New South Wales

Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

under the

Protection of the Environment Operations Act 1997

[The following enacting formula will be included if this Regulation is made:]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

Minister administering the *Protection of the Environment Operations Act 1997*

Explanatory note

The object of this Regulation is to remake, with minor changes, the provisions of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*, which will be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes provisions about the following:

(a) the commissioning and decommissioning of underground storage systems (Part 2),

(b) the installation of leak detection systems (Part 3),

(c) the use of underground storage systems (Part 4),

(d) reports (Part 5),

(e) record-keeping (Part 6),

(f) other minor, consequential or ancillary matters (Parts 1 and 7).

This Regulation also omits a provision of the *Protection of the Environment Operations (General) Regulation 2009* that declares the Environment Protection Authority (***EPA***) to be the appropriate regulatory authority for any matter arising under the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* and instead declares the EPA to be the appropriate regulatory authority only in relation to certain existing notices, directions and requirements in force immediately before 1 September 2019, and only until existing obligations are met.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 6 (Appropriate regulatory authority) and 323 (the general regulation-making power) and clauses 6A and 15 of Schedule 2.

Contents

Page

Part 1 Preliminary

1 Name of Regulation 4
2 Commencement 4
3 Definitions 4
4 Meaning of “person responsible” for a storage system 5
5 Application of Regulation 6

Part 2 Commissioning of storage systems

Division 1 Installation of new storage systems

6 New system not to be commissioned unless properly designed 7
7 New system not to be commissioned unless properly installed 7
8 New system not to be commissioned unless properly equipped 7
9 Equipment integrity test to be performed 7

Division 2 Modification of storage systems

10 Modified system not to be commissioned unless properly designed 8
11 Modified system not to be commissioned unless properly installed 8
12 Modified system not to be commissioned unless properly equipped 8
13 Equipment integrity test to be performed 8

Division 3 Repair of storage systems

14 Equipment integrity test to be performed 9

Part 3 Leak detection systems

15 Storage system to have leak detection system 10
16 Leak detection system not to be installed unless properly designed 10
17 Storage system not to be used unless leak detection system properly installed 10

Part 4 Use of storage systems

18 Storage system not to be used unless fuel system operation plan documentation in place 12
19 Storage system not to be used unless measuring instruments checked and data recorded 13
20 Leak detection 14
21 Loss detection procedures 14

Part 5 Records and reports of events

22 Record of significant modifications 16
23 Notice and report of system being decommissioned or removed 16
24 Report to be prepared after tank removed or replaced 16
25 Incident log 17

Part 6 Keeping of documents

26 Documents to be kept for 7 years from date of creation 18
27 Documents to be kept for 7 years from date of decommissioning 18

Page

28 Delivery of records on change of responsibility 19
29 Annual report to be prepared by responsible person 19

Part 7 Miscellaneous

30 Exemptions 20
31 EPA guidelines 20
32 Savings 21

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 2009 22

Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019

under the

Protection of the Environment Operations Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*.

2 Commencement

This Regulation commences on 1 September 2019 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*, which is repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

commission, in relation to a storage system or leak detection system, means to bring the system into use for the first time following its installation, modification or repair.

current "as-built" drawings, in relation to a storage system, means drawings that depict the current configuration of the system in relation to the storage site.

decommission, in relation to a storage system, means to permanently abandon the use of the system or to render the system permanently unusable.

Note. Other legislation may require the cessation of the use of certain storage systems.

duly qualified person, in relation to any activity, means a person who has competence and experience in relation to that activity that is recognised by the peak body in the relevant industry as appropriate for that activity.

EPA guideline means a guideline in force under clause 31.

financial year means a period of 12 months commencing on 1 July.

fuel system operation plan means documentation for a storage system that contains the procedures and other information required by clause 18.

installation of a storage system means the original installation of the system on the storage site, and includes any work in the vicinity of the storage site necessary for the installation, and anything done to the system before it is commissioned.

leak, in relation to a storage system, means any loss of petroleum from the system because it is not providing full and continuous containment of petroleum.

leak detection system means a system designed to detect contamination by, or failure of, a storage system in the event of a failure in loss monitoring systems that consists of either:

(a) groundwater monitoring wells, or

(b) an alternative leak detection system.

loss monitoring system for a storage system means the system referred to in clause 18 (4) as included in the fuel system operation plan for the system.

modification of a storage system includes any upgrade, extension, alteration or replacement of the system, or any component of the system, but does not include:

(a) anything done to the system before it is first commissioned, or

(b) anything done to the system after it is decommissioned, or

(c) anything done to the system as part of routine maintenance (including any repairs to the system that are done in the course of regular scheduled upkeep of the system), or

(d) anything done to the system before 1 June 2008, or

(e) anything done to a storage site, or any building on a storage site, that does not directly affect the system.

modified storage system means a storage system that has been modified.

person responsible for a storage system—see clause 4.

petroleum means any fuel that consists predominantly of a mixture of hydrocarbons, whether or not the fuel includes additives (such as ethanol), and includes used oil.

Note. Clause 5 provides that this Regulation does not apply to a liquefied petroleum gas storage system.

significant modification of a storage system means any modification to the system that results in:

(a) the replacement of the whole of the system, or

(b) the replacement of a half or more of the tanks in the system.

storage site of a storage system means the premises (or the part of the premises) in or on which the system is situated.

storage system means a system of tanks, pipes, valves and other equipment that is designed:

(a) to contain petroleum, or

(b) to control the passage of petroleum into, out of, through or within the system,

and includes any structure through which petroleum routinely passes from one part of the system to another.

the Act means the *Protection of the Environment Operations Act 1997*.

use a storage system includes allow petroleum to remain in the system.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

For example, ***appropriate regulatory authority*** is defined in section 6 of the Act. When this Regulation commenced, the EPA was the appropriate regulatory authority for matters arising under this Regulation in relation to some existing notices, directions or requirements: see clause 91 of the *Protection of the Environment Operations (General) Regulation 2009*. Otherwise the default position in section 6 of the Act had effect.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of "person responsible" for a storage system

(1) In this Regulation, ***person responsible*** for a storage system means:

(a) if the storage system has not yet been commissioned—the person who has management and control of the storage system, or

(b) if the storage system is in use—the person who has management and control of the storage system, or

(c) if the storage system has been decommissioned—the person who had management and control of the storage system immediately before the storage system was decommissioned, or

(d) if the storage system is no longer in use but has not been decommissioned:

(i) the person who had management and control of the storage system immediately before the storage system ceased to be used, or

(ii) if that person cannot be located—the person who owns the land on which the storage system is located.

(2) A person responsible for a storage system continues to be the person responsible for the system for the purposes of this Regulation whether or not the person has entered into a contract or other arrangement that provides for some other person to be the person responsible for the system or to carry out functions of the person responsible for the system.

5 Application of Regulation

This Regulation applies to all storage systems other than the following:

(a) a storage system whose tanks are situated wholly above ground, together with any associated pipes, valves and other equipment (whether situated above or below ground),

(b) a sump, separator, stormwater or wastewater collection system, catchment basin, pit, septic tank or other like structure (unless petroleum routinely passes through the structure from one part of a storage system to another),

(c) a bunded tank situated below ground level but not in the ground (such as in a basement, cellar or tunnel),

(d) a liquefied petroleum gas storage system.

Part 2 Commissioning of storage systems

Division 1 Installation of new storage systems

6 New system not to be commissioned unless properly designed

The person responsible for a storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the system has been designed by a duly qualified person, and

(b) the person by whom the system has been designed has provided the person responsible for the system with:

(i) a list of the industry standards that have been followed in connection with the design of the system, and

(ii) a copy of the design specifications for the system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

7 New system not to be commissioned unless properly installed

The person responsible for a storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the system has been installed by a duly qualified person, and

(b) the person by whom the system has been installed has provided the person responsible for the system with:

(i) a list of the industry standards that have been followed in connection with the installation of the system, and

(ii) a copy of the installation specifications for the system, and

(iii) current "as-built" drawings for the system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

8 New system not to be commissioned unless properly equipped

The person responsible for a storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the system includes the equipment required by *AS 4897–2008: The design, installation and operation of underground petroleum storage systems*, as in force from time to time, and

(b) a leak detection system is installed on the storage site in accordance with Part 3.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

9 Equipment integrity test to be performed

(1) The person responsible for a storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) an equipment integrity test of the system has been carried out in accordance with the written directions of a duly qualified person, and

(b) the system has been certified, by the person by whom the test was carried out, as having satisfied the test.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) A certificate issued for the purposes of subclause (1) (b) must be accompanied by the results of the test referred to in that paragraph.

Division 2 Modification of storage systems

10 Modified system not to be commissioned unless properly designed

The person responsible for a modified storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the modification has been designed by a duly qualified person, and

(b) the person by whom the modification has been designed has provided the person responsible for the system with:

(i) a list of the industry standards that have been followed in connection with the design of the modification, and

(ii) a copy of the design specifications for the modification.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

11 Modified system not to be commissioned unless properly installed

The person responsible for a modified storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the modification has been implemented by a duly qualified person, and

(b) the person by whom the modification has been implemented has provided the person responsible for the system with:

(i) a list of the industry standards that have been followed in connection with the implementation of the modification, and

(ii) a copy of the implementation specifications for the modification, and

(iii) current "as-built" drawings for the system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

12 Modified system not to be commissioned unless properly equipped

(1) The person responsible for a modified storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) the system includes the equipment required by *AS 4897–2008: The design, installation and operation of underground petroleum storage systems*, as in force from time to time, and

(b) a leak detection system is installed on the storage site in accordance with Part 3.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) Subclause (1) (a) does not require a system commissioned before 1 June 2008 to include the equipment referred to in that paragraph unless the modification is a significant modification.

13 Equipment integrity test to be performed

(1) The person responsible for a modified storage system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) an equipment integrity test of the system has been carried out in accordance with the written directions of a duly qualified person, and

(b) the system has been certified, by the person by whom the test was carried out, as having satisfied the test, and

(c) the person responsible has been provided with the certificate and the results of the equipment integrity test.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) The person responsible for a modified storage system must not reuse a tank for the system before the system is recommissioned, or authorise or permit the reuse of a tank before the system is recommissioned, unless:

(a) an equipment integrity test of the tank has been carried out in accordance with the written directions of a duly qualified person, and

(b) the tank has been certified, by the person by whom the test was carried out, as having satisfied the test, and

(c) the person responsible has been provided with the certificate and the results of the equipment integrity test.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

Division 3 Repair of storage systems

14 Equipment integrity test to be performed

The person responsible for a storage system that has been repaired following the discovery of a leak in the system must not commission the system, or authorise or permit the commissioning of the system, unless:

(a) an equipment integrity test of the system has been carried out in accordance with the written directions of a duly qualified person, and

(b) the system has been certified, by the person by whom the test was carried out, as having satisfied the test, and

(c) the person responsible has been provided with the certificate and the results of the equipment integrity test.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

Part 3 Leak detection systems

15 Storage system to have leak detection system

(1) The person responsible for a storage system must not use the storage system, or authorise or permit the use of the storage system, unless a leak detection system has been installed on the storage site.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) In the case of a leak detection system consisting of groundwater monitoring wells, the number and location of the wells to be installed on a storage site is to be determined by a duly qualified person with a view to maximising the likelihood that the wells will intercept contaminated groundwater, whatever the groundwater flow conditions.

(3) In the case of an alternative leak detection system, that system is to be endorsed by a duly qualified person as being an appropriate system for leak detection for the storage site.

16 Leak detection system not to be installed unless properly designed

The person responsible for a storage system must not install a leak detection system on the storage site, or authorise or permit the installation of a leak detection system on the site, unless:

(a) the leak detection system has been designed by a duly qualified person, and

(b) in the case of a groundwater monitoring well—the person by whom the well has been designed has provided the person responsible for the storage system with a list of the industry standards that have been followed in connection with the design of the well.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

17 Storage system not to be used unless leak detection system properly installed

(1) The person responsible for a storage system located on a storage site on which a leak detection system has been installed must not use the storage system, or authorise or permit the use of the storage system, unless:

(a) the leak detection system has been installed by a duly qualified person, and

(b) in the case of a groundwater monitoring well:

(i) the well has been sealed to exclude surface water, and

(ii) the well is clearly marked to indicate its presence and is properly secured, and

(iii) the person responsible for the storage system has been provided, by the installer of the well, with a list of the industry standards that have been followed in connection with the installation of the well, and

(c) in the case of an alternative leak detection system:

(i) that system has been installed in accordance with EPA guidelines, and

(ii) the person responsible for the storage system has been provided, by the installer of the alternative leak detection system, with the information about that system that is specified by EPA guidelines, and

(d) the person responsible for the storage system has been provided, by the installer of the leak detection system, with the following:

(i) a leak detection system report prepared in relation to the leak detection system,

(ii) a testing procedure prepared in relation to the leak detection system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) A leak detection system report referred to in subclause (1) (d) (i) must be prepared in accordance with EPA guidelines.

Part 4 Use of storage systems

18 Storage system not to be used unless fuel system operation plan documentation in place

(1) The person responsible for a storage system must not use the storage system, or authorise or permit the use of the storage system:

(a) unless a fuel system operation plan that complies with this clause is in place in relation to the storage system, and

(b) otherwise than in accordance with that plan.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

(2) A storage system's fuel system operation plan must include:

(a) a loss monitoring system, and

(b) an incident management procedure that sets out the procedures to be followed in dealing with any leaks and spills of petroleum from the system, and

(c) a maintenance schedule that includes details of what maintenance is proposed to be carried out, and when, in relation to the system generally and in relation to the various gauges, indicators, leak detection systems and other measuring instruments in the system, and

(d) the current "as-built" drawings for the system, and

(e) a plan of the storage site that includes the locations of each of the following:

(i) the storage system,

(ii) all buildings and associated infrastructure,

(iii) all fences and gates,

(iv) all groundwater monitoring wells (including any codes or symbols by which they are designated),

(v) any unsealed ground surfaces,

(vi) all drainage and services, and

(f) a copy of each list of industry standards that have been followed in connection with each of the following:

(i) the design of the system,

(ii) the installation of the system,

(iii) the design of any modification,

(iv) the implementation of any modification, and

(g) a copy of each of the following specifications:

(i) the design specifications for the system,

(ii) the installation specifications for the system,

(iii) the design specifications for any modification,

(iv) the implementation specifications for any modification, and

(h) an inventory of employee site induction and incident management training that has been undertaken on the site, and

(i) the information required by subclause (3).

(3) The information to be included in the fuel system operation plan for a storage system is as follows:

(a) the name of the person responsible for the system and an address for service and a 24 hour contact phone number for that person,

(b) if the person responsible for the relevant storage system is a corporation:
  (i) the name of a natural person who is authorised to act on behalf of the corporation in relation to the control of the system, and
  (ii) a 24 hour contact phone number for that person,
(c) the street address of the storage site,
(d) the land title particulars (such as the lot and DP numbers) of the land on which the system is situated,
(e) if the person responsible for the system is not the owner of the storage site, the name of the owner,
(f) details of access to, and the security of, the system, including details of any locks, gates, fences and the like and the means of opening them,
(g) the location of all records kept in accordance with Part 5 or 6 (including leak detection system reports).

(4) A storage system's loss monitoring system (referred to in subclause (2) (a)) must be designed by a duly qualified person in accordance with EPA guidelines to measure discrepancies between:
(a) the amount of petroleum that should be present in the system, and
(b) the amount of petroleum that is actually present in the system,
so as to be capable of detecting losses of petroleum.

(5) The absence, in relation to a storage system, of a list of industry standards or a copy of a specification (referred to in subclause (2) (f) and (g)) does not give rise to an offence if:
(a) the person responsible for the system was not in possession of such a list or copy as at 1 June 2008, and
(b) the person responsible for the system is still not in possession of such a list or copy, and
(c) there is documentary evidence that the person responsible for the system has taken all reasonable steps to obtain such a list or copy.

(6) A storage system's fuel system operation plan:
(a) must comply with EPA guidelines, and
(b) must be updated as occasion requires, and
(c) must be accessible on the storage site (whether in hard copy or electronic form).

(7) A storage system's fuel system operation plan may be kept:
(a) as one consolidated document or as a collection of documents, and
(b) in hard copy or electronic form (or as a combination of both).

19 Storage system not to be used unless measuring instruments checked and data recorded

The person responsible for a storage system must not use the storage system, or authorise or permit the use of the storage system, unless:
(a) all gauges, indicators, leak detection systems and other measuring instruments in the system have been checked and maintained:
  (i) in accordance with the manufacturers' instructions, or
  (ii) if there are no such instructions, in accordance with the fuel system operation plan for the system, and

(b) all data produced by the measuring instruments has been recorded.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

20 Leak detection

(1) The person responsible for a storage system with groundwater monitoring wells must not use the storage system, or authorise or permit the use of the storage system, unless:

(a) the groundwater in each groundwater monitoring well on the storage site has been tested for contamination by petroleum, during the last 6 months, in accordance with the written instructions of a duly qualified person, and

(b) the groundwater in each groundwater monitoring well on the storage site has been sampled and analysed, in accordance with the written instructions of a duly qualified person, no later than 60 days after the occurrence of any of the following:

(i) the installation of a new groundwater monitoring well on the storage site,

(ii) the discovery by the person responsible for the storage system, whether by means of a test referred to in paragraph (a) or otherwise, that groundwater may be contaminated by petroleum originating from the storage site,

(iii) the discovery by the person responsible for the storage system, whether pursuant to the loss monitoring system for the system or otherwise, that the system has a leak.

(2) The person responsible for a storage system with an alternative leak detection system must not use the storage system, or authorise or permit the use of the storage system, unless the storage system has been tested at the times, and in the circumstances (if any), that are specified by EPA guidelines for the system concerned.

(3) The person responsible for a storage system must ensure that the following are recorded:

(a) the results of sampling and analysis undertaken for the purposes of subclause (1) (b),

(b) the results of testing undertaken for the purposes of subclause (2).

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

21 Loss detection procedures

(1) Within 60 days after becoming aware of any discrepancy detected by the loss monitoring system for a storage system, the person responsible for the storage system must ensure that action is taken:

(a) to investigate the discrepancy, and

(b) if the discrepancy cannot be attributed to anything other than a leak, to confirm the existence of a leak, and

(c) if the existence of a leak is confirmed, to identify the source of the leak and to fix the leak.

Note. See also Part 5.7 of the Act for duties with respect to the notification of pollution incidents.

(2) The person responsible for a storage system must ensure that details of action taken under subclause (1) are recorded.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

Part 5 Records and reports of events

Note. ***Local authority*** is defined in the Dictionary to the Act and includes a local council.

22 Record of significant modifications

If a significant modification is made to a storage system, the person responsible for the storage system must:

(a) ensure that the following information is recorded:

(i) a comprehensive description of the modification,

(ii) the dates of commencement and completion of the modification,

(iii) the results of the equipment integrity test carried out under clause 13, and

(b) ensure that the current "as-built" drawings for the system are revised to reflect the modification.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

23 Notice and report of system being decommissioned or removed

(1) If a storage system is to be decommissioned or removed, the person responsible for the storage system must notify the relevant local authority of the decommissioning or removal no later than 30 days before the system is decommissioned or removed.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) If a storage system is decommissioned, the person responsible for the storage system must ensure that a report for the storage site (prepared in accordance with this clause) is served on the relevant local authority:

(a) no later than 60 days after the system is decommissioned, or

(b) if remediation of the site is required, no later than 60 days after the remediation is completed.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(3) A report referred to in subclause (2) must:

(a) be prepared by a duly qualified person in accordance with EPA guidelines, and

(b) describe the processes used to decommission the storage system and assess contamination at the storage site.

24 Report to be prepared after tank removed or replaced

(1) If a modification of a storage system involves the removal or replacement of any tank, the person responsible for the modified storage system must not commission the system, or authorise or permit the commissioning of the system, unless a report for the storage site (prepared in accordance with this clause) has been served on the relevant local authority:

(a) no later than 60 days after the tank is removed or replaced, or

(b) if remediation of the site is required, no later than 60 days after the remediation is completed.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) A report referred to in subclause (1) must:

(a) be prepared by a duly qualified person in accordance with EPA guidelines, and

(b) describe the processes used to remove or replace the tanks concerned and assess contamination at the storage site, and

(c) describe any remediation work carried out during the removal or replacement of the tanks concerned.

25 Incident log

(1) The person responsible for a storage system must ensure that an incident log for the storage system (containing the matter required by this clause) is kept on the storage site or, if another location is specified in the system's fuel system operation plan, in that location.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) The following activities and incidents must be recorded in the incident log of a storage system:

(a) the carrying out of any activity, by a person acting otherwise than at the direction or request of the person responsible for the system, that has affected, is affecting or could affect the integrity of the system,

(b) the occurrence of any unplanned or abnormal incident (including operational disruptions or equipment failures) that has affected, is affecting or could affect the long-term safety of the system.

(3) A notification under Part 5.7 of the Act of a pollution incident involving a storage system is to be made in a form approved by the appropriate regulatory authority.

Part 6 Keeping of documents

26 Documents to be kept for 7 years from date of creation

(1) The person responsible for a storage system must ensure that each required document for the storage system, including a document delivered in accordance with clause 28, is kept for at least 7 years from the day on which the document was created.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) For the purposes of this clause, ***required document***, in relation to a storage system, means any of the following:

(a) a document containing the results of an equipment integrity tests for the system carried out under clause 9, 13 or 14,

(b) a document containing the data produced by any measuring instrument referred to in clause 19,

(c) a document containing details of action taken under clause 21,

(d) a report prepared for the system under clause 23,

(e) an annual report prepared under clause 29,

(f) a notification that is given to the appropriate regulatory authority of a pollution incident involving a storage system,

(g) anything that was a required document for the purposes of clause 25 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* immediately before its repeal.

27 Documents to be kept for 7 years from date of decommissioning

(1) The person responsible for a storage system that is decommissioned must ensure that each required document for the storage system, including a document delivered in accordance with clause 28, is kept for at least 7 years from the day on which the system is decommissioned.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) For the purposes of this clause, ***required document***, in relation to a storage system, means any of the following:

(a) each certificate issued for the system under clause 9, 13 or 14,

(b) a leak detection system report referred to in clause 17,

(c) each version of the fuel system operation plan prepared for the system under clause 18,

(d) a record made in relation to the system under clause 22,

(e) a report prepared for the system under clause 23 or 24,

(f) the incident log kept for the system under clause 25,

(g) an annual report prepared under clause 29,

(h) a report that has been made as a consequence of action taken under Part 5.7 of the Act in connection with a pollution incident involving the system,

(i) anything that was a required document for the purposes of clause 26 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* immediately before its repeal.

(3) The requirements of this clause apply in addition to the requirements of clause 26.

28 Delivery of records on change of responsibility

Within 30 days after there is a change in responsibility for a storage system, the person responsible for the system before the change must ensure that all documents for the system that this Part requires to be kept, and that are in the person's possession, are delivered to the person newly responsible for the system.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

29 Annual report to be prepared by responsible person

(1) The person responsible for a storage system must prepare an annual report in accordance with this clause in respect of each financial year.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

(2) The annual report must include the following:

(a) if the system was modified or decommissioned in the financial year to which the report relates—details of the modification or decommissioning,

(b) a summary of the results of equipment integrity tests for the system carried out under clause 9, 13 or 14,

(c) if the system was used in the financial year to which the report relates—a short description of:

(i) the leak detection system installed on the storage site under clause 15,

(ii) the fuel system operation plan in place under clause 18 (1),

(iii) the loss monitoring system in place under clause 18 (2) (a) and (4),

(d) a summary of the results of tests carried out under clause 20 (1) or (2),

(e) a summary of actions taken under clause 21.

(3) The annual report must be:

(a) in the form specified by the EPA, and

(b) provided to the appropriate regulatory authority by 31 August in the financial year following the financial year to which the report relates.

Part 7 Miscellaneous

30 Exemptions

(1) The appropriate regulatory authority may, by order in writing, exempt a person or a class of persons specified in the order from any provision of this Regulation specified in the order to the extent that the provision applies to the person or class in respect of any storage system specified in the order.

(2) The appropriate regulatory authority may grant an exemption on application or of its own motion.

(3) An application for an exemption must be accompanied by the fee (if any) determined by the appropriate regulatory authority.

(4) An order under this clause:

(a) has effect in the circumstances (if any), and subject to such conditions (if any), that are specified in the order, and

(b) may be published in the Gazette or may instead be served on a person specified in the order, and

(c) has effect on and from publication in the Gazette or service of the order or any later date specified in the order, and

(d) is subject to the condition that the exempted person complies with all of the provisions of the Act and the other provisions of this Regulation that apply to the person, and

(e) may be revoked by the appropriate regulatory authority at any time by order in writing published in the Gazette or served on the person referred to in paragraph (b).

31 EPA guidelines

(1) The EPA may, by notice published in the Gazette, issue guidelines for the purposes of this Regulation and may, by means of a further notice published in the Gazette, vary or revoke any such guideline.

(2) The following documents are taken, on the commencement of this clause, to be guidelines for the purposes of this Regulation and may be varied or revoked accordingly:

(a) the document entitled *Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, published by the EPA in 2019,

(b) the document entitled *Planning and Development Process for Sites with Underground Petroleum Storage Systems*, published by the Department of the Environment, Climate Change and Water in 2009,

(c) the document entitled *Minimum Construction Requirements for Water Bores in Australia*, 3rd edition, published by the National Uniform Drillers Licensing Committee in 2012,

(d) any other guidelines in effect, or taken to have been in effect, as EPA guidelines for the purposes of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014* immediately before the repeal of that Regulation.

32 Savings

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*, had effect under that Regulation is taken to have effect under this Regulation.

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 2009

Clause 91

Omit the clause. Insert instead:

91 Underground petroleum storage systems: EPA ceasing to be appropriate regulatory authority in relation to certain premises

(1) The EPA is declared, under section 6 (3) of the Act, to be the appropriate regulatory authority for any matter arising under any relevant existing notice, direction or requirement relating to any matter arising under the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019* until that notice or direction has been complied with or the requirement satisfied.

(2) In this clause:

relevant existing notice, direction or requirement means a notice, direction or requirement that:

(a) was made, issued or given under the Act by the EPA in its capacity as appropriate regulatory authority because of this clause as in force before it was substituted on the commencement of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019* (or by an authorised officer of the EPA), and

(b) was made, issued or given under the Act before that commencement, and

(c) is in force on that commencement.