



Queensland

Petroleum and Gas (Production and Safety) Amendment Regulation (No. 5) 2011

Explanatory Notes for SL 2011 No. 243

made under the

Petroleum and Gas (Production and Safety) Act 2004

General outline

Short title

Petroleum and Gas (Production and Safety) Amendment Regulation (No. 5) 2011.

Authorising law

Section 281 and 859 of the *Petroleum and Gas (Production and Safety) Act 2004*

Policy objectives and reasons for them

The key policy objective of the regulation is to ensure compliance with a new code of practice for constructing and abandoning coal seam gas (CSG) wells in Queensland. The purpose of the code is to ensure that all CSG wells are constructed and abandoned to a minimum acceptable standard to ensure long-term well integrity and containment of gas, and to prevent degradation of groundwater resources.

There have been allegations made that some drillers of petroleum wells (which includes CSG wells) have less rigorous operating standards than water bore drillers. The inference is that this may pose a hazard to underground water resources via cross contamination by CSG from coal seams.

However, the safety of petroleum well drill rig operators, and certain construction, operating and decommissioning requirements for petroleum wells are already addressed in the *Petroleum and Gas (Production and Safety) Act 2004* (the 2004 Act) for petroleum tenure administered under it and the *Petroleum Act 1923* (the 1923 Act) (together, the Acts). There are also prescribed requirements to ensure that, for a petroleum well, there is no interconnectivity of water or gas between aquifers and petroleum reservoirs.

Nonetheless, there are no specific detailed provisions relating to groundwater resource protection practices during the construction and decommissioning of petroleum wells.

To address this, the Department of Employment, Economic Development and Innovation (DEEDI) worked with the Department of Environment and Resource Management (DERM) to develop an appropriate solution.

Consultation by DEEDI and DERM with petroleum industry proponents and other stakeholders (such as the Australian Petroleum Production and Exploration Association (APPEA)—a key petroleum industry representative body) determined that the most appropriate solution was the preparation and implementation of a code of practice (the code).

Currently, the safety provisions of the 2004 Act (which also predominately apply to petroleum exploration and production activities authorised under the 1923 Act) require CSG operators to apply a rigorous risk-based approach and to possess a comprehensive asset integrity regime to minimise environmental and safety risks associated with the development and operations of CSG infrastructure.

The code has been developed by DEEDI, in consultation with DERM and APPEA, and will complement the safety provisions of the 2004 Act by:

- providing guidance, along with industry agreed outcomes, for construction and integrity, for CSG wells;
- referencing appropriate industry standards and technical reports which are to assist in the appropriate design of CSG wells;

- ensuring that any cross contamination of water from aquifers, and CSG from coal seams, is minimised, and that CSG wells are constructed safely for whole of life; and
- ensuring that abandoned CSG wells are left in a safe and environmentally sustainable state.

A number of minor amendments have also been included in the regulation, outlined as follows.

Due to the commencement of the *Water and Other Legislation Amendment Act 2010*, which amended the *Water Act 2000*, a number of reporting requirements are no longer needed in the *Petroleum and Gas (Production and Safety) Regulation 2004* (the P&G Regulation). This is because the information required to be lodged in these reports or the requirement to lodge the reports themselves is now provided for in Chapter 3 of the *Water Act 2000*.

As a consequence of this, a number of definitions, only used in the sections being deleted, may themselves be deleted.

The references to the code of practice for automotive liquefied petroleum gas sites and the drilling competency standard have been updated to reflect the updated versions of the documents.

An existing safety requirement for a prescribed petroleum well or a water bore that assists future entry of the well or bore for the purpose of milling or removing steel from the coal seam is tightened.

Achievement of policy objectives

The key policy objectives are achieved by amending the relevant provisions of the P&G Regulation and the *Petroleum Regulation 2004* (the Petroleum Regulation) to refer to, and require compliance with, a code of practice. The code will ensure groundwater resource protection is assured during the construction and abandonment of CSG wells.

Subordinate legislation requiring compliance with a code of practice developed by DEEDI in consultation with DERM and APPEA was the most reasonable and appropriate way to achieve the policy objectives.

By referring to a code of practice, subsequent changes to safety requirements, advances in drilling technology and changes to any standards referred to in the code of practice can be incorporated into the code, without the need for regulatory amendments.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main policy objectives of the 2004 Act, and the latent policy objectives of the 1923 Act, that is, to facilitate and regulate the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum industry in a way that has regard to the need for ecologically sustainable development.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with any policy objectives of any other legislation.

Alternative ways of achieving policy objectives

The Acts set out the framework for facilitating and regulating the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum industry in a way that has regard to the need for ecologically sustainable development. There are no alternative means to effectively achieve the policy objectives. Self regulation pursuant to a non enforceable code would not provide community assurance that the issue is adequately addressed.

Benefits and costs of implementation

There is no appreciable cost to the community or a part of the community as a result of the implementation of these amendments.

The undertakings required in the code are good industry practice that all responsible operators would currently be undertaking. The net benefit/cost to the petroleum industry is therefore negligible. Industry has been heavily involved in the development of the code and supports its introduction to ensure a consistent whole-of-industry approach.

Land owners and occupiers who consider themselves affected by the drilling of CSG wells on their land can have increased confidence that there is a regulatory enforceable code of practice relating to groundwater resource protection practices during the construction and decommissioning of CSG wells.

Consistency with fundamental legislative principles

The amendments have been drafted with regard to the fundamental legislative principles and are considered to comply with these principles.

Consultation

Ongoing consultation has been undertaken with CSG companies, DERM and the petroleum industry, through its peak representative body (APPEA). In the early stages of developing the code, the Australian Drilling Industry Association was also consulted.

The code was drafted with direct input from APPEA, CSG companies and DERM and agreed to by these parties. Reference to and the requirement to comply with the code in the P&G Regulation and the Petroleum Regulation were supported by all parties consulted.

Consultation was also undertaken with DERM in relation to the amendments that omit certain reporting requirements from the P&G Regulation. It was confirmed by DERM that the reports themselves or the information within the reports were provided for in the *Water Act 2000*.

Consultation was undertaken with Queensland Treasury regarding the need for a Regulatory Assessment Statement (RAS) and compliance with Part 5 of the *Statutory Instruments Act 1992* (SIA). Accordingly, it was determined the proposal is excluded from the requirement for a Regulatory Assessment Statement (RAS) as, pursuant to section 3.3 of the *Queensland RAS System Guidelines*, application of the RAS system would produce negligible net benefit as the proposal will not impose significant impacts on the community, business or government. Compliance with Part 5 of the *Statutory Instruments Act 1992* (SIA) was determined pursuant to section 43 of the SIA, as the proposal will not impose appreciable costs on the community or a part of the community.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Employment, Economic Development and Innovation.

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