Petroleum (Submerged Lands) (Pipelines) Amendment Regulations 2004 (No. 1)

Statutory Rules 2004 No. 2

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Petroleum (Submerged Lands) Act 1967.

Dated 19 AUG 2004 2004

PM Jeffery
Governor-General

By His Excellency’s Command

IAN MACFARLANE
Minister for Industry, Tourism and Resources
1 **Name of Regulations**

These Regulations are the *Petroleum (Submerged Lands) (Pipelines) Amendment Regulations 2004 (No. 1).*

2 **Commencement**

These Regulations commence on 1 January 2005.

3 **Amendment of Petroleum (Submerged Lands) (Pipelines) Regulations 2001**

Schedule 1 amends the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001.*

**Schedule 1 Amendments**

(regulation 3)

[1] **Regulation 4, heading**

*substitute*

4 **Interpretation**

[2] **Subregulation 4 (1), after definition of independent validator**

*insert*

*OHS inspector* means a person appointed as an OHS inspector under section 150YL of the Act.

*operator*, for a pipeline, means a person registered under regulation 6D as the operator for the pipeline by the Safety Authority.
pipeline:
(a) in Part 3A:
   (i) means a pipeline to which subclause 2A (6) of Schedule 7 to the Act applies; and
   (ii) includes a pipeline, that would be a pipeline of that kind, that is:
        (A) proposed to be constructed; or
        (B) proposed to be operated; or
        (C) being constructed; and
(b) in these Regulations, other than Part 3A:
   (i) means a pipeline licensed under Division 4 of Part III of the Act; and
   (ii) includes a pipeline, that would be a pipeline of that kind, that is:
        (A) proposed to be constructed; or
        (B) proposed to be operated; or
        (C) being constructed.

insert

pipeline safety management plan means the components of a pipeline management plan that provide for the health and safety of persons at or near the pipeline.

Note: The components of a pipeline management plan are set out in Division 3.2 in Part 3.

substitute

reportable incident means an incident:
(a) that:
   (i) results in significant damage to a pipeline (for example, reducing the capacity of the pipeline to contain petroleum flowing through it); or
(ii) is likely to have a result of a kind mentioned in subparagraph (i); or
(iii) is of a kind that a reasonable pipeline licensee would consider to require immediate investigation; and
(b) that is not a reportable incident within the meaning of the *Petroleum (Submerged Lands) (Management of Environment) Regulations 1999*.

*Safety Authority* means the National Offshore Petroleum Safety Authority established by section 150XD of the Act.

[5] **Subregulation 4 (1), definition of significant pipeline accident event, paragraphs (b) and (c)**

Substitute
(b) causes, or creates a significant risk of causing, human death (for example, because of hydrocarbon releases).

[6] **After regulation 6**

*insert in Part 1*

6A **Relationship with other regulations made under the Act**

The requirements of these Regulations are in addition to the requirements imposed on a person by any other regulations made under the Act.
[7] After Part 1

insert

Part 1A Operators

6B Nomination of operator

(1) A pipeline licensee may send to the Safety Authority a written notice nominating a person to be the operator for a pipeline.

Note Under the definition of pipeline in subregulation 4 (1), a pipeline includes a proposed pipeline.

(2) A notice under subregulation (1) must include:

(a) the person’s name; and

(b) the person’s contact details, including:

(i) a business address; and

(ii) telephone and facsimile numbers for the operator during business hours; and

(iii) telephone and facsimile numbers for the operator outside business hours; and

(c) the person’s Australian Company Number (ACN), if applicable; and

(d) the person’s written consent to the nomination.

6C Acceptance or rejection of nomination of operator

(1) The Safety Authority must accept the nomination of a person as an operator if it is satisfied that the person has, or will have, the day-to-day management and control of:

(a) the pipeline; and

(b) each of the activities mentioned in subregulation 6E (1).

Note Under the definition of pipeline in subregulation 4 (1), a pipeline includes a proposed pipeline.

(2) If the Safety Authority is not satisfied of the matters in paragraphs (1) (a) and (b), it must reject the nomination.
(3) If the Safety Authority accepts the nomination, it must register the nominee as the operator of the pipeline, in accordance with regulation 6D.

(4) The Safety Authority must notify the pipeline licensee who made the nomination, and the nominee:
   (a) of the decision to accept or reject the nomination; and
   (b) if the Safety Authority has decided to reject the nomination — of the reasons for the rejection.

6D Register of operators

(1) The Safety Authority must maintain the register of operators.

(2) A pipeline licensee who has nominated a person to be the operator of the pipeline, or the operator of the pipeline, may notify the Safety Authority, in writing, that the registered operator has ceased to be the person who has, or will have, the day-to-day management and control of:
   (a) the pipeline; and
   (b) each of the activities mentioned in subregulation 6E (1).

Note Under the definition of pipeline in subregulation 4 (1), a pipeline includes a proposed pipeline.

(3) On receipt of a notice under subregulation (2), the Safety Authority must remove the operator’s name from the register.

(4) The Safety Authority may remove an operator’s name from the register if:
   (a) the Safety Authority believes, on reasonable grounds, that the operator does not or will not have day-to-day control of the pipeline and each of the activities mentioned in subregulation 6E (1); and
   (b) the Safety Authority has given notice of intention to remove the operator from the register to:
      (i) the person who nominated the operator; and
      (ii) the operator; and
   (c) the Safety Authority has allowed a period of 30 days for the nominator and the operator to make representations; and
(d) the Safety Authority has considered those representations and continues to believe on reasonable grounds that the operator does not, or will not, have day-to-day management and control of the pipeline and each of the activities mentioned in subregulation 6E (1).

6E Pipeline must have registered operator

(1) A person must not:
   (a) construct a pipeline; or
   (b) operate a pipeline (whether or not the pipeline is in use at a particular time); or
   (c) modify a pipeline; or
   (d) decommission a pipeline;
in Commonwealth waters if there is not an operator in respect of the pipeline.

Penalty: 80 penalty units.

(2) However, subregulation (1) does not apply to construction, operation, modification or decommissioning that occurs within 3 months after the commencement of this regulation.

Note. It is expected that the period of 3 months will be adequate to ensure that operators can be nominated under this Part.

[8] After subregulation 20 (3)

insert

Note In making decisions about a pipeline management plan, the Designated Authority is subject to Part 3A.

[9] After regulation 20

insert

20A Handling pipeline management plan

The Designated Authority:
   (a) must give a copy of a pipeline management plan to the Safety Authority as soon as practicable after the pipeline
licensee gives the plan to the Designated Authority (but not later than 7 days after the pipeline licensee gives the plan); and

(b) must not act under regulation 21 or 22 unless the Safety Authority has notified the Designated Authority under regulation 39B.

Note The Safety Authority is required to consider the pipeline safety management plan in accordance with Part 3A. The Safety Authority is subject to an initial 21 day timetable for considering the plan: see regulation 39B.

[10]  **Subregulation 22 (1)**

*substitute*

(1) The Designated Authority must accept the pipeline management plan only if:

(a) there are reasonable grounds for believing that:

(i) the plan is appropriate for the nature and proposed use of the pipeline; and

(ii) the plan complies with regulations 24, 25, 26, 27 and 29 for the stages connected with the life of the pipeline mentioned in regulation 20 for which the plan is submitted; and

(iii) the plan, or a part of a pipeline management plan in force for the pipeline, complies with regulation 28; and

(b) the Safety Authority has notified the Designated Authority under regulation 39B that the Safety Authority has accepted the pipeline safety management plan.

(1A) If:

(a) the Safety Authority has accepted the pipeline safety management plan only for 1 or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and

(b) there are reasonable grounds for believing the matters in paragraph (1) (a) for each of those stages;
the Designated Authority must accept the pipeline management plan only for those stages.


*substitute*

(1) The Designated Authority must accept the proposed revision of the pipeline management plan only if:

(a) there are reasonable grounds for believing that:
    (i) the revision is appropriate for the nature and proposed use of the pipeline; and
    (ii) the pipeline management plan, as revised by the proposed revision, would comply with regulations 24, 25, 26, 27 and 29 for the stages connected with the life of the pipeline mentioned in regulation 20 for which the revision is submitted; and
    (iii) the pipeline management plan, as revised by the proposed revision, would comply with regulation 28; and
    (iv) in the case that the revision relates to a proposal to modify or decommission the pipeline — a validation of the proposal is in force; and

(b) the Safety Authority has notified the Designated Authority under regulation 39B that the Safety Authority has accepted the revision.

(1A) If:

(a) the Safety Authority has accepted the revision only for 1 or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates; and

(b) there are reasonable grounds for believing the matters in paragraph (1) (a) for each of those stages;

the Designated Authority must accept the revision only for those stages.
[12] After Part 3

insert

Part 3A Pipeline safety management plans

Division 3A.1 Preliminary

39A Definition for Part 3A

In this Part:

pipeline safety management plan in force for a pipeline means the components of a pipeline management plan in force for a pipeline that provide for the health and safety of persons at or near the pipeline.

Division 3A.2 Acceptance of a pipeline safety management plan

39B Consideration of a pipeline safety management plan

(1) This regulation applies if the Designated Authority gives the Safety Authority a copy of a pipeline management plan.

(2) The Safety Authority must, within 21 days:

(a) consider the pipeline safety management plan within the pipeline management plan; and

(b) must decide:

(i) to accept the pipeline safety management plan in full; or

(ii) to refuse to accept the pipeline safety management plan; or

(iii) to do both of the following:

(A) accept the pipeline safety management plan only for 1 or more specified stages connected with the life of the pipeline, but not for all of
the stages to which the pipeline management plan relates;

(B) refuse to accept the rest of the pipeline safety management plan; or

(iv) that it is unable to make a decision on the pipeline safety management plan; and

(c) notify the Designated Authority, in writing, of the Safety Authority’s decision and the reasons for any refusal.

Note See subregulation 20 (2) for the stages connected with the life of the pipeline.

(3) The Safety Authority:

(a) may make an acceptance of a pipeline safety management plan, or of a pipeline safety management plan for 1 or more specified stages connected with the life of the pipeline, subject to conditions or limitations; and

(b) must include any conditions or limitations in the notice under paragraph (2) (c).

(4) If the Safety Authority is unable to make a decision on the pipeline safety management plan, the Safety Authority must include in the notice under paragraph (2) (c):

(a) a proposed timetable for consideration of the pipeline safety management plan that gives the pipeline licensee a reasonable opportunity to modify or resubmit the pipeline safety management plan; and

(b) a description of any further information the Safety Authority may require to assist it to consider the pipeline safety management plan.

39C Notice to pipeline licensee about a pipeline safety management plan

(1) For subregulation 21 (1), if the Safety Authority has given the Designated Authority a timetable under subregulation 39B (4) for consideration of the pipeline safety management plan, the Designated Authority must give written notice to the pipeline licensee explaining the effect of the timetable.

(2) A failure by the Designated Authority to comply with subsection (1) in relation to a pipeline safety management plan

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does not affect the validity of a decision by the Safety Authority to accept or reject the pipeline safety management plan.

39D Revision of a pipeline management plan — request by the Safety Authority concerning a pipeline safety management plan

(1) The Safety Authority may request the Designated Authority to act under regulation 31 for a pipeline management plan if the Safety Authority believes that the pipeline safety management plan requires revision.

(2) The request must be in writing, and must include the following information:
   (a) the matters, relating to the pipeline safety management plan, to be addressed by the revision;
   (b) the proposed date of effect of the revision;
   (c) the grounds for the request.

(3) If the Designated Authority receives a request under subregulation (1):
   (a) the Designated Authority must act under regulation 31 in accordance with the request; and
   (b) the Designated Authority is not prevented from dealing with other matters under regulation 31 at the same time.

39E Submission about proposed revision of a pipeline management plan

(1) This regulation applies if:
   (a) the Designated Authority gives a request to a pipeline licensee under subregulation 31 (1) (whether or not the request was given after a request from the Safety Authority); and
   (b) the pipeline licensee makes a submission to the Designated Authority under subregulation 31 (3); and
   (c) the submission deals in whole or in part with the pipeline safety management plan.
(2) The Designated Authority must give a copy of the submission (to the extent that it deals with the pipeline safety management plan) to the Safety Authority as soon as practicable after the pipeline licensee gives the submission to the Designated Authority (but not later than 7 days after the pipeline licensee gives the submission).

39F Proposed revision of a pipeline management plan

(1) This regulation applies if:
   (a) a pipeline licensee resubmits a revision of a pipeline management plan under regulation 30, 31 or 32; and
   (b) the revision deals in whole or in part with the pipeline safety management plan; and
   (c) the Designated Authority gives the Safety Authority a copy of the pipeline management plan.

(2) The Safety Authority must, within 21 days:
   (a) consider the proposed revision of the pipeline safety management plan; and
   (b) must decide:
      (i) to accept the proposed revision in full; or
      (ii) to refuse to accept the proposed revision; or
      (iii) to do both of the following:
         (A) accept the proposed revision only for 1 or more specified stages connected with the life of the pipeline, but not for all of the stages to which the pipeline management plan relates;
         (B) refuse to accept the rest of the proposed revision; or
      (iv) that it is unable to make a decision on the proposed revision; and
   (c) notify the Designated Authority, in writing, of the Safety Authority's decision and the reasons for any refusal.

Note: See subregulation 20 (2) for the stages connected with the life of the pipeline.
(3) The Safety Authority:

(a) may make an acceptance of a proposed revision, or of a proposed revision for 1 or more specified stages connected with the life of the pipeline, subject to conditions or limitations; and

(b) must include any conditions or limitations in the notice under paragraph (2) (c).

(4) If the Safety Authority is unable to make a decision on the pipeline safety management plan, the Safety Authority must include in the notice under paragraph (2) (c):

(a) a proposed timetable for consideration of the proposed revision that gives the pipeline licensee a reasonable opportunity to modify or resubmit the proposed revision; and

(b) a description of any further information the Safety Authority may require to assist it to consider the proposed revision.

39G Notice to pipeline licensee about proposed revision of a pipeline safety management plan

(1) For subregulation 34 (1), if the Safety Authority has given the Designated Authority a timetable under subregulation 39F (4) for consideration of the pipeline safety management plan, the Designated Authority must give written notice to the pipeline licensee explaining the effect of the timetable.

(2) A failure by the Safety Authority to comply with subsection (1) in relation to a pipeline safety management plan does not affect the validity of a decision by the Safety Authority to accept or reject the pipeline safety management plan.
Division 3A.3 Withdrawal of acceptance of a pipeline safety management plan

39H Request for withdrawal of acceptance of a pipeline management plan

(1) The Safety Authority may, by written notice to the Designated Authority, request the Designated Authority to withdraw the acceptance of a pipeline management plan in force for a pipeline on any of the following grounds:
   (a) the operator of the pipeline has not complied with:
       (i) Schedule 7 to the Act; or
       (ii) a law mentioned in subsection 140H (2) of the Act; or
       (iii) a law prescribed for that subsection; in relation to the pipeline;
   (b) the pipeline licensee has not complied with regulation 11 or 17 in relation to the pipeline safety management plan;
   (c) the pipeline licensee has not complied with regulation 30, 31 or 32 in relation to the pipeline safety management plan;
   (d) the Safety Authority has refused to accept a proposed revision of the pipeline safety management plan.

(2) The notice must:
   (a) be in writing; and
   (b) include the grounds for giving the notice.

39I Steps to be taken before request for withdrawal of acceptance

(1) Before giving the Designated Authority a notice under subregulation 39H (1):
   (a) the Safety Authority must comply with subregulation (2); and
   (b) the Designated Authority must comply with subregulations (3), (4) and (5).
(2) The Safety Authority must give the Designated Authority a written notice that the Safety Authority is considering giving the Designated Authority the notice under subregulation 39H (1).

(3) The Designated Authority must give a notice to the pipeline licensee stating:
   (a) that the Safety Authority is considering giving the Designated Authority the notice under subregulation 39H (1); and
   (b) the grounds for giving the notice; and
   (c) a date (the cut-off date) on or before which the pipeline licensee (or any other person to whom a copy of the notice has been given) may submit to the Designated Authority, in writing, any matters for the Designated Authority to take into account.

(4) The Designated Authority:
   (a) must give a copy of the notice under subregulation (3) to the operator, if the operator is not the pipeline licensee; and
   (b) may give a copy of the notice to any other person that the Designated Authority thinks appropriate.

(5) If, on or before the cut-off date, the pipeline licensee (or any other person to whom a copy of the notice has been given) submits to the Designated Authority, in writing, a matter for the Safety Authority to take into account, the Designated Authority must give a copy of the matter to the Safety Authority as soon as practicable after the pipeline licensee gives the matter to the Designated Authority.

39J Withdrawal of acceptance of a pipeline management plan on request

(1) In deciding whether to give the Designated Authority the notice under subregulation 39H (1), the Safety Authority must take into account:
   (a) any action taken by the pipeline licensee or the operator:
      (i) to remove the ground for withdrawal of acceptance; or
(ii) to prevent the recurrence of that ground; and
(b) any matter submitted to the Designated Authority before the cut-off date by the pipeline licensee or another person to whom a copy of the notice has been given.

(2) If, after complying with subregulation (1), the Safety Authority gives the Designated Authority a notice under subregulation 39H (1), the Designated Authority:
(a) must withdraw the pipeline management plan under regulation 37; and
(b) must give a copy of the notice withdrawing the pipeline management plan to the operator, if the operator is not the pipeline licensee.

[13] Part 4, heading

substitute

Part 4 Notifying and reporting accidents and dangerous occurrences

39M Interpretation

(1) For paragraph 41 (1) (b) of Schedule 7 to the Act, the prescribed period in relation to a pipeline is 3 days.

(2) For the definition of dangerous occurrence in clause 2 of Schedule 7 to the Act, a dangerous occurrence is an occurrence at a pipeline that:
(a) created a substantial risk of an accident; or
(b) was of a kind that a reasonable operator would consider to require an immediate investigation.

Note 1 The meaning of pipeline in this Part is explained in subregulation 4 (1).

Note 2 This regulation relates to the reporting of accidents or dangerous occurrences under Schedule 7, and therefore relates to incidents affecting or potentially affecting health and safety. Incidents of that kind must be reported to the Safety Authority by the operator.
39N Reporting accidents and dangerous occurrences

(1) For subclause 41 (1) of Schedule 7 to the Act, a notice of an accident or dangerous occurrence:
   (a) may be oral or written; and
   (b) must be provided as soon as practicable after:
      (i) the first occurrence of the accident or dangerous occurrence; or
      (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence — the detection of the accident or dangerous occurrence by the operator; and
   (c) must contain all material details concerning the accident or dangerous occurrence that are reasonably available to the operator at the time of the notification.

(2) For subclause 41 (1) of Schedule 7 to the Act, the report:
   (a) must be written; and
   (b) unless otherwise agreed by the Safety Authority — must be provided within 3 days after:
      (i) the first occurrence of the accident or dangerous occurrence; or
      (ii) if the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence — the detection of the accident or dangerous occurrence by the operator; and
   (c) must contain material details concerning the accident or dangerous occurrence of the types determined by the Safety Authority.

(3) A determination mentioned in paragraph (2) (c) must be:
   (a) in writing; and
   (b) published in the Gazette.

(4) As soon as practicable, but not later than 15 days after the end of each month, the operator of a pipeline must submit, to the Safety Authority a written report, for that month, identifying:
   (a) the number of deaths of persons at the pipeline; and
(b) the number and types of injuries to persons at the pipeline, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid.

(5) The operator of a pipeline must compile and maintain a record of:
(a) all reports of accidents occurring in, or in connection with, the pipeline; and
(b) the details of any corrective action taken in each case.

Note This regulation relates to the reporting of accidents or dangerous occurrences under Schedule 7, and therefore relates to incidents affecting or potentially affecting health and safety. Incidents of that kind must be reported to the Safety Authority by the operator.

[14] Subregulation 40 (1)

omit

, but within 2 hours,

[15] Subregulation 40 (7), at the foot

insert

Note This regulation relates to a reportable incident, as defined in these Regulations, which must be reported to the Designated Authority by the pipeline licensee. Incidents related only to health and safety do not need to be reported under this regulation.

[16] After subregulation 45 (2)

insert

(3) The Designated Authority must also consult with the Safety Authority in relation to the Designated Authority’s exercise of its powers under this regulation.
[17] After Division 5.3

insert

Division 5.4 Further transitional provisions

50 Applications, records and documents to be given to the Safety Authority

(1) The Designated Authority must give to the Safety Authority the following documents and records:

(a) pipeline management plans that are in force under Part 3 of these Regulations, as in force immediately before the commencement of this Part;

(b) current acceptances of pipeline management plans under Part 3 of these Regulations, as in force immediately before the commencement of this Part;

(c) current reports given by pipeline licensees in accordance with the arrangements under regulation 42, as in force immediately before the commencement of this Part, contained in the pipeline management plan in force for the pipeline.

(2) Before giving a report mentioned in paragraph (1) (c) to the Safety Authority, a Designated Authority must consult with the Safety Authority about what is to be given.

(3) The Designated Authority must also give to the Safety Authority:

(a) each pipeline management plan that has been submitted to the Designated Authority under regulation 20, as in force immediately before the commencement of this Part; and

(b) any related documents supplied by the pipeline licensee; and

(c) any reports or analysis prepared by the Designated Authority as part of the consideration of the pipeline management plan, to the extent that the report or analysis relates to health and safety.
Notes

1. These Regulations amend Statutory Rules 2001 No. 314.