

## **Petroleum (Submerged Lands) (Management of Environment) Regulations 2002**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Petroleum (Submerged Lands) Act 1982*.

17 June 2002

G. S. M. GREEN

Governor

By His Excellency's Command,

P. A. LENNON

Minister for Infrastructure, Energy and Resources

### **PART 1 - Preliminary**

#### **1. Short title**

These regulations may be cited as the *Petroleum (Submerged Lands) (Management of Environment) Regulations 2002*.

#### **2. Commencement**

These regulations take effect on the day on which their making is notified in the *Gazette*.

#### **3. Object of regulations**

The object of these regulations is to ensure that any petroleum activity in an adjacent area is carried out in a way that is consistent with the principles of ecologically sustainable development, in accordance with an environment plan that has appropriate environmental performance objectives and standards as well as measurement criteria for determining whether the objectives and standards are met.

#### **4. Interpretation**

In these regulations, unless the contrary intention appears –

**"Act"** means the *Petroleum (Submerged Lands) Act 1982*;

**"activity"** has the same meaning as "petroleum activity";

**"consent to construct and install"** has the meaning given by regulation 3(1) of the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2002*;

**"consent to use"** has the meaning given by regulation 3(1) of the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2002*;

**"environment"** includes all aspects of the surroundings of human beings, whether affecting human beings as individuals or in social groupings;

**"environment plan in force for the activity"**, for an operator of a petroleum activity, means an environment plan for the activity submitted by the operator and accepted under these regulations (or, if

the environment plan is accepted in part, that part of the environment plan that is accepted), as revised from time to time under these regulations, but does not include an environment plan for which the acceptance has been withdrawn;

**"facility"** includes a structure or installation of any kind;

**"nominated address"**, for an operator, means the address of the operator of which notice has been given under [regulation 32\(3\)\(a\)](#);

**"operator"**, for a petroleum activity, means the person recorded by the Minister as the operator of the activity under [regulation 35](#) or, if there is no such person, the person responsible to the petroleum instrument holder for the overall management and operation of the activity (whether or not the operation has commenced);

**"petroleum activity"** means operations in an adjacent area carried out under a petroleum instrument, other authority or consent under the Act and, in particular, any of the following operations:

- (a) seismic or other surveys;
- (b) drilling;
- (c) construction and installation of a facility;
- (d) operation of a facility;
- (e) significant modification of a facility;
- (f) decommissioning, dismantling or removing a facility;
- (g) construction and installation of a pipeline;
- (h) operation of a pipeline;
- (i) significant modification of a pipeline;
- (j) decommissioning, dismantling or removing a pipeline;
- (k) storage, processing or transport of petroleum;
- (l) any other operations or works for which a petroleum instrument, other authority or consent is required under the Act or the regulations;

**"petroleum instrument"** means an authority granted by instrument under the Act for the carrying out of a petroleum activity, and includes a permit, lease, licence, pipeline licence, access authority or special prospecting authority;

**"petroleum instrument holder"**, for a petroleum activity, means the registered holder of a petroleum instrument for the activity, and includes a permittee, lessee, licensee, pipeline licensee or registered holder of an access authority or special prospecting authority for the activity;

**"produced formation water"** means natural aqueous fluid recovered from a petroleum reservoir in association with the petroleum;

**"reportable incident"**, for the operator of an activity, means an incident arising out of operations for the activity that is not within the parameters of the environmental performance standards in the environment plan in force for the activity;

**"revise"**, for an environment plan, includes extend or modify.

## **5. References to petroleum activity**

A reference in these regulations to a petroleum activity includes, where the context permits, a reference to –

- (a) a proposed activity; and
- (b) any stage of an activity.

## **PART 2 - Environment plans**

### ***Division 1 - Requirement for environment plan***

## **6. Accepted environment plan required for petroleum activity**

(1) The operator of a petroleum activity must not carry out the activity unless there is an environment plan in force for the activity.

Penalty:

Fine not exceeding 80 penalty units.

(2) This regulation does not affect any requirement under the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2002* for a consent to construct and install, or a consent to use, a facility.

## **7. Operations must comply with accepted environment plan**

(1) The operator of a petroleum activity must not carry out the activity in a way that is contrary to –

- (a) the environment plan in force for the activity; or
- (b) any limitation or condition applying to operations for the activity under these regulations.

Penalty:

Fine not exceeding 80 penalty units.

(2) Subregulation (1) does not apply to the operator if the operator has the consent in writing of the Minister to carry out the activity in that way.

(3) The Minister must not give a consent under subregulation (2) unless there are reasonable grounds for believing that the way in which the activity is to be carried out will not result in the occurrence of any significant new environmental effect or risk, or significant increase in any existing environmental effect or risk.

## **8. Operations must not continue where new environmental risk, &c.**

(1) The operator of a petroleum activity must not carry out the activity after the occurrence of any significant new environmental effect or risk, or significant increase in an existing environmental effect or risk, arising from the activity unless the new effect or risk, or increase in the effect or risk, is provided for in the environment plan in force for the activity.

Penalty:

Fine not exceeding 80 penalty units.

(2) Subregulation (1) does not apply to the operator if the operator submits a proposed revision of the environment plan in accordance with regulation 17 and the Minister has not refused to accept the revision.

## ***Division 2 - Acceptance of environment plan***

### **9. Submission of environment plan**

(1) Before commencing a petroleum activity, the operator of the activity must submit to the Minister an environment plan for the activity for the adjacent area.

(2) An environment plan may be submitted for one or more stages of the activity if the operator and the Minister so agree.

### **10. Time limit for accepting, or not accepting, environment plan**

(1) Within 28 days after an operator submits an environment plan, the Minister must –

(a) accept the plan under regulation 11; or

(b) refuse to accept the plan; or

(c) give notice in writing to the operator stating that the Minister is unable to make a decision about the plan within the period of 28 days, and setting out a proposed timetable for consideration of the plan.

(2) A decision by the Minister to accept, or refuse to accept, an environment plan is not invalid only because the Minister did not comply with subregulation (1) in respect of the plan.

(3) This regulation applies to an environment plan resubmitted under regulation 11(2) in the same way that it applies to the plan when first submitted.

### **11. Acceptance of environment plan**

(1) The Minister must accept the environment plan if there are reasonable grounds for believing that the plan –

(a) is appropriate for the nature and scale of the activity; and

(b) demonstrates that the environmental effects and risks of the activity will be reduced to a level as low as reasonably practicable; and

(c) demonstrates that the environmental effects and risks of the activity will be of an acceptable level; and

(d) provides for appropriate environmental performance objectives, environmental performance standards and measurement criteria; and

(e) includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and

(f) complies with the Act.

(2) If the Minister is not reasonably satisfied that the environment plan when first submitted meets the criteria set out in subregulation (1), the Minister must give the operator a reasonable opportunity to modify and resubmit the plan.

(3) If, after the operator has had a reasonable opportunity to modify and resubmit the environment plan, the Minister is still not reasonably satisfied that the plan meets the criteria set out in subregulation (1), the Minister must refuse to accept the plan.

(4) Despite subregulation (3), the Minister may do either or both of the following:

(a) accept the plan in part for a particular stage of the activity;

(b) impose limitations or conditions applying to operations for the activity.

(5) The Minister must give the operator notice in writing of a decision by the Minister –

(a) to accept the environment plan; or

(b) not to accept the plan; or

(c) to accept the plan in part for a particular stage of the activity, or subject to the imposition of limitations or conditions.

(6) A decision under subregulation (5)(b) or (c) must set out –

(a) the terms of the decision and the reasons for it; and

(b) if limitations or conditions are to apply to operations for the activity, those limitations or conditions.

### *Division 3 - Contents of environment plan*

#### **12. Contents of environment plan**

An environment plan for a petroleum activity must include the matters set out in regulations 13, 14, 15 and 16.

#### **13. Environmental assessment**

(1) The environment plan must contain a comprehensive description of the activity including the following:

(a) the location or locations of the activity;

(b) general details of the construction and layout of any facility or other structure;

(c) an outline of the proposed operations (for example, seismic surveys, exploration drilling or production) and proposed timetables;

**(d)** any additional information relevant to consideration of environmental effects and risks of the activity.

**(2)** The environment plan must –

**(a)** describe the existing environment that may be affected by the activity, as well as any relevant cultural, social and economic aspects of the environment that may be affected; and

**(b)** identify the particular relevant values and sensitivities (if any) of that environment.

**(3)** The environment plan must contain an assessment of environmental effects and risks for the activity that –

**(a)** identifies and evaluates environmental effects and risks arising directly or indirectly from the normal operations of the activity (including construction where applicable); and

**(b)** includes an assessment of risk of the potential effects on the environment resulting from reasonably possible operations (whether accidental or otherwise) that are not normal operations for the activity.

**(4)** The environment plan must include environmental performance objectives, environmental performance standards and measurement criteria that –

**(a)** define the objectives, and set the standards, against which performance by the operator in protecting the environment is to be measured; and

**(b)** include measurement criteria for determining whether those objectives and standards have been met.

#### **14. Implementation strategy for environment plan**

**(1)** The environment plan must contain an implementation strategy for the activity in accordance with this regulation.

**(2)** The implementation strategy must include measures to ensure that the environmental performance objectives and standards in the environment plan are met.

**(3)** The implementation strategy must identify the specific systems, practices and procedures to be used to ensure that –

**(a)** the environmental effects and risks of the activity are reduced to as low as reasonably practicable; and

**(b)** the environmental performance objectives and standards in the environment plan are met.

**(4)** The implementation strategy must establish a clear chain of command, setting out the roles and responsibilities of personnel in respect of the implementation, management and review of the environment plan.

**(5)** The implementation strategy must include measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of his or her responsibilities in respect of the environment and has the appropriate skills and training.

(6) The implementation strategy must provide for the monitoring, audit and review of the operator's environmental performance and the implementation strategy.

(7) The implementation strategy must provide for the maintenance of a quantitative record of emissions and discharges (whether occurring during normal operations or otherwise) to the air, marine, seabed and sub-seabed environment, that is accurate and can be monitored and audited against the environmental performance standards and measurement criteria.

(8) The implementation strategy must provide for the maintenance of an up-to-date emergency response manual (including an oil spill contingency plan) including detailed response arrangements.

(9) The implementation strategy must provide for appropriate consultation with –

(a) relevant authorities of the Commonwealth or a State; and

(b) other relevant interested persons or organisations.

(10) The implementation strategy must comply with the Act and any other environmental legislation applying to the activity.

#### **15. Reporting, &c., arrangements**

The environment plan must include arrangements for –

(a) recording, monitoring and reporting information about the activity (including information required to be recorded under the Act and any other environmental legislation applying to the activity) sufficient to enable the Minister to determine whether the environmental performance objectives and standards in the environment plan are met; and

(b) reporting to the Minister at intervals agreed with the Minister, but not less often than annually.

#### **16. Other information in environment plan**

The environment plan must contain the following:

(a) a statement of the operator's corporate environmental policy;

(b) a report on any consultations between the operator and relevant authorities, interested persons and organisations in the course of developing the environment plan;

(c) a list of all environmental legislation of the Commonwealth or a State that may apply to the activity.

#### ***Division 4 - Revision of environment plan***

#### **17. Revision owing to change, or proposed change, of circumstances or operations**

(1) The operator of a petroleum activity must submit to the Minister a proposed revision of the environment plan before the commencement of any new activity, or any significant modification, change or new stage of an existing activity, not provided for in the environment plan in force for the activity.

(2) The operator must submit a proposed revision of the environment plan before, or as soon as practicable after –

- (a) a change in the petroleum instrument holder for, or operator of, the activity; or
- (b) the occurrence of any significant new environmental effect or risk, or significant increase in an existing environmental effect or risk, not provided for in the environment plan in force for the activity.

#### **18. Revision on request by Minister**

(1) The operator of a petroleum activity must submit to the Minister a proposed revision of the environment plan if the Minister requests the operator to do so.

(2) A request by the Minister must be in writing and set out the following:

- (a) the matters to be addressed by the revision;
- (b) the proposed date of effect of the revision;
- (c) the grounds for the request.

(3) The operator may make a submission in writing to the Minister stating the operator's reasons for one or more of the following matters:

- (a) why the revision should not occur;
- (b) why the revision should be in different terms from the proposed terms;
- (c) whether or not the operator gives other reasons, why the revision should take effect on a date later than the proposed date.

(4) A submission by the operator must be made within 21 days after receiving the request, or within any longer period that the Minister in writing allows.

(5) If a submission complies with subregulations (3) and (4), the Minister must –

- (a) decide whether to accept one or more of the reasons stated in the submission; and
- (b) give the operator notice in writing of the decision; and
- (c) to the extent (if any) that the Minister accepts the reasons, give the operator notice in writing that varies or withdraws the request in accordance with the decision; and
- (d) to the extent (if any) that the Minister does not accept the reasons, give the operator notice in writing of the grounds for not accepting them.

(6) An operator must comply with a request made by the Minister under this regulation and not withdrawn, or with a request as varied under this regulation, as soon as practicable.

#### **19. Revision at end of each 5 years**

The operator of a petroleum activity must submit to the Minister a proposed revision of the environment plan (whether or not a proposal has been submitted under regulation 17 or 18) at the end of each period of 5 years, commencing on –

- (a) the date when the environment plan is first accepted under regulation 11 by the Minister; or
- (b) the date of the most recent acceptance, by the Minister, of a revision submitted under this regulation.

## **20. Form of proposed revision**

A proposed revision must be in the form of a revised environment plan or, if the operator and the Minister so agree, a revised part of the environment plan.

## **21. Consideration of proposed revision**

Regulations 10 and 11 apply to the proposed revision as if –

- (a) a reference in those regulations to the submission, acceptance or non-acceptance of the environment plan were a reference to the submission, acceptance or non-acceptance of the proposed revision; and
- (b) any other reference in those regulations to the environment plan were a reference to the plan as revised by the proposed revision.

## **22. Effect of non-acceptance of proposed revision**

If a proposed revision is not accepted, the provisions of the environment plan in force for the activity existing immediately before the proposed revision was submitted remain in force, subject to the Act (in particular, the provisions of Division 5 of these regulations), as if the revision had not been proposed.

### ***Division 5 - Withdrawal of acceptance of environment plan***

## **23. Withdrawal of acceptance of environment plan**

(1) The Minister, by notice in writing to the operator of an activity, may withdraw the acceptance of the environment plan in force for the activity on any ground set out in subregulation (2).

(2) For the purposes of subregulation (1), the grounds are that –

- (a) the operator or petroleum instrument holder has not complied with a provision of the Act, or a direction given to the operator or petroleum instrument holder under the Act; or
- (b) the operator has not complied with regulation 7, 8, 17, 18 or 19; or
- (c) the Minister has refused to accept a proposed revision of the environment plan.

(3) A notice under subregulation (1) must set out the reasons for the decision.

## **24. Steps to be taken before withdrawal of acceptance**

(1) Before withdrawing the acceptance of an environment plan in force for an activity, the Minister must comply with subregulations (2), (4) and (5).

(2) The Minister must give the operator at least one month's notice in writing of the Minister's intention to withdraw acceptance of the plan.

(3) The Minister may give a copy of the notice to such other persons (if any) as the Minister thinks fit.

(4) The Minister must specify in the notice a date (in this regulation referred to as the "specified date") on or before which the operator (or any other person to whom a copy of the notice has been given) may submit to the Minister, in writing, any matters for the Minister to take into account.

(5) The Minister must take into account –

(a) any action taken by the operator or petroleum instrument holder to remove the ground for withdrawal of acceptance, or to prevent the recurrence of that ground; and

(b) any matter submitted to the Minister before the specified date by the operator or a person to whom a copy of the notice has been given.

## **25. Withdrawal of acceptance not affected by other provisions**

(1) The Minister may withdraw the acceptance of an environment plan in force for an activity on the ground that the operator or petroleum instrument holder has not complied with a provision of the Act, or of a regulation mentioned in regulation 23(2)(b), even though the operator or petroleum instrument holder has not been convicted of an offence by reason of the failure to comply with that provision.

(2) The operator of, or the petroleum instrument holder for, an activity for which the acceptance of an environment plan has been withdrawn by the Minister on the ground that the operator or petroleum instrument holder has not complied with a provision of the Act, or of a regulation mentioned in regulation 23(2)(b), may be convicted of an offence by reason of the failure to comply with the provision, even though the acceptance of the environment plan has been withdrawn.

## **PART 3 - Incidents, reports and records**

### **26. Reportable incidents**

(1) The operator of an activity must give notice of a reportable incident in accordance with this regulation.

Penalty:

Fine not exceeding 40 penalty units.

(2) The operator must keep a record of reports of each reportable incident, and of the details, in each case, of any corrective action taken.

Penalty:

Fine not exceeding 30 penalty units.

(3) The operator must give notice (either oral or written) of the incident, with all material details of the incident that are reasonably available to the operator, to the Minister as soon as possible after the first occurrence of the incident.

(4) The operator must give a written report of the incident to the Minister –

(a) if the Minister specifies a reasonable period for giving the report, within that period; or

(b) in any other case, as soon as practicable after the first occurrence of the incident.

(5) The report is to set out fully –

(a) all the material facts and circumstances of the incident that the operator knows or is able, by reasonable search and inquiry, to find out; and

(b) the action (if any) taken to avoid or mitigate any adverse effects of the incident on the environment; and

(c) the corrective action that has been taken, or is proposed to be taken, to prevent another incident of that kind.

## 27. Storage of records

(1) The operator of a petroleum activity must store and maintain a document or other record mentioned in subregulation (2) –

(a) for the period of 5 years from the making of the document or other record; and

(b) in a way that makes retrieval of the document or other record reasonably practicable.

Penalty:

Fine not exceeding 30 penalty units.

(2) For the purposes of subregulation (1), the documents or other records are the following:

(a) the environment plan in force for the activity;

(b) revisions of the environment plan;

(c) written reports (including monitoring, audit and review reports) about environmental performance, or about the implementation strategy, under the environment plan;

(d) records of emissions and discharges into the environment made in accordance with the environment plan;

(e) records of calibration and maintenance of monitoring devices used in accordance with the environment plan;

(f) records of reportable incidents kept under regulation 26(2).

## 28. Making records available

(1) The operator of an activity must make available, in accordance with this regulation, copies of the records mentioned in regulation 27 for the activity.

Penalty:

Fine not exceeding 30 penalty units.

(2) The operator must make copies of the records available to any of the following persons, on request in writing by the person:

(a) the Minister;

(b) a delegate, under section 15 of the Act, of the Minister;

(c) an inspector.

(3) If the person making the request requests that copies of the records are to be made available to an agent of the person, the operator must make the copies available to the agent.

(4) However, if the operator requests a person who is a delegate of the Minister, an inspector or an agent to produce written evidence of the delegation, or of the person's appointment as an inspector or agent, the operator is not required to make the records available unless the evidence is produced to the operator.

(5) The copies of the records must be made available –

(a) in the case of an emergency relating to the activity, as soon as possible at any time of the day or night on any day during the emergency; or

(b) in any other case, during normal business hours on any day, other than a Saturday, a Sunday or a public holiday, at the place where the records are kept.

(6) The copies of the records must be made available at the nominated address or, if agreed between the operator and the person making the request (or the person's agent), at any other place (including by means of electronic transmission to the person or agent at that place).

(7) If the records are stored on a computer, the records must be made available in print-out form or, if the operator and the Minister so agree, in electronic form.

## **PART 4 - Miscellaneous**

### ***Division 1 - Discharges of produced formation water***

#### **29. Discharges of produced formation water**

(1) The operator of an activity must ensure that the concentration of petroleum in any produced formation water discharged into the sea as a result of operations for the activity –

(a) is not greater than 50 millilitres a litre at any time; and

(b) averages less than 30 millilitres a litre during each period of 24 hours.

Penalty:

Fine not exceeding 40 penalty units.

(2) Nothing in subregulation (1) affects an environmental performance standard, in an environment plan in force for the activity, for a concentration of petroleum in produced formation water discharged into the sea that is less than the concentration mentioned in subregulation (1)(a) or (b).

### *Division 2 - Operators of activities*

#### **30. Interpretation of Division**

In this Division –

"**contact details**", for an operator or an agent, means the address within Australia, telephone number, facsimile number and electronic address (if any) of the operator or agent.

#### **31. Notification of appointment of operator**

(1) The petroleum instrument holder for an activity must ensure that, at all times, there is an operator of the activity.

(2) The operator of an activity is the person responsible to the petroleum instrument holder for the overall management and operation of the activity.

(3) The petroleum instrument holder must notify the Minister in writing of the name and contact details of the operator before the first submission for an activity is lodged under these regulations.

(4) The petroleum instrument holder must notify the Minister, in writing, of any change of operator of the activity at the earliest practicable opportunity and, if practicable, at least 28 days before the change takes effect.

(5) Nothing in this regulation affects any duty or responsibility of the petroleum instrument holder, under the Act, for an activity carried out under the petroleum instrument.

#### **32. Operator to give details**

(1) The operator of an activity must notify the Minister promptly, in writing, of –

(a) the appointment of an agent of the operator, in respect of the activity, and the contact details of the agent; or

(b) any change of agent; or

(c) any change of name (where there is no change of identity) or contact details of the operator or the operator's agent.

(2) The operator must include, in any submission to the Minister under Part 2, the name and contact details of the operator or the operator's agent.

(3) The operator, at all times after operations for the activity have commenced, must maintain, and ensure that the Minister has notice of –

(a) an address of the operator, for communications on matters relating to the activity; and

(b) a facsimile number, or electronic mail address, within Australia at which a request for records may be made under [regulation 28](#).

Penalty:

Fine not exceeding 40 penalty units.

### **33. No requirement to give information more than once**

(1) Despite any other provision of this Division, a petroleum instrument holder or operator is not required to give information to the Minister under this Division if, at any relevant time, the information has been given in accordance with any other provision of the Act.

(2) [Subregulation \(1\)](#) does not apply if the information already given has been lost or destroyed.

### **34. Minister may decline to consider submission if information not given**

Despite any other provision of these regulations, if a petroleum instrument holder for an activity, or an operator of the activity, does not give information to the Minister in accordance with this Division, and the information has not been given under another law, the Minister may decline to consider a submission made by the operator under these regulations relating to the activity, until the information is given.

### **35. Minister to keep register**

The Minister must maintain a register or other record of information about an operator or agent –

(a) mentioned in this Division; and

(b) given (whether under this Division or otherwise) to the Minister.

### **36. Proof of appointment as operator**

(1) In proceedings under these regulations, a document that appears to the court to be a certificate by a Minister, in accordance with [subregulation \(2\)](#), certifying a statement to the effect mentioned in [subregulation \(3\)](#) is admissible as evidence of the truth of the statement.

(2) The certificate must be signed by the Minister and be expressed to be in accordance with the register or other record maintained by the Minister under [regulation 35](#).

(3) The statement must be to the effect that, on a specified date, or during a specified period, a specified person was the operator for a specified activity.

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

Notified in the *Gazette* on 26 June 2002.

These regulations are administered in the Department of Infrastructure, Energy and Resources.

#### **Table Of Amendments**

<b>Citation</b>	<b>Serial Number</b>	<b>Date of commencement</b>
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<sup>1</sup> Petroleum (Submerged Lands) (Management of Environment) Regulations 2002	S.R. 2002, No. 67	26.6.2002
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<sup>1</sup>The {i Petroleum (Submerged Lands) (Management of Environment) Regulations 2002} expired on 26 June 2012.

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