

ELECTRICITY SAFETY (MANAGEMENT) REGULATIONS 2019

RESPONSE TO SUBMISSIONS (November 2019)

Background

On 22 March 2019 ESV released an issues paper about the upcoming remake of the Electricity Safety (Management) Regulations 2009 under the *Electricity Safety Act 1998* (the Act) to approximately 200 electricity industry stakeholders.

The paper explained the operation of the regulations and key issues and questions ESV identified to enable the regulations to better support the objectives of the Act. The main comments received in submissions were:

1. Recommended that the regulations should extend beyond electricity safety (which is beyond the scope of the Act)
2. Supported the flexibility provided by electricity safety management schemes (ESMSs); and
3. Generally sought clarification on how to comply with general safety duties under the Act

Energy Safe Victoria (ESV) held forums on 2 and 8 July 2019 for the major electricity companies (MECs), and other key stakeholders that may operate voluntary ESMSs (VESMS) and discussed the proposed regulatory changes, and initial response to the submissions. This feedback informed the drafting of proposed regulations.

Release of consultation documents

ESV received approval to release an exposure draft of the proposed regulations and consultation paper for public comment from the Minister on 5 September 2019. These documents were issued to >250 industry stakeholders by email and posted on ESV's website the same day. Reminders were sent again the week before the consultation period closed. The stakeholders included operators of electricity networks, representative organisations, high voltage and complex electrical installation asset owners, other regulators, train and tram network operators, and holders of voluntary ESMSs.

Matters raised in the submissions

Nine written submissions were received on the remaking of the Electricity Safety (Management) Regulations. The key matters raised are included in the table below:

	Stakeholder comment	ESV response
1	Formal Safety Assessments (FSA) should record the considerations that went into developing the FSA.	ESV agrees. The policy and guidelines being developed by ESV to support the regulations explain how FSA outputs must link to the general duties under s98 of the Act.
2	R15(2)(a) and r17(1)(a) should be amended to clarify all Standards relied upon to achieve safety outcomes should be listed, rather than all standards.	The comments were provided by MECs. Regulations 15(2)(a) and 17(1)(a) apply to holders of VESMS for electrical workers and electrical installations that are facilities. ESV will clarify this in guidance material for those submitting VESMSs.
3	Industry develops its own standards which do not deliver on public safety outcome expectations. Examples of the standards include the 'Blue Book' and 'Green Book'.	Proposed regulation 26 requires an MEC to describe how technical measures to be employed will be effective in meeting the requirements under s98 of the Act to minimise risk to the safety of persons and damage to property, and to address bushfire risk. The regulations also require compliance with an Australian Standard (AS 5577), not industry standards.

4	"Run to failure" mode is being practised by MECs, which leads to safety issues which may not be apparent until realised.	ESV is proposing that the new requirement in regulation 26 addresses the expected operational life of assets to address risks across the asset life cycle, in order to provide for future safety outcomes.
5	Last round of ESMS renewals by MECs required development of a safety case that added to the costs.	The safety case requirement is being removed. The safety case policy document provides the considerations required for preparation of the ESMS.
6	There is a cost to VESMS holders when guidelines and application forms are changed.	Forms and guidelines support the requirements under the Act and regulations, which means the cost that is imposed comes from the Act and regulations. Also, guidelines are intended to help holders of VESMSs to understand how to apply the requirements under the Act and regulations. The cost of using application forms has historically not been significant.
7	Compliance with incident reporting guidelines should not be mandated; requirements should be explicitly included in regulations.	The current incident reporting guidelines have been in place for three years. The guidelines provide an important role that assists with development of consistent reporting that enables effective data collection. In response ESV will amend the regulations to embed a consultation process with MECs.
8	The words 'above 66kV' line in r28 should be replaced with 'transmission' line and transmission should be defined to be lines >66kV.	There are no special requirements that apply to transmission lines. The term is not used elsewhere in the regulations and there is no need to define this.
9	The following failures should be excluded from proposed r28 (requirements for reporting serious electrical incidents by MECs): <ul style="list-style-type: none"> • fire start from MEC's network that does not cause ground damage. • part of supply network becoming dislodged from supports • line height breach of 4.3m above ground • an uncontrolled release of a live conductor 	ESV has considered the suggestions. In each case these failures give rise to events that are of concern to ESV, evidenced either by reported events or in the case of line height, a breach of a statutory requirement. There will be no change to the proposed reporting requirements of the regulation.
10	Reports of incidents not included in r28 should not be required until the completion of the incident investigation	No reason for this has been provided however it is assumed that this is because all information will be available when the investigation is completed. However this means the underlying cause may not be known to ESV for some weeks or months after the incident, leaving the underlying cause unaddressed for that duration. The requirement to report incidents under r29 in accordance with guidelines will provide a balance between ESV's need to know 'asap' and need to know 'complete information'.
11	There could be a more holistic approach for MECs to ensure emergency response plans in their ESMSs take account of impacts caused by or on offsite hazards and risks caused to or by supply networks. This could involve a new s14(c) or amendment to r21.	ESMSs for supply networks are required to comply with AS557, which includes requirements for network operators to plan and prepare for emergency events resulting from their network's operation and maintenance, and manage the impacts of from external events. It is not necessary to include a new, separate provision to achieve this.
12	It is inadequate that fatalities and hospitalisations are used as 'one measure' of regulatory performance: There are other	The Act regulates the safety of electricity supply and use by requiring the minimisation of the risks. These safety outcomes are defined in terms of certain significant consequences (i.e. fatalities,

	measures that incidents caused by electrical incidents can have, such as environmental impacts, loss of livelihood, community dysfunction etc.	injury, property damage). The regulations are limited by the Act in what they are able to do, as are the contents of the ESMS consequentially.
13	The recommendations of the Independent Review of Victoria's Electricity and Gas Network safety framework should be implemented: recommendation 34 to develop a consolidated energy safety act should be demonstrated to MEC customers	This is being addressed by government separately to the making of these regulations.
14	The release of the Electricity ESMS preparation and submission guidelines for MECs should be postponed and a working group tasked with producing guidelines that are aligned with the policy intent.	The guidelines are a deliverable of the Grimes Review intended to enable ESV to provide clarity in relation to its expectations on the operation of the regulations. This is consistent with both the application of the policy. The preparation and submission guideline is therefore not intended to be an industry led document.

Submissions also raised matters that fell outside the scope of regulations; were comments for noting and required no response; or were queries that could be resolved by further reading of the regulations. Some matters shall be considered further by ESV, although not in the purview of the proposed regulations.

Amendments to the proposed regulations following consultation

Following review of the submissions one amendment was made to the proposed regulations.

Amendment – Consultation on reporting guidelines

Draft regulations 28 (Requirements for reporting of serious electrical incidents by major electricity companies) and 29 (Reporting of other serious electrical incidents by major electricity companies) require incidents to be reported according to reporting guidelines issued by ESV. This change is intended to provide clarity and certainty about reporting requirements. The MECs currently comply with similar reporting guidelines that have been in place for three years.

The MECs did not support specifying reporting requirements into guidelines and proposed that the requirements should be specified in the regulations. ESV has formed the view that the benefits of using the guidelines remains, but accepts consultation with the MECs prior to issuing or amending the guidelines, will enable their views to be properly considered.

Consequently, ESV inserted a new clause (regulation 28(3)) which requires ESV to consult with each MEC before it issues or amends the reporting guidelines.

Administration of reporting requirements for MECs

The new requirements for reporting of serious electrical incidents by MECs will require amendments to the OSIRIS online reporting portal. It may take 2 to 3 months to make the necessary system changes.

The most logical time to give effect to the change of reporting guidelines will be at the start of the second quarter for 2020, being 1 April 2020.

Accordingly ESV is proposing that reporting under regulations 28 and 29 continue in accordance with the current guidelines that are in use until the update of OSIRIS is complete.

ESV will engage the MECs in the OSIRIS redesign process to capture any suggestions for improvements.