



Guideline

Pipeline Regulations

1 Introduction

The focus of the *Petroleum (Submerged Lands) (Pipelines) Regulations 2001* is the provision of a pipeline management plan (PMP) by the pipeline licensee to the Designated Authority (DA). This guideline outlines the basic structure and requirements of the Pipelines Regulations.

2 Scope of this Guideline

There are four general parties involved in activities in relation to the Pipelines Regulations, these are the:

- Designated Authority (DA)
- Safety Authority (NOPSA)
- Pipeline licensee
- Pipeline operator

In some instances the pipeline licensee and registered pipeline operator may be the same organisation.

This guideline provides an overview of the Pipelines Regulations in order to clarify the requirements, roles and responsibilities placed on the licensee, the operator, the DA and NOPSA by the regulations.

This guideline also makes reference to sections of the *Petroleum (Submerged Lands) Act 1967* (PSLA) in identifying parties and requirements.

3 Scope of NOPSA's Involvement

There are a range of requirements placed on the pipeline licensee and operator in the Pipelines Regulations. This includes the requirement to prepare and submit a PMP to the DA. The DA is the primary regulatory authority under the Pipelines Regulations. The DA is responsible for agreeing and accepting validations, the granting of consents to construct and operate and accepting the PMP.

NOPSA, as the Safety Authority, administers matters related to the health and safety of persons at or near the pipeline. In relation to specific requirements of the Pipelines Regulations, this is limited to:

- Acceptance and registration of an operator [Pipelines Reg 6B].
- Acceptance of the pipeline safety management plan (PSMP) [Pipelines Reg 39B].
- Receiving notification and reports of accidents and dangerous occurrences [Pipelines Reg 39N].

In relation to the PSLA more generally, the role of NOPSA and its OHS inspectors extends to inspection, audit and investigation activities.

4 The Component Parts of the Pipelines Regulations

The Pipelines Regulations are divided into the following 5 parts:

- Part 1 establishes the commencement date and objectives of the Regulations, and defines a number of terms and phrases that have specific meaning within the regulations. Amongst these is clarification as to what constitutes a pipeline.

Part 1A sets out the processes for registration of operators for pipeline facilities with NOPSA. A pipeline licence holder may be the nominated operator, however the licensee may nominate another person as operator for the pipeline. NOPSA will register that person as the operator, only if satisfied that the person has, or will have, day to day management and control of the pipeline and its associated activities. There are also provisions for changing the nominated operator.

- Part 2 Divisions 2.1 and 2.2 establish the need for the operator to submit an application for consent to construct and operate the pipeline, the matters to be agreed prior to application, the method of submitting the application, and the decision making process relative to accepting the application. These are matters between the licensee and the DA.

Part 2 Division 2.3 discusses the requirements should an operator wish to modify or decommission a pipeline. These are matters between the licensee and the DA.

- Part 3 establishes the requirements with respect to PMP. The requirements for submission, handling, time limit for review, and arrangements for acceptance are all detailed. This part also details the required content of a PMP and the arrangements for the revision and withdrawal of accepted PMPs. These are matters between the licensee and the DA.

Part 3A defines a pipeline safety management plan (PSMP), and describes the arrangements for acceptance, revision, and withdrawal of acceptance. These are matters between the DA and NOPSA.

- Part 4 describes the requirements and criteria for notification and reporting of accidents and dangerous occurrences to NOPSA and the criteria for notification and reporting of Reportable Incidents to the DA.
- Part 5 discusses miscellaneous requirements between the licensee and the DA, with respect to workers competence, awareness of legislation, involvement in the PMP, notification of contact details, and also the transitional arrangements with respect to existing licensed pipelines and the provision of records from the DA to NOPSA.

5 Operators

Part 1A of the Pipelines Regulations deals with the requirement for the licensee to nominate an operator for a pipeline or proposed pipeline.

A person must not construct, operate, modify or decommission a pipeline in Commonwealth waters if there is not an operator in respect of the pipeline [Pipelines Reg 6E].

Licensees must send a written notice to NOPSA nominating a person to be the operator for a pipeline [Pipelines Reg 6B(1)]. NOPSA must consider the nomination and accept it if it is satisfied that the person has, or will have, the day to day management and control of the pipeline for the relevant the stages in the life of the pipeline, i.e. design and construction, operation, modification and decommissioning [Pipelines Reg 6C(1)].

NOPSA must notify the licensee of its decision with regard to the nomination [Pipelines Reg 6C(4)]. If NOPSA accepts the nomination, it must register the nominee as operator of the pipeline on a register of operators. If NOPSA rejects the nomination, it must provide the licensee with the reasons for rejection.

A pipeline licensee, or the nominated operator of a pipeline, may notify NOPSA in writing that the registered operator has ceased to be the person who has or will have day to day control of the pipeline [Pipeline Reg 6D(2)]. On receipt of this notice NOPSA must remove the operators name from the operator register.

At the same time the pipeline licensee must send to NOPSA written notice nominating the replacement operator. NOPSA will consider the replacement nomination in the same manner as if the nomination was the initial nomination. A letter accepting or rejecting the replacement nomination will be sent to the facility owner or titleholder or licensee as applicable.

The regulations also make provision for NOPSA to remove an operator's name from the register of operators, if it believes on reasonable grounds, that the operator does not or will not have day to day control of the pipeline and the stages in the life of the pipeline. A 30 day period is allowed for appeals to be considered.

Once accepted, the operator has a duty of care to take all reasonably practicable steps to ensure that the facility is safe and without risk to the health of any person at or near the facility, and that all work and other activities carried out on the facility are carried out in a manner that is safe and without risk to the health of any person at or near the facility [PSLA Schedule 7 clause 3].

6 Consents to construct and operate a pipeline

Part 2 of the Pipelines Regulations deals with the consents to construct and operate a pipeline. Consents to construct and operate are a matter between the licensee and the DA.

6.1 Consent to Construct

A person may not carry out activities to construct a pipeline unless the DA has granted consent to construct [Pipelines Reg 7].

The licensee must submit a written application for consent to construct the pipeline to the DA [Pipelines Reg 9(1)].

Prior to submitting the application, the licensee is required to agree with the DA the contents of the PMP for the activities to which the application relates, and also the scope of validation of the proposal [Pipelines Reg 8].

Those parts of the PMP in force that provide for the activities to which the application relates, and a validation of the proposal, are submitted as supporting documents to the application for consent to construct [Pipelines Reg 9(4)].

Note that a '**PMP in force**' means a PMP which has been accepted under the Pipelines Regulations, and therefore is required to have been submitted to the DA and accepted by both the DA and NOPSA in accordance with part 3 of the regulations, prior to the licensee applying for consent to construct.

For a new pipeline, an application for consent to construct can be a phased application [Pipelines Reg 9(2)], and therefore the PMP need only contain that information for the construction activities being applied for. In practical terms, this means that the PMP will evolve as the project progresses through the various construction activities of the pipeline. As each activity in construction is completed, the PMP is updated to capture information for the next construction phase, is submitted to the DA/NOPSA for approval, and a new consent to construct applied for. Alternatively, if the project is mature enough, the licensee may choose to submit to the DA a complete PMP covering all construction activities of the pipeline. It is then up to the DA to consider the submission and issue the consent to construct accordingly.

The scope of validation for the proposal also needs to be agreed with the DA prior to the application for consent to construct being submitted. Similarly, this scope may be introduced in an activity based manner or as a whole, dependant on the maturity of the project.

Upon receipt of the application for consent to construct, the DA has 28 days in which to consider, grant, or not grant, consent to construct a pipeline [Pipelines Reg 10]. The DA may grant consent to construct for all or part of the activities to which the application relates. For example, if the licensee submits a complete PMP covering all construction activities, and the DA feels that the submission does not fully address all aspects of construction, then a partial consent to construct may be issued. The DA is required to state the reasons for the partial consent.

Once consent to construct is granted by the DA, the licensee must ensure that the pipeline construction is performed in accordance with the PMP [Pipelines Reg 11].

Once construction of the pipeline is completed, the licensee must notify the DA and the Australian Hydrographic Office, of the exact route and location of the pipeline [Pipelines Reg 12].

6.2 Consent to Operate

In a similar manner to the consent to construct, a pipeline licensee may not operate a pipeline unless the DA has granted consent to operate [Pipelines Reg 13].

The licensee must submit a written application for consent to operate the pipeline to the DA [Pipelines Reg 15(1)].

Prior to submitting an application for consent to operate, the licensee is required to agree with the DA the contents of the PMP for the activities to which the application relates, and also the scope of validation of the proposal [Pipelines Reg 14].

Those parts of the PMP in force for operation of the pipeline, and validation of the proposal to operate the pipeline, are submitted as supporting documents to the application for consent to operate [Pipelines Reg 15]. The PMP submitted in support of an application for consent to operate should be full and complete, and relate to all aspects of pipeline operation. Commissioning activities are typically included in the Operations PMP.

Unlike the application for consent to construct, there is no provision for the issuance of staged consent to operate.

Upon receipt of the application for consent to operate, the DA has 7 days in which to consider, grant, or not grant, consent to operate a pipeline [Pipelines Reg 16]. The DA is required to state the reasons for not granting consent to operate.

Once consent to operate is granted by the DA, the licensee must ensure that the pipeline operation is performed in accordance with the PMP [Pipelines Reg 17].

The pipeline licensee is required to ensure that the composition of petroleum conveyed through the pipeline and the safe limits for conveying that composition are in accordance with that described within the PMP [Pipelines Reg 18].

6.3 Validation

Scope of validation of a pipeline design and construction, operation, modification and decommissioning is to be agreed between the licensee and the DA, prior to seeking consent to construct and operate a pipeline. A formal 'Scope of Validation' document should be presented to the DA for review, comment and agreement [Pipelines Reg 8, 14]. The Pipelines Regulations do not specify a role for NOPSA in reviewing scopes of validation documentation or validation reports for pipelines.

6.4 Modification or Decommissioning

A licensee may not modify or decommission a pipeline, unless in an emergency or if the PMP in force for the pipeline specifically provides for these activities [Pipelines Reg 19].

If the licensee proposes to modify or decommission the pipeline, the licensee should not submit the revised PMP until the licensee and the DA have agreed on the scope of validation of the proposal [Pipelines Reg 30(2)].

A proposal for modification or decommissioning of a pipeline for which a PMP is in force, may trigger a formal revision of the PMP, if that proposal is not already adequately addressed within the PMP [Pipelines Reg 30(3)(g)].

7 The Pipeline Management Plan

The primary document which allows the DA to make its decision regarding an application for consent to construct or operate is the PMP. As the PMP in force is required to be submitted with an application for consent to construct or operate, the PMP should be submitted to the DA well in advance of making an application for consent to construct or operate, in order to allow consideration of the document. Part 3 of the Regulations deals with the PMP.

For a PMP to be accepted, the licensee must submit the plan to the DA. The PMP may be for one or more of the following stages connected with the life of the pipeline [Pipelines Reg 20].

1. design and construction
2. operation
3. modification
4. decommissioning

The DA must give a copy of the PMP to NOPSA as soon as practicable and within 7 days of receipt [Pipelines Reg 20A].

NOPSA is required to review those parts of the PMP that provide for the health and safety of persons at or near the pipeline [Pipelines Reg 39B]. These parts are accepted to mean the PSMP, a component part of the PMP document.

NOPSA has 21 days in which to consider the PSMP within the PMP and decide to either accept the PSMP in full, refuse to accept the PSMP, accept the PSMP for 1 or more specified stages connected with the life of the pipeline and reject the rest, or provide advice that it is unable to make a decision on the PSMP. NOPSA should provide written notice to the DA of the decision and the reasons for any refusal.

If NOPSA is unable to make a decision on the PSMP, the written notice should include a proposed timetable for further consideration of the PSMP, and a description of any additional information NOPSA may require [Pipelines Reg 39B]. The DA is required to pass the timetable and request to the Licensee [Pipelines Reg 39C].

The licensee should note that any notice or request for further information is from NOPSA to the DA, and then the DA to the licensee, not directly from NOPSA to the licensee.

The DA has 28 days within which to accept, refuse to accept, or provide written notice to the licensee that it is unable to make a decision about the PMP, stating the reasons why it is unable to do so and the proposed timetable for consideration of the plan [Pipelines Reg 21].

The DA must accept the PMP only if the plan is appropriate for the nature and planned use of the pipeline, the PMP contents meet the requirements of the Regulations [Pipelines Regs 24, 25, 26, 27, and 29], the proposed revision complies with Regulation 28 with respect to arrangements for documents, and NOPSA has notified the DA of its acceptance of the PSMP [Pipelines Reg 22(1)].

It is envisaged that pipeline management plans for new pipelines will primarily be submitted to the DA for the “Design and Construction” stage and then for the “Operational” stage in the life of the pipeline. It is not envisaged that a single PMP will be submitted that caters for all stages in the life of a pipeline from design through to decommissioning, however if this is the case, then the regulations do provide for complete or partial acceptance, should the DA or NOPSA believe that all stages are not properly addressed within the PMP or PSMP respectively [Pipelines Reg 22(1A)].

A PMP submitted for the Design and Construction stage in the life of the pipeline, must focus on the licensee's arrangements for managing activities relative to that stage in the life of the pipeline. A PMP for the Design and Construction stage in the life of a pipeline, should not focus on those activities being undertaken onboard construction vessels in order to construct the pipeline, these should be dealt with within the relevant construction vessel Safety Case submitted under the MoSOF Regulations. Similarly, a PMP submitted for the Operations stage in the life of the pipeline, must focus on the licensee's arrangements for managing activities relative to that stage in the life of the pipeline.

It is considered that a PMP submitted for the Operations stage in the life of a pipeline does not constitute a formal revision of the PMP submitted for the design and construction stage in the life of the pipeline.

Licensees should note that the Offshore Petroleum (Safety Levies) Act 2003 (OPSL) imposes a Pipeline Safety Management Plan levy (PSMP levy) on licensees for pipelines in Commonwealth waters (OPSL Clause 9) and, where the mirror PSLA Pipeline Regulations are in place, in designated coastal waters (OPSL Clause 10). The PSMP levy is imposed if, amongst other things, there is a ‘pipeline safety management plan in force in relation to a pipeline’. Major revisions to PMPs are also liable to the levy. NOPSA will invoice the licensee upon acceptance of the PMP, or revised PMP by the DA.

7.1 Contents of a Pipeline Management Plan

The Pipelines Regulations give guidance on what information must be included within the pipeline management plan as follows:

7.1.1 Description of Safety Policy [Pipelines Reg 24]

The PMP must include a statement of the licensee's strategic Health and Safety policy and objectives for the stage in the life of the pipeline to which the PMP applies, i.e. the design and construction, operation, modification and decommissioning stages.

7.1.2 Description of the Pipeline [Pipelines Reg 25]

The PMP must include a detailed description of the pipeline design and construction, the route corridor and met-ocean conditions, interfaces with other facilities and the pipeline start and finish points, method of operation, compositions of petroleum to be conveyed, and the safe operating limits for conveying those compositions through the pipeline.

Licensees should note that in certain instances there may be a degree of misalignment between the scope of the PMP as defined by the Pipeline Regulations, and the scope of a facility that is a pipeline, as defined by the PSLA67 and schedule 7 to the PSLA67.

The **Pipeline Regulations define a pipeline** in Regulation 4:

(a) in Part 3A:

- (i) means a pipeline to which subclause 2A(6) of schedule 7 to the Act applies; and
- (ii) includes a pipeline, that would be a pipeline of that kind, that is

- (A) proposed to be constructed; or
 - (B) proposed to be operated; or
 - (C) being constructed ; and
- (b) in these Regulations, other than Part 3A:
 - (i) means a pipeline licensed under Division 4 of Part III of the act; and
 - (ii) includes a pipeline, that would be a pipeline of that kind, that is:
 - (A) proposed to be constructed; or
 - (B) proposed to be operated; or
 - (C) being constructed.

Pipelines that are facilities

Within schedule 7 to the Petroleum (Submerged Lands) Act 1967, clause 2A(6), pipelines that are facilities are defined as:

- (6) Each of the following is taken to be a facility for the purposes of this Schedule:
- (a) a pipeline licensed under Division 4 of Part III;
 - (b) if a pipeline licensed under Division 4 of Part III conveys petroleum recovered from a well without the petroleum having passed through another facility—that pipeline, together with:
 - (i) that well and associated plant and equipment; and
 - (ii) any pipe or system of pipes through which petroleum is conveyed from that well to that pipeline.

The PSLA 67 defines a pipeline as follows:

pipeline means a pipe or system of pipes in an adjacent area for conveying petroleum, whether the petroleum is petroleum recovered from an adjacent area or not, but does not include a pipe or system of pipes:

- (a) for returning petroleum to a natural reservoir;
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;
- (c) for conveying petroleum that is to be flared or vented; or
- (d) for conveying petroleum from a well, wherever located, to a terminal station in an adjacent area without passing through another terminal station.

A secondary line is further defined as follows:

secondary line means a pipe or system of pipes for any purpose referred to in paragraphs (a), (b), (c) and (d) of the definition of **pipeline**.

The Pipeline, Reg 25 and 26, state that the description of the pipeline and the management system applied to the pipeline should be “Comprehensive”.

NOPSAs considers that a comprehensive description of the pipeline, should be aligned in certain circumstances, with the above definition of facilities that are pipelines in Schedule 7, subclause 2A(6).

An example of this may be a pipeline commencing at a sub-sea development that traverses the seabed either to shore or to another facility. The pipeline licenses issued under the PSLA 67 may only extend from the shoreline or another facility to a pipeline end manifold that falls short of the subsea development, despite the fact that the facility that is the pipeline actually extends to include the flowlines, the wells and associated equipment. Despite this, NOPSA consider that the scope of the PMP, in this instance, should extend to include the subsea development up to the wellhead equipment.

7.1.3 Description of a Pipeline Management System [Pipelines Reg 26]

The PMP must contain a description of the management system that is applied to the pipeline. The PMP must include a comprehensive description or assessment of, or demonstration of the effectiveness of [Pipelines Reg 26]:

- the risk of significant pipeline accident events and other risks to the integrity of the pipeline associated with the design, construction (see note below), modification and decommissioning of the pipeline; and
- measures that have been, or will be, implemented to reduce the risks to levels that are as low as reasonably practicable; and
- the systems used to identify, evaluate and manage the risks and measures; and
- the arrangements for monitoring, auditing and reviewing those systems, including the arrangements for continual and systematic identification of deficiencies of those systems and ways in which the systems could be improved.

A significant pipeline accident event (SPAEE) is defined in regulation 4 as:

“significant pipeline accident event means an event that:

- (a) is connected (whether immediately or after delay) with work carried out on, or in relation to, a pipeline; and
- (b) causes, or creates a significant risk of causing, human death (for example, because of hydrocarbon releases).”

It should be recognised that Regulation 26 requires the Licensee to include in the PMP sufficient information to provide a *“comprehensive description or assessment or demonstration of the effectiveness of”*. It is not sufficient to simply reference supporting documents that may contain this information.

A comparison may be made between the requirements of Regulations 25 and 26, and the requirements for a Safety Case to comprise a Facility Description, a Safety Management System, and a Formal Safety Assessment. Licensees concerned with the level of detail required to be included in the PMP may reasonably use the NOPSA Safety Case guidelines as a basis for how much information should be included.

Licensees should note that the management system applied to the pipeline that is described within the PMP should reflect the arrangements in place to manage that stage in the life of the pipeline. If the pipeline is to be operated by an operator other than the licensee, then the management system described in the PMP should reflect the arrangements put in place by both the licensee and this other organisation. The licensee should note however that it is always the licensee, and not the operator who is responsible for the development and submission of the PMP under the Pipeline Regulations.

Note: Reference to the ‘Operation’ stage is missing from Regulation 26(a). NOPSA believes this to be an error, and the reader should assume that the operation stage is meant to be included in this bullet point, consistent with the wording in Regulations 24, 25, and 27.

7.1.4 Statement of Standards [Pipelines Reg 27]

The relevant standards used for the design, construction, operation, modification and decommissioning of the pipeline must be referenced.

7.1.5 Arrangements for Documents [Pipelines Reg 28]

The PMP must describe the arrangements for the maintenance, secure storage, recording and availability of the PMP and any revisions of the PMP, and any records of reportable incidents. These are required to be stored for a minimum of 5 years.

7.1.6 Arrangements for Reporting [Pipelines Reg 29]

The PMP must describe the arrangements in place for reporting by the licensee to the DA about the design, construction, operation, modification and decommissioning of the pipeline. These reporting intervals must be agreed with the DA and should be not less often than annually.

7.2 Revision of a Pipeline Management Plan (PMP)

7.2.1 Revision by the Licensee

A pipeline licensee must submit a revised PMP to the DA if certain criteria are satisfied [Pipelines Reg 30]. The revision should be submitted as soon as practicable if ::

- (a) there are reasonable grounds for believing that the technical knowledge relied upon to formulate the plan is outdated and accordingly the plan no longer adequately provides for:
 - (i) the matters mentioned in regulations 24, 25, 26, 27 and 29 for the stages connected with the life of the pipeline for which the plan is in force; or
 - (ii) the matters mentioned in regulation 28; or
- (b) developments in systems for identifying and evaluating risks of SPAEs, or risks to the integrity of the pipeline, make it appropriate to revise the plan; or
- (c) a series of proposed modifications to the pipeline would result in a significant cumulative change in the overall level of risk:
 - (i) of SPAEs; or
 - (ii) to the integrity of the pipeline; or
- (d) a proposed modification to the pipeline would:
 - (i) significantly influence the level of a particular risk; or
 - (ii) significantly change the ranking of factors contributing to those risks; or
- (e) significant change of the pipeline management system for identifying, evaluating and managing risks:
 - (i) of SPAEs; or
 - (ii) to the integrity of the pipeline; or
- (f) compositions of petroleum conveyed in the pipeline are different from compositions contemplated in the plan; or
- (g) modification or decommission of the pipeline and that proposal is not satisfactorily addressed in the plan; or
- (h) changes in environmental conditions that affect the design conditions.

7.2.2 Revision due to Modification or Decommissioning

If any of the above criteria are satisfied because the licensee proposes to modify or decommission the pipeline, the licensee should not submit the revised PMP until the licensee and the DA have agreed on the scope of validation of the proposal [Pipelines Reg 30(2)].

It is considered that a PMP submitted for the operations stage in the life of the pipeline, does not constitute a formal revision of the PMP submitted previously for the Design and Construction stage in the life of the pipeline.

A PMP subject to a major revision is liable to a PSMP levy payable under the Offshore Petroleum (Safety Levies) Act 2003 (OPSL).

7.2.3 Revision on request by the DA

The DA may request a licensee, for which a pipeline management plan is in force, to submit to the DA a proposed revision of the PMP [Pipelines Reg 31]. The DA must submit this request in writing and must state the matters to be addressed in the revision, the proposed date of effect of the revision and the grounds for making the request.

There is a mechanism for the licensee to object to this request [Pipelines Reg 31(3)]. The Licensee must state the reasons why the revision should not occur, the reasons for which the revision should be in different terms to those proposed, or the reasons that the revision should take effect on a date after the date proposed by the DA. Such a submission must be made within 21 days of receiving the request to revise from the DA [Pipelines Reg 31(4)].

The DA is then required to respond in writing to the licensee with respect to the above, and must decide whether to accept, not accept or partially accept the reasons stated by the licensee.

If the request is subsequently withdrawn, then no further action is needed, however, if the request is not withdrawn, then the Licensee is required to comply with the request as soon as practicable [Pipelines Reg 31(5), 31(6), 31(7)].

If the licensee makes a submission with respect to a request by the DA to submit a proposed revision of a PMP under regulations 31(1) and 31(3), the DA is required to pass the submission to NOPSA as soon as practicable, but not later than 7 days after receipt [Pipelines Reg 39E].

7.2.4 Revision after 5 years

The pipeline licensee for which a PMP is in force, is required to submit to the DA a proposed revision of the PMP at the end of 5 years from the date the plan was first accepted, or 5 years from the date of the most recent acceptance of a revision of the plan. The 5 year revision must include information for ensuring the ongoing integrity of the pipeline and details of the maximum allowable operating pressure for the pipeline [Pipelines Reg 32].

7.2.5 Time Limit for Acceptance/Non Acceptance of the Proposed Revision

The DA has 28 days within which to accept, refuse to accept or provide written notice to the licensee that it is unable to make a decision about the proposed revision within the 28 day period, setting out a proposed timetable for consideration of the revision [Pipelines Reg 34].

7.2.6 Acceptance of a Proposed Revision of a PMP

The DA must accept the proposed revision of the plan only if the revision is appropriate for the nature and proposed use of the pipeline, the proposed revision meets the requirements of the Regulations [Pipelines Regs 24, 25, 26, 27, and 29], the proposed revision complies with Regulation 28 with respect to arrangements for documents, there is a validation of the proposal in force if the proposed revision relates to a proposal to modify or decommission the pipeline, and NOPSA has notified the DA under regulation 39(B) that it has accepted the revision [Pipelines Reg 35].

If NOPSA has accepted a revision only for one or more stages connected with the life of the pipeline, then the DA must likewise accept the revision only for those stages [Pipelines Reg 35(1A)].

If the DA is not reasonably satisfied that the proposed revision when first submitted, meets the requirements above, then the DA must give the licensee reasonable opportunity to change and re-submit the revision [Pipelines Reg 35(2)].

If the DA is still not reasonably satisfied that the revision meets the requirements above, then the DA must refuse to accept the revision [Pipelines Reg 35(3)].

The DA may accept the revision in part for any stage connected with the life of the pipeline and may impose limitations or conditions applying to the pipeline in respect of any of those stages [Pipelines Reg 35(4)].

The DA must give the licensee written notice of its decision to accept the revision, reject the revision, or to accept the revision in part for a particular stage connected with the life of the pipeline, or subject to the imposition of any conditions or limitations [Pipelines Reg 35(5)]. The written notice must include the decision and the reasons for it, a statement of any limitations or conditions, and, if the pipeline is within an adjacent area of a Territory mentioned in section 7 of the PSLA, include a statement about the right, under section 152 of the PSLA, for reconsideration or review of the decision [Pipelines Reg 35(6)].

If the proposed revision is not accepted, the PMP in force immediately before the proposed revision was submitted, remains in force [Pipelines Reg 36].

7.3 Withdrawal of Acceptance of a Pipeline Management Plan (PMP)

The DA may, by written notice to the licensee, withdraw its acceptance of a PMP in force for a pipeline on any of the following grounds:

- The licensee has not complied with the PSLA or a direction made under the PSLA;
- The licensee has not complied with Regulations 11 and 17 with respect to construction and operation being in accordance with the accepted PMP in force for a pipeline;
- The licensee has not complied with Regulations 30, 31, or 32 with respect to a revision to a pipeline management plan;
- The DA has refused to accept a proposed revision of a PMP.

The DA is required to give the reasons for its decision to withdraw acceptance and if the pipeline is within an adjacent area of a Territory mentioned in section 7 of the PSLA, include a statement about the right, under section 152 of the PSLA for reconsideration or review of the decision [Pipelines Reg 37].

Prior to withdrawing acceptance of a PMP in force for a pipeline, the DA must give the licensee one months written notice, must specify a cut off date on or before which the licensee may submit to the DA in writing any matters for the DA to take into account, and must take into account any action taken by the licensee to address the grounds for withdrawal of acceptance and the above matters that may be submitted by the licensee prior to the cut off date [Pipelines Reg 38].

7.4 Pipeline Safety Management Plan (PSMP)

The DA is required to forward a copy of the PMP, or revised PMP to NOPSA for review. The Safety Authority is required to review those parts of the PMP that provide for the health and safety of persons at or near the pipeline [Pipelines Reg 39B]. These parts are accepted to mean the pipeline safety management plan (PSMP), a component of the PMP document.

PSMP is defined in the Pipelines Regulations as [Pipelines Reg 39A]:

“pipeline safety management plan in force for a pipeline means the components of a pipeline management plan in force for a pipeline that provide for the health and safety of persons at or near the pipeline.”

The PSMP should capture and address those issues that have a direct bearing and influence on the health and safety of people at or near the pipeline. It is up to the proponent to determine what these issues may be for that particular stage in the life of the pipeline.

NOPSA has 21 days in which to consider the PSMP within the PMP and decide to either accept the PSMP in full, refuse to accept the PSMP, accept the PSMP for 1 or more specified stages connected with the life of the pipeline and reject the rest, or provide advice that it is unable to make a decision on the PSMP. NOPSA should provide written notice to the DA of the decision and the reasons for any refusal.

If NOPSA is unable to make a decision on the PSMP, the written notice should include a proposed timetable for further consideration of the PSMP, and a description of any additional information NOPSA may require [Pipelines Reg 39B]. The DA is required to pass the timetable and request to the Licensee [Pipelines Reg 39C].

7.5 Revision of a Pipeline Safety Management Plan (PSMP)

NOPSA may request the DA to request a revision of the PMP if NOPSA believes the PSMP requires revision [Pipeline Reg 31]. NOPSA must make the request to the DA in writing, must detail those matters within the PSMP that it believes warrant revision, state the proposed date of effect of the revision and the grounds for making the request [Pipelines Reg 39D].

If a licensee submits a revision of a PMP due to a change or proposed change in the circumstances or operations, following a request by the DA, or at the end of 5 years, and the DA passes a copy of the PMP to NOPSA, NOPSA has 21 days within which to consider the proposed revision of the PSMP and decide to either accept the proposed revision in full, refuse to accept the proposed revision, accept the proposed revision for one or more specified stages connected with the life of the pipeline and reject the rest, or provide advice that it is unable to make a decision on the proposed revision. NOPSA should provide written notice to the DA of the decision and the reasons for any refusal [Pipelines Reg 39F].

If NOPSA is unable to make a decision on the proposed revision, the written notice should include a proposed timetable for consideration of the proposed revision, and a description of any further information NOPSA may require [Pipelines Reg 39F]. The DA is required to pass the timetable and request to the Licensee [Pipelines Reg 39G].

7.6 Withdrawal of Acceptance of a Pipeline Safety Management Plan (PSMP)

NOPSA, may by written notice to the DA, request the DA to withdraw acceptance of a pipeline management plan in force for a pipeline on any of the following grounds:

- the operator of the pipeline has not complied with:
 - (i) Schedule 7 to the Act; or
 - (ii) a law mentioned in subsection 140H (2) of the Act; or
 - (iii) a law prescribed for that subsection;in relation to the pipeline;
- the pipeline licensee has not complied with regulation 11 or 17 with respect to construction and operation being in accordance with the PSMP;
- the pipeline licensee has not complied with regulation 30, 31 or 32 with respect to a revision of a PSMP;

- NOPSA has refused to accept a proposed revision of the PSMP.

The notice must be in writing and include the grounds for giving the notice [Regulation 39H].

Prior to providing the DA with a written notice requesting the DA to withdraw acceptance of the PMP, NOPSA must give the DA written notice that NOPSA is considering giving the DA a notice under subregulation 39H (1).

The DA must then give written notice to the pipeline licensee that NOPSA is considering withdrawing acceptance of the PSMP, the grounds for the withdrawal, the cut off date on or before which the licensee may submit to the DA in writing any matters for the DA to take into account [Pipelines Reg 39I(3)]. The DA must give a copy of this notice to the operator of the pipeline, if the operator is not the licensee.

If on or before the cut off date, the licensee submits to the DA a matter for NOPSA to take into account, the DA must give a copy of the matter to NOPSA as soon as practicable following receipt [Pipelines Reg 39I(5)].

In deciding whether to give the DA a notice requesting withdrawal of acceptance of a PMP, NOPSA must take into account any action taken by the licensee or operator to address the grounds for withdrawal of acceptance; or to prevent the recurrence of that ground; and the above matters that may be submitted by the licensee prior to the cut off date [Pipelines Reg 39J].

If NOPSA gives the DA notice requesting the DA to withdraw acceptance of the PMP, the DA must withdraw acceptance of the PMP under Regulation 37, and give a copy of the notice withdrawing the PMP to the operator, if the operator is not the pipeline licensee [Pipelines Reg 39J (2)].

7.7 Notifying and Reporting Accidents, Dangerous Occurrences, and Reportable Incidents

Part 4 of the Pipelines Regulations deals with the notification and reporting of accidents, dangerous occurrences and reportable incidents.

Licensees and operators should note that the Pipelines Regulations require initial notification, and then subsequent formal reporting of, on the one hand 'accidents and dangerous occurrences' to NOPSA by the operator, and on the other hand 'reportable incidents' to the DA by the licensee.

7.7.1 Accidents and Dangerous Occurrences

Accidents and dangerous occurrences must be initially notified and then formally reported to NOPSA by the registered operator of the pipeline in accordance with the Act and the regulations [PSLA Schedule 7 Clause 41, Pipelines Regs Part 4]. Initial notification should occur as soon as practicable after the event, while formal reporting should occur within 3 days of the event.

An accident is defined as follows [PSLA Schedule 7, Clause 41(1)]:

- (1) If, at or near a facility, there is:
 - (a) an accident that causes the death of, or serious personal injury to, any person; or
 - (b) an accident that causes a member of the workforce to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or
 - (c) a dangerous occurrence;
- the operator must, in accordance with the regulations, give the Safety Authority notice of, and a report about, the accident or dangerous occurrence.

A dangerous occurrence is defined as an occurrence at a pipeline [Pipelines Reg 39M] that:

- (a) created a substantial risk of an accident; or

- (b) was of another kind that a reasonable operator would consider to require an immediate investigation.

7.7.2 Timing and Content of Reports of Accidents or Dangerous Occurrences to the Safety Authority

Unless otherwise agreed by NOPSA, a written report must be provided within 3 days to the Authority of an accident or dangerous occurrence, or its detection [Pipelines Reg 39N(2)]. NOPSA may make a determination as to what details concerning an accident or dangerous occurrence must be included in the written report [Pipelines Reg 39N(2)(c)]. This determination follows in section 6.7.3. It is recognised that operators may need an extension to the 3 day reporting period in order to comply with items 20 and 21 of the determination in section 6.7.3. This must be formally agreed in writing between the operator and NOPSA.

7.7.3 The Determination

A determination as to the required details has been made by NOPSA and is available on the NOPSA website. The report to be provided must contain material details of the types determined as follows [Pipelines Reg 39N(2)].

7.7.3.1 General

1. The pipeline name, site name or location where the accident or dangerous occurrence occurred.
2. Name and business address of registered operator or other person who controls the work site.
3. Time and date of accident or dangerous occurrence.
4. Names and contact details of any witnesses.
5. Name/position/telephone number of person submitting these details.
6. Brief description of incident.
7. Work/activity being undertaken at time of accident or dangerous occurrence.
8. Action taken to make the work-site safe including details of any disturbance of the work site.
9. Was an emergency response initiated?

7.7.3.2 Injuries

10. Name of employer of deceased/injured person(s) [if any and if different from answer in item 2].
11. Details of deceased/injured person(s), including: name, date of birth, sex, residential address and telephone number, occupation/job title and details of injury, details of job being undertaken.
12. Day of shift and hour of shift (e.g. 5th day of 7, 1st hour of 12).

7.7.3.3 Fluid Escape

13. Estimated quantity and composition of fluids that escaped or burned, including known toxicity.
14. Duration of escape.
15. Location and weather conditions.

7.7.3.4 Serious Damage

16. Identify equipment damaged and to what extent.

17. Will the equipment or pipeline be shutdown and for how long?

7.7.3.5 Immediate Actions

18. Immediate action taken/intended, if any, to prevent recurrence of accident or dangerous occurrence.

7.7.3.6 Analysis and Remedial Actions

19. Immediate cause analysis.

20. Root cause analysis and full report.

21. Actions to prevent recurrence of same or similar accident or dangerous occurrence with responsible party and completion date.

7.7.4 Monthly Reporting and Record Keeping

As soon as practicable, but not later than 15 days after the end of each month, the operator of a pipeline must submit to NOPSA a written report for that month identifying the number of deaths of persons at the pipeline and the number and types of injuries to persons at the pipeline, other than minor injuries not requiring treatment, or requiring treatment only in the nature of first aid. [Pipelines Reg 39N(4)]. Guidance on monthly reporting is given on the NOPSA website.

The operator of a pipeline must compile and maintain a record of all reports of accidents occurring in or in connection with the pipeline, and the details of any corrective action taken in each case [Pipelines Reg 39N(5)].

7.7.5 Reportable Incidents

Reportable incidents must be initially notified and then formally reported to the DA by the pipeline licensee [Pipelines Reg 40]. Initial notification should occur as soon as practicable after the event, while formal reporting should occur within 3 days of the event.

A reportable incident is defined as [Pipelines Reg 4]:

reportable incident means an incident:

(a) that:

- (i) results in significant damage to a pipeline (for example, reducing the capacity of the pipeline to contain petroleum flowing through it); or
- (ii) is likely to have a result of a kind mentioned in subparagraph (i); or
- (iii) is of a kind that a reasonable pipeline licensee would consider to require immediate investigation; and

(b) that is not a reportable incident within the meaning of the Petroleum (Submerged Lands) (Management of Environment) Regulations 1999.

7.7.6 Timing and content of reports of Reportable Incidents to the DA

Unless otherwise agreed by the DA, a written report must be provided within 3 days to the DA of the reportable incident, or its detection [Pipelines Reg 40(4)]. The report must contain the following details [Pipelines Reg 40(7)]:

For sub-regulation (4), the report must set out fully:

- (a) all the material facts and circumstances of the reportable incident that the licensee is aware of or is able, by reasonable search and inquiry, to find out, including the following:
 - (i) the date, time and place of the reportable incident;
 - (ii) the particulars of any loss or damage caused by the reportable incident;

- (iii) if petroleum escaped from the pipeline or ignited — the amount of that petroleum and the measures taken to control the escape or fire;
 - (iv) the cause of the reportable incident;
 - (v) the repairs (if any) carried out, or proposed to be carried out, on the pipeline; and
- (b) the corrective action that has been taken, or is proposed to be taken, to prevent another reportable incident of that kind.

7.7.7 Notifying and Reporting Accidents and Dangerous Occurrences and Reportable Incidents – Summary

It can be seen from the above that Accidents and Dangerous Occurrences are required to be notified to, and then reported to, NOPSA, by the registered operator of the pipeline.

Reportable incidents are required to be notified to, and then reported to, the DA, by the licensee of the pipeline.

In both cases, notification is required to be as soon as practicable after the event is discovered, while the provision of a formal report must be within 3 days, unless by agreement with the relevant authority.

The reason for this dual reporting is that NOPSA are primarily concerned with issues relating to the OHS of persons at or near the pipeline, whilst the DA is primarily concerned with issues which have the potential to impact the State, for example breaches of containment or security of supply.

Additionally, the operator of the pipeline is required to submit a written report to NOPSA not later than 15 days after the end of each month, identifying the number of deaths at the pipeline, and the number and types of injuries to persons at the pipeline.

8 Miscellaneous

Part 5 of the regulations deals with miscellaneous issues regarding the requirements of workers, provision of information and transitional arrangements.

The pipeline licensee is required to ensure that each person working on or in connection with the pipeline is competent to do so [Pipelines Reg 43].

The pipeline licensee must ensure, as far as reasonably practicable, that each person working on or in connection with the pipeline, is knowledgeable of the relevant legislation that relates to the safety of any person working on or in connection with the pipeline, the pipeline itself, and the environment [Pipelines Reg 44].

The DA may request of the licensee, in writing, information confirming that in the development or revision of the pipeline management plan, that there has been effective consultation with and participation of the workforce. The PMP in force for a pipeline should provide for effective consultation with and participation of the workforce, such that the workforce are able to arrive at informed decisions on the risks that they may be exposed to whilst working on or in connection with the pipeline. The licensee must respond within 21 days to a request by the DA. The DA must also consult with NOPSA with respect to this request [Pipelines Reg 45].

The Licensee, at all times after application for consent to construct, must ensure that the DA has relevant contact details for the licensee [Pipelines Reg 46]. The DA may decline to consider an application or submission, made by the licensee if this information is not provided [Pipelines Reg 47].

If a pipeline licence that was granted prior to the commencement of these regulations remains in force, these regulations do not apply to the pipeline licensee in respect of a pipeline under the licence until 5 years from the date of commencement of these regulations. As the regulations commenced on 1 November 2001, this means that the regulations do not apply to pipeline

licences issued prior to 1 November 2001, until such a time as 5 years has elapsed, i.e. until 1 November 2006. For pipeline licences issued post 1 November 2001, the regulations apply. However, if the licensee were to apply for a consent to construct or a consent to operate, or submits a PMP to the DA, the regulations are deemed to apply with certain exceptions [Pipelines Reg 49].

Regulation 50 deals with the provision of information by the DA to NOPSA.

9 Disclaimer

This Guideline and others provided on NOPSA's website are intended to provide general guidance to the industry as to the approach that NOPSA takes in carrying out its regulatory functions under powers conferred by the Commonwealth, State and NT Petroleum (Submerged Lands) Acts and Regulations under those Acts. These Guidelines should not be relied on as advice on the law, nor treated as a substitute for legal advice in any relevant situation.