

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 382

Offshore Petroleum and Greenhouse Gas Storage Act 2006

Offshore Petroleum (Safety) Regulations 2009

Petroleum (Submerged Lands) (Pipelines) Amendment Regulations 2009 (No. 1)

Circulated by authority of the Minister for Resources and Energy,
the Honourable Martin Ferguson AM, MP

GENERAL OUTLINE

The Regulations are made in accordance with section 781 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (the Act).

The purpose of the *Offshore Petroleum (Safety) Regulations 2009* (the Safety Regulations) is to consolidate and update the safety-related regulations under the Act into one legislative instrument. The consolidation incorporates the *Petroleum (Submerged lands) (Management of Safety on Offshore Facilities) Regulations 1996*, the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*, and the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002*. References to the Act are also corrected.

The Safety Regulations are also amended to allow for offshore pipelines to be regulated as “facilities” under the safety case regime. This is consistent with amendments to the *Offshore Petroleum and Greenhouse Gas Storage (Safety Levies) Act 2003* on 8 October 2009, with effect from 1 January 2010, removing provisions relating to the pipeline safety management plan levy.

The Safety Regulations also make several minor amendments, including:

- specifying those offshore vessels or structures that are exempt from the definition of *facility* or *associated offshore place*. Schedule 3 to the Act provides for the regulations to specify these exemptions;
- ensuring appropriate regulation of a facility where that facility changes function from petroleum to greenhouse gas storage or vice versa, or where a facility has both functions; and
- providing that in relation to a safety case, a revision to a safety case can be triggered not just by a single change in operations or circumstances but also by a series of new impacts or risks or a series of increases in existing impacts or risks which together amount to a significant new impact or risk or a significant increase in an impact or risk.

Details of the Safety Regulations are described in Attachment A.

The purpose of the *Petroleum (Submerged Lands) (Pipelines) Amendment Regulations 2009 (No. 1)* (Pipeline Regulations) is to amend the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001* to remove provisions relating to the Safety Authority and pipeline management safety plans, thus avoiding unnecessarily duplication.

Details of the regulations are described in Attachment B.

Stakeholder consultation in respect of the Safety and Pipeline Regulations was undertaken in September-October 2009.

FINANCIAL IMPACT STATEMENT

These amendments do not have any financial impact on the Australian Government budget.

REGULATORY IMPACT STATEMENT

These amendments do not pose new regulatory burden on the petroleum industry.

**EXPLANATORY STATEMENT
ATTACHMENT A**

OFFSHORE PETROLEUM (SAFETY) REGULATIONS 2009

Chapter 1 – Preliminary

Regulation 1.1: Name of Regulations

This provides for the title of the Regulations to be the *Offshore Petroleum (Safety) Regulations 2009*.

Regulation 1.2: Commencement

Regulation 1.2 provides for the commencement date for the Regulations as 1 January 2010. This commencement date is required to enable the Safety Authority to collect levies for the regulations of pipelines under the safety case regime.

Regulation 1.3: Repeal of regulations

Regulation 1.3 repeals the *Petroleum (Submerged lands) (Management of Safety on Offshore Facilities) Regulations 1996*, the *Petroleum (Submerged Lands) (Occupational Health and Safety) Regulations 1993*, and the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2002* as the matters contained within these legislative instrument are included in these *Offshore Petroleum (Safety) Regulations*.

Regulation 1.4: Objects

Regulation 1.4 specifies the objects for the *Offshore Petroleum (Safety) Regulations 2009*. The objects include that:

- offshore petroleum facilities (which includes offshore pipelines according to the definition of “facility”) are designed, constructed installed, operated, modified and decommissioned in accordance with an accepted safety case, and that that safety case makes provisions for matters in relation to the health and safety of persons at or near the facilities;
- diving activities under the Act and regulations are carried out in accordance with accepted diving safety management systems, and that the diving safety management systems make provisions in relation to the health and safety of persons; and
- the risks to the health and safety of persons at offshore petroleum facilities, or undertaking diving activities under the Act and Regulations, are reduced to a level that is as low as reasonably practicable.

Regulation 1.5: Definitions

Regulation 1.5 defines a number of terms used in the Regulations. The following definitions are amended as part of this consolidation:

- *Commonwealth waters* – the note under this definition is updated to refer to *offshore area* as defined in section 7 of the Act (as opposed to *adjacent area* as defined in the now superseded *Petroleum (Submerged Lands) Act 1967*).

- *Facility* – the definition of facility is amended to be consistent with the Act. This amendment therefore includes pipelines in the definition of a facility, in line with subclause 4(8) of Schedule 3 to the Act.
- *Pipe* – this new definition provides that “pipe” means a pipe conveying petroleum, including licensed petroleum pipelines and secondary lines. The purpose of this additional amendment is to ensure adequate consideration in a safety case of the risks associated with all pipes that may carry petroleum, and not just licensed pipelines and facilities that are pipelines.

Regulation 1.6: Vessels and structures that are not facilities

Paragraph 4(6)(d) of Schedule 3 to the Act provides for the regulations to declare a vessel or structure not to be a facility. Regulation 1.6 establishes a list of such vessels or structures that are not facilities.

Regulation 1.7: Vessels and structures that are not associated offshore places

Clause 3 of Schedule 3 to the Act, in the definition of *associated offshore place*, provides for the regulations to declare a vessel or structure not to be an associated offshore place. Regulation 1.7 establishes a list of such vessels or structures that are not associated offshore places.

Subregulation 1.7(2) specifies that this list does not apply to a vessel or structure where a facility is causing an unusual risk to this vessel structure that is not in circumstances in which a facility is causing a risk to the vessel or structure, or persons on the vessel or structure that is not ordinary risk for the activities conducted at that facility.

Regulation 1.8: Forms, notices and reports

Regulation 1.8 provides general requirements in relation to the completion by employers of forms, notices and reports.

Regulation 1.9: Relationship with other regulations made under the Act

Regulation 1.9 emphasises that the requirements of these regulations are in addition to requirements imposed by other Regulations under the Act that are in force.

CHAPTER 1 – OFFSHORE FACILITIES

Part 1: Operators

Regulation 2.1: Nomination of operator - general

Regulation 2.1 provides that a facility owner or a titleholder may nominate a person, via written notice to the Safety Authority, as the operator of a facility or a proposed facility. The regulation further prescribes the information to include in this notice.

Paragraph 2.1(2)(b) is amended to provide that an operator who is not based in Australia must provide their contact details for their principal place of business, and

not just their Australian agent, who would not have any statutory responsibilities in relation to operations under the Act and these Regulations.

Regulation 2.2: Nomination of operator – shared petroleum facility

Regulation 2.2 provides that a facility owner or a titleholder may nominate a person, via written notice to the Safety Authority, as the operator of a facility or a proposed facility where that facility will have shared petroleum and greenhouse gas storage functions. The regulation further prescribes the information to include in this notice, mirroring the requirements under regulation 2.1.

Regulation 2.3: Acceptance or rejection of nomination of operator

Regulation 2.3 provides that the Safety Authority must accept the nomination if satisfied that the nominated person has or will have day to day management and control of the facility, but must reject the nomination otherwise. The regulation also outlines the processes for acceptance or rejection, and emphasises that there may only be one operator for a facility at any one time.

Regulation 2.4: Register of operators

Regulation 2.4 requires the Safety Authority to maintain a register of operators and public certain specified details of the operator register on the Safety Authority's website. The regulation also provides for the processes for removal of a person from the register.

Part 2: Safety cases

Division 1, Contents of safety cases

Subdivision A, Contents of a safety case

Regulation 2.5: Facility description, formal safety assessment and safety management system

Regulation 2.5 provides that a safety case must comprise a description of the facility that complies with subregulation 2.5(1), a description of the formal safety assessment providing evidence of compliance with subregulation 2.5(2), and a detailed description of the safety management system providing evidence of compliance with subregulation 2.5(3).

Subregulation 2.5(4) provides that a safety case for the construction phase of a facility must also address (to the extent that it is practicable) the risks associated with operation of the facility.

Regulation 2.6: Implementation and improvement of the safety management system

Regulation 2.6 requires the safety case to demonstrate ongoing measures in place to ensure adequate implementation and improvement of the safety management system.

Subdivision B, Safety measures

Regulation 2.7: Standards to be applied

Regulation 2.7 requires the safety case for a facility to specify the standards used relation to activities conducted at or near the facility.

Regulation 2.8: Command structure

Regulation 2.8 requires the safety case for a facility that is manned to specify and describe the normal and emergency command structures for the facility.

Regulation 2.9: Members of the workforce must be competent

Regulation 2.9 requires the safety case for a facility to describe the means by which personnel competency will be assured.

Regulation 2.10: *Permit to work* system for safe performance of various activities

Regulation 2.10 requires a safety case to provide the establishment and maintenance of a documented system of coordinating and controlling the safe performance of all work activities on the facility (the “permit to work” system). This “permit to work” system must form part of the safety management system for the facility, identify persons responsible for authorising and supervising work and ensure these persons are competent in applying the “permit to work” system.

Regulation 2.11: Involvement of members of the workforce

Regulation 2.11 requires an operator of a facility to provide written material to the Safety Authority that demonstrates and documents to the reasonable satisfaction of the Safety Authority that there is effective ongoing consultation with, and participation of, relevant employees (including contractor personnel) in the development and implementation of a safety case, thus enable the workforce to assess the risk and hazards to which they may be exposed.

Regulation 2.12: Design, construction, installation, maintenance and modification

Regulation 2.12 provides that a safety case for a facility must describe how the operator is to ensure the adequacy of that facility’s design, construction, installation, maintenance and modification for the relevant stage or stages in the life of the facility. The regulation then specifies certain aspects to be included in this description.

Regulation 2.13: Medical and pharmaceutical supplies and services

Regulation 2.13 provides that the safety case to specify the medical and pharmaceutical supplies and services which to be maintained on the facility, sufficient for an emergency situation.

Regulation 2.14: Machinery and equipment

Regulation 2.14 requires the safety case to specify the equipment on the facility that relates to or may affect the safety of the facility. The safety case must also demonstrate that the equipment is fit for purpose, including in for emergency use.

Regulation 2.15: Drugs and intoxicants

Regulation 2.15 provides that the safety case specify adequate means of securing, supplying and monitoring the use of therapeutic drugs on a facility and of detecting and preventing the use of other controlled substances and intoxicants on the facility.

Subdivision C, Emergencies

Regulation 2.16: Evacuation, escape and rescue analysis

Regulation 2.16 provides that the safety case must describe an evacuation, escape and rescue analysis for the facility, as well as the essential elements for consideration in such an analysis.

Regulation 2.17: Fire and explosion risk analysis

Regulation 2.17 provides that the safety case must describe a fire and explosion risk analysis identifying likely fire and explosion hazards to the facility and means of detecting and eliminating or reducing these hazards, as well as the essential elements for consideration in this analysis.

Regulation 2.18: Emergency communication systems

Regulation 2.18 provides that the safety case must specify emergency communications systems adequate for emergency communication both within the facility and with other appropriate facilities (including on-shore installations), vessels, and aircraft.

Regulation 2.19: Control systems

Regulation 2.19 provides that the safety case must specify provision for adequate control systems in an emergency.

Regulation 2.20: Emergency preparedness

Regulation 2.20 provides that a safety case describe an emergency response plan (including provision for its implementation) in line with the formal safety assessment for the facility to ensure the safety of all persons likely to be at or near the facility.

Regulation 2.20 also provides that a safety case must describe provisions for:

- adequate escape and fire drill exercises;
- training for persons on the facility to function adequately in the event of an emergency;

- assurance that escape and fire drill exercises are conducted in accordance with the safety case; and
- adequate systems for a mobile facility to enable shutdown or disconnection in an emergency, as well as audible and visible warnings when this occurs.

Regulation 2.21: Pipes

Subregulation 2.21(1) requires the safety case to specify adequate procedures for shutting down or isolating pipes connected to the facility in the event of an emergency. Subregulation 2.21(2) identifies essential elements of these procedures.

Subregulation 2.21(3) also requires the safety case to specify adequate means of mitigating risks related to pipes in an emergency as well as periodic inspection and testing of pipe emergency shut-down valves.

Finally, subregulation 2.21(4) provides that references to “facility” in regulation 2.21 do not include any wells and associated plant and equipment or pipes or systems of pipes.

Regulation 2.22: Vessel and aircraft control

Regulation 2.22 requires the safety case to describe the system which, as far as is reasonably practicable, enables the safe operation of vessels or aircraft related to the facility and outlines required criteria for such a system.

Subdivision D, Record keeping

Regulation 2.23: Arrangements for records

Regulation 2.23 provides that the safety case must describe the arrangements by which the operator ensures that records of the safety case, and records of reported accidents and incidents, are kept for at least five years.

Division 2, Submission and acceptance of safety cases

Regulation 2.24: Safety case to be submitted to Safety Authority

Regulation 2.24 provides that an operator must submit a safety case for one or more facilities, or one or more stages in the life of a facility, to the Safety Authority for acceptance. Prior to submission of the safety case, however, the Safety Authority and the operator must have agreed on the scope of validation for the facility.

Regulation 2.25; Safety Authority may request more information

Regulation 2.25 provides that, where an operator has submitted a safety case to the Safety Authority, the Safety Authority may, within 30 days and in writing, require the operator to provide more information. That the additional information is then taken to become part of the safety case, and that the Safety Authority must have regard to the information.

Regulation 2.26: Acceptance or rejection of a safety case

Regulation 2.26 sets out provisions for the Safety Authority's acceptance or rejection of safety cases, including acceptance or rejection of a safety case for 1 or more stages in the life of a facility and limited and/or conditional acceptance of a safety case.

The regulation further provides that where the Safety Authority rejects a safety case because it does not meet the requirements of the regulations, it must give the operator a reasonably opportunity to change and resubmit the safety case.

Regulation 2.27: Notice of decision on safety case

Regulation 2.27 provides that the Safety Authority must give the operator notice of its decision regarding a submitted safety case within 90 days of receipt of a safety case, including any terms of the decision and the reasoning for these terms. The regulation also notes that a failure of the Safety Authority to make a notification within 90 days does not invalidate any subsequent decision by the Safety Authority.

Regulation 2.28: Consent to undertake work in a manner different from safety case

Regulation 2.28 provides a mechanism whereby activities at a facility may differ in manner from those activities described in the accepted safety case for the facility, with the consent of the Safety Authority, only if the Safety Authority is satisfied that there would be no significant new risk or increase to an existing risk through this change in activity.

Regulation 2.29: Duties under Part 2 of Schedule 3 to the Act

Regulation 2.29 clarifies that an operator or person under these regulation are also subject to the duties of the operator or person under Part 2 of Schedule 3 to the Act.

Division 3, Revised safety cases

Regulation 2.30: Revision of a safety case because of a change of circumstances or operations

Regulation 2.30 specifies the changes of circumstances or operations which would require the revision of a safety case (or part of a safety case).

This regulation is amended to also provide, in paragraph 2.30(2)(b), that a revision to a safety case would be required where a series of smaller changes have occurred which together represent a significant or major change to the risks to health or safety at or near a facility.

The regulation also provides that the operator and the Safety Authority must agree on a scope of validation for a revision due to modification or decommissioning of a facility.

Regulation 2.31: Revision on request by the Safety Authority

Regulation 2.31 provides that the Safety Authority may require an operator to submit a revision for a safety case (or part safety case) and outlines the process for this to occur, including the required timeframe for submission of the revision and provisions relating to the Safety Authority's consideration of and decision relating to an operator's submission.

The regulation also provides for the operator to make a submission to the Safety Authority stating why it believes a revision should not occur or should occur in a manner different to that requested by the Safety Authority.

Regulation 2.32: Revision after 5 years

Regulation 2.32 provides that, although revisions may have been made under regulations 2.30 and 2.31, a revision to a safety case for a facility must be submitted within five years of the previous acceptance by the Safety Authority of a safety case or revised safety case for that facility. Subregulation 2.32(2) provides that such revisions must describe how the operator ensures the continued integrity of the control measures for major accident events.

Regulation 2.33: Safety Authority may request more information

Regulation 2.33 provides that, where an operator has submitted a safety case to the Safety Authority, the Safety Authority may, within 10 days and in writing, require the operator to provide more information. That the additional information is then taken to become part of the safety case, and that the Safety Authority must have regard to the information.

Regulation 2.34: Acceptance or rejection of a revised safety case

Regulation 2.34 sets out provisions for the Safety Authority's acceptance or rejection of a revised safety case, including acceptance or rejection of a safety case for one or more stages in the life of a facility and limited and/or conditional acceptance of a safety case.

The regulation further provides that where the Safety Authority rejects a revised safety case because it does not meet the requirements of the regulations, it must give the operator a reasonably opportunity to change and resubmit the revised safety case.

Regulation 2.35: Notice of decision on revised safety case

Regulation 2.35 provides that the Safety Authority must give the operator notice of its decision regarding a submitted safety case revision within 30 days of receipt of a revised safety case, including any terms of the decision and the reasoning for these terms. The regulation also notes that a failure of the Safety Authority to make a notification within 30 days does not invalidate any subsequent decision by the Safety Authority.

Regulation 2.36: Effect of rejection of revised safety case

Regulation 2.36 provides that, unless and until the Safety Authority accepts a revised safety case, the safety case that is currently in force for the facility remains in force.

Division 4, Withdrawal of acceptance of a safety case

Regulation 2.37: Grounds for withdrawal of acceptance

Regulation 2.37 provides that the Safety Authority may give notice to an operator withdrawing acceptance of a safety case and specifies grounds for such a withdrawal. The regulation also requires that such a notice must state the grounds reasons for the decision.

Regulation 2.38: Notice before withdrawal of acceptance

Regulation 2.38 sets out the processes to be followed before issuing a notice under regulation 2.37 that acceptance of a safety case has been withdrawn.

Withdrawal of acceptance of a safety case would mean that operations at the facility must cease or the operator would be committing an offence. Therefore withdrawal of acceptance of a safety case would only be used in cases of serious and/or repeated non-compliances, or if the operations had departed significantly from what is allowed by the safety case that is in force.

A range of other compliance and enforcement provisions are also available to the Safety Authority, which would be used before commencing the processes under regulation 42.

Division 5, Exemptions

Regulation 2.39: Safety Authority may give an exemption

Regulation 2.39 provides that the Safety Authority may grant an exemption to an operator of a facility from any of the provisions of this Part 2 (Safety cases).

Such an exemption should be rare, as the content requirements for a safety case are primarily linked to adequate measures to reduce of risk to persons at or near a facility to as low as reasonably practicable. This notion of adequacy means that some accepted safety cases may have less content than others in respect of the requirements in this part 2, without the requirement for an exemption.

This regulation does not provide for the Safety Authority to exempt an operator of a facility from having a safety case. All operators must have a safety case in force for facilities that they operate under these regulations.

Part 3 – Validation

Regulation 2.40: Validation of design, construction and installation, significant modification or decommissioning of a facility

Regulation 2.40 provides that the Safety Authority may require an operator of a facility or proposed facility to provide a validation about certain matters relating to the proposed facility or to a proposed modification to an existing facility. The regulation explains that a “validation” is a statement in writing by an independent person, which establishes, to the level required by the Safety Authority, that the design, construction and installation of the facility, or the modification, will protect the health and safety of persons at the facility.

Part 4 – Notifying and reporting accidents and dangerous occurrences

Regulation 2.41: Interpretation

Subregulation 2.41(1) provides that the prescribed incapacitation period for the purpose of reporting of injuries under Schedule 3 to the Act is three or more days. The effect of this is that the accidents that cause a member of the workforce to be incapacitated from performing work for a period of three days or greater must be reported to the Safety Authority. This is consistent with the practice for incident reporting in the international offshore petroleum industry, and adopting this period under the Act enables effective bench-marking against international performance.

Subregulation 2.41(2) defines *dangerous occurrence* for the purpose of Schedule 3 to the Act and the regulations as those occurrences listed in the table under this subregulation.

Regulation 2.42: Notices and reports of accidents and dangerous occurrences

Regulation 2.42 establishes detailed administrative procedures for notification and reporting of accidents and dangerous occurrences, as required by Schedule 3 to the Act.

Part 5 – Penalty provisions

Regulation 2.43: Facility must have registered operator

Regulation 2.43 establishes that it is an offence for any person to do any work at a facility in Commonwealth waters if there is no registered operator for that facility.

Regulation 2.44: Safety case required for the relevant stage in the life of a facility

Regulation 2.44 establishes that it is an offence for any person to do any work at a facility in Commonwealth waters if there is not a safety case in force for the relevant activity taking place.

Regulation 2.45: Work on a facility must comply with the safety case

Regulation 2.45 establishes that it is an offence for any person to do any work at a facility in Commonwealth waters in a manner that is contrary to a safety case in force for the facility, or contrary to a limitation or condition imposed by the Safety Authority when accepting a safety case or revised safety case, except if the Safety Authority has granted a consent to operate in the specific manner.

Regulation 2.46: New health and safety risk

Regulation 2.46 establishes that it is an offence for any person to do any work at a facility when there is a significant new risk or significant increase in an existing risk if that new or increased risk is not provided for by the safety case in force for the facility or by a revised safety case that has been submitted to the Safety Authority and that has not been rejected.

Subregulation 2.46(3) provides that if the titleholder knows about a new or increasing risk it must advise the safety operator and NOPSA by an appropriate method.

Regulation 2.47: Maintaining records

Regulation 2.47 establishes that it is an offence for the operator of a facility to keep relevant documents in a manner that is contrary to the manner set out in the safety case.

Regulation 2.48: Persons on a facility must comply with safety case

Regulation 2.48 establishes that it is an offence for a person on a facility to act in a manner that is contrary to the safety case in force for the facility as it relates to that person.

Regulation 2.49: Interference with accident sites

Regulation 2.49 establishes that it is an offence for a person to interfere with the site of an accident or dangerous occurrence before an OHS inspector has completed an investigation into the accident or dangerous occurrence, except in the circumstances listed in subregulation 2.49(2).

Part 6 – Miscellaneous

Regulation 2.50: Details in applications or submissions

Regulation 2.50 provides that applications or submissions that a person is required or permitted to make or give to the Safety Authority must include the personal details specified in the regulation.

CHAPTER 3 – OCCUPATIONAL HEALTH AND SAFETY

Part 1 – Health and safety

Regulation 3.1: Avoiding fatigue

Regulation 3.1 provides that a person in control of work at a facility must not allow or require anyone under their control to work for continuous or successive continuous periods. This regulation is designed to avoid worker fatigue that could endanger persons at or near the facility.

Regulation 3.2: Possession or control of drugs or intoxicants

Regulation 3.2 provides that it is an offence to be in possession or have control of a controlled substance or an intoxicant, except in accordance with subregulation 3.2(3).

Regulation 3.3: Person must leave the facility when instructed to do so

Regulation 3.3 provides that it is an offence for a person not to leave a facility when instructed to do so by the person in command. Unless it is an emergency, this instruction must be written and state the reason for giving it. This provides protection against use of the provision for reasons unconnected with health and safety.

Regulation 3.4: Prohibition on the use of certain hazardous substances

Regulation 3.4 provides that a person in control at a facility must ensure that any substance listed in Part 2 or Part 3 of Schedule 3.2 to the Principal Regulations is not used unless that use is:

- in a circumstance specified in column 3 of Part 2 or Part 3 of Schedule 3.2 for that item;
- in accordance with an exemption granted by the Safety Authority under regulation 3.7; or
- in accordance with the National List of Exemptions for chrysotile asbestos.

The offence is one of strict liability. The basis for this is that, whilst the safety regulatory regime under the Act is primarily performance based, in line with Government policy and with international best practice, there are some types of hazards and risks that must be controlled to at least a prescribed minimum standard. The banning of certain carcinogens and other substances, except in accordance with agreed exemptions, is an example of this. In addition, the nature of the offence is that it would not be possible to prove intent or wilfulness, and therefore must be one of strict liability in order to have any force.

Regulation 3.5: Limitations on exposure to certain hazardous substances

Regulation 3.5 provides that a person in control at a facility must ensure that no member of the workforce is exposed to a hazardous substance above the prescribed exposure standard, except in accordance with an exemption granted by the Safety Authority under regulation 3.7.

The offence is one of strict liability. As described for regulation 3.4, regulation 3.5 enforces a minimum standard of hazard exposure that must be achieved, except in accordance with agreed exemptions. In addition, the nature of the offence is that it would not be possible to prove intent or wilfulness, and therefore must be one of strict liability in order to have any force.

Regulation 3.6: Exposure to noise

Regulation 3.6 provides that a person in control at a facility must not allow a member of the workforce under their control to be exposed to a level of noise that exceeds the prescribed exposure standard, except in accordance with an exemption granted by the Safety Authority.

The offence is one of strict liability. As described for regulation 3.4, regulation 3.6 enforces a minimum standard of hazard exposure that must be achieved, except in accordance with agreed exemptions. In addition, the nature of the offence is that it would not be possible to prove intent or wilfulness, and therefore must be one of strict liability in order to have any force.

Regulation 3.7: Exemptions from hazardous substances and noise requirements

Regulation 3.7 provides that an operator, an employer or any other person in control of a facility, a part of a facility, or particular work at a facility may apply to the Safety Authority for an exemption from compliance with the relevant provisions of subregulations 3.4(2), 3.5(2) and 3.6(2). The Safety Authority may grant such exemptions if it considers that, in the circumstances, compliance is not practicable, and that it may specify conditions and limitations on any exemption.

Part 2 – Election of health and safety representatives ***Division 1, Returning officer***

Regulation 3.8: Appointment of returning officer

Regulation 3.8 provides that, when an operator is required to conduct or arrange for the conduct of an election under subclause 26(3) of Schedule 3 to the Act, the operator must nominate a person to act as returning officer, and must notify the Safety Authority of that nomination. The regulation also provides that the safety Authority may either approve the nomination and appoint the nominee as returning officer, or appoint another person as returning officer.

Division 2, The poll

Regulation 3.9: Number of votes

Regulation 3.9 provides that each person eligible to vote is entitled to one vote only.

Regulation 3.10: Right to secret ballot

Regulation 3.10 provides for a member of the designated work group to request a secret ballot. This provision helps to ensure that the election system is flexible and fair.

Regulation 3.11: Conduct of poll by secret ballot

Regulation 3.11 requires the returning officer to issue ballot papers if a secret ballot is requested and to conduct the election in accordance with Divisions 3 (Polling by secret ballot) and 4 (The count).

Regulation 3.12: Conduct of poll if no request made for secret ballot

Regulation 3.12 provides that if there is no request for a secret ballot the returning officer may conduct a poll in a manner determined by him or her to produce a fair result.

Regulation 3.13: If not candidate is elected

Regulation 3.13 provides that if no candidate is elected the election is taken to have failed.

Division 3, Polling by secret ballotRegulation 3.14: Ballot-papers

Regulation 3.14 sets out the matters to be contained in a ballot-paper.

Regulation 3.15: Distribution of ballot-papers

Regulation 3.15 specifies how the returning officer is to distribute the ballot-papers.

Regulation 2.16: Manner of voting by secret ballot

Regulation 2.16 provides for a “first past the post” system of voting and make provisions for the process of voting.

Division 4, The countRegulation 3.17: Envelopes given to returning officer

Regulation 3.17 requires the returning officer to keep votes secure until the count and not to include votes received after the poll.

Regulation 3.18: Scrutineers

Regulation 3.18 provides for scrutineers to be appointed.

Regulation 3.19: Returning officer to be advised of scrutineers

Regulation 3.19 provides for notification of scrutineers to the returning officer.

Regulation 3.20: Persons present at the count

Regulation 3.20 provides that a returning officer may direct a person to leave the count if they are not entitled to be present, or if they interrupt a count. The regulation also provides that the scrutineer may interrupt the count if they consider an error has been made or to object to a decision of the returning officer.

Regulation 3.21: Conduct of the count

Regulation 3.21 sets out the procedures to be followed by the returning officer in conducting the count.

Regulation 3.22: Informal ballot-papers

Regulation 3.22 sets out the circumstances in which a ballot-paper is informal.

Regulation 3.23: Completion of the count

Regulation 3.23 requires the returning officer to prepare, date and sign a statement setting out the number of valid votes given to each candidate and the number of informal votes.

Regulation 3.24: Destruction of election material

Regulation 3.24 allows the returning officer to destroy specified election material after six months.

Division 5, Result of election

Regulation 3.25: Request for recount

Regulation 3.25 allows the returning officer to conduct a recount on his or her own motion and requires a recount on request by a candidate at any time before notification of the result of the poll for an election is given under regulation 3.27.

Regulation 3.26: Irregularities at election

Regulation 3.26 makes provision for election irregularities. The returning officer may declare an election void if the returning officer has reasonable grounds to believe there has been an irregularity in the conduct of an election.

Regulation 3.27: Result of poll

Subregulation 3.27(1) requires the returning officer to notify the employer and the relevant Designated Authority of the failure of an election.

Subregulation 3.27(2) requires the returning officer to notify the candidate as soon as practicable after a successful poll.

Part 3 – Advice, investigations and inquiries

Regulation 3.28: OHS inspectors – identity cards

Regulation 3.28 prescribes the form of OHS inspectors’ identity cards.

Regulation 3.29: Taking samples for testing etc

Regulation 3.29 provides for the taking samples for testing, in accordance with Schedule 3 to the Act. Subclause 75(1) of Schedule 3 to the Act empowers an inspector, in the course of conducting an inspection, to remove plant or equipment from the workplace or take a sample of substances or things for inspection or testing.

This regulation provides for the specific procedures related to taking these samples, including that the person taking the samples must take all reasonable steps to ensure that the plant is not damaged or the sample contaminated while it is away from the workplace.

Regulation 3.30: Form of certain notices

Regulation 3.30 provides that written notices provided by an elected health and safety representative or an OHS inspector to employers for the purposes of Schedule 3 of the Act are to be in a form which is prescribed in the Schedule and regulations.

Part 4 – Exemptions from the requirements in Part 3 of Schedule 3 to the Act

Regulation 3.31: Orders under clause 46 of Schedule 3 to the Act

Regulation 3.31 provides that any person may apply in writing to the Safety Authority for an order exempting the person from one or more of the provisions of Part 3 of Schedule 3 to the Act (“*Workplace Arrangements*”), and further specifies the details of this process, including that the Safety Authority must decide whether or not to grant the exemption within 28 days.

In making its decision, the Safety Authority must consult with, and take into account, submissions made by any persons who might be affected by the decision. In granting an exemption, the Safety Authority must give reasons for its decision, and may set conditions and may specify a period of time for which the exemption applies.

Part 5 – State and Northern Territory laws that do not apply

Regulation 3.32: Laws or parts of laws that do not apply

Regulation 3.32 prescribes the State and Northern Territory (NT) laws that do not apply at offshore petroleum facilities because they are wholly or substantially laws related to occupational health and safety, and hence overlap with, and duplicate the provisions of, the laws that are administered by the Safety Authority.

Laws related to radiation safety and food safety are not disapplied, because those laws relate to public health matters that could affect a State or the NT, as well as being related to health and safety at the offshore facilities. Such State and NT laws are to remain in force at offshore facilities, administered and enforced under memoranda of understanding between the Safety Authority and the relevant State and NT agencies.

Although subregulations 3.32(1) and 3.32(2) appears to disapply all of the provisions of the prescribed laws, the *Crimes at Sea Act 2000* continues to apply their criminal provisions. However, subregulations 3.32(3), 3.32(4) and 3.32(5) ensure that criminal provisions are disapplied, despite the *Crimes at Sea Act 2000*.

Part 6 – Miscellaneous

Regulation 3.33: Service of notices

Regulation 3.33 prescribes the manner in which notices are to be served under Schedule 3 to the Act and Safety Regulations.

CHAPTER 4 – DIVING

Part 1 – Preliminary

Regulation 4.1: Meaning of diving

Regulation 4.1 defines the term “diving” for the purpose of these Regulations, specifying that persons are diving if they are undertaking work subject to the provisions of the OPGGSA while immersed in any liquid or in a chamber where the pressure is greater than normal atmospheric pressure.

Regulation 4.2: When a diving operation begins and ends

Regulation 4.2 specifies that a diving operation commences when the first diver begins preparations to dive and ends when the last diver has exited the water or pressurised environment and has completed any necessary decompression procedures.

Part 2 – Diving safety management systems

Regulation 4.3: No diving without DSMS

Regulation 4.3 provides that any diving contractor intending to undertake offshore diving work subject to the Act is required to have a diving safety management system (DSMS) that has been accepted by the regulator. The DSMS must also be current – i.e.: it must be an accurate representation of the policies, staffing, procedures and equipment that the diving contractor is currently using, it must be an up-to-date revision as per the provisions of regulation 4.10 below.

Regulation 4.4: Contents of DSMS

Regulation 4.4 provides that a DSMS must meet standards set out in guidelines made by the Safety Authority and meet the specific requirements of subregulation 4.4(2), 4.4(3) and 4.4(4).

Regulation 4.5: Acceptance of new DSMS

Regulation 4.5 provides that a diving contractor must submit a DSMS to the Safety Authority at least 60 days before the start of a proposed diving project and that the Safety Authority must accept or reject the DSMS within 60 days, notifying the contractor of its decision as soon as practicable.

Regulation 4.6: Acceptance of revised DSMS

Regulation 4.6 places an obligation on the diving contractor to maintain the currency of the DSMS and submit a revised DSMS to the Safety Authority as required. The Safety Authority must accept or reject the DSMS within 28 days, notifying the contractor of its decision as soon as practicable.

Regulation 4.7: Grounds for rejecting DSMS

Regulation 4.7 sets out the circumstances in which the Safety Authority must reject a DSMS.

Regulation 4.8: Notice of reasons

Regulation 4.8 places an obligation on the Safety Authority to provide the diving contractor with the reasons why the DSMS has been rejected or had conditions placed upon its acceptance.

Regulation 4.9: Register of DSMSs

Regulation 4.9 requires that the Safety Authority keep a register of the details of all DSMSs that have been received and that operators be able to access this information.

Regulation 4.10: Revision of DSMS

Regulation 4.10 specifies the circumstances under which a diving contractor must revise a DSMS to ensure that the DSMS continues to be an accurate record of the diving contractor's policies, practices and procedures.

Regulation 4.11: Notice to revise DSMS

Regulation 4.11 provides that the Safety Authority may require the revision of a diving contractor's DSMS by the issuing of a notice in writing upon the diving contractor. The diving contractor may apply in writing to the Safety Authority to have the revision notice varied. Once the Safety Authority has decided on any variation, the diving contractor is then required to comply with the Safety Authority's direction in regard to revising the DSMS.

If, after having received a notice in writing from the Safety Authority as per the original or revision notice from the Safety Authority as above, the diving contractor does not undertake the revision, the Safety Authority may withdraw its acceptance of the DSMS.

Part 3 – Diving project plans

Regulation 4.12: Diving project plan to be approved

Regulation 4.12 applies where the diving contractor is undertaking work, either directly for an operator or as a subcontractor through a principal contractor to the operator. The operator for a project must approve the diving project plan before diving operations can commence.

The diving project plan must take into account the specific requirements of the particular diving job and dive site, and must form the bridging document between the operator's safety case and the DSMS.

The operator must ensure that the contents of the plan meet the requirements of regulation 4.16 before approving the plan. The operator must also ensure that there was in fact effective consultation with employees in development of the diving project plan as specifies in proposed regulation 4.18.

Regulation 4.13: Diving project plan to Safety Authority if there is no operator

Regulation 4.13 applies when diving work is undertaken in circumstances where there is no direct or indirect involvement of an operator in the diving project. It requires the diving contractor to prepare a diving project plan and submit it to the Safety Authority for review and acceptance if it complies with regulations 4.16 and 4.18.

A new paragraph 4.13(3)(c) is added to provide that the diving operations to which the plan relates are appropriately covered by a single plan.

Regulation 4.14: Diving project plan to Safety Authority if requested

Regulation 4.14 provides that the operator must submit the latest revision of the plan to the Safety Authority on request.

Regulation 4.15: Updating diving project plan

Regulation 4.15 provides that any changes to the diving project plan must be incorporated into the latest revision of the plan under management-of-change procedures. Any revision must be done in conjunction with and be approved by the operator (or Safety Authority, as appropriate).

Regulation 4.16: Contents of diving project plan

Regulation 4.16 specifies the required contents of a diving project plan, and provide that the diving project plan must cover the entire scope of work of the project and general principles of the diving techniques to be used as well as the needs of the particular operation.

Regulation 4.17: No diving without an approved diving project plan

Regulation 4.17 provides that a diving contractor must not allow a person to dive on a project if there is not an approved diving plan for the project.

Part 4 – Involvement of divers and members of the workforce

Regulation 4.18: Involvement of divers and members of the workforce in DSMS and diving project plan

Regulation 4.18 provides that a diving contract must ensure there is effective consultation with and participation of divers and other members of the workforce who will be involved in a diving project or aspects provided for in a DSMS.

In regard to the preparation of the diving project plan, it is expected that as a minimum the supervisor would be involved on a small project. The degree of employee involvement, however, should be commensurate with the project duration and complexity.

Part 5 – Safety responsibilities

Regulation 4.19: Safety responsibilities of diving contractors

Regulation 4.19 provides that the diving contractor has an ongoing responsibility to ensure that risks to divers and other employees are reduced to as low as reasonably practicable and that the diving operations are carried out in accordance with the policies, procedures, standards and practices of the accepted DSMS.

Regulation 4.20: Safety in the diving area

Regulation 4.20 requires that copies of relevant documents should be available at the dive site. It also authorises the supervisor to give reasonable instructions in relation to health and safety of any person taking part in the diving operation.

Regulation 4.21: Diving depths

Under the Regulations, 50 metres is considered the maximum safe depth for surface oriented diving. Regulation 4.21 provides that diving operations over that depth must use closed bell techniques or manned submersible craft. The operator and the diving contractor must therefore not allow surface-supplied diving to a depth deeper than 50 metres.

This provision does not apply to chamber dives for therapeutic recompression.

Part 6 – Diving supervisors

Regulation 4.22: Appointment of diving supervisors

Regulation 4.22 provides that the diving contractor must appoint in writing at least one diving supervisor for each diving operation.

The supervisors must be accredited under the Australian Diver Accreditation Scheme in order to undertake offshore diving operations. The supervisor must have adequate practical and theoretical knowledge and experience of the diving techniques to be used in the particular diving operation for which he or she is appointed.

Regulation 4.23: Duties of diving supervisors

Regulation 4.23 provides that the supervisor must ensure that the diving operation is undertaken safely and without risk to health or safety of persons at or near the operation. The regulation also empowers the supervisor to give reasonable orders in relation to health and safety to any person taking part in the diving operation.

The regulation further stipulates that the supervisor, while on duty as the supervisor for a diving operation, must not dive.

Finally, the supervisor must ensure that all persons involved in the diving operation are thoroughly and adequately briefed and provided with all relevant information that is necessary to enable those persons to safely carry out their part in the operation.

Part 7 – Start-up notices

Regulation 4.24: Start-up notice

Regulation 4.24 provides that diving must not commence until a start-up notice has been given to the Safety Authority. The regulation also provides that, where there is no operator for a diving project, that the diving contractor has the responsibility to notify the Safety Authority.

Part 8 – Diving operations

Regulation 4.25: Divers in diving operations

Regulation 4.25 places a specific responsibility on the diving contractor and supervisor for a diving project to ensure that any diver taking part in the project is competent to safely undertake all aspects of the diving operation.

The regulation also requires the diving contractor and the supervisor for a diving operation not allow any diver to dive in the operation unless the diver has the appropriate level of ADAS diving qualification and a valid medical certificate (as defined in regulation 4.26).

The requirements for a medical certificate do not apply to persons undertaking diving in a recompression chamber solely for the purpose of providing medical care to an injured person or to diving undertaken in a manned submersible craft.

Regulation 4.26: Medical certificates

Regulation 4.26 sets out requirements for medical certificates for the purposes of these regulations. Divers are required to comply with strict industry-agreed standards of health and have a certificate to this effect from a medical practitioner trained in diving medicine.

Regulation 4.26 specifies that to be a valid medical certificate under these regulations, the medical examination must have been undertaken in accordance with the relevant Australian/New Zealand Standards. The regulation also notes that Australia recognises the diving medical standards required under law in the United Kingdom as equivalent to Australian requirements.

Part 9 – RecordsRegulation 4.27: Diving operations record

Regulation 4.27 provides that diving supervisors ensure that a record of every diving operation supervised by that person is kept and specifies the form that this record must take.

Regulation 4.28: Diver’s log books

Regulation 4.28 provides that every diver must keep a detailed permanent record of every diving operation undertaken by the diver and specifies the form that this record must take.

CHAPTER 5 – TRANSITIONAL**Part 1 – Preliminary**Regulation 5.1: Definitions

Regulation 5.1 defines the *commencement day* of these Regulations, the *former Diving Safety Regulations*, the *former Management of Safety Regulations*, the *former Occupational Health and Safety Regulations*, and the *former Pipeline Regulations* for the purposes of this Chapter.

Part 2 – OperatorsRegulation 5.2: Operator of a facility before 1 January 2010

Regulation 5.2 provides that a person registered as an operator under the former Management of Safety Regulations and/or the former Pipeline Regulations immediately before 1 January 2010 continues to be registered as the operator of the facility until such time that NOPSA removes that person’s name from the register under regulation 2.4 of the Regulations.

Regulation 5.3: Register of operators

Regulation 5.3 provides that the register of operators as existing under the former Management of Safety Regulations immediately before 1 January 2010 is taken to be part of the register of operators under regulation 2.4 of these Regulations, unless the Safety Authority decides to create a new register.

Subregulation 5.3(2) specifies that the register is taken to include information provided to the Safety Authority under the former Management of Safety Regulations from the time that the Safety Authority received it even if this information is not yet included in the register to be maintained under regulation 2.4.

Part 3 – Safety cases

Regulation 5.4: Existing safety cases remain in force

Regulation 5.4 provides that a safety case that was in force immediately before 1 January 2010 is taken to be a safety case that was accepted by the Safety Authority under regulation 2.26 with effect from the date on which it was accepted under the former Management of Safety Regulations.

Subregulation 5.4(2) specifies that, where applicable, a safety case continues to be subject to any limitations, conditions or restrictions imposed on it under the former Management of Safety Regulations.

Regulation 5.5: Application for acceptance of safety case or revised safety case made before 1 January 2010

Regulation 5.5 provides that the Safety Authority must continue the process of considering any safety case applications (including safety case revisions) made before 1 January 2010 under the former Management of Safety Regulations. The Safety Authority must also give the operator a reasonable opportunity to modify the safety case to meet any new requirements relating to the Act and these Regulations from commencement day.

Part 4 – Pipelines

Regulation 5.6: Existing pipeline safety management plans to remain in force

Regulation 5.6 provides that a pipeline safety management plan (PSMP) that is in force in respect of a licensed pipeline under the former Pipeline Regulations immediately prior to commencement is taken to be a safety case that was accepted by the Safety Authority under regulation 2.26 with effect from the date on which the Pipeline Management Plan (PMP) or revised PMP was accepted by the Designated Authority under regulation 22 or 35 of the former Pipeline Regulations.

Subregulation 5.6(2) specifies that, where applicable, such a safety case continues to be subject to any limitations, conditions or restrictions imposed on the PSMP under the former Pipeline Regulations.

Regulation 5.7: Application for acceptance of pipeline management plan or revised pipeline management plan made before 1 January 2010

Regulation 5.7 provides that the Safety Authority must continue the process of considering the safety aspects of any pipeline management plan applications (including revisions for which there is safety content) as safety case applications under these Regulations. The Safety Authority must give the operator a reasonable opportunity to modify the application to meet any new requirements relating to the Act and these Regulations from 1 January 2010.

Regulation 5.8: Operator of a pipeline before 1 January 2010

5.8 provides that a person registered as an operator under regulation 6C of the former Pipeline Regulations immediate before 1 January 2010 is taken to be part of the register of operators under regulation 2.4 of these Regulations, unless the Safety Authority decides to create a new Register or removes the person's name from the register.

Part 5 – Diving safety management systems and diving project plans

Regulation 5.9: Register of DSMSs and revised DSMSs

Regulation 5.9 provides that the register of operators maintained by the Safety Authority under the former Diving Safety Regulations immediately before 1 January 2010 is taken to be part of the register of operators under regulation 2.4 of the Regulations, unless the Safety Authority decides to create a new register.

Subregulation 5.9(2) specifies that the register is taken to include information provided to the Safety Authority under the former Diving Regulations from the time that the Safety Authority received it even if this information is not yet included in the register to be maintained under regulation 2.4.

Regulation 5.10: Existing DSMS remain in force

Regulation 5.10 provides that a DSMS in force immediately before 1 January 2010 is taken to be a DSMS that was accepted by the Safety Authority under regulation 4.5 or 4.6 with effect from the date on which it was accepted under the former Diving Safety Regulations.

Regulation 5.11: Application for acceptance of DSMS or revised DSMS made before 1 January 2010

Regulation 5.11 provides that the Safety Authority must continue the process of considering any DSMS applications (including revisions) made before 1 January 2010 under the former Diving Safety Regulations. The Safety Authority must also give the operator a reasonable opportunity to modify the DSMS to meet any new requirements relating to the Act and these Regulations from commencement day.

Regulation 5.12: Notices taken to be given by Safety Authority

Regulation 5.12 provides that notices given to a diving contractor by the Safety Authority under regulation 15 of the former Diving Safety Regulations are taken to be notices given by the Safety Authority under regulation 4.11 with effect from the date on which they were given to the diving contractor under the former Diving Safety Regulations.

Regulation 5.13: Existing diving project plans remain in force

Regulation 5.13 provides that a diving project plan that was in force immediately before 1 January 2010 is taken to be a diving project plan that was accepted under regulation 4.13 with effect from the date on which it was accepted under the former Diving Safety Regulations.

Part 6 – Administrative actions taken before 1 January 2010

Regulation 5.14: Actions

Regulation 5.14 provides that any actions taken by NOPSA, an OHS inspector, a facility operator (or any other person who is participating in any administrative process that is incomplete or ongoing at the commencement date) have the same effect under the Regulations as those actions would have had under the corresponding repealed regulations if they had not been repealed.

Part 7 – Exemptions from the requirements in Part 3 of Schedule 3 to the Act

Regulation 5.15 Existing exemptions remain in force

Regulation 5.15 provides that orders issued by the Safety Authority exempting a person from one or more of the provisions of Part 3 of Schedule 3 to the Act under the former Occupational Health and Safety Regulations remain in force subject to any conditions or time limitations placed on the order by the Safety Authority.

Regulation 5.16 Application for exemption made before 1 January 2010

Regulation 5.16 provides that the Safety Authority must continue the process of considering an application for an order exempting a person from one or more of the provisions of Part 3 of Schedule 3 to the Act, under the Regulations.

SCHEDULE 3.1 - FORMS

Form 1: Provisional improvement notice

Form 1 sets out the acceptable format for a provisional improvement notice as may be issued under subclause 38(2) of Schedule 3 to the Act. This form also provides notes on the process relating to a provisional improvement notice.

Form 2: Notice of removal of plant or sample

Form 2 sets out the acceptable format for a notice relating to the power to take possession of plant, to take samples of substances etc, as may be issued under

subclause 75(1) of Schedule 3 to the Act. This form also provides notes on the process relating to notices of removal of plant or sample.

Form 3: Do not disturb notice

Form 3 sets out the acceptable format for a notice relating to the power to direct that a workplace etc not be disturbed, as may be issued under subclause 76(1) of Schedule 3 to the Act. This form also provides notes on the process relating to do not disturb notices.

Form 4: Prohibition notice

Form 4 sets out the acceptable format for a prohibition notice as may be issued under subclause 77(1) of Schedule 3 to the Act. This form also provides notes on the process relating to prohibition notices.

Form 5: Improvement notice

Form 5 sets out the acceptable format for an improvement notice as may be issued under subclause 78(1) of Schedule 3 to the Act. This form also provides notes on the process relating to improvement notices.

SCHEDULE 3.2 – HAZARDOUS SUBSTANCES

Part 1 - Interpretation

Item 101 defines *bona fide research* and *in situ* for the purposes of the schedule. The definition of *in situ* in relation to a facility that contains asbestos is amended to reflect recent amendments to the *Customs (Prohibited Imports) Regulation 1956*. The amendment complements existing domestic occupational health and safety laws and does not alter existing obligations and responsibilities in respect of providing a safe workplace.

Part 2 – Permitted circumstances for using certain hazardous substances

Item 201 provides permitted circumstances for using certain hazardous substances known as PCBs or polychlorinated biphenyls.

Part 3 – Permitted circumstances for using certain hazardous substances with carcinogenic properties

Items 301 to 315 provides permitted circumstances for using the hazardous substances listed:

- 2-Acetylaminofluorene
- 4-Aminodiphenyl
- Benzidine and its salts, including benzidine dihydrochloride
- Chloromethyl methyl ether (technical grade containing
- Aflatoxins
- Amosite (brown asbestos)
- Bis(Chloromethyl) ether
- Crocidolite (blue asbestos)

- bis(chloromethyl) ether
- 4-Dimethylaminoazo-benzene
- 4-Nitrodiphenyl
- Anthrophyllite asbestos
- Tremolite asbestos
- 2-Naphthylamine and its salts
- Actinolite asbestos
- Chrysotile (white asbestos)

Paragraph 6 of Part 3, Item 304 (Amosite or brown asbestos), Column 3 of this schedule is amended to reflect recent changes to the *Customs (Prohibited Imports) Regulations 1956*. The amendment complements existing domestic occupational health and safety laws and does not alter obligations and responsibilities in respect of providing a safe workplace.

**EXPLANATORY STATEMENT
ATTACHMENT B**

***PETROLEUM (SUBMERGED LANDS) (PIPELINES) AMENDMENT
REGULATIONS 2009 (No. 1)***

NOTES ON INDIVIDUAL ITEMS

Regulation 1: Name of Regulations

Regulation 1 provides for the title of the Amendment Regulations to be the *Petroleum (Submerged Lands) (Pipelines) Amendment Regulations 2009 (No. 1)*.

Regulation 2: Commencement

Regulation 2 provides that the Amendment Regulations commence on 1 January 2010.

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

Regulation 3 provides that the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001* are amended as per Schedule 1 of the Amendment Regulations.

Schedule 1 - Amendments

Item 1: Paragraph 3(c)

Item one removes the reference to significant pipeline accident events (SPAEs) from paragraph 3(c) of the Regulations as SPAEs relate to matters of pipeline safety which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Items 2: Subregulation 4(1), definition of *OHS inspector*

Item 2 omits the definition of *OHS inspector* from subregulation 4(1) as the definition related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 3: Subregulation 4(1), definition of *operator*

Item 3 omits the definition of *operator* from subregulation 4(1) as the definition related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 4: Subregulation 4(1), definition of *pipeline*

Item 4 amends the definition of *pipeline* in subregulation 4(1) to remove safety-related provisions, which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 5: Subregulation 4(1), definition of *pipeline safety management plan*

Item 5 omits the definition of *pipeline safety management plan* from subregulation 4(1) as the definition related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 6: Subregulation 4(1), definition of *reportable incident*, paragraph (b)

Item 6 amends the definition of *reportable incident* to allow for the addition of paragraph 4(1)(c).

Item 7: Subregulation 4(1), definition of *reportable incident*, after paragraph (b)

Item 7 amends the definition of *reportable incident* in subregulation 4(1) to add, in a new paragraph (c), that this definition does not include a reportable incident within the meaning of the *Offshore Petroleum (Safety) Regulations 2009*.

Item 8: Subregulation 4(1), definition of *Safety Authority*

Item 8 omits the definition of *Safety Authority* from subregulation 4(1) as the definition related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 9: Subregulation 4(1), definition of *significant pipeline accident event*

Item 9 omits the definition of *significant pipeline accident event* from subregulation 4(1) as the definition related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 10: Subregulation 5(1), note 2

Item 10 removes the reference to significant pipeline accident events from subregulation 5(1) note 2 as the reference related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 11: Part 1A

Item 11 omits Part 1A as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 12: Subregulation 20(3), note

Item 12 omits subregulation 20(3) note as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 13: Regulation 20A

Item 13 omits regulation 20A as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 14: Subregulations 22(1) and (1A)

Item 14 amends subregulations 22(1) and 22(1A) to remove pipeline safety provisions as they are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 15: Paragraph 23(a)

Item 15 amends paragraph 23(a) to remove reference to regulation 24, which is omitted at item 16 below.

Item 16: Regulation 24

This item omits regulation 24 as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 17: Paragraph 26(a)

Item 17 amends paragraph 26(a) to remove provisions relating to pipeline safety as these are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 18: Paragraphs 30(3)(a) to (e)

Item 18 amends paragraphs 30(3)(a) to(e) to remove provisions relating to pipeline safety as these are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 19: Subregulations 35(1) and (1A)

Item 19 amends subregulations 35(1) and (1A) to remove provisions relating to pipeline safety as these are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 20: Part 3A

Item 20 omits Part 3A as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 21: Regulations 39M and 39N

Item 21 omits regulations 39M and 39N as they related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 22: Subregulation 40(7), note

Item 22 omits subregulation 40(7) note as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 23: Subregulation 45(3)

Item 23 omits subregulation 45(3) as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.

Item 24: Part 5, Division 5.4

Item 24 omits Part 5 Division 5.4 as it related to pipeline safety matters which are addressed in the *Offshore Petroleum (Safety) Regulations 2009*.