

Petroleum (Submerged Lands) (Management of Environment) Regulations 2012

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*.

18 June 2012

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

BRYAN GREEN

Minister for Energy and Resources

PART 1 - Preliminary

1. Short title

These regulations may be cited as the *Petroleum (Submerged Lands) (Management of Environment) Regulations 2012*.

2. Commencement

These regulations take effect on 26 June 2012.

3. Object of regulations

The object of these regulations is to ensure that a petroleum activity is carried out –

- (a) in a manner that is consistent with the principles of ecologically sustainable development; and
- (b) in accordance with an environment plan that incorporates –
- (i) appropriate environmental performance objectives and environmental performance standards; and
- (ii) measurement criteria for determining if those objectives and standards are met.

4. Interpretation

In these regulations, unless the contrary intention appears –

accepted, for an environment plan or a proposed revision of an environment plan, means accepted, in full or in part, by the Minister under regulation 11;

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

environment means –

- (a) ecosystems and their constituent parts, including people and communities; and

(b) natural and physical resources; and

(c) the qualities and characteristics of locations, places and areas; and

(d) the heritage value of places –

and includes the social, economic and cultural features of the matters mentioned in paragraphs (a), (b), (c) and (d);

environmental impact means any change to the environment, whether adverse or beneficial, that wholly or partially results from a petroleum activity of an operator;

environmental performance means the extent to which environmental performance objectives and environmental performance standards are being met;

environmental performance objectives has the meaning it has in regulation 17(2);

environmental performance standards has the meaning it has in regulation 17(3);

environment plan means an environment plan submitted by an operator under regulation 9 that is –

(a) accepted; and

(b) in force;

facility includes a structure or installation of any kind;

operator, for a petroleum activity, means –

(a) the person specified in the register, maintained by the Minister under regulation 45, as the operator of the petroleum activity; or

(b) if there is no such person specified in that register and a petroleum instrument is granted, the person responsible to the petroleum instrument holder for the overall management of the petroleum activity (whether or not operations have commenced); or

(c) if there is no such person specified in that register and a petroleum instrument is not granted, the person responsible for performing the petroleum activity;

petroleum activity means –

(a) any operations or works in an offshore area carried out under a petroleum instrument, other authority or consent under the Act or the regulations; and

(b) any activity relating to petroleum exploration or development which may have an impact on the environment –

and includes any related activity;

petroleum instrument means –

(a) a permit; and

(b) a lease; and

(c) a licence; and

- (d) a pipeline licence; and
- (e) an access authority; and
- (f) a special prospecting authority; and
- (g) any other authority granted by instrument under the Act for the carrying out of a petroleum activity;

petroleum instrument holder means –

- (a) a permittee; and
- (b) a lessee; and
- (c) a licensee; and
- (d) a pipeline licensee; and
- (e) the registered holder of an access authority for a petroleum activity; and
- (f) the registered holder of a special prospecting authority for a petroleum activity; and
- (g) any other registered holder of a petroleum instrument for a petroleum activity;

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

related activity means any one or more of the following activities:

- (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;

relevant person, in relation to an environment plan or a revised environment plan, means –

(a) each Government department, or State authority, as defined in the *State Service Act 2000*, to which the petroleum activities to be carried out under the environment plan or revised environment plan may be relevant; and

(b) each Department or agency of the Commonwealth, another State, or a Territory, to which the petroleum activities to be carried out under the environment plan or revised environment plan may be relevant; and

(c) each person whose functions, interests or activities may be affected by the petroleum activities to be carried out under the environment plan or revised environment plan; and

(d) any other person that the operator, for the petroleum activity, considers has an interest in the petroleum activities to be carried out under the environment plan or revised environment plan;

reportable incident, for an operator, means an incident that is the subject of a notice given by the operator under regulation 32(1);

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 petroleum activity; and

(b) any stage of a petroleum activity.

PART 2 - Environment Plans

Division 1 - Requirement for environment plan

6. Environment plan required for petroleum activity

(1) An operator must not carry out a petroleum activity unless there is an environment plan 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. Operators must comply with environment plan

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

(a) the environment plan for the petroleum activity; or

(b) any limitation or condition, imposed under these regulations, applying to operations for the petroleum activity.

Penalty:

Fine not exceeding 80 penalty units.

(2) Subregulation (1) does not apply to the operator if he or she has the written consent of the Minister to carry out the petroleum activity in that way.

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

8. Operations must not continue if new or increased environmental impact or risk identified

An operator must not carry out a petroleum activity after the occurrence of any significant new environmental impact or risk, or significant increase in an existing environmental impact or risk, arising from the activity unless –

(a) the new impact or risk, or increase in the impact or risk, is provided for in the environment plan for the activity; or

(b) as soon as practicable after the occurrence, the operator has submitted a proposed revision of the environment plan and the Minister has not rejected it under Division 5.

Penalty:

Fine not exceeding 80 penalty units.

Division 2 - Submission and acceptance of environment plan

9. Operators must submit environment plan

(1) An operator must submit an environment plan for a petroleum activity to the Minister before the operator commences the activity.

(2) The environment plan –

(a) must be in writing or an approved form; and

(b) must include the information required in Division 4 to be included in an environment plan; and

(c) may be submitted for one or more stages of the petroleum activity, if the operator and the Minister so agree; and

(d) may relate to a specified petroleum activity in one or more identified locations specified in the plan, if the Minister so approves.

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

(1) Within 30 days after an operator submits an environment plan to the Minister under regulation 9(1), the Minister must –

(a) accept the plan under regulation 11(1); or

- (b) refuse to accept the plan under regulation 11(3); or
- (c) give notice in writing to the operator –
 - (i) stating that the Minister is unable to make a decision about the plan within 30 days; and
 - (ii) 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 an environment plan for a petroleum activity if there are reasonable grounds for believing that the plan –
 - (a) is appropriate for the nature and scale of the petroleum activity or proposed use; and
 - (b) demonstrates that the environmental impacts and risks in respect of the petroleum activity will be reduced to as low as reasonably practicable; and
 - (c) demonstrates that the environmental impacts and risks in respect of the petroleum activity will be of an acceptable level; and
 - (d) provides for appropriate environmental performance objectives, environmental performance standards and other measurement criteria; and
 - (e) includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and
 - (f) for the requirement mentioned in regulation 22(1)(b), demonstrates that –
 - (i) the operator has carried out the consultations required under regulation 14; and
 - (ii) the measures, if any, that the operator has adopted, or proposes to adopt, because of the consultations are appropriate; and
 - (g) complies with the Act, the regulations and any other regulations made under 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 period of time 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 petroleum activity;

(b) accept the plan, or part of the plan, subject to certain limitations or conditions, imposed by the Minister, applying to operations for the petroleum activity.

12. Notice of Minister's decision

(1) The Minister must give the operator notice in writing of a decision by the Minister under regulation 11 –

(a) to accept an environment plan in full; or

(b) to not accept the environment plan; or

(c) to accept the environment plan in part for a particular stage of the petroleum activity; or

(d) to accept the environment plan, in full or in part, subject to the imposition of limitations or conditions applying to operations for the petroleum activity.

(2) The written notice of a decision by the Minister under subregulation (1)(b), (c) or (d) must set out –

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

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

13. Operators to submit summary of environment plan

(1) Within 10 days after receiving written notice of the acceptance of an environment plan under regulation 12(1)(a), the operator must submit to the Minister a summary of the environment plan in accordance with subregulation (2).

(2) A summary of an environment plan for a petroleum activity –

(a) must include the following information from the environment plan:

(i) the coordinates of the petroleum activity;

(ii) a description of the receiving environment;

(iii) a description of the petroleum activity;

(iv) details of major environmental hazards and controls;

(v) a summary of the operator's management approach;

(vi) details of consultation already undertaken under regulation 14, and plans for ongoing consultation;

(vii) contact details for the operator's nominated liaison personnel for the petroleum activity; and

(b) must be to the satisfaction of the Minister.

(3) If the Minister is satisfied with the summary of an environment plan submitted under this regulation he or she may, at any time –

- (a) make publicly known particulars of the summary of the environment plan; or
- (b) on request by a person, make available to that person the summary of the environment plan.

Division 3 - Consultation during preparation or revision of environment plan

14. Consultation with relevant persons

In the course of preparing or revising an environment plan for a petroleum activity an operator must –

- (a) consult each relevant person as to the relevant person's assessment of the possible consequences of the petroleum activity for the relevant person's functions, interests or activities; and
- (b) provide each relevant person with sufficient information relating to the environment plan to enable the relevant person to make an informed assessment of those possible consequences; and
- (c) allow the relevant person a reasonable time to undertake the informed assessment.

Division 4 - Contents of environment plan

15. Description of petroleum activity

The environment plan for a petroleum activity must include a comprehensive description of the petroleum activity, including the following:

- (a) the location or locations of the petroleum activity;
- (b) general details of the construction and layout of any facility or other structure;
- (c) an outline of the operational details of the petroleum activity (for example, seismic surveys, exploration drilling or production) and proposed timetables;
- (d) any additional information relevant to consideration of environmental impacts and risks in respect of the petroleum activity.

16. Description of environment

- (1) The environment plan for a petroleum activity must include details of the particular relevant values and sensitivities (if any) of that environment.
- (2) The environment plan for a petroleum activity must include –
 - (a) details of the environmental impacts and risks in respect of the petroleum activity; and
 - (b) an evaluation of the significant environmental impacts and risks arising directly or indirectly from –
 - (i) the construction of the petroleum activity; and
 - (ii) the operation of the petroleum activity; and
 - (iii) any potential emergency condition occurring during construction or operation of the petroleum activity.

17. Environmental performance objectives and standards

(1) The environment plan for a petroleum activity must include environmental performance objectives, environmental performance standards and measurement criteria.

(2) For subregulation (1), the environmental performance objectives are the goals of an operator in relation to the potential environmental impact of a petroleum activity.

(3) For subregulation (1), the environmental performance standards are the statements of performance required of a system, an item of equipment, a person or a procedure, that are used as a basis for managing environmental risk.

(4) The environmental performance objectives, environmental performance standards and measurement criteria must –

(a) address legislative and other controls that manage environmental features of the petroleum activity; and

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

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

18. Requirements

The environment plan for a petroleum activity must describe the requirements that –

(a) apply to the petroleum activity; and

(b) are relevant to the environmental management of the petroleum activity.

19. Implementation strategy

(1) The environment plan for a petroleum activity must include a strategy (in this regulation referred to as the *implementation strategy*) that is in accordance with this regulation.

(2) The implementation strategy must include measures to identify the specific systems, practices and procedures to be used to ensure that the environmental performance objectives and environmental performance 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 the environmental impacts and risks in respect of the petroleum activity are continuously reduced to as low as reasonably practicable.

(4) The implementation strategy must establish a clear chain of command, setting out the roles and responsibilities of personnel in relation to 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 petroleum activity is aware of his or her responsibilities in relation to the environment plan and has the appropriate competencies and training.

(6) The implementation strategy must provide for the monitoring, audit, management of non-conformance, 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 appropriate consultation with –

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

(b) other relevant interested persons or organisations.

(9) The implementation strategy must comply with the Act, the regulations and any other regulations made under the Act.

20. Oil spill contingency plan

(1) The implementation strategy must include an oil spill contingency plan and provide for the plan to be kept up-to-date in accordance with subregulation (2).

(2) An oil spill contingency plan must be kept up-to-date.

(3) An oil spill contingency plan must include emergency response arrangements.

(4) The emergency response arrangements included in an oil spill contingency plan under subregulation (3) must be tested –

(a) when the arrangements are introduced in the oil spill contingency plan; and

(b) when the arrangements are significantly amended; and

(c) when a new location for the petroleum activity is added to an environment plan; and

(d) when a facility or other structure becomes operational; and

(e) not later than 12 months after the most recent test.

21. Recording and reporting arrangements

The environment plan must include arrangements for –

(a) recording, monitoring and reporting information about the petroleum activity (including information required to be recorded under the Act, the regulations and any other regulations made under the Act) sufficient to enable the Minister to determine whether the environmental performance objectives and environmental performance 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.

22. Other information to be included

- (1) An environment plan for a petroleum activity must include –
- (a) a statement of the operator's corporate environmental policy; and
 - (b) a consultation report, in accordance with subregulation (2), on the consultation undertaken by the operator under regulation 14; and
 - (c) details of any reportable incidents that relate to the petroleum activity.
- (2) The consultation report must include –
- (a) a copy of the full text of an assessment made by a relevant person under regulation 14 and provided to the operator in accordance with that regulation; and
 - (b) a summary of that assessment; and
 - (c) the operator's opinion on the merits of that assessment; and
 - (d) the operator's response, or proposed response, if any, to that assessment.

Division 5 - Revision of environment plan

23. Revision owing to change, or proposed change, of circumstances or operations

- (1) An operator must submit to the Minister a proposed revision of an environment plan for a petroleum activity before the commencement of –
- (a) any new petroleum activity not provided for in the environment plan; or
 - (b) any significant modification of, change to, or new stage of, an existing petroleum activity not provided for in the environment plan for that petroleum activity.
- (2) An operator must submit a proposed revision of an environment plan for a petroleum activity before, or as soon as practicable after –
- (a) a change in the petroleum instrument holder for, or operator of, the petroleum activity to which the environment plan relates; or
 - (b) the occurrence of any significant new environmental impact or risk, or significant increase in an existing environmental impact or risk, not provided for in the environment plan; or
 - (c) the occurrence of a series of new environmental impacts or risks, or a series of increases in existing environmental impacts or risks, that is not provided for in the environment plan and, which, taken together, amount to the occurrence of –
 - (i) a significant new environmental impact or risk; or
 - (ii) a significant increase in an existing environmental impact or risk.

24. Revision on request by Minister

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

(2) A request for a revision under subregulation (1) must –

- (a) be in writing; and
- (b) set out the matters to be addressed by the revision; and
- (c) set out the grounds for the revision; and
- (d) set out the proposed date of effect of the revision.

(3) An operator, who receives a request for a revision under subregulation (1), may make a written submission to the Minister stating the operator's reasons for any one or more of the following matters:

- (a) why the revision should not occur;
- (b) why the revision should be in different terms to the proposed terms;
- (c) why the revision should take effect on a date later than the proposed date.

(4) A written submission under subregulation (3) must be made –

- (a) within 21 days after the operator receives the request for a revision under subregulation (1); or
- (b) within any longer period approved in writing by the Minister.

(5) After receipt of a written submission under subregulation (3), the Minister must –

- (a) decide whether to accept one or more of the reasons for one or more of the matters stated in the submission; and
- (b) give the operator notice in writing of the Minister's 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 for a revision 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.

25. Revision at end of each 5-year period

An operator must submit a proposed revision of an environment plan for a petroleum activity to the Minister at least 14 days before the end of each period of 5 years, commencing on whichever of the following dates is the latest:

- (a) the date the environment plan is first accepted;
- (b) the date the proposed revision of the environment plan is accepted;
- (c) in the case of the proposed revision of an environment plan submitted to the Minister under regulation 23, the date the proposed revision was so submitted;

(d) in the case of the proposed revision of an environment plan requested by the Minister under regulation 24, the date the proposed revision was submitted to the Minister under that regulation.

26. Form of revision

A proposed revision of an environment plan for a petroleum activity under regulations 23, 24 and 25 must be in the form of a revised environment plan or, if the operator and the Minister so agree, a revised part of an environment plan.

27. Acceptance of revised environment plan

Regulations 10, 11 and 14 apply to the proposed revision of an environment plan for a petroleum activity 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.

28. Effect of non-acceptance of proposed revision

If a proposed revision of an environment plan for a petroleum activity is not accepted, the provisions of the environment plan in force for the petroleum activity existing immediately before the proposed revision was submitted remain in force, subject to the Act, the regulations or any other regulations made under the Act (in particular, the provisions of Division 6 of these regulations), as if the revision had not been proposed.

Division 6 - Withdrawal of acceptance of environment plan

29. Withdrawal of acceptance of environment plan

(1) Subject to regulation 30, the Minister, by notice in writing to an operator, may withdraw the acceptance of an environment plan for a petroleum activity on any one or more of the grounds set out in subregulation (2).

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

(a) the operator or petroleum instrument holder has not complied with –

(i) a provision of the Act, the regulations or any other regulations made under the Act relating to environmental requirements; or

(ii) a direction given by the Minister under the Act, the regulations or any other regulations made under the Act; or

(b) the operator has not complied with regulation 7, 8, 23, 24 or 25; 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.

30. Steps to be taken before withdrawal of acceptance

- (1) Before withdrawing the acceptance of an environment plan for a petroleum activity, the Minister must comply with subregulations (2), (4) and (5).
- (2) The Minister must give the operator at least 30 day's notice in writing of the Minister's intention to withdraw acceptance of the environment 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.

31. Withdrawal of acceptance not affected by other provisions

- (1) The Minister may withdraw the acceptance of an environment plan for a petroleum activity on the ground that the operator or petroleum instrument holder has not complied with a provision of the Act, or a regulation mentioned in regulation 29(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, a petroleum activity for which the acceptance of an environment plan has been withdrawn by the Minister on a ground referred to in subregulation (1) 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

32. Notification of reportable incidents

- (1) An operator must give notice to the Minister, in accordance with this regulation, of an incident, arising from a petroleum activity, that in the opinion of the operator is causing, or may cause, moderate to significant environmental damage.

Penalty:

Fine not exceeding 40 penalty units.

- (2) A notice under subregulation (1) –
 - (a) is to be given orally or in writing; and
 - (b) must be given as soon as practicable, but not later than 2 hours after –
 - (i) the time when the reportable incident first occurs; or

(ii) if the operator did not detect the reportable incident when it first occurred, the time when the operator became aware of the reportable incident; and

(c) must contain details of the –

(i) material facts and circumstances relating to the reportable incident that the operator knows or is able, by reasonable search and enquiry, to find out; and

(ii) action taken by the operator to avoid or mitigate any adverse environmental impact of the reportable incident; and

(iii) corrective action taken, or proposed to be taken, by the operator to prevent a similar reportable incident.

33. Written report of reportable incidents

(1) Subject to subregulation (3), an operator must give a written report of a reportable incident to the Minister in accordance with this regulation.

Penalty:

Fine not exceeding 40 penalty units.

(2) A written report under subregulation (1) in relation to a reportable incident –

(a) must be given –

(i) as soon as practicable, but not later than 3 days after the time when the reportable incident first occurs; or

(ii) if, within 3 days after the time when the reportable incident first occurs, the Minister specifies a period for giving the report, within that specified period; and

(b) must contain details of the –

(i) material facts and circumstances relating to the reportable incident that the operator knows or is able, by reasonable search and enquiry, to find out; and

(ii) action taken by the operator to avoid or mitigate any adverse environmental impact of the reportable incident; and

(iii) corrective action taken, or proposed to be taken, by the operator to prevent a similar reportable incident.

(3) A written report in relation to a reportable incident is not required to be given to the Minister under subregulation (1) if the operator gave to the Minister a written report of the incident under regulation 33(2).

(4) An operator is not required to include in the written report in relation to a reportable incident, given to the Minister under subregulation (1), anything that was not included in the relevant oral notice given by the operator under regulation 32(2).

34. Monthly report of recordable incidents

(1) In this regulation –

recordable incident, for an operator, means an incident, arising from a petroleum activity, that –

- (a) breaches an environmental performance objective or an environmental performance standard; and
- (b) is not a reportable incident.

(2) If a recordable incident occurs in a calendar month an operator must give a written report of the recordable incident to the Minister in accordance with this regulation.

Penalty:

Fine not exceeding 40 penalty units.

(3) A written report under subregulation (2) must –

- (a) relate to a calendar month; and
- (b) be given as soon as practicable after the end of a calendar month, but not later than 15 days after the end of the relevant calendar month; and
- (c) contain details of –
 - (i) all recordable incidents that occurred during a calendar month; and
 - (ii) the material facts and circumstances relating to the recordable incidents that the operator knows or is able, by reasonable search and enquiry, to find out; and
 - (iii) the action taken by the operator to avoid or mitigate any adverse environmental impacts of the recordable incidents; and
 - (iv) the corrective action taken, or proposed to be taken, by the operator to prevent similar recordable incidents.

35. Storage of documents and other records

(1) An operator 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 subregulation (1), the documents or other records are the following:

- (a) an environment plan;
- (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) copies of notices given under regulation 32;

(g) copies of reports given under regulation 33;

(h) copies of reports given under regulation 34.

36. Making documents and other records available

(1) An operator must make available, in accordance with this regulation, copies of the documents or other records mentioned in regulation 35.

Penalty:

Fine not exceeding 30 penalty units.

(2) The operator must make copies of the documents and other 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 a person referred to in subregulation (2) requests that copies of the documents or other records be made available to an agent of the person, the operator must make the copies available to the agent.

(4) An operator is not required to make copies of records available to a person referred to in subregulation (2)(b) or (c) unless that person can produce written evidence of his or her delegation or appointment as an inspector or agent.

(5) Copies of documents or other records must be made available –

(a) in the case of an emergency relating to a petroleum 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 statutory holiday as defined in the Statutory Holidays Act 2000, at the place where the records are kept.

(6) Copies of the documents or other records must be made available at –

(a) the address of the operator of which notice has been given under regulation 42(3)(a); or

(b) 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 documents or other records are stored on a computer, the documents or other 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

37. Interpretation

In this Division –

specified concentration means a concentration of petroleum in produced formation water that is not greater than an average of 30ml/L over any period of 24 hours.

38. Discharges of produced formation water

(1) An operator must ensure that the concentration of petroleum in produced formation water, discharged into the sea as a result of the operation of a petroleum activity, does not exceed the specified concentration.

Penalty:

Fine not exceeding 40 penalty units.

(2) Nothing in subregulation (1) affects the application to an operator of an environmental performance standard, in an environment plan, for a concentration of petroleum in produced formation water discharged into the sea that is less than the specified concentration.

(3) Subregulation (1) does not apply to an operator who –

(a) has the consent, in writing, of the Minister to exceed the specified concentration; and

(b) does not exceed that concentration so consented to by the Minister.

(4) An operator must provide the Minister with details of any significant new, or increased existing, environmental impact or risk that may be expected to be associated with the operation of the petroleum activity if the Minister were to consent to the specified concentration being exceeded.

(5) The Minister must not give his or her consent for the specified concentration to be exceeded unless –

(a) the Minister is satisfied that the consent will not result in any significant new or increased environmental impact or risk; and

(b) the consent –

(i) applies to a concentration of petroleum in produced formation water that is not greater than 0.5ML over any period of 24 hours; or

(ii) applies to a period not greater than 48 hours; or

(iii) is required for operational research that has the potential to improve the environmental performance of the operator, in respect of the petroleum activity.

39. Tests and records of produced formation water to be kept

(1) An operator must assess the performance of any equipment used to monitor the quality of produced formation water, discharged into the sea as a result of the operation of a petroleum activity, by –

(a) conducting an accepted test at regular intervals; and

(b) recording the test results.

(2) At the request of the Minister, an operator must produce for inspection the test results mentioned in subregulation (1).

Penalty:

Fine not exceeding 40 penalty units.

Division 2 - Operators of petroleum activities

40. Interpretation of Division

In this Division –

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

41. Notification of appointment of operator

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

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

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

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

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

42. Operator to give details

(1) An operator must notify the Minister, in writing, within 7 days after –

(a) the appointment of an agent of the operator, in relation to the petroleum 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 contact details of the operator or the operator's agent.

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

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

(b) a facsimile number, or electronic mail address, within Australia at which a request for records may be made under regulation 36.

Penalty:

Fine not exceeding 40 penalty units.

43. 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 is lost or destroyed.

44. Minister may decline to consider submission if information not given

Despite any other provision in these regulations, if a petroleum instrument holder, or an operator, 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 petroleum activity, until the information is given.

45. 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.

46. 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) –

(a) is evidence of the truth of the statement; and

(b) may be received in evidence without being proved.

(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 45.

(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 petroleum activity.

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

Notified in the *Gazette* on 20 June 2012.

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

Table Of Amendments

Citation	Serial Number	Date of commencement
Petroleum (Submerged Lands) (Management of Environment) Regulations 2012	S.R. 2012, No. 36	26.6.2012