



Western Australia

Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007

Compare between:

[24 Jan 2017, 00-d0-01] and [10 Nov 2020, 00-e0-01]

Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007

Part 1 — Preliminary

1. Citation

These regulations are the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007*.

2. Commencement

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

3. Terms used in these regulations

In these regulations —

emergency, in relation to a facility, means an urgent situation that presents, or may present, a risk of death or serious injury to persons at the facility;

facility means a facility as that term is defined in clause 3 of Schedule 5 to the Act but does not include a pipeline of a kind mentioned in clause 4(8) of that Schedule;

major accident event means an event connected with a facility, including a natural event, having the potential to cause multiple fatalities of persons at or near the facility;

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

performance standard means a standard, established by the operator, of the performance required of a system, item of equipment, person or procedure which is used as a basis for managing the risk of a major accident event;

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

- (a) the construction or installation of the facility;
- (b) the operation of the facility;
- (c) the modification of the facility;
- (d) the maintenance of the facility;
- (e) the decommissioning of the facility;
- (f) any other work at the facility;

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

safety case in force means a safety case or a revised safety case —

- (a) that has been accepted by the Minister in relation to a facility; and
- (b) the acceptance of which has not been withdrawn,

and includes each condition imposed under regulation 37(5) or 44(5) in respect of the facility or activities at the facility;

safety management system, for a facility, means a system for managing occupational safety and health at the facility;

validation means a validation under regulation 49.

[Regulation 3 amended: Gazette 30 Dec 2011 p. 5549.]

Part 2 — Operators

4. Meaning of facility

In this Part —

facility includes a proposed facility.

5. Facility to have an operator

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

Penalty: a fine of \$8 800.

6. Nomination of operator

- (1) A person may be nominated to be the operator of a facility by —
 - (a) a person who is an owner, charterer or a lessee of the facility; or
 - (b) a person who is a permittee, lessee, licensee or pipeline licensee.
- (2) A nomination must be in writing sent to the Minister and include —
 - (a) the nominee's name; and
 - (b) the nominee's contact details, including —
 - (i) a business address for the nominee; and
 - (ii) telephone and facsimile numbers for the nominee during business hours; and
 - (iii) telephone and facsimile numbers for the nominee outside business hours;

and

 - (c) the nominee's Australian Company Number (ACN), if applicable; and
 - (d) the nominee's written consent to the nomination.

[Regulation 6 amended: Gazette 30 Dec 2011 p. 5549.]

7. Acceptance or rejection of person as operator

- (1) The Minister must accept the nomination of a person as an operator of a facility if satisfied that the person has, or will have, the day-to-day management and control of —
 - (a) the facility; and
 - (b) operations at the facility.
- (2) The Minister must reject the nomination of a person as an operator of a facility if not satisfied as to the matters mentioned in subregulation (1)(a) and (b).
- (3) If the Minister accepts the nomination of a person as an operator of a facility, the Minister must register the nominee as the operator of the facility.
- (4) The Minister must notify the nominator and the nominee —
 - (a) of the decision to accept or reject the nomination; and
 - (b) if the Minister decides to reject the nomination, of the reasons for the rejection.

[Regulation 7 amended: Gazette 30 Dec 2011 p. 5546 and 5549.]

8. Register of operators, removal from the register

- (1) The Minister must maintain a register of operators of facilities.
- (2) A person who nominated a person to be the operator of a facility, or the person currently registered as the operator of the facility, may notify the Minister, in writing, that the person currently registered as the operator of the facility has ceased to be the person who has, or will have, the day-to-day management and control of the facility and operations at the facility.
- (3) On receipt of a notice under subregulation (2), the Minister must remove the operator's name from the register.

- (4) The Minister may remove an operator's name from the register if —
- (a) the Minister believes, on reasonable grounds, that the operator does not or will not have day-to-day control of the facility and operations at the facility; and
 - (b) the Minister has given notice of intention to remove the operator from the register to —
 - (i) the person who nominated the operator; and
 - (ii) the operator;and
 - (c) the Minister has allowed a period of 30 days for the nominator and the operator to make submissions; and
 - (d) the Minister has considered submissions received and continues to believe on reasonable grounds that the operator does not, or will not, have day-to-day management and control of the facility and operations at the facility.

[Regulation 8 amended: Gazette 30 Dec 2011 p. 5549.]

Part 3 — Safety cases

Division 1 — Duties as to safety cases

9. Meaning of facility

In this Part —

facility includes a part of a facility.

10. Safety case required for construction etc. of facility

- (1) A person must not, in the adjacent area, engage in a prescribed activity in relation to a facility unless —
- (a) there is a safety case in force for the facility; and
 - (b) the safety case provides for the activity.

Penalty: a fine of \$8 800.

- (2) Subregulation (1) does not apply to a person who engages in a prescribed activity in relation to a facility without there being a safety case in force for the facility if the Minister has determined under regulation 15 that a safety case is not required to be in force for the facility.

[Regulation 10 amended: Gazette 30 Dec 2011 p. 5549.]

11. New or increased risks

- (1) A person must not, in the adjacent area, engage in a prescribed activity in relation to a facility if —
- (a) a significant new risk to safety or health, or a significant increase in an existing risk to safety or health, arises or is likely to arise from the activity; and
 - (b) the new risk or increased risk is not provided for in the safety case in force for the facility.

Penalty: a fine of \$8 800.

- (2) Subregulation (1) does not apply to a person who engages in a prescribed activity in relation to a facility in the circumstances

mentioned in subregulation (1)(a) and (b) if the Minister has determined under regulation 15 that a safety case is not required to be in force for the facility.

[Regulation 11 amended: Gazette 30 Dec 2011 p. 5549.]

12. Compliance with safety case

- (1) A person who engages in a prescribed activity in relation to a facility must do so in accordance with the safety case in force for the facility.
Penalty: a fine of \$8 800.
- (2) Subregulation (1) does not apply to a person who engages in a prescribed activity in relation to a facility in accordance with the consent given under regulation 39 for the activity to be carried out in a manner that is different from the requirements of the safety case in force for the facility.

13. Persons at facility to comply with safety case

A person at or near a facility must comply with each provision of the safety case in force for the facility that applies to the person.

Penalty: a fine of \$1 100.

14. Maintaining records for safety cases

The operator of a facility must keep all documents required by the safety case in force for the facility in the manner set out in the safety case.

Penalty: a fine of \$3 300.

15. Minister may determine that safety case is not required for particular facilities

- (1) The Minister may, by notice in writing, determine that a safety case is not required to be in force for —
 - (a) a facility that is specified in the notice; or

- (b) a class of facility that is specified in the notice.
- (2) An application for a determination under subregulation (1) can be made only by the operator of a facility.
- (3) The Minister must, when deciding whether to make a determination under subregulation (1), have regard to —
 - (a) the nature of the facility or class of facility; and
 - (b) the activities that will, or are likely to, take place at, or in connection with, the facility or facilities in that class of facility.

[Regulation 15 amended: Gazette 30 Dec 2011 p. 5549.]

Division 2 — Contents of safety cases

Subdivision 1 — Contents of a safety case

16. Facility description, formal safety assessment and safety management system

- (1) The safety case for a facility must contain —
 - (a) a description of the facility that complies with subregulation (2); and
 - (b) a detailed description of the formal safety assessment for the facility that provides evidence that the formal safety assessment complies with subregulation (3); and
 - (c) a detailed description of the safety management system that provides evidence that the system complies with subregulation (4).
- (2) The description of the facility must give details of —
 - (a) the layout of the relevant facility; and
 - (b) the technical and other control measures identified as a result of the formal safety assessment; and
 - (c) the activities that will, or are likely to, take place at, or in connection with, the facility; and

- (d) any other relevant matters.
- (3) The formal safety assessment for the facility is an assessment, or series of assessments, conducted by the operator that —
- (a) identifies all hazards to the safety and health of persons at or near the facility that have the potential to cause a major accident event; and
 - (b) is a detailed and systematic assessment of the risk associated with each of those hazards, including the likelihood and consequences of each potential major accident event; and
 - (c) identifies the technical and other control measures that are necessary to reduce that risk to a level that is as low as is reasonably practicable.
- (4) The safety management system for a facility must —
- (a) be comprehensive and integrated; and
 - (b) provide for all activities that will, or are likely to, take place at, or in connection with, the facility; and
 - (c) provide for the continual and systematic identification of hazards to safety and health of persons at or near the facility; and
 - (d) provide for the continual and systematic assessment of —
 - (i) the likelihood of the occurrence, during normal or emergency situations, of injury or occupational illness associated with those hazards; and
 - (ii) the likely nature of such injury or occupational illness;
- and
- (e) provide for the reduction to a level that is as low as is reasonably practicable of risks to safety and health of persons at or near the facility including, but not limited to —

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Division 2 Contents of safety cases

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- (i) risks arising during evacuation, escape and rescue in case of emergency; and
 - (ii) risks arising from equipment and hardware;and
 - (f) provide for inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and
 - (g) provide for adequate communications between the facility and any relevant —
 - (i) facility; or
 - (ii) vessel; or
 - (iii) aircraft; or
 - (iv) on-shore installation;and
 - (h) provide for any other matter that is necessary to ensure that the safety management system meets the requirements and purposes of these regulations; and
 - (i) specify the performance standards that apply.
- (5) If an operator of a facility submits to the Minister a safety case for the construction or installation of the facility, the safety case must contain the matters mentioned in subregulation (1) in relation to —
- (a) the facility during its construction or installation; and
 - (b) the activities that will, or are likely to, take place at, or in connection with, the facility during its construction or installation; and
 - (c) to the extent that it is practicable — the facility and the activities that will, or are likely to, take place when the facility is in operation.

[Regulation 16 amended: Gazette 30 Dec 2011 p. 5549.]

17. Implementation and improvement of the safety management system

The safety case for a facility must contain evidence showing that there are effective means of ensuring —

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

Subdivision 2 — Safety measures

18. Standards to be applied

The safety case for a facility must specify all Australian and international standards that have been applied, or will be applied, in relation to the facility or plant used on or in connection with the facility.

19. Command structure

- (1) The safety case for a facility must specify —
 - (a) an office or position at the facility, the holder of which is in command of the facility and responsible for its safe operation when on duty; and
 - (b) an office or position at the facility, the holder of which is responsible for implementing and supervising procedures in the event of an emergency at the facility; and
 - (c) the command structure that applies in the event of an emergency at the facility.
- (2) Subregulation (1) does not imply that one person cannot hold both of the offices or positions mentioned in it.

- (3) The safety case for a facility must describe, in detail, the means by which the operator of the facility will ensure that, as far as is reasonably practicable —
- (a) the offices or positions mentioned in subregulation (1) are continuously held while the facility is in operation; and
 - (b) the person who holds each office or position mentioned in subregulation (1) has the necessary skills, training and ability to perform the functions of the office or position; and
 - (c) the identity of the persons who hold each office or position, and the command structure can, at all times, be readily ascertained by any person at the facility.

20. Competence of members of the workforce

The safety case for a facility must describe the means by which the operator of the facility will ensure that each member of the workforce at the facility has the necessary skills, training and ability —

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

21. Permit to work system for safe performance of various activities

- (1) The safety case for a facility must provide for the operator of the facility to establish and maintain, in accordance with subregulation (2), a documented system of coordinating and

controlling the safe performance of all work activities of members of the workforce at the facility including in particular —

- (a) welding and other hot work; and
- (b) cold work (including physical isolation); and
- (c) electrical work (including electrical isolation); and
- (d) entry into, and working in a confined space; and
- (e) procedures for working over water; and
- (f) diving operations.

(2) In subregulation (1) —

confined space means an enclosed, or partially enclosed, space that —

- (a) is not used or intended for use as a regular workplace; and
- (b) has restricted means of entry and exit; and
- (c) has, or may have, inadequate ventilation, contaminated atmosphere or oxygen deficiency; and
- (d) is at atmospheric pressure when occupied.

(3) The system must —

- (a) form part of the safety management system described in the safety case in force for the facility; and
- (b) identify the persons having responsibility to authorise and supervise work; and
- (c) ensure that members of the workforce are competent in the application of the permit to work system.

22. Involvement of members of the workforce

(1) The operator of a facility must demonstrate to the Minister, to the reasonable satisfaction of the Minister, that —

- (a) in the development or revision of the safety case for the facility, there has been effective consultation with, and participation of, members of the workforce; and
 - (b) the safety case provides adequately for effective consultation with, and the effective participation of, the members of the workforce, so that they are able to arrive at informed opinions about the risks and hazards to which they may be exposed at the facility.
- (2) In subregulation (1) —
- members of the workforce* includes members of the workforce who are —
- (a) identifiable before the safety case is developed; and
 - (b) working, or likely to be working, at the relevant facility.
- (3) A demonstration for the purposes of subregulation (1) must be supported by adequate documentation.

[Regulation 22 amended: Gazette 30 Dec 2011 p. 5549.]

23. Adequacy of design etc.

- (1) The safety case for a facility must describe the means by which the operator of the facility will ensure the adequacy of such of the design, construction, installation, modification or maintenance of the facility as are relevant to the activities that will, or are likely to, take place at, or in connection with, the facility.
- (2) Without limiting subregulation (1), the safety case for a facility must describe how each of the following matters is provided for —
 - (a) adequate means of inventory isolation and pressure relief in the event of an emergency;
 - (b) adequate means of gaining access for servicing and maintenance of the facility and machinery and other equipment at the facility;

- (c) adequate means of maintaining the structural integrity of a facility;
- (d) implementation of the technical and other control measures identified as a result of the formal safety assessment.

24. Medical and pharmaceutical supplies and services

The safety case for a facility must specify the medical and pharmaceutical supplies and services, sufficient for an emergency situation, that must be maintained at, or in respect of, the facility.

25. Machinery and equipment

- (1) The safety case for a facility must specify the equipment required at the facility (including process equipment, machinery and electrical and instrumentation systems) that relates to, or may affect, the safety or health of persons at the facility.
- (2) Without limiting subregulation (1), the safety case for a facility must contain evidence showing that the required equipment is fit for its function or use —
 - (a) in normal operating conditions; and
 - (b) in an emergency (to the extent that it is intended to function, or be used, in an emergency).

26. Drugs and intoxicants

- (1) In this regulation —

controlled substance means a substance mentioned in —

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

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

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

- (2) The safety case for a facility must describe the means by which the operator of the facility will ensure that there is in place, or will be put in place, a method of —
- (a) securing, supplying, and monitoring the use of, at the facility, drugs that have a therapeutic use; and
 - (b) preventing the use, at the facility, of —
 - (i) controlled substances (other than drugs that have a therapeutic use); and
 - (ii) intoxicants.

[Regulation 26 amended: Gazette 10 Jan 2017 p. 215.]

Subdivision 3 — Emergencies

27. Evacuation, escape and rescue analysis

- (1) The safety case for a facility must contain a detailed description of an evacuation, escape and rescue analysis.
- (2) The description of the evacuation, escape and rescue analysis in a safety case for a facility must —
- (a) identify the types of emergency that could arise at the facility; and
 - (b) consider a range of routes for evacuation and escape of persons at the facility in the event of an emergency; and
 - (c) consider alternative routes for evacuation and escape if a primary route is not freely passable; and
 - (d) consider different possible procedures for managing evacuation, escape and rescue in the event of an emergency; and

- (e) consider a range of means of, and equipment for, evacuation, escape and rescue; and
- (f) consider a range of amenities and means of emergency communication to be provided in a temporary refuge; and
- (g) consider a range of life saving equipment, including —
 - (i) life rafts to accommodate safely the maximum number of persons that are likely to be at the facility at any time; and
 - (ii) equipment to enable that number of persons to obtain access to the life rafts after launching and deployment; and
 - (iii) in the case of a floating facility, suitable equipment to provide a float-free capability and a means of launching;and
- (h) identify, as a result of the above considerations, the technical and other control measures necessary to reduce the risks associated with emergencies to a level that is as low as is reasonably practicable.

28. Fire and explosion risk analysis

- (1) The safety case for a facility must contain a detailed description of a fire and explosion risk analysis.
- (2) The description of a fire and explosion risk analysis in a safety case for a facility must —
 - (a) identify the types of fires and explosions that could occur at the facility; and
 - (b) consider a range of measures for detecting those fires and explosions in the event that they do occur; and
 - (c) consider a range of measures for eliminating those potential fires and explosions, or for otherwise reducing the risk arising from fires and explosions; and

- (d) consider the incorporation into the facility of both automatic and manual systems for the detection, control and extinguishment of —
 - (i) outbreaks of fire; and
 - (ii) leaks or escapes of petroleum;
- (e) consider a range of means of isolating and safely storing hazardous substances, such as fuel, explosives and chemicals, that are used or stored at the facility; and
- (f) consider the evacuation, escape and rescue analysis, in so far as it relates to fires and explosions; and
- (g) identify, as a result of the above considerations, the technical and other control measures necessary to reduce the risks associated with fires and explosions to a level that is as low as is reasonably practicable.

29. Emergency communications systems

- (1) The safety case for a facility must provide for communications systems that, in the event of an emergency in connection with the facility, are adequate for communication —
 - (a) within the facility; and
 - (b) between the facility and —
 - (i) appropriate on-shore installations; and
 - (ii) appropriate vessels and aircraft; and
 - (iii) other appropriate facilities.
- (2) In particular, the safety case for a facility must provide for the communications systems of the facility to be —
 - (a) adequate to handle —
 - (i) a likely emergency at or relating to the facility; and
 - (ii) the operation requirements of the facility;and

- (b) protected so as to be capable of operation in an emergency to the extent specified by the formal safety assessment for the facility.

30. Control systems

The safety case for a facility must make adequate provision for the facility in the event of an emergency, in respect of —

- (a) back-up power supply; and
- (b) lighting; and
- (c) alarm systems; and
- (d) ballast control; and
- (e) emergency shut-down systems.

31. Emergency preparedness

- (1) The safety case for a facility must —
 - (a) describe a response plan designed to deal with possible emergencies, the risk of which has been identified in the formal safety assessment for the facility; and
 - (b) provide for the implementation of that plan.
- (2) The plan must —
 - (a) specify all reasonably practicable steps to ensure the facility is safe and without risk to the health of persons likely to be at the facility at the time of the emergency; and
 - (b) specify the performance standards that it applies.
- (3) The safety case must make adequate provision for —
 - (a) escape drill exercises and fire drill exercises by persons at the facility; and
 - (b) those exercises to train persons to function in the event of emergency with an adequate degree of knowledge, preparedness and confidence concerning the relevant emergency procedures.

- (4) The safety case for a facility must provide for the operator of the facility to ensure, as far as is reasonably practicable, that escape drill exercises and fire drill exercises are held in accordance with the safety case.
- (5) The safety case for a mobile facility must also specify systems that are adequate to —
 - (a) shut down or disconnect, in the event of emergency, all operations at the facility that could adversely affect the safety or health of persons at the facility; and
 - (b) give appropriate audible and visible warnings of the shutting down or disconnecting of those operations.

32. Pipelines

- (1) The safety case for a facility that is —
 - (a) connected to one or more operational pipelines; or
 - (b) proposed to be connected to one or more operational pipelines,must specify adequate procedures for shutting down or isolating, in the event of emergency, each pipeline connected to the facility, so as to stop the flow of hazardous substances through the pipeline.
- (2) The procedures specified in the safety case must include —
 - (a) effective means of controlling and operating all relevant emergency shut-down valves for a pipeline; and
 - (b) a fail-safe system of isolating a pipeline in the event of failure of other safety devices for the pipeline.
- (3) The safety case for a facility must also specify —
 - (a) adequate means of mitigating, in the event of emergency, the risks associated with each pipeline connected to the facility; and
 - (b) a frequency of periodic inspection and testing of pipeline emergency shut-down valves that can reasonably be

expected to ensure that they will operate correctly in an emergency.

33. Vessel and aircraft control

- (1) The safety case for a facility must describe a system, that is implemented or will be implemented, as part of the operation of the facility —
 - (a) that ensures, as far as is reasonably practicable, the safe performance of operations that involve vessels or aircraft; and
 - (b) that is able to meet the emergency response requirements identified in the formal safety assessment in relation to the facility and described in the safety management system for the facility.
- (2) Without limiting subregulation (1), the safety case for a facility must contain evidence showing that —
 - (a) there are procedures for ensuring the safe operation of vessels and aircraft; and
 - (b) the equipment for the safe operation of vessels and aircraft is fit for its function or use.

Subdivision 4 — Record keeping

34. Arrangements for records

- (1) The safety case for a facility must include arrangements for —
 - (a) making a record of —
 - (i) the safety case in force for the facility at any particular time; and
 - (ii) each revision of the safety case; and
 - (iii) each written audit report for the safety case; and
 - (iv) a copy of each report given to the Minister under clause 71 of Schedule 5 to the Act;
- and

- (b) making those documents and records available to persons who need to be aware of the contents; and
 - (c) securely storing those documents and records —
 - (i) at an address nominated for the facility; and
 - (ii) in a manner that facilitates their retrieval as soon as practicable.
- (2) A safety case in force for a facility must be kept for 5 years after the date of acceptance of the document by the Minister.
- (3) A written audit report for a safety case must be kept for a period of 5 years after the date of receipt by the operator.
- (4) A copy of each report given to the Minister under clause 71 of Schedule 5 to the Act must be kept for 5 years after the date the report was given to the Minister.

[Regulation 34 amended: Gazette 30 Dec 2011 p. 5549.]

Division 3 — Submission and acceptance of safety cases

35. Safety case to be submitted to Minister

- (1) If the operator of a facility wants to have a safety case accepted for the facility, the operator must submit the safety case to the Minister.
- (2) A safety case may relate to one or more prescribed activities.
- (3) A safety case may relate to more than one facility.
- (4) The operator must not submit a safety case before the operator and the Minister have agreed on the scope of any validation required to be provided in respect of the facility.

[Regulation 35 amended: Gazette 30 Dec 2011 p. 5549.]

36. Minister may request more information

- (1) If an operator submits a safety case to the Minister, the Minister may request the operator to provide further written information

about any matter required by these regulations to be included in a safety case.

- (2) A request under subregulation (1) must —
 - (a) be in writing; and
 - (b) set out each matter for which information is requested; and
 - (c) specify a period of at least 30 days within which the information is to be provided.
- (3) If an operator receives a request, and provides all information requested by the Minister within the period specified —
 - (a) the information becomes part of the safety case as if it had been included with the safety case as it was submitted to the Minister; and
 - (b) the Minister must have regard to the information as if it had been so included.

[Regulation 36 amended: Gazette 30 Dec 2011 p. 5549.]

37. Acceptance or rejection of a safety case

- (1) The Minister must accept a safety case if —
 - (a) the safety case is appropriate to the facility and to the activities that will, or are likely to, take place at, or in connection with, the facility; and
 - (b) the safety case complies with Division 2 Subdivisions 1, 2 and 3 for each prescribed activity in respect of which the safety case is submitted; and
 - (c) the safety case complies with Division 2 Subdivision 4; and
 - (d) in a case in which the Minister has requested a validation to be provided in respect of the facility —
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 49(6); and

- (ii) the validation complies with regulation 49.
- (2) If a safety case is submitted in relation to more than one prescribed activity, the Minister may accept the safety case in relation to one or more prescribed activities or reject the safety case for one or more prescribed activities.
- (3) If the Minister rejects a safety case because the Minister is not satisfied with any of the matters mentioned in subregulation (1), the Minister must give the operator a reasonable opportunity to change and resubmit the safety case.
- (4) The Minister must reject a safety case if —
 - (a) the Minister has given an operator a reasonable opportunity to change and resubmit the safety case; and
 - (b) the operator resubmits the safety case; and
 - (c) the Minister is not satisfied that there is compliance with subregulation (1).
- (5) When accepting a safety case for a facility, the Minister may impose conditions on the acceptance in respect of the facility or activities at the facility.

[Regulation 37 amended: Gazette 30 Dec 2011 p. 5549.]

38. Notice of decision on safety case

- (1) Within 90 days after receiving a safety case submitted under regulation 35, or resubmitted under regulation 37(3), the Minister must —
 - (a) notify the operator, in writing, that the Minister has decided to —
 - (i) accept the safety case; or
 - (ii) reject the safety case; or
 - (iii) accept the safety case in relation to one or more, but not all, prescribed activities and reject the rest of the safety case; or
 - (iv) accept the safety case subject to conditions;

or

- (b) notify the operator, in writing, that the Minister is unable to make a decision about the safety case within the period of 90 days, and set out a proposed timetable for its consideration of the safety case.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a safety case does not affect the validity of a decision by the Minister to accept or reject the safety case.
- (3) A notice of a decision under subregulation (1)(a)(ii), (iii) or (iv) must include the terms of the decision (including a decision to impose conditions) and the reasons for it.

[Regulation 38 amended: Gazette 30 Dec 2011 p. 5549.]

39. Consent to undertake activities in a manner different from safety case requirements

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

[Regulation 39 amended: Gazette 30 Dec 2011 p. 5546 and 5549.]

Division 4 — Revision of safety cases

40. Revision because of a change of circumstances or operations

- (1) Subject to subregulation (2), the operator of a facility for which a safety case is in force must submit a revised safety case to the Minister as soon as practicable after the occurrence of any of the following circumstances —

- (a) the technical knowledge relied upon to formulate the safety case, including the knowledge of systems for identifying hazards and evaluating risks of major accident events, is outdated so that the safety case no longer adequately provides for the matters mentioned in Division 2 Subdivisions 1, 2 and 3;
 - (b) the operator proposes to modify or decommission the facility and the safety case does not provide, or adequately provide, for the proposed modification or decommissioning of the facility;
 - (c) there are reasonable grounds for believing that a series of proposed modifications to the facility would result in a significant cumulative change in the overall level of risk of major accident events;
 - (d) the operator proposes to significantly change the safety management system for the facility;
 - (e) the activities to be carried out at the facility are different from the activities contemplated in the safety case.
- (2) If an operator of a facility is required under subregulation (1) to submit a revised safety case because there is proposed a significant change to, or decommissioning of, the facility the operator must not submit the revised safety case before the operator and the Minister have agreed on the scope of any validation required to be provided in respect of the proposal.
- (3) If the Minister agrees, the operator of a facility may submit a revised safety case under subregulation (1) in the form of a revision of part of the safety case in force for the facility.

[Regulation 40 amended: Gazette 30 Dec 2011 p. 5549.]

41. Revision on Minister's request

- (1) The Minister may, by written notice (a *revision notice*) request the operator of a facility for which a safety case is in force to submit a revised safety case to the Minister.
- (2) A revision notice must set out —

- (a) the matters to be revised; and
 - (b) the time within which the revision must be completed; and
 - (c) the reasons for the request.
- (3) An operator who receives a revision notice may, if the Minister agrees, submit a revised safety case under subregulation (1) in the form of a revision of part of the safety case.
- (4) An operator who receives a revision notice may, in writing, inform the Minister of the operator's opinion that —
- (a) it is not necessary to revise the safety case; or
 - (b) if a revision of the safety case is to occur the revision should be in terms different from those proposed by the Minister; or
 - (c) the revision should be completed by a time later than that set out in the notice.
- (5) A submission under subregulation (4) must —
- (a) contain the operator's reasons in support of the operator's opinion; and
 - (b) be given to the Minister within 21 days after receiving a revision notice or any longer period that the Minister allows in writing.
- (6) The Minister must, within 28 days after receiving a submission under subregulation (4) —
- (a) consider the submission; and
 - (b) give the operator notice in writing affirming, varying or withdrawing the revision notice, setting out its reasons for not accepting the submission or any part of the submission if relevant.
- (7) The operator must revise the safety case in accordance with the revision notice as originally given or as varied under subregulation (6).

[Regulation 41 amended: Gazette 30 Dec 2011 p. 5549-50.]

42. Revision after 5 years

- (1) The operator of a facility for which a safety case is in force must submit a revised safety case to the Minister —
 - (a) 5 years after the date that the safety case was first accepted under regulation 37; and
 - (b) 5 years after the date of each acceptance of a revised safety case under regulation 44,

whether or not a revision under regulation 40 or 41 has been accepted within the 5 year period.

- (2) A revised safety case submitted under this regulation must describe the means by which the operator will ensure the ongoing integrity of the technical and other control measures identified by the formal safety assessment for the facility.

[Regulation 42 amended: Gazette 30 Dec 2011 p. 5549-50.]

43. Minister may request more information

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

- (a) the information becomes part of the revised safety case as if it had been included with the revised safety case as it was submitted to the Minister; and
- (b) the Minister must have regard to the information as if it had been so included.

[Regulation 43 amended: Gazette 30 Dec 2011 p. 5549-50.]

44. Acceptance or rejection of revised safety case

- (1) The Minister must accept a revised safety case if —
 - (a) the revised safety case is appropriate to the facility and to the activities that will, or are likely to, take place at, or in connection with, the facility; and
 - (b) the revised safety case complies with Division 2 Subdivisions 1, 2 and 3 for each prescribed activity in respect of which the safety case is submitted; and
 - (c) the revised safety case complies with Division 2 Subdivision 4; and
 - (d) in a case in which the Minister has requested a validation in respect of a proposed significant change to an existing facility —
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 49(6); and
 - (ii) the validation complies with regulation 49.
- (2) If a safety case is revised in relation to more than one prescribed activity, the Minister may accept the revised safety case in relation to one or more prescribed activities or reject the revised safety case for one or more prescribed activities.
- (3) If the Minister rejects a revised safety case because the Minister is not satisfied that there is compliance with subregulation (1), the Minister must give the operator a reasonable opportunity to change and resubmit the safety case.
- (4) The Minister must reject the revised safety case if —

- (a) the Minister has given an operator a reasonable opportunity to change and resubmit a revised safety case or a revised part of a safety case; and
 - (b) the operator resubmits the revised safety case or revised part of the safety case; and
 - (c) the Minister is not satisfied that there is compliance with subregulation (1).
- (5) When accepting a revised safety case for a facility, the Minister may impose conditions on the acceptance in respect of the facility or activities at the facility.

[Regulation 44 amended: Gazette 30 Dec 2011 p. 5549-50.]

45. Notice of decision on revised safety case

- (1) Within 30 days after receiving a revised safety case, or a revised part of a safety case, the Minister must —
- (a) notify the operator, in writing, that the Minister has decided to —
 - (i) accept the revised safety case; or
 - (ii) reject the revised safety case; or
 - (iii) accept the revised safety case in relation to one or more, but not all, prescribed activities and reject the rest of the revised safety case; or
 - (iv) accept the revised safety case subject to conditions;
- or
- (b) notify the operator, in writing, that the Minister is unable to make a decision about the revised safety case within the period of 30 days, and set out a proposed timetable for consideration of the revised safety case.
- (2) A failure by the Minister to comply with subregulation (1) in relation to a revised safety case does not affect the validity of a decision by the Minister to accept or reject the revision.

[Regulation 45 amended: Gazette 30 Dec 2011 p. 5546 and 5549-50.]

46. Effect of rejection of revised safety case

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

Division 5 — Withdrawal of acceptance of a safety case

47. Grounds for withdrawal of acceptance

- (1) The Minister may, by written notice to the operator of a facility, withdraw the acceptance of the safety case for the facility on any of the following grounds —
 - (a) the operator has not complied with —
 - (i) Schedule 5 to the Act; or
 - (ii) a notice issued by an inspector under Schedule 5 to the Act; or
 - (iii) regulation 40, 41(7) or 42;or
 - (b) the Minister has rejected a revised safety case.
- (2) A notice under subregulation (1) must contain a statement of the reasons for the decision.

[Regulation 47 amended: Gazette 30 Dec 2011 p. 5546 and 5549-50.]

48. Notice before withdrawal of acceptance

- (1) Before withdrawing the acceptance of a safety case for a facility, the Minister must give the operator at least 30 days notice, in writing, of the Minister's intention to withdraw the acceptance.

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- (2) The Minister may give a copy of the notice to such other persons as the Minister thinks fit.
- (3) The Minister must specify, in the notice, a date on or before which the operator (or other person to whom a copy of the notice has been given) may submit to the Minister in writing, matters that the Minister should take into account when deciding whether to withdraw the acceptance.
- (4) The Minister must take into account —
 - (a) any action taken by the operator —
 - (i) to comply with the provision or notice mentioned in regulation 47(1)(a) in respect of which non-compliance is alleged; and
 - (ii) to prevent any further non-compliance with that provision or notice;
 - and
 - (b) the submissions of persons mentioned in subregulation (3) made before the date mentioned in that subregulation.

[Regulation 48 amended: Gazette 30 Dec 2011 p. 5546 and 5549-50.]

Part 4 — Validation

49. Validation of proposed facilities and proposed significant changes to existing facilities

- (1) In this regulation —
existing facility means a facility that is or has been in use, or is available for use in the adjacent area;
significant change to an existing facility includes the decommissioning of the facility.
- (2) The Minister may, by notice in writing, require the operator of a proposed facility, or an existing facility, to provide a validation —
 - (a) in respect of the proposed facility; or
 - (b) in respect of a proposed significant change to an existing facility.
- (3) A validation of a proposed facility is a statement in writing by an independent person in respect of the design, construction and installation (including instrumentation, process layout and process control systems) of the facility, to the extent that these matters are covered by the scope of the validation agreed between the Minister and the operator.
- (4) A validation of a proposed significant change to an existing facility is a statement in writing by an independent person in respect of the proposed change, to the extent required by the scope of the validation agreed between the Minister and the operator.
- (5) The validation must establish, to the level of assurance reasonably required by the Minister —
 - (a) in the case of a proposed facility, that the design, construction and installation (including instrumentation, process layout and process control systems) of the facility incorporate measures that —

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- (i) will protect the safety and health of persons at the facility; and
 - (ii) are consistent with the formal safety assessment for the facility;
 - and
 - (b) in the case of an existing facility that, after any proposed change or changes, the facility incorporates measures that will protect the safety and health of persons at the facility.
- (6) An operator who has provided material for a validation must satisfy the Minister that each person who undertook the validation had the necessary competence, ability and access to data, in respect of each matter being validated, to arrive at an independent opinion on the matter.

[Regulation 49 amended: Gazette 30 Dec 2011 p. 5549-50.]

Part 5 — Accidents and dangerous occurrences at or near facilities

50. Dangerous occurrence

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

- (a) an occurrence that did not cause, but could reasonably have been expected to cause —
 - (i) the death of, or serious personal injury to, a person; or
 - (ii) a member of the workforce to be incapacitated from performing work for the period mentioned in regulation 51;
- (b) an occurrence that was, or resulted in, any of the following events —
 - (i) a fire or explosion;
 - (ii) a collision of a marine vessel with the facility;
 - (iii) an uncontrolled release of hydrocarbon vapour exceeding 1 kg;
 - (iv) an uncontrolled release of petroleum liquids exceeding 80 litres;
 - (v) a well kick exceeding 50 barrels;
 - (vi) an unplanned event that required the emergency response plan mentioned in regulation 31(1) to be implemented;
 - (vii) damage to safety-critical equipment;
- (c) an occurrence of another kind that a reasonable operator would consider to require an immediate investigation.

51. Period of incapacity for work caused by accident at a facility

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

52. Notices of accidents and dangerous occurrences

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

- (a) may be oral or written; and
 - (b) must be provided as soon as practicable —
 - (i) after the first occurrence of the accident or dangerous occurrence; or
 - (ii) in the event that the accident or dangerous occurrence is not detected by the operator at the time of its first occurrence, after the operator detects the accident or dangerous occurrence;
- and
- (c) must contain all material details concerning the accident or dangerous occurrence that are reasonably available to the operator at the time of the notification.

53. Reports of accidents and dangerous occurrences

- (1) For the purposes of clause 71(2)(b) of Schedule 5 to the Act, a report of an accident or dangerous occurrence that occurs at or near a facility —
 - (a) must be in writing; and
 - (b) unless otherwise agreed by the Minister, must be provided —
 - (i) within 3 days after the first occurrence of the accident or dangerous occurrence; or
 - (ii) in the event that the accident or dangerous occurrence is not detected by the operator at the

time of its first occurrence, within 3 days after the operator detects the accident or dangerous occurrence;

and

- (c) must contain material details concerning the accident or dangerous occurrence of the types determined by the Minister.
- (2) A determination mentioned in subregulation (1)(c) must be —
- (a) in writing; and
 - (b) published in the *Gazette*.
- (3) As soon as practicable, but not later than 15 days after the end of each month, the operator of a facility must submit, to the Minister, a written report, for that month, stating —
- (a) the number of deaths of persons at or near the facility; and
 - (b) the number and types of injuries to persons at or near the facility, other than minor injuries not requiring treatment or requiring treatment only in the nature of first aid.

[Regulation 53 amended: Gazette 30 Dec 2011 p. 5549-50.]

54. Interference with accident sites

- (1) A person must not interfere with a site at or near a facility if, before the completion of the inspection of the site by an inspector, there was —
- (a) an accident causing the death of, or serious personal injury to, a person; or
 - (b) an accident causing a member of the workforce to be incapacitated from performing work for the period mentioned in regulation 51; or
 - (c) a dangerous occurrence.

Penalty: a fine of \$2 200.

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- (2) It is a defence to a prosecution for an offence under subregulation (1) that —
- (a) the person was acting with the written or oral authority of an inspector; or
 - (b) the person was acting, in a reasonable manner, for any of the following purposes —
 - (i) helping or rescuing a sick, injured or endangered person;
 - (ii) maintaining the safety of the facility or of persons at the facility;
 - (iii) reducing danger to the facility or to persons at the facility;
 - (iv) retrieving, or attempting to retrieve, the body of a dead person;
- or
- (c) notice of, and a report about, the accident or dangerous occurrence had been given under clause 71(1) of Schedule 5 to the Act but an inspector had not entered the facility at or near which the accident or dangerous occurrence occurred in response to the notice within 3 working days of notice being given.

[Regulation 54 amended: Gazette 30 Dec 2011 p. 5546.]

Part 6 — Miscellaneous

55. Details in applications or submissions

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

[Regulation 55 amended: Gazette 30 Dec 2011 p. 5549-50.]

Part 7 — Transitional provisions

[Heading inserted: Gazette 30 Dec 2011 p. 5547.]

56. Term used: amendment day

In this Part —

amendment day means the day on which the *Petroleum (Submerged Lands) (MSOF) Amendment Regulations 2011* regulation 3 comes into operation.

[Regulation 56 inserted: Gazette 30 Dec 2011 p. 5547.]

57. Register of operators

The register maintained under regulation 8 is a continuation of the register maintained under that regulation before the amendment day.

[Regulation 57 inserted: Gazette 30 Dec 2011 p. 5547.]

58. Requests for information

A request under regulation 36(1) or 43(1) before the amendment day to provide information about a matter to be included in a safety case, and not complied with before that day, continues in force for any balance of the period specified for complying with it and is to be regarded as having been issued by the Minister.

[Regulation 58 inserted: Gazette 30 Dec 2011 p. 5547.]

59. Existing safety cases remain in force

A safety case in force immediately before the amendment day is to be taken to be —

- (a) a safety case accepted by the Minister on the day nominated by the Minister; and
- (b) in force on the same terms that applied immediately before the amendment day.

[Regulation 59 inserted: Gazette 30 Dec 2011 p. 5547.]

60. Safety case submitted before amendment day

- (1) A safety case submitted under regulation 35(1) before the amendment day but not finally dealt with before that day —
 - (a) is to be dealt with as if it had been submitted to the Minister; or
 - (b) if it had been partially dealt with — is to continue to be dealt with as if it had been submitted to, and partially dealt with by, the Minister.
- (2) The time limits for —
 - (a) the power to seek further information in regulation 36; and
 - (b) notification of a decision on the safety case under regulation 38,

continue as if the amendments made by the *Petroleum (Submerged Lands) (MSOF) Amendment Regulations 2011* had not been made.

[Regulation 60 inserted: Gazette 30 Dec 2011 p. 5548.]

61. Revised safety case submitted before amendment day

- (1) A revised safety case submitted under regulation 40, 41 or 42 before the amendment day but not finally dealt with before that day —
 - (a) is to be dealt as if it had been submitted to the Minister; or
 - (b) if it had been partially dealt with — is to continue to be dealt with as if it had been submitted to, and partially dealt with by, the Minister.
- (2) The time limits for —
 - (a) the power to seek further information under regulation 43; and
 - (b) notification of a decision on the revised safety case under regulation 45,

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continue as if the amendments made by the *Petroleum (Submerged Lands) (MSOF) Amendment Regulations 2011* had not been made.

[Regulation 61 inserted: Gazette 30 Dec 2011 p. 5548-9.]

Notes

[†] This is a compilation of the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007* and includes ~~the~~ amendments made by ~~the~~ other written laws ~~referred to in the following~~. [For provisions that have come into operation see the compilation table.](#) [For provisions that have not yet come into operation see the uncommenced provisions table.](#)

Compilation table

Citation	GazettePubli shed	Commencement
<i>Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007</i>	27 Mar 2007 p. 1351-402	28 Mar 2007 (see r. 2 and <i>Gazette</i> 27 Mar 2007 p. 1405)
<i>Petroleum (Submerged Lands) (MSOF) Amendment Regulations 2011</i>	30 Dec 2011 p. 5545-50	r. 1 and 2: 30 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2012 (see r. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5537)
<i>Mines and Petroleum Regulations Amendment (Public Health) Regulations 2016 Pt. 3</i>	10 Jan 2017 p. 213-20	24 Jan 2017 (see r. 2(b) and <i>Gazette</i> 10 Jan 2017 p. 165)

Uncommenced provisions table

[To view the text of the uncommenced provisions see *Acts as passed on the WA Legislation website.*](#)

<u>Citation</u>	<u>Published</u>	<u>Commencement</u>
Work Health and Safety Act 2020 s. 348(2) assented to 10 Nov 2020		31 Mar 2022 (see s. 2(1)(c) and SL2022/18 cl. 2)