary to the Department of Treasury and Finance (or their delegate) is responsible for providing independent advice on the adequacy of RISs, in accordance with the Guidelines. The Secretary has delegated this responsibility to me in my capacity as Deputy Secretary, Economic.

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 on 7 April 2025 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background and problems

The *Safe Drinking Water Act 2003* (the Act) regulates drinking water in Victoria. The Act applies to the 20 water suppliers and water storage managers in the state. The *Safe Drinking Water Regulations 2015* (the Regulations) are made under this Act. These Regulations will expire on 7 July 2025. The Act imposes two main obligations on the 20 water agencies in Victoria:

1. developing, implementing, and continuously improving comprehensive risk management plans (RMPs); and
2. ensuring that drinking water meet prescribed quality standards.

The Regulations prescribe further detail for the obligations under the Act. Victoria's current regulatory framework has been designed for compatibility with the Australian Drinking Water Guidelines (ADWG). The Department explains that the ADWG are evidence based, continually updated, and provide guidance on managing the safety and aesthetic quality (i.e. pleasant appearance, taste and odour) of drinking water.

The Department explains that the Health Regulator (the regulator) monitors and enforces compliance with the Act and the Regulations.

The Department explains that if the Regulations were to expire, there would still be an obligation to prepare and implement an RMP under the Act. However, without the Regulations, the requirements for RMP content would be lower and this would not drive appropriate monitoring and management of drinking water quality and would hinder regulatory oversight. There would also be no specific prescribed water quality standards which would reduce benchmarks and incentives for management of water quality and limit the regulator's access to timely data on Victoria's water quality.

The Department also notes that due to the scale and severity of potential harm from unsafe water as well as the direct and continuous nature of supply to consumers, proactive and preventative regulation is required. Long term risks to water quality include population growth, ageing infrastructure and climate change. The Department explains that without Regulations there is a risk that water agency's risk mitigation would not adequately keep up with evolving best practices and scientific understanding. As a result, the Department explains that if the Regulations were to expire, the risks to Victorians from unsafe drinking water would not be adequately managed and minimised.

Options and option analysis

In the RIS, the Department analyses the problems and the options separately for the four areas in the current Regulations that it identified as providing potential for substantive improvements. These four areas are:

1. risk management plans;
2. water sampling localities;
3. managing microbial risk; and
4. drinking water quality standards.

For each problem area, Option 1 is to remake the current Regulations. For the first two problem areas the Department considers one alternative option (Option 2). For the latter two problem areas the Department considers two alternative options (Options 2 and 3).

In the RIS, the Department analyses options for the four different problem areas outlined above. It assesses options using a multi-criteria analysis (MCA), against a base case of no regulations. Options are analysed against four criteria, with the following weights:

1. reducing health risks to water supply (30%);
2. improved regulatory intelligence and oversight (10%);
3. ensuring the ongoing quality of drinking water (10%); and
4. cost to industry and government (50%).

Risk Management Plans

The Department identifies Option 2 as the preferred option for risk management plans. Option 2 expands requirements for RMPs compared to the existing Regulations. The Department explains that expanded requirements would strengthen the identification of risks and their management, improve data-based water management, and strengthen oversight of critical control points in Victoria's drinking water network. The Department expects this to result in substantially better long-term water quality. The Department estimates industry would incur about \$7.7m in costs under Option 2 over ten years, consisting primarily of additional administrative burden.

Water sampling localities

The Department identifies Option 2 as the preferred option for water sampling localities. Option 2 would require changes made by water suppliers to water sampling areas (previously called water sampling localities) to be reported to the Secretary of the Department of Health. The Secretary could direct a water agency to amend the details of a water sampling area to ensure it is representative. In addition, water suppliers would

be required to publicly disclose their water sampling areas. This reduces administrative burden relative to the existing process, which requires water agencies to obtain approval from the Secretary and for the amendments to be published in the Victorian Government Gazette. The Department explains that this option would increase efficiency for the department and for water agencies while maintaining appropriate levels of regulatory oversight and control. The Department notes that under Option 2 Government would not incur additional costs, and estimates industry would incur about \$309,000 in costs over ten years. The Department notes that compared to the existing Regulations, Government and industry are expected to save about \$164,000 and \$125,000 respectively.

Managing microbial risk

The Department identifies Option 3 as the preferred option for managing microbial risk. Option 3 requires water agencies to categorise their source water by risk, assess the treatment process needed to achieve one-millionth of a disability adjusted life year per person per year (1 μ DALY ppy), and ensure treatments are subject to appropriate design and validation. It also includes a requirement for water agencies to report to the Department if their system exceeds 10 μ DALY ppy. The Department explains that this option would substantially reduce health risks by driving investments in treatment processes such as UV water purification systems. The Department also expects this option to improve regulatory oversight through notifications and support planning to reduce long-term health risks from microbes in drinking water. The Department estimates industry would incur about \$7.2m in costs under Option 3 over ten years, consisting primarily of investments in water treatment by some regional water agencies.

Drinking water quality standards

The Department identifies Option 3 as the preferred option for drinking water quality standards. Option 3 would prescribe the ADWG's health-based and aesthetic guideline values as prescribed water quality standards. Water agencies would be required to notify the regulator of non-compliance with the guideline values based on point-in-time measurements for health-based values and on an annual rolling average basis for aesthetic values. The Department explains that this option would substantially improve water agency's investments in the long-term aesthetic quality of water supplied such as with higher levels of pH remediation and reverse osmosis filtration to remove suspended solids. The Department also explains that this option would increase the regulator's oversight of water quality issues across the sector through regular reporting on non-compliance. The Department estimates industry would incur about \$7.9m in costs under Option 3 over ten years, with most of this cost relating to investments in water treatments by some regional water agencies.

Total benefits and costs of the proposed Regulations

The Department estimates the total cost to industry of the proposed Regulations to be \$23m, which the Department notes is equivalent to \$0.33 per Victorian per year over ten years. The Department notes that costs will be passed through to customers through water supply charges. \$20.3m of those costs are expected to be incurred by regional water agencies. The Department explains that regional water customers are expected to receive the greatest benefits in terms of improved water quality and reduced risk. Using a significant contamination incident in Havelock North, New Zealand in 2016 as a case study, the Department estimates that the Regulations would break even if they avoided a single contamination event that impacts 3,508 people in the next ten years. Alternatively, the Department estimates that the costs of the Regulations to regional water agencies would break even if they avoid one mild infection per 1,252 regional Victorians per year.

Implementation and Evaluation

The proposed Regulations are intended to take effect on 6 July 2025. The RIS notes that new requirements to manage microbial risk are intended to come into effect 1 year later. The regulator will issue guidance on these requirements and new infringements and the Department will publish explanatory material to inform the public about these changes.

The Department states that the proposed Regulations will enable better risk-based monitoring and enforcement by the regulator. The Department commits to monitoring the effectiveness of the proposed Regulations against its objectives using data from expanded water quality standard requirements over the regulatory period.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact Better Regulation Victoria on (03) 7005 9772.

Yours sincerely,



Paul Donegan

Deputy Secretary, Economic
Department of Treasury and Finance