 Regulatory Policy Committee	Validation of the One-in, Two-out Status and the Net Direct Impact on Business	
Validation Impact Assessment (IA)	Underground Access Rights clauses in 2014 Infrastructure Bill – impact on deep geothermal activities	
Lead Department/Agency	Department for Energy and Climate Change	
IA Number	DECC 0179	
Origin	Domestic	
Expected date of implementation	SNR 9	
Date of Regulatory Triage Confirmation	27 March 2014 (RPC14-FT-DECC-2054)	
Date submitted to RPC	22 September 2014	
Date of RPC Validation	30 October 2014	
RPC reference	RPC14-FT-DECC-2227	
<i>Departmental Assessment</i>		
One-in, Two-out status	OUT	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	-£0.52 million	
<i>RPC assessment</i>	VALIDATED	
Summary RPC comments The validation IA is fit for purpose. The proposal reduces regulatory barriers to developing deep geothermal energy, resulting in increased production and, therefore, net benefits to business. Based upon the information provided, the Committee is able to validate the estimated equivalent net benefit to business of 0.52 million each year.		
Background (extracts from IA) What is the problem under consideration? Why is government intervention necessary? <i>“Operators wishing to extract geothermal energy have to negotiate with landowners for underground access rights. This is a time consuming, uncertain</i>		

and potentially costly process. If a landowner refuses access, that project cannot continue.”

What are the policy objectives and the intended effects?

“To simplify the existing procedure for underground access, whilst ensuring that key features, such as payment and notification, are retained.

Nothing in the proposed measures will have any effect on other regulatory or legal provisions including the licencing [sic] regime (water abstraction), planning permission, health and safety regulation and environmental regulation. A parallel impact assessment considers the impact on oil and gas projects of the proposed changes.”

RPC comments

The Department proposes to grant businesses underground access for the extraction of deep geothermal energy resources. (Access to oil and gas is subject to a separate validation.) This will be accompanied by a “voluntary payment” from these businesses. The preferred option is for this to be a “community payment” rather than payments to individual landowners, which would be more costly to administer and negotiate. The proposal includes a “reserve power” to introduce payment in statute if industry reneges on the voluntary agreement. Overall, the Department expects the proposal to reduce barriers to the exploitation of deep geothermal energy resources, resulting in additional production of geothermal energy.

Benefits

The IA assumes that granting underground access will result in two additional geothermal projects proceeding, based on industry advice. The Department calculates the benefits to business as the additional profit from these projects, i.e. revenue minus costs. The price at which the geothermal heat will be sold is based on DECC data on gas prices. Capital and operating costs of geothermal projects are based on evidence provided by industry.

Costs

The IA includes an estimated £25,000 per year for the cost per project/site to business of administering the compensation payment. It would appear that taking a “reserve power” to introduce payment in statute, if industry reneges on the agreement, means that the compensation payment is not truly voluntary. This appears to be accepted by the Department as it has, in calculating the direct costs to business, included the administrative cost of the payment. The treatment of the payment as a transfer is only correct for the calculation of the direct costs to business if the transfer is between businesses and/or civil society organisations.

At the Committee's request, the Department has provided additional information on this issue. This information confirms that these payments are likely to be relatively small. (The current proposal is for a one-off payment of around £20,000 per well.) Moreover, the Department expects this to be paid to a community body for community benefit. This in line with the industry's existing community benefits scheme. On the basis that the payment is likely to be relatively small and a transfer between businesses and/or civil society organisations, the Committee accepts that the exclusion of the payment will not significantly affect the EANCB. The impact assessment should, however, address this issue more directly, incorporating the information provided separately to the Committee.

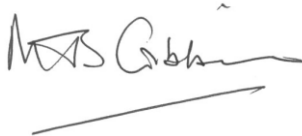
Based upon the IA and supporting cost model (which was provided, upon request, separately to the RPC), the Committee can validate the estimated net savings to business of £0.52 million each year.

Additional Points

The IA would benefit from greater explanation of the "reserve power", which could lead to the introduction of the payment in statute if industry reneged on the "voluntary" agreement. Information provided separately by the Department states that this would involve passing secondary legislation, with its own consultation and IA. In reviewing any such IA, the Committee would expect to see the assumptions regarding community payments revisited and any direct impacts on business scored for OITO purposes

The IA was difficult to follow in places, in particular the section (page 8) on the private costs of finance and the renewable heat incentive (RHI) subsidy. The IA would benefit from greater explanation and clarity in these areas, including on the likely level of subsidies (such as RHI) for geothermal energy.

The IA would benefit from including a summary table of costs and benefits over time, from the cost model. This would help readers to understand better how the overall costs and benefits have been estimated.

Signed		Michael Gibbons, Chairman
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