



Petroleum (Submerged Lands) (Management of Environment) Amendment Regulations 2009 (No. 1)¹

Select Legislative Instrument 2009 No. 383

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Dated 14 December 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

MARTIN FERGUSON
Minister for Resources and Energy

1 Name of Regulations

These Regulations are the *Petroleum (Submerged Lands) (Management of Environment) Amendment Regulations 2009 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Petroleum (Submerged Lands) (Management of Environment) Regulations 1999*

Schedule 1 amends the *Petroleum (Submerged Lands) (Management of Environment) Regulations 1999*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 1

substitute

1 Name of Regulations

These Regulations are the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*.

[2] Regulation 3

substitute

3 Object of Regulations

The object of these Regulations is to ensure that any petroleum activity or greenhouse gas storage activity carried out in an offshore area is:

- (a) carried out in a manner consistent with the principles of ecologically sustainable development; and
- (b) carried out in accordance with an environmental plan that has:
 - (i) appropriate environmental performance objectives and standards; and
 - (ii) measurement criteria for determining whether the objectives and standards have been met.

[3] Subregulation 4 (1), definitions of *accepted*, *Act* and *activity*

substitute

accepted, in relation to an environment plan, means a plan accepted by the Regulator under regulation 11.

Act means the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

activity means a petroleum activity or a greenhouse gas activity.

[4] Subregulation 4 (1), after definition of *facility*

insert

greenhouse gas activity:

- (a) means:
 - (i) any operations or works in an offshore area carried out under a greenhouse gas instrument, other authority or consent under the Act or regulations made under the Act; and

- (ii) any activity relating to greenhouse gas exploration, injection or storage which may have an impact on the environment; and
- (b) includes:
 - (i) seismic or other surveys; and
 - (ii) drilling; and
 - (iii) construction and installation of a facility; and
 - (iv) operation of a facility; and
 - (v) significant modification of a facility; and
 - (vi) decommissioning, dismantling or removing a facility; and
 - (vii) construction and installation of a greenhouse gas pipeline; and
 - (viii) operation of a greenhouse gas pipeline; and
 - (ix) significant modification of a greenhouse gas pipeline; and
 - (x) decommissioning, dismantling or removing a greenhouse gas pipeline; and
 - (xi) injection and storage of greenhouse gas.

greenhouse gas instrument:

- (a) means an authority granted by instrument under the Act for the carrying out of a greenhouse gas activity; and
- (b) includes:
 - (i) a greenhouse gas assessment permit;
 - (ii) a greenhouse gas-related pipeline licence;
 - (iii) an infrastructure licence;
 - (iv) a greenhouse gas search authority;
 - (v) a greenhouse gas special authority;
 - (vi) a greenhouse gas holding lease;
 - (vii) a greenhouse gas injection licence.

greenhouse gas instrument holder:

- (a) means the registered holder of a greenhouse gas instrument; and
- (b) includes:
 - (i) a permittee; and

-
- (ii) a lessee; and
 - (iii) a licensee; and
 - (iv) a pipeline licensee; and
 - (v) an infrastructure licensee; and
 - (vi) a registered holder of a greenhouse gas search authority; and
 - (vii) a registered holder of a greenhouse gas special authority for the activity.

instrument holder, for an activity, means:

- (a) a greenhouse gas instrument holder; and
- (b) a petroleum instrument holder.

**[5] Subregulation 4 (1), definitions of *operator*,
petroleum activity or *activity* and *petroleum
instrument***

substitute

operator, for an activity, means:

- (a) if there is a person recorded by the Regulator as the operator of the activity under regulation 35 — that person; or
- (b) in any other case:
 - (i) if there is a petroleum instrument — the person responsible to the petroleum instrument holder for the overall management of operations of the activity (whether or not the operations have commenced) — that person; or
 - (ii) if there is a greenhouse gas instrument — the person responsible to the greenhouse gas instrument holder for the overall management of operations of the activity (whether or not the operations have commenced); or
 - (iii) if there is no petroleum instrument or greenhouse gas instrument — the person performing the activity.

petroleum activity:

(a) means:

- (i) 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
- (ii) any activity relating to petroleum exploration or development which may have an impact on the environment; and

(b) includes:

- (i) seismic or other surveys; and
- (ii) drilling; and
- (iii) construction and installation of a facility; and
- (iv) operation of a facility; and
- (v) significant modification of a facility; and
- (vi) decommissioning, dismantling or removing a facility; and
- (vii) construction and installation of a petroleum pipeline; and
- (viii) operation of a petroleum pipeline; and
- (ix) significant modification of a petroleum pipeline; and
- (x) decommissioning, dismantling or removing a petroleum pipeline; and
- (xi) storage, processing or transport of petroleum.

petroleum instrument:

(a) means an authority granted by an instrument under the Act for the carrying out of a petroleum activity; and

(b) includes:

- (i) a petroleum exploration permit; and
- (ii) a petroleum retention lease; and
- (iii) a petroleum production licence; and
- (iv) a petroleum-related pipeline licence; and
- (v) an infrastructure licence; and
- (vi) a petroleum access authority; and
- (vii) a petroleum special prospecting authority.

[6] Subregulation 4 (1), definition of *reportable incident*

substitute

Regulator means:

- (a) in relation to a petroleum activity — the Designated Authority; or
- (b) in relation to a greenhouse gas storage activity — the responsible Commonwealth Minister.

reportable incident, for an operator of an activity, means an incident relating to the activity that has caused, or has the potential to cause, moderate to significant environmental damage.

[7] Subregulation 4 (2), notes 1 and 2

substitute

Note Other words and expressions used in these Regulations have the meaning given by section 7 of the Act. For example:

- construct
- Designated Authority
- Greater Sunrise visiting inspector
- greenhouse gas assessment permit
- greenhouse gas holding lease
- greenhouse gas injection licence
- greenhouse gas pipeline
- greenhouse gas project inspector
- greenhouse gas search authority
- greenhouse gas special authority
- greenhouse gas substance
- infrastructure licence
- infrastructure licensee
- lease area
- lessee
- licence area
- licensee
- offshore area
- permit area
- permittee
- petroleum

- petroleum access authority
- petroleum exploration permit
- petroleum pipeline
- petroleum production licence
- petroleum project inspector
- petroleum retention lease
- petroleum special prospecting authority
- pipeline licensee
- registered holder
- responsible Commonwealth Minister.

[8] Subregulation 6 (1), note 1

omit

petroleum

[9] Subregulation 9 (1)

omit

adjacent

insert

offshore

[10] Subregulation 11 (4)

omit

designated Authority

insert

Regulator

[11] Paragraph 11 (6) (c)

omit

adjacent

insert

offshore

[12] Paragraph 11 (6) (c)

omit

section 152

insert

section 434

[13] Subparagraph 11 (8) (a) (i)

omit

petroleum

[14] Subregulation 13 (5), including the subheading

substitute

Requirements

- (5) The environment plan must describe the requirements that:
- (a) apply to the activity; and
 - (b) are relevant to the environmental management of the activity.

[15] Subregulation 14 (3)

omit

are reduced

insert

are continuously reduced

[16] Subregulation 14 (8)

substitute

- (8) The implementation strategy must establish and provide for the maintenance of an oil spill contingency plan.
- (8AA) The oil spill contingency plan must:
- (a) be kept up-to-date; and
 - (b) include emergency response arrangements.

[17] Subregulation 14 (8A)*omit*

in the manual mentioned in subregulation (8)

insert

in the oil spill contingency plan

[18] Paragraph 14 (8A) (c)*omit*

test.

insert

test; and

[19] After paragraph 14 (8A) (c)*insert*

- (d) for a new location for the activity that is added to the environment plan after the response arrangements have been tested and before the next test is conducted — when the location is added to the plan; and
- (e) for a facility or other structure that becomes operational after the response arrangements have been tested and before the next test is conducted — when the facility or structure becomes operational.

[20] Paragraph 17 (2) (a)*omit*

petroleum

[21] Paragraph 17 (2) (b)*omit*

activity.

insert

activity; or

[22] After paragraph 17 (2) (b)*insert*

- (c) the occurrence of a series of new environmental impacts or risks, or a series of increases in existing environmental impacts or risks, 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;
- that is not provided for in the environment plan in force for the activity.

[23] Regulation 19*substitute***19 Revision at the end of each 5 years**

- (1) The operator of an activity must submit to the Regulator a proposed revision of the environment plan at least 14 days before the end of each period of 5 years, commencing on the latest of the following:
- (a) the day on which the environment plan is first accepted under regulation 11 by the Regulator;
 - (b) the day on which a revised environment plan submitted under this regulation is accepted under regulation 11 by the Regulator;
 - (c) for a revision of an environmental plan submitted under regulation 17 or 18, the day (if any) notified by the Regulator under subregulation (2).
- (2) For paragraph (1) (c), the Regulator may notify the operator that the effect of a revision of an environment plan submitted under regulation 17 or 18 is that the period of 5 years mentioned in subregulation (1) starts on the date specified in the notification.

[24] Regulation 21, heading

substitute

21 Acceptance of a revised environment plan

[25] Paragraph 23 (2) (a)

substitute

- (a) the operator or instrument holder has not complied with:
- (i) a provision of the Act relating to environmental requirements; or
 - (ii) a direction given by the Regulator under section 574 of the Act; or

[26] Paragraph 23 (3) (b)

omit

adjacent

insert

offshore

[27] Paragraph 23 (3) (b)

omit

section 152

insert

section 434

[28] Paragraph 24 (5) (a)

omit

petroleum

[29] Regulation 25

omit each mention of
petroleum

[30] Paragraph 28 (2) (b)

omit
section 15
insert
section 52

[31] Paragraph 28 (2) (c)

substitute
(c) a greenhouse gas project inspector, a petroleum project inspector or a Greater Sunrise visiting inspector.

[32] Subregulation 28 (4)

substitute

- (4) However, if the operator:
- (a) requests a person who is a delegate of the Regulator to produce written evidence of the delegation; or
 - (b) requests a person who is a greenhouse gas project inspector or a petroleum project inspector to produce written evidence of the person's appointment as a greenhouse gas project inspector or a petroleum project inspector; or
 - (c) requests a person who is a Greater Sunrise visiting inspector to produce written evidence of the person's appointment as a Greater Sunrise visiting inspector; or
 - (d) requests a person who is an agent to produce written evidence of the person's appointment as an agent;
- the operator is not required to make the records available unless the person produces the evidence to the operator.

[33] Subregulation 29 (1)*omit*

not greater than 30mg/L during each period of 24 hours

insert

not greater than an average of 30mg/L over any period of 24 hours

[34] Regulation 31

omit each mention of
petroleum

[35] Subregulation 33 (1)*omit*

a petroleum instrument holder

insert

an instrument holder

[36] Regulation 34*omit*

a petroleum instrument holder

insert

an instrument holder

[37] Further amendments — an activity

The following provisions are amended by omitting ‘a petroleum activity’ and inserting ‘an activity’:

- subregulation 4 (1), definitions of *environmental impact*, *environment plan* and *recordable incident*
- regulation 5, heading
- regulation 5
- regulation 6, heading

- subregulation 6 (1)
- subregulation 7 (1)
- subregulation 8 (1)
- subregulation 9 (1)
- regulation 12
- subregulation 17 (1)
- subregulation 18 (1)
- subregulation 27 (1).

[38] Further amendments — Regulator

The following provisions are amended by omitting each mention of ‘Designated Authority’ and inserting ‘Regulator’:

- subregulations 7 (2) and (3)
- subregulation 8 (2)
- subregulations 9 (1) and (2)
- paragraphs 9 (3) (a) and (b)
- subregulation 10 (1)
- paragraph 10 (1) (c)
- subregulation 10 (2)
- subregulations 11 (1), (2), (3) and (5)
- subregulation 11 (6), note
- subregulation 11 (7)
- paragraph 11 (8) (b)
- paragraphs 15 (a) and (b)
- subregulation 17 (1)
- regulation 18, heading
- subregulations 18 (1), (2), (3), (4) and (5)
- paragraphs 18 (5) (c) and (d)
- subregulation 18 (6)
- regulation 20
- regulation 21, note
- subregulation 23 (1)
- paragraph 23 (2) (c)

- subregulations 24 (1), (2), (3), (4) and (5)
- paragraph 24 (5) (b)
- subregulations 25 (1) and (2)
- paragraph 26 (4) (a)
- paragraph 26A (4) (a)
- subparagraph 26A (4) (b) (ii)
- paragraph 26B (4) (a)
- paragraphs 28 (2) (a) and (b)
- subregulation 28 (7)
- paragraph 29 (4) (a)
- subregulation 29 (5)
- paragraph 29 (5) (c)
- subregulation 29 (6)
- subregulation 29A (2)
- subregulations 31 (3) and (4)
- subregulations 32 (1), (2) and (3)
- subregulation 33 (1)
- regulation 34, heading
- regulation 34
- regulation 35, heading
- regulation 35
- paragraph 35 (b)
- subregulations 36 (1) and (2)
- subparagraph 37 (a) (ii).

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.