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PETROLEUM AND GEOTHERMAL ENERGY RESOURCES
ACT 1967

**PETROLEUM AND
GEOTHERMAL ENERGY
RESOURCES (ENVIRONMENT)
REGULATIONS 2012**

Western Australia

Petroleum and Geothermal Energy Resources (Environment) Regulations 2012

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Petroleum and Geothermal Energy Resources Act 1967

Petroleum and Geothermal Energy Resources (Environment) Regulations 2012

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Petroleum and Geothermal Energy Resources (Environment) Regulations 2012*.

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 after that day.

3. Object of regulations

The object of these regulations is to ensure that any petroleum activity or geothermal activity carried out in the State is —

- (a) carried out in a manner consistent with the principles of ecologically sustainable development; and
- (b) carried out in accordance with an environment plan that —
 - (i) demonstrates that the environmental impacts and environmental risks of the activity will be

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reduced to as low as is reasonably practicable;
and

- (ii) has appropriate environmental performance objectives and environmental performance standards; and
- (iii) has appropriate measurement criteria for determining whether those objectives and standards have been met.

4. Terms used

In these regulations, unless the contrary intention appears —

activity means a petroleum activity or a geothermal activity;

approved, in relation to an environment plan, means approved by the Minister under regulation 11;

environment means —

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas; and
- (d) the heritage value of places,

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

environment plan, in relation to an activity, means an environment plan submitted by the operator of the activity that is approved and revised from time to time under these regulations, but does not include —

- (a) if the environment plan is approved in part — that part of the plan that is not approved; or
- (b) an environment plan for which the approval has been withdrawn;

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

environmental performance means the performance of an operator in relation to the environmental performance objectives and environmental performance standards provided for in an environment plan;

environmental performance objective means an environmental performance objective included in an environment plan under regulation 14(5)(a);

environmental performance standard means an environmental performance standard included in an environment plan under regulation 14(5)(b);

environmental risk means the chance of something happening that will have an adverse environmental impact, measured in terms of the environmental consequences and the likelihood of those particular consequences occurring;

geothermal activity means —

- (a) any operations or works carried out in the State under a geothermal instrument; or
- (b) any other operations or works carried out in the State relating to geothermal exploration or development which may have an environmental impact,

and includes —

- (c) seismic or other surveys; and
- (d) drilling; and
- (e) hydraulic fracturing; and
- (f) construction and installation of a facility; and
- (g) operation of a facility; and
- (h) modification of a facility; and
- (i) decommissioning, dismantling or removing a facility; and

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- (j) processing or transport of geothermal energy;

geothermal instrument means —

- (a) a geothermal exploration permit; or
- (b) a geothermal drilling reservation; or
- (c) a geothermal retention lease; or
- (d) a geothermal production licence; or
- (e) a geothermal access authority; or
- (f) a geothermal special prospecting authority; or
- (g) any other authority or consent granted by instrument under the Act for the carrying out of operations or works in the State relating to geothermal exploration or development;

instrument holder, for an activity, means the registered holder of a petroleum instrument or a geothermal instrument for the activity, and includes a permittee, lessee, licensee or registered holder of a drilling reservation, access authority or special prospecting authority for the activity;

nominated address, for an operator, means the address of the operator of which notice has been given under regulation 38(5)(a);

operator, of an activity, means —

- (a) if there is a person recorded by the Minister as the operator of the activity under regulation 41 — that person; or
- (b) in any other case —
 - (i) if there is a petroleum instrument or geothermal instrument for the activity — the person responsible to the instrument holder for the overall management and operation of the activity (whether or not the activity has commenced); or

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- (ii) if there is no petroleum instrument or geothermal instrument for the activity — the person carrying out the activity;

petroleum activity means —

- (a) any operations or works carried out in the State under a petroleum instrument; or
- (b) any other operations or works carried out in the State relating to petroleum exploration or development which may have an environmental impact,

and includes —

- (c) seismic or other surveys; and
- (d) drilling; and
- (e) hydraulic fracturing; and
- (f) construction and installation of a facility; and
- (g) operation of a facility; and
- (h) modification of a facility; and
- (i) decommissioning, dismantling or removing a facility; and
- (j) storage of petroleum;

petroleum instrument means —

- (a) a petroleum exploration permit; or
- (b) a petroleum drilling reservation; or
- (c) a petroleum retention lease; or
- (d) a petroleum production licence; or
- (e) a petroleum access authority; or
- (f) a petroleum special prospecting authority; or
- (g) any other authority or consent granted by instrument under the Act for the carrying out of operations or works in the State relating to petroleum exploration or development;

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

recordable incident, for an operator of an activity, means an incident arising from the activity that —

- (a) breaches an environmental performance objective or environmental performance standard in the environment plan for the activity; and
- (b) is not a reportable incident;

reportable incident, for an operator of an activity, means —

- (a) an incident that is classified as a reportable incident under the environment plan for the activity; or
- (b) an incident arising from the activity if —
 - (i) the incident has caused, or has the potential to cause, an adverse environmental impact; and
 - (ii) under the environmental risk assessment process described in the environment plan for the activity, that environmental impact is categorised as moderate or more serious than moderate;

revise, for an environment plan, includes to extend or modify;

State has the meaning given in section 26 of the Act;

treatment fluid means any fluid introduced into a well for the purposes of an activity and includes drilling fluid, drilling mud, stimulation fluid and fracturing fluid.

5. References to activity

A reference in these regulations to an activity includes, unless the contrary intention appears, a reference to —

- (a) a proposed activity; and
- (b) any stage of an activity.

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Part 2 — Environment plans

Division 1 — Requirement for environment plan

6. Approved environment plan required for activity

The operator of an activity commits an offence if —

- (a) the operator carries out the activity; and
- (b) there is no environment plan for the activity.

Penalty: a fine of \$10 000.

7. Activity must comply with approved environment plan

- (1) The operator of an activity commits an offence if the operator carries out the activity in a way that is contrary to —
 - (a) the environment plan for the activity; or
 - (b) any limitation or condition applying to the activity under regulation 11(4)(b).

Penalty: a fine of \$10 000.

- (2) Subregulation (1) does not apply to the operator if the operator has the written consent of the Minister to carry out the activity in that way.
- (3) The Minister must not give a consent under subregulation (2) unless there are reasonable grounds for believing that the way in which the activity is to be carried out will not result in —
 - (a) the occurrence of any significant new environmental impact or environmental risk; or
 - (b) the occurrence of a significant increase in any existing environmental impact or environmental risk.

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

- (1) The operator of an activity commits an offence if —
- (a) the operator carries out the activity after the occurrence of —
 - (i) any significant new environmental impact or environmental risk arising from the activity; or
 - (ii) a significant increase in any existing environmental impact or environmental risk arising from the activity;
 - and
 - (b) the new impact or risk, or increase in the impact or risk, is not provided for in the environment plan for the activity.

Penalty: a fine of \$10 000.

- (2) Subregulation (1) does not apply to the operator if —
- (a) the operator has submitted a proposed revision of the environment plan in accordance with regulation 18; and
 - (b) the Minister has not refused to approve the revision.

Division 2 — Approval of environment plan

9. Submission of environment plan

- (1) Before commencing an activity, the operator of the activity must submit an environment plan for the activity to the Minister.
- (2) An environment plan may be submitted for one or more stages of the activity if the operator and the Minister so agree.
- (3) An environment plan —
- (a) must be in writing in a form approved by the Minister;
 - and

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- (b) if the Minister approves — may relate to a specified activity in one or more identified locations specified in the plan.

10. Time limit for approving or not approving environment plan

- (1) Within 30 days after an operator submits an environment plan, the Minister must —
 - (a) approve the plan under regulation 11; or
 - (b) refuse to approve the plan; or
 - (c) give written notice to the operator stating that the Minister is unable to make a decision about the plan within the period of 30 days, and setting out a proposed timetable for consideration of the plan.
- (2) A decision by the Minister to approve, or refuse to approve, an environment plan is not invalid only because the Minister did not comply with subregulation (1) in relation to the plan.
- (3) This regulation applies to an environment plan resubmitted in accordance with regulation 11(2) in the same way that it applies to the plan when first submitted.

11. Approval of environment plan

- (1) The Minister must approve the environment plan if the Minister is reasonably satisfied that the plan —
 - (a) is appropriate for the nature and scale of the activity; and
 - (b) demonstrates that the environmental impacts and environmental risks of the activity will continuously be reduced to as low as is reasonably practicable; and
 - (c) demonstrates that the environmental impacts and environmental risks of the activity will be of an acceptable level; and

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- (d) provides for appropriate environmental performance objectives, environmental performance standards and measurement criteria; and
 - (e) includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and
 - (f) for the requirement mentioned in regulation 17(1)(b) — demonstrates that there has been an appropriate level of consultation with relevant authorities and interested persons and organisations; and
 - (g) complies with Division 3.
- (2) If the Minister is not reasonably satisfied that the environment plan when first submitted meets the criteria set out in subregulation (1), the Minister must give the operator a reasonable opportunity to modify and resubmit the plan.
- (3) If, after the operator has had a reasonable opportunity to modify and resubmit the environment plan, the Minister is still not reasonably satisfied that the plan meets the criteria set out in subregulation (1), the Minister must refuse to approve the plan.
- (4) Despite subregulations (2) and (3), the Minister may do one or more of the following —
 - (a) approve the plan in part for a particular stage of the activity;
 - (b) approve the plan subject to the imposition of limitations or conditions applying to the activity;
 - (c) if the environment plan does not include an oil spill contingency plan as required by regulation 15(10) — approve the plan subject to a condition that the operator must not commence the activity before an oil spill contingency plan is approved for the activity.
- (5) The Minister must give the operator written notice of a decision by the Minister —
 - (a) to approve the plan; or

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- (b) not to approve the plan; or
- (c) to do either or both of the following —
 - (i) approve the plan in part for a particular stage of the activity;
 - (ii) approve the plan subject to the imposition of limitations or conditions applying to the activity.
- (6) A notice under subregulation (5)(b) or (c) must set out —
 - (a) the terms of the decision and the reasons for it; and
 - (b) if limitations or conditions are to apply to the activity — those limitations or conditions.
- (7) Within 10 days after receiving a notification that the Minister has approved an environment plan under subregulation (5)(a), the operator must submit to the Minister for public disclosure a summary of the plan.
Penalty: a fine of \$5 500.
- (8) A summary submitted under subregulation (7) must include the following —
 - (a) the contact details of the operator of the activity or the operator's agent;
 - (b) the location or locations of the activity;
 - (c) a general description of the existing environment that may be affected by the activity;
 - (d) a summary of —
 - (i) the details of the construction and layout of any facility; and
 - (ii) the operational details of the activity and proposed timetables; and
 - (iii) the environmental impacts and environmental risks of the activity; and
 - (iv) the implementation strategy included in the environment plan; and

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- (v) the consultation that has been undertaken during the development of the environment plan and that is to be undertaken in accordance with the implementation strategy;
 - (e) any details required to be included in the implementation strategy under regulation 15(9).
 - (9) If the Minister is not reasonably satisfied that a summary submitted under subregulation (7) meets the criteria set out in subregulation (8), the Minister may give the operator written notice that the operator must modify and resubmit the summary within 10 days after receiving the notice.
 - (10) Within 10 days after receiving a notice under subregulation (9) in relation to a summary of an environment plan, the operator must modify and resubmit the summary.
- Penalty for an offence under subregulation (10): a fine of \$5 500.

12. Approval of oil spill contingency plan submitted in accordance with condition imposed by Minister

- (1) This regulation applies if —
 - (a) the Minister approves an environment plan that does not include an oil spill contingency plan; and
 - (b) the approval is subject to a condition imposed under regulation 11(4)(c); and
 - (c) the operator submits an oil spill contingency plan to the Minister in accordance with the condition.
- (2) The Minister must approve the oil spill contingency plan if the Minister is satisfied that the plan —
 - (a) complies with regulation 15(10); and
 - (b) is appropriate for the nature and scale of the activity.
- (3) If the Minister is not reasonably satisfied that the oil spill contingency plan when first submitted meets the criteria set out

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in subregulation (2), the Minister must give the operator a reasonable opportunity to modify and resubmit the plan.

- (4) If, after the operator has had a reasonable opportunity to modify and resubmit the oil spill contingency plan, the Minister is still not reasonably satisfied that the plan meets the criteria set out in subregulation (2), the Minister must refuse to approve the plan.
- (5) The Minister must give the operator written notice of a decision by the Minister —
 - (a) to approve the oil spill contingency plan; or
 - (b) not to approve the oil spill contingency plan.
- (6) A notice under subregulation (5) must set out the terms of the decision and the reasons for it.
- (7) If the Minister approves an oil spill contingency plan for an activity under this regulation, the environment plan for the activity is taken to be revised to include the oil spill contingency plan.
- (8) To avoid doubt, a revision of an environment plan under this regulation does not affect any other requirement to revise the environment plan under regulation 18, 19 or 20.

Division 3 — Contents of environment plan

13. Contents of environment plan

An environment plan for an activity must include the matters set out in regulations 14, 15, 16 and 17.

14. Environmental assessment

- (1) The environment plan must include a comprehensive description of the activity including the following —
 - (a) the location or locations of the activity;
 - (b) details of the construction and layout of any facility;

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- (c) a description of the operational details of the activity and proposed timetables;
 - (d) any additional information relevant to consideration of the environmental impacts and environmental risks of the activity.
- (2) The environment plan must —
 - (a) describe the existing environment that may be affected by the activity; and
 - (b) include details of the particular relevant values and sensitivities (if any) of that environment.
- (3) The environment plan must include —
 - (a) details of all environmental impacts and environmental risks of the activity; and
 - (b) an evaluation of those impacts and risks; and
 - (c) a description of the environmental risk assessment process used to evaluate those impacts and risks, including the terms used in that process to categorise the levels of seriousness of those impacts and risks.
- (4) For the avoidance of doubt, the evaluation mentioned in subregulation (3)(b) must evaluate all the environmental impacts and environmental risks arising directly or indirectly from —
 - (a) all aspects of the activity; and
 - (b) potential emergency conditions, whether resulting from accident or any other cause.
- (5) The environment plan must include —
 - (a) environmental performance objectives that define the goals of the operator in relation to the —
 - (i) processes, policies and practices to be followed; and
 - (ii) equipment to be used; and

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- (iii) actions to be taken,
for the purposes of minimising the environmental
impacts and environmental risks of the activity; and
- (b) environmental performance standards —
 - (i) that state the performance required of persons,
equipment and procedures for the purposes of
managing the environmental impacts and
environmental risks of the activity; and
 - (ii) against which the performance of the operator in
meeting the environmental performance
objectives in the environment plan can be
measured;and
- (c) measurement criteria for the purposes of determining
whether —
 - (i) the environmental performance objectives and
environmental performance standards in the
environment plan have been met; and
 - (ii) the implementation strategy in the environment
plan has been complied with.
- (6) The environment plan must describe the requirements that —
 - (a) apply to the activity under legislation (including
conditions imposed under legislation), international
conventions or agreements, or applicable codes of
practice; and
 - (b) are relevant to the environmental management of the
activity.

15. Implementation strategy for environment plan

- (1) The environment plan must include an implementation strategy
for the activity in accordance with this regulation.

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- (2) The implementation strategy must include measures to ensure that the environmental performance objectives and environmental performance standards in the environment plan are met.
- (3) The implementation strategy must identify the specific systems, practices and procedures to be used to ensure that —
 - (a) the environmental impacts and environmental risks of the activity are continuously reduced to as low as is reasonably practicable; and
 - (b) the environmental performance objectives and environmental performance standards in the environment plan are met.
- (4) The implementation strategy must establish a clear chain of command, setting out the roles and responsibilities of personnel in relation to the implementation, management and review of the environment plan.
- (5) The implementation strategy must include measures to ensure that each employee or contractor working on, or in connection with, the activity is aware of his or her responsibilities in relation to the environment plan and has the appropriate competencies and training.
- (6) The implementation strategy must provide for the monitoring of, audit of, management of non-compliance with, and review of, the operator's environmental performance and the implementation strategy.
- (7) The implementation strategy must provide for —
 - (a) specified emissions and discharges (whether occurring during normal operations or otherwise) to any land, air, marine, seabed, sub-seabed, groundwater, sub-surface or inland waters environment to be monitored and recorded in a way that —
 - (i) is accurate; and

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- (ii) can be audited against the environmental performance standards and measurement criteria in the environment plan;
 - and
 - (b) the monitoring mentioned in paragraph (a) to be done either continuously or at specified intervals; and
 - (c) tests to assess the performance of the monitoring equipment used for the purposes of paragraph (a) to be conducted at specified intervals.
- (8) If the activity is a petroleum activity that may involve the injection or re-injection of produced formation water into wells, the implementation strategy must specify the maximum permissible concentration of petroleum in that produced formation water.
- (9) The implementation strategy must include details of any chemicals or other substances that may be —
- (a) in, or added to, any treatment fluids to be used for the purposes of drilling or hydraulic fracturing undertaken in the course of the activity; or
 - (b) otherwise introduced into a well, reservoir or subsurface formation in the course of the activity.
- (10) The implementation strategy must include an oil spill contingency plan that —
- (a) sets out details of the following —
 - (i) preparations to be made for the possibility of an oil spill;
 - (ii) emergency response arrangements to be implemented if an oil spill occurs;
 - (iii) recovery arrangements to be implemented if an oil spill occurs;

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- (iv) current oil spill trajectory modelling that applies to the activity;
- and
- (b) requires the operator to conduct tests of the emergency response arrangements set out in the oil spill contingency plan at specified intervals; and
 - (c) describes the tests mentioned in paragraph (b).
- (11) The implementation strategy must provide for appropriate consultation with relevant authorities and other relevant interested persons or organisations.

16. Monitoring, recording and reporting arrangements

The environment plan must include arrangements for —

- (a) monitoring, and recording information about, the activity that are sufficient to enable the Minister to determine whether —
 - (i) the environmental performance objectives and environmental performance standards in the environment plan have been met; and
 - (ii) the implementation strategy in the environment plan has been complied with;
- and
- (b) reporting to the Minister on the information recorded under paragraph (a) at intervals agreed with the Minister, but not less often than annually.

17. Other information in environment plan

- (1) The environment plan must include the following —
 - (a) a statement of the operator's corporate environmental policy;
 - (b) a report on all consultations between the operator and relevant authorities and other relevant interested persons

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- and organisations in the course of developing the environment plan;
- (c) a list of all incidents that are classified as reportable incidents in relation to the activity.
- (2) The environment plan must classify an incident as a reportable incident if —
- (a) it could arise from the activity; and
- (b) it has the potential to cause an environmental impact that is classified, under the environmental risk assessment process described in the environment plan, as moderate or more serious than moderate.

Division 4 — Revision of environment plan

18. Revision because of a change, or proposed change, of circumstances or activity

- (1) The operator of an activity must submit to the Minister a proposed revision of the environment plan for the activity before the commencement of —
- (a) any new activity; or
- (b) any significant modification of, significant change in, or significant new stage of, an existing activity,

that is not provided for in the environment plan.

Penalty: a fine of \$10 000.

- (2) The operator of an activity must submit to the Minister a proposed revision of the environment plan for the activity before or as soon as practicable after —
- (a) a change in the instrument holder for, or operator of, the activity; or
- (b) the occurrence of —
- (i) any significant new environmental impact or environmental risk; or

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- (ii) any significant increase in an existing environmental impact or environmental risk, that is not provided for in the environment plan for the activity; or
- (c) the occurrence of a series of new environmental impacts or environmental risks, or a series of increases in existing environmental impacts or environmental risks, which, taken together, amount to the occurrence of —
 - (i) a significant new environmental impact or environmental risk; or
 - (ii) a significant increase in an existing environmental impact or environmental risk, that is not provided for in the environment plan for the activity.

Penalty: a fine of \$10 000.

19. Revision required by Minister

- (1) The Minister, by written notice given to the operator of an activity, may require the operator to submit a proposed revision of the environment plan for the activity.
- (2) A notice under subregulation (1) must set out the following —
 - (a) the matters to be addressed by the revision;
 - (b) the date by which the revision must be submitted, which must be at least 21 days after the day on which the notice is given;
 - (c) the proposed date of effect of the revision;
 - (d) the grounds for the notice.
- (3) Within 21 days after being given a notice under subregulation (1), the operator may make a submission in writing to the Minister stating the operator's reasons for one or more of the following matters —
 - (a) why the revision should not be made;

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- (b) why the revision should be in different terms from the proposed terms;
 - (c) whether or not the operator gives other reasons — why the revision should be submitted or take effect on a date later than the proposed date.
- (4) If a submission is made under subregulation (3), the Minister must consider the matters stated in the submission and decide —
 - (a) to withdraw the notice; or
 - (b) to vary the notice; or
 - (c) that the notice as originally given should stand.
- (5) The Minister must give the operator written notice of the Minister's decision under subregulation (4).
- (6) The notice must set out the terms of the decision and the reasons for it.
- (7) If —
 - (a) the Minister gives an operator a notice under subregulation (1); and
 - (b) the operator does not make a submission under subregulation (3),the operator must comply with the notice.
Penalty: a fine of \$10 000.
- (8) If —
 - (a) the Minister gives an operator a notice under subregulation (1); and
 - (b) the operator makes a submission under subregulation (3); and
 - (c) the Minister decides under subregulation (4) to vary the notice or that the notice as originally given should stand; and

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- (d) the Minister gives the operator written notice of the Minister's decision,

the operator must comply with the notice, or the notice as varied, as the case requires.

Penalty: a fine of \$10 000.

20. Revision every 5 years

- (1) The operator of an activity must submit to the Minister a proposed revision of the environment plan for the activity at least 14 days before the end of each period of 5 years, commencing on the latest of the following —
- (a) the day on which the environment plan is first approved under regulation 11 by the Minister;
 - (b) the day on which a proposed revision of the environment plan submitted under this regulation is approved under regulation 11 by the Minister;
 - (c) for a revision of an environment plan submitted under regulation 18 or 19 — the day (if any) notified by the Minister under subregulation (2).

Penalty: a fine of \$10 000.

- (2) For subregulation (1)(c), the Minister may notify the operator that the effect of a revision of an environment plan submitted under regulation 18 or 19 is that the period of 5 years mentioned in subregulation (1) starts on the day specified in the notification.

21. Form of proposed revision

A proposed revision of an environment plan under regulation 18, 19 or 20 must be in the form of a revised environment plan or, if the operator and the Minister so agree, a revised part of the environment plan.

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22. Approval of revised environment plan

Regulations 10 and 11 apply to the proposed revision as if —

- (a) a reference in those regulations to the submission, approval or non-approval of the environment plan were a reference to the submission, approval or non-approval of the proposed revision; and
- (b) any other reference in those regulations to the environment plan were a reference to the plan as revised by the proposed revision.

23. Additional requirement for revision of oil spill contingency plan

- (1) The operator of an activity must submit to the Minister a proposed revision of the oil spill contingency plan included in the environment plan for the activity at least 14 days before the end of the period of 2 years and 6 months commencing on the latest of the following —
 - (a) the day on which the environment plan is first approved under regulation 11 by the Minister;
 - (b) the day on which a proposed revision of the environment plan submitted under regulation 20 is approved under regulation 11 by the Minister;
 - (c) for a revision of an environment plan submitted under regulation 18 or 19 — the day (if any) notified by the Minister under regulation 20(2).
- (2) The proposed revision of the oil spill contingency plan must be in the form of a revised oil spill contingency plan, or, if the operator and the Minister so agree, a revised part of the oil spill contingency plan.
- (3) The Minister must approve the proposed revision of the oil spill contingency plan if the Minister is satisfied that the proposed revision —
 - (a) complies with regulation 15(10); and

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- (b) is appropriate for the nature and scale of the activity.
- (4) If the Minister is not reasonably satisfied that the proposed revision of the oil spill contingency plan when first submitted meets the criteria set out in subregulation (3), the Minister must give the operator a reasonable opportunity to modify and resubmit the proposed revision.
- (5) If, after the operator has had a reasonable opportunity to modify and resubmit the proposed revision, the Minister is still not reasonably satisfied that the proposed revision meets the criteria set out in subregulation (3), the Minister must refuse to approve the proposed revision.
- (6) The Minister must give the operator written notice of a decision by the Minister —
 - (a) to approve the proposed revision; or
 - (b) not to approve the proposed revision.
- (7) A notice under subregulation (6) must set out the terms of the decision and the reasons for it.
- (8) If the Minister approves a proposed revision of an oil spill contingency plan included in an environment plan, the environment plan is taken to be revised in accordance with the proposed revision.
- (9) To avoid doubt, a revision under this regulation of an oil spill contingency plan included in an environment plan does not affect any other requirement to revise the environment plan under regulation 18, 19 or 20.

24. Effect of non-approval of proposed revision

If the Minister refuses to approve a proposed revision of an environment plan, or of an oil spill contingency plan included in an environment plan, the provisions of the environment plan in force for the activity immediately before the proposed revision was submitted remain in force, subject to these regulations (in

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particular, the provisions of Division 5), as if the revision had not been proposed.

Division 5 — Withdrawal of approval of environment plan

25. Withdrawal of approval of environment plan

- (1) The Minister, by written notice given to the operator of an activity, may withdraw the approval of the environment plan for the activity on any of the following grounds —
 - (a) that the operator or instrument holder for the activity has not complied with —
 - (i) a direction given by the Minister under section 95 of the Act; or
 - (ii) section 117 of the Act;
 - (b) that the operator has not complied with regulation 7, 8, 18, 19, 20 or 23;
 - (c) that the operator has not complied with a condition imposed under regulation 11(4)(c);
 - (d) that the Minister has refused to approve a proposed revision of —
 - (i) the environment plan; or
 - (ii) the oil spill contingency plan included in the environment plan.
- (2) A notice under subregulation (1) must set out the reasons for the decision.

26. Steps to be taken before withdrawal of approval

- (1) Before withdrawing the approval of an environment plan for an activity the Minister must comply with subregulations (2), (5) and (6).

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Division 5 Withdrawal of approval of environment plan

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- (2) The Minister must give the operator at least 30 days' written notice of the Minister's intention to withdraw approval of the plan.
- (3) The notice must set out the ground for withdrawal of the approval.
- (4) The Minister may give a copy of the notice to such other persons (if any) as the Minister thinks fit.
- (5) The Minister must specify in the notice a day (the *specified day*) on or before which the operator (or any 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.
- (6) The Minister must take into account —
 - (a) any action taken by the operator or instrument holder for the activity to remove the ground for withdrawal of approval or to prevent the recurrence of that ground; and
 - (b) any matter submitted to the Minister before the specified day by the operator or a person to whom a copy of the notice has been given.

27. Withdrawal of approval not affected by other provisions

- (1) The Minister may withdraw the approval of an environment plan for an activity on the ground that the operator or instrument holder for the activity has not complied with —
 - (a) a direction given by the Minister under section 95 of the Act; or
 - (b) section 117 of the Act; or
 - (c) regulation 7, 8, 18, 19 or 20,

even though the operator or instrument holder has been convicted of an offence because of the failure to comply with that direction or provision, as the case requires.

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- (2) The operator or instrument holder for an activity for which the approval of an environment plan has been withdrawn by the Minister on the ground that the operator or instrument holder has not complied with —

- (a) a direction given by the Minister under section 95 of the Act; or
- (b) section 117 of the Act; or
- (c) regulation 7, 8, 18, 19 or 20,

may be convicted of an offence because of the failure to comply with that direction or provision, as the case requires, even though the approval of the environment plan has been withdrawn.

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Part 3 Incidents, reports and records

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Part 3 — Incidents, reports and records

28. Notifying reportable incidents

- (1) The operator of an activity must notify a reportable incident in accordance with this regulation.
Penalty: a fine of \$5 500.
- (2) It is a defence to a prosecution for an offence against subregulation (1) if the operator has a reasonable excuse.
- (3) The notification —
 - (a) must be given to the Minister as soon as practicable, and in any case within 2 hours after —
 - (i) the first occurrence of the reportable incident; or
 - (ii) if the reportable incident is not detected by the operator at the time of the first occurrence — the time the operator becomes aware of the reportable incident;
 - and
 - (b) may be oral or in writing; and
 - (c) must specify —
 - (i) all material facts and circumstances concerning the reportable incident that the operator knows or is able, by reasonable search or inquiry, to find out; and
 - (ii) any action taken to avoid or mitigate any adverse environmental impacts of the reportable incident.

29. Written report of reportable incidents

- (1) The operator of an activity must submit a written report of a reportable incident in accordance with this regulation.
Penalty: a fine of \$5 500.

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- (2) It is a defence to a prosecution for an offence against subregulation (1) if the operator has a reasonable excuse.
- (3) The report —
 - (a) must be submitted to the Minister as soon as practicable, and in any case —
 - (i) within 3 days after the first occurrence of the reportable incident; or
 - (ii) if the Minister specifies, within 3 days after the first occurrence of the reportable incident, another period within which the report must be submitted — within that period;
 - and
 - (b) must specify —
 - (i) all material facts and circumstances concerning the reportable incident that the operator knows or is able, by reasonable search or inquiry, to find out; and
 - (ii) any action taken to avoid or mitigate any adverse environmental impacts of the reportable incident; and
 - (iii) any action taken, or proposed to be taken, to prevent a similar reportable incident.

30. Written report of recordable incidents

- (1) The operator of an activity must, for each month, submit a written report of recordable incidents in accordance with this regulation.

Penalty: a fine of \$5 500.

- (2) It is a defence to a prosecution for an offence against subregulation (1) if the operator has a reasonable excuse.

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- (3) The report must be submitted to the Minister as soon as practicable, and in any case within 15 days, after the end of the month to which it relates.
- (4) If one or more recordable incidents occurred during the month, the report —
 - (a) must include a record of each of those recordable incidents; and
 - (b) must specify —
 - (i) all material facts and circumstances concerning those recordable incidents that the operator knows or is able, by reasonable search or inquiry, to find out; and
 - (ii) any action taken to avoid or mitigate any adverse environmental impacts of those recordable incidents; and
 - (iii) any action taken, or proposed to be taken, to prevent similar recordable incidents.
- (5) If no recordable incidents occurred during the month, the report under subregulation (1) must include a statement to that effect.

31. Storage of records

- (1) The operator of an activity must store and maintain each document or record mentioned in subregulation (2) —
 - (a) for the period of 5 years from the making of the document or record; and
 - (b) in a way that makes retrieval of the document or record reasonably practicable.

Penalty: a fine of \$4 000.

- (2) For subregulation (1), the documents and records are the following —
 - (a) the environment plan for the activity;

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- (b) revisions and proposed revisions of the environment plan (including revisions and proposed revisions of the oil spill contingency plan included in the environment plan);
- (c) written reports (including monitoring, audit and review reports) about environmental performance, or about the implementation strategy, under the environment plan;
- (d) records of monitoring and test results made under regulation 34;
- (e) records of calibration and maintenance of monitoring devices used in accordance with the environment plan;
- (f) records and copies of —
 - (i) notifications mentioned in regulation 28; and
 - (ii) reports mentioned in regulation 29; and
 - (iii) reports mentioned in regulation 30.

32. Making records available

- (1) In this regulation —
records means the documents and records mentioned in regulation 31(2).
- (2) The operator of an activity must make available, in accordance with this regulation, copies of the records for the activity.
Penalty: a fine of \$4 000.
- (3) The operator must make copies of the records available to —
 - (a) the Minister, on request in writing by the Minister; and
 - (b) an inspector, on request in writing by the inspector.
- (4) If the person making a request under subregulation (3) states that copies of the records must be made available to an agent of the person, the operator must make the copies available to the agent.

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- (5) However, if —
- (a) a request is made under subregulation (3)(a) by a delegate of the Minister and the operator requests written evidence of the delegation; or
 - (b) a request is made under subregulation (3)(b) and the operator requests the inspector to produce written evidence of the inspector's appointment; or
 - (c) a person making a request under subregulation (3) states that copies of the records must be made available to an agent of the person and the operator requests the agent to produce written evidence of the appointment of the agent,
- the operator is not required to make the copies of the records available unless the evidence is produced to the operator.
- (6) The copies of the records must be made available —
- (a) in the case of an emergency relating to the activity — as soon as possible (whether or not that is during the emergency); or
 - (b) in any other case — during normal business hours on any day (other than a Saturday, a Sunday or a public holiday).
- (7) The copies of the records must be made available at the operator's nominated address or, if agreed between the operator and the Minister, at any other place (including by means of electronic transmission to a person at that place).
- (8) If the records are stored on a computer, the records must be made available in paper form or, if agreed between the operator and the Minister, in electronic form.

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Requirements relating to emissions and discharges **Division 1**
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Part 4 — Environmental requirements

**Division 1 — Requirements relating to emissions
and discharges**

**33. Discharge, injection or re-injection of produced formation
water resulting from petroleum activity**

- (1) The operator of a petroleum activity must ensure that the concentration of petroleum in any produced formation water does not exceed the following concentration (the *specified concentration*) —
- (a) for produced formation water discharged into the sea as a result of the petroleum activity — an average of 30 mg/L over any period of 24 hours;
 - (b) for produced formation water injected or re-injected into wells as a result of the petroleum activity — the maximum permissible concentration specified in the environment plan for the petroleum activity in accordance with regulation 15(8).

Penalty: a fine of \$5 500.

- (2) Nothing in subregulation (1)(a) affects an environmental performance standard, in an environment plan for the petroleum activity, for a concentration of petroleum in produced formation water discharged into the sea that is less than the specified concentration.
- (3) Subregulation (1) does not apply to an operator if —
- (a) the Minister has given the operator written consent in accordance with subregulation (4) to discharge, inject or re-inject produced formation water at a concentration (the *authorised concentration*) that exceeds the specified concentration; and
 - (b) the operator ensures that the authorised concentration is not exceeded.

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- (4) Consent under subregulation (3)(a) may be given by the Minister only if —
 - (a) the discharge rate, injection rate or re-injection rate of produced formation water to be authorised by the consent does not exceed 0.5 megalitres per period of 24 hours; or
 - (b) the consent applies to a period not greater than 48 hours; or
 - (c) the Minister is satisfied that the purpose of the discharge, injection or re-injection at the authorised concentration is for operational research that has the potential to improve environmental performance.
- (5) The Minister must not give consent under subregulation (3)(a) unless the operator demonstrates, to the satisfaction of the Minister, that the proposed discharge, injection or re-injection will not result in —
 - (a) the occurrence of any significant new environmental impact or environmental risk; or
 - (b) a significant increase in any existing environmental impact or environmental risk.

34. Monitoring and reporting on emissions and discharges

- (1) In this regulation —

reporting period, in relation to an activity, means —

 - (a) the period of 3 months commencing when the environment plan for the activity is approved; and
 - (b) each subsequent period of 3 months.
- (2) The operator of an activity must, in accordance with subregulation (3), monitor all emissions and discharges to any land, air, marine, seabed, sub-seabed, groundwater, sub-surface or inland waters environment that —
 - (a) occur in the course of the activity (whether during normal operations or otherwise); and

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- (b) are specified in the environment plan for the activity in accordance with regulation 15(7)(a).

Penalty: a fine of \$5 500.

- (3) The monitoring mentioned in subregulation (2) must be done either continuously, or at specified intervals, in accordance with the environment plan for the activity.

- (4) The operator of an activity must, in accordance with subregulation (5), conduct tests to assess the performance of monitoring equipment used for the purposes of subregulation (2).

Penalty: a fine of \$5 500.

- (5) Tests performed under subregulation (4) must —

- (a) be sufficient to verify the accuracy of the monitoring equipment; and
(b) be conducted at intervals specified in the environment plan for the activity in accordance with regulation 15(7)(c).

- (6) The operator of an activity must record the results of —

- (a) the monitoring mentioned in subregulation (2); and
(b) the tests mentioned in subregulation (4).

Penalty: a fine of \$5 500.

- (7) The operator of an activity must, for each reporting period, submit a written report of emissions and discharges in accordance with subregulation (9).

Penalty: a fine of \$5 500.

- (8) It is a defence to a prosecution for an offence against subregulation (7) if the operator has a reasonable excuse.

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Division 2 Requirement relating to oil spills

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- (9) A report under subregulation (7) —
- (a) must be submitted to the Minister as soon as practicable, and in any case within 15 days, after the end of the reporting period; and
 - (b) must include a summary of the results of the monitoring mentioned in subregulation (2).

Division 2 — Requirement relating to oil spills

35. Application of chemical dispersant to oil spills

A person must not apply chemical dispersant to an oil spill that has arisen as a result of an activity unless —

- (a) the Minister, or the appropriate hazard management agency prescribed under the *Emergency Management Act 2005*, has given written consent to the application of chemical dispersant; and
- (b) if the consent under paragraph (a) is given subject to any conditions — those conditions are complied with.

Penalty: a fine of \$10 000.

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Part 5 — Operators of activities

36. Term used: contact details

In this Part —

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

37. Requirement for, and notification of, operator

- (1) The instrument holder for an activity must ensure that, at all times, there is an operator of the activity.
Penalty: a fine of \$10 000.
- (2) The operator of an activity is the person responsible to the instrument holder for the overall management and operation of the activity.
- (3) The instrument holder must notify the Minister, in writing, of the contact details of the operator of the activity before the first submission in relation to the activity is made under Part 2.
Penalty: a fine of \$10 000.
- (4) The instrument holder must notify the Minister, in writing, of any change of operator of the activity —
 - (a) if it is practicable to do so — at least 28 days before the change takes effect; or
 - (b) otherwise — at the earliest practicable opportunity.Penalty: a fine of \$10 000.
- (5) Nothing in this regulation affects any duty or responsibility of the instrument holder, under the Act, in relation to an activity carried out under the instrument.

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38. Operator to give details

- (1) The operator of an activity must, within 7 days after —
- (a) the appointment of an agent of the operator in relation to the environmental management of the activity — give the Minister written notice of the appointment and of the contact details of the agent; or
 - (b) any change of agent of the operator in relation to the environmental management of the activity — give the Minister written notice of the change and of the contact details of the new agent; or
 - (c) any change of contact details (where there is no change of identity) of the operator or the operator's agent — give the Minister written notice of the new contact details.

Penalty: a fine of \$10 000.

- (2) It is a defence to a prosecution for an offence against subregulation (1) if the operator has a reasonable excuse.
- (3) The operator of an activity must include, in any submission to the Minister under Part 2 or 3, the contact details of the operator or the operator's agent.

Penalty: a fine of \$10 000.

- (4) The operator of an activity, at all times after the activity has commenced, must maintain —
- (a) an address of the operator for communications on matters relating to the environmental management of the activity; and
 - (b) a facsimile number, or email address, within Australia at which a request for records may be made under regulation 32.

Penalty: a fine of \$10 000.

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- (5) The operator of an activity, at all times after the activity has commenced, must ensure that the Minister has notice of —
- (a) the address maintained by the operator under subregulation (4)(a); and
 - (b) the facsimile number or email address maintained by the operator under subregulation (4)(b).

Penalty: a fine of \$10 000.

39. No requirement to give information more than once

- (1) Despite any other provision of this Part, an instrument holder for an activity or operator of an activity is not required to give information to the Minister under this Part if, at the relevant time, the information has already been given in accordance with the Act or another written law.
- (2) Subregulation (1) does not apply if —
- (a) the information already given has been lost or destroyed; and
 - (b) the instrument holder or operator has been notified of the loss or destruction.

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

- (1) The Minister may decline to consider a submission made under Part 2 by the operator of an activity until —
- (a) the instrument holder for the activity complies with regulation 37; or
 - (b) the operator of the activity complies with regulation 38.
- (2) Subregulation (1) does not apply if the information has already been given in accordance with the Act or another written law.

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41. Minister to keep register

The Minister must maintain a register or other record of information about an operator of an activity or agent, where the information is —

- (a) mentioned in this Part; and
- (b) given (whether under this Part or otherwise) to the Minister.

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Part 6 — Transitional provisions

42. Terms used

In this Part —

commencement day means the day on which these regulations (other than regulations 1 and 2) come into operation;

environmental management plan means an environmental management plan required under a condition to which a petroleum instrument or geothermal instrument is subject immediately before commencement day;

transitional period means the period of 12 months beginning on commencement day.

43. Environmental management plans in force before commencement day

- (1) An environmental management plan that is in force for an activity immediately before commencement day is taken —
 - (a) to be an environment plan approved under these regulations; and
 - (b) to have been approved on —
 - (i) the day on which the environmental management plan was accepted by the Minister; or
 - (ii) if the environmental management plan has been revised — the day on which the last revision of the environmental management plan was accepted by the Minister.
- (2) If —
 - (a) subregulation (1) applies to an environmental management plan; and
 - (b) the Minister accepted the environmental management plan, or a revision of the environmental management

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plan, subject to the imposition of any limitations or conditions; and

- (c) those limitations or conditions applied immediately before commencement day,

the limitations or conditions are taken to be limitations or conditions imposed under regulation 11(4)(b).

- (3) If —

- (a) subregulation (1) applies to an environmental management plan (the ***transitioned plan***) for an activity; and
- (b) the transitioned plan does not meet the criteria set out in regulation 11(1),

the operator of the activity must submit a proposed revision of the transitioned plan to the Minister before the end of the transitional period.

- (4) If, apart from subregulation (3), an operator is required to submit a proposed revision of the transitioned plan during the transitional period under regulation 18, 19 or 20, subregulation (3) does not impose an additional obligation on the operator to submit a proposed revision of the transitioned plan.
- (5) Regulations 10 and 11 apply to a proposed revision submitted under subregulation (3) as if —
 - (a) a reference in those regulations to the submission, approval or non-approval of the environment plan were a reference to the submission, approval or non-approval of the proposed revision; and
 - (b) any other reference in those regulations to the environment plan were a reference to the plan as revised by the proposed revision.
- (6) If a proposed revision submitted under subregulation (3) is approved by the Minister, regulation 20(1)(b) applies in relation

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to the approval of the proposed revision as if the proposed revision had been submitted under regulation 20.

44. Environmental management plans submitted before commencement day

If, immediately before commencement day, the operator of an activity had submitted an environmental management plan for the activity to the Minister, but the Minister had not accepted or refused to accept the plan before that day —

- (a) the environmental management plan is taken to be submitted under regulation 9 as an environment plan for the activity; and
- (b) the Minister must give the operator a reasonable opportunity to modify and resubmit the environmental management plan to meet the requirements for environment plans under these regulations.

45. Activities for which no environmental management plan in force before commencement day

(1) If —

- (a) an activity was being carried out before commencement day; and
- (b) no environmental management plan was in force, or required to be in force, for the activity immediately before commencement day,

the operator of the activity must submit an environment plan for the activity to the Minister before the end of the transitional period.

Penalty: a fine of \$10 000.

- (2) Regulations 6, 7, 8, 9, 28, 29 and 34 do not apply to the activity during any period before the Minister approves, or refuses to approve, an environment plan mentioned in subregulation (1).

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- (3) An environment plan submitted under this regulation may be submitted for one or more stages of the activity if the operator and the Minister so agree.
- (4) An environment plan submitted under this regulation —
 - (a) must be in writing in a form approved by the Minister; and
 - (b) if the Minister approves — may relate to a specified activity in one or more identified locations specified in the plan.
- (5) Regulations 10 and 11 apply to an environment plan submitted under this regulation in the same way they apply to an environment plan submitted under regulation 9.

By Command of the Governor,

N. HAGLEY, Clerk of the Executive Council.