

TASMANIA

**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL (UNDERGROUND
PETROLEUM STORAGE SYSTEMS)
REGULATIONS 2020**

STATUTORY RULES 2020, No. 4

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SCHEDULE 1 – ENVIRONMENTAL INFRINGEMENT NOTICE PENALTIES

**ENVIRONMENTAL MANAGEMENT AND
POLLUTION CONTROL (UNDERGROUND
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I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Environmental Management and Pollution Control Act 1994*.

Dated 28 January 2020.

C. WARNER
Governor

By Her Excellency's Command,

R. C. JAENSCH
Minister for Environment and Parks

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the
*Environmental Management and Pollution
Control (Underground Petroleum Storage
Systems) Regulations 2020*.

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2. Commencement

These regulations take effect on
3 February 2020.

3. Interpretation

(1) In these regulations –

abandoned storage system means a storage system that was in use before 31 March 2010 but has not been in use since that day;

Act means the *Environmental Management and Pollution Control Act 1994*;

approved form means a form approved by the Director;

AS 4482.1 means Australian Standard AS 4482.1 *Guide to the investigation and sampling of sites with potentially contaminated soil – Non-volatile and semi-volatile compounds*, issued and published on 2 November 2005, as amended or substituted from time to time;

AS 4482.2 means Australian Standard AS 4482.2 *Guide to the sampling and investigation of potentially contaminated soil – Volatile substances*, issued and published on 5 September 1999, as

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amended or substituted from time to time;

AS 4897 means Australian Standard AS 4897 *The design, installation and operation of underground petroleum storage systems*, issued and published on 5 February 2008, as amended or substituted from time to time;

AS 4976 means Australian Standard AS 4976 *The removal and disposal of underground petroleum storage tanks*, issued and published on 19 February 2008, as amended or substituted from time to time;

AS/NZS 5667.11 means Australian Standard AS/NZS 5667.11 *Water quality – Sampling – Guidance on sampling of groundwaters*, issued and published on 5 April 1998, as amended or substituted from time to time;

decommissioning assessment means an assessment conducted in accordance with regulation 36(2)(b) or regulation 38(2)(a);

discrepant result, in relation to a loss-monitoring procedure undertaken in relation to a storage system, means a result that –

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- (a) indicates that the storage system may not be providing full and continuous containment; or
- (b) is inconclusive as to whether the storage system is providing full and continuous containment;

environmental site assessment means an assessment carried out in accordance with regulation 29;

EPA guidelines means guidelines issued and in force under regulation 53;

equipment integrity test, in relation to a storage system, or a component of a storage system, means a test –

- (a) to determine whether the storage system or component is providing full and continuous containment; and
- (b) that is –
 - (i) capable, at a minimum, of detecting a leak occurring at a rate of 0.38 litres per hour with at least a 95% probability of detection and a 5% or less probability of false detection; and

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- (ii) capable of detecting a leak, described in subparagraph (i), from any part of the storage system that routinely contains petroleum; and
 - (iii) evaluated and certified, by an independent third party using loss detection protocols, as meeting the performance standards specified in subparagraphs (i) and (ii); and
 - (c) carried out in accordance with –
 - (i) AS 4897; and
 - (ii) the manner of testing certified by the independent third party under paragraph (b)(iii); and
 - (iii) loss detection protocols; and
 - (d) reported on in accordance with loss detection protocols;

groundwater-monitoring well, in relation to a storage system, means a well that is designed to enable the scrutiny, analysis and sampling of groundwater to

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determine whether petroleum from the storage system has entered any groundwater in the vicinity of the system;

groundwater protection zone means an area of land declared under regulation 5 to be a groundwater protection zone for the purposes of these regulations;

infrastructure owner, of a storage system, means a person who is, under regulation 8, an infrastructure owner of the storage system;

landowner, in respect of a storage system, means an owner of a parcel of land on which the storage system is situated and includes a person who –

- (a) has, in the exercise of a right under a mortgage, charge or other encumbrance, taken possession of the parcel of land; and
- (b) has the power to sell or otherwise dispose of the parcel of land;

leak means a loss of petroleum from, or gain of water into, a storage system;

loss-monitoring procedure means a procedure, in respect of a storage system, that is –

- (a) capable, at a minimum, of detecting a leak occurring at a

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rate of 0.76 litres per hour with at least a 95% probability of detection and a 5% or less probability of false detection; and

- (b) capable of detecting a leak, described in paragraph (a), from any part of the storage system that routinely contains petroleum; and
- (c) evaluated and certified, by an independent third party using loss detection protocols, as meeting the performance standards specified in paragraphs (a) and (b); and
- (d) undertaken in accordance with loss detection protocols; and
- (e) reported on in accordance with loss detection protocols;

loss detection protocols means protocols issued by the Director under regulation 52;

mandatory equipment means equipment that consists of all of the following:

- (a) a non-corrodible tank and non-corrodible piping;
- (b) secondary containment for a tank and piping;

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- (c) a dispenser sump;
- (d) fill-point spill containment equipment;
- (e) overfill protection equipment;
- (f) a tank pit observation well;
- (g) equipment that earths a storage system;

monitoring well means –

- (a) a groundwater-monitoring well;
or
- (b) a tank pit observation well;

parcel of land means –

- (a) a parcel of land owned by a landowner; or
- (b) if a landowner owns several parcels of land, each parcel of which adjoins one or more of the other parcels – all of the parcels of land;

petroleum means a fuel, or lubricant, that –

- (a) is liquid at ambient conditions of temperature and pressure; and

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- (b) is used, is able to be used, or has been used, as a fuel or lubricant; and
 - (c) consists of one or more of the following:
 - (i) hydrocarbons derived from crude oil;
 - (ii) biofuel –
with or without additives including, but not limited to, ethanol, methanol, esters, toluene, lead, MTBE or ETBE; and
 - (d) includes, but is not limited to, the following:
 - (i) petrol;
 - (ii) diesel;
 - (iii) high-ethanol fuel such as E85;
 - (iv) synthetic fuels such as 100% ethanol or biodiesel;
 - (v) gasoline;
 - (vi) used (waste) oil;
 - (vii) aviation fuel;

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- (viii) kerosene;
- (ix) motor spirit;
- (x) two-stroke oil;
- (xi) heating oil;

pip***ing*** means piping that routinely contains petroleum, but does not include vent piping or piping for petroleum vapour recovery;

small storage system means –

- (a) a storage system situated on a parcel of land where the total capacity of all storage systems on the parcel of land is less than 5 500 litres; or
- (b) a storage system that contains used (waste) oil and has a capacity equal to or more than 5 500 litres but in which less than 5 500 litres of used (waste) oil is stored at any one time;

small storage system loss-monitoring procedure means a procedure, in respect of a small storage system, that –

- (a) uses manual tank-gauging in accordance with AS 4897 or any other method that is as capable as

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manual tank-gauging of detecting
a leak; and

- (b) is carried out on at least 2 occasions, at least 4 months apart, in each year; and
- (c) requires the results of the procedures carried out to be recorded and given to a system operator of the small storage system within 7 days after they are carried out;

storage system means a system that consists of –

- (a) a tank that –
 - (i) is completely or partially buried in the ground; and
 - (ii) contains petroleum or is designed to contain petroleum; and
- (b) any structure, associated with the tank referred to in paragraph (a), that is designed to control the passage of petroleum into, out of or through the system, and any other structure designed to collect petroleum or contain petroleum loss, including piping and dispenser sumps but not including –

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- (i) petroleum vent piping; or
- (ii) petroleum vapour recovery piping; or
- (iii) the dispenser; or
- (iv) any other structure which is above ground –

and includes a tank that was part of a storage system;

suitably qualified person means –

- (a) a person who holds site contamination specialist certification under the *Certified Environmental Practitioner Scheme* established under by-law 16.2 of the Environment Institute of Australia and New Zealand; or
- (b) a person certified under a scheme approved by the Director by written notice; or
- (c) a person approved by the Director by written notice as a suitably qualified person;

system operator, in relation to a storage system, means a person who is, under regulation 8, a system operator of the storage system;

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tank pit observation well means a tank pit observation well that has been installed in accordance with AS 4897;

used (waste) oil means oil that has been used for lubrication or other purposes and has become unsuitable for its original purpose due to the presence of impurities or the loss of its original properties.

- (2) In these regulations, words and expressions used both in these regulations and in AS 4482.1, AS 4482.2, AS 4897, AS 4976 or AS/NZS 5667.11 have, unless the contrary intention appears, the same respective meanings as they have in those standards.
- (3) In these regulations, a storage system is in use if –
- (a) the storage system is used only to store used (waste) oil, and used (waste) oil is added or removed from the storage system at least once every 3 months; or
 - (b) the storage system is used only to supply a back-up generator and petroleum is added or removed from the storage system at least once every 6 months; or
 - (c) in all other cases –
 - (i) petroleum enters or passes through any part of the storage system at least once a month; and

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- (ii) infrastructure is present, the use of which allows petroleum to be removed from the storage system.
- (4) In these regulations, a person who is required to scrutinise soil or water may, but is not required to, use probes, testing or analysis to do so.

4. Storage systems to which regulations do not apply

These regulations do not apply to the following storage systems:

- (a) a storage system, the tank of which is situated wholly above ground, together with any pipes, valves or other equipment associated with the storage system, whether situated above or below ground;
- (b) a sump, separator, stormwater or wastewater collection system, catchment basin, pit, septic tank or other like structure, except if petroleum routinely passes from one part of the storage system to another;
- (c) bunded tanks situated below ground level but not in the ground (for example, bunded tanks in a basement, cellar or tunnel);
- (d) a liquefied petroleum gas storage system.

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5. Declaration of groundwater protection zones

- (1) The Director may, by notice, declare an area of land to be a groundwater protection zone for the purposes of these regulations.
- (2) The Director may declare under subregulation (1) an area of land to be a groundwater protection zone –
 - (a) to protect water resources such as drinking-water resources in the ground and on the surface; or
 - (b) to protect sensitive ecosystems that may be affected by groundwater quality, such as internationally listed wetlands; or
 - (c) for any other reason determined by the Director.
- (3) The Director may, by notice, vary or revoke a declaration made under subregulation (1).

6. Sampling and analysis

- (1) In this regulation –

National Environment Protection Council
means the National Environment
Protection Council established by section
8 of the *National Environment Protection
Council Act 1994* of the Commonwealth.

- (2) For the purposes of these regulations, a person carrying out sampling of groundwater, soil or

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vapour must collect the sample in accordance with one or more of the following:

- (a) the *National Environment Protection (Assessment of Site Contamination) Measure*, made on 10 December 1999 by the National Environment Protection Council, as amended or substituted from time to time;
- (b) the relevant Australian Standard for collection of samples of that kind, which may include AS 4482.1, AS 4482.2 or AS/NZS 5667.11;
- (c) another standard that is approved by the Director.

Penalty: Fine not exceeding 100 penalty units.

- (3) For the purposes of these regulations, a person carrying out sampling of groundwater, soil or vapour must ensure that any sample that is collected by the person is analysed in a laboratory that is –
 - (a) accredited by the National Association of Testing Authorities in respect of the relevant analysis; or
 - (b) approved by the Director to undertake the relevant analysis.

Penalty: Fine not exceeding 100 penalty units.

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- (4) The Director may, by notice, determine a standard for the collection of samples for the purposes of subregulation (2)(c).
 - (5) The Director may, by notice, approve laboratories for the purposes of subregulation (3)(b).

7. Provision of testing, monitoring and assessment services

- (1) A person must not falsely represent a service offered by the person to be an equipment integrity test.

Penalty: Fine not exceeding 100 penalty units.

- (2) A person must not falsely represent a service offered by the person to be a loss-monitoring procedure.

Penalty: Fine not exceeding 100 penalty units.

- (3) A person must not prepare an environmental site assessment report under regulation 29(3), a decommissioning assessment report under regulation 36(2)(c), or a further decommissioning assessment report under regulation 38(2)(c), in relation to a storage system, unless the person is a suitably qualified person.

Penalty: Fine not exceeding 100 penalty units.

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8. Infrastructure owners and system operators

- (1) For the purposes of these regulations, a person is an infrastructure owner of a storage system –
 - (a) if the person is the sole owner, or a joint owner, of the storage system; or
 - (b) where no other person can be identified as the owner or joint owner of a storage system, if the person is a landowner of the land on which the storage system is a fixture.
- (2) For the purposes of these regulations, a person is a system operator of a storage system –
 - (a) if he or she manages the day-to-day operations of the storage system; or
 - (b) where there is no person who manages the day-to-day operations of the storage system, if the person is an infrastructure owner of the storage system.
- (3) A landowner in respect of a storage system must keep the following records in relation to the storage system:
 - (a) contact details of each system operator of the storage system;
 - (b) contact details of each infrastructure owner of the storage system.

Penalty: Fine not exceeding 50 penalty units.

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- (4) A landowner in respect of a storage system must ensure that a record kept under subregulation (3) is made available for inspection by the Director within 10 days after the Director requests that the record be made so available.

Penalty: Fine not exceeding 50 penalty units.

- (5) A person must, within 30 days after ceasing to be a landowner in respect of a storage system, notify the Director –
- (a) that he or she is no longer a landowner in respect of the storage system; and
 - (b) of the contact details of any current landowner in respect of the storage system.

Penalty: Fine not exceeding 50 penalty units.

- (6) A person who is, under this regulation, an infrastructure owner of a storage system, remains, for the purposes of these regulations, an infrastructure owner of the storage system until –
- (a) if the storage system has not ceased use – the person ceases to own the storage system; or
 - (b) the storage system is decommissioned in accordance with Part 6.
- (7) A person who is, under this regulation, a system operator of a storage system, remains a system operator of the storage system until –

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- (a) the person ceases to manage the day-to-day operations of the storage system; or
- (b) if the person was a systems operator of the storage system by virtue of being an infrastructure owner of the storage system, the person ceases to be an infrastructure owner of the storage system; or
- (c) the storage system is decommissioned in accordance with Part 6.

**PART 2 – INSTALLATION, USE, REPAIR AND
REPLACEMENT OF STORAGE SYSTEMS**

9. Storage systems generally

- (1) In this regulation –

cathodic protection has the same meaning as
in AS 4897.

- (2) An infrastructure owner of a storage system must ensure that the storage system is not allowed to be in use unless all components of the storage system that are, or are intended to be, in contact with petroleum are made of, or lined with, substances that are compatible with the petroleum stored in the storage system.

Penalty: Fine not exceeding 100 penalty units.

- (3) A substance is compatible with petroleum for the purposes of subregulation (2) if both the substance and petroleum maintain, under conditions likely to be encountered in a storage system, their respective physical and chemical properties when they come in contact with one another.
- (4) An infrastructure owner of a storage system that incorporates cathodic protection must ensure that the cathodic protection is maintained and tested in accordance with the requirements of AS 4897.

Penalty: Fine not exceeding 100 penalty units.

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Part 2 – Installation, Use, Repair and Replacement of Storage Systems

10. New storage systems

- (1) An infrastructure owner of a storage system must ensure that, before the storage system is allowed to be in use for the first time –
 - (a) the storage system incorporates the mandatory equipment, designed and installed in accordance with the requirements of AS 4897; and
 - (b) an equipment integrity test has been conducted after all installation work, including concreting and sealing, has been completed; and
 - (c) the storage system has passed the equipment integrity test referred to in paragraph (b).
- Penalty: Fine not exceeding 100 penalty units.
- (2) Subregulation (1)(a) applies to a storage system whether or not AS 4897 requires all or part of the mandatory equipment –
 - (a) to be installed as part of the storage system; and
 - (b) if so installed, to be installed in accordance with the requirements of AS 4897.
- (3) A landowner in respect of a storage system must, before the storage system is allowed to be in use for the first time –

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- (a) satisfy himself or herself; and
- (b) notify the Director, in the approved form –

that subregulation (1) has been complied with.

Penalty: Fine not exceeding 100 penalty units.

- (4) A person who is to be a system operator of a storage system must ensure that, before the storage system is allowed to be in use for the first time, the storage system has passed an equipment integrity test.

Penalty: Fine not exceeding 100 penalty units.

11. Replacement and repair of certain components of storage systems

- (1) If a tank forming part of a storage system is replaced, an infrastructure owner of the storage system must ensure that, before the storage system is allowed to be in use, the storage system complies with the requirements of regulation 10(1) and regulation 25(2) as if the storage system were a new storage system.

Penalty: Fine not exceeding 100 penalty units.

- (2) Subregulation (1) applies to a storage system whether or not AS 4897 requires all or part of the mandatory equipment –
 - (a) to be installed as part of the storage system; and

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(b) if so installed, to be installed in accordance with the requirements of AS 4897.

- (3) An infrastructure owner of a storage system must ensure that land that is excavated to enable the replacement or repair of the storage system, or any part of the storage system, is scrutinised for contamination by petroleum.

Penalty: Fine not exceeding 100 penalty units.

- (4) If scrutiny under subregulation (3) of land excavated for the purposes of that subregulation detects apparent contamination of a parcel of land by petroleum from a storage system, an infrastructure owner of the storage system must –

(a) within 7 days after the apparent contamination is detected, notify the Director, in the approved form –

(i) of the apparent contamination; and

(ii) that an environmental site assessment will be carried out on the parcel of land; and

(b) ensure that an environmental site assessment is commenced on the parcel of land within 14 days after the contamination is detected.

Penalty: Fine not exceeding 100 penalty units.

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- (5) If a storage system or piping in a storage system is replaced, an infrastructure owner of the storage system must, before the storage system is allowed to be in use, ensure that –
- (a) an equipment integrity test is conducted on the storage system after all replacement work, including concreting and sealing, is completed; and
 - (b) the storage system has passed the test.

Penalty: Fine not exceeding 100 penalty units.

- (6) If a storage system is replaced, a landowner in respect of the storage system must, before the storage system is allowed to be in use, ensure that –
- (a) the storage system incorporates the mandatory equipment, designed and installed in accordance with the requirements of AS 4897; and
 - (b) an equipment integrity test has been conducted after all installation work, including concreting and sealing, has been completed; and
 - (c) the storage system has passed the equipment integrity test referred to in paragraph (b); and
 - (d) the Director is notified, in the approved form, that the replacement has taken

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place, and of the matters referred to in paragraphs (a), (b) and (c).

Penalty: Fine not exceeding 100 penalty units.

- (7) If a tank forming part of a storage system, or piping in a storage system, is repaired, an infrastructure owner of the storage system must ensure that, before the storage system is allowed to be in use –
- (a) the repair work meets the requirements set out in AS 4897 as a minimum; and
 - (b) an equipment integrity test has been conducted on the storage system after all repair work, including concreting and sealing, has been completed; and
 - (c) the storage system has passed the equipment integrity test.

Penalty: Fine not exceeding 100 penalty units.

- (8) If a storage system or piping in a storage system is repaired or replaced, a system operator of the storage system must, before the storage system is allowed to be in use, ensure that the storage system has passed an equipment integrity test.

Penalty: Fine not exceeding 100 penalty units.

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**12. Abandoned storage system not to be allowed to be
in use**

A person must not allow an abandoned storage
system to be in use.

Penalty: Fine not exceeding 100 penalty units.

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Part 3 – Loss Monitoring and Leak Investigation

**PART 3 – LOSS MONITORING AND LEAK
INVESTIGATION**

13. Loss monitoring for storage systems other than small storage systems

- (1) This regulation does not apply in relation to a small storage system.
- (2) A system operator of a storage system must not allow the storage system to be in use unless a loss-monitoring procedure is carried out in respect of the system.

Penalty: Fine not exceeding 100 penalty units.

- (3) A system operator of a storage system to which subregulation (2) applies must ensure that a system operator of the storage system, at least once each month –
 - (a) provides, to a person carrying out a loss-monitoring procedure in respect of the storage system, data of a suitable standard such that the person can produce a conclusive result as to whether the storage system is providing full and continuous containment; and
 - (b) receives the results of a loss-monitoring procedure carried out in respect of the system.

Penalty: Fine not exceeding 100 penalty units.

14. Loss monitoring for small storage systems

- (1) A system operator of a small storage system must not allow the small storage system to be in use unless a small storage system loss-monitoring procedure is carried out in respect of the system.

Penalty: Fine not exceeding 100 penalty units.

- (2) If a small storage system loss-monitoring procedure carried out under subregulation (1) in respect of a storage system detects, in a tank in the storage system, a variation in petroleum volume of more than 2% of the tank capacity, a system operator of the storage system must –
- (a) notify an infrastructure owner of the storage system, within 7 days after the results of the procedure are received by the system operator, that the storage system is not providing full and continuous containment; and
 - (b) if petroleum may have been lost from the storage system, ensure that further petroleum is not lost from the storage system; and
 - (c) ensure that the storage system is not allowed to be in use until the tank is repaired or replaced in accordance with regulation 11.

Penalty: Fine not exceeding 100 penalty units.

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15. Interstitial monitoring

(1) This regulation applies to a storage system that consists of a double-walled tank with interstitial space, or double-walled product piping with an interstitial space, or both.

(2) A system operator of a storage system to which this regulation applies must not allow the storage system to be in use unless interstitial monitoring is carried out in respect of the storage system.

Penalty: Fine not exceeding 100 penalty units.

(3) For the purposes of subregulation (2), interstitial monitoring in respect of a storage system is monitoring that –

(a) assesses whether there is a leak, in any wall of a tank, or piping, that forms part of a storage system to which this regulation applies; and

(b) is carried out on at least 2 occasions, at least 4 months apart, in each year.

(4) If interstitial monitoring carried out in accordance with subregulation (3) determines that there is a leak, outside the accepted tolerances provided by the manufacturer of the tank or piping, respectively, in a wall of a tank or piping that forms part of a storage system to which this regulation applies, a system operator of the storage system must –

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- (a) notify an infrastructure owner of the storage system, within 7 days after the results of the interstitial monitoring are received by the system operator, that the storage system may not be providing full and continuous containment; and
 - (b) if petroleum may have been lost from the storage system, ensure that further petroleum is not lost from the storage system; and
 - (c) ensure that the storage system is not allowed to be in use until the storage system is repaired or replaced in accordance with regulation 11.

Penalty: Fine not exceeding 100 penalty units.

16. Leak investigation

- (1) In this regulation –

leak investigation, in relation to a storage system, means an assessment to determine whether the storage system is providing full and continuous containment.

- (2) If a discrepant result is obtained in the course of the provision of a loss-monitoring procedure in relation to a storage system, a system operator of the storage system must ensure that, within 14 days after the system operator receives the result,

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a review is carried out to determine if the discrepant result is –

- (a) due to inaccurate data; or
- (b) not due to inaccurate data.

Penalty: Fine not exceeding 100 penalty units.

- (3) If a review under subregulation (2) determines that the discrepant result is not due to inaccurate data, a system operator of the storage system must notify an infrastructure owner of the storage system, within 7 days after the results of the review are received by the system operator, that the storage system may not be providing full and continuous containment.

Penalty: Fine not exceeding 100 penalty units.

- (4) An infrastructure owner of a storage system must ensure that a leak investigation is carried out if a notification given to the infrastructure owner under subregulation (3) or regulation 15(4)(a) indicates that the storage system may not be providing full and continuous containment.

Penalty: Fine not exceeding 100 penalty units.

- (5) An infrastructure owner who is required by subregulation (4) to carry out a leak investigation must ensure that –
 - (a) the leak investigation begins within 14 days after the infrastructure owner

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becomes aware that a leak investigation is required in accordance with subregulation (4); and

- (b) a leak investigation is completed as soon as reasonably practicable; and
- (c) if there is a monitoring well in respect of a storage system – the leak investigation includes scrutinising the water in the well to determine whether petroleum has contaminated the groundwater; and
- (d) the infrastructure owner receives a conclusive result from the leak investigation as soon as reasonably practicable indicating whether the storage system is, or is not, providing full and continuous containment.

Penalty: Fine not exceeding 100 penalty units.

- (6) If a result received under subregulation (5)(d) indicates that the storage system is not providing full and continuous containment, an infrastructure owner of the storage system must, as soon as practicable, take measures to prevent any petroleum from being lost from the storage system.

Penalty: Fine not exceeding 100 penalty units.

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17. Leak-related actions

- (1) A system operator of a storage system must, within 7 days after becoming aware that the storage system is not providing full and continuous containment, notify an infrastructure owner of the storage system of the matter.

Penalty: Fine not exceeding 100 penalty units.

- (2) An infrastructure owner of a storage system must –
- (a) notify the Director, in the approved form, that the storage system is not providing full and continuous containment; and
 - (b) ensure that an environmental site assessment is commenced on the parcel of land on which the storage system is situated –

within 14 days after any or all of the following circumstances arise:

- (c) notification is received by the infrastructure owner under regulation 14(2)(a);
- (d) a leak investigation carried out under regulation 16(4) indicates that the storage system is not providing full and continuous containment;

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- (e) notification is received by the infrastructure owner under subregulation (1);
 - (f) petroleum is being or has been lost from the storage system and an infrastructure owner becomes aware of the loss;
 - (g) an infrastructure owner becomes aware by another means that the storage system is not providing full and continuous containment.

Penalty: Fine not exceeding 100 penalty units.

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PART 4 – MONITORING WELLS

Division 1 – Monitoring wells generally

18. Interpretation of Division

In this Division –

responsible person, in relation to a storage system, means –

- (a) if the storage system has not been decommissioned in accordance with Part 6 – an infrastructure owner of the storage system; or
- (b) if the storage system has been decommissioned in accordance with Part 6 – a landowner of the land on which the storage system is or was situated.

19. Specifications for monitoring wells

(1) In this regulation –

relevant well, in respect of a storage system, means a monitoring well, in respect of the storage system, that has not been decommissioned in accordance with regulation 20.

(2) A responsible person in relation to a storage system must ensure that a relevant well in respect of the storage system is –

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- (a) constructed so that cross-contamination between aquifers is prevented; and
 - (b) constructed so that a groundwater-monitoring well screen allows, under any seasonal groundwater conditions, entry of petroleum into the well if petroleum is lost from the storage system; and
 - (c) sealed to exclude surface water; and
 - (d) clearly marked to indicate its presence and purpose; and
 - (e) secured to prevent unauthorised access.

Penalty: Fine not exceeding 100 penalty units.

20. Decommissioning of monitoring wells

- (1) In this regulation –

Minimum Construction Requirements for Water Bores in Australia means the *Minimum construction requirements for water bores in Australia (Third edition)*, published in February 2012 by the National Water Commission, as amended or substituted from time to time.

- (2) A responsible person in relation to a storage system must ensure that, if a monitoring well in respect of the storage system is –
- (a) unsuitable for the purposes for which it was installed; or

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- (b) to be rendered permanently incapable of further use for the purposes for which it was installed –

the well is decommissioned in accordance with –

- (c) the Minimum Construction Requirements for Water Bores in Australia; and
- (d) EPA guidelines, if any, issued in relation to decommissioning of monitoring wells.

Penalty: Fine not exceeding 100 penalty units.

21. Light non-aqueous phase liquid contamination

- (1) In this regulation –

BTEX means the total concentration of a combination of benzene, toluene, ethylbenzene and xylene;

diesel TPH means the total concentrations of TPH from a diesel source where the carbon number range is between C10 and C14;

diesel TRH means the total concentrations of TRH from a diesel source where the carbon number range is between C10 and C16;

inferred LNAPL means –

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- (a) groundwater in which one or more of the following contaminant concentrations exist:
- (i) benzene at greater than 3 milligrams per litre;
 - (ii) BTEX from a petrol source at greater than 20 milligrams per litre;
 - (iii) petrol TPH or petrol TRH at greater than 30 milligrams per litre;
 - (iv) diesel TPH or diesel TRH at greater than 5 milligrams per litre; or
- (b) a substance defined or referred to as an inferred LNAPL in EPA guidelines;

LNAPL means light non-aqueous phase liquid that consists of a petroleum hydrocarbon, or combination of petroleum hydrocarbons, that is not mixed with water and has a specific gravity of less than 1.0;

LNAPL contamination means contamination consisting of inferred LNAPL, LNAPL or a sheen;

petrol TPH means the total concentrations of TPH from a petrol source where the

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carbon number range is between C6 and C14;

petrol TRH means the total concentrations of TRH from a petrol source where the carbon number range is between C6 and C16;

relevant person, in relation to a storage system, means –

- (a) an infrastructure owner of the storage system; and
- (b) a system operator of the storage system; and
- (c) a landowner of the storage system;

sheen means any visible petroleum, including any opalescent sheen, that floats on the surface of water;

TPH means total petroleum hydrocarbon compounds as quantified against straight chain aliphatic hydrocarbon and aromatic hydrocarbon standards in a specified carbon number range;

TRH means total recoverable hydrocarbon compounds as quantified against straight chain aliphatic hydrocarbon and aromatic hydrocarbon standards in a specified carbon number range.

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- (2) If a relevant person, in relation to a storage system, knows, or reasonably ought to know, that LNAPL contamination has been detected, during the period after 1 January 2015 and before the commencement of these regulations, in a monitoring well on the parcel of land on which the storage system is situated, the person must notify the Director and each other relevant person in relation to the storage system, in the approved form, within 6 months after the commencement of these regulations.

Penalty: Fine not exceeding 100 penalty units.

- (3) If a relevant person, or a suitably qualified person, becomes aware that LNAPL contamination has been detected in a monitoring well, after the commencement of these regulations, the person must notify the Director, in the approved form, within 7 days after becoming so aware.

Penalty: Fine not exceeding 100 penalty units.

- (4) If a relevant person, in relation to a storage system, becomes aware that LNAPL contamination has been detected, in a monitoring well on, or in the vicinity of, the parcel of land on which the storage system is situated, after the commencement of these regulations, the person must notify each other relevant person in relation to the storage system that LNAPL contamination has been detected in the monitoring well, within 7 days after becoming so aware.

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Penalty: Fine not exceeding 100 penalty units.

- (5) It is a defence in proceedings for an offence –
- (a) under subregulation (2) – if the defendant establishes that he or she knew, or reasonably believed, that the contamination had already been notified to the Director and each relevant person; and
 - (b) under subregulation (3) – if the defendant establishes that he or she knew, or reasonably believed, that the contamination had already been notified to the Director; and
 - (c) under subregulation (4) – if the defendant establishes that he or she knew, or reasonably believed, that the contamination had already been notified to each other relevant person.
- (6) If an infrastructure owner in relation to a storage system becomes aware by notification under these regulations, or by any other means, that LNAPL contamination has been detected in a monitoring well on, or in the vicinity of, the parcel of land on which the storage system is situated, the infrastructure owner must ensure that –
- (a) the Director is notified, in the approved form, that LNAPL contamination has been so detected; and

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- (b) an environmental site assessment is commenced on the parcel of land on which the storage system is situated –

within 14 days after the infrastructure owner becomes so aware.

Penalty: Fine not exceeding 100 penalty units.

Division 2 – Monitoring wells in groundwater protection zones

22. Application of Division

This Division does not apply in relation to a small storage system.

23. Required number and location of groundwater-monitoring wells

For the purposes of this Division, a sufficient number of suitably located groundwater-monitoring wells are installed in respect of a storage system if there are enough wells, and the wells are placed in suitable locations, so as to enable –

- (a) the detection of petroleum that may be lost from the storage system into any groundwater aquifer in the vicinity of the storage system; and
- (b) the identification of the local groundwater flow direction in any

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aquifer in the vicinity of the storage system.

24. Installation of groundwater-monitoring wells for existing storage systems in new groundwater protection zones

(1) In this regulation –

prescribed date, in relation to a storage system, means 2 years after the day on which a groundwater protection zone, in which part or all of the storage system is situated, is declared under regulation 5.

(2) This regulation applies to a storage system if the storage system is in use when a groundwater protection zone, in which part or all of the storage system is situated, is declared under regulation 5.

(3) An infrastructure owner of a storage system to which this regulation applies must ensure that, before the prescribed date –

(a) a sufficient number of suitably located groundwater-monitoring wells, as determined in accordance with regulation 23, are installed in respect of the storage system; and

(b) the groundwater-monitoring wells referred to in paragraph (a) are, in addition to the requirements under regulation 19, installed in accordance

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with any EPA guidelines issued in relation to the installation of groundwater-monitoring wells.

Penalty: Fine not exceeding 100 penalty units.

25. Installation of groundwater-monitoring wells for new storage systems in existing groundwater protection zones

- (1) This regulation applies to a storage system if part or all of the storage system is installed in a groundwater protection zone after the groundwater protection zone is declared under regulation 5.
- (2) An infrastructure owner of a storage system to which this regulation applies must ensure that, before the storage system is allowed to be in use for the first time –
 - (a) a sufficient number of suitably located groundwater-monitoring wells, as determined in accordance with regulation 23, are installed in respect of the storage system; and
 - (b) the groundwater-monitoring wells referred to in paragraph (a) are, in addition to the requirements under regulation 19, installed in accordance with any EPA guidelines issued in relation to the installation of groundwater-monitoring wells.

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Penalty: Fine not exceeding 100 penalty units.

26. Sampling and analysis of groundwater on installation

If groundwater-monitoring wells required under regulation 24(3) or regulation 25(2) are installed in respect of the storage system, an infrastructure owner of the storage system must ensure that sampling and analysis of groundwater, to determine whether petroleum has entered the groundwater –

- (a) occurs between 7 and 21 days after the groundwater-monitoring wells are installed in respect of the storage system; and
- (b) is carried out in accordance with regulation 6.

Penalty: Fine not exceeding 100 penalty units.

27. Reports on installation

- (1) In this regulation –

prescribed datum means the coordinate datum adopted from time to time in directions made under section 15 of the *Surveyors Act 2002*.

- (2) An infrastructure owner of a storage system must, within 45 days after all the groundwater-monitoring wells required under regulation 24(3)

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or regulation 25(2) are installed in respect of the storage system, obtain a groundwater-monitoring well installation report in relation to the wells.

Penalty: Fine not exceeding 100 penalty units.

- (3) A groundwater-monitoring well installation report for the purposes of subregulation (2) is a report, in relation to the groundwater-monitoring wells in respect of a storage system, that includes –
- (a) a statement that the wells comply with the requirements of regulation 19(2) and regulation 25; and
 - (b) a list of industry standards that have been followed when installing the wells; and
 - (c) final construction details of the wells; and
 - (d) coordinates of the wells in eastings and northings and the prescribed datum to which the coordinates relate; and
 - (e) details of the elevation of ground level at the wells; and
 - (f) details of the depth to standing-water level from the ground level where the wells are installed; and
 - (g) results of the groundwater analysis conducted in accordance with regulation 26 including information as to

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whether petroleum has been detected in water; and

- (h) a statement that a sufficient number of suitably located groundwater-monitoring wells, as determined in accordance with regulation 23, are installed in respect of the storage system.
- (4) If there are any EPA guidelines issued in relation to groundwater-monitoring well installation reports, the groundwater-monitoring well installation report for the purposes of subregulation (2) is to be written in accordance with those EPA guidelines.
- (5) An infrastructure owner must, within 7 days after receiving a groundwater-monitoring well installation report under subregulation (2), ensure that the Director is notified in the approved form.

Penalty: Fine not exceeding 50 penalty units.

28. Scrutiny, sampling and analysis of wells in groundwater protection zone

- (1) A system operator of a storage system –
 - (a) that is in use in a groundwater protection zone; and
 - (b) in respect of which a groundwater-monitoring well is installed –

must ensure that –

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- (c) the water in the groundwater-monitoring well is –
 - (i) scrutinised at least every 6 months for contamination by petroleum; and
 - (ii) sampled and analysed at least every 12 months for contamination by petroleum; and
 - (d) if there is a tank pit observation well adjacent to the storage system, any water in the well is –
 - (i) scrutinised at least every 6 months for contamination by petroleum; and
 - (ii) sampled and analysed at least every 12 months for contamination by petroleum; and
 - (e) if there are EPA guidelines issued in relation to scrutiny, sampling and analysis required under paragraph (c) or (d), the scrutiny, sampling and analysis is conducted in accordance with those EPA guidelines.

Penalty: Fine not exceeding 100 penalty units.

- (2) If petroleum is detected in water from a groundwater-monitoring well or tank pit observation well during scrutiny, or sampling and analysis, under subregulation (1), a system

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operator of a storage system in respect of which the groundwater-monitoring well or tank pit observation well is installed must, as soon as practicable but in any case within 7 days after the petroleum is detected, notify an infrastructure owner of the storage system that petroleum has been detected.

Penalty: Fine not exceeding 100 penalty units.

(3) An infrastructure owner of a storage system who –

- (a) is notified in accordance with subregulation (2) that petroleum has been detected in water; or
- (b) receives a groundwater-monitoring well installation report under regulation 27(2) that indicates that petroleum has been detected in water –

must –

- (c) as soon as practicable, prevent further petroleum from being lost from the storage system; and
- (d) within 7 days after the notification or report is received, respectively, notify the Director, in the approved form –
 - (i) that petroleum has been so detected; and

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- (ii) that an environmental site assessment will be carried out on the parcel of land on which is situated the storage system in respect of which the groundwater-monitoring well or tank pit observation well is installed; and
 - (e) within 7 days after the notification or report is received, respectively, ensure that an investigation to determine the source of the petroleum commences; and
 - (f) within 14 days after the notification or report is received, respectively, ensure that an environmental site assessment is commenced, on the parcel of land on which is situated the storage system in respect of which the groundwater-monitoring well or tank pit observation well is installed.

Penalty: Fine not exceeding 100 penalty units.

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Part 5 – Environmental Site Assessments

PART 5 – ENVIRONMENTAL SITE ASSESSMENTS

29. Environmental site assessments

(1) In this regulation –

petroleum-related pollutant includes petroleum, a pollutant originating from petroleum and a pollutant produced when petroleum undergoes degradation.

(2) For the purposes of these regulations, an environmental site assessment is an assessment of a parcel of land that is, or is likely to be, contaminated by a petroleum-related pollutant to determine –

- (a) the type or types of petroleum-related pollutant concerned; and
- (b) the source of the petroleum-related pollutant; and
- (c) the spatial extent and magnitude of the petroleum-related pollutant, including whether the petroleum-related pollutant may have escaped from the parcel of land and whether the petroleum-related pollutant is affecting other land, a watercourse or body of water (including groundwater); and
- (d) the level of risk to human health, and to the environment, associated with the petroleum-related pollutant; and

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- (e) whether further actions are required to limit the extent of the pollutant and the period within which these actions should be performed; and
 - (f) whether part or all of the parcel of land, or land in the vicinity of the parcel of land, is a contaminated site.
 - (3) An infrastructure owner of a storage system who is required under these regulations to commence an environmental site assessment must ensure that –
 - (a) the person who carries out the assessment gives to an infrastructure owner of the storage system, within 4 months after the environmental site assessment is commenced, a report (an *environmental site assessment report*) in relation to all the matters specified in subregulation (2); and
 - (b) the environmental site assessment is managed, and the environmental site assessment report is prepared, by a suitably qualified person; and
 - (c) the environmental site assessment is carried out and the environmental site assessment report is prepared –
 - (i) in accordance with the *National Environment Protection (Assessment of Site Contamination) Measure 1999*,

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made on 10 December 1999 by the National Environment Protection Council under the *National Environment Protection Council Act 1994* of the Commonwealth, as amended or substituted from time to time; and

- (ii) if there are any EPA guidelines in relation to the environmental site assessment or the environmental site assessment report, in accordance with those EPA guidelines.

Penalty: Fine not exceeding 100 penalty units.

30. Notice to landowner

- (1) If an environmental site assessment is being carried out in respect of a storage system, an infrastructure owner of the storage system must notify a landowner in respect of the storage system, in writing, within 7 days after an environmental site assessment in respect of the storage system is commenced, that –
 - (a) the environmental site assessment is being carried out in relation to the parcel of land on which the storage system is situated; and
 - (b) part or all of the parcel of land on which the storage system is situated may be a contaminated site.

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Penalty: Fine not exceeding 100 penalty units.

- (2) It is a defence in proceedings for an offence under subregulation (1) if the defendant establishes that he or she knew, or reasonably believed, that a landowner had already been notified in accordance with that subregulation.

31. Landowners to advise purchasers of ongoing environmental site assessments

If –

- (a) a landowner in respect of a storage system situated on a parcel of land is aware that an environmental site assessment is being carried out in relation to the parcel of land; and
- (b) the environmental site assessment has not been completed –

a landowner in respect of the storage system must, before a contract to sell part or all of the parcel of land is entered into with a person, inform the person, in writing, that –

- (c) an environmental site assessment is being carried out in relation to the parcel of land; and
- (d) part or all of the parcel of land may be a contaminated site.

Penalty: Fine not exceeding 100 penalty units.

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Part 5 – Environmental Site Assessments

32. Report to Director

- (1) An infrastructure owner of a storage system must, within 7 days after receiving an environmental site assessment report under regulation 29(3), provide a copy of the report to the Director.

Penalty: Fine not exceeding 100 penalty units.

- (2) The Director, by notice to an infrastructure owner of a storage system who has provided a report to the Director under subregulation (1), may require the infrastructure owner to pay the whole or a part of the reasonable costs and expenses incurred by the Director, or a person nominated by the Director, in reviewing the report.
- (3) An infrastructure owner of a storage system who is required under subregulation (2) to pay costs and expenses must pay the costs and expenses –
 - (a) within 30 days after the notice for the costs and expenses is issued; or
 - (b) within such later period as is specified in that notice.

**PART 6 – DECOMMISSIONING OF STORAGE
SYSTEMS**

Division 1 – Decommissioning of storage system

33. Application of Division

This Division does not apply to a storage system in respect of any period of not more than 6 months in which the storage system is not in use because –

- (a) a component of the storage system is being repaired or replaced in accordance with regulation 11; or
- (b) leak investigation under regulation 16, or an environmental site assessment in accordance with Part 5, is being carried out.

34. Cessation of use

An infrastructure owner of a storage system must, within 2 months after the storage system ceases to be in use –

- (a) notify the Director, in the approved form, that use of the storage system has ceased; and
- (b) either –

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Part 6 – Decommissioning of Storage Systems

- (i) temporarily decommission the storage system in accordance with regulation 35(1); or
- (ii) commence permanent decommissioning of the storage system in accordance with regulation 36.

Penalty: Fine not exceeding 100 penalty units.

35. Temporary decommissioning of storage system

- (1) For the purposes of these regulations, a storage system is temporarily decommissioned if an infrastructure owner complies, in respect of the storage system, with –
 - (a) the AS 4976 requirements for tanks that are temporarily out of service; and
 - (b) if there are any EPA guidelines in relation to temporary decommissioning of a storage system, those EPA guidelines.
- (2) An infrastructure owner of a storage system that has been temporarily decommissioned in accordance with subregulation (1), but that still contains petroleum, must ensure that the following processes are continued in respect of the storage system during the whole of the period in which the storage system is to be regarded as temporarily decommissioned:

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- (a) cathodic protection maintenance and testing in accordance with regulation 9(4);
- (b) loss monitoring and leak investigation in accordance with Part 3.

Penalty: Fine not exceeding 100 penalty units.

- (3) An infrastructure owner of a storage system that has been temporarily decommissioned in accordance with subregulation (1) must ensure that the storage system is not allowed to be in use, unless –
 - (a) an equipment integrity test of the storage system is conducted and the storage system has passed the test; and
 - (b) if the storage system is located in a groundwater protection zone, an infrastructure owner of the storage system has complied with the requirements of regulation 25(2) as if the storage system were a new storage system.

Penalty: Fine not exceeding 100 penalty units.

- (4) If a storage system that has been temporarily decommissioned has not been returned to use within a 12-month period after the storage system ceases to be in use, an infrastructure owner of the storage system must permanently decommission the storage system in accordance with regulation 36.

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Part 6 – Decommissioning of Storage Systems

36. Permanent decommissioning of storage system

(1) An infrastructure owner of a storage system must, within 4 months after –

(a) the commencement of permanent decommissioning under regulation 34(b)(ii); or

(b) the expiry of the 12-month period referred to in regulation 35(4) –

complete permanent decommissioning of the storage system in accordance with subregulation (2).

Penalty: Fine not exceeding 100 penalty units.

(2) For the purposes of these regulations, the permanent decommissioning of a storage system is complete –

(a) if –

(i) the storage system is –

(A) removed; and

(B) disposed of in accordance with AS 4976; or

(ii) where the storage system, or any part of the storage system, cannot be removed safely without serious risk to the safety of people or adjoining infrastructure – the storage system, or part of

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-
- the storage system, is
decommissioned *in situ*, in
accordance with AS 4976,
without being removed; and
- (b) if an assessment is conducted as to
whether –
- (i) petroleum has contaminated the
soil or groundwater within the
vicinity of the storage system;
and
 - (ii) any contamination detected is
likely to pose an unacceptable
risk of harm to human health or
the environment; and
 - (iii) management or remediation
measures, or both, are required to
lower any risk of unacceptable
harm to human health or the
environment to an acceptable
level; and
 - (iv) further investigation is required
in order to determine the level of
risk posed by any contamination
detected; and
 - (v) a parcel of land is a contaminated
site; and
- (c) if a report in relation to the matters
referred to in paragraph (b) (a
decommissioning assessment report) has

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- been obtained by the infrastructure owner; and
- (d) if the infrastructure owner has notified the Director, in the approved form, that decommissioning in accordance with this regulation has been completed.
- (3) If part of the storage system is decommissioned *in situ* in accordance with subregulation (2)(a)(ii), the decommissioning of the storage system is not to be taken to be complete unless all other parts of the storage system are –
- (a) removed; and
- (b) disposed of in accordance with AS 4976.
- (4) An infrastructure owner of a storage system who is required under these regulations to undertake decommissioning of the storage system must ensure that a suitably qualified person –
- (a) manages the assessment of matters referred to in subregulation (2)(b); and
- (b) prepares a decommissioning assessment report required under subregulation (2)(c).
- (5) If there are any EPA guidelines in relation to –
- (a) the assessment of matters referred to in subregulation (2)(b); and

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- (b) the preparation of a decommissioning assessment report required under subregulation (2)(c) –

an infrastructure owner of a storage system who is required under these regulations to undertake decommissioning of the storage system must ensure that the assessment and the decommissioning assessment report in relation to the storage system are undertaken in accordance with those EPA guidelines.

Penalty: Fine not exceeding 100 penalty units.

37. Decommissioning of abandoned storage system

An infrastructure owner of an abandoned storage system must ensure that, if the abandoned storage system is to be decommissioned, permanent decommissioning is completed within 6 months after the decommissioning commences, in accordance with regulation 36(2), (3) and (5).

Penalty: Fine not exceeding 100 penalty units.

Division 2 – Further assessment and reporting

38. Further assessment of decommissioned storage system

- (1) Subregulation (2) applies in relation to a storage system if a decommissioning assessment report obtained in accordance with regulation 36(2)(c) indicates that further assessment is required in

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order to determine the level of risk posed by any contamination detected in the vicinity of the storage system.

- (2) If this subregulation applies to a storage system, the person who obtained the decommissioning assessment report referred to in subregulation (1) must ensure that, within 4 months after obtaining that decommissioning assessment report –
- (a) a further assessment is conducted to determine the level of risk to human health, and to the environment, posed by any contamination detected; and
 - (b) the further assessment conducted under paragraph (a) is managed by a suitably qualified person; and
 - (c) he or she obtains a copy of a report, prepared by a suitably qualified person, in relation to the matters referred to in paragraph (a) (a ***further decommissioning assessment report***); and
 - (d) he or she, after obtaining a further decommissioning assessment report under paragraph (c), notifies the Director in the approved form.

Penalty: Fine not exceeding 100 penalty units.

39. Review of decommissioning assessment report

- (1) The Director may require that a person who obtains a decommissioning assessment report or further decommissioning assessment report under regulation 36(2)(c) or regulation 38(2)(c), respectively, supply a copy of one or both of those reports to the Director.

Penalty: Fine not exceeding 100 penalty units.

- (2) The Director may, by notice to a person who supplies a decommissioning assessment report or further decommissioning assessment report under subregulation (1), require the person to pay the whole or a part of the reasonable costs and expenses incurred by the Director, or a person nominated by the Director, in reviewing the decommissioning assessment report or further decommissioning assessment report.
- (3) A person required under subregulation (2) to pay costs and expenses must pay the costs and expenses –
- (a) within 30 days after an invoice for the costs and expenses is issued; or
 - (b) within a later period, after an invoice is issued, that is specified by the Director in a written notice to the person.

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Part 7 – Record-keeping

PART 7 – RECORD-KEEPING

40. Keeping of records when storage system in use, &c.

- (1) A system operator of a storage system must keep the following records in relation to the storage system:
 - (a) details of the ownership of the storage system, including any contractual arrangements relevant to the management of the storage system;
 - (b) contact details for all infrastructure owners of the storage system, all landowners of the storage system and all persons who are associated with the management of the storage system;
 - (c) details, including dimensions, capacity and location, of the storage system;
 - (d) details of any leak investigation carried out under regulation 16 and action taken as a result of the investigation;
 - (e) copies of all correspondence between the system operator and the Director.

Penalty: Fine not exceeding 50 penalty units.

- (2) An infrastructure owner of a storage system, must keep the following records in relation to the storage system:

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- (a) details of the ownership of the storage system;
 - (b) details, including dimensions, capacity and location, of the storage system;
 - (c) the storage system designs and installation plans;
 - (d) site plans for the storage system and any other storage system that was formerly on the parcel of land on which the storage system is situated, including site drainage plans;
 - (e) details of all repairs and replacements of components of the storage system;
 - (f) copies of all assessment reports obtained by an infrastructure owner of the storage system under regulation 29(3), regulation 36(2)(c) or regulation 38(2)(c);
 - (g) copies of all notifications given to the Director under regulation 27(5), regulation 28(3), regulation 36(2)(d) or regulation 38(2)(d);
 - (h) copies of all groundwater-monitoring well installation reports obtained under regulation 27(2) by an infrastructure owner;
 - (i) results of all equipment integrity tests conducted in relation to the storage

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system, including each test conducted in accordance with regulation 10(1), regulation 11(5) or regulation 11(7);

- (j) copies of all correspondence between the infrastructure owner and the Director.

Penalty: Fine not exceeding 50 penalty units.

- (3) The records kept under subregulation (1) or (2) must be retained unless the records are to be delivered to a landowner in accordance with regulation 42(2) or regulation 43(2).
- (4) A landowner in respect of a storage system must keep the following records in relation to the storage system:
 - (a) details of the ownership of the storage system;
 - (b) contact details for all infrastructure owners of the storage system, all system operators of the storage system and all persons who are associated with the management of the storage system;
 - (c) details, including dimensions, capacity and location of the storage system;
 - (d) the storage system designs and installation plans;
 - (e) site plans for the storage system and any other storage system that was formerly on the parcel of land on which the

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storage system is situated, including site drainage plans;

- (f) details of all repairs and replacements of components of the storage system;
- (g) a copy of a notification given to the landowner under regulation 30;
- (h) copies of all notifications given to the Director, under regulation 8(5), regulation 10(3) and regulation 45;
- (i) copies of all correspondence between the land owner and the Director.

Penalty: Fine not exceeding 50 penalty units.

- (5) The records kept under subregulation (4) must be retained –
 - (a) during the period in which the storage system is in use or has not been decommissioned; and
 - (b) for a period of 10 years after the day on which decommissioning of the storage system is completed in accordance with Part 6.

Penalty: Fine not exceeding 50 penalty units.

- (6) A person is not required to keep a record specified in subregulation (1), (2) or (4) if the record was created before 31 March 2010 and the person has taken reasonable steps to obtain the record but has not been able to do so.

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Penalty: Fine not exceeding 50 penalty units.

41. Certain records to be kept for 10 years from date of creation

A system operator of a storage must keep, for 10 years after they came into existence, the following records, results and documents in relation to the storage system:

- (a) the results of a loss-monitoring procedure received under regulation 13(3) or a small storage system loss-monitoring procedure received under regulation 14;
- (b) records of interstitial monitoring carried out under regulation 15;
- (c) results of scrutiny carried out under regulation 28(1);
- (d) documents setting out record-keeping procedures and details of loss-prevention measures undertaken in respect of the storage system (including maintenance schedules and testing details);
- (e) records of any training in relation to protecting the environment that has been given to persons when employed or engaged for purposes related to the parcel of land on which the storage system is situated –

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unless the records, results or documents are to be delivered to a landowner in accordance with regulation 42(1) or regulation 43(1).

Penalty: Fine not exceeding 50 penalty units.

42. Records to be delivered to landowner when storage system decommissioned

- (1) A person who was, immediately before a storage system was decommissioned in accordance with Part 6, a system operator of the storage system must ensure that, within 30 days after decommissioning of the storage system is completed, the records kept in relation to the system under regulation 40(1) or regulation 41 are delivered to a landowner in respect of the storage system.

Penalty: Fine not exceeding 50 penalty units.

- (2) A person who was, immediately before a storage system or abandoned storage system was decommissioned in accordance with Part 6, an infrastructure owner of the storage system or abandoned storage system must ensure that, within 30 days after decommissioning of the storage system or abandoned storage system is completed, the records kept in relation to the system under regulation 40(2) are delivered to a landowner in respect of the storage system or abandoned storage system.

Penalty: Fine not exceeding 50 penalty units.

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- (3) A landowner to whom records are delivered under this regulation must retain the records for a period of 10 years after the day on which decommissioning of the storage system or abandoned storage system to which the records relate was completed in accordance with Part 6.

Penalty: Fine not exceeding 50 penalty units.

43. Records, &c., to be delivered to landowner

- (1) A person must, within 14 days after ceasing to be a system operator of a storage system, deliver, to a landowner in respect of the storage system, copies of all records, results and documents for the storage system that were held by the first-mentioned person.

Penalty: Fine not exceeding 50 penalty units.

- (2) A person must, within 14 days after ceasing to be an infrastructure owner of a storage system, deliver, to a landowner in respect of the storage system, copies of all records, results and documents for the storage system that were held by the first-mentioned person.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must, within 14 days after ceasing to be a landowner of a storage system, deliver, to another landowner, if any, in respect of the storage system, copies of all records, results and documents for the storage system that were held by the first-mentioned person.

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Penalty: Fine not exceeding 50 penalty units.

- (4) A landowner to whom records, results and documents are delivered under this regulation must retain the records, results and documents –
- (a) during the period in which the storage system is in use; and
 - (b) for a period of 10 years after the day on which decommissioning of the storage system is completed in accordance with Part 6.

Penalty: Fine not exceeding 50 penalty units.

44. Records required by Director

A person who is required to keep a record, result or document specified in this Part must ensure that the record, result or document is available for inspection by the Director within 14 days after the Director requires the record, result or document to be made so available.

Penalty: Fine not exceeding 50 penalty units.

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PART 8 – MISCELLANEOUS

45. Registration of storage system

A person who becomes a landowner in respect of a storage system must notify the Director in the approved form within 30 days after becoming a landowner in respect of the storage system –

- (a) that the person is a landowner in respect of the storage system; and
- (b) of the details of the storage system.

Penalty: Fine not exceeding 100 penalty units.

46. Defence

It is a defence to a charge of committing an offence against a provision of these regulations that requires a landowner in respect of a storage system, an infrastructure owner of a storage system or a system operator of a storage system –

- (a) to take an action in relation to the storage system; or
- (b) to ensure that an action is or is not taken in relation to the storage system –

if the person charged establishes that he or she reasonably believed that another landowner in respect of the storage system, another infrastructure owner of the storage system, or

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another system operator of the storage system,
respectively, had satisfied the requirement.

47. Exemptions on application

- (1) A person may apply to the Director for an exemption from the requirements of one or more provisions of these regulations.
- (2) An application under subregulation (1) must be –
 - (a) in the approved form; and
 - (b) accompanied by a fee of 200 fee units.
- (3) The Director may, by notice to a person who makes an application under subregulation (1), require the person to pay a fee calculated at 75 fee units for each hour, or part of an hour, spent by the Director, or a person nominated by the Director, in assessing the application.
- (4) A person required under subregulation (3) to pay a fee is to pay the fee –
 - (a) within 30 days after an invoice for the fee is issued; or
 - (b) within a later period, after an invoice is issued, specified by the Director in a written notice to the person.
- (5) The Director may, on his or her own initiative, waive the fee required under subregulation (2)(b).

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- (6) The Director may, in writing –
 - (a) require a person to provide to the Director further information about any matter in relation to an application by the person under subregulation (1); and
 - (b) refuse to grant the application unless the person provides the information as required.
- (7) The Director may, after receiving an application under subregulation (1) from a person, exempt, or refuse to exempt, the person from the requirements of a provision of these regulations.
- (8) An exemption under subregulation (7) may be granted unconditionally or subject to any condition that the Director considers appropriate.
- (9) A person exempted under subregulation (7) from the requirements of a provision of these regulations must comply with the conditions, if any, of the exemption.

Penalty: Fine not exceeding 100 penalty units.
- (10) The Director may at any time, by notice to a person to whom an exemption has been granted under subregulation (7), revoke the exemption.

48. Exemptions at instigation of Director

- (1) The Director may, on his or her own initiative –

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- (a) by notice, exempt a class of persons from the requirements of a provision of these regulations; or
 - (b) by notice to a person, exempt the person from the requirements of a provision of these regulations.
 - (2) An exemption under subregulation (1) may be granted unconditionally or on any conditions that the Director considers appropriate.
 - (3) A person, or a member of a class of persons, exempted under subregulation (1) from the requirements of a provision of these regulations, must comply with the conditions, if any, of the exemption.

Penalty: Fine not exceeding 100 penalty units.

- (4) The Director may at any time –
 - (a) by notice, revoke an exemption under subregulation (1) in respect of a class of persons; or
 - (b) by notice to a person to whom an exemption has been granted under subregulation (1), revoke the exemption.

49. Amendment of exemption

- (1) The Director, at any time, may amend an exemption granted under regulation 47 or 48 by issuing an amendment to the exemption.

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- (2) A person is not bound by an amendment to an exemption until the person has been served with a copy of the amendment.

50. Costs of exemption

- (1) The Director may, by service of a notice in writing on a person for whose benefit an exemption has been granted, require the person to pay the whole or a part of the reasonable costs and expenses incurred by the Director in relation to –
- (a) the issue and service of the exemption and any amendment to the exemption; and
 - (b) the issue and service of copies of the exemption, and any amendment to the exemption, required under these regulations; and
 - (c) the review of any information required to ensure compliance with the exemption.
- (2) A person required under subregulation (1) to pay costs and expenses is to pay the costs and expenses –
- (a) within 30 days after an invoice for the costs and expenses is issued; or
 - (b) within a later period, after an invoice is issued, specified by the Director in the

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notice to the person referred to in that subregulation.

51. Further information

- (1) The Director may require a person to provide to the Director further information about any reports, results, documents, notices or notifications that the person is required to give to the Director under these regulations.
- (2) A person required under subregulation (1) to provide information to the Director must, within the period determined by the Director, provide the information to the Director.

Penalty: Fine not exceeding 100 penalty units.

52. Loss detection protocols

- (1) The Director may, by notice, issue protocols for loss detection for the purposes of these regulations.
- (2) The Director may, by notice, vary or revoke protocols issued under subregulation (1).

53. EPA guidelines

- (1) The Director may, by notice, issue guidelines for the purposes of these regulations.
- (2) The Director may, by notice, vary or revoke guidelines issued under subregulation (1).

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54. Prescribed offences

For the purposes of section 72 of the Act –

- (a) an offence specified in column 1 of the table in Schedule 1 is a prescribed offence; and
- (b) a penalty specified in column 2 of the table in Schedule 1 is the penalty prescribed as applicable for the offence to which it relates.

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**SCHEDULE 1 – ENVIRONMENTAL INFRINGEMENT
NOTICE PENALTIES**

Regulation 54		
	Column 1	Column 2
	Offence	Penalty Units
1.	Regulation 6(2)	10
2.	Regulation 6(3)	10
3.	Regulation 7(1)	10
4.	Regulation 7(2)	10
5.	Regulation 7(3)	10
6.	Regulation 8(3)	5
7.	Regulation 8(4)	5
8.	Regulation 8(5)	5
9.	Regulation 9(2)	10
10.	Regulation 9(4)	10
11.	Regulation 10(1)	10
12.	Regulation 10(3)	10
13.	Regulation 10(4)	10
14.	Regulation 11(1)	10
15.	Regulation 11(3)	10

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	Column 1	Column 2
	Offence	Penalty Units
16.	Regulation 11(4)	10
17.	Regulation 11(5)	10
18.	Regulation 11(6)	10
19.	Regulation 11(7)	10
20.	Regulation 11(8)	10
21.	Regulation 12	10
22.	Regulation 13(2)	10
23.	Regulation 13(3)	10
24.	Regulation 14(1)	10
25.	Regulation 14(2)	10
26.	Regulation 15(2)	10
27.	Regulation 15(4)	10
28.	Regulation 16(2)	10
29.	Regulation 16(3)	10
30.	Regulation 16(4)	10
31.	Regulation 16(5)	10
32.	Regulation 16(6)	10

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	Column 1	Column 2
	Offence	Penalty Units
33.	Regulation 17(1)	10
34.	Regulation 17(2)	10
35.	Regulation 19(2)	10
36.	Regulation 20(2)	10
37.	Regulation 21(2)	10
38.	Regulation 21(3)	10
39.	Regulation 21(4)	10
40.	Regulation 21(6)	10
41.	Regulation 24(3)	10
42.	Regulation 25(2)	10
43.	Regulation 26	10
44.	Regulation 27(2)	10
45.	Regulation 27(5)	5
46.	Regulation 28(1)	10
47.	Regulation 28(2)	10
48.	Regulation 28(3)	10
49.	Regulation 29(3)	10

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	Column 1	Column 2
	Offence	Penalty Units
50.	Regulation 30(1)	10
51.	Regulation 31	10
52.	Regulation 32(1)	10
53.	Regulation 34	10
54.	Regulation 35(2)	10
55.	Regulation 35(3)	10
56.	Regulation 36(1)	10
57.	Regulation 36(5)	10
58.	Regulation 37	10
59.	Regulation 38(2)	10
60.	Regulation 39(1)	10
61.	Regulation 40(1)	5
62.	Regulation 40(2)	5
63.	Regulation 40(4)	5
64.	Regulation 40(5)	5
65.	Regulation 40(6)	5
66.	Regulation 41	5

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	Column 1	Column 2
	Offence	Penalty Units
67.	Regulation 42(1)	5
68.	Regulation 42(2)	5
69.	Regulation 42(3)	5
70.	Regulation 43(1)	5
71.	Regulation 43(2)	5
72.	Regulation 43(3)	5
73.	Regulation 43(4)	5
74.	Regulation 44	5
75.	Regulation 45	10
76.	Regulation 47(9)	10
77.	Regulation 48(3)	10
78.	Regulation 51(2)	10

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 29 January 2020.

These regulations are administered in the Department of Primary Industries, Parks, Water and Environment.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations, for the purposes of the *Environmental Management and Pollution Control Act 1994* –

- (a) prescribe requirements relating to the installation, operation and decommissioning of underground petroleum storage systems; and
- (b) are made consequentially on the repeal of the *Environmental Management and Pollution Control (Underground Petroleum Storage Systems) Regulations 2010* under section 11 of the *Subordinate Legislation Act 1992*.