

Petroleum (Submerged Lands) (Pipelines) Regulations 2022

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EXPOSURE DRAFT

Petroleum (Submerged Lands) (Pipelines) Regulations 2022

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Petroleum (Submerged Lands) (Pipelines) Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Work Health and Safety Act 2020* Part 15 comes into operation.

3. Application of these regulations

These regulations apply to a pipeline —

- (a) that is subject to a pipeline licence; or
- (b) that —
 - (i) is under construction, or is proposed to be constructed or operated; and
 - (ii) when constructed or operating, will be a pipeline subject to a pipeline licence.

Part 2 — Consent to construct and operate pipelines

Division 1 — Consent to construct

4. Consent to construct pipeline

A person must not, in the adjacent area, engage in an activity relating to the construction of a pipeline unless —

- (a) the Minister has granted a consent to construct the pipeline; and
- (b) the consent provides for the activity.

Penalty: a fine of \$5 500.

5. Application for consent to construct

- (1) An application for a consent to construct a pipeline must be lodged in writing with the Minister.
- (2) An application may relate to all or some of the activities relating to the construction of the pipeline.
- (3) The application must include —
 - (a) the name of the applicant; and
 - (b) an address of the applicant; and
 - (c) an email address for the applicant.
- (4) The application must be accompanied by other relevant information that the Minister may require on reasonable grounds.

6. Deciding application for consent to construct

- (1) Within 28 days after an application for a consent to construct a pipeline is lodged, the Minister must decide whether to grant the consent.
- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision by the Minister to grant or to refuse to grant the consent.

- (3) The Minister may grant a consent to construct in relation to all or some of the activities relating to the construction of the pipeline.
- (4) If the Minister decides to grant the consent, the Minister must, as soon as practicable, give the applicant the consent in writing.
- (5) If the Minister decides not to grant the consent in relation to all or some of the activities relating to the construction of the pipeline, the Minister must, as soon as practicable, give the applicant, in writing —
 - (a) advice that the consent has not been granted for those activities; and
 - (b) a statement of the reasons for the decision.

7. Notice of route followed by pipeline

As soon as practicable after the construction of a pipeline is completed, but in any case within 3 months after a consent to operate is granted for the pipeline, the pipeline licensee must —

- (a) inform the Minister, in writing, of the exact route followed by the pipeline; and
- (b) inform the Australian Hydrographic Office, in writing, of the exact route followed by the pipeline.

Penalty: a fine of \$4 400.

Division 2 — Consent to operate

8. Consent to operate pipeline

A pipeline licensee must not operate a pipeline unless the Minister has granted a consent to operate the pipeline.

Penalty: a fine of \$5 500.

9. Application for consent to operate

- (1) An application for a consent to operate a pipeline must be lodged in writing with the Minister.

- (2) The application must include —
 - (a) the name of the applicant; and
 - (b) an address of the applicant; and
 - (c) an email address for the applicant.
- (3) The application must be accompanied by —
 - (a) information showing that the pipeline licensee is maintaining insurance in compliance with section 97A of the Act; and
 - (b) other relevant information that the Minister may require on reasonable grounds.

10. Deciding application for consent to operate

- (1) Within 7 days after an application for a consent to operate a pipeline is lodged, the Minister must decide whether to grant the consent.
- (2) A failure by the Minister to comply with subregulation (1) in relation to an application does not of itself invalidate a decision by the Minister to grant or to refuse to grant the consent.
- (3) The Minister must grant the consent if there are reasonable grounds for believing that the pipeline licensee is maintaining insurance in accordance with section 97A of the Act.
- (4) If the Minister decides to grant the consent, the Minister must, as soon as practicable, give the applicant the consent in writing.
- (5) If the Minister decides not to grant the consent, the Minister must, as soon as practicable, give the applicant, in writing —
 - (a) advice that the consent has not been granted; and
 - (b) a statement of the reasons for the decision.

Part 3 — Miscellaneous

11. Contact details must be kept up to date

- (1) A pipeline licensee who has applied under regulation 5(1) for a consent to construct a pipeline must ensure that the Minister has at all times the licensee's current address for communications on matters relating to the pipeline.

Penalty for this subregulation: a fine of \$3 300.

- (2) Subregulation (1) does not apply if the pipeline licensee has a reasonable excuse.

12. Minister may decline to consider application in absence of certain information

- (1) The Minister may decline to consider any application made by a pipeline licensee under these regulations until the pipeline licensee complies with regulation 11(1) in respect of an application under regulation 5(1) relating to the pipeline.
- (2) The Minister may decline to consider an application under regulation 5(1) until the pipeline licensee provides the information mentioned in regulation 5(3) and (4) in relation to the application.
- (3) The Minister may decline to consider an application under regulation 9(1) until the pipeline licensee provides the information mentioned in regulation 9(2) and (3) in relation to the application.
- (4) Subregulations (2) and (3) do not apply if the information has been given in accordance with any other provision of the Act or an application under it or any other law.

Part 4 — Transitional provisions for *Work Health and Safety Act 2020*

Division 1 — Preliminary

13. Term used: commencement day

In this Part —

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

Division 2 — Consent to construct pipeline

14. Consent to construct pipeline in force before commencement day

A consent to construct a pipeline that was in force under the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007* regulation 12(1) immediately before commencement day is taken, on and from commencement day, to be —

- (a) a consent to construct the pipeline under regulation 6(1);
and
- (b) in force on the same terms that applied immediately before commencement day.

15. Application for consent to construct lodged before commencement day

If an application for a consent to construct a pipeline was lodged with the Minister under the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007* regulation 11(1) before commencement day but the application had not been decided before that day, the application is taken, on and from commencement day, to have been lodged under regulation 5(1).

Division 3 — Consent to operate pipeline

16. Consent to operate pipeline in force before commencement day

A consent to operate a pipeline that was in force under the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007* regulation 18(1) immediately before commencement day is taken, on and from commencement day, to be —

- (a) a consent to operate the pipeline under regulation 10(1);
and
- (b) in force on the same terms that applied immediately before commencement day.

17. Application for consent to operate lodged before commencement day

If an application for a consent to operate a pipeline was lodged with the Minister under the *Petroleum (Submerged Lands) (Pipelines) Regulations 2007* regulation 17(1) before commencement day but the application had not been decided before that day, the application is taken, on and from commencement day, to have been lodged under regulation 9(1).