

Western Australia

**Petroleum (Submerged Lands) (Pipelines)  
Regulations 2007**

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# **Petroleum (Submerged Lands) (Pipelines) Regulations 2007**

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## CONTENTS

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### **Part 1 — Preliminary**

1.	Citation	1
2.	Commencement	1
3.	Terms used in these regulations	1
4.	Validation	3

### **Part 2 — Operators**

5.	Pipeline to have an operator	4
6.	Nomination of operator	4
7.	Acceptance or rejection of person as operator	4
8.	Register of operators, removal from the register	5

### **Part 3 — Consent to construct and operate pipelines**

#### **Division 1 — Consent to construct**

9.	Consent to construct a pipeline	7
10.	Matters to be agreed before application for consent to construct	7
11.	Application for consent to construct	7
12.	Deciding an application for consent to construct	8
13.	Construction must comply with pipeline management plan	9
14.	Notice of route followed by pipeline	9

	<b>Division 2 — Consent to operate</b>	
15.	Consent to operate a pipeline	9
16.	Matters to be agreed before application for consent to operate	10
17.	Application for consent to operate	10
18.	Deciding an application for consent to operate	11
19.	Operation must comply with pipeline management plan	11
20.	Conveying compositions of petroleum through pipeline	12
	<b>Division 3 — Modifying or decommissioning pipelines</b>	
21.	Modifying or decommissioning a pipeline	13
	<b>Part 4 — Pipeline management plans</b>	
	<b>Division 1 — Acceptance of pipeline management plans</b>	
22.	Submission of a pipeline management plan	14
23.	Role of Safety Authority	14
24.	Time limit for acceptance or rejection of a pipeline management plan	14
25.	Acceptance or rejection of a pipeline management plan	15
	<b>Division 2 — Contents of pipeline management plans</b>	
26.	Contents of a pipeline management plan	17
27.	Description of safety policy	17
28.	Description of the pipeline	17
29.	Description of pipeline management system	17
30.	Statement of standards	18
31.	Arrangements for records, storage of documents	18
32.	Arrangements for reporting	19
	<b>Division 3 — Revision of pipeline management plans</b>	
33.	Revision because of a change, or proposed change, of circumstances or operations	20
34.	Revision on Minister's request	21
35.	Revision after 5 years	22
36.	Form of proposed revision	23

37.	Time limit for acceptance or rejection of a proposed revision	23
38.	Acceptance or rejection of a proposed revision of a pipeline management plan	24
39.	Effect of rejection of proposed revision	25
	<b>Division 4 — Withdrawal of acceptance of pipeline management plans</b>	
40.	Grounds for withdrawal of acceptance	26
41.	Notice before withdrawal of acceptance	26
42.	Withdrawal of acceptance despite conviction, and vice versa	27
	<b>Part 5 — Pipeline safety management plans</b>	
	<b>Division 1 — Preliminary</b>	
43.	Term used in this Part	28
	<b>Division 2 — Acceptance and revision of pipeline safety management plans</b>	
44.	Acceptance or rejection of pipeline safety management plan	28
45.	Notice to pipeline licensee about pipeline safety management plan timetable	30
46.	Revision on Safety Authority's request	30
47.	Safety Authority to receive submissions about revision of a pipeline management plan	30
48.	Revision of a pipeline management plan	31
49.	Notice to pipeline licensee about pipeline safety management plan revision timetable	32
	<b>Division 3 — Request for withdrawal of acceptance of pipeline management plans</b>	
50.	Safety Authority may request withdrawal of acceptance	33
51.	Notice before request to withdraw acceptance	33
52.	Withdrawal of acceptance of a pipeline management plan on request	34

**Part 6 — Accidents, dangerous occurrences and reportable incidents**

53.	Dangerous occurrence	36
54.	Period of incapacity for work caused by pipeline accidents	36
55.	Notices of accidents and dangerous occurrences	36
56.	Reports of accidents and dangerous occurrences	37
57.	Reportable incidents	38

**Part 7 — Miscellaneous**

**Division 1 — Requirements about workers**

58.	Competence of workers	40
59.	Awareness of legislation	40
60.	Involvement of members of the workforce	40

**Division 2 — Providing information**

61.	Contact details to be kept up-to-date	41
62.	Minister may decline to consider application or submission in absence of certain information	42

**Part 8 — Transitional provisions**

63.	12 months before certain offence provisions apply to existing pipeline licensees	43
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**Notes**

	Compilation table	44
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## **Petroleum (Submerged Lands) (Pipelines) Regulations 2007**

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007*.

**2. Commencement**

These regulations come into operation on the day on which the *Petroleum Legislation Amendment and Repeal Act 2005* Part 4 comes into operation.

**3. Terms used in these regulations**

(1) In these regulations —

*composition of petroleum* means a mixture of petroleum and one or more other substances;

*operator*, in relation to a pipeline or a proposed pipeline, means a person who registered under regulation 7(3) as the operator of the pipeline or proposed pipeline;

*pipeline*, except in Part 5, means a pipeline subject to a pipeline licence and includes a pipeline that is under construction or

**s. 3**

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proposed to be constructed or operated and when constructed or operating, would be a pipeline subject to a pipeline licence;

**pipeline management plan in force**, in relation to a pipeline, means a pipeline management plan for a pipeline —

- (a) submitted by or for the pipeline licensee; and
- (b) accepted under these regulations (or, if the pipeline management plan is accepted in part, that part of the pipeline management plan that is accepted); and
- (c) as revised from time to time under these regulations; and
- (d) for which the acceptance has not been withdrawn;

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

**prescribed activity**, in relation to a pipeline, means any of the following activities —

- (a) the design and construction of the pipeline;
- (b) the operation of the pipeline;
- (c) the modification of the pipeline;
- (d) the decommissioning of the pipeline;

**significant pipeline accident event** means an event that —

- (a) is connected (whether immediately or after delay) with work carried out on, or in relation to, a pipeline; and
- (b) causes, or creates a significant risk of causing, human death (for example, because of hydrocarbon releases);

**validation**, in relation to a proposal for a pipeline, means a validation that complies with regulation 4.

- (2) For the purposes of these regulations, a pipeline is to be taken to be decommissioned if —
  - (a) the pipeline ceases operation, other than —
    - (i) temporarily for maintenance; or

- (ii) for a period agreed between the Minister and the pipeline licensee for the pipeline;
- or
- (b) the pipeline is removed.

#### 4. Validation

- (1) A validation of a proposal for a pipeline under these regulations is a statement in writing by an independent person that —
  - (a) the proposal is suitable for the purposes for which it is made; and
  - (b) if the proposal includes a modification of the pipeline that may affect the integrity of the pipeline, there are reasonable grounds to believe that the modification will result in the pipeline being suitable for the purposes for which it is to be used; and
  - (c) the proposal is consistent with the description in the pipeline management plan in force for the pipeline of the matters mentioned in regulation 29; and
  - (d) the proposal complies with any Australian or international standards that are mentioned in the pipeline management plan as applying to that kind of proposal.
- (2) In subregulation (1) —  
*independent person* means a person who, to the reasonable satisfaction of the Minister, has the necessary competence and ability, and access to data, in relation to the matters being validated, to arrive at an independent opinion on the matters.
- (3) A validation must cover the scope of the validation agreed under these regulations.

## **Part 2 — Operators**

### **5. Pipeline to have an operator**

A person must not, in the adjacent area, engage in a prescribed activity in relation to a pipeline unless the pipeline has an operator.

Penalty: a fine of \$8 800.

### **6. Nomination of operator**

- (1) A person may be nominated to be the operator of a pipeline by a person who is a pipeline licensee.
- (2) A nomination must be in writing sent to the Safety Authority and include —
  - (a) the nominee's name; and
  - (b) the nominee's contact details, including —
    - (i) a business address for the nominee; and
    - (ii) telephone and facsimile numbers for the nominee during business hours; and
    - (iii) telephone and facsimile numbers for the nominee outside business hours;
  - and
  - (c) the nominee's Australian Company Number (ACN), if applicable; and
  - (d) the nominee's written consent to the nomination.

### **7. Acceptance or rejection of person as operator**

- (1) The Safety Authority must accept the nomination of a person as an operator of a pipeline 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 prescribed activities engaged in in relation to the pipeline.

- (2) The Safety Authority must reject the nomination of a person as an operator of a pipeline if it is not satisfied as to the matters mentioned in subregulation (1)(a) and (b).
- (3) If the Safety Authority accepts the nomination of a person as an operator of a pipeline, it must register the nominee as the operator of the pipeline.
- (4) The Safety Authority must notify the nominator and the nominee —
  - (a) of the decision to accept or reject the nomination; and
  - (b) if the Safety Authority decides to reject the nomination, of the reasons for the rejection.

**8. Register of operators, removal from the register**

- (1) The Safety Authority must maintain a register of operators of pipelines.
- (2) A person who nominated a person to be the operator of a pipeline, or the person currently registered as the operator of the pipeline, may notify the Safety Authority, in writing, that the person currently registered as the operator of the pipeline 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 prescribed activities engaged in in relation to the 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 prescribed activities engaged in in relation to the pipeline; and

**s. 8**

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- (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 submissions; and
- (d) the Safety Authority has considered submissions received 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 prescribed activities engaged in in relation to the pipeline.

## **Part 3 — Consent to construct and operate pipelines**

### **Division 1 — Consent to construct**

#### **9. Consent to construct a pipeline**

A person must not, in the adjacent area, engage in an activity relating to the construction of a pipeline unless —

- (a) the Minister has consented to the construction of the pipeline; and
- (b) the consent provides for the activity.

Penalty: a fine of \$5 500.

#### **10. Matters to be agreed before application for consent to construct**

A pipeline licensee may apply for a consent to construct a pipeline only if the licensee and the Minister have agreed on —

- (a) the matters concerning the activities to which the application relates that are to be provided for in the pipeline management plan for the pipeline; and
- (b) the scope of the validation of the proposal to carry out those activities.

#### **11. Application for consent to construct**

- (1) An application for a consent to construct a pipeline must be lodged in writing with the Minister.
- (2) An application may relate to all or some of the activities relating to the construction of the pipeline.
- (3) The application must include —
  - (a) the name of the applicant; and
  - (b) an address of the applicant, for communications on matters relating to the pipeline; and

- (c) a fax number, or email address, within Australia for the applicant.
- (4) The application must be accompanied by —
  - (a) those parts of the pipeline management plan in force for the pipeline that provide for the activities to which the application relates; and
  - (b) a validation of the proposal to carry out those activities; and
  - (c) other relevant information that the Minister may require on reasonable grounds.

**12. Deciding an application for consent to construct**

- (1) Within 28 days after an application for a consent to construct a pipeline is lodged, the Minister must decide whether to grant the consent.
- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision by the Minister to grant or to refuse to grant the consent.
- (3) The Minister must grant the consent if there are reasonable grounds for believing that —
  - (a) a pipeline management plan in force for the pipeline provides for the activities to which the application relates; and
  - (b) a validation of the proposal to carry out those activities is in force.
- (4) The Minister may grant a consent to construct in relation to all or some of the activities relating to the construction of the pipeline.
- (5) If the Minister decides to grant the consent, the Minister must, as soon as practicable, give to the applicant the consent in writing.

- (6) If the Minister decides not to grant the consent in relation to all or some of the activities relating to the construction of the pipeline, the Minister must, as soon as practicable, give to the applicant, in writing —
- (a) advice that the consent has not been granted for those activities; and
  - (b) a statement of the reasons for the decision.

**13. Construction must comply with pipeline management plan**

A pipeline licensee must not construct a pipeline under the licence unless —

- (a) a pipeline management plan, or a part of a pipeline management plan, in force for the pipeline provides for the construction; and
- (b) the pipeline is constructed in a way that complies with that plan or part of that plan.

Penalty: a fine of \$5 500.

**14. Notice of route followed by pipeline**

As soon as practicable after the construction of a pipeline is completed, but within 3 months after a consent to operate is granted for the pipeline, the pipeline licensee must —

- (a) inform the Minister, in writing, of the exact route followed by the pipeline; and
- (b) inform the Australian Hydrographic Office, in writing, of the exact route followed by the pipeline.

Penalty: a fine of \$4 400.

**Division 2 — Consent to operate**

**15. Consent to operate a pipeline**

A pipeline licensee must not operate a pipeline under the licence unless the Minister has granted a consent to operate the pipeline.

Penalty: a fine of \$5 500.

**16. Matters to be agreed before application for consent to operate**

A pipeline licensee may apply for a consent to operate a pipeline only if the licensee and the Minister have agreed on —

- (a) the matters concerning the operation of the pipeline that are to be provided for in the pipeline management plan for the pipeline; and
- (b) the scope of the validation of the proposal to operate the pipeline.

**17. Application for consent to operate**

- (1) An application for a consent to operate a pipeline must be lodged in writing with the Minister.
- (2) The application must include —
  - (a) the name of the applicant; and
  - (b) an address of the applicant, for communications on matters relating to the pipeline; and
  - (c) a fax number or email address within Australia for the applicant.
- (3) The application must be accompanied by —
  - (a) those parts of the pipeline management plan in force for the pipeline that provide for the operation of the pipeline; and
  - (b) a validation of the proposal to operate the pipeline; and
  - (c) information showing that the pipeline licensee is maintaining insurance in compliance with section 97A of the Act; and
  - (d) other relevant information that the Minister may require on reasonable grounds.

**18. Deciding an application for consent to operate**

- (1) Within 7 days after an application for a consent to operate a pipeline is lodged, the Minister must decide whether to grant the consent.
- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision to grant or to refuse to grant the consent.
- (3) The Minister must grant the consent if there are reasonable grounds for believing that —
  - (a) a pipeline management plan in force for the pipeline provides for the operation of the pipeline; and
  - (b) a validation of the proposal to operate the pipeline is in force; and
  - (c) the pipeline licensee is maintaining insurance in accordance with section 97A of the Act.
- (4) If the Minister decides to grant the consent, the Minister must, as soon as practicable, give the applicant the consent in writing.
- (5) If the Minister decides not to grant the consent, the Minister must, as soon as practicable, give the applicant, in writing —
  - (a) advice that the consent has not been granted; and
  - (b) a statement of the reasons for the decision.

**19. Operation must comply with pipeline management plan**

- (1) A pipeline licensee must not operate a pipeline under the licence unless —
  - (a) a pipeline management plan in force for the pipeline provides for the operation; and
  - (b) the pipeline is operated in a way that —
    - (i) is consistent with the purposes for which the pipeline was designed to be used; and
    - (ii) is not contrary to that plan.

Penalty: a fine of \$5 500.

- (2) A pipeline licensee does not commit an offence under subregulation (1) if —
- (a) the licensee performs an act in compliance with a direction given under the Act; or
  - (b) in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining the pipeline in good order or repair, the licensee —
    - (i) takes action to avoid the loss or injury, or to maintain the pipeline in good order and repair; and
    - (ii) as soon as practicable, but within 3 days, gives written notice to the Minister about the action taken.

**20. Conveying compositions of petroleum through pipeline**

A pipeline licensee must ensure that a composition of petroleum is not conveyed through a pipeline under the licence unless —

- (a) a pipeline management plan in force for the pipeline provides for —
    - (i) the composition to be conveyed through the pipeline; and
    - (ii) the safe operating limits for conveying that composition;
- and
- (b) the pipeline is operated within those safe operating limits.

Penalty: a fine of \$5 500.

**Division 3 — Modifying or decommissioning pipelines**

**21. Modifying or decommissioning a pipeline**

- (1) A pipeline licensee must not modify a pipeline under the licence unless —
- (a) a pipeline management plan in force for the pipeline provides for the modification; and
  - (b) the modification is carried out in a way that —
    - (i) is consistent with the purposes for which the pipeline was designed to be used; and
    - (ii) is not contrary to that plan.

Penalty: a fine of \$5 500.

- (2) A pipeline licensee must not decommission a pipeline under the licence unless —
- (a) a pipeline management plan in force for the pipeline provides for the pipeline to be decommissioned; and
  - (b) the pipeline is decommissioned in a way that is not contrary to that plan.

Penalty: a fine of \$5 500.

- (3) A pipeline licensee does not commit an offence under subregulation (1) or (2) if —
- (a) the pipeline is modified or decommissioned in accordance with a direction given under the Act; or
  - (b) in an emergency in which there is a likelihood of loss or injury, the licensee takes action to avoid the loss or injury and as soon as practicable, but within 3 days, gives written notice to the Minister about the action taken.

## **Part 4 — Pipeline management plans**

### **Division 1 — Acceptance of pipeline management plans**

#### **22. Submission of a pipeline management plan**

- (1) If the pipeline licensee for a pipeline wants to have a pipeline management plan accepted for the pipeline, the licensee must submit the plan to the Minister.
- (2) A pipeline management plan may relate to one or more prescribed activities.
- (3) A pipeline management plan may relate to more than one pipeline.

#### **23. Role of Safety Authority**

The Minister —

- (a) must give a copy of a pipeline management plan to the Safety Authority as soon as practicable after the pipeline licensee submits the plan to the Minister (but not later than 7 days after the pipeline licensee submits the plan); and
- (b) must not act under regulation 24 or 25 unless the Safety Authority has notified the Minister under regulation 44.

#### **24. Time limit for acceptance or rejection of a pipeline management plan**

- (1) Within 28 days after a pipeline licensee submits a pipeline management plan, the Minister must —
  - (a) accept or reject the plan under regulation 25; or
  - (b) give written notice to the pipeline licensee 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 failure by the Minister to comply with subregulation (1) in relation to a pipeline management plan does not of itself invalidate a decision to accept or reject the plan.
- (3) This regulation applies to a pipeline management plan resubmitted under regulation 25(3) in the same way as it applies to the plan when first submitted.

**25. Acceptance or rejection of a pipeline management plan**

- (1) The Minister is not to accept a pipeline management plan unless —
  - (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 27, 28, 29, 30 and 32 for each prescribed activity in respect of 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 31;
  - and
  - (b) the Safety Authority has notified the Minister under regulation 44 that the Safety Authority has accepted the pipeline safety management plan.
- (2) If —
  - (a) the Safety Authority has accepted a pipeline safety management plan in relation to one or more, but not all, prescribed activities in respect of which the plan is submitted; and
  - (b) there are reasonable grounds for believing the matters in subregulation (1)(a) for each of those prescribed activities,

the Minister must accept the pipeline management plan for those prescribed activities only.

- (3) If the Minister is not reasonably satisfied that a pipeline management plan when first submitted meets the criteria mentioned in subregulation (1), the Minister must give the pipeline licensee a reasonable opportunity to change and resubmit the plan.
- (4) If, after the pipeline licensee has had a reasonable opportunity to change and resubmit a pipeline management plan, the Minister is still not reasonably satisfied that the plan meets the criteria mentioned in subregulation (1), the Minister is to reject the plan.
- (5) Despite subregulation (3), the Minister may do either or both of the following in relation to a pipeline management plan —
  - (a) accept the plan in part for any particular prescribed activity in respect of which the plan is submitted;
  - (b) impose conditions applying to the pipeline in respect of any particular prescribed activity in respect of which the plan is submitted.
- (6) The Minister must give the pipeline licensee written notice of a decision by the Minister —
  - (a) to accept a pipeline management plan; or
  - (b) to reject a pipeline management plan; or
  - (c) to accept a pipeline management plan in part for any particular prescribed activity in respect of which the plan is submitted, or subject to conditions.
- (7) A notice of a decision under subregulation (6)(b) or (c) must include —
  - (a) advice of the decision and the reasons for it; and
  - (b) details of the conditions imposed.

## **Division 2 — Contents of pipeline management plans**

### **26. Contents of a pipeline management plan**

A pipeline management plan must include information about, or provide for —

- (a) the matters mentioned in regulations 27, 28, 29, 30 and 32 for each prescribed activity in respect of which the plan is submitted; and
- (b) the matters mentioned in regulation 31.

### **27. Description of safety policy**

A pipeline management plan must include a statement of the pipeline licensee's strategic safety and health objectives for each prescribed activity in respect of which the plan is submitted.

### **28. Description of the pipeline**

A pipeline management plan must include a comprehensive description of —

- (a) the design for the pipeline, the route corridor in which the pipeline is or is to be constructed, the pipeline's interface start and end positions, and the way in which the pipeline is or is to be constructed; and
- (b) the matters agreed under regulations 10(a) and 16(a); and
- (c) the compositions of petroleum that are to be conveyed through the pipeline when it is operating; and
- (d) the safe operating limits for conveying those compositions through the pipeline.

### **29. Description of pipeline management system**

A pipeline management plan must include —

- (a) a comprehensive description and assessment of the risk of significant pipeline accident events and other risks to

the integrity of the pipeline associated with each prescribed activity in respect of which the plan is submitted; and

- (b) a comprehensive demonstration of the effectiveness of —
  - (i) measures that have been, or will be, implemented to reduce the risks to levels that are as low as reasonably practicable; and
  - (ii) the systems used to identify, evaluate and manage the risks and measures; and
  - (iii) the arrangements for monitoring, auditing and reviewing those systems, including the arrangements for continual and systematic identification of deficiencies of those systems and ways in which the systems could be improved.

**30. Statement of standards**

A pipeline management plan must include a statement about the Australian and international standards applied, or to be applied in respect of each prescribed activity in respect of which the plan is submitted.

**31. Arrangements for records, storage of documents**

- (1) A pipeline management plan must include arrangements for —
    - (a) making a record of —
      - (i) the pipeline management plan in force for the pipeline at any particular time; and
      - (ii) each revision of the pipeline management plan; and
      - (iii) each notice of a reportable incident given under regulation 57(2);
- and

- (b) making those documents and records available to persons who need to be aware of the contents; and
  - (c) securely storing those documents and records —
    - (i) at the address mentioned in regulation 61(1); and
    - (ii) in a manner that facilitates their retrieval as soon as practicable.
- (2) A pipeline management plan in force for a pipeline and each revision of the plan must be kept for 5 years after the date of the acceptance of the document.
- (3) A copy of a notice of a reportable incident given under regulation 57(2) must be kept for 5 years after the date the notice was given to the Minister or inspector.
- (4) A pipeline licensee must not deal with a document or other record mentioned in this regulation in a way that is contrary to the arrangements for the document or record contained in the pipeline management plan in force for the pipeline.
- Penalty: a fine of \$3 300.

**32. Arrangements for reporting**

- (1) A pipeline management plan must include arrangements for reporting to the Minister about each prescribed activity in respect of which the plan is submitted, at intervals agreed with the Minister, but not less often than annually.
  - (2) A pipeline licensee must report to the Minister in accordance with the arrangements under subregulation (1) contained in the pipeline management plan in force for the pipeline under the licence.
- Penalty: a fine of \$3 300.

### **Division 3 — Revision of pipeline management plans**

#### **33. Revision because of a change, or proposed change, of circumstances or operations**

- (1) A pipeline licensee for a pipeline for which a pipeline management plan is in force must submit to the Minister a proposed revision of the plan as soon as practicable after the occurrence of any of the circumstances mentioned in subregulation (3).
- (2) If a circumstance mentioned in subregulation (3) occurs because the licensee proposes to modify or decommission the pipeline, the licensee must not submit the proposed revision before the licensee and Minister have agreed on the scope of the validation of the proposal to revise the plan.
- (3) A pipeline management plan is to be revised in any of the following circumstances —
  - (a) the technical knowledge relied upon to formulate the plan is outdated so that the plan no longer adequately provides for —
    - (i) a matter mentioned in regulation 27, 28, 29, 30 or 32 in relation to a prescribed activity in respect of which the plan was submitted; or
    - (ii) a matter mentioned in regulation 31;
  - (b) developments in systems for identifying and evaluating risks of significant pipeline accident events, or risks to the integrity of the pipeline, make it appropriate to revise the plan;
  - (c) there are reasonable grounds for believing that a series of proposed modifications to the pipeline would result in a significant cumulative change in the overall level of risk —
    - (i) of significant pipeline accident events; or
    - (ii) to the integrity of the pipeline;

- (d) there are reasonable grounds for believing that a proposed modification to the pipeline would —
  - (i) significantly influence the level of a particular risk of a significant pipeline accident event or a risk to the integrity of the pipeline; or
  - (ii) significantly change the ranking of factors contributing to those risks;
- (e) the licensee proposes to significantly change a matter described, assessed or demonstrated as required by regulation 29 for identifying, evaluating and managing risks —
  - (i) of significant pipeline accident events; or
  - (ii) to the integrity of the pipeline;
- (f) the compositions of petroleum conveyed in the pipeline are different from the compositions contemplated in the plan;
- (g) the licensee proposes to modify or decommission the pipeline and the plan does not provide, or adequately provide, for the proposed modification or decommissioning of the pipeline;
- (h) developments in environmental conditions that affect design conditions make it appropriate to revise the plan.

**34. Revision on Minister's request**

- (1) The Minister may request a pipeline licensee for a pipeline for which a pipeline management plan is in force to submit to the Minister a proposed revision of the plan.
- (2) A request by the Minister must be in writing and include —
  - (a) the matters to be addressed by the revision; and
  - (b) the proposed date of effect of the revision; and
  - (c) the grounds for the request.

- (3) The licensee may make a submission in writing to the Minister stating the reasons for which the licensee believes —
  - (a) the revision should not occur; or
  - (b) the revision should be in different terms from the proposed terms; or
  - (c) the revision should take effect on a date after the proposed date.
- (4) A submission by the licensee under subregulation (3) must be made within 21 days after receiving the request under subregulation (2), or within any longer period that the Minister allows in writing.
- (5) If a submission complies with subregulations (3) and (4) the Minister must —
  - (a) decide whether to accept the reasons stated in the submission; and
  - (b) give the licensee written notice of the decision; and
  - (c) to the extent (if any) that the Minister accepts the reasons, give the licensee written notice 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 licensee written notice of the grounds for not accepting them.
- (6) The licensee must comply with the request (and, if relevant, as varied under this regulation) as soon as practicable.
- (7) The licensee is not required to comply with the request if the licensee receives notice under subregulation (5) that the request is withdrawn.

**35. Revision after 5 years**

- (1) A pipeline licensee for a pipeline for which a pipeline management plan is in force must submit to the Minister a

proposed revision of the plan (whether or not a proposal has been submitted under regulation 33 or 34) —

- (a) at the end of the 5 years starting on the day the pipeline management plan is first accepted under regulation 25; and
  - (b) at the end of each 5 years starting on the day of the most recent acceptance under regulation 38 of a revision submitted under this regulation.
- (2) A revision submitted under this regulation must include —
- (a) information about measures for ensuring the ongoing integrity of the pipeline; and
  - (b) details of the maximum allowable operating pressure for the pipeline.

**36. Form of proposed revision**

A proposed revision must be in the form of a revised pipeline management plan or, if the pipeline licensee and the Minister agree, a revised part of the pipeline management plan.

**37. Time limit for acceptance or rejection of a proposed revision**

- (1) Within 28 days after a pipeline licensee submits a proposed revision, the Minister must —
  - (a) accept or reject the revision under regulation 38; or
  - (b) give written notice to the pipeline licensee stating that the Minister is unable to make a decision about the revision within the period of 28 days, and setting out a proposed timetable for consideration of the revision.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a proposed revision does not of itself invalidate a decision to accept or to refuse to accept the revision.
- (3) This regulation applies to a proposed revision resubmitted under regulation 38(3) in the same way as it applies to the revision when first submitted.

**38. Acceptance or rejection of a proposed revision of a pipeline management plan**

- (1) The Minister is not to accept the proposed revision of the pipeline management plan unless —
- (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 plan complies with regulations 27, 28, 29, 30 and 32 for each prescribed activity in respect of which the proposed revision is submitted; and
    - (iii) the pipeline management plan, as revised by the proposed revision, would comply with regulation 31; 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 Minister under regulation 48 that the Safety Authority has accepted the proposed revision.
- (2) If —
- (a) the Safety Authority has accepted the proposed revision in relation to one or more, but not all, prescribed activities to which the pipeline management plan relates; and
  - (b) there are reasonable grounds for believing the matters in regulation 25(1)(a) for each of those prescribed activities,
- the Minister must accept the proposed revision for those prescribed activities only.
- (3) If the Minister is not reasonably satisfied that the proposed revision when first submitted meets the criteria set out in

subregulation (1), the Minister must give the pipeline licensee a reasonable opportunity to change and resubmit the proposed revision.

- (4) If, after the pipeline licensee has had a reasonable opportunity to change and resubmit the proposed revision, the Minister is still not reasonably satisfied that the revision meets the criteria mentioned in subregulation (1), the Minister is to reject the proposed revision.
- (5) Despite subregulation (3), the Minister may do either or both of the following —
  - (a) accept the proposed revision in part for any particular prescribed activity to which the pipeline management plan relates;
  - (b) impose conditions applying to the pipeline in respect of any particular prescribed activity to which the pipeline management plan relates.
- (6) The Minister must give the pipeline licensee written notice of a decision by the Minister —
  - (a) to accept the proposed revision; or
  - (b) to reject the proposed revision; or
  - (c) to accept the revision in part for a particular prescribed activity to which the pipeline management plan relates, or subject to conditions.
- (7) A notice of a decision under subregulation (6)(b) or (c) must include —
  - (a) advice of the decision and the reasons for it; and
  - (b) details of the conditions imposed.

**39. Effect of rejection of proposed revision**

If a proposed revision is rejected, the pipeline management plan in force for the pipeline immediately before the proposed revision was submitted remains in force, subject to the Act and

these regulations (in particular, Division 4), as if the revision had not been proposed.

#### **Division 4 — Withdrawal of acceptance of pipeline management plans**

##### **40. Grounds for withdrawal of acceptance**

- (1) The Minister, by written notice to a pipeline licensee, may withdraw the acceptance of the pipeline management plan in force for the pipeline on any of the following grounds —
  - (a) the pipeline licensee has not complied with the Act, or a direction given to the licensee under section 101 of the Act;
  - (b) the pipeline licensee has not complied with regulation 13 or 19;
  - (c) the pipeline licensee has not complied with regulation 33, 34 or 35;
  - (d) the Minister has rejected a proposed revision of the pipeline management plan.
- (2) A notice under subregulation (1) must include advice of the reasons for the decision.

##### **41. Notice before withdrawal of acceptance**

- (1) Before withdrawing the acceptance of a pipeline management plan in force for a pipeline, the Minister must comply with subregulations (2), (4) and (5).
- (2) The Minister must give the pipeline licensee at least one month's written notice 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 on or before which the pipeline licensee (or other person to whom a copy of

the notice has been given) may submit to the Minister, in writing, matters that the Minister should take into account when deciding whether to withdraw the acceptance.

- (5) The Minister must take into account —
- (a) any action taken by the pipeline licensee —
    - (i) to comply with the provision or direction mentioned in regulation 40(1) in respect of which the non-compliance is alleged; and
    - (ii) to prevent any further non-compliance with that provision or direction;
  - and
  - (b) the submissions of persons mentioned in subregulation (4) made before the date mentioned in that subregulation.

**42. Withdrawal of acceptance despite conviction, and vice versa**

- (1) The Minister may withdraw the acceptance of a pipeline management plan in force for a pipeline on a ground mentioned in regulation 40(1) even if the pipeline licensee has been convicted of an offence because of a failure to comply with a provision of the Act or of these regulations.
- (2) Even if the acceptance of a pipeline management plan has been withdrawn by the Minister on a ground mentioned in regulation 40(1), the pipeline licensee for the pipeline may be convicted of an offence because of a failure to comply with a provision of the Act or of these regulations.

## **Part 5 — Pipeline safety management plans**

### **Division 1 — Preliminary**

#### **43. Term used in this Part**

In this Part —

*pipeline* means a pipeline subject to a pipeline licence and includes —

- (a) in the case where the pipeline conveys petroleum recovered from a well without the petroleum having passed through another facility (other than a pipeline) —
  - (i) that well and associated plant and equipment; and
  - (ii) any pipe or system of pipes through which petroleum is conveyed from that well to that pipeline;
- and
- (b) a pipeline that is under construction or proposed to be constructed or operated and when constructed or operating, would be a such a pipeline.

### **Division 2 — Acceptance and revision of pipeline safety management plans**

#### **44. Acceptance or rejection of pipeline safety management plan**

- (1) This regulation applies if, under regulation 23, the Minister 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) decide —

- (i) to accept the pipeline safety management plan in full; or
  - (ii) to reject the pipeline safety management plan; or
  - (iii) to accept the pipeline safety management plan in relation to one or more, but not all, prescribed activities to which the pipeline management plan relates and 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 Minister, in writing, of the Safety Authority's decision and the reasons for any refusal.
- (3) The Safety Authority —
- (a) may impose conditions on the acceptance of a pipeline safety management plan in full or in relation to one or more, but not all, prescribed activities to which the pipeline management plan relates; and
  - (b) must, in the notice under subregulation (2)(c), include the conditions imposed.
- (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 subregulation (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.

**45. Notice to pipeline licensee about pipeline safety management plan timetable**

- (1) If the Safety Authority gives the Minister a timetable under regulation 44(4) for consideration of the pipeline safety management plan, the Minister must, for the purposes of regulation 24(1)(b), give written notice to the pipeline licensee explaining the effect of the timetable.
- (2) A failure by the Minister to comply with subregulation (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.

**46. Revision on Safety Authority's request**

- (1) The Safety Authority may request the Minister to act under regulation 34 in relation to a pipeline management plan if the Safety Authority believes that the pipeline safety management plan within the pipeline management plan requires revision.
- (2) The request must be in writing, and must include —
  - (a) the matters, relating to the pipeline safety management plan, to be addressed by the revision; and
  - (b) the proposed date of effect of the revision; and
  - (c) the grounds for the request.
- (3) If the Minister receives a request under subregulation (1) —
  - (a) the Minister must take action under regulation 34 in relation to the request; and
  - (b) the Minister is not prevented from dealing with other matters under regulation 34 at the same time.

**47. Safety Authority to receive submissions about revision of a pipeline management plan**

- (1) This regulation applies if —

- (a) the Minister gives a request to a pipeline licensee under regulation 34(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 Minister under regulation 34(3); and
  - (c) the submission deals in whole or in part with the pipeline safety management plan.
- (2) The Minister must give the Safety Authority a copy of the submission (to the extent that it deals with the pipeline safety management plan) as soon as practicable after the pipeline licensee makes the submission (but not later than 7 days after the pipeline licensee makes the submission).

**48. Revision of a pipeline management plan**

- (1) This regulation applies if —
- (a) a pipeline licensee submits a proposed revision of a pipeline management plan under regulation 33, 34 or 35; and
  - (b) the proposed revision deals in whole or in part with the pipeline safety management plan within the pipeline management plan; and
  - (c) the Minister gives the Safety Authority a copy of the proposed revision.
- (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 reject the proposed revision; or
    - (iii) to accept the proposed revision in relation to one or more, but not all, prescribed activities to which the proposed revision relates and 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 Minister, in writing, of the Safety Authority's decision and the reasons for any refusal.
- (3) The Safety Authority —
  - (a) may impose conditions on the acceptance of a proposed revision in full or in relation to one or more, but not all, prescribed activities to which the proposed revision relates; and
  - (b) must, in the notice under subregulation (2)(c), include the conditions imposed.
- (4) If the Safety Authority is unable to make a decision on the proposed revision, the Safety Authority must include in the notice under subregulation (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.

**49. Notice to pipeline licensee about pipeline safety management plan revision timetable**

- (1) If the Safety Authority gives the Minister a timetable under regulation 48(4) for consideration of the proposed revision of a pipeline safety management plan, the Minister must, for the purposes of regulation 37(1)(b), give written notice to the pipeline licensee explaining the effect of the timetable.
- (2) A failure by the Safety Authority to comply with subregulation (1) in relation to the proposed revision of a pipeline safety management plan does not affect the validity of a

decision by the Safety Authority to accept or reject the proposed revision.

### **Division 3 — Request for withdrawal of acceptance of pipeline management plans**

#### **50. Safety Authority may request withdrawal of acceptance**

- (1) The Safety Authority may, by written notice to the Minister, request the Minister to withdraw the acceptance of a pipeline management plan in force for a pipeline (the *plan*) on any of the following grounds —
  - (a) the operator of the pipeline has not complied with a listed OSH law in relation to the pipeline;
  - (b) the pipeline licensee has not complied with regulation 13(b) or 19(1)(b)(ii) in relation to a provision of the plan;
  - (c) the pipeline licensee has not complied with regulation 33 or 34 in relation to a matter that is, or in the opinion of the Safety Authority should be, a subject of the plan;
  - (d) the pipeline licensee has not complied with regulation 35;
  - (e) the Safety Authority has rejected a proposed revision of the plan.
- (2) The notice must —
  - (a) be in writing; and
  - (b) include the grounds for giving the notice.

#### **51. Notice before request to withdraw acceptance**

- (1) The Safety Authority is not to make a request under regulation 50(1) unless —
  - (a) it has first given the Minister written notice that it is considering making the request; and
  - (b) subregulations (2), (3) and (4) have been complied with.

- (2) The Minister must give a notice to the pipeline licensee stating —
  - (a) that the Safety Authority is considering giving making a request under regulation 50(1); and
  - (b) the grounds for making the request; and
  - (c) the 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 Minister, in writing, any matters for the Minister to take into account.
- (3) The Minister —
  - (a) must give a copy of the notice under subregulation (2) 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 Minister thinks appropriate.
- (4) If, on or before the date mentioned in subregulation (2)(c), the pipeline licensee (or other person to whom a copy of the notice has been given) submits to the Minister, in writing, a matter for the Safety Authority to take into account, the Minister must give a copy of the submission to the Safety Authority as soon as practicable after the pipeline licensee gives the submission to the Minister.

**52. Withdrawal of acceptance of a pipeline management plan on request**

- (1) In deciding whether to make a request under regulation 50(1), the Safety Authority must take into account —
  - (a) any action taken by the pipeline licensee or the operator —
    - (i) to comply with the provision mentioned in regulation 50(1) in respect of which the non-compliance is alleged; and

- (ii) to prevent any further non-compliance with that provision;
  - and
  - (b) the submissions of persons mentioned in regulation 51(4) made before the date mentioned in regulation 51(2)(c).
- (2) If, after complying with subregulation (1), the Safety Authority makes a request under regulation 50(1), the Minister must —
- (a) withdraw the acceptance of the pipeline management plan; and
  - (b) give a copy of the notice withdrawing the acceptance of the pipeline management plan to the operator, if the operator is not the pipeline licensee.

## **Part 6 — Accidents, dangerous occurrences and reportable incidents**

### **53. Dangerous occurrence**

For the purposes of the definition of “dangerous occurrence” in clause 3 of Schedule 5 to the Act, the following occurrences that occur at or near a pipeline are declared to be dangerous occurrences —

- (a) an occurrence that created a substantial risk of an accident;
- (b) an occurrence of a kind that a reasonable operator would consider to require an immediate investigation.

### **54. Period of incapacity for work caused by pipeline accidents**

For the purposes of clause 71(1)(b) of Schedule 5 to the Act the period prescribed in relation to an accident at or near a pipeline is 3 or more days.

### **55. Notices of accidents and dangerous occurrences**

For the purposes of clause 71(2)(a) of Schedule 5 to the Act, notice of an accident or dangerous occurrence that occurs at or near a pipeline —

- (a) may be oral or written; and
- (b) must be provided as soon as practicable —
  - (i) after the first occurrence of the accident or dangerous occurrence; or
  - (ii) in the event that the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence, after the operator detects the accident or dangerous occurrence;

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.

**56. Reports of accidents and dangerous occurrences**

- (1) For the purposes of clause 71(2)(b) of Schedule 5 to the Act, a report of an accident or dangerous occurrence that occurs at or near a pipeline —
  - (a) must be in writing; and
  - (b) unless otherwise agreed by the Safety Authority — must be provided —
    - (i) within 3 days after the first occurrence of the accident or dangerous occurrence; or
    - (ii) in the event that the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence, within 3 days after the operator detects the accident or dangerous occurrence;and
  - (c) must contain material details concerning the accident or dangerous occurrence of the types determined by the Safety Authority.
- (2) A determination mentioned in subregulation (1)(c) must be published in the *Gazette*.
- (3) 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 stating —
  - (a) the number of deaths of persons at or near the pipeline; and
  - (b) the number and types of injuries to persons at or near the pipeline, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid.

**s. 57**

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- (4) The operator of a pipeline must compile and maintain a record of —
- (a) all reports of accidents occurring at or near the pipeline; and
  - (b) the details of any corrective action taken in each case.

**57. Reportable incidents**

- (1) In this regulation —
- reportable incident*** means an incident —
- (a) that —
    - (i) results, or is likely to result, in significant damage to a pipeline (for example, reducing the capacity of the pipeline to contain petroleum flowing through it); or
    - (ii) is of a kind that a reasonable pipeline licensee would consider to require immediate investigation;
  - and
  - (b) that is not reportable under a condition of the pipeline licence relating to environmental performance standards.
- (2) A pipeline licensee must give notice (either oral or written) to the Minister or an inspector of a reportable incident, including all material details of the incident that are reasonably available to the licensee, as soon as practicable —
- (a) after the first occurrence of the incident; or
  - (b) in the event that the incident is not detected by the licensee at the time of its first occurrence, after the licensee detects the incident.

Penalty: a fine of \$4 400.

- (3) Subregulation (2) does not apply if the pipeline licensee has a reasonable excuse.

- (4) The pipeline licensee must give a written report, in accordance with subregulation (6), of the incident to the Minister —
- (a) as soon as practicable, but no later than 3 days —
    - (i) after the first occurrence of the incident; or
    - (ii) in the event that the incident is not detected by the licensee at the time of its first occurrence, after the licensee detects the incident;
  - or
  - (b) within any longer period specified by the Minister in writing and within the period mentioned in paragraph (a).

Penalty: a fine of \$4 400.

- (5) It is a defence to a prosecution for an offence under subregulation (4) that a period specified by the Minister under subregulation (4)(b) was not reasonable in the circumstances.
- (6) The report must set out fully —
- (a) all the material facts and circumstances of the incident that the licensee is aware of or is able to find out by reasonable search and inquiry, including —
    - (i) the date, time and place of the incident; and
    - (ii) the particulars of any loss or damage caused by the incident; and
    - (iii) if petroleum escaped from the pipeline or ignited, the amount of that petroleum and the measures taken to control the escape or fire; and
    - (iv) the cause of the incident; and
    - (v) the repairs (if any) carried out, or proposed to be carried out, on the pipeline;
  - and
  - (b) the corrective action that has been taken, or is proposed to be taken, to prevent another incident of that kind.

## **Part 7 — Miscellaneous**

### **Division 1 — Requirements about workers**

#### **58. Competence of workers**

A pipeline licensee must ensure, as far as reasonably practicable, that each person working on, or in connection with, a pipeline under the licence is competent to the extent that he or she has the necessary skills, training and ability —

- (a) to carry out the tasks, both routine and non-routine, that may reasonably be given to the person; and
- (b) during an emergency, to respond and react appropriately and at the level reasonably required of the person.

Penalty: a fine of \$3 300.

#### **59. Awareness of legislation**

A pipeline licensee must ensure, as far as reasonably practicable, that each person working on, or in connection with, the pipeline knows about the provisions of the Act, regulations made under the Act and directions given under the Act, that relate to the safety of —

- (a) people working on, or in connection with, the pipeline; and
- (b) the pipeline; and
- (c) the environment.

Penalty: a fine of \$1 100.

#### **60. Involvement of members of the workforce**

- (1) The Minister may, in writing, request a pipeline licensee to demonstrate to the reasonable satisfaction of the Minister, that —
  - (a) in the development or revision of a pipeline management plan for a pipeline under the licence, there has been

- effective consultation with, and participation of, members of the workforce; and
- (b) the pipeline management plan in force for the pipeline provides adequately for effective consultation with, and the effective participation of, the members of the workforce, so that they are able to arrive at informed opinions about the risks and hazards to which they may be exposed through working on, or in connection with, the pipeline.
- (2) In subregulation (1) —  
*members of the workforce* includes members of the workforce who are —
- (a) identifiable before the pipeline management plan is developed; and
- (b) working, or likely to be working, on or in connection with the pipeline.
- (3) A pipeline licensee must, within 21 days after receiving a request under subregulation (1), respond to the request in writing.
- (4) The Minister must also consult with the Safety Authority in relation to the exercise of the Minister's powers under subregulation (1).

## **Division 2 — Providing information**

### **61. Contact details to be kept up-to-date**

- (1) A pipeline licensee who has applied under regulation 11(1) for a consent to construct a pipeline must ensure that the Minister has at all times the licensee's current address for communications on matters relating to the pipeline.  
Penalty: a fine of \$3 300.
- (2) Subregulation (1) does not apply if —

- (a) the information has been given in accordance with any other provision of the Act or an application under it and the Minister has not advised the licensee that the information has been lost or destroyed; or
- (b) the pipeline licensee has any other reasonable excuse.

**62. Minister may decline to consider application or submission in absence of certain information**

- (1) The Minister may decline to consider any application or submission made by a pipeline licensee under these regulations until the pipeline licensee complies with regulation 61(1) in respect of an application under regulation 11(1) relating to the pipeline.
- (2) The Minister may decline to consider an application under regulation 11(1) until the pipeline licensee provides the information mentioned in regulation 11(3) and (4) in relation to the application.
- (3) The Minister may decline to consider an application under regulation 17(1) until the pipeline licensee provides the information mentioned in regulation 17(2) and (3) in relation to the application.
- (4) Subregulations (2) and (3) do not apply if the information has been given in accordance with any other provision of the Act or an application under it or any other law.

## Part 8 — Transitional provisions

### 63. 12 months before certain offence provisions apply to existing pipeline licensees

(1) In this regulation —

*commencement day* means the day on which these regulations come into operation;

*existing pipeline licensee* means a person who was a pipeline licensee on commencement day.

(2) An existing pipeline licensee does not commit an offence under regulation 9, 13, 15, 19(1), 20 or 21(1) or (2) in relation to a pipeline that is a subject of the pipeline licence if the act or omission constituting the offence occurs during the first 12 months after commencement day.

**Notes**

- <sup>1</sup> This is a compilation of the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007*. The following table contains information about those regulations.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Petroleum (Submerged Lands) (Pipelines) Regulations 2007</i>	27 Mar 2007 p. 1215-64	28 Mar 2007 (see r. 2 and <i>Gazette</i> 27 Mar 2007 p. 1405)