



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

1883



PERTH, FRIDAY, 14 MAY 2010 No. 79

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 2.45 PM

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PETROLEUM AND GEOTHERMAL ENERGY RESOURCES
ACT 1967

**PETROLEUM AND
GEOTHERMAL ENERGY
RESOURCES
(MANAGEMENT OF SAFETY)
REGULATIONS 2010**

Western Australia

Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010

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Petroleum and Geothermal Energy Resources Act 1967

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Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Petroleum Legislation Amendment and Repeal Act 2005* Part 2 comes into operation.

3. Terms used

In these regulations —

operation means a petroleum operation or geothermal energy operation, except in regulation 21;

Schedule 1 means Schedule 1 to the Act.

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Part 2 — Safety management systems

Division 1 — Terms used

4. Terms used

In this Part —

emergency, in relation to an operation, means an urgent situation that presents, or may present, a risk of death or serious injury to persons engaged in the operation or other protected persons;

major accident event means an event connected with an operation including a natural event having the potential to cause multiple fatalities of persons engaged in the operation or other protected persons;

revise, in relation to a safety management system, includes extend or modify;

safety management system, in relation to an operation, means a documented system of management for securing —

- (a) the occupational safety and health of persons engaged in the operation; and
- (b) the safety and health of other protected persons;

safety management system in force means a safety management system or a revised safety management system —

- (a) that has been accepted by the Minister in relation to an operation; and
 - (b) the acceptance of which has not been withdrawn,
- and includes each condition imposed under regulation 29(5) or 36(5) in respect of the operation.

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Division 2 — Duties as to safety management systems

5. Safety management system required for petroleum operation or geothermal energy operation

A person must not engage in an operation unless there is a safety management system in force for the operation.

Penalty: a fine of \$8 800.

6. New or increased risks

A person must not engage in an operation if —

- (a) a significant new risk to safety or health, or a significant increase in an existing risk to safety or health, arises or is likely to arise from the operation; and
- (b) the new risk or increased risk is not provided for in the safety management system in force for the operation.

Penalty: a fine of \$8 800.

7. Compliance with safety management system

- (1) A person who engages in an operation must do so in accordance with the safety management system in force for the operation.

Penalty: a fine of \$8 800.

- (2) Subregulation (1) does not apply to a person who engages in an operation in accordance with the consent given under regulation 31 for the operation to be carried out in a manner that is different from the requirements of the safety management system in force for the operation.

8. Other protected persons to comply with safety management system

A person who is at or near a place where an operation is being carried on at the invitation of, or with the express or implied consent of, the operator of, or a person in control of a part of, the operation must comply with each provision of the safety

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management system in force for the operation that applies to the person.

Penalty: a fine of \$1 100.

9. Maintaining records for safety management systems

The operator of an operation must ensure that all documents required by the safety management system in force for the operation to be kept are kept in the manner set out in the safety management system.

Penalty: a fine of \$3 300.

Division 3 — Contents of safety management systems

Subdivision 1 — General provisions

10. Principal provisions of safety management system

The safety management system for an operation must contain —

- (a) a description of the operation; and
- (b) an acknowledgment of the duties that various persons have under Schedule 1 Division 2 Subdivision 1 in relation to the operation (*obligations*); and
- (c) a detailed explanation of how the operator proposes to —
 - (i) meet its obligations; and
 - (ii) ascertain whether other persons meet their obligations, to the extent that it is practicable for the operator to do so,including details of the systems and procedures to be used for those purposes; and
- (d) a detailed explanation of how compliance with the safety management system would be measured, evaluated and maintained; and

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- (e) a detailed explanation of how the safety management system would be reviewed.

11. Risk assessment for major accident events

The safety management system for an operation must contain a risk assessment for the operation that —

- (a) identifies all hazards that have the potential to cause a major accident event; and
- (b) sets out a detailed and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each potential major accident event; and
- (c) identifies the measures that are necessary to reduce each of those risks to a level that is as low as is reasonably practicable.

12. Ongoing management of safety

The safety management system for an operation must provide for —

- (a) the ongoing and systematic identification of hazards that have the potential to cause a major accident event; and
- (b) the ongoing and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each potential major accident event; and
- (c) the reduction to a level that is as low as is reasonably practicable of risks to the safety and health of persons engaged in the operation or other protected persons including, but not limited to, risks arising from equipment and hardware; and
- (d) inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and

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- (e) adequate communications between the relevant areas of the operation including transport and other support facilities; and
- (f) auditing of the operation; and
- (g) any other matter that is necessary to ensure that the safety management system meets the requirements and purposes of these regulations.

13. Implementation and improvement of the safety management system

The safety management system for an operation must contain evidence showing that there are effective means of ensuring —

- (a) the implementation, and ongoing and systematic improvement, of the safety management system; and
- (b) ongoing and systematic identification of deficiencies in the safety management system.

Subdivision 2 — Safety measures

14. Standards to be applied

The safety management system for an operation must specify the principal Australian and international standards that apply in relation to the operation and plant used in connection with the operation.

15. Chain of responsibility

- (1) The safety management system for an operation must specify —
 - (a) an office or position the holder of which, when on duty, is the person in charge of, and responsible for, the operation; and
 - (b) an office or position, the holder of which is responsible for implementing and supervising procedures in the event of an emergency; and

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- (c) the chain of responsibility that applies in the event of an emergency.
- (2) Subregulation (1) does not imply that one person cannot hold both of the offices or positions mentioned in it.
- (3) The safety management system for an operation must describe, in detail, the means by which the operator of the operation will ensure that, as far as is reasonably practicable —
 - (a) the offices or positions mentioned in subregulation (1) are continuously held while the operation is being carried out; and
 - (b) the person who holds each office or position mentioned in subregulation (1) has the necessary skills, training and ability to perform the functions of the office or position; and
 - (c) the identity of the persons who hold each office or position, and the chain of responsibility can, at all times, be readily ascertained by any person engaged in the operation.

16. Competence of members of the workforce

The safety management system for an operation must describe the means by which the operator of the operation will ensure that each person engaged in the operation has the necessary skills, training and ability —

- (a) to undertake routine and non-routine tasks that might reasonably be given to him or her —
 - (i) in normal operating conditions; and
 - (ii) in abnormal or emergency conditions; and
 - (iii) during any changes to the operation;and
- (b) to respond and react appropriately, and at the level that might be reasonably required of him or her, during an emergency.

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17. System for safe performance of work

The safety management system for an operation must provide for the operator of the operation to establish and maintain a documented system of coordinating and controlling the safe performance of all work of persons engaged in the operation that —

- (a) identifies the persons having responsibility to authorise and supervise work; and
- (b) ensures that members of the workforce are competent in the application of the system.

18. Involvement of members of the workforce

- (1) The operator of an operation must demonstrate to the Minister, to the reasonable satisfaction of the Minister, that —
 - (a) in the development or revision of the safety management system for the operation, there has been effective consultation with, and participation of, members of the workforce; and
 - (b) the safety management system 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 when engaged in the operation.
- (2) In subregulation (1) —
members of the workforce includes members of the workforce who are —
 - (a) identifiable before the safety management system is developed; and
 - (b) engaged in, or likely to be engaged in, the operation.
- (3) A demonstration for the purposes of subregulation (1) must be supported by adequate documentation.

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19. Structural integrity etc.

The safety management system for an operation must describe the means by which the operator of the operation will ensure that the structures, machinery, electrical systems and instrumentation controls to be used in the operation are kept in good condition and fit for purpose.

20. Drugs and intoxicants

(1) In this regulation —

controlled substance means a substance mentioned in —

- (a) the *Customs (Prohibited Exports) Regulations 1958* (Commonwealth) Schedule 8; or
- (b) the *Customs (Prohibited Imports) Regulations 1956* (Commonwealth) Schedule 4;

intoxicant means a beverage or other substance for human consumption that contains alcohol but does not include a substance for medical or pharmaceutical use;

therapeutic use has the meaning given to that term in the *Health Act 1911* section 3(1).

(2) The safety management system for an operation must describe the means by which the operator of the operation will ensure that there is in place, or will be put in place, a method of —

- (a) securing, supplying, and monitoring the use, during the operation, of controlled substances that have a therapeutic use; and
- (b) preventing the use, during the operation, of —
 - (i) controlled substances (other than those that have a therapeutic use); and
 - (ii) intoxicants.

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21. Drilling

(1) In this regulation —

Director means the person holding, or for the time being acting in, the office of Director, Petroleum Safety Branch in the department of the Public Service principally assisting the Minister in the administration of these regulations;

drilling operation means an operation to drill for petroleum or to drill for geothermal energy resources, and the carrying on of such operations and the execution of such works as are necessary for that purpose.

(2) The safety management system for a drilling operation must describe the means by which the operator of the operation will ensure that —

- (a) each down-hole perforating operation is carried out only during daylight hours; and
- (b) each swabbing operation to induce formation flow is carried out only during daylight hours; and
- (c) drilling and associated equipment that was last used outside this State is not used to drill a well in this State unless it has been inspected by a suitably qualified and competent independent person; and
- (d) drilling and associated equipment is inspected by a suitably qualified and competent independent person every 2 years; and
- (e) drilling and associated equipment is not used to drill a well unless it has been inspected by or on behalf of the operator or the drilling contractor who proposes to drill the well; and
- (f) a well is not drilled within 75 metres of a railway, pipeline, cable, high voltage power line or other service facility unless the Director has approved the drilling and the drilling is carried out in accordance with the terms of the approval; and

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- (g) a well is not drilled within 3 kilometres of subsurface mine workings unless the Director has approved the drilling and the drilling is carried out in accordance with the terms of the approval; and
- (h) a drilling operation is not carried out unless the drilling rig is equipped with a penetration rate recorder that —
 - (i) is able to give a clear indication of a change in formation; and
 - (ii) is able to detect when the drill is approaching an area of abnormal pressure; and
 - (iii) operates continuously during the drilling process; and
 - (iv) is maintained in good working order.

22. Petroleum wells

The safety management system for an operation that has, or may have, a well that is capable of producing petroleum by natural flow must describe the means by which the operator of the operation will ensure that the well is equipped with a safety device that is —

- (a) designed to automatically close off the flow of petroleum or water from the well in the case of damage to the flow line or associated production equipment that results in the escape of petroleum or water; and
- (b) located in a position that is readily accessible to persons monitoring the device; and
- (c) operated and tested at regular intervals; and
- (d) repaired or replaced as soon as possible after an indication during normal operating or testing that it is not functioning correctly.

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Subdivision 3 — Emergencies

23. Emergency communications systems

- (1) The safety management system for an operation must provide for communications systems that, in the event of an emergency, are adequate for communication between the relevant areas of the operation including transport and other support facilities.
- (2) In particular, the safety management system for an operation must provide for the communications systems for the operation to be —
 - (a) adequate to handle a likely emergency; and
 - (b) protected so as to be capable of working in an emergency to the extent specified in the safety management system.

24. Emergency control systems

The safety management system for an operation must make adequate provision for the operation in the event of an emergency, in respect of —

- (a) back-up power supply; and
- (b) alarm systems; and
- (c) isolation and emergency shutdown systems.

25. Emergency preparedness and response plan

- (1) The safety management system for an operation must —
 - (a) describe a response plan designed to deal with possible emergencies, the risk of which has been identified for the operation; and
 - (b) provide for the implementation of that plan.
- (2) The safety management system must make adequate provision for exercises to train persons to function in the event of an emergency with an adequate degree of knowledge, preparedness and confidence concerning the relevant emergency procedures.

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- (3) The safety management system for an operation must provide for the operator of the operation to ensure, as far as is reasonably practicable, that escape drill exercises and fire drill exercises are held in accordance with the safety management system.

Subdivision 4 — Record keeping

26. Arrangements for records

- (1) The safety management system for an operation must include arrangements for —
- (a) making a record of —
 - (i) the safety management system in force for the operation at any particular time; and
 - (ii) each revision of the safety management system; and
 - (iii) each written audit report for the safety management system; and
 - (iv) a copy of each report given to the Minister under Schedule 1 clause 70;
 - 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 an address nominated for the operation; and
 - (ii) in a manner that facilitates their retrieval as soon as practicable.
- (2) A safety management system in force for an operation must be kept for 5 years after the date of acceptance of the document by the Minister.
- (3) A written audit report for a safety management system for an operation must be kept for a period of 5 years after the date of receipt by the operator of the operation.

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- (4) A copy of each report given to the Minister under Schedule 1 clause 70 must be kept for 5 years after the date the report was given to the Minister.

Division 4 — Submission and acceptance of safety management systems

27. Safety management system to be submitted to Minister

- (1) If the operator of an operation wants to have a safety management system accepted for the operation, the operator must submit the safety management system to the Minister.
- (2) A safety management system may relate to one or more operations.

28. Minister may request more information

- (1) If the operator of an operation submits a safety management system to the Minister, the Minister may request the operator to provide further written information about any matter required by these regulations to be included in a safety management system.
- (2) A request under subregulation (1) must —
- (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a period of at least 30 days within which the information is to be provided.
- (3) If the operator receives a request and provides all information requested by the Minister within the period specified —
- (a) the information becomes part of the safety management system as if it had been included with the safety management system as it was submitted to the Minister; and

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- (b) the Minister must have regard to the information as if it had been so included.

29. Acceptance or rejection of a safety management system

- (1) The Minister must accept a safety management system if —
 - (a) the safety management system is appropriate to each operation in respect of which the safety management system is submitted; and
 - (b) the safety management system complies with Division 3 Subdivisions 1, 2 and 3 for each operation in respect of which the safety management system is submitted; and
 - (c) the safety management system complies with Division 3 Subdivision 4; and
 - (d) in a case in which the Minister has, under Division 7, required a validation to be provided for an operation in respect of which the safety management system is submitted, the validation has been provided and is in accordance with that Division.
- (2) If a safety management system is submitted in relation to more than one operation, the Minister may accept the safety management system in relation to one or more operations or reject the safety management system for one or more operations.
- (3) If the Minister rejects a safety management system because the Minister is not satisfied with any of the matters mentioned in subregulation (1), the Minister must give the operator a reasonable opportunity to change and resubmit the safety management system.
- (4) The Minister must reject a safety management system if —
 - (a) the Minister has given the operator a reasonable opportunity to change and resubmit the safety management system; and

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Division 4 Submission and acceptance of safety management systems

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- (b) the operator resubmits the safety management system;
and
 - (c) the Minister is not satisfied that there is compliance with subregulation (1).
- (5) When accepting a safety management system for an operation, the Minister may impose conditions on the acceptance in respect of the operation.

30. Notice of decision on safety management system

- (1) Within 90 days after receiving a safety management system submitted under regulation 27, or resubmitted under regulation 29(3), the Minister must in writing notify the operator —
- (a) that the Minister has decided to —
 - (i) accept the safety management system; or
 - (ii) reject the safety management system; or
 - (iii) accept the safety management system in relation to one or more, but not all, operations and reject the rest of the safety management system; or
 - (iv) accept the safety management system subject to conditions;
- or
- (b) that the Minister is unable to make a decision about the safety management system within the period of 90 days, and set out a proposed timetable for his or her consideration of the safety management system.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a safety management system does not affect the validity of a decision by the Minister to accept or reject the safety management system.

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- (3) A notice of a decision under subregulation (1)(a)(ii), (iii) or (iv) must include the terms of the decision (including a decision to impose conditions) and the reasons for it.

31. Consent to undertake operations in a manner different from safety management system requirements

- (1) The Minister may, by notice in writing given to the operator of an operation, consent to the carrying out of the operation in a manner that is different from the requirements of the safety management system in force for the operation.
- (2) The Minister must not give a consent under subregulation (1) unless he or she is satisfied that a significant new risk to safety or health, or a significant increase in an existing risk to safety or health, is not likely to arise from the operation being carried out in the proposed manner.

Division 5 — Revision of safety management systems

32. Revision because of a change of circumstances or operations

- (1) The operator of an operation for which a safety management system is in force must submit a revised safety management system to the Minister as soon as practicable after the occurrence of any of the following circumstances —
- (a) the technical knowledge relied upon to formulate the safety management system, including the knowledge of systems for identifying hazards and evaluating risks of major accident events, is outdated so that the safety management system no longer adequately provides for the matters mentioned in Division 3 Subdivisions 1, 2 and 3;
- (b) it is proposed to carry out a particular operation and the safety management system does not provide, or adequately provide, for that operation;

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- (c) there are reasonable grounds for believing that a series of proposed modifications to the operation would result in a significant cumulative change in the overall level of risk of major accident events;
 - (d) a significant new risk to safety or health, or a significant increase in an existing risk to safety or health, arises or is likely to arise from the operation and the new risk or increased risk is not provided for in the safety management system in force for the operation;
 - (e) a significant change to the operation is proposed.
- (2) If the Minister agrees, the operator of an operation may submit a revised safety management system under subregulation (1) in the form of a revision of part of the safety management system in force for the operation.

33. Revision on Minister's request

- (1) The Minister may, by written notice (a *revision notice*) request the operator of an operation for which a safety management system is in force to submit a revised safety management system to the Minister.
- (2) A revision notice must set out —
 - (a) the matters to be revised; and
 - (b) the time within which the revision must be completed; and
 - (c) the reasons for the request.
- (3) An operator who receives a revision notice may, if the Minister agrees, submit a revised safety management system under subregulation (1) in the form of a revision of part of the safety management system.
- (4) An operator who receives a revision notice may, in writing, inform the Minister of the operator's opinion that —
 - (a) it is not necessary to revise the safety management system; or

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- (b) if a revision of the safety management system is to occur the revision should be in terms different from those proposed by the Minister; or
 - (c) the revision should be completed by a time later than that set out in the notice.
- (5) A submission under subregulation (4) must —
- (a) contain the operator's reasons in support of the operator's opinion; and
 - (b) be given to the Minister within 21 days after receiving a revision notice or any longer period that the Minister allows in writing.
- (6) The Minister must, within 28 days after receiving a submission under subregulation (4) —
- (a) consider the submission; and
 - (b) give the operator notice in writing affirming, varying or withdrawing the revision notice, setting out his or her reasons for not accepting the submission or any part of the submission if relevant.
- (7) Unless the revision notice is withdrawn, the operator must revise the safety management system in accordance with the revision notice as originally given or as varied under subregulation (6).

34. Revision every 5 years

- (1) The operator of an operation for which a safety management system is in force must submit a revised safety management system to the Minister —
- (a) 5 years after the day on which the safety management system was first accepted under regulation 29; and
 - (b) then at 5 yearly intervals, starting on the day on which the revised safety management system submitted under paragraph (a) was accepted under regulation 36.

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Division 5 Revision of safety management systems

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- (2) Subregulation (1) applies despite the revision of a safety management system under regulation 32 or 33.
- (3) A revised safety management system submitted under subregulation (1) must describe the means by which the operator will continue to ensure that the structures, machinery, electrical systems and instrumentation controls used in the operation are kept in good condition and fit for purpose.

35. Minister may request more information

- (1) If an operator submits a revised safety management system to the Minister, the Minister may request the operator to provide further written information about any matter required by these regulations to be included in a safety management system.
- (2) A request under subregulation (1) must —
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a period of not less than 10 days within which the information is to be provided.
- (3) If an operator receives a request and provides all information requested by the Minister within the period specified —
 - (a) the information becomes part of the revised safety management system as if it had been included with the revised safety management system as it was submitted to the Minister; and
 - (b) the Minister must have regard to the information as if it had been so included.

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36. Acceptance or rejection of revised safety management system

- (1) The Minister must accept a revised safety management system if—
 - (a) the revised safety management system is appropriate to each operation in respect of which it is submitted; and
 - (b) the revised safety management system complies with Division 3 Subdivisions 1, 2 and 3 for each operation in respect of which the revised safety management system is submitted; and
 - (c) the revised safety management system complies with Division 3 Subdivision 4; and
 - (d) the revised safety management system, if submitted under regulation 34(1), complies with regulation 34(3); and
 - (e) in a case in which the Minister has, under Division 7, required a validation for an operation in respect of which the revised safety management system is submitted, the validation has been provided and is in accordance with that Division.
- (2) If a safety management system is revised in relation to more than one operation, the Minister may accept the revised safety management system in relation to one or more operations or reject the revised safety management system for one or more operations.
- (3) If the Minister rejects a revised safety management system because the Minister is not satisfied that there is compliance with subregulation (1), the Minister must give the operator a reasonable opportunity to change and resubmit the safety management system.

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- (4) The Minister must reject the revised safety management system if—
- (a) the Minister has given the operator a reasonable opportunity to change and resubmit a revised safety management system or a revised part of a safety management system; and
 - (b) the operator resubmits the revised safety management system or revised part of the safety management system; and
 - (c) the Minister is not satisfied that there is compliance with subregulation (1).
- (5) When accepting a revised safety management system for an operation, the Minister may impose conditions on the acceptance in respect of the operation.

37. Notice of decision on revised safety management system

- (1) Within 30 days after receiving a revised safety management system, or a revised part of a safety management system, the Minister must in writing notify the operator who submitted it—
- (a) that the Minister has decided to—
 - (i) accept the revised safety management system; or
 - (ii) reject the revised safety management system; or
 - (iii) accept the revised safety management system in relation to one or more, but not all, operations and reject the rest of the revised safety management system; or
 - (iv) accept the revised safety management system subject to conditions;
- or
- (b) that the Minister is unable to make a decision about the revised safety management system within the period of 30 days, and set out a proposed timetable for his or her consideration of the revised safety management system.

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- (2) A failure by the Minister to comply with subregulation (1) in relation to a revised safety management system does not affect the validity of a decision by the Minister to accept or reject the revision.

38. Effect of rejection of revised safety management system

If a revised safety management system is not accepted, the safety management system in force in relation to the operation immediately before the revised safety management system was submitted remains in force subject to the Act and these regulations, as if the revised safety management system had not been submitted.

Division 6 — Withdrawal of acceptance of a safety management system

39. Grounds for withdrawal of acceptance

- (1) The Minister may, by written notice to the operator of an operation, withdraw the acceptance of the safety management system for the operation on any of the following grounds —
- (a) the operator has not complied with —
 - (i) Schedule 1; or
 - (ii) a notice issued by an inspector under Schedule 1; or
 - (iii) regulation 32, 33(7) or 34;
 - (b) the Minister has rejected a revised safety management system.
- (2) A notice under subregulation (1) must contain a statement of the reasons for the decision.

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Division 7 Validation

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40. Notice before withdrawal of acceptance

- (1) Before withdrawing the acceptance of a safety management system for an operation, the Minister must give the operator who submitted it at least 30 days notice, in writing, of his or her intention to withdraw the acceptance.
- (2) The Minister may give a copy of the notice to such other persons as he or she thinks fit.
- (3) The Minister must specify, in the notice, a date on or before which the operator, 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.
- (4) The Minister must take into account —
 - (a) any action taken by the operator —
 - (i) to comply with the provision or notice mentioned in regulation 39(1)(a) in respect of which non-compliance is alleged; and
 - (ii) to prevent any further non-compliance with that provision or notice;
 - and
 - (b) the submissions of persons mentioned in subregulation (3) made before the date mentioned in that subregulation.

Division 7 — Validation

41. Validation of proposed or existing operations

- (1) The Minister may, by notice in writing, require the operator of a proposed operation or an operation that is currently being carried out to provide a validation for the operation.

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- (2) A validation for the purposes of this Division —
- (a) is to be given by a person who is —
 - (i) suitably qualified and competent; and
 - (ii) not employed by the operator; and
 - (iii) not engaged by the operator except for the purpose of providing the validation;and
 - (b) is about matters proposed by the operator and accepted by the Minister; and
 - (c) comprises a statement in writing to the effect that the subject of the validation complies with the description given in the safety management system and is fit for the purpose proposed by the operator.

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**Part 3 — Accidents and dangerous occurrences arising
from operations**

42. Dangerous occurrence

For the purposes of the definition of *dangerous occurrence* in Schedule 1 clause 3, the following occurrences that arise from an operation are declared to be dangerous occurrences —

- (a) an occurrence that did not cause, but could reasonably have been expected to cause —
 - (i) the death of, or serious personal injury to, a person engaged in the operation or other protected person; or
 - (ii) a member of the workforce to be incapacitated from performing work for the period mentioned in regulation 43;
- (b) an occurrence that was, or resulted in, or could have potentially resulted in, any of the following events —
 - (i) a fire or explosion;
 - (ii) the release of an amount of geothermal or hydrocarbon vapour that is likely to constitute a hazard;
 - (iii) the release of an amount of petroleum liquid or geothermal fluid that is likely to constitute a hazard;
 - (iv) an unplanned event that required the emergency response plan mentioned in regulation 25(1) to be implemented;
 - (v) damage to safety-critical equipment;
- (c) an occurrence of another kind that a reasonable operator would consider to require an immediate investigation.

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43. Period of incapacity for work caused by accident arising from operation

For the purposes of Schedule 1 clause 70(1)(b) the period prescribed in relation to an accident arising from an operation is one or more days.

44. Notices of accidents and dangerous occurrences

For the purposes of Schedule 1 clause 70(2)(a), notice of an accident or dangerous occurrence that arises from an operation —

- (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.

45. Reports of accidents and dangerous occurrences

- (1) For the purposes of Schedule 1 clause 70(2)(b), a report of an accident or dangerous occurrence arising from an operation —
 - (a) must be in writing; and
 - (b) unless otherwise agreed by the Minister, must be provided —
 - (i) within 3 days after the first occurrence of the accident or dangerous occurrence; or

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(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 Minister.

(2) A determination mentioned in subregulation (1)(c) must be —

- (a) in writing; and
- (b) published in the *Gazette*.

(3) As soon as practicable, but not later than 15 days after the end of each month, the operator of an operation must submit, to the Minister, a written report, for that month, stating —

- (a) the number of deaths of persons arising from the operation; and
- (b) the number and types of injuries to persons engaged in the operation and other protected persons, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid; and
- (c) the total number of hours that persons engaged in the operation and other protected persons worked during the month; and
- (d) the total number of days not worked as a result of injuries to persons engaged in the operation and other protected persons that would have been worked if the injuries had not occurred.

46. Interference with accident sites

(1) A person must not interfere with a site before an inspector has finished inspecting the site if there had occurred at the site,

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arising from an operation, an accident that caused the death of, or serious personal injury to, any person.

Penalty: a fine of \$2 200.

- (2) It is a defence to a prosecution for an offence under subregulation (1) that —
- (a) the person was acting with the written or oral authority of an inspector; or
 - (b) the person was acting, in a reasonable manner, for any of the following purposes —
 - (i) helping or rescuing a sick, injured or endangered person;
 - (ii) maintaining the safety of the operation or of a person engaged in the operation or other protected person;
 - (iii) reducing danger to the operation or of a person engaged in the operation or other protected person;
 - (iv) retrieving, or attempting to retrieve, the body of a dead person;
- or
- (c) notice of, and a report about, the accident had been given under Schedule 1 clause 70(1) but an inspector had not entered the site where the accident occurred in response to the notice within 3 working days of notice being given.

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Part 4 — Miscellaneous

47. Details in applications or submissions

- (1) An application or submission (however described) that a person is required or permitted to make or give to the Minister under these regulations must include —
 - (a) the person's name; and
 - (b) if applicable, the name of the person's agent; and
 - (c) the person's or agent's address in Australia; and
 - (d) the person's or agent's telephone number and facsimile number.
- (2) If there is a change to any of the details mentioned in subregulation (1), the person or agent must notify the Minister in writing as soon as practicable.
- (3) Despite any provision of these regulations, the Minister may delay proceeding with an application or submission until the person or agent has complied with this regulation.

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Part 5 — Transitional provisions

48. Terms used

In this Part —

commencement day means the day mentioned in regulation 2(b);

Executive Director means the person holding, or for the time being acting in, the office of Executive Director, Petroleum and Environment Division in the department of the Public Service principally assisting the Minister in the administration of these regulations;

pre-amendment safety management system means a safety management system under a condition to which a licence or permit is subject, whether contained in a safety case or other similar document.

49. Certain pre-amendment safety management systems remain in force

A pre-amendment safety management system that was in force immediately before commencement day is, on and from commencement day, to be taken to be —

- (a) a safety management system accepted by the Minister under regulation 29 for the operation that is the subject of the pre-amendment safety management system; and
- (b) accepted on the day on which the pre-amendment safety management system was accepted, or if the pre-amendment safety management system has been revised, on the day on which the latest revision of the pre-amendment safety management system was accepted; and
- (c) in force on the same terms that applied immediately before commencement day.

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50. Pre-amendment safety management system submitted before commencement day

- (1) If a pre-amendment safety management system in relation to an operation was submitted to the Executive Director before commencement day for acceptance but the Executive Director was not satisfied, before that day, that the pre-amendment safety management system was acceptable, then on and from commencement day —
- (a) the pre-amendment safety management system is to be taken to be submitted under regulation 27 as a safety management system for the operation that is the subject of the pre-amendment safety management system; and
 - (b) the Minister must give the operator a reasonable opportunity to change and resubmit the pre-amendment safety management system to meet any new requirements arising from the enactment of the *Petroleum Legislation Amendment and Repeal Act 2005* Part 2 and these regulations.
- (2) The time limits for —
- (a) the power to seek further information in regulation 28; and
 - (b) notification of a decision on the safety management system under regulation 30,
- commence on commencement day as if the pre-amendment safety management system had been submitted on that day.

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.
