



Western Australia

**Work Health and Safety (Petroleum and
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Regulations 2022**

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Defined terms

Work Health and Safety Act 2020

Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022

SL 2022/30

Made by the Governor in Executive Council.

Part 1 — Preliminary

Division 1 — Introductory matters

1. Citation

These regulations are the *Work Health and Safety (Petroleum and Geothermal Energy Operations) Regulations 2022*.

2. Commencement

These regulations come into operation on the day on which the *Work Health and Safety Act 2020* Part 15 comes into operation.

3. Application of these regulations

- (1) These regulations, other than Part 5 Division 9, apply to a workplace comprising a facility.
- (2) Part 5 Division 9 applies in relation to the functions of the Mining and Petroleum Advisory Committee.

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4. Terms used

In these regulations —

accommodation vessel means a vessel used for the provision of accommodation for persons working on a facility, whether connected by a walkway to that facility or not;

ADG Code has the meaning given in regulation 126;

administrative control —

- (a) means a method of work, a process or a procedure designed to minimise risk; but
- (b) does not include —
 - (i) an engineering control; or
 - (ii) the use of personal protective equipment;

construction vessel means a vessel used for the erection, dismantling or decommissioning of a facility;

controlled substance means a substance mentioned in —

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

control measure, in relation to a risk to health and safety —

- (a) means a measure to eliminate or minimise the risk; and
- (b) includes the following —
 - (i) emergency shutdown systems;
 - (ii) remotely operable isolation valves;
 - (iii) gas purging systems;
 - (iv) firefighting systems;
 - (v) emergency lighting;

diver means a person who engages in diving as part of a diving operation;

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diving operation has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3A;

DSMS has the meaning given in regulation 68;

DSMS in force has the meaning given in regulation 68;

eligible person has the meaning given in regulation 165(1)(b);

emergency response plan, in relation to an operation, means a plan designed to deal with possible emergencies, the risk of which has been identified in the formal safety assessment for the operation;

engineering control means a control measure that is physical in nature, including a mechanical device or process;

facility means —

- (a) a geothermal energy facility; or
- (b) a petroleum facility;

floating production, storage and offloading vessel means a vessel used for the recovery, processing, storage and offloading of petroleum, or any combination of those activities;

geothermal energy facility —

- (a) means a place at which geothermal energy operations are carried out; and
- (b) includes any fixture, fitting, plant or structure at the place;

geothermal energy operation has the meaning given in regulation 5;

geothermal energy resources has the meaning given in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1);

GHS means the Globally Harmonised System of Classification and Labelling of Chemicals, Seventh revised edition, published by the United Nations as modified under Schedule 2;

Note for this definition:

The Schedule 2 Tables replace some tables in the GHS.

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Division 1 Introductory matters

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internal review means an internal review under Part 5
Division 8 Subdivision 2;

intoxicant —

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

man riding equipment includes any of the following —

- (a) an air stage;
- (b) a wet bell;
- (c) a closed bell;
- (d) a guide wire system;

mobile facility includes any of the following —

- (a) an accommodation vessel;
- (b) a construction vessel;
- (c) a floating production, storage and offloading vessel;
- (d) a mobile offshore drilling unit;
- (e) a pipe laying vessel;
- (f) an onshore drilling rig;

mobile offshore drilling unit means a vessel used for drilling or servicing a well for petroleum or doing work associated with the drilling or servicing process;

nominator means a person who nominates another person to be the operator of a facility under regulation 21(2);

operation means —

- (a) a geothermal energy operation; or
- (b) a petroleum operation;

operator, in relation to a facility or proposed facility, means a person who is registered under regulation 22(3) as the operator of the facility or proposed facility;

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operator's representative has the meaning given in regulation 24(1);

performance standard has the meaning given in regulation 26;

petroleum has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3;

petroleum facility —

- (a) means a place at which petroleum operations are carried out; and
- (b) includes any fixture, fitting, plant or structure at the place;

petroleum operation has the meaning given in regulation 6;

pipe laying vessel means a vessel used for laying pipes for petroleum, including any manufacturing of such pipes, or for doing work on an existing pipe;

proper shipping name has the meaning given in the ADG Code;

remote sensing activity —

- (a) means survey activity to take pre-operational measurements of the surface or subsurface; and
- (b) includes any of the following —
 - (i) an aerial survey;
 - (ii) a marine seismic survey;
 - (iii) a land-based seismic survey;
 - (iv) a sub-surface heat-flow measurement;
 - (v) a magnetotelluric survey;
 - (vi) a gravitational or gravimetric survey;
 - (vii) a topographic or bathymetric survey;

reviewable decision has the meaning given in regulation 165(1)(a);

safety case has the meaning given in regulation 26;

safety case in force has the meaning given in regulation 26;

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safety critical element has the meaning given in regulation 26;

therapeutic use has the meaning given in the *Health (Miscellaneous Provisions) Act 1911* section 3(1);

UN number, in relation to dangerous goods, means the identification serial number in the ADG Code Chapter 3.2.3 column 1 in relation to those goods;

vessel has the meaning given in the *Petroleum (Submerged Lands) Act 1982* section 4(1);

well has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3.

5. Geothermal energy operation

(1) In this regulation —

geothermal energy has the meaning given in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1).

(2) Subject to subregulation (3), *geothermal energy operation* has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3C.

(3) The following are not geothermal energy operations —

- (a) operations that are carried out for the purposes of a small scale ground source heat pump used at or near a source of geothermal energy;
- (b) operations that involve small scale recovery of geothermal energy not for a commercial purpose;
- (c) use of geothermal energy sourced by the operations described in paragraph (a) or (b);
- (d) remote sensing activity.

6. Petroleum operation

(1) Subject to subregulation (2), *petroleum operation* has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3D.

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- (xi) place a subsea manifold or pipe end manifold during construction prior to hydrostatic pressure testing; or
- (xii) attach a cathodic protection anode to a pipe if welding is not required;
- (c) remote sensing activity;
- (d) operating a major hazard facility as defined in the *Dangerous Goods (Major Hazard Facilities) Regulations 2007* regulation 4.

7. References to standards

- (1) In these regulations, a reference consisting of the letters “AS” followed by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published by or on behalf of Standards Australia.
- (2) In these regulations, a reference consisting of the expression “AS/NZS” followed by a number or a number accompanied by a reference to a calendar year is a reference to the standard so numbered published jointly by or on behalf of Standards Australia and the Standards Council of New Zealand.

8. Reference to person conducting a business or undertaking includes reference to operator of a facility

A reference in these regulations to a person conducting a business or undertaking at a workplace includes a reference to the operator of a facility.

Notes for this regulation:

- 1. See section 5 of the Act for the meaning of **person conducting a business or undertaking**.
- 2. The operator of a facility might also have duties under sections 19, 20 and 21 of the Act.

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Part 1 Preliminary

Division 2 Representation

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11. Matters to be taken into account in negotiations

For the purposes of sections 52(6) and 56(4) of the Act, negotiations for and determination of work groups and variation of agreements concerning work groups must take into account all relevant matters, including the following —

- (a) the number of workers;
- (b) the views of workers in relation to the determination and variation of work groups;
- (c) the nature of each type of work carried out by the workers;
- (d) the number and grouping of workers who carry out the same or similar types of work;
- (e) the areas or places where each type of work is carried out;
- (f) the extent to which any worker must move from place to place while at work;
- (g) the diversity of workers and their work;
- (h) the nature of any hazards at the workplace or workplaces;
- (i) the nature of any risks to health and safety at the workplace or workplaces;
- (j) the nature of the engagement of each worker, for example as an employee or as a contractor;
- (k) the pattern of work carried out by workers, for example whether the work is full-time, part-time, casual or short-term;
- (l) the times at which work is carried out;
- (m) any arrangements at the workplace or workplaces relating to overtime or shift work.

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Subdivision 2 — Health and safety representatives

12. Procedures for election of health and safety representatives

- (1) This regulation sets out minimum procedural requirements for the election of a health and safety representative for a work group for the purposes of section 61(2) of the Act.
- (2) The person conducting the election must take all reasonable steps to ensure that the following procedures are complied with —
 - (a) each person conducting a business or undertaking in which a worker in the work group works is informed of the date on which the election is to be held as soon as practicable after the date is determined;
 - (b) all workers in the work group are given an opportunity to —
 - (i) nominate for the position of health and safety representative; and
 - (ii) vote in the election;
 - (c) all workers in the work group and all relevant persons conducting a business or undertaking are informed of the outcome of the election.

13. Person conducting business or undertaking must not delay election

A person conducting a business or undertaking at a workplace must not unreasonably delay the election of a health and safety representative.

Penalty:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

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Part 1 Preliminary

Division 2 Representation

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14. Removal of health and safety representatives

- (1) For the purposes of section 64(2)(d) of the Act, the majority of the members of a work group may remove a health and safety representative for the work group if the members sign a written declaration that the health and safety representative should no longer represent the work group.
- (2) A member of the work group nominated by the members who signed the declaration must, as soon as practicable —
 - (a) inform the following persons of the removal of the health and safety representative —
 - (i) the health and safety representative who has been removed;
 - (ii) each person conducting a business or undertaking in which a worker in the work group works;and
 - (b) take all reasonable steps to inform all members of the work group of the removal.
- (3) The removal of the health and safety representative takes effect when the persons referred to in subregulation (2)(a) and the majority of members of the work group have been informed of the removal.

15. Notice of entry for person assisting health and safety representative

- (1) A notice under section 68(3A) of the Act must —
 - (a) be written; and
 - (b) include the following —
 - (i) the full name of the health and safety representative giving the notice;
 - (ii) the full name of the assistant whose entry is proposed;

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- (iii) the name and address of the workplace proposed to be entered;
 - (iv) the date of proposed entry;
 - (v) a statement of the reasons why the health and safety representative considers it is necessary for the assistant to enter the workplace to assist.
- (2) If the assistant is or has been the holder of an IR entry authority or a WHS entry permit under a corresponding WHS law, the notice must also include the following —
- (a) the name of the union the assistant represents or represented;
 - (b) a declaration by the assistant stating that —
 - (i) an IR entry authority or WHS entry permit held by the assistant has not been revoked; and
 - (ii) in relation to a current IR entry authority or WHS entry permit, the authority or permit is not suspended; and
 - (iii) the assistant is not disqualified from holding an IR entry authority or WHS entry permit.

16. Training for health and safety representatives

- (1) For the purposes of section 72(1) of the Act, a health and safety representative is required to attend the following courses of training in work health and safety —
- (a) an initial course of training of up to 5 days;
 - (b) up to 1 day's refresher training each year, with the requirement to attend the first refresher training commencing 1 year after the initial training.

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Division 3 Issue resolution

r. 17

- (2) In approving a course of training in work health and safety for the purposes of section 72(1) of the Act, the Work Health and Safety Commission may have regard to any relevant matters, including —
- (a) the content and quality of the curriculum, including its relevance to the powers and functions of a health and safety representative; and
 - (b) the qualifications, knowledge and experience of the person who is to provide the course.

Notes for this regulation:

1. This regulation prescribes courses of training which a health and safety representative is required to attend. In addition to these courses, the health and safety representative and the person conducting the business or undertaking may agree that the representative will attend or receive further training.
2. Under the *Interpretation Act 1984* section 50(2)(c), the power to approve a course of training includes a power to withdraw the approval.

Division 3 — Issue resolution

17. Agreed procedure: minimum requirements

- (1) This regulation sets out minimum requirements for an agreed procedure for issue resolution at a workplace.
- (2) The agreed procedure for issue resolution at a workplace must include the steps set out in regulation 18.
- (3) A person conducting a business or undertaking at a workplace must ensure that the agreed procedure for issue resolution at the workplace —
 - (a) complies with subregulation (2); and
 - (b) is set out in writing; and
 - (c) is communicated to all workers to whom the agreed procedure applies.

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Division 4 Cessation of unsafe work

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- (6) If the issue is resolved, details of the issue and its resolution must be set out in a written agreement if any party to the issue requests this.

Note for this subregulation:

Under the Act, parties to an issue include not only a person conducting a business or undertaking and a worker, but also representatives of these persons (see section 80 of the Act).

- (7) If a written agreement is prepared all parties to the issue must be satisfied that the agreement reflects the resolution of the issue.
- (8) A copy of the written agreement must be given to —
- (a) all parties to the issue; and
 - (b) if requested, the health and safety committee for the workplace.
- (9) To avoid doubt, nothing in this procedure prevents a worker from bringing a work health and safety issue to the attention of the worker's health and safety representative.

Division 4 — Cessation of unsafe work

19. Continuity of engagement of worker

For the purposes of section 88 of the Act, the prescribed purposes are the assessment of eligibility for, or the calculation of benefits for, any benefit or entitlement associated with the worker's engagement, including 1 or more of the following —

- (a) remuneration and promotion, as affected by seniority;
- (b) superannuation benefits;
- (c) leave entitlements;
- (d) any entitlement to notice of termination of the engagement.

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Petroleum and geothermal energy operations **Part 2**
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Part 2 — Petroleum and geothermal energy operations

Division 1 — Operators

20. Facility must have operator

A person must not conduct a petroleum operation or a geothermal energy operation in relation to a facility unless the facility has an operator.

Penalty:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

21. Nomination of operator

(1) In this regulation —

ABN means Australian Business Number as defined in the *A New Tax System (Australian Business Number) Act 1999* (Commonwealth) section 41;

ACN means Australian Company Number as defined in the *Corporations Act 2001* (Commonwealth) section 9;

BI Act Minister has the meaning given in the *Barrow Island Act 2003* section 3;

geothermal energy title has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3C(1);

petroleum title has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3D(1).

(2) A person (the **nominee**) may be nominated to be the operator of a facility by any of the following (each a **nominator**) —

- (a) a person who is an owner, charterer or lessee of the facility;

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- (b) a person who holds a petroleum title or a geothermal energy title;
 - (c) a person approved by the BI Act Minister under the *Barrow Island Act 2003* section 13(1).
- (3) A nomination must be in writing given to the regulator and include the following —
- (a) the nominee's name;
 - (b) the nominee's contact details, including —
 - (i) a business address for the nominee; and
 - (ii) a telephone number for the nominee during business hours; and
 - (iii) a telephone number for the nominee outside business hours;
 - (c) the nominee's ABN (or, if the nominee does not have an ABN, the nominee's ACN), if applicable;
 - (d) the nominee's written consent to the nomination;
 - (e) the name of the facility the subject of the nomination;
 - (f) a short description of the facility the subject of the nomination;
 - (g) the name and position of an officer of the nominee with sufficient authority to warrant, on behalf of the nominee, that the nominee has day-to-day management and control of operations at the facility.

22. Acceptance or rejection of person as operator

- (1) The regulator must accept the nomination of a person as the operator of a facility if satisfied that the person has, or will have, the day-to-day management and control of operations at the facility.

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- (2) The regulator must reject the nomination of a person as the operator of a facility if not satisfied as to the matter mentioned in subregulation (1).

Note for this subregulation:

A decision to reject the nomination of a person as the operator of a facility is a reviewable decision (see regulation 165).

- (3) If the regulator accepts the nomination of a person as the operator of a facility, the regulator must register the nominee as the operator of the facility.
- (4) The regulator must notify the nominator and the nominee —
- (a) of the decision to accept or reject the nomination; and
 - (b) if the regulator decides to reject the nomination, of the reasons for the rejection.

23. Register of operators

- (1) The regulator must maintain a register of operators of facilities.
- (2) A nominator (as defined in regulation 21(2)) or a person currently registered as the operator of a facility may notify the regulator, 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 operations at the facility.
- (3) On receipt of a notice under subregulation (2), the regulator must remove the person's name from the register.
- (4) The regulator may remove a person's name from the register if —
- (a) the regulator believes, on reasonable grounds, that the person does not, or will not, have day-to-day control of operations at the facility; and
 - (b) the regulator has given notice of intention to remove the person's name from the register to —
 - (i) the nominator; and

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- (ii) the person;
 - and
 - (c) the regulator has invited each of the nominator and the person to make written submissions within 30 days after the receipt of the notice; and
 - (d) the regulator —
 - (i) has considered any written submissions received from the nominator or the person; and
 - (ii) continues to believe on reasonable grounds that the person does not, or will not, have day-to-day management and control of operations at the facility.
- (5) If the name of a person is removed from the register under this regulation, the person ceases to be registered as the operator of the relevant facility.

Division 2 — Operator's representative

24. Operator must ensure presence of operator's representative

- (1) The operator of a facility must ensure that, at all times when 1 or more natural persons are engaged in an operation at the facility, there is present at the facility a natural person (the *operator's representative*) who has day-to-day management and control of the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
 - (b) for a body corporate, a fine of \$21 000.
- (2) Subregulation (1) does not imply that, if the operator is a natural person, the operator's representative cannot be, from time to time, the operator.

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Division 3 — Facility design cases

25. Submission of facility design case

(1) In this regulation —

facility design case means a document that sets out a broad overview of the design of a facility;

nominator has the meaning given in regulation 21(2);

prospective nominator means a person who intends to nominate another person to be the operator of a facility under regulation 21(2).

(2) An operator, nominator or prospective nominator may —

- (a) prepare a facility design case; and
- (b) give the facility design case to the regulator.

(3) A facility design case must contain the following particulars —

- (a) scope and coverage;
- (b) a description of the design philosophy;
- (c) a description of the safety and reliability objectives;
- (d) a description of engineering policies and processes applied to ensure the safety and reliability objectives will be met;
- (e) a description of processes applied to petroleum and geothermal energy resources;
- (f) a description of the design life of the facility;
- (g) any other matter that a reasonable person in the position of the nominator, prospective nominator or operator, as applicable, would consider relevant to the design processes applied to the facility.

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- (4) Within 90 days after receiving a facility design case given under subregulation (2), the regulator must provide the person referred to in that subregulation with —
- (a) written comments to be taken into account by the operator in the safety case; or
 - (b) a written statement that the regulator has no comments in relation to the facility design case.

Division 4 — Safety cases

Subdivision 1 — Terms used

26. Terms used

In this Division —

Commonwealth Criminal Code means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* (Commonwealth);

computer-related intrusion, in relation to a facility, means unauthorised access to or modification of data held in a computer, or impairment of electronic communication to or from a computer, within the meaning of the Commonwealth Criminal Code section 476.2;

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 or other persons;

formal safety assessment, for an operation, has the meaning given in regulation 32(3);

lagging indicator means an outcome-oriented metric (such as incident rates or other measures of past performance);

leading indicator means a process-oriented metric (such as rate of implementation of, or conformance with, policies and procedures that support a safety management system) that is capable of predicting future performance;

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major accident event means an event connected with a facility, including a natural event, that has the potential to cause multiple fatalities of persons at or in the vicinity of the facility;

performance standard, in relation to a facility, 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;

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

safety case —

- (a) means a document setting out the safety case for an operation; and
- (b) if the context allows, includes a revised safety case;

safety case in force means a safety case or revised safety case for an operation —

- (a) that has been accepted by the regulator; and
- (b) the acceptance of which has not been withdrawn; and
- (c) that is not suspended under regulation 122(1)(a);

safety critical element means any part of a facility (whether tangible or intangible), system, process, procedure, person or other control measure —

- (a) the purpose of which is to prevent, or mitigate the effect of, a major accident event; or
- (b) the failure of which might cause, or substantially contribute to, a major accident event;

safety management system, in relation to an operation, means a documented system for securing the health and safety of persons engaged in the operation and other persons;

security provisions, in relation to a facility, includes arrangements by the operator to minimise the risk of —

- (a) physical intrusion into the facility; or
- (b) computer-related intrusion into the facility;

validation means a validation under regulation 67.

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Subdivision 2 — Duties as to safety cases

27. Safety case required for operations

- (1) Subject to subregulation (2), a person must not engage in an operation unless there is a safety case in force for the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
(b) for a body corporate, a fine of \$35 000.
- (2) Subregulation (1) does not apply to an operation that is a diving operation.

28. New or increased risks

A person must not engage in an operation if —

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

Penalty:

- (a) for an individual, a fine of \$7 000;
(b) for a body corporate, a fine of \$35 000.

29. Compliance with safety case

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

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
(b) for a body corporate, a fine of \$35 000.

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- (2) Subregulation (1) does not apply to a person who engages in an operation in accordance with the consent given under regulation 57 for the operation to be carried out in a manner that is different from the requirements of the safety case in force for the operation.

30. Persons to comply with safety case

A person who is at or in the vicinity of a facility at the invitation of, or with the express or implied consent of, the operator must comply with each provision of the safety case in force for an operation associated with the facility that applies to the person.

Penalty:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

31. Maintaining records for safety cases

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

Penalty:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

Subdivision 3 — Contents of safety cases

32. Operation description, formal safety assessment, safety management system and emergency response plan

- (1) The safety case for an operation must contain the following —
- (a) a description of the operation that complies with subregulation (2);
 - (b) a detailed description of the formal safety assessment for the operation that provides evidence that the assessment complies with subregulation (3);

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- (c) a detailed description of the safety management system for the operation that provides evidence that the system complies with subregulation (4);
 - (d) a detailed description of the emergency response plan for the operation that provides evidence that the plan complies with regulation 46(3).
- (2) The description of the operation must give details of the following —
 - (a) the layout of the relevant facility;
 - (b) the security provisions of the relevant facility;
 - (c) the location of the relevant facility, including a description of the local environment and surrounding area;
 - (d) the design philosophy of the relevant facility;
 - (e) the specifications and inventory of petroleum at, or likely to be at, the relevant facility;
 - (f) the engineering and design controls required to ensure the safe operation of the relevant facility;
 - (g) any interfaces or connections between the relevant facility and any other place, including pipelines and electrical connections;
 - (h) any certifications, licences, classifications or approvals required for the relevant facility;
 - (i) the activities that will, or are likely to, take place in connection with the operation;
 - (j) any other relevant matters.
- (3) The **formal safety assessment** for the operation is an assessment, or series of assessments, conducted by the operator that —
 - (a) identifies all hazards to the health and safety of persons at or in the vicinity of the relevant facility that have the potential to cause a major accident event; and

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- (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 safety critical elements that are necessary to minimise that risk so far as is reasonably practicable; and
 - (d) demonstrates that the risk associated with each hazard has been minimised so far as is reasonably practicable; and
 - (e) demonstrates that the methodologies used in the formal safety assessment are appropriate and adequate.
- (4) The safety management system for the operation must —
- (a) be comprehensive and integrated; and
 - (b) set out the operator's health and safety policies; and
 - (c) provide for all activities that will, or are likely to, take place in connection with the operation; and
 - (d) provide for the continual and systematic identification of hazards to health and safety of persons in connection with the operation; and
 - (e) 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 the injury or occupational illness;
- and

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- (f) provide for the minimisation so far as is reasonably practicable of risks to health and safety of persons in connection with the operation, including, but not limited to —
 - (i) risks arising during evacuation, escape and rescue from the relevant facility in the event of an emergency; and
 - (ii) risks arising from equipment and hardware;and
- (g) provide for inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and
- (h) provide for adequate communications between the relevant facility and any relevant —
 - (i) other facility; or
 - (ii) vessel; or
 - (iii) aircraft; or
 - (iv) on-shore installation;and
- (i) specify the leading indicators and lagging indicators for health and safety performance and describe how the indicators were selected; and
- (j) provide for any other matter that is necessary to ensure that the safety management system meets the requirements and purposes of these regulations; and
- (k) specify the performance standards that apply; and
- (l) provide for a system for auditing the effectiveness of the safety management system for the operation against the performance standards that apply, including the methods, frequency and results of the audit process; and

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- (m) so far as is reasonably practicable, be set out and expressed in a way that is readily understandable by persons who use it.
- (5) If an operator submits to the regulator a safety case for an operation in respect of the construction or installation of a 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 is practicable — the facility and the activities that will, or are likely to, take place when the facility is in operation.

33. Implementation and improvement of safety management system

The safety case for an operation 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.

34. Standards to be applied

The safety case for an operation must specify all Australian and international standards that have been applied, or will be applied, in relation to the operation.

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35. Command structure

- (1) The safety case for an operation must specify —
 - (a) an office or position at the relevant 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 relevant 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 relevant facility.
- (2) Subregulation (1) does not imply that 1 person cannot hold both of the offices or positions mentioned in it.
- (3) The safety case for an operation must describe, in detail, the means by which the operator of the relevant facility will ensure that, so far as is reasonably practicable —
 - (a) the offices or positions mentioned in subregulation (1) are continuously held while the relevant 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 mentioned in subregulation (1), and the command structure can, at all times, be readily ascertained by any person at the relevant facility.

36. Competence of workers

The safety case for an operation must describe the means by which the operator of the relevant facility will ensure that each

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worker at the facility has the necessary skills, training and ability —

- (a) to undertake routine and non-routine tasks that might reasonably be given to the worker —
 - (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 the worker, during an emergency.

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

- (1) The safety case for an operation must provide for the operator of the relevant facility to establish and maintain, in accordance with subregulation (3), a documented system (a *permit to work system*) of coordinating and controlling the safe performance of all work activities of workers 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

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

38. Involvement of workers

- (1) The operator of a facility must demonstrate to the regulator, to the reasonable satisfaction of the regulator, that —
- (a) in the development or revision of the safety case for an operation associated with the facility, there has been effective consultation with, and participation of, workers; and
 - (b) the safety case provides adequately for effective communication with, and the effective participation of, workers, 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) A reference in subregulation (1) to *workers* includes a reference to workers 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.

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39. Adequacy of design, construction, installation, modification or maintenance

- (1) The safety case for an operation must describe the means by which the operator of the relevant 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 an operation 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 relevant facility and machinery and other equipment at the facility;
 - (c) adequate means of maintaining the structural integrity of the relevant facility;
 - (d) implementation of the technical and other control measures identified as a result of the formal safety assessment.

40. Medical and pharmaceutical supplies and services

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

41. Machinery and equipment

- (1) The safety case for an operation must specify the equipment required at the relevant facility (including process equipment, machinery and electrical and instrumentation systems) that relates to, or may affect, the health or safety of persons at the facility.

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- (2) Without limiting subregulation (1), the safety case for an operation 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).

42. Drugs and intoxicants

The safety case for an operation must describe the means by which the operator of the relevant 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.

43. Emergency analyses

The safety case for an operation must contain detailed descriptions of —

- (a) the evacuation, escape and rescue analysis referred to in regulation 52; and
- (b) the fire and explosion risk analysis referred to in regulation 53.

44. Emergency communications systems

- (1) The safety case for an operation must provide for communications systems that, in the event of an emergency in connection with the relevant facility, are adequate for communication —
- (a) within the facility; and

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- (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 an operation must provide for the communications systems of the relevant 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 operation.

45. Control systems

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

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

46. Emergency preparedness

- (1) In this regulation —

local authority, in relation to a facility, means —

- (a) any local government in whose district the facility is located; and

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- (b) any regional local government established by that local government.
- (2) The safety case for an operation must —
 - (a) describe an emergency response plan designed to deal with possible emergencies at or relating to the relevant facility, the risk of which has been identified in the formal safety assessment for the operation; and
 - (b) provide for the implementation of the emergency response plan.
- (3) The emergency response 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; and
 - (c) include a list of emergency services organisations and other support services from which the operator would seek assistance in providing resources and implementing evacuation plans in the event of an emergency; and
 - (d) include procedures for notifying emergency services organisations, the local authority in relation to the relevant facility and persons in the area surrounding the facility in the event of an emergency; and
 - (e) include a list of control measures to mitigate the consequences of an emergency;
 - (f) include information about warning systems that will be activated in the event of an emergency, both on site and off site; and
 - (g) include information about resources for responding to and dealing with possible emergencies, both on site and off site; and

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- (h) include information about arrangements in place to obtain additional resources if required to respond to and deal with an emergency.
- (4) The safety case for an operation must make adequate provision for —
 - (a) escape drill exercises and fire drill exercises by persons at the relevant facility; and
 - (b) those exercises to train persons to function in the event of an emergency with an adequate degree of knowledge, preparedness and confidence concerning the relevant emergency procedures.
- (5) The safety case for an operation must provide for the operator of the relevant facility to ensure, so far as is reasonably practicable, that escape drill exercises and fire drill exercises are held in accordance with the safety case.
- (6) The safety case for an operation associated with a mobile facility must specify systems that are adequate to —
 - (a) shut down or disconnect, in the event of an emergency, all operations at the facility that could adversely affect the health or safety of persons at the facility; and
 - (b) give appropriate audible and visible warnings of the shutting down or disconnecting of those operations.

47. Pipelines

- (1) This regulation applies to a safety case for an operation associated with a facility that is —
 - (a) connected to 1 or more operational pipelines; or
 - (b) proposed to be connected to 1 or more operational pipelines.

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- (2) The safety case must specify adequate procedures for shutting down or isolating, in the event of an emergency, each pipeline connected to the facility, so as to stop the flow of hazardous substances through the pipeline.
- (3) 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.
- (4) The safety case must specify —
 - (a) adequate means of mitigating, in the event of an 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.

48. Vessel and aircraft control

- (1) The safety case for an operation must describe a system that is implemented, or will be implemented, as part of the operation of the relevant facility —
 - (a) that ensures, so 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 for the operation and described in the safety management system for the operation.

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- (2) Without limiting subregulation (1), the safety case for an operation 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.

49. Access to safety case

The operator of a facility must make arrangements for the following to have, on request, ready access to any part of the safety case for an operation associated with the facility —

- (a) any worker at the facility;
- (b) any health and safety representative for workers at the facility;
- (c) the regulator.

Subdivision 4 — Record keeping

50. Arrangements for records

- (1) The safety case for an operation must include arrangements for —
- (a) making a record of —
 - (i) the safety case in force for the operation at any particular time; and
 - (ii) each revision of the safety case; and
 - (iii) each written audit report for the safety case;and
 - (b) making those documents and records available to persons who need to be aware of the contents; and

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- (c) securely storing those documents and records —
 - (i) at an address nominated for the operation; and
 - (ii) in a manner that facilitates their retrieval as soon as practicable.
- (2) A safety case in force for an operation must be kept for a period of 5 years after the date the regulator accepts the safety case under regulation 55(1) or 62(1).
- (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.

Subdivision 5 — Submission and acceptance of safety cases

51. Safety case to be submitted to regulator

- (1) If an operator wants to have a safety case accepted for an operation, the operator must submit the safety case to the regulator.
- (2) The operator must not submit a safety case before —
 - (a) the operator has conducted the analyses referred to in regulations 52 and 53; and
 - (b) the operator and the regulator have agreed on the scope of any validation required to be provided in respect of the operation under Subdivision 8.

52. Evacuation, escape and rescue analysis

- (1) If an operator wants to submit a safety case the operator must, before submitting the safety case, conduct an evacuation, escape and rescue analysis.
- (2) The evacuation, escape and rescue analysis must —
 - (a) identify the types of emergency that could arise at the relevant facility; and

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- (b) consider a range of routes for evacuation and escape of persons at the relevant 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 relevant 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 considerations referred to in this subregulation, the technical and other control measures necessary to minimise the risks associated with emergencies so far as is reasonably practicable.
- (3) The operator must make the evacuation, escape and rescue analysis available to the regulator upon request.

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53. Fire and explosion risk analysis

- (1) If an operator wants to submit a safety case the operator must, before submitting the safety case, conduct a fire and explosion risk analysis.
- (2) The fire and explosion risk analysis must —
 - (a) identify the types of fires and explosions that could occur at the relevant 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 relevant 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;and
 - (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 relevant facility; and
 - (f) consider the evacuation, escape and rescue analysis, to the extent that it relates to fires and explosions; and
 - (g) identify, as a result of the considerations referred to in this subregulation, the technical and other control measures necessary to minimise the risks associated with fires and explosions so far as is reasonably practicable.
- (3) The operator must make the fire and explosion risk analysis available to the regulator upon request.

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54. Regulator may request more information

- (1) If an operator submits a safety case to the regulator, the regulator 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 30 days within which the information must be provided.
- (3) If an operator receives a request under subregulation (1) and provides the information requested by the regulator within the period specified in the request —
 - (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 regulator; and
 - (b) the regulator must have regard to the information as if it had been so included.
- (4) If the regulator requests information under subregulation (1), the period from the making of the request until the provision of the information is not included in the period referred to in regulation 56(1) for the regulator to make a decision on the safety case.

55. Acceptance or rejection of safety case

- (1) The regulator must accept a safety case for an operation if —
 - (a) the safety case is appropriate to the operation and to the activities that will, or are likely to, take place at, or in connection with, the relevant facility; and
 - (b) the safety case complies with Subdivisions 3 and 4; and

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- (c) if the regulator has requested a validation to be provided in respect of the operation —
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 67(6); and
 - (ii) the validation complies with regulation 67.
- (2) If the regulator rejects a safety case because the regulator is not satisfied as to the matters referred to in subregulation (1), the regulator must give the operator a reasonable opportunity to change and resubmit the safety case.
- (3) The regulator must reject a safety case if —
 - (a) the regulator has given the operator a reasonable opportunity to change and resubmit the safety case; and
 - (b) the operator resubmits the safety case; and
 - (c) the regulator is not satisfied as to the matters referred to in subregulation (1).
- (4) The regulator may impose conditions on the acceptance of a safety case for an operation.

56. Notice of decision on safety case

- (1) Within 90 days after receiving a safety case submitted under regulation 51(1), or resubmitted under regulation 55(2), the regulator must —
 - (a) notify the operator, in writing, that the regulator has decided to —
 - (i) accept the safety case; or
 - (ii) reject the safety case; or
 - (iii) accept the safety case in relation to 1 or more, but not all, relevant facilities and reject the rest of the safety case; or

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(iv) accept the safety case subject to conditions;

or

(b) notify the operator, in writing, that the regulator is unable to make a decision about the safety case within the period of 90 days, and set out a proposed timetable for consideration of the safety case.

Note for this subregulation:

A decision to reject a safety case, reject part of a safety case or impose a condition on a safety case is a reviewable decision (see regulation 165).

- (2) A failure by the regulator to comply with subregulation (1) in relation to a safety case does not affect the validity of a decision by the regulator 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.

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

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

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- (3) A consent may be given subject to the terms and conditions that the regulator specifies in the consent.

Note for this subregulation:

A decision to impose terms and conditions in giving a consent to the carrying out of an operation in a manner that is different from the requirements of the safety case in force for the operation is a reviewable decision (see regulation 165).

- (4) If the regulator does not give a consent under subregulation (1) it must give the operator notice in writing, setting out the regulator's reasons for not giving consent.

Note for this subregulation:

A decision to not consent to the carrying out of an operation in a manner that is different from the requirements of the safety case in force for the operation is a reviewable decision (see regulation 165).

Subdivision 6 — Revision of safety cases

58. Revision because of change of circumstances or operations

- (1) Subject to subregulation (2), an operator engaging in an operation for which a safety case is in force must submit a revised safety case to the regulator 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 Subdivisions 2 and 3;
 - (b) the operator proposes to modify or decommission a relevant facility and the safety case for the operation does not provide, or adequately provide, for the proposed modification or decommissioning of the facility;

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- (c) there are reasonable grounds for believing that a series of proposed modifications to a relevant 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 operation;
 - (e) the activities to be carried out as part of the operation are different from the activities contemplated in the safety case.
- (2) If an operator is required under subregulation (1) to submit a revised safety case because there is proposed a significant change to, or decommissioning of, a relevant facility, the operator must not submit the revised safety case before the operator and the regulator have agreed on the scope of any validation required to be provided under Subdivision 8 in respect of the proposal.
- (3) An operator may, if the regulator agrees, submit a revised safety case under subregulation (1) in the form of a revision of part of the safety case in force for the operation.

59. Revision on regulator's request

- (1) The regulator may, by written notice (a *revision notice*) request an operator engaging in an operation for which a safety case is in force to submit a revised safety case to the regulator.
- (2) A revision notice must set out —
- (a) the matters to be revised; and
 - (b) the time within which the revised safety case must be submitted; and
 - (c) the reasons for the request.
- (3) An operator who receives a revision notice may, if the regulator agrees, submit a revised safety case in the form of a revision of part of the safety case in force for the operation.

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- (4) An operator who receives a revision notice may make a written submission to the regulator that —
- (a) it is not necessary to revise the safety case; or
 - (b) the revision of the safety case should be in terms different from those proposed by the regulator; or
 - (c) the revised safety case should be submitted by a time later than that set out in the notice.
- (5) A submission under subregulation (3) must —
- (a) contain the operator's reasons in support of the submission; and
 - (b) be given to the regulator within 21 days after receiving the revision notice or any longer period that the regulator allows in writing.
- (6) The regulator must, within 28 days after receiving a submission under subregulation (3) —
- (a) consider the submission; and
 - (b) give the operator notice in writing affirming, varying or withdrawing the revision notice and setting out the regulator's reasons for not accepting the submission or any part of the submission if relevant.

Note for this subregulation:

A decision to not accept a submission, or any part of a submission, is a reviewable decision (see regulation 165).

- (7) The operator must submit the safety case revised in accordance with the revision notice as originally given or as varied under subregulation (6).

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60. Revision after 5 years

- (1) An operator engaging in an operation for which a safety case is in force must submit a revised safety case to the regulator —
 - (a) as soon as practicable after the period of 5 years beginning on the date on which the safety case was first accepted under regulation 55(1); and
 - (b) as soon as practicable after the period of 5 years beginning on the date of each acceptance of a revised safety case under regulation 62(1).
- (2) Subregulation (1) applies whether or not a revised safety case submitted under regulation 58(1) or 59(7) has been accepted under regulation 62(1) within the 5-year period.
- (3) 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 operation.

61. Regulator may request more information

- (1) If an operator submits a revised safety case to the regulator, the regulator 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 must be provided.

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- (3) If an operator receives a request under subregulation (1) and provides the information requested by the regulator 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 regulator; and
 - (b) the regulator must have regard to the information as if it had been so included.
- (4) If the regulator requests information under subregulation (1), the period from the making of the request until the provision of the information is not included in the period referred to in regulation 63(1) for the regulator to make a decision on the revised safety case.

62. Acceptance or rejection of revised safety case

- (1) The regulator must accept a revised safety case submitted under regulation 58(1), 59(7) or 60(1) for an operation if —
 - (a) the revised safety case is appropriate to the operation and to the activities that will, or are likely to, take place in connection with the operation; and
 - (b) the revised safety case complies with Subdivisions 3 and 4; and
 - (c) if the regulator has requested a validation under Subdivision 8 in respect of a proposed significant change to the operation —
 - (i) the person, or each person, undertaking the validation meets the criteria specified in regulation 67(6); and
 - (ii) the validation complies with regulation 67.

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- (2) If the regulator rejects a revised safety case because the regulator is not satisfied as to the matters referred to in subregulation (1), the regulator must give the operator a reasonable opportunity to change and resubmit the revised safety case.
- (3) The regulator must reject the revised safety case if —
- (a) the regulator has given the operator a reasonable opportunity to change and resubmit the revised safety case; and
 - (b) the operator resubmits the revised safety case; and
 - (c) the regulator is not satisfied as to the matters referred to in subregulation (1).
- (4) The regulator may impose conditions on the acceptance of a revised safety case for an operation.

63. Notice of decision on revised safety case

- (1) Within 30 days after receiving a revised safety case submitted under regulation 58(1), 59(7) or 60(1) the regulator must —
- (a) notify the operator, in writing, that the regulator 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 1 or more, but not all, relevant facilities and reject the rest of the revised safety case; or
 - (iv) accept the revised safety case subject to conditions;

or

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- (b) notify the operator, in writing, that the regulator 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.

Note for this subregulation:

A decision to reject a revised safety case, reject part of a revised safety case or impose a condition on a revised safety case is a reviewable decision (see regulation 165).

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

64. Effect of rejection of revised safety case

If a revised safety case for an operation is rejected, the safety case in force for the operation 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.

Subdivision 7 — Withdrawal of acceptance of safety case

65. Grounds for withdrawal of acceptance

- (1) The regulator may, by written notice to an operator, withdraw the acceptance of the safety case for an operation on any of the following grounds —
- (a) the operator has not complied with —
- (i) the Act; or
- (ii) a notice issued by an inspector under Part 10 of the Act;

or

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- (b) the regulator has rejected a revised safety case for the operation.

Note for this subregulation:

A decision to withdraw the acceptance of a safety case for an operation is a reviewable decision (see regulation 165).

- (2) A notice under subregulation (1) must contain a statement of the reasons for the decision.

66. Notice before withdrawal of acceptance

- (1) Before withdrawing the acceptance of a safety case for an operation, the regulator must give the operator at least 30 days' notice, in writing, of the regulator's intention to withdraw the acceptance.
- (2) The regulator may give a copy of the notice to such other persons as the regulator thinks fit.
- (3) The notice must specify 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 regulator, in writing, matters that the regulator should take into account when deciding whether to withdraw the acceptance.
- (4) The regulator must take into account —
- (a) any action taken by the operator —
- (i) to comply with the provision or notice mentioned in regulation 65(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 on or before the date mentioned in that subregulation.

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Subdivision 8 — Validation

67. Validation of proposed operations and proposed significant changes to operations

- (1) In this regulation —
significant change to an operation includes the decommissioning of a facility associated with the operation.
- (2) The regulator may, by notice in writing, require an operator to provide a validation in respect of —
 - (a) a proposed operation; or
 - (b) a proposed significant change to an operation.
- (3) For the purposes of subregulation (2)(a), a *validation* of a proposed operation 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 a facility associated with the proposed operation, to the extent that these matters are covered by the scope of the validation agreed between the regulator and the operator.
- (4) For the purposes of subregulation (2)(b), a *validation* of a proposed significant change to an operation 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 regulator and the operator.
- (5) The validation must establish, to the level of assurance reasonably required by the regulator —
 - (a) in the case of a proposed operation — that the design, construction and installation (including instrumentation, process layout and process control systems) of a facility associated with the proposed operation incorporate measures that —
 - (i) will protect the health and safety of persons at or in the vicinity of the facility; and

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- (ii) are consistent with the formal safety assessment for the proposed operation;
- and
- (b) in the case of an operation — that, after any proposed significant change to the operation, a facility associated with the operation will incorporate measures that will protect the health and safety of persons at or in the vicinity of the facility.
- (6) An operator who has provided material for a validation must satisfy the regulator 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.

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68. Terms used

In this Part —

applicable diving project plan, in relation to a diving project, means the diving project plan that has been approved under regulation 84 or accepted under regulation 85 in relation to the project;

Australian Diver Accreditation Scheme means the scheme of that name administered by the Board of the Australian Diver Accreditation Scheme on behalf of the Department of State of the Commonwealth assisting the Commonwealth Minister in the administration of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Commonwealth);

diving has the meaning given in regulation 69;

diving contractor means a person who enters into a contract to conduct a diving project;

diving project —

- (a) means a project comprising 1 or more diving operations; and
- (b) includes —
 - (i) the identification of hazards, assessment of risks and management of health and safety matters associated with a diving operation; and
 - (ii) any other activity taken for the purpose of ensuring that a diving operation is carried out in a manner that is safe and without risk to health;

diving supervisor has the meaning given in regulation 91(1);

DSMS —

- (a) means a document setting out a diving safety management system; and

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(b) if the context allows, includes a revised DSMS;

DSMS in force means a DSMS —

- (a) that has been accepted by the regulator; and
- (b) the acceptance of which has not been withdrawn; and
- (c) that is not suspended under regulation 122(1)(a); and
- (d) in respect of which no more than 5 years has elapsed since the most recent acceptance of the DSMS;

manned submersible craft has the meaning given in the *Petroleum and Geothermal Energy Safety Levies Act 2011* section 3A(1).

69. When person is diving

- (1) A person is **diving** if the person —
 - (a) is in a chamber inside which the ambient pressure is equal to or higher than the hydrostatic pressure at a depth of 1 metre in seawater (whether or not the chamber is submerged in water or another liquid); or
 - (b) is submerged in water or another liquid and the person's lungs are subjected to a pressure greater than atmospheric pressure (whether or not the person is wearing a wetsuit or other protective clothing); or
 - (c) is in a manned submersible craft that is submerged in water or another liquid.
- (2) For the purposes of this Part, **diving** includes diving using a snorkel and diving without the use of any breathing apparatus but does not include —
 - (a) diving using a snorkel for the purpose of conducting an environmental survey; or
 - (b) diving without the use of any breathing apparatus for that purpose.

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70. When diving operation begins and ends

For the purposes of these regulations, a diving operation —

- (a) begins when the diver, or first diver, who takes part in the operation begins to prepare to dive; and
- (b) ends when the diver, or last diver, who takes part in the operation leaves the water or the chamber or environment in which the dive took place and has completed any necessary decompression procedures; and
- (c) includes the time taken for therapeutic recompression if that is necessary.

Division 2 — Diving safety management systems

71. No diving without DSMS in force

- (1) A diving contractor must not carry out any part of a diving operation that is part of a diving project, or allow any part of the operation to be carried out, unless —
 - (a) a DSMS is in force; and
 - (b) if there is an operator in relation to the diving project — the contractor has given a copy of the DSMS to the operator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

- (2) An operator in relation to a diving project must not allow any part of a diving operation that is part of the diving project to be carried out unless the operator has received a copy of the DSMS as described in subregulation (1)(b).

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

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72. Contents of DSMS

- (1) A DSMS must meet the minimum standards set out in guidelines made by the regulator for the purposes of this subregulation as in force from time to time.
- (2) A DSMS must provide for —
 - (a) all activities connected with any diving project; and
 - (b) the preparation of a diving project plan, in accordance with Division 3, for any project (including consultation with workers in the preparation of the plan) and the revision of the plan as necessary; and
 - (c) the continual and systematic identification of hazards associated with any diving project; and
 - (d) the continual and systematic assessment of —
 - (i) the likelihood of the occurrence, during normal or emergency situations, of injury or damage associated with those hazards; and
 - (ii) the likely nature of the injury or damage;and
 - (e) the elimination or minimisation, so far as is reasonably practicable, of risks to persons involved with any diving project and associated work, including —
 - (i) risks arising during evacuation, escape and rescue in the event of an emergency; and
 - (ii) risks arising from equipment and hardware;and
 - (f) inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and
 - (g) communications between persons involved in any diving project; and

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- (h) the performance standards that apply to the DSMS; and
 - (i) a program of continuous improvement.
- (3) A DSMS must —
- (a) specify any standard or code of practice that must be used in any diving project; and
 - (b) require any diving project to be carried out in accordance with that standard or code; and
 - (c) contain —
 - (i) any information that is reasonably necessary to demonstrate that the DSMS complies with these regulations; and
 - (ii) a system for the management of change.

73. Acceptance of DSMS

- (1) If a diving contractor does not already have a DSMS in force, the contractor must give a DSMS to the regulator at least 60 days before the proposed commencement date of any diving project.
- (2) The regulator must, within 60 days after receiving the DSMS, notify the diving contractor —
 - (a) that the DSMS is either accepted or rejected; and
 - (b) of each condition imposed on the acceptance, if relevant.

Note for this subregulation:

A decision to reject a DSMS is a reviewable decision (see regulation 165).

- (3) The regulator may impose conditions on the acceptance of a DSMS.

Note for this subregulation:

A decision to impose a condition on a DSMS is a reviewable decision (see regulation 165).

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74. Acceptance of revised DSMS

- (1) If a diving contractor has revised a DSMS, the contractor must give a copy of the revised DSMS to the regulator.
- (2) The regulator must notify the diving contractor that the revised DSMS is either accepted or rejected within —
 - (a) 28 days after receiving the copy of the revised DSMS;
or
 - (b) another period agreed between the regulator and the contractor.
- (3) The regulator may impose conditions on the acceptance of a revised DSMS.

Note for this subregulation:

A decision to impose a condition on a DSMS is a reviewable decision (see regulation 165).

75. Grounds for rejecting DSMS

The regulator must reject a DSMS if —

- (a) the DSMS does not comply with regulation 72; or
- (b) the regulator is not satisfied that there was effective consultation in the preparation of the DSMS as required by regulation 87.

76. Notice of reasons

- (1) If the regulator rejects a DSMS the regulator must give with the notice mentioned in regulation 73(2) or 74(2) written reasons for rejecting the DSMS.
- (2) If the regulator decides to impose a condition on the acceptance of a DSMS the regulator must give with the notice mentioned in regulation 73(2) or 74(2) written reasons for imposing the condition.

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77. DSMS register

- (1) The regulator must keep a register of each DSMS and revised DSMS received, in a form that allows public access.
- (2) The regulator must ensure that there is recorded in the register in relation to a DSMS any of the following details that apply to the DSMS —
 - (a) the name of the diving contractor;
 - (b) the date of acceptance;
 - (c) each condition on acceptance;
 - (d) the date of rejection;
 - (e) the date that acceptance was withdrawn;
 - (f) the date of any revision notice referred to in regulation 79(1).
- (3) The regulator must ensure that there is recorded in the register any of the following details that apply to a diving project plan received under regulation 85 —
 - (a) the name of the diving contractor conducting the project;
 - (b) the diving project to which the plan applies;
 - (c) the proposed commencement date of the project;
 - (d) the date of receipt of the plan;
 - (e) the date of acceptance;
 - (f) the date of rejection.

78. Revision of DSMS

- (1) A diving contractor must revise a DSMS if any of the following events occurs —
 - (a) a development in scientific or technical knowledge, or in the assessment of hazards associated with diving projects, makes it appropriate to revise the DSMS;

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- (b) the diving contractor proposes to make a significant change to the method of operation or to procedures or equipment;
 - (c) a number of minor changes result in the DSMS being significantly different from the most recent version of the DSMS accepted by the regulator;
 - (d) the regulator gives notice under regulation 79(1).
- (2) Without affecting subregulation (1), a diving contractor must revise a DSMS —
- (a) at the end of each consecutive period of 5 years starting on the day on which the DSMS was first accepted; or
 - (b) if the DSMS is revised — at the end of each consecutive period of 5 years starting on the day of the most recent acceptance of the DSMS.

79. Notice requesting revision of DSMS

- (1) The regulator may, by written notice (a *revision notice*), request a diving contractor to revise a DSMS.
- (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) The regulator may make the request because a circumstance of a kind mentioned in regulation 78(1)(a), (b) or (c) has occurred, or for any other reason.
- (4) The diving contractor may make a written submission to the regulator that —
 - (a) it is not necessary to revise the DSMS; or
 - (b) the revision should be in terms different from those proposed by the regulator; or

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- (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 diving contractor's reasons in support of the submission; and
 - (b) be given to the regulator within 21 days after receiving the revision notice or any longer period that the regulator allows in writing.
- (6) The regulator must, within 28 days after receiving a submission under subregulation (4) —
 - (a) consider the submission; and
 - (b) give the diving contractor notice in writing affirming, varying or withdrawing the revision notice, and setting out the regulator's reasons for not accepting the submission or any part of the submission if relevant.

Note for this subregulation:

A decision to not accept a submission, or any part of a submission, is a reviewable decision (see regulation 165).

- (7) The diving contractor must revise the DSMS in accordance with the revision notice as originally given or as varied under subregulation (6), and give a copy of the revised DSMS to the regulator.

80. Grounds for withdrawal of acceptance of DSMS

- (1) The regulator may, by written notice to a diving contractor, withdraw the acceptance of a DSMS on any of the following grounds —
 - (a) the contractor has not complied with —
 - (i) the Act; or

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(ii) a notice issued by an inspector under Part 10 of the Act;

or

(b) the regulator has rejected a revised DSMS.

Note for this subregulation:

A decision to withdraw the acceptance of a DSMS is a reviewable decision (see regulation 165).

(2) A notice under subregulation (1) must contain a statement of the reasons for the decision.

81. Notice before withdrawal of acceptance of DSMS

(1) Before withdrawing the acceptance of a DSMS, the regulator must give the diving contractor at least 30 days' notice, in writing, of the regulator's intention to withdraw the acceptance.

(2) The regulator may give a copy of the notice to such other persons as the regulator thinks fit.

(3) The notice must specify a date on or before which the diving contractor (or other person to whom a copy of the notice has been given) may submit to the regulator, in writing, matters that the regulator should take into account when deciding whether to withdraw the acceptance.

(4) The regulator must take into account —

(a) any action taken by the diving contractor —

(i) to comply with the provision or notice mentioned in regulation 80(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 on or before the date mentioned in that subregulation.

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Division 3 — Diving project plans

82. No diving without approved or accepted diving project plan

A diving contractor must not carry out any part of a diving operation that is part of a diving project, or allow any part of the operation to be carried out, unless there is an applicable diving project plan for the project.

Penalty:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

83. Contents of diving project plan

- (1) A diving project plan for a diving project must contain the following —
 - (a) a description of the project;
 - (b) a description of each diving operation that is part of the project;
 - (c) a list of the Commonwealth and State legislation that applies to the project;
 - (d) a list of standards and codes of practice that are applied in carrying out the project;
 - (e) the identification of the hazards associated with the diving operations that are part of the project;
 - (f) a risk assessment in relation to the identified hazards associated with the diving operations that are part of the project;
 - (g) job hazard analyses for the diving operations that are part of the project;
 - (h) a plan for managing the health and safety of persons taking part in the project;
 - (i) an emergency response plan;

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Division 3 Diving project plans

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85. Acceptance of diving project plan by regulator if no operator

- (1) If there is not an operator in relation to a diving project, the diving contractor conducting the project must prepare a diving project plan for the project and give a copy of the plan to the regulator.
- (2) The regulator must not accept the diving project plan unless satisfied that —
 - (a) the plan complies with regulation 83; and
 - (b) there was effective consultation in the preparation of the plan, as required by regulation 87; and
 - (c) the diving operations to which the plan relates are appropriate to be covered by a single plan.
- (3) The regulator must notify the diving contractor that the diving project plan is either accepted or rejected and must do so within —
 - (a) 28 days after receiving the copy of the diving project plan; or
 - (b) another period agreed between the regulator and the contractor.

86. Updating diving project plan

- (1) A diving contractor conducting a diving project must keep the diving project plan for the project up to date during the project.
- (2) A diving contractor conducting a diving project must update the diving project plan for the project if —
 - (a) because of modification of the project, there is a significant increase in the overall level of risk, or a significant change in the type of risk, to a person taking part in a diving operation that is part of the project; or

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- (7) The regulator must notify the diving contractor that the updated diving project plan is either accepted or rejected within —
- (a) 28 days after receiving the copy of the updated diving project plan; or
 - (b) another period agreed between the regulator and the contractor.

Division 4 — Involvement of divers and other workers

87. Involvement of divers and workers in DSMS and diving project plan

- (1) In preparing, revising or updating a DSMS or a diving project plan for a diving project, a diving contractor must ensure that there is effective consultation with, and participation of, divers and other workers who will, or may be, taking part in —
- (a) the project; or
 - (b) in the case of a DSMS — projects for which the DSMS would be appropriate.
- (2) When giving a DSMS to the regulator for acceptance, the diving contractor must give written details of the consultation that has taken place, including —
- (a) submissions or comments made during the consultation; and
 - (b) any changes that have been made to the DSMS as a result of the consultation.

Division 5 — Safety responsibilities

88. Compliance with DSMS and diving project plan

A diving contractor conducting a diving project must take all reasonable steps to ensure that a diving operation that is part of the project is carried out in accordance with —

- (a) the DSMS in force for the project; and

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Division 5 Safety responsibilities

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90. Diving depths

- (1) The operator in relation to a diving project comprising a surface-oriented diving operation involving the use of air or mixed gas as a breathing medium must not allow the operation to be carried out at a depth of more than 50 metres.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

- (2) A diving contractor conducting a diving project comprising a surface-oriented diving operation involving the use of air or mixed gas as a breathing medium must not allow the operation to be carried out at a depth of more than 50 metres.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (3) The operator in relation to a diving project comprising a diving operation that is carried out at a depth of more than 50 metres must ensure that the diving operation involves the use of —

- (a) a closed diving bell and a suitable mixed gas breathing medium; or
- (b) a manned submersible craft.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

- (4) A diving contractor conducting a diving project comprising a diving operation that is carried out at a depth of more than 50 metres must ensure that the diving operation involves the use of —

- (a) a closed diving bell and a suitable mixed gas breathing medium; or
- (b) a manned submersible craft.

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and

- (b) countersign entries about the operation in divers' log books; and
- (c) if there is an operator in relation to the diving project, report to the operator, during the operation, the following —
 - (i) the death of, or serious personal injury to, a person;
 - (ii) the incapacitation of a person that prevents the person from performing work for 3 or more days;
 - (iii) an event that could reasonably have led to a consequence of the type mentioned in subparagraph (i) or (ii);
 - (iv) a decompression illness;
 - (v) a pulmonary barotrauma;
 - (vi) a case of omitted decompression;
 - (vii) an occurrence for which the standby diver is deployed for an emergency, except for the purposes of training, exercises or drills;
 - (viii) a failure of life support equipment or man riding equipment.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
 - (b) for a body corporate, a fine of \$21 000.
- (2) A diving supervisor, when supervising a diving operation, must not engage in diving.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

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Part 3 Diving operations

Division 7 Start-up notices

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- (h) the estimated number of people to take part in the project;
 - (i) the breathing mixture to be used;
 - (j) the title, document number and revision number of the applicable diving project plan.
- (2) The operator in relation to a diving project must not allow the first diving operation that is part of the project to begin if the operator has not given a start-up notice to the regulator —
- (a) at least 14 days before the day on which the operator expects the operation to begin; or
 - (b) on another day as agreed between the regulator and the operator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
 - (b) for a body corporate, a fine of \$35 000.
- (3) If there is not an operator in relation to a diving project, the diving contractor conducting the project must not allow the first diving operation that is part of the project to begin if the diving contractor has not given a start-up notice to the regulator —
- (a) at least 14 days before the day on which the diving contractor expects the operation to begin; or
 - (b) on another day as agreed between the regulator and the diving contractor.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

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Division 8 — Diving operations

95. Persons taking part in diving operations

- (1) A diving contractor conducting a diving project must not allow a person to take part in a diving operation that is part of the project if the person is not competent to carry out safely any activity that is reasonably likely to be necessary while the person is taking part in the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (2) A diving supervisor for a diving operation must not allow a person to take part in the operation if the person is not competent to carry out safely any activity that is reasonably likely to be necessary while the person is taking part in the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (3) A diving contractor conducting a diving project must not allow a person to take part in a diving operation that is part of the project if the person does not have a current diving qualification under the Australian Diver Accreditation Scheme to carry out any activity that is reasonably likely to be necessary while the person is taking part in the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

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- (4) A diving supervisor for a diving operation must not allow a person to take part in the operation if the person does not have a current diving qualification under the Australian Diver Accreditation Scheme to carry out any activity that is reasonably likely to be necessary while the person is taking part in the operation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (5) A diving contractor conducting a diving project must not allow a person to take part in a diving operation that is part of the project if the person does not have a medical certificate that complies with regulation 96.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (6) A diving supervisor for a diving operation must not allow a person to take part in the operation if the person does not have a medical certificate that complies with regulation 96.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (7) Subregulations (3), (4), (5) and (6) do not apply to a person who is taking part in a diving operation —

- (a) in a manned submersible craft; or
- (b) to provide emergency medical care to an injured person in a chamber.

96. Medical certificates

- (1) For the purposes of regulation 95(5) and (6), a medical certificate must satisfy the requirements of subregulation (2).

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Part 3 Diving operations

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- (2) A diving operations record —
- (a) must be kept in a hard-covered form bound in such a way that its pages cannot easily be removed; or
 - (b) if it is in a form that has multiple copies of each page, must be bound so that at least 1 copy of each page cannot easily be removed.
- (3) The pages of a diving operations record must be serially numbered.
- (4) A diving supervisor for a diving operation must ensure that an entry is made in the diving operations record for each day on which the operation is carried out, with the following information about the operation for that day —
- (a) the date to which the entry relates;
 - (b) the name and address of the diving contractor conducting the diving project of which the operation is a part;
 - (c) the name of each diving supervisor who supervised the operation;
 - (d) the location of the operation (including, if the diving was done from a vessel or installation, the name of the vessel or installation);
 - (e) the name of each person who took part in the operation (whether as a diver or as a member of a dive team);
 - (f) the name of each person who took part in the operation as a diver or standby diver;
 - (g) the purpose of the operation;
 - (h) for each diver, the breathing apparatus and breathing mixture used;
 - (i) for each diver, the times at which the diver left the surface, reached the bottom, left the bottom and arrived at the surface again, and bottom time;
 - (j) for each diver, the maximum depth reached;

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- (6) A diving contractor must keep a diving operations record for at least 7 years after the date of the last entry in it.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

98. Divers' log books

- (1) A diver must —
- (a) have a log book in the form required by subregulation (2); and
 - (b) for each time the diver engages in diving as part of a diving operation —
 - (i) make an entry in the log book, in ink, as required by subregulation (3); and
 - (ii) sign the entry; and
 - (iii) have the diving supervisor for the operation countersign the entry;
- and
- (c) keep the log book for at least 7 years after the date of the last entry in it.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

- (2) The log book must —
- (a) be kept in a hard-covered form bound in such a way that its pages cannot easily be removed; and
 - (b) have its pages serially numbered; and
 - (c) show the diver's name; and
 - (d) have a clear photograph of the head and shoulders of the diver; and

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- (e) have a specimen of the diver's signature.
- (3) An entry in the log book must contain the following information —
- (a) the date to which the entry relates;
 - (b) the location of the diving operation (including, if the diving was done from a vessel or installation, the name of the vessel or installation);
 - (c) the maximum depth reached;
 - (d) the times at which the diver left the surface, reached the bottom, left the bottom and arrived at the surface again, and bottom time;
 - (e) the breathing apparatus and breathing mixture used;
 - (f) the decompression schedule followed;
 - (g) the work done and the plant and tools used;
 - (h) details of any decompression illness, barotrauma, discomfort or injury and details of any treatment given;
 - (i) details of any emergency or incident;
 - (j) anything else relevant to the diver's health or safety.

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Part 4 Notifications and reporting

Division 1 Preliminary

r. 99

Part 4 — Notifications and reporting

Division 1 — Preliminary

99. Meaning of notifiable occurrence

In this Part —

notifiable occurrence means any of the following —

- (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 worker to be incapacitated from performing work for a period of 3 or more days;
- (b) the failure of a safety critical element to meet the requirements of the performance standard;
- (c) the defect of, or damage to, a safety critical element;
- (d) the significant defect of, or damage to, a primary petroleum containment;
- (e) the significant defect of, or damage to, a structure, marine vessel or item of plant that forms part of an industrial, chemical or physical process performed on —
 - (i) petroleum; or
 - (ii) fluid containing geothermal energy;
- (f) a well kick that requires immediate action to bring under control;
- (g) an event that requires the emergency response plan to be implemented;
- (h) in relation to a diving operation —
 - (i) a decompression illness; or
 - (ii) a pulmonary barotrauma; or
 - (iii) a case of omitted decompression; or

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- (iv) an occurrence for which the standby diver is deployed for an emergency, except for the purposes of training, exercises or drills; or
- (v) a failure of life support equipment or man riding equipment;
- (i) an occurrence of another kind that a reasonable operator would consider to require an immediate investigation.

Division 2 — Notifications

100. Duty to notify of notifiable occurrences

- (1) The operator of a facility must, immediately after becoming aware that a notifiable occurrence arising out of the conduct of operations at the facility has occurred, ensure that the regulator is notified.
Penalty for this subregulation:
 - (a) for an individual, a fine of \$4 200;
 - (b) for a body corporate, a fine of \$21 000.
- (2) The notice must be given in accordance with this regulation and by the fastest possible means.
- (3) The notice must be given —
 - (a) by telephone; or
 - (b) in writing.
- (4) A person giving notice by telephone must —
 - (a) give the details of the notifiable occurrence, including any details requested by the regulator; and
 - (b) if required by the regulator, give written notice of the notifiable occurrence within 48 hours after the requirement is made.
- (5) A written notice must be in a form, or contain the details, approved by the regulator.

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Part 4 Notifications and reporting

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- (6) If the regulator receives a notice by telephone and a written notice is not required, the regulator must give the operator —
- (a) details of the information received; or
 - (b) an acknowledgment of receipt of the notice.
- (7) An operator must keep a record of each notifiable occurrence for at least 5 years from the day that notice of the occurrence is given to the regulator under this regulation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

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General **Part 5**
Miscellaneous **Division 1**
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Part 5 — General

Division 1 — Miscellaneous

101. Incident notification: prescribed serious illnesses

For the purposes of section 36 of the Act, each of the following conditions is a serious illness —

- (a) any infection to which the carrying out of work is a significant contributing factor, including any infection that is reliably attributable to carrying out work —
 - (i) with micro-organisms; or
 - (ii) that involves providing treatment or care to a person; or
 - (iii) that involves contact with human blood or bodily substances; or
 - (iv) that involves handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products;
- (b) the following occupational zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products —
 - (i) Q fever;
 - (ii) Anthrax;
 - (iii) Leptospirosis;
 - (iv) Brucellosis;
 - (v) Hendra Virus;
 - (vi) Avian Influenza;
 - (vii) Psittacosis.

Note for this regulation:

The *Public Health Act 2016* contains notification requirements in relation to certain infectious diseases.

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Part 5 General

Division 1 Miscellaneous

r. 102

102. Inspectors' identity cards

- (1) For the purposes of section 157(1) of the Act, an identity card given by the regulator to an inspector must include the following —
 - (a) a recent photograph of the inspector in the form specified by the regulator;
 - (b) the inspector's signature;
 - (c) the date (if any) on which the inspector's appointment ends;
 - (d) any conditions to which the inspector's appointment is subject, including the kinds of workplaces in relation to which the inspector may exercise the inspector's compliance powers.
- (2) For the purposes of sections 157(2)(b) and 173(1)(a) of the Act, another way an inspector may provide identification is by providing the inspector's full name —
 - (a) if the identification is provided in writing — on the letterhead of the WHS department; or
 - (b) if the identification is provided by email — using an email address under the control of the WHS department; or
 - (c) if the identification is provided by telephone — together with information on how to contact the WHS department to verify the identity of the inspector.

103. Review of decisions under the Act: stay of decision

For the purposes of section 228(6)(a) of the Act, the prescribed period is the relevant period within which an application for an external review must be made under section 229(2) of the Act.

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r. 104

**104. Confidentiality of information: exception relating to
administration or enforcement of other laws**

An Act listed in the Table is prescribed for the purposes of section 271(3)(c)(ii) of the Act.

Table

<i>Building Act 2011</i>
<i>Coroners Act 1996</i>
<i>The Criminal Code</i>
<i>Dangerous Goods Safety Act 2004</i>
<i>Electricity Act 1945</i>
<i>Emergency Management Act 2005</i>
<i>Fire and Emergency Services Act 1998</i>
<i>Industrial Relations Act 1979</i>
<i>Mines Safety and Inspection Act 1994</i>
<i>Petroleum and Geothermal Energy Resources Act 1967</i>
<i>Petroleum Pipelines Act 1969</i>
<i>Petroleum (Submerged Lands) Act 1982</i>
<i>Rail Safety National Law (WA) Act 2015</i>
<i>Road Traffic (Vehicles) Act 2012</i>
<i>Transport (Road Passenger Services) Act 2018</i>
<i>Vocational Education and Training Act 1996</i>

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Part 5 General

Division 2 Managing risks to health and safety

r. 105

<i>Western Australian Marine Act 1982</i>
<i>Workers' Compensation and Injury Management Act 1981</i>

105. Dangerous incident (Act s. 37)

For the purposes of paragraph (l) of the definition of *dangerous incident* in section 37 of the Act, the following are prescribed as dangerous incidents —

- (a) the collapse, overturning or collision of any marine vessel or plant that forms part of a facility;
- (b) the inrush of petroleum, gas, water, steam or mud into a facility;
- (c) an incident where the safe operating parameters of a facility are exceeded.

Division 2 — Managing risks to health and safety

106. Application of Division

This Division applies to a person conducting a business or undertaking who has a duty under these regulations to manage risks to health and safety.

107. Specific requirements must be complied with

Any specific requirements under these regulations for the management of risk must be complied with when implementing the requirements of this Division.

Examples for this regulation:

- 1. A requirement not to exceed an exposure standard.
- 2. A duty to implement a specific control measure.
- 3. A duty to assess risk.

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General **Part 5**
Managing risks to health and safety **Division 2**
r. 108

108. Duty to identify hazards

A duty holder, in managing risks to health and safety, must identify reasonably foreseeable hazards that could give rise to risks to health and safety.

109. Managing risks to health and safety

A duty holder, in managing risks to health and safety, must —

- (a) eliminate risks to health and safety so far as is reasonably practicable; and
- (b) if it is not reasonably practicable to eliminate risks to health and safety — minimise those risks so far as is reasonably practicable.

110. Hierarchy of control measures

- (1) This regulation applies if it is not reasonably practicable for a duty holder to eliminate risks to health and safety.
- (2) A duty holder, in minimising risks to health and safety, must implement risk control measures in accordance with this regulation.
- (3) The duty holder must minimise risks, so far as is reasonably practicable, by doing 1 or more of the following —
 - (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;
 - (b) isolating the hazard from any person exposed to it;
 - (c) implementing engineering controls.
- (4) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.

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- (5) If a risk then remains, the duty holder must minimise the remaining risk, so far as is reasonably practicable, by ensuring the provision and use of suitable personal protective equipment.

Note for this regulation:

A combination of the controls set out in this regulation may be used to minimise risks, so far as is reasonably practicable, if a single control is not sufficient for the purpose.

111. Maintenance of control measures

A duty holder who implements a control measure to eliminate or minimise risks to health and safety must ensure that the control measure is, and is maintained so that it remains, effective, including by ensuring that the control measure is and remains —

- (a) fit for purpose; and
- (b) suitable for the nature and duration of the work; and
- (c) installed, set up and used correctly.

112. Review of control measures

- (1) A duty holder must review and as necessary revise control measures implemented under these regulations so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health or safety.
- (2) Without limiting subregulation (1), the duty holder must review and as necessary revise a control measure in the following circumstances —
- (a) the control measure does not control the risk it was implemented to control so far as is reasonably practicable;

Examples for this paragraph:

- 1. The results of monitoring show that the control measure does not control the risk.
- 2. A notifiable incident occurs because of the risk.

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- (b) before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;
 - (c) a new relevant hazard or risk is identified;
 - (d) the results of consultation by the duty holder under the Act or these regulations indicate that a review is necessary;
 - (e) a health and safety representative requests a review under subregulation (4).
- (3) Without limiting subregulation (2)(b), a change at the workplace includes —
- (a) a change to the workplace itself or any aspect of the work environment; or
 - (b) a change to a system of work, a process or a procedure.
- (4) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that —
- (a) a circumstance referred to in subregulation (2)(a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
 - (b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

Division 3 — Matters relating to work health and safety

Subdivision 1 — General

113. Person must leave facility when required to do so

- (1) A person at a facility must leave the facility if required to do so by —
- (a) the operator of the facility; or

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(b) the operator's representative.

Penalty for this subregulation:

(a) for an individual, a fine of \$1 450;

(b) for a body corporate, a fine of \$7 000.

(2) The requirement to leave the facility —

(a) in the event of an emergency, may be given orally; or

(b) in any other case, relevant to the health and safety of persons engaged in an operation at the facility —

(i) must be in writing; and

(ii) must include the reason for the requirement.

114. Avoiding fatigue

(1) The operator of a facility must not allow, or require, a worker to work for a period of a duration that could reasonably be expected to have an adverse effect on the health or safety of the worker or other persons at or in the vicinity of the facility.

Penalty for this subregulation:

(a) for an individual, a fine of \$4 200;

(b) for a body corporate, a fine of \$21 000.

(2) Subregulation (1) applies whether the period comprises a single continuous period or multiple successive continuous periods.

115. Possession or control of drugs or intoxicants

(1) In this regulation —

qualified, in relation to a profession, means qualified and entitled, under a law of a State or Territory, to practise as any of the following —

(a) a medical practitioner;

(b) a nurse;

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(2) In subregulation (1) —

L_{Aeq,8h} means the eight-hour equivalent continuous A-weighted sound pressure level in decibels (dB(A)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management — Measurement and assessment of noise immission and exposure);

L_{C,peak} means the C-weighted peak sound pressure level in decibels (dB(C)) referenced to 20 micropascals, determined in accordance with AS/NZS 1269.1:2005 (Occupational noise management — Measurement and assessment of noise immission and exposure).

117. Managing risk of hearing loss from noise

(1) A person conducting a business or undertaking at a workplace must manage, in accordance with Division 2, risks to health and safety relating to hearing loss associated with noise.

Note for this subregulation:

WHS Act — section 19 (see regulation 9).

(2) A person conducting a business or undertaking at a workplace must, so far as is reasonably practicable, ensure that the noise that a worker is exposed to at the workplace does not exceed the exposure standard for noise.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

118. Audiometric testing

(1A) In this regulation —

audiometric testing means the testing and measurement of the hearing threshold levels of each ear of a person by means of —

- (a) pure tone air conduction threshold tests; or
- (b) evoked otoacoustic emission testing; or

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Division 4 Suspension of safety case or DSMS

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121. Regulator may seek further information

- (1) For the purpose of making a decision as to whether a safety case or DSMS should be suspended, the regulator may —
 - (a) request the applicant to provide further information; and
 - (b) undertake reasonable inquiries in relation to the application.
- (2) If the regulator requests information under subregulation (1)(a), the period from the making of the request until the provision of the information is not included in the period referred to in regulation 122 for the regulator to make a decision on the application.

122. Grant or refusal of suspension

- (1) On an application under regulation 119, the regulator may —
 - (a) grant the suspension; or
 - (b) refuse to grant the suspension.

Note for this subregulation:

A decision to refuse to grant a suspension is a reviewable decision (see regulation 165).

- (2) Subject to subregulation (3), the regulator must make a decision on the application within 30 days after the regulator receives the application.
- (3) The period referred to in subregulation (2) may be extended by up to 14 days with the agreement of the applicant.
- (4) The regulator is taken to have refused to grant a suspension if the regulator has not made a decision under subregulation (1) —
 - (a) within the period required under subregulation (2); or
 - (b) if the period is extended under subregulation (3) — within the extended period.

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123. Notice of decision on application

- (1) The regulator must give written notice to the applicant of a decision under regulation 122(1) within 7 days after the decision is made.
- (2) If the regulator refuses to grant the suspension under regulation 122(1)(b), the written notice must include the reasons for that decision.

124. Revocation of suspension

- (1) The regulator may, by written notice given to the applicant, revoke a suspension granted under regulation 122(1)(a) if the regulator —
 - (a) is satisfied that the applicant is carrying out, or on and from a particular day intends to carry out, an operation;
or
 - (b) is otherwise satisfied that it is appropriate to do so in the circumstances of the particular case.

Note for this subregulation:

A decision to revoke a suspension is a reviewable decision (see regulation 165).

- (2) The revocation has effect on and from the day specified in the revocation notice.

125. Duration of suspension

A suspension granted under regulation 122(1)(a) has effect on and from the day specified in the suspension notice until it is revoked under regulation 124(1).

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Division 5 — Dangerous goods

Subdivision 1 — Preliminary

126. Terms used

In this Division —

ADG Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (also called the Australian Dangerous Goods Code) published by the National Transport Commission, including (for the avoidance of doubt) its appendices;

bulk, in relation to dangerous goods, has the meaning given in regulation 128;

capacity means the internal volume, expressed in litres, of a container at 15°C;

Chief Officer means the person designated as the Chief Dangerous Goods Officer under the *Dangerous Goods Safety Act 2004* section 25(2);

class, in relation to dangerous goods, means the class number the goods have under the ADG Code;

combustible liquid means a liquid that is not a Class 3 dangerous good that has —

- (a) a flashpoint that is no higher than 93°C; and
- (b) a fire point, as defined in AS 1940:2017, that is less than the boiling point;

compatible, in relation to 2 or more substances or items, means that they will not react together to cause a fire, explosion, harmful reaction or the evolution of flammable, corrosive or toxic vapours;

consumer container —

- (a) means a container that is intended for retail display and sale; and

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- (b) includes anything in which a number of such identical containers are transported or distributed;

container —

- (a) means any container, package or other thing capable of containing dangerous goods, or an assemblage of such containers, packages or things; but
- (b) does not include a pipeline;

current SDS means the most recent SDS that, if applicable, has been reviewed and revised in accordance with the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 19;

dangerous goods has the meaning given in regulation 127;

dangerous goods site —

- (a) means a place —
- (i) where dangerous goods were or are, or are intended to be, stored or handled; or
- (ii) where the loading or unloading of dangerous goods in connection with transporting them was or is, or is intended to be, carried out;

but

- (b) does not include a rural dangerous goods location or a small quantity dangerous goods location;

dangerous situation means a situation in which there is an imminent and high risk to people, property or the environment from dangerous goods;

division, in relation to dangerous goods, means the division number (including the class number) the goods have under the ADG Code;

FES Commissioner has the meaning given in the *Fire and Emergency Services Act 1998* section 3;

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FES Department means the department of the Public Service principally assisting in the administration of the *Fire and Emergency Services Act 1998*;

fire risk dangerous goods means —

- (a) dangerous goods of —
 - (i) Division 2.1; or
 - (ii) Class 3; or
 - (iii) Division 4.1, 4.2 or 4.3; or
 - (iv) Division 5.1 or 5.2;

or

- (b) dangerous goods of —
 - (i) subsidiary hazard 2.1; or
 - (ii) subsidiary hazard 3; or
 - (iii) subsidiary hazard 4.1, 4.2 or 4.3; or
 - (iv) subsidiary hazard 5.1 or 5.2;

flashpoint means the temperature at which a liquid first evolves vapour capable of being ignited when tested in accordance with —

- (a) AS/NZS 2106; or
- (b) a technical standard that specifies a test that is equivalent to that specified in AS/NZS 2106;

goods too dangerous to transport has the meaning given in regulation 131;

handle, in relation to dangerous goods, includes to manufacture, process, pack, use, sell, supply, carry (including by pipeline) and treat the dangerous goods and to destroy or otherwise dispose of dangerous goods;

harm has the meaning given in regulation 133(1);

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IBC (intermediate bulk container) means a rigid or flexible portable packaging for the transport of dangerous goods that —

- (a) has a capacity of not more than —
 - (i) for solids of packing group I in a composite container, fibreboard container, flexible container, wooden container or rigid plastics container — 1 500 L; or
 - (ii) for solids of packing group I in a metal container — 3 000 L; or
 - (iii) for solids or liquids of packing groups II and III — 3 000 L;
- and
- (b) is designed for mechanical handling; and
 - (c) is resistant to the stresses produced in usual handling and transport;

label includes a marking;

liquid means a substance that —

- (a) at 50°C has a vapour pressure of not more than 300 kPa; and
- (b) is not completely gaseous at 20°C and at a pressure of 101.3 kPa; and
- (c) melts partly or completely at 20°C or less at a pressure of 101.3 kPa;

manifest quantity, in relation to dangerous goods, means a quantity of those dangerous goods greater than the quantity specified in relation to those goods in the column headed “Manifest quantity” in the Table to Schedule 3;

packaged dangerous goods means —

- (a) dangerous goods in a container that has a capacity of not more than 500 L; or
- (b) dangerous goods in a container that has a net mass of not more than 500 kg;

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packing group has the meaning given in regulation 130(1);

petrol station means a place where a business involving the retail sale of fuel for road vehicles and the refuelling of road vehicles is conducted;

petroleum product —

- (a) means a single substance or mixture of substances —
 - (i) comprising at least 70% hydrocarbon by volume refined from crude oil, with or without additives; and
 - (ii) that is used or could be used as a fuel; and
 - (iii) is liquid at a temperature of 15°C and pressure of 101.325 kPa;
- and
- (b) includes combustible liquids;

risk, in relation to dangerous goods, means —

- (a) in relation to people — the probability of the goods causing the death of, unreasonable injury to, or unreasonable harm to the health of, 1 or more individuals;
- (b) in relation to property or the environment — the probability of the goods causing unreasonable damage or harm to property or the environment;

rural dangerous goods location means a place —

- (a) that is outside the metropolitan region as defined in the *Planning and Development Act 2005* section 4(1); and
- (b) that is outside a townsite as defined in the *Land Administration Act 1997* section 3(1); and
- (c) that is 1 or more lots, as defined in the *Planning and Development Act 2005* section 4(1), that are adjoining; and
- (d) that is 5 ha or more; and

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- (e) at which dangerous goods used for agricultural, aquacultural, floricultural, horticultural or pastoral purposes are stored or handled but not supplied to a person;

safety data sheet (SDS), for particular dangerous goods, means a document in English that contains the information in relation to the dangerous goods that is required by —

- (a) the *National Code of Practice for the Preparation of Material Safety Data Sheets* 2nd Edition [NOHSC: 2011 (2003)] (ISBN-1-920763-10-4); or
- (b) the *Preparation of Safety Data Sheets for Hazardous Chemicals — Code of Practice* published by Safe Work Australia in February 2016 (ISBN 978-0-642-33311-7);

Safe Work Australia means Safe Work Australia established by the *Safe Work Australia Act 2008* (Commonwealth) section 5;

small quantity dangerous goods location means a place where dangerous goods are stored or handled in quantities that do not exceed those specified in relation to those dangerous goods in the column headed “Placarding quantity” in the Table to Schedule 3;

storage or handling system means a container, plant, pipework or any other thing that can contain dangerous goods;

subsidiary hazard has the meaning given in regulation 129(1);

subsidiary hazard label, in relation to dangerous goods, means a label of a type specified in the ADG Code for the subsidiary hazard of the dangerous goods;

substance means a solid, liquid or gas or a mixture of them;

transport, in relation to dangerous goods —

- (a) means the transport of the goods by vehicle; and
- (b) includes —
- (i) the packing, loading and unloading of the goods, and the transfer of the goods to or from a vehicle, for the purpose of their transport; and

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- (ii) the labelling, marking or placarding of containers and vehicles in which the goods are transported; and
- (iii) other matters incidental to the transport of the goods;

underground storage or handling system means a storage or handling system comprising 1 or more tanks each of which —

- (a) is at least 50% below ground level; and
- (b) is covered with at least 600 mm of earth or equivalent material;

UNTC means the *Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria*, 6th revised edition, published by the United Nations (ISBN 978-92-1-139155-8);

vehicle means any thing capable of transporting people or things by road, rail or water, including a hovercraft, and it does not matter how the thing is moved or propelled.

127. Dangerous goods

- (1) In this regulation —

Dangerous Goods List means the Dangerous Goods List in the ADG Code Chapter 3.2 as read with the other provisions in the ADG Code Part 3.

- (2) Subject to subregulations (4), (5), (6) and (7), for the purposes of this Division, a substance or article is ***dangerous goods*** if —
- (a) it satisfies the criteria set out, or referred to, in the ADG Code Part 2 for determining whether goods are dangerous goods; or
 - (b) it is named or described in the ADG Code Appendix A as goods too dangerous to be transported; or
 - (c) it is a combustible liquid.

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- (3) Without limiting the generality of subregulation (2)(a), a substance or article is **dangerous goods** for the purposes of this Division if it is named in column 2 of the Dangerous Goods List, irrespective of whether the name is —
- (a) a generic name; or
 - (b) a name described as “N.O.S.”.
- (4) A substance or article that satisfies the criteria set out, or referred to, in the ADG Code Part 2 is not **dangerous goods** for the purposes of this Division if it is described as not subject to the ADG Code in a Special Provision in the ADG Code Chapter 3.3 that is applied to the substance or article by column 6 of the Dangerous Goods List.
- (5) A substance or article is not **dangerous goods** for the purposes of this Division if it is within any of the following classes or divisions of dangerous goods —
- (a) Class 1 (explosives);
 - (b) Division 6.2 (infectious substances);
 - (c) Class 7 (radioactive materials).
- (6) Hay, straw and bhusa are not **dangerous goods** for the purposes of this Division.
- (7) Despite subregulation (4), sulphur in any form is **dangerous goods** for the purposes of this Division.

128. Dangerous goods in bulk

In this Division, dangerous goods are in **bulk** if —

- (a) they are in a container that has a capacity of more than 500 L; or
- (b) there is more than 500 kg of the goods in a container; or
- (c) the goods are not in a container and there is more than 500 kg of the goods in an undivided quantity.

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129. Assignment of subsidiary hazard

- (1) In this Division, a reference to the *subsidiary hazard* of dangerous goods is a reference to the subsidiary hazard assigned to those goods under subregulation (2), consisting of —
 - (a) the class number indicating the hazard exhibited by it; and
 - (b) any hazard division number.
- (2) Dangerous goods are assigned a subsidiary hazard if the goods —
 - (a) are assigned the subsidiary hazard in the ADG Code Chapter 3.2.3 Column 4; or
 - (b) are assigned the subsidiary hazard in a Special Provision of the ADG Code applying to the goods; or
 - (c) are assigned to the subsidiary hazard by the Chief Officer under the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 9(2)(c); or
 - (d) satisfy the UNTC for determining whether goods are to be assigned to the subsidiary hazard.

130. Packing group

- (1) In this Division, a reference to the *packing group* of a class of dangerous goods is a reference to the packing group assigned to those goods under subregulation (2).
- (2) Dangerous goods (except dangerous goods of Class 1, Class 2, Division 6.2 or Class 7) are assigned to a packing group if the goods —
 - (a) are assigned to the packing group in the ADG Code Chapter 3.2.3 Column 5; or
 - (b) are assigned to the packing group in a Special Provision of the ADG Code applying to the goods; or

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- (c) are assigned to the packing group by the Chief Officer under the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 10(2)(c); or
- (d) satisfy the UNTC for determining whether goods are to be assigned to the packing group.

131. Goods too dangerous to transport

In this Division, a reference to *goods too dangerous to transport* is a reference to goods that are —

- (a) mentioned in the ADG Code Appendix A; or
- (b) determined by the Chief Officer under the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007* regulation 11(b) to be too dangerous to transport.

132. Determining quantity of dangerous goods

- (1) If this Division requires the determination of the quantity of dangerous goods, the quantity must be determined in accordance with this regulation.
- (2) In relation to packaged dangerous goods in a container that are —
 - (a) non-liquid dangerous goods (other than Class 2 dangerous goods) — the quantity must be determined as the mass in kilograms of the goods in the container;
 - (b) liquid dangerous goods (other than Class 2 dangerous goods) — the quantity must be determined as the capacity of the container;
 - (c) Class 2 dangerous goods — the quantity must be determined as the total capacity of the container.

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- (3) In relation to dangerous goods in bulk that are —
- (a) non-liquid dangerous goods (other than Class 2 dangerous goods) — the quantity must be determined as the mass in kilograms that the container is designed to hold;
 - (b) liquid dangerous goods (other than Class 2 dangerous goods) — the quantity must be determined as the design capacity of the container;
 - (c) Class 2 dangerous goods — the quantity must be determined as the total capacity of the container;
 - (d) solid dangerous goods not in a container — the quantity must be determined as the undivided mass in kilograms.
- (4) In relation to dangerous goods in a storage or handling system other than a container, the quantity must be determined as —
- (a) in the case of liquid dangerous goods or Class 2 dangerous goods — the capacity of the storage or handling system; or
 - (b) in the case of solid dangerous goods — the mass of the goods in the storage or handling system.
- (5) In relation to dangerous goods that are articles or things, the quantity must be determined as the net quantity of that part of the articles or things that in itself comprises dangerous goods.

133. Assessment of unreasonable harm

- (1) In this regulation —
- harm*** means —
- (a) injury to, or harm to the health of, an individual; or
 - (b) damage or harm to property or the environment.
- (2) For the purposes of references in this Division to ***unreasonable harm***, harm from dangerous goods is capable of being reasonable if, and only if —

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- (a) it was foreseen, and caused intentionally, by the person who had the control or management of the goods at the time the harm occurred; and
- (b) it was caused by a lawful act; and
- (c) in the case of harm to an individual or to property — it was caused with the consent of the individual or of the owner of the property, as the case may be.

Subdivision 2 — Placards

134. HAZCHEM placards

The operator of a facility that is a dangerous goods site where dangerous goods are stored or handled in quantities that exceed those specified in the column headed “Placarding quantity” in the Table to Schedule 3 must ensure that a “HAZCHEM” outer warning placard that complies with Schedule 5 clause 2 is displayed at —

- (a) every entrance to the site; or
- (b) any other place approved in writing by the FES Commissioner or the regulator.

Penalty:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

135. Signage for dangerous goods stored in bulk

(1) In this regulation —

relevant sign, for dangerous goods, means —

- (a) if they are neither goods too dangerous to transport nor combustible liquids —
 - (i) a placard that complies with Schedule 5 clause 3; or
 - (ii) an emergency information panel the format and design of which and the particulars on which

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comply with the ADG Code clause 5.3.1.3.1 for the goods;

or

- (b) if they are goods too dangerous to transport, a placard that complies with Schedule 5 clause 4; or
 - (c) if they are combustible liquids, a placard that complies with Schedule 5 clause 6.
- (2) The operator of a facility that is a dangerous goods site where dangerous goods are stored in bulk must ensure that the relevant sign for the goods —
- (a) is displayed —
 - (i) on every container in which the goods are stored in bulk; and
 - (ii) at the entrance to any building in which the goods are stored in bulk, whether in a container or not; and
 - (iii) on or adjacent to every place outside a building where the goods are stored in bulk but not in a container;
- or
- (b) is displayed in an alternative place approved in writing by the FES Commissioner or the regulator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$25 000.
- (3) Subregulation (2) does not apply to a dangerous goods site if the only dangerous goods at the site are —
- (a) dangerous goods in bulk in a container that is intended for transport and labelled in accordance with the ADG Code; or

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- (b) combustible liquids in bulk in a quantity not exceeding 10 000 L that are isolated from other dangerous goods; or
 - (c) dangerous goods of Division 2.1 or Class 3, or petroleum products, that are stored in a container, other than an IBC, that comprises an underground storage or handling system at a petrol station.
- (4) Subregulation (2) does not require a sign to be displayed on —
- (a) any container in which there are packaged dangerous goods; or
 - (b) an IBC containing dangerous goods if —
 - (i) it is not connected to any other thing for the purposes of filling or emptying it; and
 - (ii) it is placarded in accordance with the ADG Code.

136. Signage for dangerous goods stored in packages or IBCs

- (1) In this regulation —
- relevant dangerous goods** means —
- (a) packaged dangerous goods; or
 - (b) dangerous goods in IBCs;
- relevant sign**, for dangerous goods, means —
- (a) a placard that complies with Schedule 5 clause 5; and
 - (b) if the goods are or include combustible liquids in a total quantity of more than 10 000 L and they are not stored with fire risk dangerous goods — a placard that complies with Schedule 5 clause 6.
- (2) Subregulation (3) applies if, at a dangerous goods site —
- (a) dangerous goods that exceed the relevant quantity specified in relation to those dangerous goods in the column headed “Placarding quantity” in the Table to Schedule 3 are stored or handled; and

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- (b) any of the dangerous goods are relevant dangerous goods.
- (3) The operator of the dangerous goods site must ensure that the relevant sign for the relevant dangerous goods —
 - (a) is displayed —
 - (i) at the entrance to any building in which the relevant dangerous goods are stored; and
 - (ii) within a building referred to in subparagraph (i) — at the entrance to each room or other closed or walled section of the building in which the relevant dangerous goods are stored; and
 - (iii) adjacent to any external storage area where the relevant dangerous goods are stored;
 - or
 - (b) is displayed at an alternative place approved in writing by the FES Commissioner or the regulator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$25 000.
- (4) The operator of a facility that is a dangerous goods site where dangerous goods are stored or handled in quantities that exceed those specified in relation to those dangerous goods in the column headed “Placarding quantity” in the Table to Schedule 3 must ensure that any IBC containing the goods is placarded in accordance with the ADG Code.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

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137. Signs must be properly displayed at sites

- (1) The operator of a facility that is a dangerous goods site must ensure any sign required to be displayed under regulation 134, 135 or 136 is properly displayed.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 000;
(b) for a body corporate, a fine of \$5 000.
- (2) For the purposes of subregulation (1), a sign is not properly displayed unless it is —
- (a) clean, in good order and unobstructed; and
(b) clearly legible to persons approaching it; and
(c) separate from any other sign or writing that contradicts, qualifies or distracts attention from it.

138. Revision of placards

The operator of a facility that is a dangerous goods site must ensure that all placards at the site required by this Subdivision are revised as soon as practicable after any change to the type or quantity of dangerous goods stored at the site requiring different information to be displayed.

Penalty:

- (a) for an individual, a fine of \$1 000;
(b) for a body corporate, a fine of \$5 000.

Subdivision 3 — Emergency management and planning

139. Fire control equipment required on site

- (1) The operator of a facility that is a dangerous goods site must ensure there is adequate fire control equipment on the site.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;

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- (b) for a body corporate, a fine of \$35 000.
- (2) For the purposes of subregulation (1), fire control equipment is not adequate fire control equipment unless —
- (a) it is designed and constructed either to automatically extinguish or to be capable, when used by a person, of extinguishing any fire that is reasonably foreseeable at the site having regard to —
- (i) the types and quantities of dangerous goods on the site; and
- (ii) the conditions under which they are handled on the site; and
- (iii) any materials and other substances on the site; and
- (b) it is designed and constructed to prevent dangerous goods on the site from being affected by any such fire; and
- (c) the equipment it uses to extinguish any such fire is compatible with equipment used, and can be used immediately without adaptation or modification, by any fire brigade under the control of the FES Commissioner; and
- (d) each substance it uses to extinguish any such fire is compatible with the material that is on fire.
- (3) The operator of a facility that is a dangerous goods site must ensure the fire control equipment on the site is in proper working order.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

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- (4) For the purposes of subregulation (3), fire control equipment is not in proper working order unless —
- (a) it is installed, maintained and tested in accordance with the instructions of its designer and manufacturer; and
 - (b) it is always in working order; and
 - (c) it is always available for immediate use to extinguish a fire; and
 - (d) it is not obstructed or otherwise positioned in a manner that hinders its operation or access to it or use of it.
- (5) If any fire control equipment on a dangerous goods site stops working or becomes unusable, the operator of the site must ensure that —
- (a) the implications of the equipment being inoperative or unusable are assessed; and
 - (b) alternative measures are taken to control, to the same level of effectiveness, the risks that were controlled by the equipment when functioning fully; and
 - (c) the equipment is replaced or returned to full operation as soon as practicable.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

- (6) If the implications assessed by the operator under subregulation (5)(a) include a significant reduction in the effectiveness of the fire control equipment, the operator must notify the FES Commissioner of the fact as soon as practicable after the equipment stops working or becomes unusable.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

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- (7) In determining the alternative measures required under subregulation (5)(b) the operator must have regard to the need for —
- (a) the provision of alternative fire control equipment; and
 - (b) a reduction of the quantities of dangerous goods on the site; and
 - (c) the storing or handling of dangerous goods to stop or be limited; and
 - (d) modifications to systems of work.

140. FES emergency response guide required for some sites

- (1) In this regulation —
- agreed FES emergency response guide***, for a dangerous goods site, means an FES emergency response guide that has been prepared or revised by the operator of the site in consultation with the officer in charge of the fire station or of the office of the FES Department nearest the site;
- FES emergency response guide***, for a dangerous goods site, means a document, in a form approved by the FES Commissioner, that contains information relevant to any fire brigade or other person under the control of the FES Commissioner when dealing with any fire or dangerous situation that might occur on the site, including information about the following —
- (a) the operator of the site;
 - (b) the layout of the site;
 - (c) the construction of any structure on the site;
 - (d) the dangerous goods on the site;
 - (e) the equipment and resources on the site to detect or deal with any such fire or dangerous situation.

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- (2) This regulation applies to a dangerous goods site if —
- (a) the quantity of dangerous goods stored or handled on the site exceeds 10 times the manifest quantity in relation to those goods; and
 - (b) the site is not —
 - (i) a petrol station; or
 - (ii) a mine as defined in the *Work Health and Safety (Mines) Regulations 2022* regulation 5A.
- (3) The operator of the site must ensure there is an agreed FES emergency response guide for the site.
- (4) The operator of the site may at any time revise the agreed FES emergency response guide for the site.
- (5) The operator of the site must review the agreed FES emergency response guide for the site and, if necessary, revise it —
- (a) whenever there is a significant change to the type or quantity of dangerous goods on the site; and
 - (b) whenever there is a significant change to the layout of, or to any structure on, the site; and
 - (c) as soon as practicable after a fire or dangerous situation occurs on the site; and
 - (d) in any event, at intervals of not more than 3 years from the day on which the guide was first prepared or last reviewed.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$25 000.
- (6) The operator of the site must ensure the current agreed FES emergency response guide for the site is on the site.

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Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
 - (b) for a body corporate, a fine of \$35 000.
- (7) The operator of the site must ensure that the fire station or the office of the FES Department nearest the site has a copy of the current agreed FES emergency response guide for the site.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

Subdivision 4 — Records

141. Manifest and dangerous goods site plan

- (1) This regulation applies to an operator of a facility that is a dangerous goods site where dangerous goods are stored or handled in quantities that exceed the manifest quantities.
- (2) The operator must maintain —
 - (a) a manifest, containing the information specified in Schedule 4 Division 2, of the storage and handling of the dangerous goods at the site; and
 - (b) a dangerous goods site plan in accordance with Schedule 4 Division 3.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$25 000.
- (3) The operator must review, and if necessary prepare a revised version of, the manifest and dangerous goods site plan —
- (a) within 7 days after any significant change in the information specified in Schedule 4; and

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- (b) in any event, at intervals of not more than 3 years from the day on which the manifest and site plan were developed or last revised.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
(b) for a body corporate, a fine of \$25 000.
- (4) The operator of the dangerous goods site must ensure that the manifest and dangerous goods site plan are —
- (a) kept at the site so that they are readily accessible to the regulator and officers of the FES Department; and
- (b) made available, on request, to the FES Commissioner or the regulator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
(b) for a body corporate, a fine of \$25 000.

142. SDS for dangerous goods

- (1) The operator of a facility that is a dangerous goods site must —
- (a) obtain the current SDS for dangerous goods stored or handled on the site, on or before the first occasion that they are supplied to the site; and
- (b) ensure that the current SDS is readily accessible to persons engaged by the operator to work at the site and to officers of the FES Department.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
(b) for a body corporate, a fine of \$25 000.
- (2) Subregulation (1) does not apply in relation to dangerous goods that are —
- (a) dangerous goods in transit; or

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- (b) dangerous goods in containers that are not required to be labelled under the ADG Code; or
 - (c) dangerous goods supplied to a retailer or retail warehouse operator in unopened consumer containers holding less than 30 kg or L of the dangerous goods.
- (3) If subregulation (2) applies, and the operator does not possess a current SDS for dangerous goods on the site, the operator must ensure that alternative information in relation to the safe storage and handling of the dangerous goods is readily accessible to persons engaged by the operator to work at the site.
- Penalty for this subregulation:
- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$25 000.
- (4) If an operator makes available, in addition to the SDS, information in relation to the safe storage and handling of the dangerous goods to which the SDS relates, the operator must ensure that the additional information is —
- (a) consistent with the information contained in the SDS; and
 - (b) clearly identified as being provided by the operator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

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- (e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;
 - (f) potable liquids that are consumer products at retail premises.
- (5) This Division, other than Schedule 2, does not apply to substances, mixtures or articles categorised only as explosives under the GHS.

Note for this subregulation:

The *Dangerous Goods Safety Act 2004* may have application to matters covered by this Division.

- (6) This Division does not apply to the following —
- (a) food and beverages within the meaning of the Food Standards Australia New Zealand Food Standards Code that are in a package and form intended for human consumption;
 - (b) tobacco or products made of tobacco;
 - (c) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Commonwealth) at the point of intentional intake by or administration to humans;
 - (d) veterinary chemical products within the meaning of the Agvet Code at the point of intentional administration to animals.

Subdivision 2 — Obligations of suppliers

Notes for this Subdivision:

1. A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.
2. A supplier is defined in section 25 of the Act as a person who conducts a business or undertaking of supplying.

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144. Supply of prohibited and restricted carcinogens

- (1) The supplier of a prohibited carcinogen referred to in an item in Schedule 1 Table 10.1 must not supply the substance unless the person to be supplied with the substance gives the supplier evidence that —
- (a) the substance is to be used, handled or stored for genuine research or analysis; and
 - (b) either —
 - (i) the regulator has authorised the person to use, handle or store the substance under regulation 149; or
 - (ii) the regulator has granted an exemption under Division 7 to the person to use, handle or store the substance.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

- (2) The supplier of a restricted carcinogen referred to in an item in Schedule 1 Table 10.2 column 2 must not supply the substance for a use referred to in column 3 for the item unless the person to be supplied with the substance gives the supplier evidence that —
- (a) the regulator has authorised the person to use, handle or store the substance under regulation 149; or
 - (b) the regulator has granted an exemption to the person under Division 7 to use, handle or store the substance.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

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- (3) A supplier under subregulation (1) or (2) must keep a record of —
- (a) the name of the person supplied; and
 - (b) the name and quantity of the substance supplied.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 450;
 - (b) for a body corporate, a fine of \$7 000.
- (4) The supplier must keep the record for 5 years after the substance was last supplied to the person.

Penalty for this subregulation:

- (a) for an individual, a fine of \$1 450;
- (b) for a body corporate, a fine of \$7 000.

Subdivision 3 — Prohibition, authorisation and restricted use

145. Using, handling and storing prohibited carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a prohibited carcinogen referred to in Schedule 1 Table 10.1 column 2 unless —

- (a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and
- (b) the regulator has authorised the use, handling or storage of the prohibited carcinogen under regulation 149.

Note for this regulation:

See section 43 of the Act.

146. Using, handling and storing restricted carcinogens

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen referred to in an item in Schedule 1 Table 10.2 column 2 for a

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purpose referred to in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen under regulation 149.

Note for this regulation:

See section 43 of the Act.

147. Using, handling and storing restricted hazardous chemicals

- (1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical referred to in an item in Schedule 1 Table 10.3 column 2 for a purpose referred to in column 3 for the item.

Note for this subregulation:

See section 43 of the Act.

- (2) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, polychlorinated biphenyls (PCBs) unless the use, handling or storage is —
- (a) in relation to existing electrical equipment or construction material; or
 - (b) for disposal purposes; or
 - (c) for genuine research and analysis.

Note for this subregulation:

See section 43 of the Act.

148. Application for authorisation to use, handle or store prohibited and restricted carcinogens

- (1) A person conducting a business or undertaking at a workplace may apply in writing to the regulator for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen referred to in Schedule 1 at the workplace.

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- (2) The application must include the following information —
- (a) the applicant's name and business address;
 - (b) if the applicant conducts the business or undertaking under a business name, that business name;
 - (c) the name and address of the supplier of the carcinogen;
 - (d) the address where the carcinogen will be used, handled or stored;
 - (e) the name of the carcinogen;
 - (f) the quantity of the carcinogen to be used, handled or stored at the workplace each year;
 - (g) the purpose and activity for which the carcinogen will be used, handled or stored;
 - (h) the number of workers that may be exposed to the carcinogen;
 - (i) information about how the person will manage risks to health and safety, including a summary of the steps taken, or to be taken, by the person in relation to the following —
 - (i) hazard identification;
 - (ii) control measures;
 - (iii) if elimination or substitution of the carcinogen is not reasonably practicable — why the elimination or substitution is not reasonably practicable;
 - (j) any other information requested by the regulator.

149. Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens

- (1) If a person applies under regulation 148, the regulator may grant an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen under this regulation.

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- (2) The regulator may authorise the person to use, handle or store a prohibited carcinogen referred to in an item in Schedule 1 Table 10.1 at the workplace only if the carcinogen will be used, handled or stored only for genuine research or analysis.
- (3) The regulator may authorise the person to use, handle or store a restricted carcinogen referred to in an item in Schedule 1 Table 10.2 at the workplace only if the carcinogen will be used, handled or stored only for a use referred to in column 3 for the item.
- (4) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or these regulations.
- (5) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not referred to in this regulation.

Note for this subregulation:

A decision to refuse an authorisation is a reviewable decision (see regulation 165).

150. Changes to information in application to be reported

A person who applies under regulation 148 for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen must give the regulator written notice of any change in the information given in the application before the change or as soon as practicable after the person becomes aware of the change.

Penalty:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

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151. Regulator may cancel authorisation

The regulator may cancel an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen given under regulation 149 if satisfied that —

- (a) the person granted the authorisation has not complied with a condition on the authorisation; or
- (b) the risk to the health or safety of a worker that may be affected by using, handling or storing the carcinogen has changed since the authorisation was granted.

Note for this regulation:

A decision to cancel an authorisation is a reviewable decision (see regulation 165).

152. Statement of exposure to be given to workers

- (1) This regulation applies if —
 - (a) a person conducting a business or undertaking at a workplace is authorised under regulation 149 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace; and
 - (b) a worker uses, handles or stores the prohibited carcinogen or restricted carcinogen at the workplace.
- (2) The person must give to the worker, at the end of the worker's engagement by the person, a written statement of the following —
 - (a) the name of the prohibited or restricted carcinogen to which the worker may have been exposed during the engagement;
 - (b) the time the worker may have been exposed;
 - (c) how and where the worker may obtain records of the possible exposure;

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- (d) whether the worker should undertake regular health assessments, and the relevant tests to undertake.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
(b) for a body corporate, a fine of \$21 000.

153. Records to be kept

- (1) This regulation applies if a person conducting a business or undertaking at a workplace is authorised under regulation 149 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace.
- (2) The person must —
- (a) record the full name, date of birth and address of each worker likely to be exposed to the prohibited carcinogen or restricted carcinogen during the period of authorisation; and
- (b) keep a copy of each authorisation given to the person including any conditions imposed on the authorisation.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
(b) for a body corporate, a fine of \$21 000.

- (3) The person must keep the records for 30 years after the authorisation ends.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
(b) for a body corporate, a fine of \$21 000.

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Division 7 — Exemptions

Subdivision 1 — General

154. General power to grant exemptions

- (1) The regulator may exempt a person or class of persons from compliance with any of these regulations.
- (2) The exemption may be granted on the regulator's own initiative or on the written application of 1 or more persons.
- (3) This regulation is subject to the limitations set out in this Division.

Note for this regulation:

A decision to refuse to grant an exemption is a reviewable decision (see regulation 165).

155. Matters to be considered in granting exemptions

In deciding whether or not to grant an exemption under regulation 154 the regulator must have regard to all relevant matters, including the following —

- (a) whether the granting of the exemption will result in a standard of health and safety at the relevant workplace, or in relation to the relevant undertaking, that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions;
- (b) whether the requirements of paragraph (a) will be met if the regulator imposes certain conditions in granting the exemption and those conditions are complied with;
- (c) whether exceptional circumstances justify the grant of the exemption;
- (d) if the proposed exemption relates to a particular thing — whether the regulator is satisfied that the risk associated with the thing is not significant if the exemption is granted;

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- (e) whether the applicant has carried out consultation in relation to the proposed exemption in accordance with Part 5 Divisions 1 and 2 of the Act.

Subdivision 2 — Exemption process

156. Application for exemption

An application for an exemption must be made in the manner and form required by the regulator.

Notes for this regulation:

- 1. The application must be in writing (see regulation 154(2)).
- 2. The regulator may grant an exemption on its own initiative (see regulation 154(2)).
- 3. See section 268 of the Act for offences relating to the giving of false or misleading information under the Act, including these regulations.

157. Conditions of exemption

- (1) The regulator may impose any conditions it considers appropriate on an exemption granted under this Division.
- (2) Without limiting subregulation (1), conditions may require the applicant to do 1 or more of the following —
 - (a) monitor risks;
 - (b) monitor the health of persons at the workplace who may be affected by the exemption;
 - (c) keep certain records;
 - (d) use a stated system of work;
 - (e) report certain matters to the regulator;
 - (f) give notice of the exemption to persons who may be affected by the exemption.

Note for this regulation:

A decision to impose a condition is a reviewable decision (see regulation 165).

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158. Form of exemption document

The regulator must prepare an exemption document that states the following —

- (a) the name of the applicant for the exemption (if any);
- (b) the person or class of persons to whom the exemption will apply;
- (c) the work or thing to which the exemption relates, if applicable;
- (d) the circumstances in which the exemption will apply;
- (e) the provisions of these regulations to which the exemption applies;
- (f) any conditions on the exemption;
- (g) the date on which the exemption takes effect;
- (h) the duration of the exemption.

159. Compliance with conditions of exemption

A person to whom the exemption is granted must —

- (a) comply with the conditions of the exemption; and
- (b) ensure that any person under the management or control of that person complies with the conditions of the exemption.

160. Notice of decision in relation to exemption

The regulator must give a copy of the exemption document referred to in regulation 158, within 14 days after making the decision to grant the exemption, to —

- (a) if a person applied for the exemption — the applicant; or
- (b) if the regulator granted the exemption on its own initiative — each person (other than persons to whom regulation 161 applies) to whom the exemption will apply.

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161. Publication of notice of exemption

- (1) This regulation applies to an exemption that applies to a class of persons.
- (2) The regulator must publish a copy of the exemption on the WHS department's website.

162. Notice of refusal of exemption

- (1) If the regulator refuses to grant an exemption on an application, the regulator must give the applicant for the exemption written notice of the refusal within 14 days after making that decision.
- (2) The notice must state the regulator's reasons for the refusal.

Note for this regulation:

A refusal to grant an exemption is a reviewable decision (see regulation 165).

163. Amendment or cancellation of exemption

The regulator may at any time amend or cancel an exemption.

Note for this regulation:

A decision to amend or cancel an exemption is a reviewable decision (see regulation 165).

164. Notice of amendment or cancellation

- (1) The regulator must give written notice of the amendment or cancellation of an exemption, within 14 days after making the decision to amend or cancel the exemption, to —
 - (a) if a person applied for the exemption — the applicant; or
 - (b) if the regulator granted the exemption on its own initiative — each person (other than persons to whom subregulation (2) applies) to whom the exemption applies.

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- (2) If the exemption affects a class of persons, the regulator must publish notice of the amendment or cancellation of the exemption on the WHS department's website.
- (3) The notice must state the regulator's reasons for the amendment or cancellation.
- (4) The amendment or cancellation takes effect —
 - (a) on the publication of the notice on the WHS department's website, or on a later date specified in the notice; or
 - (b) if the notice is not required to be published on the WHS department's website, on the giving of the notice to the applicant under subregulation (1) or on a later date specified in the notice.

Division 8 — Review of decisions under these regulations

Subdivision 1 — Reviewable decisions

165. Which decisions under these regulations are reviewable

- (1) The following Table sets out —
 - (a) decisions made under these regulations that are reviewable under this Division (*reviewable decisions*); and
 - (b) who is eligible to apply for review of a reviewable decision (the *eligible person*).

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Table

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
1.	r. 22(2) — Rejection of person as operator of facility	Nominator Nominee
2.	r. 56(1)(a)(ii) — Rejection of safety case	Operator
3.	r. 56(1)(a)(iii) — Partial rejection of safety case	Operator
4.	r. 56(1)(a)(iv) — Imposition of a condition when accepting safety case	Operator
5.	r. 57(3) — Imposition of terms and conditions on consent to operation being carried out in manner different from safety case requirements	Operator

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Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
6.	r. 57(4) — Consent not given to operation being carried out in manner different from safety case requirements	Operator
7.	r. 59(6)(b) — Refusal to accept submission or part of submission in relation to revision notice	Operator Diving contractor
8.	r. 63(1)(a)(ii) — Rejection of revised safety case	Operator
9.	r. 63(1)(a)(iii) — Partial rejection of revised safety case	Operator
10.	r. 63(1)(a)(iv) — Imposition of a condition when accepting revised safety case	Operator

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Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
11.	r. 65(1) — Withdrawal of acceptance of safety case	Operator
12.	r. 73(3) — Imposition of a condition when accepting DSMS	Diving contractor
13.	r. 73(2)(a) — Rejection of DSMS	Diving contractor
14.	r. 74(3) — Imposition of a condition when accepting revised DSMS	Diving contractor
15.	r. 79(6)(b) — Refusal to accept submission or part of submission in relation to revision notice	Diving contractor
16.	r. 80(1) — Withdrawal of acceptance of DSMS	Diving contractor
17.	r. 122(1)(b) — Refusal to grant suspension	Operator Diving contractor

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Division 8 Review of decisions under these regulations

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Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
18.	r. 124(1) — Revocation of suspension	Operator Diving contractor
19.	r. 149(5) — Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant
20.	r. 151 — Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
21.	r. 157(1) — Imposition of a condition on an exemption granted on application under Part 5 Division 7	Applicant
22.	r. 162(1) — Refusal to grant exemption	Applicant

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Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
23.	r. 163 — Amendment of an exemption granted on application under Part 5 Division 7	Applicant
24.	r. 163 — Cancellation of an exemption granted on application under Part 5 Division 7	Applicant

- (2) Unless the contrary intention appears, a reference in this Division to a decision includes a reference to —
- (a) making, suspending, revoking or refusing to make an order, determination or decision; or
 - (b) giving, suspending, revoking or refusing to give a direction, approval, consent or permission; or
 - (c) granting, issuing, amending, renewing, suspending, cancelling, revoking or refusing to grant, issue, amend or renew an authorisation; or
 - (d) imposing or varying a condition; or
 - (e) making a declaration, demand or requirement; or
 - (f) retaining, or refusing to deliver up, a thing; or
 - (g) doing or refusing to do any other act or thing; or
 - (h) being taken to refuse or do any act or thing.

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Subdivision 2 — Internal review

166. Application

This Subdivision does not apply to a reviewable decision made under Division 7.

167. Application for internal review

- (1) An eligible person in relation to a reviewable decision may apply to the regulator for review (an *internal review*) of the decision within —
 - (a) 28 days after the day on which the decision first came to the eligible person's notice; or
 - (b) any longer time the regulator allows.
- (2) The application must be made in the manner and form required by the regulator.

168. Internal reviewer

- (1) The regulator may appoint a person or body to review a decision on application under regulation 167(1).
- (2) The person who made the reviewable decision cannot be an internal reviewer in relation to that decision.

169. Decision of internal reviewer

- (1) The internal reviewer must review the reviewable decision and make a decision as soon as practicable and within 14 days after the application for internal review, or the additional information requested under subregulation (3), is received.
- (2) The decision may be —
 - (a) to confirm or vary the reviewable decision; or
 - (b) to set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

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Part 5 General

Division 9 Mining and Petroleum Advisory Committee

r. 172

Subdivision 3 — External review

172. Application for external review

- (1) An eligible person may apply to the Tribunal for review (an *external review*) of —
 - (a) a reviewable decision made by the regulator; or
 - (b) a decision made, or taken to have been made, on an internal review.
- (2) The application must be made within —
 - (a) 28 days after the day on which the decision first came to the eligible person's notice; or
 - (b) any longer time the Tribunal allows.

Division 9 — Mining and Petroleum Advisory Committee

173. Functions of Mining and Petroleum Advisory Committee

- (1) In this regulation —

petroleum industry means activities that are regulated by —

 - (a) the *Petroleum and Geothermal Energy Resources Act 1967*; or
 - (b) the *Petroleum Pipelines Act 1969*; or
 - (c) the *Petroleum (Submerged Lands) Act 1982*.
- (2) The Mining and Petroleum Advisory Committee has the following functions in relation to the petroleum industry —
 - (a) advising the Minister on matters that relate to work health and safety issues relating to the petroleum industry, including by —
 - (i) making recommendations in relation to those issues; and

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- (ii) advising on the adoption of codes of practice referred to in section 274 of the Act, or other guidelines, policies or other documents in relation to work health and safety issues relating to the petroleum industry;
- (b) inquiring into, and reporting to the Minister on, a matter relating to the petroleum industry that is referred to it by the Minister;
- (c) advising on education, training and publications in relation to work health and safety issues relating to the petroleum industry.

Note for this regulation:

The *Work Health and Safety (Mines) Regulations 2022* regulation 698O confers additional functions on the Mining and Petroleum Advisory Committee in relation to the mining industry.

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Division 1 Preliminary

r. 174

Part 6 — Transitional provisions

Division 1 — Preliminary

174. Terms used

In this Part —

commencement day means the day on which the *Work Health and Safety Act 2020* Part 15 comes into operation;

Diving Safety Regulations means the *Petroleum (Submerged Lands) (Diving Safety) Regulations 2007*;

Offshore Safety Regulations means the *Petroleum (Submerged Lands) (Management of Safety on Offshore Facilities) Regulations 2007*;

PGERA Regulations means the *Petroleum and Geothermal Energy Resources (Management of Safety) Regulations 2010*;

Pipelines Regulations means the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007*;

PPA Regulations means the *Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010*.

Division 2 — Safety documents in force before commencement day

175. Safety cases in force before commencement day

- (1) A safety case that was, immediately before commencement day, in force for a facility under the Offshore Safety Regulations is taken, on and after commencement day, to be —
 - (a) a safety case in force under these regulations for the operation associated with the facility; and

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- (b) accepted by the regulator —
 - (i) under regulation 55(1) of these regulations on the day on which the safety case was accepted by the Minister under the Offshore Safety Regulations regulation 37; or
 - (ii) if the safety case has been revised — under regulation 62(1) of these regulations on the day on which the last revision of the safety case was accepted by the Minister under the Offshore Safety Regulations regulation 44;and
 - (c) in force on the same terms that applied immediately before commencement day.
- (2) A safety case that was, immediately before commencement day, in force for a pipeline operation under the PPA Regulations is taken, on and after commencement day, to be —
- (a) a safety case in force under these regulations for the operation; and
 - (b) accepted by the regulator —
 - (i) under regulation 55(1) of these regulations on the day on which the safety case was accepted by the Minister under the PPA Regulations regulation 29(1); or
 - (ii) if the safety case has been revised — under regulation 62(1) of these regulations on the day on which the last revision of the safety case was accepted by the Minister under the PPA Regulations regulation 36(1);and
 - (c) in force on the same terms that applied immediately before commencement day.

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Division 2 Safety documents in force before commencement day

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176. Safety management systems in force before commencement day

- (1) In this regulation —
drilling operation has the meaning given in the PGERA Regulations regulation 21(1).
- (2) A safety management system that was, immediately before commencement day, in force for an operation under the PGERA Regulations is taken, on and after commencement day, to be —
 - (a) a safety case in force under these regulations for the operation; and
 - (b) accepted by the regulator —
 - (i) under regulation 55(1) of these regulations on the day on which the safety management system was accepted by the Minister under the PGERA Regulations regulation 29; or
 - (ii) if the safety management system has been revised — under regulation 62(1) of these regulations on the day on which the last revision of the safety management system was accepted by the Minister under the PGERA Regulations regulation 36;and
 - (c) in force on the same terms that applied immediately before commencement day.
- (3) Subregulation (2) ceases to apply to a safety management system that was, immediately before commencement day, in force for a drilling operation under the PGERA Regulations on the earlier of the following —
 - (a) the regulator accepts under regulation 55(1) a safety case submitted by the operator of a facility associated with the operation;

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- (b) the end of the period of 6 months beginning on commencement day.

177. Pipeline management plans in force before commencement day

- (1) A pipeline management plan that was, immediately before commencement day, in force for an operation under the Pipelines Regulations is taken, on and after commencement day, to be —

- (a) to the extent it affects the matters mentioned in the Pipelines Regulations regulation 29 — a safety case in force under these regulations for the operation; and
- (b) accepted by the regulator —
 - (i) under regulation 55(1) of these regulations on the day on which the pipeline management plan was accepted by the Minister under the Pipelines Regulations regulation 25; or
 - (ii) if the pipeline management plan has been revised — under regulation 62(1) of these regulations on the day on which the last revision of the pipeline management plan was accepted by the Minister under the Pipelines Regulations regulation 38;

and

- (c) in force on the same terms that applied immediately before commencement day.

178. Diving safety management systems in force before commencement day

A DSMS that was, immediately before commencement day, in force under the Diving Safety Regulations is taken, on and after commencement day, to be —

- (a) a DSMS in force under these regulations; and

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- (b) accepted by the regulator —
 - (i) under regulation 73(2) of these regulations on the day on which the DSMS was accepted by the Minister under the Diving Safety Regulations regulation 8(3); or
 - (ii) if the DSMS has been revised — under regulation 74(2) of these regulations on the day on which the last revision of the DSMS was accepted by the Minister under the Diving Safety Regulations regulation 9(2);and
- (c) in force on the same terms that applied immediately before commencement day.

179. Diving project plans in force before commencement day

A diving project plan that was, immediately before commencement day, in force for a diving project under the Diving Safety Regulations is taken, on and after commencement day, to be —

- (a) a diving project plan in force under these regulations for the diving project; and
- (b) if there was an operator in relation to the diving project — approved by the operator under regulation 84(2) of these regulations on the day on which the diving project plan was approved by the operator under the Diving Safety Regulations regulation 17(2); and
- (c) if there was no operator in relation to the diving project — accepted by the regulator under regulation 85(2) of these regulations on the day on which the diving project plan was accepted by the Minister under the Diving Safety Regulations regulation 18(2); and

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- (d) in force on the same terms that applied immediately before commencement day.

Division 3 — Safety documents submitted or given before commencement day

180. Safety cases submitted before commencement day

- (1) In this regulation —

submitted safety case means a safety case or revised safety case —

- (a) for a facility submitted before commencement day to the Minister for acceptance under the Offshore Safety Regulations regulation 35(1), 40(1), 41(3) or 42(1); or
- (b) for a pipeline operation submitted before commencement day to the Minister for acceptance under the PPA Regulations regulation 27(1), 32(1), 33(3) or 34(1).
- (2) A submitted safety case that was not determined before commencement day is taken, on and after that day, to be submitted to the regulator —
- (a) under regulation 51(1), 58(1), 59(7) or 60(1) (as applicable) as a safety case or revised safety case for the operation associated with the facility or the pipeline operation (as the case may be); and
- (b) on the day on which it was submitted under the Offshore Safety Regulations or the PPA Regulations.
- (3) The regulator must give the operator of the facility or the pipeline (as the case may be) a reasonable opportunity to change and resubmit the safety case.

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Division 3 Safety documents submitted or given before commencement day

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181. Safety management systems submitted before commencement day

- (1) In this regulation —
submitted safety management system means a safety management system or revised safety management system for an operation submitted before commencement day to the Minister for acceptance under the PGERA Regulations regulation 27(1), 32(1), 33(3) or 34(1).
- (2) A submitted safety management system that was not determined before commencement day is taken, on and after that day, to be submitted to the regulator —
- (a) under regulation 51(1), 58(1), 59(7) or 60(1) (as applicable) as a safety case or revised safety case for the operation; and
 - (b) on the day on which it was submitted under the PGERA Regulations.
- (3) The regulator must give the operator a reasonable opportunity to change and resubmit the safety management system.

182. Pipeline management plans submitted before commencement day

- (1) In this regulation —
submitted pipeline management plan means a pipeline management plan or revised pipeline management plan for a pipeline submitted before commencement day to the Minister for acceptance under the Pipelines Regulations regulation 22(1), 33(1), 34(1) or 35(1).

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- (2) If a submitted pipeline management plan was not determined before commencement day, the contents of the submitted pipeline management plan that include information about or provide for the matters mentioned in the Pipelines Regulations regulations 27 and 29 are taken, on and after commencement day, to be submitted to the regulator —
- (a) under regulation 51(1), 58(1), 59(7) or 60(1) (as applicable) as a safety case or revised safety case for the operation associated with the pipeline; and
 - (b) on the day on which it was submitted under the Pipelines Regulations.
- (3) The regulator must give the operator of the pipeline a reasonable opportunity to change and resubmit the pipeline management plan.

183. DSMS given before commencement day

- (1) In this regulation —
given DSMS means a DSMS or revised DSMS given before commencement day to the Minister for acceptance under the Diving Safety Regulations regulation 8(1) or 9(1).
- (2) A given DSMS that was not determined before commencement day is taken, on and after that day, to be given to the regulator —
- (a) under regulation 73(1) or 74(1) as a DSMS or revised DSMS; and
 - (b) on the day on which it was given under the Diving Safety Regulations.
- (3) The regulator must give the diving contractor a reasonable opportunity to change and resubmit the DSMS.

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Division 3 Safety documents submitted or given before commencement day

r. 184

184. Diving project plans prepared or given before commencement day

- (1) Subregulation (2) applies if there is an operator in relation to a diving project.
- (2) If a diving project plan for a diving project was prepared in consultation with and for the approval of the operator under the Diving Safety Regulations regulation 17(1) before commencement day, but the matter had not been determined before that day, then the diving project plan for the project is taken, on and after commencement day, to be prepared in consultation with and for the approval of the operator under regulation 84(1) of these regulations.
- (3) Subregulation (4) applies if there is no operator in relation to a diving project.
- (4) If a copy of a diving project plan for a diving project was given to the Minister for acceptance under the Diving Safety Regulations regulation 18(1) before commencement day, but the matter had not been determined before that day, then the copy of the diving project plan for the project is taken, on and after commencement day, to be given to the regulator —
 - (a) under regulation 85(1) of these regulations as a copy of the diving project plan for the project; and
 - (b) on the day on which it was given under the Diving Safety Regulations.
- (5) The regulator must give the diving contractor a reasonable opportunity to change and resubmit the diving project plan.

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Transitional provisions **Part 6**
Persons engaging in operations before commencement day **Division 4**
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**Division 4 — Persons engaging in operations before
commencement day**

185. Persons engaging in operations before commencement day

(1) In this regulation —

person engaging in operations means any of the following —

- (a) an operator as defined in the Offshore Safety Regulations regulation 3;
- (b) an operator as defined in the Pipelines Regulations regulation 3(1);
- (c) a person lawfully engaging in an operation as defined in the PGERA Regulations regulation 3;
- (d) a person lawfully engaging in a pipeline operation as defined in the PPA Regulations regulation 4;

transitional period means the period of 3 months beginning on commencement day.

(2) A person engaging in operations associated with a facility immediately before commencement day is taken, on and after commencement day, to be the operator of the facility under these regulations until —

- (a) the end of the transitional period; or
- (b) if, during the transitional period, the person engaging in operations is nominated to be the operator of the facility under regulation 21(2) —
 - (i) the regulator accepts the nomination of the person under regulation 22(3); or
 - (ii) the regulator rejects the nomination of the person under regulation 22(2).

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Schedule 1 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

Schedule 1 — Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

[r. 144 to 149]

Note for this Schedule:

The prohibition of the use of carcinogens listed in Table 10.1 column 2 and the restriction of the use of carcinogens listed in Table 10.2 column 2 apply to the pure substance and where the substance is present in a mixture at a concentration greater than 0.1%, unless otherwise specified.

Table 10.1 — Prohibited carcinogens

Column 1 Item	Column 2 Prohibited carcinogen [CAS number]
1.	2-Acetylaminofluorene [53-96-3]
2.	Aflatoxins
3.	4-Aminodiphenyl [92-67-1]
4.	Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])
5.	bis(Chloromethyl) ether [542-88-1]
6.	Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(chloromethyl) ether)
7.	4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)
8.	2-Naphthylamine [91-59-8] and its salts
9.	4-Nitrodiphenyl [92-93-3]

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Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals **Schedule 1**

Table 10.2 — Restricted carcinogens

Column 1 Item	Column 2 Restricted carcinogen [CAS Number]	Column 3 Restricted use
1.	Acrylonitrile [107-13-1]	All
2.	Benzene [71-43-2]	All uses involving benzene as a feedstock containing more than 50% of benzene by volume Genuine research or analysis
3.	Cyclophosphamide [50-18-0]	When used in preparation for therapeutic use in hospitals and oncological treatment facilities, and in manufacturing operations Genuine research or analysis
4.	3,3'-Dichlorobenzidine [91-94-1] and its salts (including 3,3'-Dichlorobenzidine dihydrochloride [612-83-9])	All
5.	Diethyl sulfate [64-67-5]	All
6.	Dimethyl sulfate [77-78-1]	All
7.	Ethylene dibromide [106-93-4]	When used as a fumigant Genuine research or analysis
8.	4,4'-Methylene bis(2-chloroaniline) [101-14-4] MOCA	All

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Schedule 1 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

Column 1 Item	Column 2 Restricted carcinogen [CAS Number]	Column 3 Restricted use
9.	3-Propiolactone [57-57-8] (Beta-propiolactone)	All
10.	o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]	All
11.	Vinyl chloride monomer [75-01-4]	All

Table 10.3 — Restricted hazardous chemicals

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
1.	Antimony and its compounds	For abrasive blasting at a concentration of greater than 0.1% as antimony
2.	Arsenic and its compounds	For abrasive blasting at a concentration of greater than 0.1% as arsenic For spray painting
3.	Benzene (benzol), if the substance contains more than 1% by volume	For spray painting
4.	Beryllium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as beryllium

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Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals **Schedule 1**

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
5.	Cadmium and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cadmium
6.	Carbon disulphide (carbon bisulphide)	For spray painting
7.	Chromate	For wet abrasive blasting
8.	Chromium and its compounds	For abrasive blasting at a concentration of greater than 0.5% (except as specified for wet blasting) as chromium
9.	Cobalt and its compounds	For abrasive blasting at a concentration of greater than 0.1% as cobalt
10.	Free silica (crystalline silicon dioxide)	For abrasive blasting at a concentration of greater than 1%
11.	Lead and compounds	For abrasive blasting at a concentration of greater than 0.1% as lead or which would expose the operator to levels in excess of those set in the regulations covering lead
12.	Lead carbonate	For spray painting
13.	Methanol (methyl alcohol), if the substance contains more than 1% by volume	For spray painting

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Schedule 1 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

Column 1 Item	Column 2 Restricted hazardous chemical	Column 3 Restricted use
14.	Nickel and its compounds	For abrasive blasting at a concentration of greater than 0.1% as nickel
15.	Nitrates	For wet abrasive blasting
16.	Nitrites	For wet abrasive blasting
17.	Radioactive substance of any kind where the level of radiation exceeds 1 Bq/g	For abrasive blasting, so far as is reasonably practicable
18.	Tetrachloroethane	For spray painting
19.	Tetrachloromethane (carbon tetrachloride)	For spray painting
20.	Tin and its compounds	For abrasive blasting at a concentration of greater than 0.1% as tin
21.	Tributyl tin	For spray painting

Note for this Table:

Regulation 147(2) deals with polychlorinated biphenyls (PCBs).

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Classification of mixtures **Schedule 2**

cl. 1

Schedule 2 — Classification of mixtures

[r. 4]

1. Purpose of Schedule

The Tables in this Schedule replace some of the tables in the GHS.

Note for this clause:

See the definition of **GHS** in regulation 4.

Table 6.1 Classification of mixtures containing respiratory or skin sensitisers

Cut-off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Skin sensitiser Category 1	Respiratory sensitiser Category 1	
		All physical states	Solid/liquid	Gas
1.	Skin sensitiser Category 1	≥ 1.0%		
2.	Skin sensitiser Sub-category 1A	≥ 0.1%		
3.	Skin sensitiser Sub-category 1B	≥ 1.0%		

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Schedule 2 Classification of mixtures

cl. 1

Item	Ingredient classification	Mixture classification		
		Skin sensitiser Category 1	Respiratory sensitiser Category 1	
		All physical states	Solid/liquid	Gas
4.	Respiratory sensitiser Category 1		≥ 1.0%	≥ 0.2%
5.	Respiratory sensitiser Sub-category 1A		≥ 0.1%	≥ 0.1%
6.	Respiratory sensitiser Sub-category 1B		≥ 1.0%	≥ 0.2%

Note for this Table:

Table 6.1 replaces Table 3.4.5 in the GHS, p. 159.

Table 6.2 Classification of mixtures containing carcinogens

Cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1 carcinogen	Category 2 carcinogen
1.	Category 1 carcinogen	≥ 0.1%	

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Classification of mixtures **Schedule 2**

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Item	Ingredient classification	Mixture classification	
		Category 1 carcinogen	Category 2 carcinogen
2.	Category 2 carcinogen		≥ 1.0%

Notes for this Table:

1. The concentration limits in Table 6.2 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.2 replaces Table 3.6.1 in the GHS, p. 174.

Table 6.3 Classification of mixtures containing reproductive toxicants

Cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification		
		Category 1 reproductive toxicant	Category 2 reproductive toxicant	Additional category for effects on or via lactation
1.	Category 1 reproductive toxicant	≥ 0.3%		
2.	Category 2 reproductive toxicant		≥ 3.0%	

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Schedule 2 Classification of mixtures

cl. 1

Item	Ingredient classification	Mixture classification		
		Category 1 reproductive toxicant	Category 2 reproductive toxicant	Additional category for effects on or via lactation
3.	Additional category for effects on or via lactation			≥ 0.3%

Notes for this Table:

1. The concentration limits in Table 6.3 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.3 replaces Table 3.7.1 in the GHS, p. 187.

Table 6.4 Classification of mixtures containing specific target organ toxicants (single exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	Category 2
1.	Category 1 specific target organ toxicant	Concentration ≥ 10%	1.0% ≤ concentration < 10%

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Classification of mixtures **Schedule 2**

cl. 1

Item	Ingredient classification	Mixture classification	
		Category 1	Category 2
2.	Category 2 specific target organ toxicant		Concentration \geq 10%

Notes for this Table:

1. The concentration limits in Table 6.4 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.4 replaces Table 3.8.2 in the GHS, p. 197.

Table 6.5 Classification of mixtures containing specific target organ toxicants (repeated exposure)

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

Item	Ingredient classification	Mixture classification	
		Category 1	Category 2
1.	Category 1 specific target organ toxicant	Concentration \geq 10%	1.0% \leq concentration < 10%
2.	Category 2 specific target organ toxicant		Concentration \geq 10%

Notes for this Table:

1. The concentration limits in Table 6.5 apply to solids and liquids (w/w units) and gases (v/v units).
2. Table 6.5 replaces Table 3.9.3 in the GHS, p. 207.

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Schedule 3 Quantities of dangerous goods

Schedule 3 — Quantities of dangerous goods

[r. 126, 134, 136, Sch. 4 cl. 1]

1. For the purposes of the Table below, the placarding quantity or manifest quantity is equal to the total of the quantities determined in accordance with regulation 132.
2. In the Table below —

kg or L means, where this combination of letters immediately follows numbers, the combined total, determined in accordance with regulation 132, of —

 - (a) the number of kilograms of non-liquid dangerous goods; and
 - (b) the number of litres of liquid dangerous goods; and
 - (c) the capacity of containers of Class 2 dangerous goods.

Table

Item	Description of dangerous goods	Packing group	Placarding quantity	Manifest quantity
1.	Division 2.1 except aerosols	N/A	500 L	5 000 L
2.	Division 2.2 except aerosols	N/A	1 000 L	10 000 L
3.	Division 2.3	N/A	50 L	500 L
4.	Division 2.1 and 2.2 aerosols	N/A	5 000 L	10 000 L
5.	Any one of Class 3, Division 4.1, 4.2 or 4.3, Division 5.1 or 5.2, Division 6.1, Class 8 or Class 9, or any combination of those classes or divisions	I	50 kg or L	500 kg or L
		II and III (aggregate)	1 000 kg or L	10 000 kg or L
		I, II and III (aggregate) where quantity of goods in packing group I does not exceed 50 kg or L	1 000 kg or L	10 000 kg or L
6.	Goods too dangerous to transport	N/A	5 kg or L	50 kg or L

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Quantities of dangerous goods **Schedule 3**

Item	Description of dangerous goods	Packing group	Placarding quantity	Manifest quantity
7.	Combustible liquids with fire risk dangerous goods	N/A	1 000 L	10 000 L
8.	Other combustible liquids	N/A	10 000 L	100 000 L

Note for this Schedule:

For the purposes of item 5 in the Table —

- (a) all Type B Division 4.1 Self Reactive Substances that do not have a packing group assigned to them are taken to be assigned to packing group I;
- (b) all Types C to F Division 4.1 Self Reactive Substances that do not have a packing group assigned to them are taken to be assigned to packing group II;
- (c) all Type B Division 5.2 Organic Peroxides that do not have a packing group assigned to them are taken to be assigned to packing group I;
- (d) all Types C to F Division 5.2 Organic Peroxides that do not have a packing group assigned to them are taken to be assigned to packing group II;
- (e) Class 9 dangerous goods that do not have a packing group assigned to them are taken to be assigned to packing group III;
- (f) all other articles and things that do not have a packing group assigned to them are taken to be assigned to packing group II.

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Schedule 4 Manifest and dangerous goods site plan

Division 1 General

cl. 1

Schedule 4 — Manifest and dangerous goods site plan

[r. 141]

Division 1 — General

1. Meaning of storage location

In this Schedule —

storage location means any place or area on a dangerous goods site where dangerous goods of a particular type are kept either in bulk or in a quantity exceeding that specified in the column headed “Placarding quantity” in the Table to Schedule 3.

Division 2 — Manifest

2. General information in manifest

The manifest must contain —

- (a) the name of the operator of the dangerous goods site; and
- (b) the address of the dangerous goods site; and
- (c) the date when the manifest was prepared or last revised.

3. Emergency contacts in manifest

The manifest must contain contact information for at least 2 persons (or for 1 person if that person is available at all times) who may be contacted in the event of an emergency for information as to the nature and quantity of dangerous goods likely to be at the dangerous goods site.

4. Information in manifest about dangerous goods at site

The manifest must contain a summary list that specifies the maximum quantity that the dangerous goods site may store or handle of —

- (a) each packing group of each class or division of dangerous goods that has packing groups; and
- (b) each class or division of dangerous goods that does not have packing groups; and
- (c) combustible liquids; and

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Manifest **Division 2**
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(d) each type of goods too dangerous to be transported.

5. Information in manifest about bulk dangerous goods not in IBCs and certain other dangerous goods

(1) In relation to each container (other than an IBC) and each other form of storage of dangerous goods in bulk at the site, the manifest must contain —

- (a) any identification number or code of the container or storage area; and
- (b) the type of container or manner of storage; and
- (c) the quantity or mass of the dangerous goods being stored in the container or other form of storage.

(2) In relation to dangerous goods that are —

- (a) dangerous goods other than combustible liquids or goods too dangerous to be transported — the manifest must contain the proper shipping name, the UN Number and the class or division of the dangerous goods; and
- (b) combustible liquids — the manifest must contain the product name and the words “combustible liquid”; and
- (c) goods too dangerous to be transported — the manifest must contain the name of the goods specified in the ADG Code Appendix A and the statement “Goods too dangerous to be transported”; and
- (d) packing group I — the manifest must contain the packing group.

6. Information in manifest about packaged dangerous goods or dangerous goods in IBCs

In relation to each storage location that contains packaged dangerous goods or dangerous goods in IBCs, and that is required to be placarded in accordance with Part 5 Division 5 Subdivision 2, the manifest must contain —

- (a) the identification number or code for the storage location; and

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Schedule 4 Manifest and dangerous goods site plan

Division 2 Manifest

cl. 6

- (b) for dangerous goods of packing group I or Division 2.3 that are likely to be kept in the storage location —
 - (i) the proper shipping name of the dangerous goods that are assigned to a class; and
 - (ii) the class or division and packing group; and
 - (iii) the current aggregate quantity or maximum quantity of each of the dangerous goods that may be stored or handled in the storage location;and
- (c) for goods too dangerous to be transported that are likely to be kept in the storage location —
 - (i) the name of the dangerous goods specified in the ADG Code Appendix A; and
 - (ii) the statement “Goods too dangerous to be transported”; and
 - (iii) the current aggregate quantity or maximum quantity of each of the dangerous goods that may be stored or handled in the storage location;and
- (d) for other dangerous goods that are likely to be kept in the storage location —
 - (i) for dangerous goods with an assigned class or division — the class or division for the dangerous goods; and
 - (ii) for combustible liquids — the words “combustible liquid”; and
 - (iii) in any case, the current aggregate quantity or maximum quantity of each class or division of dangerous goods, and of combustible liquids, that may be stored or handled in the storage location.

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Manifest and dangerous goods site plan **Schedule 4**
Dangerous goods site plan **Division 3**
cl. 7

7. Information in manifest about dangerous goods in manufacture or process

In relation to each storage location where dangerous goods are manufactured or processed, the manifest must contain —

- (a) the identification number or code of the manufacturing or processing location; and
- (b) for dangerous goods with an assigned class or division — the class or division of each type of dangerous goods and the maximum quantity of each class or division that can be handled in the location; and
- (c) for goods too dangerous to be transported — the statement “Goods too dangerous to be transported” and the maximum quantity of those goods that can be handled in the location; and
- (d) for combustible liquids — the statement “combustible liquid” and the maximum quantity of combustible liquids that can be handled in the location.

8. Information about dangerous goods in transit

If, in relation to dangerous goods in transit there are dangerous goods transport documents that comply with the ADG Code available for the goods, the information required by clauses 4, 5 and 6 may be provided in the form of a compilation of those transport documents.

Division 3 — Dangerous goods site plan

9. General information in plan

The dangerous goods site plan must contain —

- (a) the name of the operator of the dangerous goods site; and
- (b) the address of the dangerous goods site; and
- (c) the date when the dangerous goods site plan was prepared or last revised; and
- (d) the scale to which the plan is drawn.

10. Other information in plan

The plan of the dangerous goods site must —

- (a) be accurate; and

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Division 3 Dangerous goods site plan

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- (b) show the site's boundaries; and
- (c) show any buildings on the site together with a textual description; and
- (d) show the location of —
 - (i) the containers and other forms of storage of dangerous goods in bulk referred to in clause 5; and
 - (ii) the storage locations for packaged dangerous goods and dangerous goods in IBCs referred to in clause 6; and
 - (iii) the storage locations where dangerous goods are manufactured or processed referred to in clause 7;and
- (e) include a description in words of the location of —
 - (i) the items referred to in paragraph (d); and
 - (ii) areas where dangerous goods in transit may be located;and
- (f) provide the identification number or code for the items referred to in paragraph (e); and
- (g) provide a legend for the identification numbers and codes referred to in paragraph (f); and
- (h) show the location of —
 - (i) the main entrance and the other points of entry to the site; and
 - (ii) essential site services, including fire services and isolation points for fuel, gas, water and power; and
 - (iii) the manifest; and
 - (iv) all drains on the site;and
- (i) describe the nature of the occupancy of adjoining sites or site; and
- (j) show the direction of north.

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cl. 1

Schedule 5 — Placarding requirements

[r. 134, 135 and 136]

1. Figures referred to in Sch. 5

In this Schedule a reference to a figure followed by a number is a reference to a figure with that number in this clause.

Notes for this clause:

1. For the purposes of Figure 2 the numerals and letters used for showing the proper shipping name or name of the goods, UN Number and Hazchem Code must be —
 - (a) black on a white background, except where a letter of the Hazchem Code is white on a black background; and
 - (b) at least 100 mm high, except where the proper shipping name requires 2 lines to be used, in which case the lettering must be at least 50 mm high.
2. For the purposes of Figure 3 the placard shown in Figure 3 must have sides at least 100 mm long.
3. For the purposes of Figure 4 the label shown in Figure 4 must have sides at least 100 mm long.

Figure 1 — Form and dimensions of an outer warning placard



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Figure 2 — Template for a placard for dangerous goods (other than combustibles liquids) in bulk

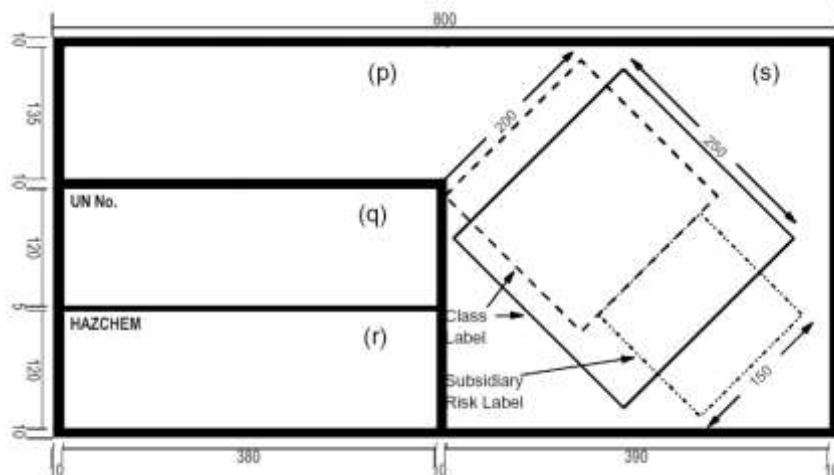
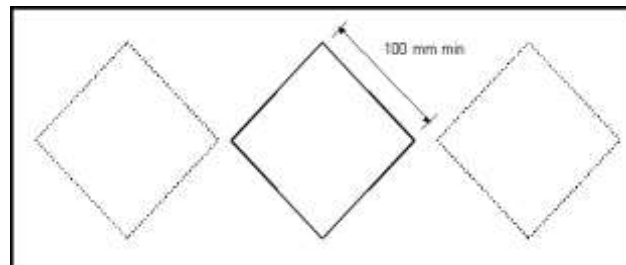


Figure 3 — Form and dimensions of a placard for storage of packaged dangerous goods



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Figure 4 — Form of a label for mixed classes or divisions

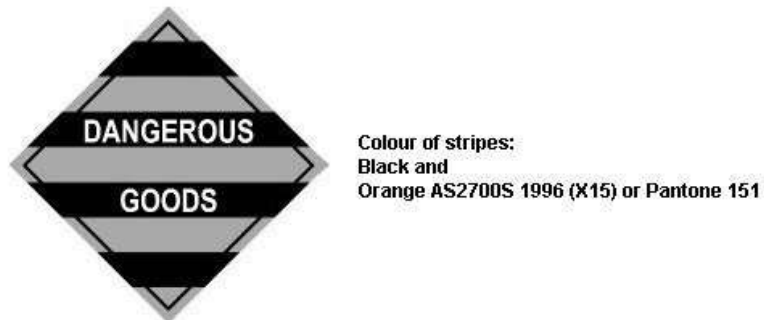


Figure 5 — Form of a label for goods too dangerous to be transported

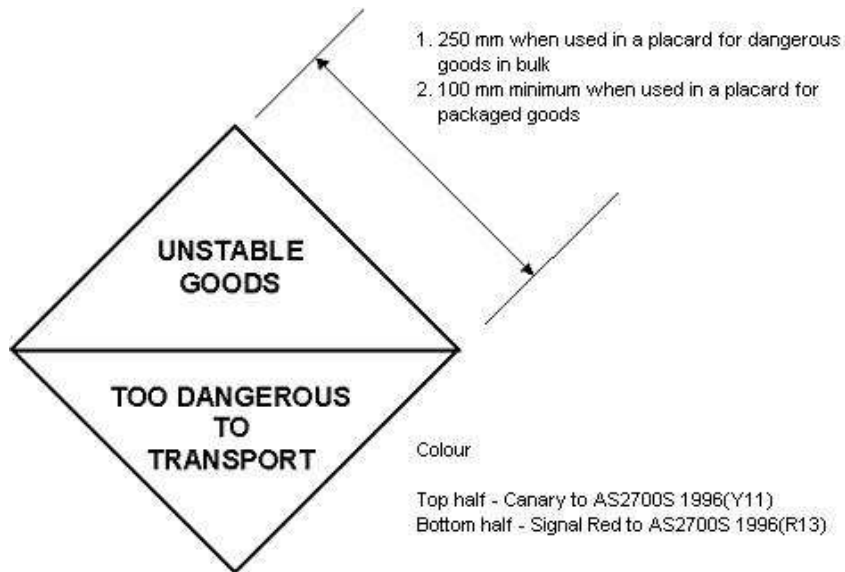


Figure 6 — Placard for combustible liquids



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2. Outer warning placard (r. 134)

- (1) The placard must have —
 - (a) the form shown in Figure 1; and
 - (b) dimensions not less than those shown in Figure 1.
- (2) The placard must display the word “HAZCHEM” in red letters not less than 100 mm high and of the style shown in Figure 1, on a white or silver background.
- (3) In subclause (2) —

red means the colour Signal Red in accordance with AS 2700S:1996 (R13).

3. Placard for dangerous goods in bulk that are not goods too dangerous to transport or combustible liquids (r. 135)

- (1) The placard must have —
 - (a) the form shown in Figure 2; and
 - (b) dimensions not less than those shown in Figure 2.
- (2) The placard must contain the following information —
 - (a) in space (p) in Figure 2, the proper shipping name;
 - (b) in space (q) in Figure 2, the UN Number;
 - (c) in space (r) in Figure 2, the Hazchem Code for the dangerous goods specified in the ADG Code Appendix C;
 - (d) in space (s) in Figure 2, the class or division label and subsidiary hazard label, if any.
- (3) For the purposes of subclause (2)(d) —
 - (a) the class or division label and the subsidiary hazard label, if any, must have the form and colouring specified in the ADG Code; and
 - (b) if there is more than 1 subsidiary hazard label, the width of the right hand portion of the placard may be extended.

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4. Placard for dangerous goods in bulk that are goods too dangerous to transport (r. 135)

- (1) The placard must have —
 - (a) the form shown in Figure 2; and
 - (b) dimensions not less than those shown in Figure 2.
- (2) The placard must comply with the following —
 - (a) space (p) in Figure 2 must contain the name for the goods specified in the ADG Code Appendix A;
 - (b) space (q) in Figure 2 must be left blank;
 - (c) space (r) in Figure 2 must be left blank;
 - (d) space (s) in Figure 2 must contain the label specified in Figure 5.

5. Placard for packaged dangerous goods (r. 136)

- (1) The placard must have the form shown in Figure 3 and be of sufficient size to accommodate the labels to be displayed on it.
 - (2) The placard must have a white or silver background.
 - (3) The placard must display —
 - (a) for dangerous goods present in the storage area, other than goods too dangerous to be transported —
 - (i) the corresponding class or division label for each class or division of dangerous goods present in a quantity that exceeds the quantity specified in the column headed “Placarding quantity” in the Table to Schedule 3; and
 - (ii) if the total quantity of any combination of the classes or divisions of dangerous goods specified in item 5 of the Table to Schedule 3 exceeds the placarding quantity — a class or division label for each class or division of dangerous goods, or the label specified in Figure 4; and
 - (iii) if the goods are combustible liquids in a total quantity of more than 1 000 L and they are stored with fire risk dangerous goods — a class label for Class 3;
- and

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(b) for goods too dangerous to be transported present in the storage area, the label specified in Figure 5.

(4) In subclause (3) —

class label means a label of a type specified in the ADG Code for the class of dangerous goods.

6. Placard for combustible liquids (in bulk or in containers) (r. 135 and 136)

A placard for combustible liquids in bulk or in containers must display the words “COMBUSTIBLE LIQUID” as shown in Figure 6, in black letters in the style shown, not less than 100 mm high and on a white or silver background.

V. MOLAN, Clerk of the Executive Council.

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Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

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