

Department of Sustainability and
Environment

**Forests (Licences and Permits)
Regulations 2009**

Regulatory Impact Statement

This Regulatory Impact Statement has been prepared in accordance with the requirements of the *Subordinate Legislation Act 1994* and the Victorian Guide to Regulation incorporating Guidelines for the Measurement of Changes in Administrative Burden.

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FORESTS (LICENCES AND PERMITS) REGULATIONS 2009

REGULATORY IMPACT STATEMENT

This Regulatory Impact Statement (RIS) has been prepared to fulfil the requirements of the *Subordinate Legislation Act 1994* and to facilitate public consultation on the proposed Forests (Licences and Permits) Regulations 2009.

In accordance with the *Victorian Guide to Regulation*, the Victorian Government seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian business and the community.

The prime function of the RIS process is to help members of the public comment on proposed statutory rules before they have been finalised. Such public input can provide valuable information and perspectives, and thus improve the overall quality of the regulations. The proposed Regulations remake the Forests (Licences and Permits) Regulations 1999 and are being circulated to key stakeholders. Your feedback is sought. A copy of the proposed Regulations is provided as an attachment to the RIS.

Public comments and submissions are now invited on the proposed Regulations. All submissions will be treated as public documents and will be made available to other parties upon request. Written comments and submissions should be forwarded by no later than **5:00pm, 28 October 2009** to:

Forest regulations review
Forests and Parks Division
Department of Sustainability and Environment
PO Box 500
EAST MELBOURNE VIC 3002

or email:

licence.regulations@dse.vic.gov.au

This Regulatory Impact Statement was prepared for the Department of Sustainability and Environment by Regulatory Impact Solutions Pty Ltd.

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GLOSSARY

CCA – Conduct Code Agreement

DSE – Department of Sustainability and Environment

FOL – Forest Operator’s Licence

FPL – Forest Product Licence

FMA – Forest Management Area

FPSS – Forest Produce Sales System

MCA – Multi-criteria Analysis

MCAV – Mountain Cattlemen’s Association of Victoria

NCC – National Competition Council

NCP – National Competition Policy

Premier’s Guidelines – Subordinate Legislation Act 1994 Guidelines

RFA – Regional Forest Agreements

SCM – Standard Cost Model

‘the Act’ – *the Forests Act 1958*

‘the current Regulations’ – Forests (Licences and Permits) Regulations 1999

‘the proposed Regulations’ – Forests (Licences and Permits) Regulations 2009

TRP – Timber Release Plan

VEAC – Victorian Environmental Assessment Council

VCEC – the Victorian Competition and Efficiency Commission

VPS – Victorian Public Service

WUP – Wood Utilisation Plan

EXECUTIVE SUMMARY

Purpose of a Regulatory Impact Statement

The current Forests (Licences and Permits) Regulations 1999 give operational effect to key elements of the *Forest Act 1958*, principally in relation to the licensing of timber harvesting, cattle grazing, beekeeping and the collection of domestic firewood. In Victoria regulations automatically expire after 10 years and therefore the current Regulations will sunset in December 2009. While the proposed Regulations are essentially the same as the current Regulations, some changes were made to improve their clarity, remove obsolete provisions and to formalise some of the reporting requirements. The proposed Regulations also prescribe forest offences and branding of trees. These latter regulations are currently located in the Forests (Miscellaneous) Regulations 2000, which will be revoked to streamline the number of regulations forest users need to deal with.

In Victoria the *Subordinate Legislation Act 1994* requires that new or remade regulatory proposals that impose an ‘appreciable economic or social burden on a sector of the public’ be formally assessed in a Regulatory Impact Statement (RIS) to ensure that the costs of the proposed regulations are outweighed by the benefits, and that the regulatory proposal is superior to alternative approaches. It has been assessed that the burden imposed by the proposed Regulations requires assessment in a RIS (this document).

A RIS formally assesses regulatory proposals against the requirements in the *Subordinate Legislation Act 1994* and the *Victorian Guide to Regulation*.¹ The assessment framework of the RIS examines the problem to be addressed, specifies the desired objectives, identifies viable options that will achieve the objectives, and assesses the costs and benefits of the options, as well as identifying the preferred option and describing its effect. The RIS also assesses the proposed Regulations’ impact on small business, undertakes a competition assessment and reports on any changes in the administrative burden to business. Finally, it considers implementation and enforcement issues, details the evaluation strategy, and documents the consultation undertaken.

The Proposed Forests (Licences and Permits) Regulations 2009

The Department of Sustainability and Environment (DSE) is responsible for the sustainable management of forests in Victoria, and administers the *Forests Act 1958* and a range of regulations authorised under that legislation, including the current Regulations. The Act itself deals with the broad power and duties of the Secretary, powers to acquire or declare lands as State forests or protected forests, general powers relating to forest products, powers of authorised officers, and general provisions concerning leases and licences. It is important to note that the

¹ Department of Treasury and Finance, 2007, 2nd ed, *Victorian Guide to Regulation incorporating: Guidelines made under the Subordinate Legislation Act 1994 and Guidelines for the Measurement of Changes in Administrative Burden*, Melbourne

proposed Regulations have a very narrow application: they principally deal with licences and prescribed conditions issued under section 52 of the Act, along with a narrow range of offences (sections 96 and 97) and brands used to mark timber. It is also important to note that the current (and proposed) Regulations do not prescribe fees or royalties, which are prescribed by the Act.

The current Regulations will expire on 14 December 2009 and are being remade under section 99 of the *Forests Act 1958*. This gave the Department of Sustainability and Environment the opportunity to modernise the formatting of the drafting in the current Regulations, remove obsolete provisions, and consolidate regulations from the Forest (Miscellaneous) Regulations 2000, which will be revoked when the proposed Regulations commence.

The current Regulations have been re-formatted to remove duplication between sections. For example, the current Regulations include as a term and condition that the payment of royalties is required in 7(3), 11(4) and 12(8). Similarly a regulation relating to the construction of buildings and structures was inserted into 8(4), 11(3) and 12(7). These regulations should apply across all licences and permits. The proposed Regulations also remove potential legal confusion between what constitutes a licence, a permit, a grazing licence, an agistment licence, and an agistment permit. There is no distinction made between these in the Act and the categorization is potentially confusing.

Specific conditions on bee farm and bee range licences have been removed from the proposed Regulations. These conditions were removed to reduce the potential confusion between the *Forests Act 1958* and the *Land Act 1958*, which also deals with bee farms and places conditions upon them. Similarly, saw-millers' returns have been removed from the proposed Regulations. This regulation has not been used since the creation of VicForests in 2004.

A number of refinements have been made with respect to cattle grazing licensing provisions in response to experience gained over the last ten years as well as an internal review. The proposed revised conditions are intended to be more practical, reducing the reporting requirements and the need for the presence of an authorised officer when cattle are admitted to an area of a reserved forest.

Victoria's State forests

Victoria's State forests provide many social and economic benefits to the Victorian community. They provide wood and non-wood products, recreational opportunities and other non-market goods and services. Forests also perform important environmental functions, such as protecting water catchments and providing habitats for plant and animal species. Forests provide habitat for a wide variety of terrestrial and aquatic living organisms and play a vital role in conserving species habitat and biodiversity. Forests also make an important contribution to Victoria's economy through providing employment for local communities, regional development, recreation, tourism and forest industries.

Victoria’s forests are managed by the Victorian Government to provide a broad range of opportunities for recreation and tourism. These opportunities range from high visitation sites with significant infrastructure, to remote sites which may be limited to a walking track and cleared space for camping.

Economic activity in forests primarily relates to timber harvesting, grazing and honey production. Other minor activities include products taken from the forest including seeds, leaves, stones, sand and gravel. The Act requires that a licence or permit be obtained in order to undertake these activities. Licences are issued annually, while permits usually relate to single activities of shorter duration, e.g., domestic firewood collection.

The number and type of licences issued in 2008 are shown in the table below. Commercial timber licences are predominantly issued in relation to sawlogs and firewood, however some licences are issued for eucalyptus oil extraction and seed collection. ‘Grazing licences’ include a grazing licence, grazing licence – non primary producers, bush grazing – seasonal, alpine grazing licence, alpine contiguous grazing, and the agistment (grazing) permit. ‘Water supply licences’ provides an occupation right, for example, it may allow a holder to place a pump or pump shed in a State forest. This licence does not relate to water rights as such.

‘Miscellaneous’ includes a recreation lease, plantation lease – native State forest, residence licence, industrial/commercial licence, recreation/amusement licence, rubbish depot licence, radio/television/telecom site licences, extractive material licence, emergency services use licence, scout and/or guide use licence, cultivation/garden licence, water/sewerage easement, miscellaneous easement, and a miscellaneous (general) licence.

There are around 22,000 domestic firewood permits issued annually. Domestic firewood permits allow an individual to obtain designated wood in a State forest for private use. These permits are valid for a single day and prescribe the amount of wood that may be collected. Around two-thirds of these permits are sold by DSE, however there are currently around 130 businesses acting as agents that sell domestic firewood permits. Such businesses include general stores, service stations, and hardware stores.

Forest Products Licences – Number of Licences and Permits, 2008

Licence/Permit Type*	Numbers
Commercial timber licence	152
Grazing Licence	441
Apiary licence, bee farm and range licence, temporary apiary right	1,704
Water supply licence	209
Miscellaneous	263
Total licences	2,769
Domestic firewood permits	21,700

Rationale for Government Intervention

Victorian State forests have use and non-use values to the community. Use values include timber harvesting, cattle grazing, firewood collection, and tourism or sightseeing. Non-use values include watershed protection and soil protection, air pollution reduction/carbon storage, and habitat protection of biodiversity and species. Without some sort of control or regulation the direct uses may adversely impact on the indirect values of forests.

The environmental costs that arise from unsustainable uses or activities in forests are well-established in the scientific literature and have resulted in regulatory controls in Victoria and other jurisdictions. In economic terms, the rationale for managing forests is based on the concept of negative externalities and public goods. That is, the costs associated with certain forest activities by individuals or groups are not fully borne by them, but by the broader community.

The risks of the government not intervening are that forest resources (such as timber, water, minerals, fish and game) and forest values (such as ecology, biodiversity, and recreational values) would be over-exploited and/or diminished. If the regulations were not remade, then this would create uncertainty as to the terms and conditions attached to licences and there is a high probability that the ability of the Victorian Government to manage Victorian State forests would be adversely affected given the current level of offences detected.

Licences and permits also provide a mechanism for the collection of royalties in the case of timber harvesting, which enables the community to collect resource rents.

Objectives

The objectives of the proposed Regulations reflect the government's overall legislative objectives regarding forest management and encapsulate key elements of the *Sustainability Charter for Victoria's State forests*. The overarching objectives of the proposed Regulations adopted in the RIS are to:

- maintain and conserve biodiversity in State forests;
- maintain and improve the capacity of forest ecosystems to produce wood and non-wood products; and
- maintain and enhance the socio-economic benefits of State forests to Victorian communities.

Options to Achieve the Objectives

The RIS identifies viable non-regulatory and regulatory options for achieving the above objectives and are set out in section 2 of the RIS. The *Subordinate Legislation Act 1994* requires that non-regulatory options must be considered as part of a RIS. The scope of consideration of regulatory and non-regulatory options is limited because of the existing powers of the Act and the limited focus of the proposed Regulations. The following were considered as possible options, along with the proposed Regulations and variations to these:

- an education program;
- voluntary codes of practice;
- prohibiting certain activities, and
- incorporating the regulations into the Act.

Preferred Option

The analysis in the RIS concludes that the proposed Regulations are the preferred option compared to the viable options because they are the most efficient and effective way to achieve the Victorian Government’s policy objectives. The main reasons why the alternatives are inferior to the proposed Regulations relate to compliance and enforcement, and striking an appropriate balance between managing the multiple roles of State forests.

The direct costs associated with the proposed Regulations will be mostly borne by licensees. However, given that persons voluntarily apply for licences, implicit in their decision making process is that the benefit they derive from being licensed to harvest or use forest produce outweighs the direct costs. The benefits associated with the proposal will mostly accrue to current and future users of Victoria’s forests, as well as the broader community from the non-use value of forest products. Increasingly it appears that society is placing a greater value on the non-use benefits associated with forests.

Each of the proposed Regulations was examined for the likely costs they would impose on parties impacted by the proposal. The Standard Cost Model methodology was used to calculate the administrative costs associated with these regulations. The table below shows that these costs over a ten year period are approximately \$6.4 million (or an annual nominal cost of around \$768,000 per annum). Of these costs, only \$1.5 million are business costs, while \$4.9 million represents the travel time costs incurred by individuals purchasing a domestic firewood permit. On an annual basis, the nominal costs on business are around \$150,000, which are relatively minor given the value of economic activity and non-market value of forests. This translates to an annual discounted cost per business of approximately \$64.

Costs Imposed by the Proposed Regulations, 10-Year Assessment Period

Regulation	Description of Regulation	Cost (\$)
9	Application for licences and permits	6,239,500
12	Reporting Requirements of licence holders	13,900
13	Provision of advice to Secretary	137,000
Total		6,390,400

* Numbers rounded.

The Victorian Government incurs costs in relation to administrating and processing licences and permits, as well as costs associated with enforcing the regulations. The costs of processing and administering forest licences is estimated to be around \$860,000 over a 10-year period, while the enforcement cost is estimated to be in

the order of \$5,950,000 over this period. These result in a total cost to government over a 10-year period of around \$6.8 million as shown in the table below.

Government Costs, 10-Year Assessment Period

DSE Cost	Cost (\$)
Administration costs – e.g. processing licences	863,570
Enforcement and Compliance	5,950,900
Total	6,814,470

* Numbers rounded.

Therefore, the total quantifiable costs to business and government costs associated with the proposed Regulations are approximately **\$13.2 million** over a 10-year period, or an annual nominal cost of around \$1.6 million per annum.

Indirect benefits of the Regulations comprise the protection of the many ecological functions of forests. Their value derives from supporting or protecting economic activities that have directly measurable market benefits. For example, some forests may have indirect use value through controlling sedimentation and flood damage that affects downstream agriculture, water supplies and other economic activities. Another important indirect use value associated with forests is the storage or sequestration of carbon in trees, offsetting the atmospheric accumulation of greenhouse gases that are implicated in global warming.

The RIS presents a number of monetary estimates of the benefits to provide a very broad indication of the magnitude of benefits. These estimates make it is clear that use and non-use forest values would be measured in the hundreds of millions of dollars annually. However, in assessing the direct and indirect benefits, it is important to recognise that these benefits principally arise from the broad regulatory framework rather than directly from the regulations. The benefits attributable to the proposed Regulations are limited to the extent that they contribute to the regulatory controls for managing a healthy, well-functioning forest system.

The direct and indirect use benefits from ensuring that forests are sustainably managed are likely to be substantial. Direct uses of forests include both commercial and non-commercial activities. Commercial uses include timber production, feed for grazing, and provision of pollens for the honey industry. Non-commercial direct uses include firewood supplies for domestic users, and services such as forest recreation, education and research, which are often conducted on a non-commercial basis. That said the regulations set up a licensing framework which supports the efficient operation of the legislation.

While the quantifiable costs are largest compared to the other options (a discounted cost over a ten-year period of around \$13.2 million), the likely benefits (many of which are intangible) of the regulations are assessed as exceeding the costs. Assessment of the options using the Multi-criteria Analysis (MCA) framework also suggests that the proposed Regulations are superior to the alternatives as shown in section 4.3. Most importantly, the proposed Regulations are assessed as the most effective in achieving the government’s policy objectives.

Key groups affected by the proposal include persons in charge of travelling cattle in a reserved forest, licence applicants and licensees including commercial timber operators, persons collecting wood for domestic use, cattle graziers, beekeepers, and other forest users. These groups are familiar with the forms and procedures, and the prohibited behaviours are generally atypical rather than the conduct shown by the vast majority of licence holders and forest users.

The main risk associated with not remaking the regulations is that the regulatory framework established by the Act for managing Victoria's forests would be weakened. Namely, enforcement mechanisms and the efficient operation of the Act would be adversely affected because there would be no requirement for licence holders to report details of forest produce that they cut, dig, or take away. A range of offences would not be prescribed and the conditions on licences and permits would be considerably weakened. Again, there is a high probability that the ability of the Victorian Government to manage Victorian forests effectively would be adversely affected given the current level of offences detected.

Finally, the proposed Regulations support and are consistent with Victorian Government policy as articulated in *Our Forests, Our Future*, the *Sustainability Charter for Victoria's State forests*, the *Environmental Policy for Victoria's State forests* and in the Act.

Small Business Impact

Of the licences and permits issued to businesses, the overwhelming majority – over 99 per cent – are issued to small business. This percentage is higher than the state average of the composition of small business which is 96 per cent.² The impact of the proposed Regulations will therefore fall disproportionately on small business, but within the small business segment the impact will fall relatively equally. To that degree, while small business may incur proportionally more costs, the benefits of the proposed regulations will also predominantly accrue to them.

Further, given that the proposed Regulations impose administrative requirements relatively infrequently – licences and permits are usually renewed annually – there are no significant administrative economy of scale benefits for larger businesses associated with the proposed Regulations.

The relatively straightforward nature of the regulations makes it unlikely that small business would be disadvantaged in terms of lacking the resources in order to comply with the requirements. Similarly, it is unlikely that any requirements would cause small business to withdraw from the industry or fail to comply with the regulations. Finally, given that the current Regulations have been in operation for 10 years unchanged, it is not expected that the proposed Regulations will raise any implementation issues or cause unintended consequences. The proposed minor

² ABS Cat.8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2003 - Jun 2007, Businesses by Industry Class by Main State by Employment Size Ranges, Construction (Victoria)

changes to streamline the current regulations should reduce confusion to small business operators.

Identification of Restrictions on Competition

The proposed Regulations were considered against National Competition Policy (NCP) ‘competition test’ to identify restrictions on competition. While the overall regulatory framework controlling the State forests imposes restrictions on competition, given the narrow focus and minor nature of the proposed Regulations it is assessed that they will not impose restrictions.

Changes in the Administrative Burden

The *Reducing the Regulatory Burden* initiative commits the Victorian Government to reducing the administrative costs of regulation. Accordingly, the RIS uses the Standard Cost Model methodology and the guidelines on the *Measurement of Changes in Administrative Burden* to inform its cost–benefit analysis and to measure any changes to the administrative costs. Administrative costs are those costs incurred by business to demonstrate compliance with the regulation or to allow government to administer the regulation (e.g., reporting, notification, or recording requirements) commonly known as red tape. The analysis in the RIS finds that the proposed Regulations do not impose any new information, reporting or record keeping obligations on business, and therefore the regulatory changes in the proposed Regulations will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

Conclusion

This Regulatory Impact Statement concludes that:

- **the benefits to society of the proposed Regulations exceed the costs;**
- **the net benefits of the proposed Regulations are greater than those associated with any practicable alternatives;**
- **the proposed Regulations do not impose restrictions on competition;**
and
- **the proposed Regulations will not lead to a material change in the administrative burden on industry.**

Public Consultation

The prime objective of the RIS process is to help members of the public comment on proposed Regulations before they are finalised. Public input, which draws on practical experience, can provide valuable information and perspectives, and thus improve the overall quality of regulations. The proposed Regulations are being circulated to key stakeholders and feedback is sought. The Department of Sustainability and Environment (DSE), which is responsible for administering the

Forests Act 1958 (the Act) and Forests (Licences and Permits) Regulations 1999 (current Regulations), welcomes and encourages feedback on the proposed Regulations.

While comments on any aspect of the proposed Regulations are welcome, stakeholders may wish to comment on:

- ways in which the form or application process can be streamlined;
- the appropriateness of the proposed conditions on licences;
- restrictions on entering or agisting bulls in State forests;
- whether or not a less prescriptive approach has merit;
- the duration of licences;
- the reasonableness of the costs assumptions, particularly the time taken to fill out a licence application form and time taken to purchase a domestic firewood permit;
- any practical difficulties associated with the proposed Regulations; and
- any unintended consequences associated with the proposed Regulations.

All submissions will be treated as public documents and will be made available to other parties upon request.

1. WHAT IS THE ISSUE/PROBLEM TO BE ADDRESSED?

Key points:

- Victoria's State forests provide a wide range of benefits to the community, from the conservation of biological diversity, soil productivity and water quality to recreational experiences, timber production and stock grazing.
- The aim of government intervention in forest activities is to address environmental, social and inter-generational equity issues because the market alone would not deliver socially optimal and sustainable outcomes.
- Economic activity in forests primarily relates to timber harvesting, cattle grazing and honey production. In economic terms, the rationale for managing forests is based on the concept of negative externalities and public goods. That is, to ensure that the costs associated with certain forest activities by individuals or groups are fully borne by them, not by the broader community.
- The risks of non-intervention are that forest resources such as timber, water, minerals, fish and game and forest values such as ecology, biodiversity, recreational value would be over-exploited and/or diminished.
- The environmental costs that arise from unsustainable uses or activities in forests are well-established in the scientific literature, and have resulted in regulatory controls in Victoria and other jurisdictions.
- A sound forest regulatory regime should impose minimum restrictions to effectively protect particular forest values and mitigate or remedy any clearly identified harms.
- If the regulations were not remade, then this would create uncertainty as to the terms and conditions attached to licences, and there is a high probability that the ability of the Victorian Government to manage Victorian State forests would be adversely affected given the current level of offences detected.

1.1 Background

Context

Victoria's State forests provide many social and economic benefits to the Victorian community. They provide wood and non-wood products, recreational opportunities and other non-market goods and services. Forests also perform important environmental functions such as protecting water catchments and providing habitats for plant and animal species. Forests provide habitat for a wide variety of terrestrial and aquatic living organisms and play a vital role in conserving species habitat and biodiversity. Forests also make an important contribution to Victoria's economy through providing employment for local communities, regional development, recreation, tourism and forest industries.

Victoria's forests are managed to provide a broad range of opportunities for recreation and tourism. These opportunities range from high visitation sites with significant infrastructure, to remote sites which may be limited to a walking track and cleared space for camping.

The social and cultural values offered by Victoria's forests are generally intangible, as they may be physical and aesthetic experiences (i.e. non-use or existence values). Indigenous people have close ties to the land and forests are an integral part of expressing their cultural, social and spiritual values. For non-indigenous Australians there are also many places of cultural value located in forest areas.

Victoria manages its forests through legislation and regulations that provide a framework for administering a system of licences and permits to undertake a range of private and business activities. The licences and permits also provide for royalties which enables the community to recover resource rents.

Economic Activity in Forests

Timber Harvesting

In 2006 Victoria's total land area was approximately 23 million hectares. Of this, about 8.3 million hectares or 36 per cent was forested. Approximately 3.2 million hectares were classified as State forest and 3.7 million hectares classified as national parks and other reserves. Of the 3.2 million hectares of State forest, approximately 1 million hectares was protected in informal conservation reserves and will not be harvested. Of the remaining area, approximately 929,000 hectares was available and suitable for timber harvesting. Less than one per cent of the economic area is harvested each year, and these areas are fully regenerated with the original forest composition. This ensures a sustainable supply of timber, and that viable timber industries are maintained in regional communities.³

³ The State of Victoria, 2005, Victoria's State of the Forest Report, Department of Sustainability and Environment, p. 52

Timber harvested from native forests is used for a number of purposes, including house construction, fencing materials and fibre for paper. Quality timber from Victoria's native forests is highly prized by furniture makers and for hardwood flooring in houses. Woodchips are a by-product of timber harvesting in native forests and are sought both locally and internationally for use in high quality paper products.

Between 2001-02 and 2005-06, the annual value of wood production from State forests in eastern Victoria increased by 6 per cent from \$137 million to \$147 million. Of the wood products produced from State forest, sawlogs had the highest value per volume. However, pulpwood had a higher total value due to the larger volumes produced. In 2005-06, the value of log production from State forest was equivalent to 0.1% of Victoria's Gross State Product of \$160.5 billion. Between 2001-02 and 2005-06, the value of pulpwood exports (exported as woodchips) increased from \$41 million to \$60 million. The volume of pulpwood exports also increased over the period from 779,000 m³ to 950,000 m³. Data is only currently available for eastern Victoria, however this accounts for over 90 per cent of the total timber production in Victoria.

In 2005-06, 22,600 people were employed in 'Wood and Wood Product Industries' in Victoria (this includes both native forest and plantation forest employment). Over 90 per cent of people were employed in 'Wood and Paper Product Manufacturing', with 9 per cent employed in 'Forestry and Logging'. Employment in 'Wood and Wood Product Industries' accounted for around 1 per cent of Victoria's total employment. Despite this, both native and plantation forests provide an important source of employment in regional Victoria as individual townships and areas can have a much higher reliance on the forest industry.

Victoria's *State of the Forests Report* notes that non-wood forest products and services represent a significant resource supporting the livelihoods of many Victorians. However, data on the value and yield of non-wood forest products is poor in Victoria, and consequently, it notes that it is not possible to report on a value of these produces at the present time.

Cattle Grazing

Large areas of State forest throughout Victoria are utilised for licensed cattle grazing, often by an adjacent or nearby landowner. This extensive grazing is a supplementary or seasonal addition to a farmer's private property, allowing higher stocking rates than may otherwise be possible. Cattle grazing in State forest has occurred since European settlement, and has been licensed by the Crown since at least the late 19th century. Nearly half of the State forests are potentially available for cattle grazing, depending on seasonal conditions.

Honey Production

Honey is an important commercial product supported by access to State forest. Each year, about 5,100 tonnes of honey is produced in Victoria, representing 15.6 per cent of the national total. Most of this is sourced from hives in State forests. In 1996, Victoria's honey and beeswax products had a 'farm gate' value of \$7.9

million. It is important to note that the value of honey production fluctuates significantly from year to year.

In 1996/97, there were approximately 1,500 registered apiary operators in Victoria with an estimated 119,000 hives.⁴ Many of these were part-time producers with 50 hives or less. The Victorian Apiarists’ Association estimates that 80 to 85 per cent of honey production relies on native flora, making it significantly dependent on Victoria’s native forests. The Victorian apiculture industry also provides pollination services to the agricultural industry. The value of these services has been estimated to be \$145 million annually.⁵ To successfully provide these pollination services, apiarists require access to public land in order to provide bees with access to the pollens from native forests, and thereby allow them to build up their hive numbers.

Economic activity in forests primarily relates to timber harvesting, grazing and honey production. Other minor activities include products taken from the forest such as seeds, leaves, stones, sand and gravel.⁶

Table 1: Forest Products Licences – Number of Licences and Permits, 2008

Licence/Permit Type*	Numbers
Commercial timber licence ⁷	152
Grazing Licence ⁸	441
Apiary licence, bee farm and range licence, temporary apiary right	1,704
Water supply licence	209
Miscellaneous ⁹	263
Total licences	2,769
Domestic firewood permits ¹⁰	21,700

* Licences are issued annually, while permits usually relate to single activities of shorter duration, e.g., domestic firewood collection.

⁴ The State of Victoria, 2005, Victoria’s State of the Forests Report, Department of Sustainability and Environment, p. 66

⁵ Gibbs and Muirhead, 1998

⁶ Section 3 of the Act defines ‘forest produce’ as all parts of trees or plants, including any parts below the ground; the products of trees or plants, whether or not those products have become separated from those trees or plants prior to being harvested and includes honey, beeswax, oil distilled from any species of eucalypt, firewood collected for domestic use, stone, gravel, limestone, lime, salt, sand, loam, clay or brick-earth, but does not include gold, silver, metals or minerals, or subject to any specific provision to the contrary, timber resources within the meaning of the *Sustainable Forests (Timber) Act 2004*.

⁷ Commercial timber licences (2007-08) are predominantly issued in relation to sawlogs and firewood, however some licences are issued for eucalyptus oil and extracted seeds.

⁸ ‘Grazing licences’ include grazing licence, grazing licence – non primary producers, bush grazing – seasonal, alpine grazing licence, alpine contiguous grazing, and the agistment (grazing) permit.

⁹ ‘Miscellaneous’ includes recreation lease, plantation lease – native State forest, residence licence, industrial/commercial licence, recreation/amusement licence, rubbish depot licence, radio/tv/telecom site licences, extractive material licence, emergency services use licence, scout and/or guide use licence, cultivation/garden licence, water/sewerage easement, miscellaneous easement, and miscellaneous (general) licence.

¹⁰ See Assumption 3 in [Attachment D](#).

1.2 Rationale for Government Intervention

1.2.1 Rationale for Government Intervention

Public policy generally begins from the premise that any economic activity should be free of regulation unless it can be shown that it is subject to ‘market failure’, which if left unregulated, will not generate socially efficient levels of output. The socially efficient level of output is usually taken to be that which maximises the sum of the net benefits of the activity to producers and consumers, and more broadly, society.

External costs and benefits, referred to by economists as ‘externalities’, occur when an activity imposes costs (which are not compensated) or generates benefits (which are not paid for) on parties not directly involved in the activity (i.e. on third parties). Without regulation, the existence of externalities results in too much of an activity (where external costs or negative externalities occur) or too little of an activity (where external benefits or positive externalities arise) taking place from society’s point of view.

The concept of the ‘tragedy of the commons’ illustrates market failure particularly in relation to externalities (see [Attachment A](#) for further explanation). The ‘tragedy of the commons’ argument states that free access to and unrestricted demand for a finite resource ultimately dooms the resource through over-exploitation. This occurs because the benefits of exploitation accrue to individuals or groups, each of whom is motivated to maximise use of the resource to the point in which they become reliant on it. This causes demand for the resource to increase, which causes the problem to escalate to the point that the resource is exhausted. At the same time, the costs of the exploitation are borne by all those to whom the resource is available (which may be a wider class of individuals than those who are exploiting it).

The commons dilemma stands as a model for a great variety of resource problems in society today, such as water, land, forestry, fish, and non-renewable energy. A common regulatory solution to correct the externalities identified with tragedy of the commons is to create property rights through permits or licensing (see section 1.2.2 below). This is evident in many jurisdictions in relation to extractive economic activities in areas such as mining, timber production, fishing and stock grazing.

The National Competition Council (NCC) assessed the market characteristics of State forests and argued that government intervention is justified on public interest grounds.¹¹ The NCC noted that forests provide a wide range of benefits to the community, from the conservation of biological diversity, soil productivity and water quality to recreational experiences, timber production and stock grazing. Governments intervene in forest use principally because some of these benefits are

¹¹ National Competition Council, 2003, Assessment of governments’ progress in implementing the National Competition Policy and related reforms: Volume two – Legislation review and reform, AusInfo, Canberra, p. 1.94

difficult for private forest owners to trade as it is too costly to exclude those who have not paid for a particular benefit from enjoying it. In addition, those forest benefits that are readily tradable are, above a certain intensity of use, competitive with non-tradable (for example, ecological) benefits. Consequently, without government intervention, community welfare will tend to be reduced because forest owners have an incentive to produce too little of, for instance, biological diversity and aesthetic amenity, and too much of timber production and grazing.

Historically, where non-tradable forest values are particularly prominent, so much so that almost no intensity of timber production is possible without seriously compromising the adequate availability of such values, governments have retained forests in public ownership as national parks. In this respect a sound forest regulatory regime will impose minimum restrictions to effectively protect particular non-tradable forest values and mitigate or remedy any clearly identified harms.¹²

Another rationale for government intervention in State forests is its characteristic as a public good. Public goods are characterised by the fact that no one can be effectively excluded from consuming them and that increased consumption of the good by one individual does not reduce availability to others. For example, any boat owner operating in the vicinity of a lighthouse cannot be excluded from its safety benefits, nor does the boat owner's use of the lighthouse service detract from its use from other boat owners. In a similar vein, aesthetic values are among many public goods provided by forests, along with carbon storage and biodiversity conservation. Economic theory explains why the free market will systematically under-provide such goods, and why collective action, typically by the government, is usually required to ensure their adequate provision.¹³

Associated with these market failures, non-use forest values may tend to be underestimated. For example, it has been argued that most resource management decisions are most strongly influenced by the direct economic value associated with marketable forest or other products. As a result, the non-marketed benefits, for example biodiversity or watershed protection, are often lost or degraded. These non-marketed benefits are often high and sometimes more valuable than the marketed ones. For example, one of the most comprehensive studies to date, which examined the marketed and non-marketed economic values associated with forests in eight Mediterranean countries, found “that timber and firewood generally accounted for less than a third of total economic value of forests and that the values associated with non-wood forest products, recreation, hunting, watershed protection, carbon sequestration, and passive use (values independent of direct uses) accounted for between 25 per cent and 96 per cent of the total economic value of the forests”¹⁴.

¹² National Competition Council, 2003, *ibid.*, p. 1.95

¹³ Bishop, J. T.(ed.), 1999, *Valuing Forests: A Review of Methods and Applications in Developing Countries*, International Institute for Environment and Development, London. Prepared for the World Bank Forest Policy Implementation Review and Strategy, p. 8

¹⁴ Millennium Ecosystem Assessment, 2005. *Ecosystems and Human Well-being: Synthesis*, Island Press, Washington, DC, p. 6

Finally, from a social point of view there is a public expectation that government has a leading role in protecting State forests. Arguably, since 1999 when the current Regulations commenced, community expectations have increased regarding the government's role in protecting Victoria's forest assets and ensuring that forest industries operate in a sustainable way.

1.2.2 Nature of Licensing and Permits

Licensing is a commonly used form of regulation. Typically, businesses, regulated occupations or individuals, before undertaking an activity, are required to acquire a licence which imposes a range of conditions, obligations and rights. Breaches of licence conditions usually result in sanctions such as suspension or revocation of permission to undertake an activity. There are four key components of a licence: notification, where specified information is supplied to the regulator; prior approval, where approval is obtained from the regulator to commence a prescribed activity; standards, in which minimum standards are specified; and enforcement, the requirements of licences are legally enforceable and can involve the application of sanctions.¹⁵

Licensing may be an appropriate way to address a problem and achieve a specified objective where there are important spillovers (externalities) and/or information failures, needing to be addressed by governments and which are difficult (or more costly) to address by other means. The potential advantages of licensing include:

- the notification component of a licensing regime allowing governments to identify the contact details and features of firms and individuals, thus making it easier to target audit and enforcement strategies;
- mandatory prior approval allowing governments to test and inspect businesses and individuals, in principle, allowing detection and exclusion of those likely to provide poor quality or unsatisfactory goods and services;
- in some cases, licences providing rights to use in a controlled manner community resources, such as forests; and
- licensing regimes being established and modified relatively easily and quickly. They can therefore be more adaptable and responsive than alternatives, such as regulation through government legislation.¹⁶

¹⁵ Rimmer, S., 2004, Best practice regulations and the role of licensing, Office of Regulation Review, Productivity Commission, Transcript from address to the National Consumer Congress, Park Hyatt, Melbourne, 15-16 March 2004, pp. 10–11

¹⁶ *idem.*, p. 12

1.3 Risks of Non-intervention

The risks of non-intervention are that forest resources such as timber, water, minerals, fish and game and forests values such as ecology, biodiversity would be over-exploited and/or damaged. There is a high probability that this would occur – centuries of human activities¹⁷ and the resultant environmental regulatory controls in practically all international jurisdictions provide testament to this.¹⁸

The proposed Regulations are relatively narrow in focus and prescribe specific elements of the Act. These include prescribing the form and information to be included in an application for a licence, imposing conditions on licences, managing certain behaviour in forests, and prescribing brands used for marking trees. Compliance with the regulations is not difficult or costly.

Weak or poorly enforced regulations are often associated with over-exploitation of forest products, which results in their degradation. A major study found that while the causes of forest degradation are complex and multi-factored, ineffective regulation of forests played a role.¹⁹

1.4 Type and Incidence of Costs

The *Victorian Guide to Regulation* identifies three categories of regulatory costs: financial costs, indirect market costs, and compliance costs.²⁰

Financial costs are the result of a concrete and direct obligation to transfer a sum of money to the government or relevant authority. Such costs include administrative charges and taxes. For example, the fees for applying for a licence or permit would be a financial cost of regulation.

Indirect market costs are those costs that arise from the impact that regulation has on market structure or consumption patterns. These costs are often associated with licensing of certain activities, prescribing qualifications or limiting access to a certain profession or industry in some other way. When barriers to entry are created, this can allow incumbents to charge higher prices and can result in reduced service levels and stifle innovation.

¹⁷ Forests have been reserved in England since Norman times, at first for the Crown and aristocracy for hunting but later for conversation purposes, and an extensive body of forest law and regulations developed over the following 800 years. Under forest law privileges could be granted, for example 'estover', the right of taking firewood; 'turbary', the right to cut turf, rights of 'pasturage' and harvesting the products of the forest. Source: Young, C.R., 1978, 'Conservation Policies in the Royal Forests of Medieval England', *Albion: A Quarterly Journal Concerned with British Studies*, Vol. 10, No. 2 (Summer, 1978), pp. 95-103

¹⁸ In the early 1870's the government in Victoria, concerned about the clearing of forests, set aside the first areas of Crown Land to be conserved for future timber production, marking the beginning of forest management and conservation. Source: Australian forests: <http://www.australianforests.org.au>

¹⁹ Verolme, Hans J.H., Moussa, Juliette, April 1999. Addressing the Underlying Causes of Deforestation and Forest Degradation - Case Studies, Analysis and Policy Recommendations. Biodiversity Action Network, Washington, DC

²⁰ DTF, 2007, *ibid.*, p. F-7

Compliance costs can be divided into ‘substantive compliance costs’ and ‘administrative costs’. Substantive compliance costs are those costs that directly lead to the regulated outcomes being sought and are often capital and production costs. These costs are often associated with content-specific regulation and include buying new equipment, maintaining the equipment and undertaking specified training in order to meet government regulatory requirements.

Administrative costs, often referred to as red tape, are those costs incurred by business to *demonstrate* compliance with the regulation or to allow government to administer the regulation. Administrative costs can include those costs associated with familiarisation with administrative requirements, record keeping and reporting, including inspection and enforcement of regulation.

The proposed Regulations do not impose financial costs or indirect market costs: these costs (where they exist) are imposed by the Act. They do however impose substantive compliance costs and administrative costs. Attachment B contains a description of the regulatory costs imposed by each regulation, along with the groups affected.

In a broader sense, in the absence of regulation it is likely that economic, social, and environmental costs and impacts would be incurred. The negative externalities associated with the ‘tragedy of the commons’ suggest that while individual levels of use/exploitation of forest resources may seem rational, the collective impact may result in damage to forest resources. For example, unsustainable logging or over-grazing could adversely affect the productive capacity of a forest, while other use activities could reduce the amenity of forests by damaging the environment. Further, over-use of forest resources adversely impacts upon wildlife habitats and the ecology of forest systems.

1.5 Nature and Extent of the Problem

Victorian State forests have use and non-use values to the community. Use values may include timber harvesting, cattle grazing, firewood collection, and tourism or sightseeing. Non-use values may include watershed protection and soil protection, air pollution reduction, carbon storage, and habitat and protection of biodiversity and species. Without some sort of control or regulation, the direct uses may adversely impact on the indirect values of forests. Human activity has profoundly altered the environment, and as a result the need to regulate human impacts on forests is well established. In the absence of any controls there is a high probability that the environmental value of Victoria’s State forests would be severely affected.

Timber and Firewood

A key objective in State forest management is ensuring an ecologically sustainable supply of forest products, including timber and firewood. Regulatory failure can result in ecological damage, which represents a threat to biodiversity and ecosystem health. While more research needs to be undertaken in this area, such problems can include impacts on threatened vegetation and plant species, changes

to nutrient and carbon cycles, impacts upon soil and water quality, as well as damage to mammal, bird, reptile, and invertebrate habitats.²¹

The illegal removal of firewood from State forests in Victoria represents a problem for sustainable forest management and rural communities. Anecdotal evidence indicates that the amount of firewood illegally harvested across the state is at least as significant as the volume regulated by DSE.²² Illegal harvesting of firewood can result in significant loss of wildlife habitat by the removal or destruction of critical habitat during harvesting operations.²³ In addition to the environmental problems associated with illegal harvesting, the Victorian Government (and hence the community) is not receiving a financial return for its resources, while legitimate commercial firewood businesses (usually small business) may be foregoing sales.²⁴

An infringement or on-the-spot fine can be issued in certain circumstances for firewood related offences; however, enforcement is generally carried out under the *Forests Act 1958*. Where on-the-spot fines can apply, a forest officer will usually issue an infringement notice by mail with enforcement managed by Civic Compliance Victoria.

Table 2 below shows offences under the Act and Regulations from 1998 to 2008. DSE advise that the level of offences has remained fairly steady over recent years. It is important to note that in all likelihood the extent of these incidents represents only a fraction of the incidents that occur. This is because the large spatial area of Victorian forests and numerous entry points makes detection and enforcement difficult. That said, certain activities such as commercial timber harvesting and collection points for domestic firewood tend to occur in localised or specific areas. This provides a basis for DSE to target enforcement activities. Similarly, DSE officers are aware of some 'hot spots' from which illegal firewood collection occurs.

More broadly, DSE estimates that the vast majority of non-compliance arises from non-licensed persons, particularly in the area of firewood collection. DSE advises that compliance under the Act and Regulations by licensed commercial timber operators and beekeepers is very good, and while compliance under grazing licences is also generally very good, it is more variable.

²¹ Department of Sustainability and Environment, 2009, *Ecological impacts of firewood collection in Victoria — a literature review to inform firewood management on public land*, prepared by Geoff Brown, Arn Tolsma and Ed McNabb, Arthur Rylah Institute for Environmental Research in partnership with Simon Murphy, Anne Miehs and Alan York, Department of Forest and Ecosystem Science, The University of Melbourne (at the time of writing unpublished).

²² An estimated 73 per cent of firewood consumed by Victorians was from un-accounted for supplies. Source: Jenkins, B. M., 2007, *Firewood resource analysis: demand and supply*, prepared for DSE by Sylva Systems Pty Ltd, p. 47. While not all of this could be attributed to illegal collection, the estimate in the RIS is based on the best estimates from DSE field officers.

²³ Department of Agriculture, Fisheries and Forestry:
<http://www.daff.gov.au/forestry/international/illegal-logging>

²⁴ Given its surreptitious nature, no accurate data on illegal harvesting exists. However, if it were equivalent to that legally harvested then this would be in the order of 50,000 to 80,000 cubic metres. Royalties foregone from permits could therefore be in the order of \$1 million per year.

Table 2: Offences under the Act relating the forest produce, 1998–2008

Description of Offences	Number
Prosecution	
Plant a tree	50
Damage forest produce	16
Cut forest produce	13
Destroy a growing tree or timber	3
Fell a growing tree or timber	7
Fell timber not specified in a licence	3
Possess forest produce without authorisation	88
Remove a growing tree or timber	1
Remove forest produce	7
Remove unbranded timber	1
Carried out harvesting without a licence	4
Cut forest produce in a reserved forest	9
Cut forest timber in a State forest	65
Remove forest produce without a licence	16
Sell forest produce without a licence	1
Take away forest produce in a reserved area	4
Cut or remove forest produce in a reserved area	4
Remove forest produce without paying a royalty	33
<i>Total</i>	325
Infringement	
Cut or remove forest produce from an area not specified	10
Enter into an area restricted by the regulations	2
Remove, damage vegetation	1
Possess forest produce without authorisation	32
Remove firewood without a licence	38
<i>Total</i>	83
Warning	
Failure to comply with a condition on a licence or permit	1
Plant a tree	3
Destroy a growing tree or timber	3
Fell a growing tree or timber	2
Possession of forest produce without authority	7
Removal of forest produce	1
Activities undertaken without a licence	7
Removal of forest produce without paying a royalty	4
<i>Total</i>	28

Source: DPI/DSE Offence Database

Without some sort of regulatory control on timber harvesting or collecting firewood, individuals would have no private incentive to reduce their activities to sustainable levels. Indeed, the tragedy of the commons concept illustrates that it may even be short-term rational behaviour for individuals to over-exploit forest resources. Associated with this market failure, the main theme of the RIS is that individual behaviour needs to be regulated so that State forests are conserved for all Victorians and forest resources are utilised at sustainable levels.

No doubt some timber businesses would want to harvest a greater quota of timber and some individuals would wish for unrestricted access to firewood in State forests and to this extent costs (or welfare losses) are imposed upon these groups. However, without regulatory controls over-exploitation and damage to the forest environment would occur.

Cattle Grazing

In a recent report prepared for the Victorian Government, the Victorian Environmental Assessment Council (VEAC) concluded that “while domestic stock grazing can be an effective tool to address specific land management problems at particular locations and times, scientific evidence indicates that in general it adversely affects natural values especially biodiversity, water quality and soil condition”.²⁵

The environmental impacts of over-grazing are well-documented and have been studied in Victoria for at least 60 years.²⁶ Direct impacts include soil erosion, fouled water supplies and weed invasion. Riparian (river) habitats may be particularly affected because livestock tends to congregate in these areas. These areas usually have high biodiversity values, and are very sensitive to the impacts of grazing. Indirect impacts may occur through the loss of potential productivity, biodiversity, and the ecosystem services provided by native flora and fauna. It is a factor in the past and current decline of some mammal, bird and plant species as well as the degradation of some ecosystems. The negative impacts of excessive grazing pressure also affects the sustainability of the pastoral industry in State forests.²⁷ Given the environmental impacts of grazing, cattle grazing needs to be well-managed.

Reflecting upon these impacts, in 2005 the Victorian Government announced that cattle grazing in the Alpine National Park would not be permitted. In November 2008 it announced that cattle grazing would not be permitted in Victoria’s new River Red Gum National Parks.

Externalities associated with the tragedy of the commons concept also apply to grazing (indeed the concept was developed using grazing as a metaphor). Without regulatory controls damage to grazing land, riparian systems and the forest environment would occur. The extent to which this would occur would depend on the number of cattle and the type of grazing environment. Generally, riparian and alpine grassland areas are more sensitive than other forest environments.

²⁵ State Government of Victoria, 2008, *River Red Gum Forests Investigation July 2008*, Published by the Victorian Environmental Assessment Council 8 Nicholson Street, East Melbourne 3002, p. xvi

²⁶ Some 60 years worth of scientific research by CSIRO, university and other scientists shows the damage that cattle grazing causes to fragile alpine environments. Cattle damage soils, trample mossbeds and watercourses, threaten rare native flora and fauna, and spread weeds. DSE website: <http://www.dse.vic.gov.au/DSE/nrenpr.nsf/childdocs/-4095233FDC7210E8CA25700700063A32?open>

²⁷ Commonwealth of Australia, 2005, *Management of total grazing pressure: Managing for biodiversity in the rangelands*, Department of the Environment and Heritage, Canberra, p. 4

Beekeeping

Honeybees play a significant role in the balance of nature, especially the pollination of agricultural crops, plants in home gardens, and nectar gathering from the flora that occur throughout Victoria. Pollination is important for the viability of many pastoral enterprises, market gardens and orchards. It has been estimated that the value of pollination to the Victorian agricultural and horticultural crops is approximately \$145 million per annum. Horticultural and seed industries are completely or partially dependent on effective pollination by honeybees.²⁸ Public land supports a significant proportion of the apiculture industry in Victoria – about 80 per cent of honey is produced from native flora.

Beekeeping activities relate to the introduced European bee and while they might be providing a partial food source for some native animals, concerns have been expressed that they compete for nectar, pollen and water with native fauna.

In a major study conducted on the impact of honeybees on native flora and fauna, the author found that “Whether honeybees should be included or excluded from selected areas will depend on which native taxa are to be favoured in those areas. Some plants may benefit by the presence of honeybees while other plants and animals may continue to suffer degradation in their presence”.²⁹ Therefore, apiculture is excluded from Reference Areas, Wilderness Areas (including Wilderness Parks) and Essentially Natural Catchments (apiculture in these catchment areas is not permitted under the *Heritage Rivers Act 1992*). Beekeeping is also a restricted use in National Parks, State Parks, Natural Conservation Reserves, Flora and Fauna Reserves and in some other reserves.³⁰

Swarming is a natural instinct of honeybees and occurs chiefly in spring to early summer. Therefore the number and proximity of honeybee colonies must be managed to prevent or minimise swarming. In addition, beekeepers must locate and manage their hives to minimise the risk of interference with the general public, particularly in broad-hectare field crop areas and in those areas used intensively for public access or recreation.³¹ Finally, there should not be too many hives in an area, particularly when nectar is scarce, otherwise this may result in bees ‘robbing’ other hives.

The rationale for management of honey bees on public land is founded on conservation principles. Given that European honeybees are an introduced species, along with the public safety aspect of beekeeping, it is appropriate that these activities be managed.

28 State Government of Victoria, 1997, *The Apiary Code of Practice*, prepared by the Department of Infrastructure et al in consultation with the apiary industry, p. 1

29 Paton, D. C., 1996, *Overview of Feral and Managed Honeybees in Australia: Distribution, Abundance, Extent of Interactions with Native Biota, Evidence of Impacts and Future Research*, Department of Zoology The University of Adelaide prepared for the Australian Nature Conservation Agency 1996, p. 7

30 op cit., p. 3

31 op. cit., pp. 7–9

While some studies suggest that introduced bees may adversely affect native ecosystems, for example through competition with native fauna for nectar and pollen, inefficient pollination of native plant species, hybridisation of native plant species, and occupation of tree hollows by feral bees, DSE acknowledges that the extent of these effects has not been evaluated.³²

Other Users

As discussed above, there are sound public interest reasons justifying government intervention in forest management. Activities such as removal of gravel, stone, seeds, leaves, and ferns needs to be controlled to prevent damage to forests. In addition, other activities and events such as car rallies and concerts need to be managed to ensure that environmental impacts are minimised and that the amenity of other forest users is not impinged.

³² DSE website: <http://www.dse.vic.gov.au/DSE/nrenfor.nsf/FID/-59B91287EF604E784A2567980022C57C?OpenDocument>

2. OBJECTIVES OF GOVERNMENT INTERVENTION

Key points

- The Victorian Government’s broad objective is to manage the multiple (and often competing) roles Victorian forests serve in a sustainable way for all Victorians.
- The specific objectives of government intervention are to maintain, conserve and protect forest ecosystems, whilst also maintaining and improving their capacity to produce wood and non-wood products in a sustainable way, which enhances the socio-economic benefits of State forests to Victorian communities. The proposed Regulations aim to do this by:
 - prohibiting certain actions or activities in Victorian forests that could harm the environment or interfere with the management of forests;
 - ensuring that the impact on the environment arising from licence holders’ activities is minimised (by imposing conditions on licences and permits); and
 - protecting forests by giving practical effect to the timber selection provisions in the Act (i.e., by prescribing brands and identification of trees).
- Consistent with these objectives, the Victorian Government is also committed to providing Victorians with access to State forests for both wood and non-wood forest products and services on a sustainable basis.
- The proposed Regulations are made under section 99 of the *Forests Act 1958*.

2.1 Government Policy

Our Forests, Our Future: Balancing Communities, Jobs and the Environment was released in 2002 and is the Victorian Government’s Policy Statement on forests. In that statement the Premier noted that “We recognise the many roles our forests play – in protecting biodiversity, as water catchments, as sources of timber and non-timber products, as the generator of employment in many small rural communities, in nature conservation, in recreation and eco-tourism and as carbon sinks”.³³

³³ Victorian Government, Department of Natural Resources and Environment, 2002, *Our Forests, Our Future: Victorian Government Statement on Forests*, no pagination

Overall, the Statement articulates government policy noting “sustainability as the foundation for managing the multiple roles of our forests in maintaining our natural heritage, biodiversity, health, well-being and prosperity”.³⁴ In 2006 the Victorian Government supported this statement by releasing the *Sustainability Charter for Victoria’s State forests*. The Charter sets out the government’s vision and objectives for Victoria’s forests. The vision states that “In partnership with the community, the Victorian Government will protect the environment and promote social and economic development for all Victorians. We are committed to ensuring the long-term future of our forests, regional communities and the timber industry, so that future generations have the same opportunities to enjoy and appreciate our forests as we do today”.³⁵

The objectives of the Charter are consistent with the Montréal Process³⁶ for sustainable forest management and the principles of Ecologically Sustainable Development and seek to:

- maintain and conserve biodiversity in State forests;
- maintain and improve the capacity of forest ecosystems to produce wood and non-wood products;
- promote healthy forests by actively managing disturbance;
- maintain and conserve the soil and water resources of State forests;
- maintain and better understand the role of Victoria’s State forests in global carbon cycles;
- maintain and enhance the socio-economic benefits of State forests to Victorian communities; and
- ensure that Victoria’s legal, institutional and economic frameworks effectively support the sustainable management of State forests.³⁷

With respect to the socio-economic benefits of State forests, the Charter states that:

‘Victorian communities have strong social, spiritual and cultural links to their State forests. These links are often related to traditional forest uses, recreation and the provision of jobs. Recognising and using the valuable experience and knowledge that resides in the community will greatly contribute to the sustainable management of Victoria’s State forests.

The Victorian Government is committed to providing Victorians with access to State forests for both wood and non-wood forest products and services on a sustainable basis. We recognise the value that these products and services bring

³⁴ *ibid.*

³⁵ Department of Sustainability and Environment, 2006, *Sustainability Charter for Victoria’s State forests*

³⁶ The Montreal Process Working Group includes twelve countries representing about 90 per cent of the world’s temperate and boreal forests. This amounts to 60 per cent of all of the forests of the world. The group has developed a comprehensive set of seven criteria and 67 indicators at a national level for the conservation and sustainable management of temperate and boreal forests.

³⁷ *idem*

to rural communities through both direct and indirect employment, and to the Victorian community as a whole.

We will promote Victoria’s native forest harvesting sector as a sustainable and attractive investment option and support forest industries that are socially and economically viable’.³⁸

At the departmental level, DSE’s *Environmental Policy for Victoria’s State forests* recognises that “State forests represent a wide range of values, uses, products and services to the people of Victoria and our goal is to improve stewardship of State forests while ensuring that they are managed sustainably from economic, social and environmental perspectives”.³⁹ The policy also commits DSE to sustainable forest management by, amongst other things, promoting sustainable and efficient use of forest resources.

Finally, while the *Forests Act 1958* does not contain a section explaining the objectives of the Act (these sections were uncommon when this legislation was enacted), a relatively recent related piece of legislation, the *Sustainable Forests (Timber) Act 2004*, sets down government objectives regarding sustainable forest management in section 5. This provides that:

ecologically sustainable development is development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends. The objectives of ecologically sustainable development are to enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations, to provide for equity within and between generations, and to protect biological diversity and maintain essential ecological processes and life-support systems.⁴⁰

2.2 Regulatory Framework

Legislative Framework

DSE is responsible for the sustainable management of forests in Victoria, and administers the *Forests Act 1958* along with its associated regulations authorised under that legislation. The Act itself deals with the broad power and duties of the Secretary, powers to acquire or declare lands as reserved forest or protected forest, general powers relating to forest products, powers of authorised officers, and general provisions concerning leases and licences. It is important to note that the proposed Regulations have a very narrow application: they principally deal with licences and prescribed conditions issued under section 52 of the Act, along with a narrow range of offences (sections 96 and 97) and brands used to mark timber.

³⁸ *ibid.*, p. 6

³⁹ Department of Sustainability and Environment, 2007, *Environmental Policy for Victoria’s State forests*

⁴⁰ Section 5 of the Sustainable Forests (Timber) Act 2004.

Section 52 of the Act provides that subject to terms and conditions, the Secretary may grant a licence or permit in respect of Crown land in a reserved forest for purposes that are specified in the licence including cattle grazing, cutting of timber or forest produce, digging forest produce, or taking away forest produce. 'Forest produce' refers to things produced by and taken from the forest including sawlogs, posts and poles, firewood, honey, seeds, leaves, stones, sand and gravel. A licence can be issued for a term of not more than 3 years or, with the approval of the Governor-in-Council, for a term of not more than 20 years. Holders of a licence or permit granted must comply with the prescribed covenants, terms and conditions relating to their licence or permit. Persons who fail to do so may be found guilty of an offence and may therefore have their licence or permit suspended or cancelled.

For the purposes of the proposed Regulations, distinction should be made between the *Forests Act 1958* and the *Sustainable Forests (Timber) Act 2004*. The *Sustainable Forests (Timber) Act 2004* requires anyone engaged in commercial timber harvesting in Victoria's State forests to hold a Timber Harvesting Operator's Licence (THOL). The THOL has a competency/occupational, health and safety focus. 'Timber harvesting' is the harvesting of any tree, or part of any tree for the purpose of sale or processing and sale. This excludes harvesting firewood for personal (domestic) use, which is regulated under the current forests regulations.

A detailed *Code of Practice for Timber Production 2007* has been prepared under the *Conservation, Forests and Lands Act 1987* to provide direction and guidance to forest managers and operators to deliver sound environmental performance when undertaking commercial timber growing and harvesting operations. Compliance with the Code is mandatory through the *Sustainable Forests (Timber) Act 2004* on public land. Other legislation such as the *Lands Act 1958* and the *Catchment and Land Protection Act 1994* also contribute to effective forest management in Victoria.

In relation to firewood collection and harvesting, areas within State forest are designated for firewood collection and distribution under the *Sustainable Forests (Timber) Act 2004* and the *Forests Act 1958*. The *Flora and Fauna Guarantee Act 1988* ensures firewood collection does not compromise the conservation of threatened species and communities, whilst the *Occupational Health and Safety Act 2004* secures the health, safety and welfare of employees and members of the public involved in firewood collection and distribution. Timber harvesting for firewood must also comply with the *Sustainable Forests (Timber Harvesting) Regulations 2006*.

At the Commonwealth level, the National Forest Policy Statement 1992 sets out the overarching policy framework for sustainable management of Australian forests by outlining objectives and policies agreed by the Commonwealth, state and territory governments. This statement provides for Regional Forest Agreements (RFA), which are 20-year plans between the Commonwealth and Victorian Government. RFAs seek to protect environmental and other values by maintaining a comprehensive, adequate and representative national forest reserve system and to

give forest industries a firm base for investment.⁴¹ Victoria has five RFAs covering the areas of East Gippsland, Gippsland, Central Highlands, North East, and West Victoria. These Agreements cover all areas of substantial commercial activity but do not cover all forests where there may be commercial harvesting of timber.

Operational Framework

VicForests was established as an outcome of the Victorian Government's *Our Forests Our Future* policy. VicForests has been established as a state-owned business with responsibility for commercial forestry activities. VicForest harvests approximately two million tonnes of eucalypt logs annually in eastern Victoria for a range of domestic and export customers and markets. VicForests is also responsible for the management and supply of commercial firewood from public land in eastern Victoria.

DSE manages the supply of domestic firewood throughout the state and the supply of commercial firewood from public land in western Victoria. On a three yearly basis, DSE prepares a Wood Utilisation Plan (WUP) for each Forest Management Area (FMA) in western Victoria where commercial timber harvesting activities will be undertaken or where trees will be felled (e.g., for the provision of firewood for domestic collection). In eastern Victoria, WUPs are developed for areas of public land in relation to domestic uses. Commercial operations are covered by a Timber Release Plan (TRP) which is prepared by VicForests for a five year period, as specified in the *Sustainable Forests (Timber) Act 2004*.

For a given FMA, a WUP or TRP outlines the area within which timber can be harvested, the allowable volume (based on a sustainable yield basis), coupe boundaries, the year that harvesting will occur, the silvicultural system to be applied, and also notes other significant values within each coupe. Sustainability principles are applied to the development of the WUPs and TRPs based on historical data, records of past cutting, local inventory data and local knowledge about forest growth rate and forest characteristics.

Domestic Firewood Permits

DSE issues permits for the domestic collection of firewood. Firewood is sold on a per cubic metre basis (although a single permit can be issued for up to 6 cubic metres of firewood), with fees ranging from \$6.75 to \$27.50 per cubic metre. Fees vary with timber species, DSE production and administration charges, and concession entitlements. A domestic permit holder is most often directed to a specific location where firewood that has already been felled and may be collected. Most often a permit holder will need to cut the firewood into smaller piece sizes to remove it from the site. Sites may include *in situ* forest coupes or less commonly depots in townships where firewood has already been delivered. In some situations, domestic permit holders will not be directed to a specific coupe, but will be permitted to collect from a roadside or a broader area of public land.

⁴¹ Victorian Competition and Efficiency Commission, 2005, *Regulation and regional Victoria: challenges and opportunities*, Final report, June, p. 308

Permits can be purchased from designated DSE offices and nominated retail outlets across the state. These outlet agents have been established to ensure the public has appropriate opportunity throughout the week, including weekends, and reasonable travelling distances in order to purchase a permit. Agents receive a commission of \$1.06 for each permit they sell. DSE estimates that approximately two-thirds of permits are sold through DSE offices and approximately one-third are purchased from agents. Permits are issued on a single-use basis and are valid for one day.

The Forest Produce Sales System (FPSS), established in September 2008, is an electronic database which records the sale of forest produce sourced from public land within Victoria. Sales prior to September 2008, or sales undertaken in regions where staff resources and expertise with the FPSS is limited, are recorded on the DSE Oracle Finance Database. It is intended that all permits and licences be recorded on the FPSS.

DSE Forest Regulation Unit

The Forest Regulation unit is responsible for the regulation and management of commercial timber harvesting conducted by VicForests and DSE in the west of the state and for the management of other commercial activities undertaken on State forest. Key responsibilities include:

- management of forest produce, domestic firewood and non-timber licensing and sales;
- statewide procedures, guidelines and systems for the conduct of forest operations;
- coordination of regional processes associated with the preparation and approval of Wood Utilisation Plans (DSE) and Timber Release Plans (VicForests);
- monitoring, audit and reporting of compliance; and
- governance of VicForests.

The unit is also responsible for related activities including administration of the Code of Practice for Timber Production, timber harvesting licence administration and regulation, and administration of forests legislation and associated regulations.

2.3 Objectives

The objectives of the proposed Regulations reflect the government's overall legislative objectives regarding forest management and encapsulate key elements of the Sustainability Charter for Victoria's State forests. Therefore, the overarching objectives of the proposed Regulations adopted in the RIS are to:

- maintain and conserve biodiversity in State forests;
- maintain and improve the capacity of forest ecosystems to produce wood and non-wood products; and

- maintain and enhance the socio-economic benefits of State forests to Victorian communities.

2.4 Authorising Provision

The proposed Regulations are made under section 99 of the *Forests Act 1958*. This section generally provides the authority to make regulations for any other matter or thing required or permitted by the Act to be prescribed or necessary to be prescribed to give effect to the Act. With respect to section 99 of the Act, relevant sub-sections to the proposed Regulation provide the regulatory authority to:

- 99(1) – prescribe the form of leases, licences, permits or authorities and the terms, covenants and conditions under which such leases shall be granted, and prescribes the mode of applying for any such lease, licence, permit or authority;
- 99(2) – prescribe the rate or amount of rentals, royalties, fees dues and charges payable in respect of any lease or licence or for any permit or authority;
- 99(4) – reserve from the operation of any lease or licence under the Act any area of a reserved forest required for the agistment of cattle, while sub-section 99(5) prohibits except under licence or permit the depasturing of cattle within, and the regulation of, the passage of cattle through any reserved forest;
- 99(8) – prescribe the mode in which any forest produce is to be branded or marked, and the mode in which such brands, or marks may be registered with the Secretary;
- 99(10) – prescribe any acts which may not be done within a forest without a lease or licence or permit or authority for the doing of such act; and
- 99(12) – provide for the making of declarations or statements by licensees or any other persons as to the quantity and description of timber and forest produce.

3. OPTIONS TO ACHIEVE THE OBJECTIVES

Key points

- As part of the RIS process viable non-regulatory and regulatory options for achieving the objectives are identified.
- The RIS identifies and discusses viable options as follows:
 - statutory rules and variations to these;
 - an education campaign;
 - voluntary codes of practice;
 - prohibiting certain activities; and
 - extending the coverage of legislation.
- Economic incentives or a negative licence regime were not considered viable options.

3.1 Regulatory and Non-regulatory Options

This section describes the viable non-regulatory and regulatory options for achieving the objectives set out in section 2 of the RIS. The *Subordinate Legislation Act 1994* (section 10(1)(c)) requires that non-regulatory options must be considered as part of a RIS.

The scope of consideration of regulatory and non-regulatory options is limited because of the existing powers of the Act and the limited focus of the proposed Regulations. Nevertheless, an education program, voluntary codes of practice, prohibiting certain activities, and incorporating the regulations into the Act were considered as possible options, along with the proposed Regulations and variations to these.

A number of options were considered as not being feasible or practicable. These options include economic incentives and negative licensing.

Economic incentives⁴² (rewarding good behaviour) would not be well targeted (i.e. the proposed regulations will only affect a small minority of forest users and on policy grounds it would be difficult to justify a reward for a person for simply complying with requirements) and could be expensive. Negative licensing would require a significant change in government policy (i.e. the current licence and permit system would need to be abolished) and would only deal with the most serious offences. Moreover, a characteristic of negative licensing is that it is essentially reactive and deals with serious problems after they have occurred.

⁴² Economic incentives also include monetary penalties for non-compliance. Penalties are an important element of the proposed Regulations' enforcement regime and are discussed later in the RIS.

Consequently, there are very few examples of negative licensing actually operating. In addition, these options would not accommodate the collection of resource rents associated with the THOL.

3.1.1 Option 1 – Proposed Regulations

A statutory rule (also known as a regulation) is a regulatory vehicle used extensively by governments to give operational effect to primary legislation. Statutory rules can be an effective policy tool. They can be used by government to achieve a range of policy objectives which may include prevention or reduction of activities which are harmful to business, the environment or to other people, to ensure that people engaged in some occupations possess a requisite level of knowledge and competence, and to define rights, entitlements or obligations.

The Subordinate Legislation Act 1994 Guidelines (the Premier’s Guidelines) provides guidance regarding the matters suitable for inclusion in statutory rules. These include matters relating to detailed implementation of policy, general principles and standards (rather than the policy, principle or standard itself), prescribing fees to be paid for various services, prescribing forms (if it is necessary that they be prescribed) for use in connection with legislation, and prescribing processes for the enforcement of legal rights and obligations.

The proposed Regulations prohibit certain actions or activities in Victorian forests which risk damaging the environment or interfering with the management of forests, ensuring that the impact on the environment arising from licence holders’ activities is minimised (by imposing conditions on licences), and protecting forests by giving practical effect to the timber selection provisions in the Act (i.e., by prescribing brands and identification of trees). [Attachment B](#) contains a detailed description of the proposed Regulations, and [Attachment C](#) explains the changes made in the proposed Regulations compared with the current Regulations.

It is important to note that the proposed Regulations do not prescribe the fees or royalties themselves. These are prescribed by the Act and other regulations. In addition, there are no separate fees associated with processing or administering the licences or permits; these are implicitly embedded in the charge of forest produce (e.g., in relation to wood the cost is incorporated in the royalty charge). As noted in section 4.3.1 below, DSE is planning to undertake a review of the current fees, charges and royalties. It is unlikely that this review will directly affect the proposed Regulations, given that fees and charges are currently located in other legislation or regulations.

3.1.2 Option 2 – Variation of the Proposed Regulations

In a number of cases, there are no practicable regulatory alternatives other than to alter the scope or extent of the proposed Regulations. With respect to alternatives to the proposed Regulations, clause 2.04 of the Premier’s Guidelines states that, “where the authorising Act dictates the form of subordinate legislation required, for example, where the authorising legislation provides for fees to be prescribed by statutory rule, *there is no discretion* to set those fees by another method” (emphasis

added).⁴³ This is relevant to the proposed Regulations, which give operational effect to some very specific sections of the Act, such as prescribing brands for marking trees and prescribing forms.

3.1.3 Option 3 – Education Campaign

This option would involve a multifaceted campaign to inform forest users about the conservation and environmental values of Victorian forests and the potential for negative impacts associated with inappropriate or excessive levels of human activity.

Research on regulatory compliance and the practical experience of regulators indicates that non-compliance with the requirements of regulations can be the result of ignorance rather than any intentional desire to flout the law. Where the problem to be addressed results from a lack of knowledge amongst consumers or participants in an industry, then an education program should be considered.

An education campaign is likely to be successful where the target can be easily identified and reached economically. A forest user education campaign could include advertising in industry magazines and newspapers, a media strategy focused on daily, electronic, specialist, suburban, regional and stakeholder media, using approaches including booked advertising, radio media releases and shell media releases, online communications via a campaign website, soliciting community groups or associations to disseminate information, or targeted mail-outs to affected groups.

Education campaigns represent a quick method of disseminating information about compliance requirements, may reduce costs to the government and the community because of a higher level of awareness about issues of concern, and may reduce resources expended on implementing regulatory programs and ongoing enforcement. Generally, an education campaign can educate the community about the virtues of a particular policy and therefore increase compliance.

Information campaigns are suitable for use when the problem or non-compliance results from misinformation or a lack of information and when a light-handed approach would be more appropriate. They can also be useful when target audiences can be easily and economically reached and in situations where the rationale of a particular policy is not well understood.

However, information campaigns may be less effective than other regulatory approaches as they rely on voluntary compliance rather than being supplemented by the element of coercion. In the case of forest users, groups may not be readily identified or reached. Finally, the community can become de-sensitised or weary of messages over time, thereby reducing the effectiveness of education campaigns, particularly if the problem is long-term.⁴⁴

⁴³ Subordinate Legislation Act 1994 Guidelines, Revised 2007, Section 2.04
Department of Treasury and Finance (2007), *ibid.*, p. F-7

The cost of education campaigns vary considerably, ranging from many millions of dollars (e.g., safe driving campaigns) to targeted mail-outs to certain professions or licensees. The purpose of the information campaign would be to alert forest users and licensees of their potential impacts on the environment and to encourage behaviours consistent with sustainable use of forest resources. In the case of grazing and commercial timber licence holders, and persons who had previously been issued with a domestic firewood collection permit, DSE could periodically provide updates and direct mail-out or electronic newsletters setting down desired behaviour. Advertisements could also be periodically taken out in regional newspapers or publications with a rural focus. For general forest users, information could be included in outdoor and lifestyle magazines and signage could be posted at State forest entrances, while information could be provided on notice boards or at information kiosks.

3.1.4 Option 4 – Voluntary Codes of Conduct

Self-regulation (or voluntary codes of practice or standards) refers to the benchmark actions or procedures, as determined by the particular industry or profession that are generally acceptable within the peer group and the wider society. The relevant industry is solely responsible for enforcement. Self-regulation usually implies that firms in an industry or members of a group have accepted mutual obligations. These obligations are often described in a code or industry standards.

Self-regulation has potentially significant benefits. As major industry participants or groups often set the industry standards, there may be greater awareness of obligations, and compliance may be high. In addition, self-regulation utilises the expertise and experience of those in the industry, and may encourage innovative behaviour of industry participants. Self-regulation also lowers administrative costs for governments.

However, the major disadvantage associated with voluntary codes is the absence of a mechanism to ensure compliance and enforcement. Disciplinary processes, where they exist, may not be transparent. Self-regulation is typically suitable for cases where the problem to be addressed is a low-risk event, or an event of low impact.⁴⁵ In addition, self-regulation is more effective where non-compliance can be observed and negative impacts are imposed on a business's or person's reputation (i.e. breaking an industry code for sustainability may reflect badly on a business if made public). This makes self-regulation unsuitable where many actions are unobservable, such as in Victoria's forests because they cover such a large area.

3.1.5 Option 5 – Prohibiting Certain Activities in State forests

The Victorian Government could consider prohibiting certain activities in State forests such as the removal of firewood for domestic use, prohibiting commercial timber harvesting or prohibiting grazing or agistment in State forests. It could be argued that proscribing certain activities would reduce the human impact on Victoria's forest systems.

It should be stressed that prohibiting these activities in State forests does not represent current Victorian Government policy, but is included in the RIS for completeness in identifying options.

3.1.6 Option 6 – Extending the Coverage of Existing Legislation

It would be technically possible to incorporate the proposed Regulations into the Act. This would achieve similar policy objectives, however the regulatory vehicle would be different (i.e., the proposals contained in legislation rather than statutory rules). This has the disadvantage of disabling the government’s ability to move quickly to change, for example, licence conditions in response to particular circumstances.

3.2 Regulatory Arrangements in other Jurisdictions

All jurisdictions in Australia regulate the removal or utilisation of forest resources in State forests or Crown Land, including imposing controls on cattle grazing, timber harvesting, firewood collection, and mining. All jurisdictions also impose regulatory controls on certain activities that could damage the environment. While all jurisdictions impose such controls, there is a degree of variation between the jurisdictions. Table 3 below summarises the main legislation under which grazing, forestry and firewood collection is regulated in the states and territories.

Table 3: Regulatory Controls of Forests in States and Territories

State	Grazing	Timber Harvesting	Firewood Collection
NSW	Individual agreements are entered into, within broad powers of the <i>Forestry Act 1916</i> and the specific constraints of the <i>Forestry Regulation 2004</i> .	Timber harvesting is controlled by the <i>Forestry Act 1916</i> and the <i>Forestry Regulation 2004</i>	Firewood Collection is controlled by the <i>Forestry Act 1916</i> and the <i>Forestry Regulation 2004</i> .
QLD	Stock Grazing Permit under s.35 of the <i>Forestry Act 1959</i>	Part 4 Management of State forests, timber reserves and forest entitlement areas of the <i>Forestry Act 1959</i> .	Firewood Collection is controlled permits issued under the <i>Forestry Act 1959</i>
SA	Grazing on Crown Land is managed by the <i>Pastoral Land Management and Conservation Act 1989</i> .	Timber harvesting is managed under the <i>Forestry Act 1950</i> .	Firewood collection is controlled by the <i>Forestry Act 1950</i> . Permits required by local government for roadside collection.
WA	Grazing is managed under Part VIII – Permits, licences, contracts, leases, etc of the <i>Conservation and Land Management Act 1984</i> .	Timber harvesting is managed under Part VIII – Permits, licences, contracts, leases, etc of the <i>Conservation and Land Management Act 1984</i> .	The harvesting of timber for firewood or other forest products (for domestic use or sale) from Crown lands is regulated by the Department of Environment and Conservation under the <i>Conservation and Land Management Act 1984</i> .
TAS	Grazing is managed by leases under the <i>Crown</i>	Under the <i>Forest Practices Act 1985</i> a Forest practices	Firewood collection permits are issued by

	<i>Lands Act 1976.</i>	plan certified by the Forest Practices Board must cover all harvesting operations (those in excess of 100 tonnes per property per year) on State forest and private land.	Forestry Tasmania under the <i>Forest Practices Act 1985</i> .
NT	Grazing is regulated by the <i>Pastoral Land Act 2008</i>	Appears to be covered by s. 84 of the <i>Forestry Act 1950</i> .	Appears to be covered by s. 84 of the <i>Forestry Act 1950</i> .
ACT	Licences to Graze are issued under the <i>Planning and Development Act 2007</i>	Timber harvesting in the ACT is conducted by a government authority, Parks, Conversation and Lands. Timber is harvested in accordance with the Code of Forest Practice and EPA authorisations.	Firewood is only sold by authorised merchants registered with the EPA (the permit system was abolished following the 2005 bushfires).

4. COSTS AND BENEFITS OF THE OPTIONS

Key points

- The ‘base case’ describes the regulatory environment that would exist in the absence of the proposed Regulations. If the regulations are not remade then certain offences and conditions on licences would not be prescribed.
- The total quantifiable discounted costs to business and government costs associated with the proposed Regulations are approximately \$13.2 million (discounted) over a 10-year period, or a cost of approximately \$1.6 million (nominal) per annum.
 - Of the \$13.2 million, about \$6.3 million are attributable to businesses and individuals: \$1.5 million are business costs, while \$4.9 million represents the cost travel time incurred by individuals purchasing a domestic firewood permit.
 - Of the \$13.2 million, costs to government of administering and enforcing the proposed Regulations have been estimated to be \$6.8 million over a 10-year period.
 - On an annual basis, the undiscounted costs on business are around \$176,000, which are relatively minor given the value of economic activity and non-market value of forests.
 - The annual undiscounted cost per affected business of the proposed Regulations is approximately \$64.
- To the extent that the proposed Regulations contribute to sustainable forest management, the benefits include direct use market and non-market benefits (e.g. forest products, firewood, and recreation), indirect use benefits (e.g. carbon storage, water filtration and soil protection) and non-use benefits (e.g. biodiversity, culture and heritage).
- While the alternatives are generally less costly than the proposed Regulations, they are assessed as delivering less net benefits because of compliance and enforcement issues.
- Business groups affected by the proposal include an owner or person in charge of travelling cattle in a reserved forest, licence applicants and licensees including commercial timber operators, cattle graziers, and bee farmers. The proposal also affects persons collecting wood for domestic use as well as other forest users. The proposal affects DSE officers by prescribing the brand to be used in marking trees.

4.1 Base Case

The ‘base case’ describes the regulatory position that would exist in the absence of the proposed Regulations. The base case of doing nothing is not, strictly speaking, an alternative given that the government has identified a problem that needs to be addressed. It is necessary to establish this position in order to make a considered assessment of the incremental costs and benefits of the viable options.

In terms of establishing the base case, in the event the current Regulations are not remade:

- particular offences (relating to aberrant behaviour or actions) within forest reserves would not be prescribed. The government would need to rely on other general statutes (e.g., the *Summary Offences Act 1966*) or common law (e.g. torts to recover damages). Similarly, there would be no specific measure to control cattle in reserved forests.
- the authority to grant licences and permits derives from the Act, so even in the absence of the proposed Regulations licences and permits could still be granted. However, the details to be included and the form of the application would not be prescribed, nor would the licences or permits contain conditions (i.e. the conditions prescribed for all licences contained in proposed Regulation 10, licence conditions in relation to forest produce contained in proposed Regulation 11, and licence conditions in relation to cattle grazing contained in proposed Regulation 13 would not be prescribed);
- there would be no requirement for licence holders to report details of forest produce they cut, dig, or take away when requested to do so; and
- brands for forest produce would not be prescribed.

Arising from the points above, if the proposed Regulations were not remade there would be two broad adverse outcomes: first, compliance with the Act could be more costly for licensees (greater search costs and less clarity regarding obligations) and would possibly result in greater enforcement costs government; second, the government’s broad forest management objective (i.e., maintaining and enhancing the environment, social and economic benefits of State forests to Victorian communities) would be diminished at the margin.

4.2 Methodology

4.2.1 Assessment of Costs

The *Subordinate Legislation Act 1994* requires, amongst other things, a RIS to assess the costs and benefits of the proposed Regulations. This legislation also requires that a RIS identify practicable alternatives to the proposed Regulations and assess their costs and benefits as compared to the proposed Regulations.

Conversely, the RIS is not required to identify alternatives which are not feasible or practicable.

By their nature, regulations are designed to modify behaviour in order to achieve certain outcomes. This can impose costs on individuals or businesses known as ‘compliance costs’. In simple terms, compliance costs are the costs of complying with regulations. In the context of the Standard Cost Model (SCM), these can be divided into ‘administrative costs’ and ‘substantive compliance costs’.⁴⁶ It is important to note that only ‘administrative costs’ are measured by the SCM.

As outlined in section 1.4, administrative costs, often referred to as red tape or administrative burden, are those costs incurred by businesses to demonstrate compliance with the regulation or to allow government to administer the regulation. These costs can include costs associated with administrative requirements such as record keeping, reporting or submitting applications. Proposed Regulations 9, 12 and 17 impose reporting/notification requirements to government and are therefore administrative costs. In accordance with the requirements under Measurement of Changes in Administrative Burden in the Victorian Guide to Regulation, administrative costs in the RIS are calculated using the Standard Cost Model methodology.^{47, 48}

Substantive compliance costs are those costs that lead directly to the regulated outcomes being sought. These costs are often associated with content-specific regulation and include, for example, buying new equipment, undertaking specified training or specifying behaviours in order to meet government regulatory requirements. For example, proposed Regulations 10, 11 and 13 impose conditions on licences and permits (i.e., require certain behaviours) and are therefore substantive compliance costs.

As noted earlier, under clause 2.04 of the Premier’s Guidelines where the authorising Act dictates the form of regulation, viable options are limited.⁴⁹ This is relevant in relation to the assessment of proposed Regulations 14, 15 and 16, which prescribes the form and use of brands for marking trees. It is clear that the Act does not contemplate alternatives to these proposed Regulations.

4.2.2 Discounted Cash Flow

Every effort was made to identify and quantify the costs and benefits imposed by the proposed Regulations. As far as possible, likely costs were identified and a Present Value of the costs was calculated. A discount rate of 3.5 per cent was used over a 10-year period (i.e. the life of regulations in Victoria).⁵⁰ This allows future costs and benefits to be examined in terms of today’s dollar value. Assumptions underlying these calculations are contained in Attachment D.

⁴⁷ Standard Cost Model Formula – Administrative Cost = (tariff x time) x (population x frequency)

⁴⁸ The RIS uses the Standard Cost Model methodology but has not undertaken the usual five interviews with business to assess the costs, as provided in the *Measurement of Changes in Administrative Burden* in the *Victorian Guide to Regulation*.

⁴⁹ Subordinate Legislation Act 1994 Guidelines, Revised 2007, Section 2.04

⁵⁰ Department of Treasury and Finance, 2007, *ibid.*, p. C-9

4.2.3 Multi-criteria Analysis

In many cases the benefits specific to the proposed Regulations proved difficult to quantify in monetary terms. Multi-criteria Analysis (MCA) is presented in the RIS as an alternative assessment tool to complement the quantitative analysis. The MCA approach is described in part 5–18 of the *Victorian Guide to Regulation*. This approach is useful where it is not possible to quantify and assign monetary values to the impacts of a proposed measure (e.g. measures that have social and environmental impacts). Furthermore, it represents a convenient way of comparing a range of alternative approaches.

This technique requires judgements about how proposals will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with the proposals. A qualitative score is assigned depending on the impact of the proposal on each of the criterion weightings, and an overall score can be derived by multiplying the score assigned to each measure by its weighting and summing the result. If a number of options are being compared, then the option with the highest score would represent the preferred approach.

Three criteria were chosen and weightings selected. The first criterion reflects the objectives and purpose of the Act, while the second criterion reflects the government's commitment to minimise the regulatory burden on business. The third criterion assesses the feasibility of implementation of the regulatory vehicle. The criteria are described in Table 4 below.

Table 4: Multi-criteria Analysis Criteria

Criterion	Description of criterion	Weighting
Sustainable use of Victoria's forest resources	This criterion reflects the main purpose of the government objective. That is, to maintain, conserve and protect forest ecosystems, while maintaining and improving capacity to produce wood and non-wood products in a sustainable way which enhances the socio-economic benefits of State forests to Victorian communities. Given that this criterion reflects the primary objective of the proposal, it is assigned a relatively high weighting of 60.	60
Cost minimisation	This criterion relates to ensuring that the costs imposed on licence holders and members of the public of any regulatory measure are kept to a minimum. Given the importance the Victorian Government is placing on reducing the regulatory burden, this criterion is assigned a weighting of 25.	25
Feasibility of implementation	The feasibility of the implementation criterion refers to the practicality ⁵¹ of the instrument from a legislative perspective (i.e. the extent to which it is permitted by, and meets the objectives of the Act). This criterion also incorporates the costs to government of the mechanism required to implement the option (i.e. the extent to which the option would require changes to other legislative instruments and/or institutional arrangements). A proposal may have merit but the delivery mechanism must be feasible and cost-effective for government, and hence a weighting of 15 is assigned to this criterion.	15

For the purposes of an MCA assessment, an assigned score of zero (0) represents the base case while a score of plus one hundred (+100) means that the alternative fully achieves the objectives. A score of minus one hundred (-100) means that the proposal does not achieve any of the objectives.

In terms of assessment using the MCA, under the base case each criterion is awarded a score of zero reflecting the default position (i.e. the regulatory position

⁵¹ Section 10(1)(c) of the *Subordinate Legislation Act 1994* states that a RIS must examine 'practicable means of achieving those objectives'. While this legislation and Subordinate Legislation Act 1994 Guidelines do not define 'practicable' the Oxford English Dictionary defines it as, "1. Able to be put into practice; able to be effected, accomplished or done; feasible".

in the absence of the proposed Regulations). Accordingly, the base case scenario overall receives a net score of zero (see section 6).

4.2.4 Decision Criteria

Given the difficulty in measuring the intangible and tangible costs and benefits associated with forests, the RIS uses a number of methodologies to inform its assessment of viable options.

The present value discounted cash-flow technique is used to measure the likely costs associated with administrative costs, however substantive compliance costs proved difficult to quantify in monetary terms. The MCA assessment tool is therefore used in an attempt to assess the costs and benefits of the viable options. As noted above, the option with the highest score represents the preferred approach.

The benefits associated with the government's objectives of protecting and conserving State forests are extremely difficult to quantify in monetary terms and many some benefits may be intangible (e.g., positive feelings towards a healthy natural forest system). To assist in gauging a magnitude of possible benefits, the RIS also uses the travel cost method technique to inform the magnitude of likely benefits of the proposed Regulations. The RIS also draws upon work prepared in relation to valuing Victoria's red gum forests. Royalties from forest produce also provide an indication of the scale of economic activity in forests.

4.3 Costs and Benefits of Options

4.3.1 Proposed Regulations

Each of the proposed Regulations was examined for the likely costs they would impose on parties impacted by the proposal. It is assessed that there are no costs associated with the machinery regulations (Regulations 1 to 5), while regulations 6 to 8 concern offences and penalties. The latter strictly speaking do not impose administrative or compliance costs on normal businesses or individuals (although it could be argued that if these regulations change behaviour, costs may be incurred). The remaining regulations deal with conditions on licences and permits (substantive compliance costs) and applications and reporting requirements (administrative costs).

The Standard Cost Model methodology was used to calculate the administrative costs on business associated with these regulations.⁵² Table 5 below shows that these costs over a 10-year period are approximately \$6.4 million, or an annual nominal cost of around \$768,000 per annum (see [Attachment E](#) for detailed calculations).

⁵² The RIS uses the Standard Cost Model methodology but has not undertaken the usual five interviews with business to assess the costs, as provided in the *Measurement of Changes in Administrative Burden* in the *Victorian Guide to Regulation*. This is because the relatively straightforward nature allowed desktop exercises to be undertaken.

Of the \$6.3 million costs over a 10-year period, only \$1.5 million are business costs (that is approximately \$1.35 million for licence application costs under regulation 9, and approximately \$150,000 imposed by regulations 12 and 13), while \$4.9 million represents the cost of the time foregone in travel time incurred by individuals purchasing a domestic firewood permit. On an annual basis, the nominal costs on business are around \$176,000, which are relatively minor given the value of economic activity and non-market value of forests. This translates to an annual cost per business of approximately \$64⁵³. (i.e., \$176,000 ÷ 2,769).

With respect to the \$4.9 million representing the cost of the time foregone in travel time incurred by individuals purchasing a domestic firewood permit, this estimate is considered conservative. This is because it is likely that persons would combine other activities as part of this, such as purchasing fuel, collecting or travelling into town for other reasons. While it may be reasonable to attribute only part of this travel time to the proposed Regulations, in the interests of transparency all travel costs are attributable to the proposal.

The administrative cost for agents that sell domestic firewood permits is not included as a net cost for businesses. This is because such costs are compensated by a fee agents receive (currently \$1.02 per permit). Businesses may also perceive an advantage from acting as domestic firewood permit agents because customers may be attracted to their premises. Overall, the relatively large number of agents across Victoria suggests there are business advantages in offering these permits.

Table 5: Discounted Costs Imposed by the Proposed Regulations, 10-Year Assessment Period

Regulation	Description of Regulation	Cost (\$)
8	Application for licences and permits	6,239,500
12	Reporting Requirements of licence holders	13,900
13	Provision of advice to Secretary	137,000
Total		6,390,400

* Numbers rounded.

The Victorian Government also incurs costs in relation to administrating and processing licences and permits, and incurs costs associated with enforcing the regulations.

The costs of processing and administering forest licences is estimated to be around \$863,570 over a ten year period. These costs are based on processing approximately 2,800 licences and permits annually (see [Attachment F](#) for detailed cost calculations). Table 6 shows that the cost relating to compliance and enforcement is in the order of \$5,950,900 over a ten year period. Enforcement and compliance costs proved extremely difficult to quantify. This is because DSE

Calculated at \$176 000 divided by 2769 businesses, ≅ \$64 per business.

⁵⁴ These include valuation using market prices, surrogate market approaches, the production function method, stated preference and cost-based techniques.

enforcement officers administer a considerable range of legislation and various regulations, and specifically attributing enforcement costs to any particular regulation is difficult. Similarly, most enforcement activities arise from the Act rather than the regulations. That said, for the purposes of the RIS it is assumed that of the some 300 DSE authorised enforcement officers each on average spent one week (i.e. 38 hours) engaged in compliance activities. This is equivalent to about 2 per cent of the annual activities. Detailed calculations are contained in [Attachment E](#), and for the assumptions underlying these calculations see [Attachment D](#).

Table 6: Government Costs (discounted), Ten Year Assessment Period

DSE Cost	Cost (\$)
Administration costs – e.g. processing licences	863,570
Enforcement and Compliance	5,950,900
Total	6,814,470

Total Quantifiable Costs of the Proposed Regulations

Therefore, the total quantifiable costs to business and government costs associated with the proposed Regulations are approximately \$13.2 million (discounted) over a ten year period, or an annual nominal cost of around \$1.6 million per annum. Table 7 below shows the sectors comprising this cost.

Table 7: Costs imposed by the Proposed Regulations on Business, Individuals and Government, Ten Year Assessment Period

Sectoral Cost	Cost (\$)
Business – e.g., licence and permit applications, reporting	1,464,700
Individuals – domestic firewood collection permits	4,925,730
Government – administration and compliance activities	6,814,470
Total	13,204,900

The substantive compliance costs (i.e. complying with licence conditions) are considered minimal because the vast majority of businesses and individuals do not engage in aberrant or illegal behaviour. That is, activities undertaken by individuals such as damaging or destroying gates, felling a tree inscribed with a survey mark, damaging experimental equipment in a forest reserve, or selling goods or services within a reserved forest are not ‘normal’ activities and would therefore not impinge upon the conduct or behaviour of the vast majority of individuals. Similarly, illegal behaviour such as felling unbranded trees, entering cattle into a reserved forest without permission, or failure to pay fees will not affect compliant businesses.

It is worth noting that of the total costs, around half are attributable to government administration and compliance activities. This partly reflects the relatively low cost imposition on business and individuals of the proposed Regulations, but also the relatively large number (304) of DSE enforcement officers located across Victoria. DSE advises that it is considering efficiency measures to simplify and streamline its administrative and enforcement activities, which may result in cost savings in this area.

Benefits of the Proposed Regulations

At the outset, it is important to stress that most of the benefits identified in this section relate to the forest regulatory regime overall (i.e., forest legislation, other regulations, codes or conduct, etc), and that the benefits attributable to the proposed Regulations are limited to the extent that they contribute to the regulatory controls for managing a healthy, well-functioning forest system.

Given the specific focus and nature of the proposed Regulations the scale of these benefits are likely to be limited. Nonetheless, the direct and indirect use benefits from ensuring that forests are sustainably managed are likely to be substantial. While a range of methods have been developed to estimate the total economic value of forests⁵⁴, including both commercial and non-commercial benefits, it is beyond the scope of the RIS to provide full valuations of each of the identified benefits. Instead, commensurate with the limited nature of the proposed Regulations, the level of analysis in this section will provide an example of **the likely magnitude of the benefits rather than detailed monetary valuations.**

Forests provide many different economic benefits, both direct and indirect. Forest benefits can be grouped into direct and indirect uses and non-use values. Only some of these values are reflected in market prices, due to market imperfections and when assessing forest benefits it is common to neglect non-market environmental benefits.

It is increasingly recognised that forests provide a range of goods and services, some of which have significant economic value. These include fertile soil and timber, recreation, landscape value and a wide range of environmental benefits such as climate regulation, watershed protection and the conservation of biodiversity. Forest benefits may be grouped into general categories, as in Table 8 below, which shows direct use benefits (e.g., the benefit of using forest resources as input to production or as a consumption good), indirect use benefits (comprising the indirect support and protection provided to economic activity and property by natural forest functions), and non-use benefits, including all other benefits which cannot be characterised in terms of physical interaction between the forest and consumers.

Direct uses of forests include both commercial and non-commercial activities. Commercial uses include timber production, feed for grazing, and provision of pollens for the honey industry. Non-commercial direct uses include firewood supplies for domestic users, and services such as forest recreation, education and research, which are often conducted on a non-commercial basis.

Indirect benefits comprise the many ecological functions of forests. Their value derives from supporting or protecting economic activities that have directly measurable market benefits. For example, some forests may have indirect use

value through controlling sedimentation and flood damage that affects downstream agriculture, water supplies and other economic activities. Another important indirect use value associated with forests is the storage or sequestration of carbon in trees, offsetting the atmospheric accumulation of greenhouse gases that are implicated in global warming.

Finally, forests have a number of non-use benefits. These refer to the intangible benefits derived from the mere existence of forests, above and beyond any direct or indirect use value that people may enjoy.

Table 8: Values/benefits associated with forests

1. Direct Use Benefits	2. Indirect Benefits	3. Non-use Benefits
1.1 Wood products (timber, fuel)	2.1 Watershed protection	3.1 Biodiversity (wildlife)
1.2 Non-wood products (honey, cattle rearing, seeds, stone, gravel)	2.2 Soil protection/fertility improvements	3.2 Culture, heritage
1.3 Education, recreational and cultural uses	2.3 Air pollution reduction (gas exchange)	3.3 Intrinsic worth
1.4 Amenities (landscape)	2.4 Carbon Storage	3.4 Bequest value
1.5 Indigenous (non-market goods) (skins, poles)	2.5 Habitat and protection of biodiversity and species	3.5 Option for future direct or indirect use

Source: Adopted from Bishop (1999) and Gregersen (1995).

Only some of the forest benefits listed above are traded in markets and have a directly observable price. In general, direct use values are most likely to be reflected in market prices. Indirect use values may be reflected in the prices of certain goods and services which depend heavily on the underlying environmental benefit, while non-use values are rarely reflected in market prices or decision-making. Clearly however, the absence of a market price does not mean that a forest attribute or material has no economic value or benefit.

To provide an indication of the magnitude of the likely benefits, three areas are examined: direct economic value of forest produce; an indicative estimate of the recreation value of Victorian forests (using the travel cost method); and estimates of the existence value of forests (relying on contingent valuation methods).

Direct Benefits

There are various estimates surrounding the economic contribution that forest products industries make to the state. In 2005 the Victorian Association of Forest Industries (VAFI) estimated that 19,518 people were directly employed in Victoria's forest industries. This figure includes those employed in downstream processing and manufacturing activities. VAFI estimated that this corresponds to a net value of production of \$3,034 million per annum.⁵⁵ The value of broadleaved log production alone in Victoria for 2006–07 was \$122 million.⁵⁶ It is important to recognise that these figures include logging on private land, but generally almost all harvested hard wood comes from State forests whereas soft wood is generally grown in privately owned plantations.

The direct annual value of honey and beeswax production is \$7 million.⁵⁷ It has also been estimated that the value of pollination to the Victorian agricultural and horticultural crops is approximately \$145 million per annum. Horticultural and seed industries are completely or partially dependent on effective pollination by honeybees.

Non-commercial benefits are more difficult to enumerate. In relation to recreation benefits, a method in which non-commercial direct benefits may be measured is the travel costs method. The travel cost method (TCM) is based on the assumption that consumers value the experience of a particular forest at no less than the cost of getting there, including all direct transport costs as well as the opportunity cost of time spent travelling to the forest. A TCM valuation of a particular site requires detailed questionnaires and interviews with forest users, however, for the purposes of the RIS some basic assumptions can be made simply to illustrate the likely magnitude of the recreation benefits of forests.

Visits to Victoria's forests are generally associated with nature conservation reserves rather than State forests. Every year, Victorians enjoy an estimated 26.7 million visit days to forests in National Parks, State Parks and other parks and gardens across Victoria. It is estimated that every year over 4 million visit days are also spent in State forest.⁵⁸

Therefore, assuming that there are 4 million visits to State forests annually, and the travel time is one hour, using the VCEC default rate of \$54.55 would provide an annual recreational value of forests in the order of \$218 million (it should be stressed that this figure is indicative only).

⁵⁵ The Allen Consulting Group, 2006, *Victoria's Forest Industries: An Economic Impact Assessment*, March 2006, Report to the Victorian Association of Forest Industries, p. 17

⁵⁶ ABARE, 2008, *Australian Forest and Wood Product Statistics*, March and June quarters 2008, Canberra, November, p.15

⁵⁷ Australian Bureau of Statistics, Cat. No. 7123.2.55.001, *Agricultural State Profile, Victoria*, 2001-02

⁵⁸ Victoria's State of the Forest Report 2008

Along similar lines, it has been estimated that the use of public land contributes at least \$3.5 billion annually to the Victorian economy.⁵⁹ If only a small fraction of this value, say 1 per cent for example, could be attributable to State forests then such a benefit would be in the order of \$35 million. This estimate is not presented to convey a precise value, but illustrates the large magnitude of benefits associated with State forests (compared to the costs imposed by the proposed Regulations).

Indirect Benefits (non-use benefits)

Several studies have considered valuation of the existence value of forests in terms of restoration and protection.⁶⁰ These studies, although undertaken in the early 1990s, place an annual household value of between \$25 and \$50 for valuing forest protection.⁶¹ Given that in 2001 there were 1.8 million households in Victoria⁶², these figures suggest that households place an existence value on State forests of between \$45 and \$90 million. More recently in 2008 a study was undertaken to value river red gum forests. This resulted in valuations of \$1.45 and \$3.29 per annum per household for a 1,000 hectare increase in the area of a healthy river red gum forest.⁶³ Based on 1.8 million households in Victoria, an indicative estimate households place on the value of river red gum forests is between \$2.61 million and \$6.92 million. The magnitude of these estimates serve to illustrate that even the non-use value of forests is substantial.

Another non-use benefit is the property of forests to capture (or sequester) carbon. The *Stern Review: The Economics of Climate Change* suggested that an economic cost of carbon in the order of \$US85 (equivalent to \$A110) would be reasonable.⁶⁴ As a broad measure of these benefits, a break-even point would suggest that if around 14,400 tonnes of carbon were captured by forests per annum, this would be the equivalent to the annual costs of the proposed Regulations. (To put this figure into perspective, this is equivalent to the annual carbon emissions from 1,000 households.⁶⁵) Again, it should be emphasised that the proposed Regulations form only a small dimension of the overall regulatory framework for State forests and therefore the benefits attributable to the regulations is small, albeit significant.

⁵⁹ Department of Sustainability and the Environment, *Our Environment Our Future*, April 2005

⁶⁰ There may be an element of double counting between the TCM and estimate of the existence value of forests. Nonetheless, these are presented in the RIS simply to illustrate the likely magnitude of forest benefits.

⁶¹ Gillespie Economics *et al*, 2008, *River Red Gum Forests Investigation: Socio-Economic Assessment Final Report*, Prepared for the Victorian Environmental Assessment Council, May 2008, p. 116

⁶² Australia Bureau of Statistics, Cat. No. 3236.0, *Household and Family Projections, Australia, 2001 to 2026*, Canberra

⁶³ *ibid.*, p. 117

⁶⁴ HM Treasury, *The Stern Review: Final Report*, p. xvi:
http://www.hm-treasury.gov.uk/d/Executive_Summary.pdf

⁶⁵ The average Australian household emits around 14 tonnes of greenhouse gas each year.
Department of the Environment, Water, Heritage and the Arts:
<http://www.environment.gov.au/settlements/gwci/calculator.html>

⁶⁶ Department of Treasury and Finance, 2007, *ibid.*, p. 3-8

Summary of Benefits

The direct economic benefits of a sustainably managed forest industry, as well as the indirect use and non-use benefits of forests, are substantial, and the Victorian community appears to be placing an increasingly higher value on non-tradeable, intangible benefits of forests in recent years. While these estimates provide only a very broad indication of the magnitude of benefits, it is clear that use and non-use values would be measured in the hundreds of millions of dollars annually. However, in assessing the direct and indirect benefits, it is important to recognise that the benefits mentioned above principally arise from the broad regulatory framework rather than directly from the regulations. That said, the proposed Regulations set up a licensing framework which supports the efficient operation of the legislation.

Multi-criteria Analysis

To assist in assessing the benefits of the proposed Regulations and to provide a comparison with other options, an MCA assessment was undertaken. The proposed Regulations seek to achieve the government's objectives of protecting Victoria's State forests, while permitting other forest uses. This can be a difficult balance and consequently the regulations control and place restrictions on certain activities. Nevertheless, it is assessed that the proposed Regulations are the most successful option in terms of achieving the government's policy objectives, and accordingly this criterion is assigned a relatively high score of 75. A full score of 100 was not assigned for two reasons: first, far more comprehensive/onerous regulations could be prescribed perhaps further protecting forests (but this would add to costs); second, some level of non-compliance can be expected given the large spatial area of State forest and associated enforcement difficulties.

The proposed Regulations impose costs on licence and permit holders and individuals who collect firewood for domestic use. While these groups benefit from these activities (the decision to apply for a licence or permit is entirely voluntary, so individuals implicitly make a judgement that the benefits outweigh these costs), the costs imposed by the proposed Regulations are greater than is the situation represented by the base case. Therefore, a score of -10 is assigned to this criterion related to the imposition of costs on stakeholders.

Assessed against the Premier's Guidelines (see section 4.2.1 above), statutory rules are a feasible and efficient regulatory vehicle for delivering the government's policy outcomes. Regulations do impose enforcement and administrative costs on government, so this criterion is not assigned the highest score, but is assigned a score of 50. If no regulations were in place then enforcement and compliance costs could be expected to be higher because DSE would need to devote additional enforcement/education resources given the lack of clarity of requirements. This results in a net overall score of +50.

Table 9: Multi-criteria Analysis Assessment of proposed Regulations

Criteria	Weighting	Assigned Score	Weighted Score
Sustainably manage Victoria's forests	60	75	45.00
Cost minimisation	25	-10	-2.50
Feasibility of implementation	15	50	7.50
Total	100%		+50.00

4.3.2 Variation of the Proposed Regulations

In a number of cases, there are no practicable regulatory alternatives other than to alter the scope or extent of the proposed Regulations. It is not intended here to examine the costs and benefits of the large number of possible variations. However, it is emphasised that the RIS represents another step in the consultation process and DSE welcome comments or suggestions with respect to the nature, extent, and likely impacts of the proposed Regulations, and any variations that may improve their overall quality.

Regulations may take the form of prescriptive rules, which focus on the inputs, processes and procedures of a particular activity. One of the main advantages of prescriptive regulation is that it provides certainty and clarity. By setting out requirements in detail, it provides standardised solutions and facilitates straight-forward enforcement.⁶⁶ However, because of their inflexibility, prescriptive regulation may be unsuitable in certain situations, e.g., where circumstances are subject to change. Performance-based standards specify desired outcomes or objectives, but not the means by which these outcomes and objectives have to be met.

The main advantages that performance-based standards have over prescriptive regulation are the greater flexibility afforded to regulated parties in achieving the desired outcomes, and their ability to be used in situations where circumstances may change over time. Nevertheless, they do have some disadvantages. For example, the greater flexibility and freedom offered by performance-based regulations is often cited as a problem for those being regulated as it can lead to uncertainty as to whether the actions they undertake are sufficient to satisfy the standards set by the regulations.⁶⁷ Related to this, performance-based standards may generate uncertainty because circumstances giving rise to prosecutions may be determined subjectively. This in turn may increase government enforcement costs because the interpretation of such standards may be challenged or determined in the court/tribunal system.

For these reasons, the RIS concludes that given the specific nature of the behaviours the regulations seek to manage, prescribed standards provide greater

⁶⁷ loc cit., p. 3-9

⁶⁹ Victorian Government, 2007, *Small Business Regulatory Impact Assessment Manual*, Melbourne, April 2007

certainty for forest users and are more efficiently administered for government than performance-standards.

Stakeholders may wish to comment on the prescriptive nature of some of the regulations. For example, proposed Regulations 6 and 7 prescribe certain offences within a reserved forest, while proposed Regulations 10 and 11 prescribe specific behaviours as conditions on licences. Other areas on which stakeholders may wish to comment include:

- ways in which the form or application process can be streamlined;
- the appropriateness of the proposed conditions on licences;
- whether or not a less prescriptive approach has merit;
- the duration of licences;
- the reasonableness of the cost assumptions, particularly the time taken to fill out a licence application form and time taken to purchase a domestic firewood permit;
- any practical difficulties associated with the proposed Regulations; and
- any unintended consequences associated with the proposed Regulations.

4.3.3 Education Campaign

As an alternative and non-regulatory means to meet the government's objectives, DSE could undertake an education campaign aimed at general users of State forests and a targeted campaign focusing on commercial timber operators, graziers, and beekeepers. Under this option it is assumed that restrictions would still apply to timber harvesting, collecting, and grazing as this would still be governed by the Act, however, no conditions would be prescribed on licences.

Education and social marketing can be an important complementary policy tool in achieving compliance (e.g. *Get on board with lifejackets* as compliance with boating safety requirements) or behavioural change (e.g. the *Only a Little Bit Over?* anti-drink driving campaign and the *Quit* anti-tobacco campaign).

As mentioned earlier, the cost of education campaigns vary considerably, ranging from many millions of dollars to targeted mail-outs to certain professions or licensees. The *Get on board with lifejackets* campaign may be relevant in estimating an indicative cost for an information campaign, given that it targets a specific set of recreational users/businesses. The initial *Get on board with lifejackets* campaign cost in the order of \$750,000 over three years. Therefore, for the purposes of the RIS, a total cost over a ten year period of \$1 million is assumed.

The main advantage of this alternative is that it could address information shortfalls. For example, it would clarify requirements under the Act and provide persons with guidance as how to minimise their impacts on State forests. The main and most significant disadvantage of this alternative is ensuring compliance and providing an enforcement mechanism. In terms of enforcement, this alternative may be less effective than other approaches as it relies on voluntary compliance

rather than being supplemented by the element of coercion. It would be feasible to target this campaign at licence holders, however, conveying the information to other forest users would be more difficult. An information campaign also raises practical difficulties given that some of the proposed Regulations adopt elements of the Act and do not relate to information problems (i.e. brands for trees). Finally, the risks associated with non-compliance are relatively high, i.e. serial non-compliance could result in serious damage to the forest environment.

Given the practical difficulties associated with an education campaign, it is unlikely that this alternative alone would be as effective as other options given the voluntary nature of compliance and enforceability would prove difficult under this alternative. That said, DSE currently conducts targeted information campaigns (e.g. the campaign in the Bendigo area in relation to firewood collection) which are effective in addressing information gaps in problem areas. An information campaign is considered a valuable complementary non-regulatory tool to improve compliance, yet by itself it is unlikely to achieve the government's objectives to a sufficient degree.

In practical terms this option would present difficulties given that the regulations prescribe parts of the Act, which are not voluntary. This is because section 52 of the Act requires licences and permits to be issued for the activities covered in the regulations. Voluntary codes of conduct would not obviate the legal requirement for a licensing regime, and there would only be a few activities or behaviours that would be relevant that would not be otherwise regulated by the Act itself.

An MCA assessment was undertaken of an education campaign. A score of 25 is assigned to the sustainable management criterion. This score represents an improvement over the base case because a well resourced targeted campaign could encourage compliance by effecting some behavioural change, however, this alternative raises considerable compliance and enforcement issues, and in practical terms penalty notices and other matters would not be prescribed, thus weakening the effectiveness of the Act.

In terms of cost minimisation, a characteristic of information campaigns is that desired behavioural change occurs voluntarily, and therefore a person does not incur a cost in the conventional sense. Therefore this criterion is assigned a score of zero as this approximates the base case. An information campaign would be feasible and reasonably cost-effective for government. This score is positive because it would be practicable (which underpins the sustainable management of Victoria's forests criterion), however the score is moderated given the cost associated with this option, which is greater than the base case. Therefore, this criterion is assigned a score of 25. Together, these result in an MCA score of +18.25 for this alternative.

Table 10: Multi-criteria Analysis Assessment of Education Campaign

Criteria	Weighting	Assigned Score	Weighted Score
Sustainably manage Victoria's forests	60	25	15.00
Cost minimisation	25	0	0.00
Feasibility of implementation	15	25	3.75
Total	100%		+18.25

4.3.4 Voluntary Code of Conduct

The Victorian Government could establish a number of codes of conduct for forest users, alternatively codes could be developed by industry groups. For example, the government in partnership with user groups or peak bodies could develop codes of conduct for grazing, domestic firewood collection, beekeepers and others. It is worth noting that the Firewood Association of Australia, with the assistance of governments, developed a certification program to enable firewood suppliers to demonstrate compliance to the *Code of Practice for Commercial Firewood Suppliers*.⁶⁸

In addition, the government and apiary industry developed the *Apiary Code of Practice 1997*. The prime aim of the *Apiary Code of Practice 1997* is to ensure that beekeeping does not become a nuisance to people in all areas, rather than specifically dealing with environmental management in State forests. The Code describes a number of standards for the placement and management of hives throughout Victoria. In brief, beekeeping activities within Victoria may be conducted without a planning permit provided the activity complies with the requirements of the Code. If the requirements of the Code cannot be met, a planning permit must be obtained from the local government council before beekeeping is commenced on the property. Local governments are responsible for enforcement of the Code as such, the document which forms part of a local planning scheme. These existing codes form part of the base case.

The main benefit of industry codes is that they can utilise industry expertise and are usually associated with industry buy-in, which may encourage compliance. In addition, codes can be tailored to the needs of particular industries and are generally more flexible than regulations. The main disadvantage of this alternative — as with an education campaign — is the possibility of non-compliance and difficulties associated with enforceability, as well as whether or not the actions of members are observable.

Industry codes are generally cost effective methods of regulation. Such codes could each cost in the order of \$250,000 to develop, implement and communicate (this cost approximates the cost of the *Code of Practice for Commercial Firewood Suppliers*). Therefore, if three or four codes were developed, the cost over a ten year period could be in the order of \$750,000 to \$1 million.

While voluntary codes would be an improvement over the base case, the RIS finds that there is justification for further intervention to meet government objectives. Moreover, the government may lose discretion concerning areas it considers

necessary to regulate. These problems would be less pronounced under a compulsory code; however compliance and enforcement would remain significant issues. Again, industry or user codes may be relatively effective in addressing simple information gaps, but may have little effect on reducing aberrant or illegal behaviour. For similar reasons outlined relating to an education campaign, this alternative is not considered a superior option to the proposed Regulations.

As noted above, voluntary codes of conducts are best suited to situations in which the risks associated with non-compliance are low. The RIS argues that the risks are not low in the case of forest management. Non-compliance could lead to over exploitation of resources, which could in turn result in loss of habitat, extinction of species, irreparable damage to ecosystems, or the collapse of forest industries in particular areas.

An MCA analysis was undertaken to assess this option. A score of 25 was assigned to the sustainable management Victoria's forests criterion. Codes can be effective regulatory options in cases where an industry or group of stakeholders are relatively homogeneous (e.g. for groups of professionals) and in cases where risks of non-compliance are low. These characteristics do not typify most forest users.

Beekeeping is an important commercial activity, and the Victorian Apiarists Association can legitimately claim to represent most industry members. However, DSE advises that aside from beekeepers a large proportion of licensees do not belong to industry groups and this would impinge upon the feasibility of introducing industry codes, along with the heterogeneous nature and relatively small number of other licensees.

As stated above, there is currently a Code of Practice for Commercial Firewood Suppliers, which is compulsory for members of the (voluntary) Firewood Association of Australia. In theory it would be feasible to exclude members of the Firewood Association of Australia from certain conditions in the proposed Regulations, but this could add complexity to the regulations and potentially remove penalty sanctions from these members.

Generally, no other activities in State forests that are intended to be covered by the proposed Regulations has a suitable representative body that could develop and promote a code of conduct and legitimately claim to represent most licence users. Without such coverage, disciplinary measures or peer pressure for breaching a code would be hard to impose. Gaining broad acceptance of a code of conduct would be extremely difficult.

As with an education campaign, codes of practice are relatively cost effective and impose low or no direct costs on stakeholders given that behavioural change associated with education campaigns is essentially voluntary; hence a score of zero is assigned to this criterion reflecting the position under the base case. Generally, codes are feasible to implement and impose moderate to minimal cost, however in the case of forests many users do not belong to user groups or associations. Therefore, a score of 25 is assigned to the feasibility criterion. This score is positive because it would be practicable (which underpins the sustainable management of Victoria's forests criterion), however the score is moderated given

the cost associated with this option, which is greater than the base case. Together, these result in an MCA score of +18.25 for this alternative.

Table 11: Multi-criteria Analysis Assessment of Voluntary Codes

Criteria	Weighting	Assigned Score	Weighted Score
Sustainably manage Victoria's forests	60	25	15.00
Cost minimisation	25	0	0.00
Feasibility of implementation	15	25	3.75
Total	100%		+18.25

4.3.5 Prohibiting activities in State forests

A RIS is required to assess alternative regulatory or non-regulatory options that are practicable. While the Victorian Government's current policy is committed to providing Victorians with access to State forests for both wood and non-wood forest products and services on a sustainable basis, an alternative to the proposed Regulations could be to prohibit certain activities in State forests. For example, one or all activities such as grazing, timber harvesting or collection, or beekeeping could be prohibited from State forests.

In fact this situation has arisen in the past when the government considered that the negative environmental costs outweighed other benefits. As mentioned earlier, this has occurred in relation to cattle grazing in environmentally sensitive areas.

In considering this alternative, for illustrative purposes two views can be put forward. The first is that prohibiting these activities may contribute broadly to the government's environmental objectives. The second view is that given that the Victorian Government currently provides a strict regulatory framework for forest management, any such ban is unwarranted because the current controls minimise environmental risks to an acceptable level. Moreover, other policy objectives such as communities' social and cultural links and the provision of jobs may be diminished.

The costs associated with prohibiting all or any of grazing, timber harvesting or collection or beekeeping activities would include the direct economic loss to those associated with these industries and cultural/social loss. Given that no economic impact studies have assessed the contribution of licence and permit holders to the Victorian economy, it is difficult to estimate this cost in monetary terms. To provide a broad indication of the magnitude, in 2005-06 the annual value of wood production from State forests in eastern Victoria alone was \$147 million. Therefore, such a ban could be expected to impose an impact on the Victorian economy in the order of hundreds of millions of dollars.

Assuming a balanced budget, government revenue forgone from royalties would need to be recouped from either higher taxes elsewhere or reduced expenditure on services, or a combination of both. A ban would also disproportionately affect rural and regional Victoria. Further, any such ban may also run the risk that these

activities, particularly timber collection, could be conducted illicitly without any form of control.

Given the difficulty in calculating the cost and benefits of this option, an MCA assessment was undertaken. The sustainable management of Victoria’s forest received a relatively high score of 65. This score is assigned because environmental impacts would be reduced. However, while environmental considerations are the primary focus of the government’s intervention in forest management, there are other government objectives which include promoting the social and economic development of forests for all Victorians. Thus, achieving environmental objectives would come at a cost to other objectives and therefore a score of 100 is not awarded to this criterion.

The cost of this option on businesses operating in forests would be considerable. Victoria’s honey industry would effectively cease to exist and other businesses or communities that rely on these activities would be severely affected. Consequently, a score of -90 is assigned. A full negative score is not awarded because other businesses such as eco-tourism may benefit (assuming some environmental benefits).

Prohibiting such activities by regulatory amendments has been demonstrated to be feasible; as stated earlier, this has occurred with respect to grazing in environmentally sensitive areas. However, given that government would be proscribing a range of activities it is likely that it would incur additional costs associated with monitoring, enforcement and compliance. Given these costs the score assigned to this criterion is -25. Together, this assessment results in a net score of +12.75.

Table 12: Multi-criteria Analysis Assessment of Prohibiting Activities

Criteria	Weighting	Assigned Score	Weighted Score
Sustainably manage Victoria’s forests	60	65	39.00
Cost minimisation	25	-90	-22.50
Feasibility of implementation	15	-25	-3.75
Total	100%		+12.75

This option is discussed for illustrative purposes only. It does not represent Victorian Government policy. While it is possible to prohibit these activities by amending the regulations, any such changes would require a significant shift of government policy, which would no doubt be subject to extensive consultation and other processes.

4.3.6 Extending the Coverage of the Act

It would be technically possible to extend the coverage of the Act by incorporating the proposal into the legislation. This option is identified in the *Victorian Guide to Regulation*. It is well-established that the benefit of statutory rules as a regulatory instrument is their administrative efficiency and flexibility. For example, if the Government decided to change a condition on a licence, this could be done by

amending the regulations, which is a relatively straightforward and timely process. Yet if these requirements were incorporated in the Act, then any change would require a parliamentary amendment. For minor administrative matters, this is a time-consuming and a relatively complex procedure. The lack of flexibility and timeliness may also impose unreasonable constraints and costs on licence and permit holders.

The Premier’s Guidelines also provide guidance as to the types of matters appropriate for inclusion in regulations rather than in Acts or in instruments which are not of a legislative character. The guidelines note that significant matters should not be included in subordinate legislation, although that subordinate legislation may deal with the same issue in terms of enforcement or related matters of administration or implementation. The guidelines also note that subordinate legislation is more appropriate when: prescribing forms for use in connection with legislation; prescribing processes for the enforcement of legal rights and obligations; and dealing with matters relating to detailed implementation of policy, general principles and standards (rather than the policy, principle or standard itself).

An MCA was undertaken to assess this alternative. This alternative scores relatively highly because the substance of the measure is essentially the same as the proposed Regulations. While the sustainable management of forests and cost minimisation criteria receive the same score as the proposed Regulations, the feasibility of implementation receives a negative score of -50. This is because legislative amendments are relatively costly and time consuming, and clause 1.09 of the Premier’s Guidelines suggest that the matters contained in the proposed Regulations are unsuitable for incorporation into primary legislation. While this alternative would no doubt be possible, the administrative mechanism of responding to government’s or businesses’ needs in an efficient and timely manner makes the proposed Regulations superior to this alternative. There is also a risk that the Act would become unnecessarily complex and unwieldy. This results in a net score of +35.00 as shown in Table 13 below.

Table 13: Multi-criteria Analysis Assessment of incorporating requirements into the Act

Criteria	Weighting	Assigned Score	Weighted Score
Sustainably manage Victoria’s forests	60	75	45.0
Cost minimisation	25	-10	-2.5
Feasibility of implementation	15	-50	-7.5
Total	100%		+35.00

4.4 Groups Affected

Groups affected by the proposal include any person within a reserved forest (but limited to preventing aberrant behaviour therefore will only apply to a small minority), an owner or person in charge of travelling cattle in a reserved forest, licence applicants and licensees including commercial timber operators, persons collecting wood for domestic use, cattle graziers, beekeepers, and other forest

users. The proposal also affects DSE officers by prescribing the brand to be used in marking trees. The groups affected by the proposal are further identified in Attachment B.

In terms of the incidence of costs and benefits, direct costs associated with the proposed Regulations will be mostly borne by licensees, while the benefits associated with the proposal will mostly accrue to users and the broader community in terms of ensuring sustainability of Victoria's forests. With respect to benefits for licence holders, such a licence provides them with exclusive rights to undertake certain commercial activities in a State forest. The extent of these activities suggests that licence holders have decided that the commercial benefits of conducting such activities outweighs the regulatory costs.

4A. IMPACT ON SMALL BUSINESS

Key points

- Almost all licences and permits issued under section 52 of the Act are issued to small businesses.
- The impact of the proposed Regulations therefore falls disproportionately on small business, but within the small business segment the impact will fall relatively equally.
- Given the relatively straightforward nature of the proposed Regulations, it is unlikely that small business will be disadvantaged in terms of lacking of economies of scale and/or resources in order to comply with the requirements.

The *Victorian Guide to Regulation* provides a definitive guide to developing regulation in Victoria within the context of the government's vision of well-targeted, effective and appropriate regulation. In particular, it is important to examine the impact on small business because the compliance burden often falls disproportionately on that sector of the economy.^{69, 70}

Of the licences and permits issued to businesses, the overwhelming majority – over 99 per cent – are issued to small business. This percentage is higher than the state average of the composition of small business which is 96 per cent.⁷¹ The impact of the proposed Regulations will therefore fall disproportionately on small business, but within the small business segment the impact will fall relatively equally. To that degree, while small business may incur proportionally more costs, more benefits from the proposed regulations will also accrue to them. It should also be noted that many of the licences and permits issued under the Act relate to non-business entities or individuals, e.g., domestic firewood collectors, hobbyists, and clubs.

There have been no changes to the regulations since they commenced operation in 1999, but at the broader policy level there were two major changes over recent years which may have affected a number of small businesses. These are the changes to the commercial timber harvesting arrangements associated with the *Sustainable Forests (Timber) Act 2004* (generally timber quotas were reduced and

⁷⁰ The ABS defines a small business as a business employing less than 20 people. ABS Cat. 1321.0 - Small Business in Australia

⁷¹ ABS Cat.8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2003 - Jun 2007, Businesses by Industry Class by Main State by Employment Size Ranges, Construction (Victoria)

areas limited) and the ban on cattle grazing in the Alpine National Park in 2005 and Red Gum National Parks in 2008.

Given that most businesses holding licences and permits are small businesses, DSE has ensured that the regulations are easy to follow and businesses are able to complete applications themselves so they do not require external advice to complete applications. In this regard, DSE has had in place for a number of years a pro-forma licence application which can be downloaded from the internet or posted to an applicant. The provision of information on a standard form arguably lowers 'search costs' for small business compared to the case of having to provide such information in a non-standard format. The DSE Customer Service Centre provides general advice regarding completion of applications and can provide applicants with a copy of conditions on Forest Produce Licences.

The relatively straightforward nature of the proposed Regulations makes it unlikely that small business would be disadvantaged in terms of lacking economies of scale and resources in order to comply with the requirements. Similarly, it is unlikely that any requirements would cause small business to withdraw from the industry or fail to comply with the regulation. Finally, given that the current Regulations have been in operation for ten years unchanged, it is not expected that the proposed Regulations will raise any implementation issues or cause unintended consequences.

5. ASSESSMENT OF COMPETITION IMPACTS

Key points

- The National Competition Council has reviewed state legislation restricting activities in State forests. It acknowledged that there is a sound public interest rationale for government intervention in public forests.
- None of the viable options identified in the RIS restrict competition.
- The proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

5.1 Broader competition impacts

In 2003 the National Competition Council (NCC) reported on its assessment of state and territory regulation of their forests. The NCC noted that all governments have legislation providing for the management of publicly owned forests available for the production of timber and other commodities, and that this legislation generally provides for designating public land as State forest, vesting management and control of State forests in a government agency, and prohibiting certain unauthorised activities in State forests and issuing various rights to access to State forests and/or to extract resources from them. The NCC determined that legislation of this nature was a low priority for the National Competition Policy (NCP) review of forestry legislation, thus implying that any restriction on competition was minimal and appropriate.⁷²

The NCC reported that this legislation generally does not restrict competition in the supply of timber and other forest commodities except insofar as it leaves State forest agencies with considerable discretion in how they price and allocate these commodities. However, anticompetitive practices are unlikely to occur in the states and territories given that the Conduct Code Agreement (CCA) subjects these jurisdictions to the prohibitions on anticompetitive trade practices under part IV of the *Trade Practices Act 1974* (Cth), including anticompetitive agreements, misuse of market power and exclusive dealing.⁷³

⁷² National Competition Council 2003, Assessment of governments’ progress in implementing the National Competition Policy and related reforms: Volume two – Legislation review and reform, AusInfo, Canberra, p. 1.93

⁷³ NCC, *ibid.*, p. 1.94

5.2 The competition test

The guiding principle in assessing competition impacts is that the regulations should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweighs the costs and that the objectives of the Regulations can only be achieved by restricting competition. The NCP ‘competition test’ was used to assess the proposed Regulations against any possible restrictions on competition. The test asks whether the proposed Regulations:

- allow only one participant to supply a product or service;
- require producers to sell to a single participant;
- limit the number of producers of goods and services to less than four;
- limit the output of an industry or individual producers;
- discourage entry by new persons into an occupation or prompt exit by existing providers;
- impose restrictions on firms entering or exiting a market;
- introduce controls that reduce the number of participants in a market;
- affect the ability of businesses to innovate, adopt new technology, or respond to the changing demands of consumers;
- impose higher costs on a particular class or type of products or services;
- lock consumers into particular service providers, or make it more difficult for them to move between service providers; and/or
- impose restrictions that reduce range or price or service quality options that are available in the marketplace.

While in a strict sense the *Forests Act 1958* may impinge upon competition, the NCC acknowledges that there is a sound public interest rationale for government intervention in public forests.⁷⁴ It is important to recognise that any restrictions are imposed by the Act, not the proposed Regulations. For example, it could be argued that limits on the output of an industry or individual producer are imposed by various legislation applying to forests. This restriction, of course, is to ensure the sustainability of Victoria’s timber industry and is clearly in the public interest.

Furthermore, the licences themselves do not set high barriers for forest users as is the case for some professionals (e.g. doctors, lawyers and electricians). As long as a business satisfies basic requirements such as demonstrating financial capacity, insurance coverage and performance history, it may obtain a licence.

In terms of structural impacts on the economy, these are likely to be extremely low given that most grazing and a considerable proportion of forestry and firewood collection is undertaken on private land, which are not subject to the regulations.

⁷⁴ NCC, *ibid*, pp. 1.94–1.95

Assessed against this test, the proposed Regulations do not impose restrictions on competition as they simply prescribe actions that attract penalties, prescribe information requirements and conditions on licences, establish reporting requirements (which are unlikely to deter entry into the market), and prescribe brands used to identify trees. Therefore, the proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

6. THE PREFERRED OPTION

- Key points
- The proposed Regulations are assessed as the preferred option compared to the viable options identified in the RIS because they are the most effective way to achieve the Victorian Government’s policy objectives.
- The main reasons why the alternatives are not preferred to the proposed Regulations relate to inferior compliance and enforcement, and because they do not strike an appropriate balance between managing the multiple roles of State forests.
- The proposed Regulations support, and are consistent with, Victorian Government policy and the Act.
- The proposed Regulations are relatively narrow in focus and prescribe specific elements of the Act and compliance with the regulations is not difficult or costly.
- The direct costs associated with the proposed Regulations will be mostly borne by licensees, while the benefits associated with the proposal will mostly accrue to users and future of Victoria’s forests.
- Around 99 per cent of businesses affected by the proposed Regulations are small business and most of these are located in rural and regional Victoria.
- The proposed Regulations are considered to meet the ‘competition test’ as set out in the Victorian Guide to Regulation.

The analysis in the preceding section supports the proposed Regulations as the preferred option compared to the viable options identified in the RIS. This finding was concluded against the decision criteria described in section 4.2.4; that is, while the quantifiable costs are largest compared to the other options (a discounted cost over a ten year period of around \$13.2 million), the likely benefits (many of which are intangible) of the proposed Regulations are assessed as exceeding the costs. Assessment of the options using the MCA framework also suggests that the proposed Regulations are superior to the alternatives as shown in Table 14 below. Most importantly, the proposed Regulations are assessed as the most effective in achieving the government’s policy objectives.

Table 14: Summary of Multi-criteria Analysis Compared to Regulations

Regulatory Proposal	MCA Assessment
Base case scenario	0.00
Proposed Regulations	50.00
Information/education campaign	18.25
Codes of conduct	18.25
Prohibiting activities in State forests	12.75

Incorporating the regulations into the Act	35.00
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In this regard, the proposed Regulations support and are consistent with Victorian Government policy as articulated in *Our Forests, Our Future*, the *Sustainability Charter for Victoria's State forests*, the *Environmental Policy for Victoria's State forests* and in the Act.

The main reasons why the alternatives are not preferred to the proposed Regulations relate to inferior compliance and enforcement, and because they do not strike an appropriate balance between managing the multiple roles of State forests.

The proposed Regulations are relatively narrow in focus and prescribe specific elements of the Act. These include prescribing the form and information to be included in an application for a licence, imposing conditions on licences, managing certain behaviour in forests, and prescribing brands uses for marking trees. Compliance with the regulations is not difficult or costly. Stakeholders are familiar with the forms and procedures, and the proscribed behaviours are generally aberrant rather than the conduct shown by the vast majority of licence holders and forest users.

The proposed Regulations replace the *Forest (Licences and Permits) Regulations 1999* which will sunset on 14 December 2009, and consolidate elements of the *Forests (Miscellaneous) Regulations 2000*. While there has been no change to their substance, the remaking of the regulations has afforded DSE with the opportunity to improve the clarity of the drafting, remove obsolete provisions, and improve their administrative operation. Where there was a potential for confusion in relation to licence conditions on beekeepers and interaction between the current Regulation and the *Land Act 1958*, these conditions were removed from the proposed Regulations.

Groups affected by the proposal include any person within a reserved forest (but limited to preventing aberrant behaviour and therefore will only affect a small minority), an owner or person in charge of travelling cattle in a reserved forest, licence applicants and licensees including commercial timber operators, persons collecting wood for domestic use, cattle graziers, beekeepers, and other forest users.

In 2008 there were around 2,800 licence and permits holders (excluding domestic firewood permits). These consist of grazing licences (441), apiary licences, bee farm and range licences, temporary apiary rights (1,704), water supply licences (209), commercial timber licences (152) and other types (263). In addition, there are currently around 130 businesses acting as agents that sell domestic firewood permits. Such businesses include general stores, service stations, mechanics, and hardware stores.

In terms of the incidence of costs and benefits, the direct costs associated with the proposed Regulations will be mostly borne by licensees; however, given that persons voluntarily apply for licences, implicit in their decision making process is that the benefit they derive from being licensed to harvest or use forest produce outweighs the direct costs. The indirect benefits associated with the proposal will

mostly accrue to users and future users of Victoria’s forests, as well as the broad community from the non-use value of forest products. Increasingly it appears that society is placing a greater value on the non-use benefits associated with forests. Around 99 per cent of businesses affected by the proposed Regulations are small businesses, most of which are located in rural and regional Victoria.

The proposed Regulations are broadly consistent with the objectives and actions in other jurisdictions, however there are some state specific variations that take into account the differences in forest environments. The proposed Regulations are authorised to be made under section 99 of the *Forests Act 1958*.

The National Competition Council has reviewed state legislation restricting activities in State forests and points out that there is a sound public interest rationale for government intervention in public forests. None of the viable options identified in the RIS restricts competition. The proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

The costs and benefits of the regulatory and non-regulatory options are summarised in Table 15 overleaf.

Table 15: Summary of Costs and Benefits of Regulatory and Non-Regulatory Options

Options	Benefits	Costs/Disadvantages
Information/education campaign	<ul style="list-style-type: none"> • Low cost option where lack of knowledge is a problem. • Likely to be successful where the target can be easily identified and reached economically. • Quick method of disseminating information about compliance requirements, • Cost effective for government. • Can be a valuable complementary non-regulatory tool to improve compliance. 	<ul style="list-style-type: none"> • Difficulty in ensuring compliance and providing an enforcement mechanism. • Non-compliance could lead to over exploitation of forest resources or damage to the environment. • Groups may not be readily identified or reached. • The risks associated with non-compliance are relatively high, i.e., serial non-compliance could result in serious damage to the forest environment. • Unlikely to achieve the government’s objectives to a sufficient degree. • In practical terms this option would present difficulties given the nature of the regulations • A total cost over a 10-year period of \$1 million.
Codes of conduct	<ul style="list-style-type: none"> • Self-regulation utilises the expertise and experience of those in the industry, and may encourage innovative behaviour of industry participants. • Utilise industry expertise and are usually associated with industry buy-in, which may encourage compliance. • Can be tailored to the needs of particular industries and are generally more flexible than regulations. • Industry codes are generally cost effective methods of regulation. • Such codes could each cost in the order of \$250,000 	<ul style="list-style-type: none"> • Absence of a mechanism to ensure compliance and enforcement. • Non-compliance could lead to over exploitation of forest resources or damage to the environment. • Disciplinary processes may not be transparent. • Typically suitable for cases where the problem to be addressed is a low-risk event, or event of low impact. • More effective where non-compliance can be observed and negative impacts are imposed on a person/business reputation. Unsuitable where many actions are unobservable.

	<p>to develop, implement and communicate, therefore, codes for the sector could cost industry in the order of \$750,000 to \$1 million cost over a ten year period.</p>	<ul style="list-style-type: none"> • Government may lose discretion concerning areas it considers necessary to regulate.
<p>Prohibiting activities in State forests</p>	<ul style="list-style-type: none"> • Prohibiting certain activities would reduce the human impact on Victoria’s forest systems, thus contributing the environmental objectives. 	<ul style="list-style-type: none"> • The Victorian Government currently provides a regulatory framework, which minimises environmental risks to an acceptable level. • Such a ban could be expected to impose an impact on the Victorian economy in the order of hundreds of millions of dollars. • Other policy objectives such as communities’ social and cultural links and the provision of jobs would be impacted. • A ban would disproportionately affect rural and regional Victoria and small business.
<p>Proposed Regulations</p>	<ul style="list-style-type: none"> • This option is assessed as the most effective in achieving the government’s objectives. • A well-managed forest provides many different economic benefits, both direct and indirect. • The direct economic benefits of a sustainably managed forest industry, as well as the indirect use and non-use benefits of forests, are substantial: these would be measured in the hundreds of millions of dollars annually. For example, the RIS provided selected indicative example of: <ul style="list-style-type: none"> ○ commercial benefits – the value of broadleaved log production in was \$122 million, while the direct annual value of honey and beeswax production is \$7 million. 	<ul style="list-style-type: none"> • The total quantifiable costs to business and government costs associated with the proposed Regulations are approximately \$13.2 million over a ten year period. • This option imposes the highest costs on business and government.

	<ul style="list-style-type: none"> ○ non-commercial use benefit – an annual recreational value of forests in the order of \$218 million (it should be stressed that this figure is indicative only). ○ non-use benefits – an existence value on State forests of between \$45 to \$90 million. 	
<p>Incorporating the regulations into the Act</p>	<ul style="list-style-type: none"> • Measure essentially the same as proposed regulations, but delivered by a different regulatory vehicle: hence similar benefits. 	<ul style="list-style-type: none"> • Would reduce flexibility and timeliness of government action. • Administrative matters more appropriately dealt with in statutory rules. • The lack of flexibility and timeliness may impose unreasonable constraints and costs on licence and permit holders. • More costly to amend legislation than to change regulations.

6A. CHANGE IN ADMINISTRATIVE BURDEN

Key points

- The proposed Regulations do not impose any new information, reporting or recording keeping obligations on business.
- The regulatory changes in the proposed Regulations will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

The *Reducing the Regulatory Burden* initiative commits the Victorian Government to reducing the administrative costs of regulation. Accordingly, the RIS uses the Standard Cost Model (SCM) methodology and *Measurement of Changes in Administrative Burden* to inform its cost-benefit analysis and to measure any changes to the administrative costs. For the purposes of the measurement of change in the administrative burden, the existing burden forms the base case against which the change is measured.

Administrative costs are those costs incurred by business to demonstrate compliance with the regulation or to allow government to administer the regulation (e.g. keeping a register, lodging documents with government, or reporting requirements). The SCM is used solely to measure the administrative costs of regulation. It is not used to measure substantive compliance costs. Similarly, costs to government of administering and enforcing the proposed Regulations are not subject to the SCM assessment.

As stated earlier, the proposed Regulations remake the current Regulations with minimal changes, and establish no new reporting or information obligations. A summary of the existing administrative burden is contained in Table 16 which shows that the proposed Regulations impose no net increase of administrative costs on business.

Table 16: Forest (Licences and Permits) Regulations 2009 net impact on the administrative burden

Information obligation	Existing administrative burden	Proposed change to the burden (net impact)
Information obligation 1 – Application for licences and permits	\$750,248	\$ nil
Information obligation 2 – Reporting Requirements of licence holders	\$1,674	\$ nil
Information obligation 3 – Provision of advice to Secretary with respect to grazing cattle	\$16,479	\$ nil
Total	\$768,401	\$ nil

The largest administrative cost imposed by the proposed Regulations is associated with applications for licences and permits. Of the \$750,248, around 21 per cent is attributable to applications for forest produce licences, while 79 per cent relates to the travel time costs to obtain a domestic firewood permit (this is considered an administrative cost since the activity relates to demonstrating compliance with the regulation).

The changes to the requirements for cattle graziers' notification represent a reduction in administrative burden, as less notification is required and this may be in any form (e.g. verbal) rather than written. In principle, the removal of the sawmillers' return is a reduction in administrative burden. However, in practice given that the sawmillers' returns was a largely obsolete provision and that the other activities have a relatively low frequency or had lapsed into disuse, any associated administrative savings are likely to be negligible or non-existent.

Summary of SCM Measurement Exercise

In accordance with the Guidelines issued by the Treasurer, *Measurement of Changes in Administrative Burden*, it is therefore determined that the regulatory changes in the proposed Regulations will not lead to a material change in the administrative burden on business organisations in Victoria (see [Attachment G](#) for Statement of No Material Impact).

7. IMPLEMENTATION AND ENFORCEMENT ISSUES

Key points

- Overall compliance with the proposed Regulations is expected to be high, however the large spatial area occupied by Victorian forest makes aberrant or illegal behaviour difficult to manage.
- DSE enforcement officers and Victoria Police are responsible for enforcing the regulations.
- Given that the proposed Regulations are substantially similar to the current arrangements, no implementation or transitional issues are expected to arise.

Monitoring and Enforcement

DSE officers are authorised under the *Conservation Forests and Lands Act 1987* and trained in enforcement and compliance. There are currently 304 authorised officers legally able to undertake enforcement of the Act and associated regulations. Such officers may conduct patrols of Victorian forests and as part of these duties enforce the requirements of the Act and regulations. Enforcement involves detecting possible breaches, gathering necessary evidence, taking personal details, and, depending on the significance of the breach, issuing a warning, an infringement penalty or intention to prosecute. Victoria Police officers also may assist in ensuring compliance.

Compliance of the general public with domestic firewood collection regulations is done via spot checks of permits and trailers, random sightings, and occasionally with the use of video cameras. Illegal harvesting can be a significant problem in remote areas where surveillance is difficult or expensive. Regular patrols provide the means to enforce compliance and deter a wider range of illegal activity and anti-social behaviour. Weekend and after-hours patrols are considered to be effective when carried out at key times during the firewood season. These are combined with trail-bike patrols in order to use available resources efficiently. It is necessary to plan and target patrols carefully to minimise the overtime demands on forest officers who may already face significant demands during the fire risk season.

Eastern Victoria has traditionally seen compliance efforts for forest products in State forests directed towards sawlog harvesting. Field personnel skilled in this activity have been employed primarily by VicForests since 2004, and are responsible for the forest areas allocated to timber production. Firewood compliance and enforcement over the remaining public land estate is the responsibility of DSE.

DSE also undertakes education programmes to raise awareness of regulatory requirements. The department intends to continue promoting information regarding

domestic firewood collection for recreational forest users. In the past these have occurred during busy periods and involve provision of information at kiosks where users are informed of their rights and responsibilities. In relation to firewood collection, an education program has been implemented in the Bendigo area aimed at reducing illegal harvesting.

Overall, DSE advise that under the current Regulations compliance by commercial firewood cutters and beekeepers is high, while compliance by cattle graziers is more variable but generally high. While compliance concerning domestic firewood collection is not known, it could be expected that there is a considerable element of non-compliance (see footnote 20).

Penalties

Proposed Regulation 9 contains prescribed terms and conditions that attach to all licences issued under section 52 of the Act which can be the subject of criminal enforcement under section 52(4) and may be subject to a penalty of up to 50 penalty units and/or one year imprisonment (section 97 of the Act). Failure to comply with a condition of a licence may result in suspension of the licence, or with the approval of the Minister, cancellation of the licence (section 52(5)).

The proposed Regulations contain four infringement penalties, which seek to improve enforcement and provide government agencies with flexibility for minor offences. They are used to address the effect of minor law breaking with minimum recourse to the machinery of the formal criminal justice system. In addition, if an agency believes a person has committed an offence but decides an infringement notice is not appropriate, they can issue an official warning in writing (with particular details outlined in the Infringements (Reporting and Prescribed Details and Forms) Regulations 2006).

Table 17 below contains the penalty infringements contained in the proposed Regulations, which are aimed to improve flexibility with respect to compliance. The appropriateness of these infringement penalties and their levels was discussed with the Infringement System Oversight Unit in the Department of Justice.

Table 17: Summary of Penalties contained in the Proposed Regulations

Regulation	Penalty Units	Dollar (\$) Equivalent*
Regulation 7 - An owner or person in charge of cattle must not enter any part of a reserved forest with the cattle or allow cattle to remain in any part of a reserved forest without a permit in writing from the Secretary, and must comply with the restrictions and conditions contained in that permit.	20	\$2,336.40
Regulation 12(3) – The holder of a licence must report details of forest produce they take cut, dig, or take away.	10	\$1,168.20
Regulation 12(4) – The holder of a licence must provide the declaration within 14 days after receiving a request from the Secretary.	10	\$1,168.20
Regulation 12(5) – The holder of a licence must not make a false or misleading statement in the declaration.	10	\$1,168.20

Implementation

The current Regulations have been in operation for ten years and stakeholders are familiar with them. Given that the proposed Regulations are substantially similar to the current arrangements, no implementation or transitional issues are expected to arise.

The Forest Produce Sales System (FPSS), established in September 2008, is an electronic database which records the sale of forest produce sourced from public land within Victoria. Sales prior to September 2008, or sales undertaken in regions where staff resources and expertise with the FPSS is limited, are recorded on the DSE Oracle Finance Database. It is intended that all permits and licences will be recorded on the FPSS. This system will gradually improve the capacity to detect excessive harvesting using domestic permits and it is intended that all permits and licences will be recorded on the FPSS.

8. EVALUATION STRATEGY

Key points

- It is not anticipated that the proposed Regulations will require a formal review once they are in place. This is because:
 - the current Regulations have been in operation for ten years with no amendments, and their operation has received broad support from stakeholders; and
 - broader forest policy has been extensively reviewed in recent years, and DSE is currently undertaking a review concerning the pricing and distribution of firewood from public land in Victoria. At a higher level, the performance of the sustainable management of Victoria's forest is comprehensively reviewed against *Criteria and Indicators for Sustainable Forest Management in Victoria*.

The *Subordinate Legislation Act 1994* revokes statutory rules following ten years of operation which allows the government to examine whether there is still a problem that requires government intervention, and to take account of any changes or developments since the regulation was implemented. When regulations are remade, the government assesses whether the objectives of the regulation are being met, whether practical experience suggests ways in which they can be improved, or whether a different regulatory approach is warranted. Final development of the regulations is informed by public input through the RIS process.

Given that the current Regulations have been in operation for ten years with no amendments and the operation (as opposed to policy aspects) has received broad acceptance from stakeholders, it is not proposed to formally review the proposed Regulations following their remaking. However, DSE monitors the overall regulatory regime regarding forests and should any issues arise the department will take appropriate action.

That said, at a higher level, the sustainability of Victoria's forests are comprehensively reviewed and measured on an on-going basis. Victoria has adopted the criteria and indicators for sustainable forest management, which are consistent with the Montréal Process, and complement the *Framework of Regional (Sub-National) Level Criteria and Indicators of Sustainable Forest Management in Australia*. The 45 indicators inform Victorians on progress toward sustainable forest management. Performance against each indicator is reported on a five-yearly basis through *Victoria's State of the Forests Report*.⁷⁵

Related, but separate to the RIS process, DSE has recently released a Discussion Paper to examine an efficient and practical pricing and distribution system for firewood sourced from public land in Victoria. This paper will examine cost recovery options, simplicity and effectiveness of administration and the ability to

⁷⁵ The State of Victoria, 2007, *Criteria and Indicators for Sustainable Forest Management in Victoria* Guidance Document Department of Sustainability and Environment, Melbourne

achieve compliance with the regulatory framework for sustainable forest management while requiring minimal increases in compliance effort and cost. It is anticipated that this Discussion Paper will lead to the preparation of a Firewood Strategy for Public Land during 2010.

DSE has also announced that it will undertake a comprehensive review of the fees and royalties associated with forest produce, and as part of this process will release a discussion paper for public comments in late 2009/early 2010.

Finally, the Forests and Parks division of DSE is currently conducting internal reviews of the effectiveness and administrative efficiency with respect to overall regime regulating firewood collection and cattle grazing. A prime objective of these reviews is to improve the clarity of these arrangements, which should in turn improve compliance and enforcement.

9. CONSULTATION

Development of the proposed Regulations was informed by feedback from key stakeholders. An Exposure Draft of the proposed Regulations was circulated to the Firewood Association of Australia Inc, Mountain Cattlemen's Association of Victoria, Victorian Apiarists Association, and Victorian Farmers Federation. These organisations generally welcomed the simplified regulations and raised no objections, other than a comment provided by the Mountain Cattlemen's Association of Victoria (MCAV).

The MCAV submitted that proposed Regulation 13(3), which requires that a licence holder must notify the Secretary within fourteen days of removal of cattle from the reserves forest area under license, is also sufficient to cover proposed Regulation 13(5). The latter requires that a licence or permit holder must notify the Secretary fourteen days before any mustering of the cattle occurs.

The MCAV note that there may be reasons why cattle need to be removed from a forest at short notice. These include the threat of fire, stock health or welfare, or lack of feed or water. In addition, cattle are also known to return to the 'home' property of their own accord and may cause the owner to inadvertently breach the regulations.

DSE accepts the MCAV's argument and notes that there is no intent to create an offence for the depasturing or removal of cattle from a licence area without prior notification. The regulation refers to mustering, that is the gathering together of cattle for management purposes (e.g. drenching, marking) without removal. Mustering of cattle can cause significant localised impacts including soil compaction and erosion. The department has subsequently changed the fourteen day notification requirement to a requirement for written authority.

The RIS is publicly available on the DSE website at www.dse.vic.gov.au/forests and will be advertised in the Herald-Sun on 30 September 2009 as well as other regional newspapers, and placed in the Victorian Government Gazette. Copies of the RIS have been forwarded to the following organisations inviting comments:

- Firewood Association of Australia;
- Victorian Association of Forest Industries;
- Construction, Forestry, Mining and Energy Union – Forestry Division;
- Timber Communities Australia – Victoria
- Victorian Apiarists Association
- Victorian Farmers Federation
- Field Naturalists Clubs of Victoria
- Mountain Cattlemen's Association of Victoria

The RIS represents another step in the consultation process and DSE welcomes comments or suggestions with respect to the nature, extent, and likely impacts of the proposed Regulations, and any variations that may improve the overall quality of the proposed Regulations.

The *Subordinate Legislation Act 1994* requires that the public be given at least 28 days to provide comments or submissions regarding the proposed Regulations. Written comments are required by no later than **5.00pm, 28 October 2009**.

10. CONCLUSION

The RIS concludes that the proposed Regulations result in net benefits to society which are greater than the practicable alternatives identified in the RIS. In the context of the direct and indirect values provided by Victorian State forests (which can be measured in the hundreds of millions of dollars), the annual undiscounted costs of the proposed Regulations of around \$1.6 million are negligible, while the average cost imposed on a forest business is in the order of \$64 per annum.

The analysis in the RIS supports the proposed Regulations as the preferred option compared to the practicable alternatives. This finding was concluded against the decision criteria described in section 4.2.4 of the RIS; that is, while the quantifiable costs are largest compared to the other options (a discounted cost over a ten-year period of around \$13.2 million), the likely benefits (many of which are intangible) of the regulations are assessed as exceeding the costs. Most importantly, the proposed Regulations are assessed as the most effective in achieving the government's policy objectives as articulated in *Our Forests, Our Future*, the *Sustainability Charter for Victoria's State forests*, the *Environmental Policy for Victoria's State forests* and in the Act.

The main reasons why the alternatives are not preferred to the proposed Regulations relate to inferior compliance and enforcement, and because they do not strike an appropriate balance between managing the multiple roles of State forests.

The proposed Regulations are relatively narrow in focus and prescribe specific elements of the Act. These include prescribing the form and information to be included in an application for a licence, imposing conditions on licences, managing certain behaviour in forests, and prescribing brands uses for marking trees. Compliance with the regulations is not difficult or costly. Stakeholders are familiar with the forms and procedures, and the proscribed behaviours are generally aberrant rather than the conduct shown by the vast majority of licence holders and forest users.

In terms of the incidence of costs and benefits, the direct costs associated with the proposed Regulations will be mostly borne by licensees; however, given that persons voluntarily apply for licences, implicit in their decision making process is that the benefit they derive from being licensed to harvest or use forest produce outweighs the direct costs. The indirect benefits associated with the proposal will mostly accrue to users and future users of Victoria's forests, as well as the broad community from the non-use value of forest products.

Around 99 per cent of businesses affected by the proposed Regulations are small business, and most of these are located in rural and regional Victoria. The impact of the proposed Regulations will therefore fall disproportionately on small business, but within the small business segment the impact will fall relatively equally.

The National Competition Council has reviewed state legislation restricting activities in State forests, and points out that there is a sound public interest rationale for government intervention in public forests. None of the viable options

identified in the RIS restriction competition. The proposed Regulations are considered to meet the ‘competition test’ as set out in the *Victorian Guide to Regulation*.

Since the proposed Regulations do not impose any new information, reporting or recording keeping obligations on business, the regulatory changes in the proposed Regulations will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

The proposed Regulations are broadly consistent with the objectives and actions in other jurisdictions, however there are some state specific variations that take into account the differences in forest environments.

This Regulatory Impact Statement concludes that:

- **the benefits to society of the proposed Regulations exceed the costs;**
- **the net benefits of the proposed Regulations are greater than those associated with any practicable alternatives;**
- **the proposed Regulations do not impose restrictions on competition;**
and
- **the proposed Regulations will not lead to a material change in the administrative burden on industry.**

* * * * *

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ATTACHMENTS

Attachment A

BOX 1: EXTERNALITIES – TRAGEDY OF THE COMMONS

Tragedy of the Commons

‘Tragedy of the commons’ refers to a dilemma in which multiple individuals acting independently in their own self-interest can ultimately destroy a shared limited resource even where it is clear that it is not in anyone’s long term interest for this to happen.

The concept uses a metaphor of herders sharing a common parcel of land (the commons), on which they are all entitled to let their cows graze. It is in each herder’s interest to put as many cows as possible onto the land, even if the commons is damaged as a result. The herder receives all of the benefits from the additional cows, while the damage to the commons is shared by the entire group. If all herders make this individually rational decision, however, the commons is destroyed and all herders suffer.

The herders are assumed to wish to maximize their yield, and so will increase their herd size whenever possible. The utility of each additional animal has both a positive and negative component:

- Positive: the herder receives all of the proceeds from each additional animal.
- Negative: the pasture is slightly degraded by each additional animal.

Crucially, the division of these costs and benefits is unequal: the individual herder gains all of the advantage, but the disadvantage is shared among all herders using the pasture. Consequently, for an individual herder the rational course of action is to continue to add additional animals to their herd. However, since all herders reach the same rational conclusion, overgrazing and degradation of the pasture is its long-term outcome. Nonetheless, the rational response for an individual remains the same at every stage, since the gain is always greater to each herder than the individual share of the distributed cost. The overgrazing cost here is an example of an externality.

The tragedy of the commons can be applied to environmental issues such as sustainability. The commons dilemma stands as a model for a great variety of resource problems in society today, such as water, land, forestry, fish, and non-renewable energy sources like oil and coal.

The Tragedy of the Commons concept was developed by Garrett Hardin and first appeared in the journal *Science* in 1968.

Source: Hardin G, *Science*, 13 December 1968, Vol. 162. No. 3859, pp. 1243 – 1248

Attachment B

DESCRIPTION OF PROPOSED STATUTORY RULE

Machinery Regulations – Regulations 1 to 5

Regulations 1 to 5 are machinery regulations and set out the objectives, authorising provision, commencement, revocation and definitions.

Specifically, proposed **Regulation 1** provides that the objectives are to prescribe certain acts which may not be done within a reserved forest without a licence, permit or authority; the manner in which applications for licences and permits must be made, and the terms and conditions of those licences and permits; and the mode of branding of forest produce.

Proposed **Regulation 2** provides that the regulations are authorised to be made under section 99 of the *Forests Act 1958*.

Proposed **Regulation 3** provides that the proposed Regulations will come into operation on 13 December 2009.

Proposed **Regulation 4** revokes the Forests (Licences and Permits) Regulations 1999 and Parts 2 and 5 and regulations 8 and 10 of the Forests (Miscellaneous) Regulations 2000.

Proposed **Regulation 5** provides definition for the proposed Regulations. It defines the ‘Act’ as meaning *Forests Act 1958*, ‘bull’ as an uncastrated male bovine over nine months of age, ‘holder’ as meaning the holder of a licence or permit, and ‘licence or permit’, which means any licence or permit granted to a person by the Secretary under section 52 of the Act.

Offences within a Reserved Forest – Regulations 6 to 8

Proposed **Regulation 6** sets out a range of acts that a person must not do in a reserved forest, unless they have written authority of the Secretary. These acts include leaving any gate, slip, panel or portion of any fence open within or on the boundary of the forest, or damaging or removing gate, panel, rail, cattle ramp, cattle pit or the hinge, lock, catch or fastening on any gate or gate post.

In addition, a person must not enter into or remain in any experimental area, tree nursery, plantation or portion thereof which is fenced if the person knew or ought reasonably to have known that entry was prohibited, damage or interfere with or hinder the operation of any experimental equipment used in connection with research activities. It is also an offence to fell any tree which bears an inscribed survey mark or deface the mark, or sell or offer for sale any goods, things or services.

The regulation also provides a definition of experimental area and experimental equipment for the purposes of this regulation.

Proposed **Regulation 7** provides that an owner or person in charge of cattle must not enter any part of a reserved forest with the cattle or allow cattle to remain in any part of a reserved forest without a permit in writing from the Secretary. If a person has a permit they must comply with the restrictions and conditions contained in that permit. Failure to do so may attract a penalty of 20 penalty units.

Licences and Permits – Part 3.

Proposed **Regulation 8** prescribes the form and details to be included on a licence or permit. This regulation requires that an application must include the name and address of the applicant, specify the purpose for which the licence or permit is required, and specify the forest block or area for which the licence or permit is required. Further; if requested by the Secretary, an application must specify any additional information relating to the application. All applications must be lodged with the Secretary.

Proposed **Regulation 9** imposes terms and conditions on all licences and permits. It is a term and condition of all licences and permits that the holder must ensure that any damage to, or obstruction of, any road, track, fire break, culvert, drain, water race, dam, building, bridge or other structure, or any obstruction or pollution of any reservoir, river, stream or watercourse caused by the holder or his or her employees is rectified by the holder at his or her own expense to the satisfaction of, and within the time specified by, the Secretary. In addition, a holder must not, without written authority from the Secretary, sow any seed or attempt any cultivation or pasture improvement; must not use any poison, insecticide or agricultural spray; and must not construct or alter any landing, building, fence, gate, ramp or other structure. Finally, the holder must pay to the Secretary all royalties, dues, fees or charges payable in respect of the land or forest produce specified in the licence or permit.

Proposed **Regulations 10 and 11** impose terms and conditions on licences in relation to cutting, digging and the taking away of forest produce. A licence holder must ensure that only those trees, or groups of trees, that the Secretary has branded or otherwise specified, are felled or taken. A licence or permit holder must also comply with the requirements of the Code of Practice for Timber Production 2007 approved under the *Conservation, Forests and Lands Act 1987*. In addition, a licence or permit holder must ensure that any requirements of the Secretary with regard to the removal or disposal of any structure, debris, materials or residue arising from the cutting, digging or taking away of forest produce are carried out, and within the time specified by the Secretary.

Proposed **Regulation 12** sets up the reporting requirements of licence and permit holders. The Secretary may request the holder of a licence to cut, dig or take away forest produce to make a declaration in a form approved by the Secretary. Such a request must be in writing and specify the period to which the declaration is to relate. The holder of a licence to cut, dig or take away forest produce must provide a declaration under this regulation to the Secretary within 14 days.

The holder of a licence to cut, dig or take away forest produce must make the declaration, and include in the declaration in respect of the specified period the

quantity and description of forest produce cut, dug or taken away by the holder of the licence; the marking or identification of that forest produce; the location from which that forest produce was taken; the place or places to which that forest produce is consigned; and any other information relating to the cutting, digging and taking away of forest produce required by the Secretary. Failure to comply with the requirements in this regulation may attract a penalty of 10 penalty units.

Proposed **Regulation 13** sets out the terms and conditions of licences and permits in relation to grazing cattle. These conditions seek to ensure that a holder does not admit cattle to any area of reserved forest without providing prior notice to an authorised officer. The holder must also advise the Secretary in writing before any cattle are admitted to an area of reserved forest of the number, the sex, and the identification marks of those cattle.

In addition, a holder must obtain the authority of the Secretary before mustering any cattle that are depastured under the licence or permit, and advise the Secretary in writing within 14 days following removal of any cattle that are depastured under the licence or permit. Finally, the holder must meet any costs associated with mustering or removal of any cattle that are depastured in an area of reserved forest.

With respect to proposed Regulations 9, 10, 11 and 13, under section 52(4) of the Act it is an offence for the holder to fail to comply with a prescribed term or condition of a licence or permit.

Brands for Forest Products – Regulations 14 to 16

Proposed **Regulation 14** prescribes the ordinary brands to be used by authorised officers for the purpose of branding forest produce. These are the crown brand and the broad arrow.

Proposed **Regulation 15** prescribes the use of the crown brand and proposed **Regulation 16** prescribes the use of the broad arrow. The crown brand is to be used to mark trees as an indication that felling of those trees is approved, and to indicate that the removal of forest produce from a State forest has been authorised under the Act. It is also used to indicate that a log has been graded by an authorised officer or to indicate the release of forest produce which has been seized under the Act. The broad arrow brand is used to mark trees in a timber harvesting area which are not to be felled, or to indicate forest produce which has been seized under the Act. It also indicates that forest produce that has been lawfully cut or obtained is not to be removed until the brand is obliterated with the crown brand. Only authorised officers may use these brands.

Proposed **Regulation 17** requires a holder of a licence or permit to cut and take away forest produce issued or granted under section 52 of the Act, if required to do so by the Secretary, to submit a distinctive brand for registration with the Secretary.

TYPE AND INCIDENCE OF COSTS

Regulation	Type of Cost	Affected Parties
Regulation 6 – Offences within reserved forest	Compliance	Any person within a reserved forest. This regulation seeks to modify behaviour.
Regulation 7 – Entry of cattle into reserved forest	Compliance	An owner or person in charge of travelling cattle in a reserved forest.
Regulation 8 – Control of cattle in reserved forest	Compliance	Owner or person in control of cattle in a reserved forest.
Regulation 9 – Application for licences and permits	Administrative	Licence applicants include commercial timber harvester, persons collecting wood for domestic use, cattle graziers, beekeepers, commercial quarry operators, etc.
Regulation 10 – Terms and conditions of all licences and permits	Compliance	Licensees, as above. This regulation seeks to modify behaviour.
Regulation 11 – Terms and conditions of licences to cut, dig and take away forest	Compliance	Timber businesses, individual fire wood collectors.
Regulation 12 – Reporting requirements of licence holders	Administrative	Licence holders include commercial timber harvester, cattle graziers, and beekeepers
Regulation 13 – Terms and conditions of licences and permits to graze cattle and graze cattle under agistment	Compliance	Cattle graziers
Regulation 14 – Brands for forest produce	Compliance	Commercial timber operators and persons collecting wood for domestic use.
Regulation 15 – Use of crown brand	Compliance	Commercial timber operators and persons collecting wood for domestic use.
Regulation 16 – Use of broad arrow	Compliance	Commercial timber operators and persons collecting wood for domestic use.
Regulation 17 – registration of brand.	Administrative	Commercial timber harvesters

Note: Regulations 1 to 5 are machinery regulations and as such do not impose costs.

Attachment C

COMPARISON OF CURRENT REGULATIONS WITH PROPOSED REGULATIONS

The current Regulations will sunset on 14 December 2009 and are being remade. This afforded DSE with the opportunity to improve the formatting of the drafting in the current Regulations, remove obsolete provisions, and consolidate regulations from the Forest (Miscellaneous) Regulations 2000, which will be revoked when the proposed Regulations commence.

The current Regulations have been re-formatted to remove duplication between sections. For example, the current Regulations include as a term and condition that the payment of royalties is required in 7(3), 11(4) and 12(8). A similar regulation relating to the construction of buildings and structures was duplicated into 8(4), 11(3) and 12(7). These regulations should apply across all licences and permits.

The word ‘dig’ is inserted into a licence ‘to cut, dig, and take away forest produce’ in order to harmonise the regulations with the Act.

Conditions on bee farm and bee range licences have been removed from the proposed Regulations. These conditions were removed because of the potential for confusion between the *Forests Act 1958* and the *Land Act 1958*, which also deals with bee farms and places conditions on them. Similarly, saw miller’s returns have been removed from the proposed Regulations. This regulation has not been used since the creation of VicForests in 2004.

A number of changes have been made with respect to cattle grazing in response to experience gained over the last ten years as well as an internal review. The proposed revised conditions are intended to be more practical, reducing the reporting requirements and the need for the presence of an authorised officer when cattle are admitted to an area of a reserved forest.

COMPARISON OF CURRENT REGULATIONS WITH PROPOSED REGULATIONS

Proposed Regulation	Description	Current Regulation	Comparison
1	Objectives	1	The objectives have been expanded to include the branding and forest products as a result of the incorporation of the relevant regulations from the Forests (Miscellaneous) Regulations 2009. The objectives have also been clarified to mention that certain acts may not be done within a reserved forest without a licence, permit or authority.
2	Authorising provision	2	The proposed regulations clarify that the authorising provision is contained in section 99 of the Act.
3	Commencement	3	This regulation states the relevant commencement date.
4	Revocation	4	This regulation revokes the current regulations and Forests (Miscellaneous) Regulations 2009.
5	Definitions	5	To remove any ambiguity a definition of ‘holder’, which means a holder of a licence or permit, has been added to the definitions.
6	Offences within reserved forest	8 (Misc)	The proposed Regulation has been reformatted to improve its clarity.
7	Entry of cattle into reserved forest	10(Misc)	No change has been made to this regulation.
8	Application for licences and permits	6	The proposed regulation has the same wording as the current regulation. (Note: where ‘licence’ is mentioned in the current Regulations, for greater certainty the proposed regulations mention ‘licence or permit’.
9	Conditions of all licences and permits	7, 8(4), 12(9), 12(10)	General terms and conditions have been consolidated into a single Regulation to improve its clarity. The wording is similar, or in most

			cases, the same as the current Regulation.
10	Conditions of licences to cut, dig and take away forest produce	8, 10	The proposed regulation has consolidated current regulations 8 and 10, and has been re-written to improve its clarity.
11	Conditions of licences or permits to cut and take away forest produce		The regulation is substantially the same as the existing regulation 10.
12	Reporting requirements of licence holders	9	No change has been made to this regulation.
13	Conditions of licences and permits to graze cattle and graze cattle under agistment	12	The proposed regulation has been redrafted to improve its clarity and is substantially similar to current regulation 12.
14	Brands for forest produce	4(Misc)	No change has been made to this regulation.
15	Use of crown brand	5(Misc)	No change has been made to this regulation.
16	Use of broad arrow	6(Misc)	No change has been made to this regulation.
17	Licensee's brand	7(Misc)	No change has been made to this regulation.

* (Misc) means Forest (Miscellaneous) Regulations 2000

ASSUMPTIONS

1. The discount rate used in the RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the *Victorian Guide to Regulation* (Section C.3, p. C-9)
2. The cost of an applicant's time used to calculate administrative costs' is \$54.55, which is the 'average' hourly rate contained in the *Victorian Guide to Regulation* in relation to valuing staff time (Section C.2.1, p. C-5).
3. The largest cost associated with the proposed Regulations concerns the preparation of licence applications. Based on discussions with DSE and a desktop exercise it is assumed that applications take one hour to complete. The annual cost associated with filling in applications based on the assumed time taken to complete an application is therefore \$151,049 (i.e., \$54.55 (tariff) x 1 hour (time) x 2,769 (population) x 1 (frequency – annual application)).
4. An estimated 34,000 tonnes of domestic firewood is collected under the permits annually. This equates to approximately 54,290 cubic metres of stacked timber. DSE advise that it is reasonable to assume that an average of 2.5 cubic metres are collected under each permit. Therefore, it is assumed that 21,715 domestic firewood permits are issued.

It is also assumed that it takes domestic firewood permit holders 30 minutes travel time to obtain this permit. This is consistent with DSE's general estimate that the costs associated with more than 50kms travel (e.g., to fuel costs and time) would make the domestic firewood permit un-economic. Permits can be purchased from designated DSE offices and nominated retail outlets across the state. The agents have been established to ensure the public have appropriate opportunity throughout the week, including weekends, and reasonable travelling distances in order to purchase a permit. This assumption is conservative given that the likelihood that permits holder combine other activities with this travel. For example, the most common outlets include service stations, general stores and hardware stores.

Given these assumptions, an annual costs of \$592,277 (implied by travel time) is estimated (i.e., \$54.55 (tariff) x 30 minutes (time) x 21,715 (population) x 1 (frequency – single use)).

5. Declaration to Secretary under proposed Regulations 12(1) are not common. Such declarations are usually made in respect to possible breaches of a licence condition when prosecution or proceeding are likely. Therefore, an estimate of 15 per annum is considered conservative (in recent years no declarations have been made). The declaration must be made in writing in the approved form. DSE advise that given the form and information requirements specified, such declarations should take no more than two hours to prepare. These assumptions result in an estimated an cost \$1,637 (i.e., \$54.44 (tariff) x 2 hours (time) x 15 (frequency – per annum)).
6. Under Regulation 13 a person with a cattle grazing licence must provide details (the number, sex and identification marks) in writing of the cattle to the Secretary (but in practice to a DSE officer by delegation). DSE advise that businesses normally would have this information already compiled as part of their normal operations (i.e., the normally

efficient business would keep records of its cattle it intended to put out to graze). Hence, it was assumed the cost of assembling and transmitting this information (i.e., by post or email) would be encapsulated by allocating 30 minutes to this requirement. This results in an annual cost of \$12,028, i.e., \$54.55 (tariff) x 0.5 hours (time) x 441 (population) x 1 (frequency).

This regulation also requires that a licensee notifies DSE by telephone when cattle are entered or removed from a forest. The tariff for this sub-regulation represents the cost of a phone call and the time taken to make this call (Telstra Payphone 50 cents plus 5 minutes of licensee's time at \$54.55 per hour), which provides an estimate of \$5.05 for each notification. It is assumed that this occurs 882 times per annum, providing an annual cost of \$4,450.

7. It proved extremely difficult to estimate the net cost to government for administering Forest Product Licences. This is because there is no separate fee attached to licence applications. To obtain a Forest Product Licence a royalty fee must be paid based on the amount of timber extracted, number of hives, or area of grazing. This fee implicitly contains an embedded charge for processing applications. However, under the current arrangements it is not possible to disaggregate the administrative element from the resource rent element. It is expected that greater clarity in relation to fees and royalties will be achieved when DSE undertakes its review of the fees and royalties associated with forest produce. As part of this process DSE will release a discussion paper for public comments in late 2009/early 2010.

For the purposes of calculating the cost of administering section 52 licences and domestic firewood permits, a number of assumptions were made. It was estimated that the cost of processing licences cost per annum was \$45,009. This is based on a tariff of \$48.76 (an average of the casual hourly rate (from 1 October 2008) applicable to a VPS Grade 2 (\$24.10 per hour) and VPS Grade 3 (\$31.63 per hour) officer. This average was grossed up by a factor of 1.75 to allow for salary on-costs and overheads. See Victorian Guide to Regulation, Section C.2.1, p. C-4.), 20 minutes to process each licence, multiplied by 2,769 licensees (the number of licensees in 2008). Similarly, the cost of processing domestic firewood permits was estimated to be \$58,828 annually. This estimate was based on a tariff of \$48.76 multiplied by 5 minutes taken to issue each permit. The estimated 14,477 domestic firewood permits issued by DSE (i.e., two-thirds of the estimated total of 21,715) provides to total costs.

The cost associated with enforcement was estimated to be \$715,545 per annum. This is based on a tariff of \$61.94 (an average of the casual hourly rate (from 1 October 2008) applicable to a VPS Grade 3 (\$31.63 per hour) and VPS Grade 3 (\$39.16 per hour) officer. This average was grossed up by a factor of 1.75 to allow for salary on-costs and overheads. See Victorian Guide to Regulation, Section C.2.1, p. C-4.). There are 304 authorised DSE officers who may enforce the regulations. It proved extremely difficult to estimate the time these officers spent enforcing the regulations. This is because they administer a considerable range of other legislation and various regulations, and specifically attributing enforcement costs to any particular regulation is difficult. In this regard, most enforcement activities arise from the Act rather than the regulations.

That said, based on discussions with DSE it is assumed that 38 hours (i.e., one week per annum) is spent by authorised officers enforcing the regulations. **It should be highlighted that this cost is the largest cost associated with the proposed Regulations, and therefore the total costs in the RIS are particularly sensitive to this assumption.**

COST CALCULATIONS OF PROPOSED REGULATIONS

Summary of Costs of Proposed Forests (Licences and Permits) Regulations 2009, 10-Year Assessment Period	
Costs imposed on licence and permit holders	
Cost to Businesses	Cost (\$)
Regulation 9 - Application for licences and permits	6,239,517
Regulation 12 - Reporting Requirements of licence holders	13,922
Regulation 13 – Provision of advice to Secretary with respect to grazing cattle	137,047
Sub-total	6,390,486
Cost to Government	
Government administration and enforcement costs	6,814,479
Total	13,204,965

1. Costs have been discounted.

Costs of Proposed Forests (Licences and Permits) Regulations 2009					
Price		Quantity		Administrative Cost	
Regulation 9 - Application for licences and permits					
	<i>Tariff</i> ¹	<i>Time (hours)</i> ²	<i>Population</i> ³	<i>Frequency</i> ⁴	
Preparation of applications	54.55	1.0	2,769	1	151,049
Postage	2.50		2,769	1	6,923
Domestic firewood permits	54.55	0.5		21,715	592,277
				Total	\$750,248
Discounted (10-Years)					
Year	Administrative Cost (\$)				Discounted Administrative Cost (\$) ⁵
1	\$750,248				\$724,877
2	\$750,248				\$700,365
3	\$750,248				\$676,681
4	\$750,248				\$653,798
5	\$750,248				\$631,689
6	\$750,248				\$610,327
7	\$750,248				\$589,688
8	\$750,248				\$569,747
9	\$750,248				\$550,480
10	\$750,248				\$531,865
				Total	\$6,239,517

Notes:

- The cost of an applicant's time used to calculate 'administrative costs' is \$54.55 per hour, which is based on the methodology contained in the Methodology and Value for Staff Time in BIA/RIS Analysis in the Victorian Guide to Regulation. Postage costs are assumed to be \$2.50, which is the cost of an Australia Post C4 pre-paid envelope.
- A desktop exercise and discussions with DSE suggest that an application form would take around 60 minutes to complete.
- The populations includes: 441 grazing licences, 1704 apiary licences and rights, 209 water supply licences, 263 miscellaneous licences
- Applications are made annually.
- The discount rate used in this RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the *Victorian Guide to Regulation* (Section C.3, p. C-9)
- Figures may not add due to rounding.

Costs of Proposed Forests (Licences and Permits) Regulations 2009					
Price		Quantity		Administrative Cost	
Regulation 12 - Reporting Requirements of licence holders					
	<i>Tariff¹</i>	<i>Time (hours)²</i>	<i>Population</i>	<i>Frequency³</i>	
Provision of declaration to Secretary	54.55	2.0		15	1,637
Postage	2.50			15	38
				Total	\$1,674
Discounted (10-Years)					
Year	Administrative Cost (\$)				Discounted Administrative Cost (\$)⁴
1	\$1,674				\$1,617
2	\$1,674				\$1,563
3	\$1,674				\$1,510
4	\$1,674				\$1,459
5	\$1,674				\$1,409
6	\$1,674				\$1,362
7	\$1,674				\$1,316
8	\$1,674				\$1,271
9	\$1,674				\$1,228
10	\$1,674				\$1,187
				Total	\$13,922

Notes:

- The cost of an applicant's time used to calculate 'administrative costs' is \$54.55 per hour, which is based on the methodology contained in the Methodology and Value for Staff Time in BIA/RIS Analysis in the Victorian Guide to Regulation. Postage costs are assumed to be \$2.50, which is the cost of an Australia Post C4 pre-paid envelope.
- A declaration under the regulation is similar to preparing a statutory declaration. DSE usually requests declaration as part of an investigation of a licensee. The time taken will vary according to the Secretary's request, however to be conservative an estimate of 2 hours is assumed.
- A request for a declaration is not common with around 10 to 15 occurring annually.
- The discount rate used in this RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the *Victorian Guide to Regulation* (Section C.3, p. C-9)
- Figures may not add due to rounding.

Costs of Proposed Forests (Licences and Permits) Regulations 2009					
Price		Quantity		Administrative Cost	
Regulation 13 – Provision of advice to Secretary with respect to grazing cattle					
Description	Tariff ¹	Time (hours) ²	Population ³	Frequency ⁴	
13(b) - identification of cattle	\$4.55	0.50	441	1	12,028
13(c) - obtaining authority to muster	5.05		441	1	2,225
13(d) - advise Secretary of removal of cattle	5.05		441	1	2,225
Total					\$16,479

Discounted (10-Years)					
Year	Administrative Cost (\$)				Discounted Administrative Cost (\$) ⁵
1	\$16,479				\$15,921
2	\$16,479				\$15,383
3	\$16,479				\$14,863
4	\$16,479				\$14,360
5	\$16,479				\$13,875
6	\$16,479				\$13,405
7	\$16,479				\$12,952
8	\$16,479				\$12,514
9	\$16,479				\$12,091
10	\$16,479				\$11,682
Total					\$137,047

Notes:

- The cost of an applicant's time used to calculate 'administrative costs' is \$54.55 per hour, which is based on the methodology contained in the Methodology and Value for Staff Time in BIA/RIS Analysis in the Victorian Guide to Regulation. The tariffs for sub-regulations 13(c) and 13(d) represent the cost of a phone call (Telstra Payphone 50 cents plus 5 minutes of licensee's time at \$54.55 per hour) to DSE.
- This task is usually undertaken and submitted with the application. A normally efficient business would already have details of its cattle, and therefore DSE advises that this task should take no longer than 30 minutes.
- There are currently 441 holders of cattle grazing and agistment licences.
- Licences are issued annually.
- The discount rate used in this RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the *Victorian Guide to Regulation* (Section C.3, p. C-9)
- Figures may not add due to rounding.

GOVERNMENT ADMINISTRATIVE AND ENFORCEMENT COSTS

Costs of Proposed Forests (Licences and Permits) Regulations 2009					
Price		Quantity			Administrative Cost
Government Administrative and Enforcement Costs					
<i>Administration</i>					
	<i>Tariff</i> ¹	<i>Time (hours)</i> ²	<i>Population</i> ³	<i>Frequency</i> ⁴	
Processing and administration of section 52 licences	48.76	0.33	2,769	1	45,009
Administration of domestic firewood permits	48.76	0.08	14,477	1	58,828
				<i>Sub-total</i>	<i>103,837</i>
<i>Enforcement</i>					
Annual DSE Enforcement costs	61.94	38.00	304		715,545
				Total	\$819,382

Discounted (10-Years)					
Year	Administrative Cost (\$)	Enforcement Costs \$			Discounted Government Costs (\$) ⁵
1	\$103,837	\$715,545			\$791,674
2	\$103,837	\$715,545			\$764,902
3	\$103,837	\$715,545			\$739,036
4	\$103,837	\$715,545			\$714,044
5	\$103,837	\$715,545			\$689,898
6	\$103,837	\$715,545			\$666,568
7	\$103,837	\$715,545			\$644,027
8	\$103,837	\$715,545			\$622,248
9	\$103,837	\$715,545			\$601,206
10	\$103,837	\$715,545			\$580,876
				Total	\$6,814,479

Notes:

- The tariff for administration costs represents an average of the casual hourly rate (from 1 October 2008) applicable to a VPS Grade 2 (\$24.10 per hour) and VPS Grade 3 (\$31.63 per hour) officer. This average was grossed up by a factor of 1.75 to allow for salary on-costs and overheads (see Victorian Guide to Regulation, Section C.2.1, p. C-4). This provides a tariff of \$48.76. The tariff for enforcement costs is calculated on the same basis but represents an average of the VPS Grade 3 (\$31.63 per hour) and VPS Grade 4 (\$39.16 per hour) rates, which a grossed up by a factor of 1.75. This provides a tariff of \$61.94 per hour.
- Time taken to process applications vary between licence category. DSE considers 20 minutes is a reasonable average time for this process. Processing a domestic firewood permit is estimated to take 5 minutes per permit. This requires a DSE officer filling in personal particulars onto a permit and collecting the fee. It is assumed that each enforcement officer spends one week per annum on duties associated with the regulations.
- Number of licensees for 2008. The number of domestic firewood permits issued by DSE is around two-thirds of the total of \$21,715, which provides an estimate processing 14,477 permits. There are 304 authorised officers who are able to enforce the regulations.
- Licences are issued annually.
- The discount rate used in this RIS is 3.5 per cent. In doing so, the RIS adopts the rate published in the *Victorian Guide to Regulation* (Section C.3, p. C-9)
- Figures may not add due to rounding.

STATEMENT OF NO MATERIAL IMPACT

Administrative Burden Statement

In accordance with the *Victorian Guide to Regulation – Measurement of Changes in Administrative Burden* issued by the Treasurer in April 2007, it has been determined that the regulatory costs imposed by the Forest (Licences and Permits) Regulations 2009 (the proposed Regulations) will not lead to a material change in the administrative burden on business or not-for-profit organisations in Victoria.

The proposed Regulations remake the Forest (Licences and Permits) Regulations 1999 and do not impose any new administrative costs (e.g., reporting arrangements, record keeping, or information obligations).