



Queensland

Environmental Protection Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 41

made under the

Environmental Protection Act 1994

General outline

Short title

Environmental Protection Amendment Regulation (No. 1) 2012.

Authorising law

Section 580 of the *Environmental Protection Act 1994* provides that the Governor in Council may make regulations under this Act.

Policy objectives and the reasons for them

The objective of this Regulation is to ensure—

- comprehensive regulation of coal seam gas water in Queensland.
- potential environmental impacts are fully considered and with regard for the Government's Coal Seam Gas (CSG) Water Management Policy.
- an adaptive approach to the environmental regulation in response to environmental impacts identified in an approved Underground Water Impact Report.

Achievement of policy objectives

Discharges to surface waters

The new regulatory requirements will enable decision makers within the Department to consider a broader range of matters when considering whether to approve/refuse an activity relating to the release or disposal of CSG water to surface waters.

As industry enters into a period of significant water production, the Government has experienced and will continue to experience an increased number of applications to release CSG water to surface waters (this will be via new proposals or amendments to existing authorities).

Some of these proposals may relate to ephemeral surface waters (i.e. waterways that have distinct wet and dry cycles). It will therefore be increasingly important for decision makers to consider impacts on such streams in order to protect their biological integrity, especially those ecosystems that rely on the distinct wet and dry cycles.

The proposed amendments will enable decision-makers to comprehensively consider the full range of impacts (i.e. hydrological and ecological) that may be caused by the change in the flow regime of a waterway as a result of CSG water.

Information requirements for CSG Water Management

A CSG applicant seeking approval of an environmental authority under the Environmental Protection Act 1994 is required to submit an Environmental Management Plan as part of their application and this must include information about the proposed methods of CSG water management. The Government's experience to date, has revealed information gaps with regards to what is provided and this has led to subsequent information requests which lengthens project timeframes and leads to delays. This amendment will include additional information requirements as part of the application. The amendments will also call up the Government's Coal Seam Gas Water Management Policy and require applicants to demonstrate how they have considered the policy, including justification for why non-preferred CSG water management options are proposed as a means of managing CSG water. This will improve the decision maker's ability to make an informed decision and impose appropriate conditions regarding management, treatment and disposal of CSG water.

Underground Water Impact Reports

Under the *Water Act 2000*, petroleum tenure holders are required to lodge an Underground Water Impact Report which makes predictions regarding the impacts of underground water extraction by petroleum and gas activities, on the water levels of aquifers and springs. This report is assessed and approved by the Government.

This amendment will prescribe an Underground Water Impact Report as a new circumstance for amending an environmental authority and will provide a better link between the *Water Act 2000* and the *Environmental Protection Act 1994* by ensuring that any environmental impacts, that is impacts on environmental values, identified by the Underground Water Impact Report can be dealt with via conditions on the environmental authority, including through amendment of existing environmental authorities. It reinforces the Government's adaptive approach to the environmental regulation of petroleum and gas activities.

Consistency with policy objectives of authorising law

This Regulation is consistent with the object of the *Environmental Protection Act 1994* which is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future.

Inconsistency with policy objectives of other legislation

This Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

This Regulation clarifies the Department's expectations with respect to the management of CSG water and provides a more responsive regulatory framework to manage environmental impacts associated with existing environmental authorities.

There will be no direct impacts on the community arising from these amendments.

Any applications for CSG activities involving significant water production are likely to undergo public consultation. Any decision made by the department in relation to these applications is subject to review and appeal,

including by third parties (e.g. the public). These amendments do not change those arrangements.

Consistency with fundamental legislative principles

This Regulation is consistent with fundamental legislative principles.

Consultation

The Department consulted on the proposed amendments in three phases.

Phase 1

In November 2011, as part of the broader departmental consultation on the review of the Coal Seam Gas Water Management Policy, the Department notified stakeholders (in a discussion paper) of the general intent to investigate amendments to the legislation (consultation period of 22 business days).

Phase 2

In December 2011, the Department sent a summary of intended amendments and a rationale to stakeholders, via email and invited comments to be made (consultation period of 10 business days).

Phase 3

In February 2012, the Department circulated an exposure draft of the proposed amendments to the same set of stakeholders inviting comment (consultation period of 1 business day).

The following stakeholders were notified—

- SunWater
- Australian Petroleum Production and Exploration Association (APPEA)
- Queensland Resources Council
- Individual Companies (e.g. Origin, Santos, Arrow, Queensland Gas Company)
- Agforce
- Queensland Farmers Federation
- Basin Sustainability Alliance

- Jimbour Action Group
- Surat Basin Engagement Group

General Outline

Short title

Clause 1 provides that the Regulation may be cited as the *Environmental Protection Amendment Regulation (No. 1) 2012*.

Regulation amended

Clause 2 provides that this regulation amends the *Environmental Protection Regulation 2008*.

Insertion of new ss 24AA and s24AB

Clause 3 inserts two new sections in Chapter 3, Part 2.

Section 24AA requires that an environmental management plan for a coal seam gas environmental authority must address the requirements of the Coal Seam Gas Water Management Policy and where a non-preferred CSG water management is proposed for the CSG water, provide the reason for using the non-preferred management option.

Section 24AA includes definitions for CSG environmental authority, preferred management option and non-preferred management option.

Section 24AB provides a new prescribed circumstance for amending an environmental authority (for a Chapter 5A activity) enabling the administering authority to amend an environmental authority and include new conditions to manage environmental impacts identified in an approved Underground Water Impact Report prepared under S24AB of the *Water Act 2000*.

Section 24AB includes a definition for Underground Water Impact Report.

Amendment of s 56 (Release of water, other than stormwater, to surface water)

Clause 4 inserts a new matter in section 56(2) relating to matters that the administering authority must consider when making a decision relating to an environmental authority for an activity that involves, or may involve, the release of water, other than stormwater, to surface water. The new section 56(2)(c) requires the administering authority to consider whether the release of CSG water will compromise the natural flow regime and/or biological integrity of the surface water.

Clause 4 also inserts a new matter in section 56(3) for which the administering authority must consider imposing conditions on the environmental authority. The new section 56(3) will enable the administering authority to impose conditions to minimise interruption of the recessional stage of the surface water and require the applicant to monitor the flow and biological integrity of the surface water and provide the administering authority with reports regarding the monitoring.

Clause 4 adds a definition for ‘recessional stage’.

64D Activity involving the use or disposal of coal seam gas water

Clause 5 inserts a new section 64D in Chapter 4, Part 3 relating to additional regulatory requirements for particular environmental management decisions

The new section 64D requires the administering authority to consider the requirements of the Coal Seam Gas Water Management Policy when making a decision relating to an activity that involves (or may involve) the management, treatment, use or disposal of CSG water.

Amendment of sch 12 (Dictionary)

Clause 6 extends the definition of biological integrity to relate to water in addition to wetland.

Clause 6 also adds definitions for coal seam gas water and CSG water management policy which are used throughout the Regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.

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