

Proposed draft AER Compliance Procedures and Guidelines

For gas pipeline service providers
Issues paper

August 2024

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Version	Date	Pages
1.0	August 2024	22

Request for submissions

We invite interested parties to make submissions on the proposal to make the AER Compliance Procedures and Guidelines for gas pipeline service providers by the close of business, **16 September 2024**.

We are required to make AER Compliance Procedures and Guidelines for gas pipeline service providers under section 64F of the National Gas Law.

This is the first stage of consultation on the proposed AER Compliance Procedures and Guidelines for gas pipeline service providers. Following this initial consultation, we will release a draft decision for further consultation, before making a final decision on the content of the AER Compliance Procedures and Guidelines for gas pipeline service providers.

Submissions should be sent electronically to AERGasNetworksCompliance@aer.gov.au.

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Publishing of submissions

We request that submissions be publicly accessible to facilitate an informed and transparent consultative process. For this reason, we treat submissions as public documents, unless requested otherwise. If you wish to submit confidential information, please:

- clearly identify which information within your submission is subject to the confidentiality claim, and
- provide a non-confidential version of the submission which is suitable for publication.

If the confidentiality claim is accepted, it will be treated in accordance with the terms set out in the ACCC/AER Information Policy. We will place all non-confidential submissions on our website.

For further information about the use and disclosure of information you provide, see the [ACCC/AER Information Policy \(June 2014\)](#) on [our website](#).

For enquiries about this paper, or about lodging a submission, please contact us on 1300 585 165 or AERGasNetworksCompliance@aer.gov.au.

Executive summary

The Australian Energy Regulator (AER) is required to monitor and regulate service providers of transmission and distribution gas pipeline services to maintain the efficient and reliable operation of the gas market and to contribute to the reduction of the greenhouse gas emissions of Australia.¹

Previously, the AER monitored the compliance of the service providers of scheme pipelines (a class of pipelines that was determined by the AER to require additional obligations) and non-scheme pipelines through separate information gathering mechanisms. This was due to the differences in the obligations that are placed on the pipelines within these categories.

The obligations placed on the service providers of scheme and non-scheme pipelines were updated and made more consistent in package of amendments to the National Gas Law (NGL), the National Gas Rules (NGR) and the Regulations in March 2023.

The 2023 amendments also introduced new obligations on and granted new powers to the AER, including an obligation to make guidelines for compliance processes and new audit powers. As a result, the AER is in the process of developing a new compliance framework for the service providers of gas pipeline services.

The first stage of this process was the making of a new general regulatory information order, known as the [Annual Compliance Order \(ACO\)](#). The ACO is a set of questions that service providers are required to respond to after the end of each financial year, including to assist the AER to monitor and assess their compliance. The next stage of this process is the development of the AER Compliance Procedures and Guidelines (Procedures and Guidelines) and a new compliance audit framework.

The AER has sought to use established information orders, guidelines and audit programs in the development of this draft Procedures and Guidelines. This is to ensure that the Procedures and Guidelines are consistent with other frameworks that the AER has in place, which will simplify the transition to the new framework to the benefit of both the AER and the service providers subject to the new framework. These include:

- the old ACO from 2008 its accompanying Annual Compliance Guideline from 2010
- the AER Compliance Procedures and Guidelines (Retail Procedures and Guidelines) developed for the National Energy Retail Law (NERL) published in 2024, and
- the historic Audit Practice Guide accompanying the previous 2018 Retail Procedures and Guidelines.

Throughout the consultation process for the ACO, the AER sought to reduce the burden placed on service providers by reducing the overlap with existing reporting requirements and by considering how to utilise audit powers. We have aimed to further reduce the burden placed on service providers by providing additional guidance about responding to the ACO and by minimising both the number and overlap of guidance documents.

We seek stakeholder feedback on the draft of the Procedures and Guidelines. The topics that we are particularly interested in receiving feedback about are outlined in chapters 3–6 of this paper and summarised on pages 15–16.

¹ See s. 23 of the National Gas Law.

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1 Introduction

1.1 Role of the Guidelines

The AER is responsible for monitoring, investigating, enforcing and reporting on the compliance of gas pipeline service providers with their obligations under the National Gas Law (NGL), National Gas Rules (NGR) and the Regulations.² To support these roles, the AER is required to make the *AER Compliance Procedures and Guidelines* (Procedures and Guidelines) under section 64F(1) of the NGL.

The aim of the Procedures and Guidelines is to enable gas pipeline service providers and other market participants to better understand and follow their compliance obligations under the NGL and the NGR. The Procedures and Guidelines set out the compliance framework of the AER and the relevant powers and functions of the AER, and provide guidance, instructions and templates to service providers relating to the various compliance procedures within this new framework.

The Procedures and Guidelines serve the following purposes within the AER's compliance monitoring and framework:

- provide background information on the regulatory framework for gas pipelines and the information gathering powers available to the AER
- provide guidance on reporting requirements, including the Annual Compliance Order (ACO), and
- outline the AER's audit powers and requirements for gas pipeline service providers.

This Issues Paper discusses the contents of the proposed Procedures and Guidelines. We invite stakeholders to provide their views and comments on the proposed Procedures and Guidelines for consideration as we draft and finalise them.

1.2 Background

The NGL and NGR form the legislative framework that is designed to establish a cooperative national access regime for natural gas distribution and transmission pipelines. The *Statutes Amendment (National Energy Laws) (Gas Pipelines) Bill 2022* and the *National Gas Rules (Gas Pipelines) Amendment Rules 2022* made changes to the NGL and NGR to simplify and improve this framework.

1.2.1 Reforms

Section 64F was added to the NGL in March 2023 as a part of the reforms mentioned above. Under sections 63A and 63B of the NGL introduced as part of this package, the AER is required to actively monitor and report on the behaviour of gas pipeline service providers and their compliance with their obligations under the NGL and NGR.

These obligations include ring fencing requirements, compliance with access arrangements, determinations and negotiations, maintaining suitable records, appropriately handling

² See *National Gas (South Australia) Act 2008 (SA)*, *National Gas (South Australia) Law* and *National Gas (South Australia) Regulations, National Gas Rules 2008*.

confidential information, and new obligations concerning increasing fees and publishing transparent information.

The changes introduced within this package gave new powers and functions to the AER, including new audit powers, as well as altering some of the existing powers and functions. These audit powers are elaborated on in the Procedures and Guidelines.

These reforms will therefore help maintain the efficiency of the gas market, which will benefit both service providers and consumers in the future.

More details on the reforms can be found within the [AER's Compliance bulletin on new obligations under the gas pipeline reform](#).

1.2.2 AER's functions

As stated in section 23 of the NGL, the national gas objective is to promote the efficient investment in, and efficient operation and use of, covered gas services for the long-term interests of consumers of covered gas with respect to:

- a) price, quality, safety, reliability and security of supply of natural gas; and
- b) the achievement of targets set by a participating jurisdiction—
 - i. for reducing Australia's greenhouse gas emissions; or
 - ii. that are likely to contribute to reducing Australia's greenhouse gas emissions.

The AER is required to carry out its functions in a manner that will (or is likely to) contribute to achieving the national gas objective (NGL section 28(1)).

The functions and powers of the AER stated in section 27(1) of the NGL include, but are not limited to the:

- monitoring of the compliance of persons with the NGL, the NGR and the Regulations
- making scheme and greenfields determinations or revocations, and
- monitoring the behaviour of service providers in relation to particular matters, for example the prices charged by service providers for pipeline services.

The Procedures and Guidelines outline the monitoring mechanisms used for Chapter 4 of the NGL and provide background information on scheme and greenfields pipelines.

1.3 Approach to the consultation process

Under rule 139A of the NGR, we must follow the standard consultative procedure when making or amending the Procedures and Guidelines. The standard consultative procedure is outlined in rule 8 of the NGR.

The first step of this process is the publication of this proposal, which consists of this Issues Paper and an initial draft of the Procedures and Guidelines. Following this publication there is a period of 15 business days for making submissions on the proposal.

In line with the above, we invite submissions on the form and content of the Procedures and Guidelines by close of business **16 September 2024**. The specific issues that we are seeking feedback on are outlined throughout this Issues Paper.

As outlined in NGR rule 8, after considering the submissions received on the proposal within the timeframe specified above, the AER will make a draft decision, and if appropriate, modify the proposal.

1.3.1 Timeline for consultation

Table 1 outlines the proposed timeline for consultation on the Procedures and Guidelines.

We note that the final decision on the Procedures and Guidelines is expected to be made in December 2024, so service providers will have access to the finalised Procedures and Guidelines before the first submissions for the Annual Compliance Order are due in October 2025.

Table 1: Guidelines consultation project timeline

Milestone	Proposed timing
<p>We anticipate publishing the draft decision on the proposal to make the Procedures and Guidelines.</p> <p>This will include a summary of any changes made to the draft documents in light of the submissions made on the proposal, responses to the issues raised in the submissions and updated draft documents.</p> <p>The draft decision will also seek feedback on the updated draft documents.</p>	October 2024
<p>We anticipate that the period for making submission on the draft decision will end in November 2024.</p> <p>The length of this period must be at least 15 business days.</p>	November 2024
<p>We anticipate publishing the final decision on the Guidelines.</p> <p>This will include a summary of any changes made to the updated draft documents considering the submissions on the draft decision, responses to the issues raised in the submissions and the final Guidelines.</p> <p>We must make a final decision within 20 business days of the end of the consultation period for the draft decision. We must publish the final decision without delay.</p>	December 2024

1.3.2 Implementation timing

We aim to publish the new Procedures and Guidelines in December 2024 to take effect upon publication.

We note that there is no deadline for the AER to make of the Procedures and Guidelines in the legislation (unlike the *Pipeline Information Disclosure Guidelines*, for example). As such, we are interested in stakeholder views on our proposed implementation date.

1.4 The structure of this paper

This Issues Paper broadly follows the structure of the Procedures and Guidelines and seeks stakeholder views on each chapter of the Guidelines. A summary of the feedback that is being sought is provided at the end of this paper.

This Issues Paper is structured as follows:

- chapter 2 outlines the rationale for the development of the Procedures and Guidelines
- chapter 3 discusses the development of chapters 1 and 2 of the Procedures and Guidelines, and
- chapter 4–6 elaborate on the development of the chapters 3–5 in the Procedures and Guidelines, respectively.

Questions for stakeholders on approach to Procedures and Guidelines consultation process

Question 1: What are your views on the implementation timeframe?

Question 2: Do you have any comments on the draft Procedures and Guidelines that are not otherwise covered in subsequent questions?

2 The development of the Procedures and Guidelines

This chapter discusses the documents and factors that were considered in developing the draft Procedures and Guidelines.

In the interest of maintaining consistency across our various guidance documents and compliance and audit frameworks, the contents of the Procedures and Guidelines are largely based on the documents that were developed in consultation with relevant stakeholders. Where new guidance is needed, the AER has developed new material that was developed with previous stakeholder feedback in mind.

2.1 The contents of the Procedures and Guidelines

2.1.1 The regulatory framework

Section 64F(2) of the NGL states that the Procedures and Guidelines may include guidance for service providers about their compliance with the NGL, the NGR and the Regulations. In the draft Procedures and Guidelines we have outlined the contents of the other guidance documents that the AER has produced and we have focused on including guidance about the matters that are not covered extensively in these documents to ensure that service providers are able to find guidance on all relevant aspects of the legislation.

The removal of part 23 of the NGR and the extension of the application of chapter 4 of the NGL to non-scheme pipelines means that there is a significant number of service providers that are subject to the ACO and other aspects of the compliance framework that may not be familiar with their new obligations. The AER is therefore of the view that up-to-date guidance on these matters is essential, particularly for the providers of non-scheme pipeline services.

We note that the AER may consider alternative channels for providing updated guidance on compliance in circumstances where only minor updates are required due to the consultation requirements (under rule 139A of the NGR) to amend the Procedures and Guidelines.

Chapters 1–3 of the Procedures and Guidelines are primarily based on chapters 1–4 from the previous [Annual Compliance Guideline](#) that was developed in consultation with service providers in 2010. These chapters cover the gathering of information via regulatory information instruments.

2.1.2 The new Annual Compliance Order

A [new Annual Compliance Order \(ACO\) was made on 7 June 2024](#). This is the mechanism with which the AER monitors the compliance of service providers with their obligations under chapter 4 of the NGL, including general duties, structural and operational separation (or ring fencing) requirements and access requirements. The new ACO is used in the place of the [previous ACO](#), which was made in 2008.

Guidance and information relating to the ACO was previously provided to service providers in the form of the [Annual Compliance Guideline](#), which was published in April 2010. This guideline was developed in consultation with service providers and outlined the classification

of pipelines, the compliance framework for scheme pipelines and the previous compliance processes.

Based on the feedback received during the consultative process for the ACO earlier in 2024, the AER has decided to include guidance on the ACO in the draft Procedures and Guidelines, particularly on the use of the new ACO response template. This guidance is included in chapter 4 of the draft Procedures and Guidelines.

2.1.3 The audit framework

The AER is including information and documentation on the compliance audit framework in the draft Procedures and Guidelines in line with sections 64D, 64E(1) and 64F(2) of the NGL.

Compliance audits are an important tool for the AER to assess a service provider's practices, systems and processes, which reveals areas of weakness and strengths. Correcting these weaknesses leads to greater levels of compliance to the benefit of service provider, the wider gas market and to consumers.

Including these materials within the Guidelines also allows service providers to give feedback on the audit program as part of a robust consultative procedure.

Chapter 5 of the draft Procedures and Guidelines outlines the AER's compliance audit framework for gas pipelines. This was largely based on chapter 4 of the Procedures and Guidelines developed in relation to the National Energy Retail Law (NERL), which are also titled the [AER Compliance Procedures and Guidelines](#) (Retail Procedures and Guidelines).

The updated Retail Procedures and Guidelines were published on 25 July 2024 following a consultative process with relevant stakeholders in the first half of 2024.

2.1.4 Compliance priorities

The draft Procedures and Guidelines sets out our high-level approach to compliance, including reference to our compliance and enforcement priorities.

3 Background and regulatory framework

Chapters 1 and 2 of the draft Procedures and Guidelines outline the purpose, application and legislative basis for the Procedures and Guidelines. In particular, we provide summary information on who the Procedures and Guidelines apply to and information on scheme and greenfields determinations.

3.1 Rationale for including this content

We view this background on the legislation as useful due to the extensive changes that have been made to the framework since the Annual Compliance Guideline was published in 2010. We note that the streamlining of the categorisation of pipelines and the more uniform application of Chapter 4 of the NGL and Part 10 of the NGR means that it is likely that there are a number of service providers of non-scheme pipeline services that are unfamiliar with Chapter 4 of the NGL. We expect these service providers would find a summary of their new requirements useful, particularly smaller businesses with less resources than the service providers of scheme pipeline services that were subject to the previous ACO.

3.2 Introduction

Sections 1.1, 1.2 and 1.3 outline background, purpose and application of the Procedures and Guidelines. Section 1.4 outlines our confidentiality policy and how we use the information provided to us.

3.3 Regulatory framework for gas pipelines

Sections 2.1, 2.2 and 2.3 outline the classification of pipelines and the pipelines to which the Procedures and Guidelines apply, namely all scheme and non-scheme pipelines without suitable exemptions. This is in contrast with the previous annual compliance framework, which applied only to scheme pipelines.

Section 2.2 also discusses the process of making scheme and greenfields determinations and outlines some of the effects of obtaining a greenfields exemption.

Section 2.4 of the Procedures and Guidelines provides a high-level summary of the contents of Chapter 4 of the NGL. This chapter covers the requirements placed on service providers relating to general duties, ring fencing and access negotiations.

Sections 2.5 and 2.6 of the draft Procedures and Guidelines outlines the obligations relating to access arrangements in Chapter 3 of the NGL and powers and functions granted to the AER under the NGL. Section 2.7 covers our overall approach to noncompliance.

Questions for stakeholders on chapters 1 and 2 of the draft Procedures and Guidelines

Question 3: Is there any further information that will assist in understanding the application and regulatory framework? If so, what would you find helpful?

Question 4: Is there any information in chapters 1 or 2 of the draft Procedures and Guidelines that is not necessary or does not help you understand your obligations?

4 Our approach to information collection

Chapter 3 of the draft Procedures and Guidelines outlines the AER’s use of regulatory information instruments to monitor compliance in connection with our obligations under section 27(1)(a) of the NGL.

The information covered in this chapter includes the form and content of these instruments, the process of developing these instruments, their use for requests for additional information, related legal matters and the exemptions framework for these orders.

4.1 Rationale for including this content

As noted in section 3.1 of this Issues Paper, we expect that there are a number of service providers of non-scheme pipeline services that would find a summary of Chapter 4 of the NGL useful. We view coverage of the information gathering powers that apply in relation to that chapter and on the consequences of noncompliance with their new reporting requirements as useful complementary material to include with this summary.

We also view information on and templates for exemptions to be useful to these service providers as they assess whether they are eligible for any exemptions from the new obligations or reporting requirements that have been placed on them.

4.2 Guidance on information gathering powers

4.2.1 Regulatory information instruments

Section 3.2 of the draft Procedures and Guidelines describes the legislative framework for 2 regulatory information instruments, namely general regulatory information orders and regulatory information notices.

Section 3.3 goes on to describe the key features of these instruments, including their form and contents and the process of making or serving an order or notice, respectively. This includes information on consultation processes.

4.2.2 Other matters

The proposed approach to collecting additional information in circumstances where the AER does not have sufficient information to monitor and assess compliance is covered in section 3.4 of the draft Procedures and Guidelines.

Section 3.5 outlines our approach to collecting information efficiently.

Section 3.6 of the draft Procedures and Guidelines discusses the consequences of various forms of noncompliance with the legislation or with the information gathering mechanisms of the compliance procedures. This includes information on the consequences of providing false or misleading information to the AER, the provision of commercial-in-confidence information to the AER and the AER’s approach to using the information gathered via the compliance procedures in other compliance processes.

4.2.3 Exemption framework

The proposed exemptions framework for general regulatory information orders is discussed in section 3.7 of the draft Procedures and Guidelines. A template for applying for an exemption is also included within an appendix.

Questions for stakeholders on chapter 3 of the draft Procedures and Guidelines

Question 5: Is there any further information that will assist in understanding the AER's use of and the key features of regulatory information instruments? If so, what would you find helpful?

Question 6: Is there any further information that will assist in understanding the legal information and exemptions framework? If so, what would you find helpful?

Question 7: Is there any information in chapter 3 of the draft Procedures and Guidelines that is not necessary or useful?

5 The new Annual Compliance Order

Chapter 4 of the draft Procedures and Guidelines provides specific guidance relating to the general regulatory information order that the AER published on 7 June 2024, titled the *Annual Compliance Order* (or ACO), which came into effect on 1 July 2024.

5.1 Rationale for including this content

Based on feedback received during the consultation on the ACO, we have included guidance for the use of the ACO response template. The issues raised during this consultation centred around on what is expected in response to certain items or columns within the template, particularly the basis of preparations column.

Chapter 4 of the draft Guidelines provides guidance on how to complete the ACO response template. Chapter 4 of the draft Guidelines includes material from chapter 4 from the previous Annual Compliance Guideline, together with new guidance for the use of the ACO response template. We seek stakeholder's feedback on the information provided in the Guidelines in supporting service providers to complete the ACO response template.

5.2 Guidance for the ACO

5.2.1 Using one template for multiple pipelines

Section 4.2.2 of the draft Guidelines outlines the circumstances in which the AER permits a service provider to use the one response template to cover multiple pipelines.

5.2.2 Guidance about the applicability of certain items

Section 4.2.3 of the draft Procedures and Guidelines outlines the AER's proposed approach to handling exemptions to some requirements in the NGL and NGR which a service provider may be required to report compliance with as part of its ACO response. In light of feedback received during the ACO consultation, we are particularly interested in stakeholder views on our proposed approach.

There are multiple items in the ACO response template, and consequently in the Procedures and Guidelines, that refer to compliance with requirements in the NGR or NGL that only relate to scheme pipelines. As outlined in the draft Procedures and Guidelines, the AER's proposed approach is that a service provider states if such an item is not applicable to them (i.e., in cases where the service provider's response only covers non-scheme pipelines). Due to the feedback received during the ACO consultation, we are particularly interested in stakeholder views on our proposed approach.

5.2.3 Guidance for completing the ACO response template

Guidance regarding the use of the basis of preparations column in the ACO response template is included in section 4.2 of the draft Procedures and Guidelines and several representative examples are provided.

Several items from the ACO template (for example, items 1.3 and 9.1) have guidance that only applies to the specified item in section 4.2 of the draft Procedures and Guidelines.

There are several items within the ACO response template that are only relevant when the answer to one or more of the previous items is positive. Section 4.2 of the draft Procedures and Guidelines states that a service provider may note that such items are not applicable the previous questions have negative answers in these cases.

Section 4.2 of the Procedures and Guidelines concludes with guidance surrounding the use of columns G and I within the ACO response template which relate to compliance and estimated compliance dates.

5.2.4 Other matters

Section 4.3 includes information about how service providers may make password protected submissions and the processes the AER may follow in reviewing or supplementing the use of the ACO.

Questions for stakeholders on chapter 4 of the draft Procedures and Guidelines

Question 8: Is there sufficient information for service providers to know when a single template response would be accepted? If not, what additional information is required?

Question 9: Are there other circumstances where a single ACO response template should be allowed?

The following questions relate to our proposed approach to handling responses where:

- a service provider holds a relevant exemption under the NGL or the NGR
- an item only applies to scheme pipeline, or
- an item is dependent on a previous ACO item having a positive response.

Question 10: Is there sufficient information for service providers to respond to these ACO in these circumstances? If not, what additional information is required?

Question 11: Is there sufficient information for service providers to respond to the items with specific advice? If not, what additional information is required?

Question 12: Is there sufficient information for service providers to understand the basis of preparation requirement in the ACO?

Question 13: Is there sufficient information for service providers to provide responses within columns G and I in the ACO response template? If not, what additional information is required?

Question 14: Are there any additional matters that should be covered in chapter 4 of the Procedures and Guidelines?

6 Audits

Chapter 5 of the draft Procedures and Guidelines covers the background and details of the audit framework for service providers. We seek stakeholder feedback on the coverage and form of the proposed audit framework.

The audit powers within sections 64B and 64C of the NGL that were introduced in the March 2023 amendments are largely consistent with the AER's existing audit powers under sections 275 and 276 of the NERL, and apply to the service providers of gas pipeline services.

The AER has previously published a retail compliance audit framework as part of the [AER Compliance Procedures and Guidelines](#) developed for the NERL. The [previous version](#) of this document was accompanied by a [practice guide](#) for the retail compliance audits.

The Retail Procedures and Guidelines were developed in the first half of 2024 in consultation with energy retailers. They were published on 25 July 2024 and are due to come into effect on 1 April 2025. The results of retail compliance audits are published publicly on the [AER website](#) and we propose to similarly publish the results of audits of service providers carried out in relation to the NGL.

6.1 The rationale for the development and inclusion of a compliance audit framework

The AER anticipates that compliance audits will lead to a greater level of discipline from service providers and will also enable the AER to better understand and assess compliance.

For example, the AER may decide to conduct an audit to assess the compliance systems that a service provider has put in place to monitor and report on breaches of their obligations. If any deficiencies are found during an audit, they may be corrected by the service provider, which will result in an improvement in the compliance practices of the service provider.

The AER may also conduct an audit to assess the information that is submitted by a service provider in response to the ACO. This allows the AER to assess the information that is submitted in greater depth when the AER suspects there may be potential noncompliance or when the AER requires greater assurance that the information that was submitted is correct.

The use of audits therefore improves the capacity of the AER to monitor the compliance and the practices of service providers and promotes greater transparency and confidence that service providers are compliant with their obligations.

In accordance with section 27(2) of the NGL, the AER views the use of audits as a necessary and convenient tool to promote transparency and better behaviour in gas market participants, which allows the AER to contribute to the efficient investment in and operation of the market. This directly relates the achievement of the national gas objective as stated in section 23 of the NGL and connects to the obligations placed on the AER under section 27(1) of the NGL.

The AER will consider the potential costs and burdens placed on service providers by audits when determining whether to exercise these powers to ensure that the potential benefits of engaging in an audit outweigh these costs, as required under section 28(1) of the NGL.

As noted in section 2.1.3, we are of the view that the inclusion of the details of the compliance audit framework as consistent with ss 64D, 64E(1) and 64F(2) of the NGL and that this provides the best opportunity for service providers to provide feedback on the framework.

6.2 Audit practice guide

The draft Procedures and Guidelines does not include a separate audit practice guide. We are of the view that the information in the practice guide can be covered within the Procedures and Guidelines. This reduces the number of documents that service providers are required to familiarise themselves with, which we view will benefit some of the smaller organisations that will be subject to the Procedures and Guidelines.

We note that this approach is also consistent with the 2024 update of the [Retail Procedures and Guidelines](#). We have drawn on both the 2024 [Retail Procedures and Guidelines](#) and the historic [2018 Audit Practice Guide](#) accompanying the previous Retail Procedures and Guidelines to inform the proposed draft Procedures and Guidelines.

6.3 The form of and process for audits

Section 5.3 of the draft Procedures and Guidelines outlines the AER's requirements on auditors in relation to competence and impartiality, which apply to both internal and external auditors.

The decision-making process the AER will follow in relation to compliance audits is covered in section 5.4 (and Appendix C) of the draft Procedures and Guidelines. The primary focus is on the risk involved and whether there are other appropriate avenues the AER may follow. Also included is information on alternative means of gathering information and using third-party auditors.

Section 5.5 outlines the AER's proposed approach to determining the Terms of Reference for a compliance audit. We note that the terms of reference are determined on a case-by-case basis rather than being fixed. The draft Procedures and Guidelines discuss what service providers should expect will be included within the terms of reference.

Section 5.6 of the draft Procedures and Guidelines outlines the AER's proposed approach for compliance audits carried out by the AER under section 64B of the NGL, including the use of third-party auditors, how the AER will engage with service providers throughout an audit and how the AER will recover the costs of an audit.

The process that the AER will follow in requiring a service provider to carry out or arrange for the carrying out of an audit is covered in section 5.7 of the draft Procedures and Guidelines. This the Audit Proposal requirements the AER will place on service providers, audit report requirements and the publication requirements for the outcome of a compliance audit.

Sections 5.8 and 5.9 outline the AER's proposed approach for the post audit process, which includes publishing the outcome of each audit (following a discussion with any relevant service providers), discussions with service providers about the findings of an audit report and how the AER expects corrective actions to be communicated by service providers.

Section 5.10 of the draft Procedures and Guidelines give an overview of the audit powers for general regulatory information orders granted under section 55(e) of the NGL.

Questions for stakeholders on chapter 5 of the draft Procedures and Guidelines

Question 15: Is the AER's proposed approach to include all information about audits within the Procedures and Guidelines suitable?

Question 16: Are the requirements for auditors suitable in the context of regulating gas pipelines? If not, how should they be adjusted?

Question 17: Is there sufficient information for service providers to understand the decision-making process and what will be in the terms of reference for compliance audits? If not, what additional information is required?

Question 18: Are the requirements on audits carried out by the AER or by a service provider:

- suitable in the context of regulating gas pipelines? If not, how should they be adjusted?
- provide sufficient information for service providers to understand the processes to be followed? If not, what additional information is required?

Question 19: Are the requirements on post audit and response process:

- suitable in the context of regulating gas pipelines? If not, how should they be adjusted?
- provide sufficient information for service providers to understand the post audit and response process? If not, what additional information is required?

Question 20: Are there any additional matters that should be covered in chapter 5 of the Procedures and Guidelines?

Consolidated list of questions

Approach to consultation process

Question 1: What are your views on the implementation timeframe?

Question 2: Do you have any comments on the draft Procedures and Guidelines that are not otherwise covered in subsequent questions?

Background and regulatory framework (chapters 1 and 2 of the draft Procedures and Guidelines)

Question 3: Is there any further information that will assist in understanding the application and regulatory framework relevant to the Procedures and Guidelines? If so, what would you find helpful?

Question 4: Is there any information in chapters 1 or 2 of the draft Procedures and Guidelines that is not necessary or useful?

Our approach to information collection (chapter 3 of the draft Procedures and Guidelines)

Question 5: Is there any further information that will assist in understanding the AER's use of and the key features of regulatory information instruments? If so, what would you find helpful?

Question 6: Is there any further information that will assist in understanding the legal information and exemptions framework? If so, what would you find helpful?

Question 7: Is there any information in chapter 3 of the draft Procedures and Guidelines that is not necessary or useful?

The new Annual Compliance Order (chapter 4 of the draft Procedures and Guidelines)

Question 8: Is there sufficient information for service providers to know when a single template response would be accepted? If not, what additional information is required?

Question 9: Are there other circumstances where a single ACO response template should be allowed?

The following questions relate to our proposed approach to handling responses where:

- a service provider holds a relevant exemption under the NGL or the NGR
- an item only applies to scheme pipeline, or
- an item is dependent on a previous ACO item having a positive response.

Question 10: Is there sufficient information for service providers to respond to these ACO in these circumstances? If not, what additional information is required?

Question 11: Is there sufficient information for service providers to respond to the items with specific advice? If not, what additional information is required?

Question 12: Is there sufficient information for service providers to understand the basis of preparation requirement in the ACO?

Question 13: Is there sufficient information for service providers to provide responses within columns G and I in the ACO response template? If not, what additional information is required?

Question 14: Are there any additional matters that should be covered in chapter 4 of the Procedures and Guidelines?

Audits (chapter 5 of the draft Procedures and Guidelines)

Question 15: Is the AER's proposed approach to include all information about audits within the Procedures and Guidelines suitable?

Question 16: Are the requirements for auditors suitable in the context of regulating gas pipelines? If not, how should they be adjusted?

Question 17: Is there sufficient information for service providers to understand the decision-making process and what will be in the terms of reference for compliance audits? If not, what additional information is required?

Question 18: Are the requirements on audits carried out by the AER or by a service provider:

- suitable in the context of regulating gas pipelines? If not, how should they be adjusted?
- provide sufficient information for service providers to understand the processes to be followed? If not, what additional information is required?

Question 19: Are the requirements on post audit and response process:

- suitable in the context of regulating gas pipelines? If not, how should they be adjusted?
- provide sufficient information for service providers to understand the post audit and response process? If not, what additional information is required?

Question 20: Are there any additional matters that should be covered in chapter 5 of the Procedures and Guidelines?

Glossary

Term	Definition
ACCC	Australian Competition and Consumer Commission
ACCC/AER Information Policy	The ACCC/AER policy for the collection, use and disclosure of information, available from the AER's website
Access arrangement	An arrangement setting out terms and conditions about access to pipeline services provided or to be provided by means of a scheme pipeline (see section 2 of the NGL)
ACO	Annual Compliance Order
AER	Australian Energy Regulator
Gas code	National Third-Party Access Code for Natural Gas Pipeline Systems
General Regulatory Information Order	A class of information orders that includes the ACO.
Guidelines	The AER Compliance Procedures and Guidelines
NERL	National Energy Retail Law
NGL	National Gas Law
NGR	National Gas Rules
Regulations	National Gas Regulations 2008
Service provider	A service provider is a person who owns, controls or operates or intends to own, control or operate a pipeline or any part of a pipeline (see section 8 of the NGL)