

Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 23

made under the

Petroleum and Gas (Production and Safety) Act 2004

General Outline

Short title

Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015

Authorising law

Sections 669(a), 670(5)(a), 675A and 859(2)(a) of the *Petroleum and Gas (Production and Safety) Act 2004*.

Policy objectives and the reasons for them

Some provisions about liquefied petroleum gas delivery networks in the *Petroleum and Gas (Production and Safety) Regulation 2004* are confusing and ambiguous. Questions have been raised about *what is a liquefied petroleum gas delivery network operating plant* given the provisions in the *Petroleum and Gas (Production and Safety) Regulation 2004* and the provisions in the *Petroleum and Gas (Production and Safety) Act 2004*. Consideration of these questions indicates ambiguity between provisions of the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum and Gas (Production and Safety) Regulation 2004*. The amendment regulation will remove the ambiguity and uncertainty and confirm the intended purpose of the provisions but will not change how provisions are being administered.

Industry stakeholders expect that standards and other reference documents applied by legislation is kept up-to-date. The *Petroleum and Gas (Production and Safety) Regulation 2004* currently prescribes a generic safety management plan for certain operating plants. The Australian Liquefied Petroleum Gas Association Limited published the plan in 2007. Its successor organisation, Gas Energy Australia, has advised it is not maintaining the safety management plan. A revised generic safety management plan has been developed and is to be published by the Department of Natural Resources and Mines.

Schedule 1, part 5 of the *Petroleum and Gas (Production and Safety) Regulation 2004* applies the 2009 version of *Australian Standard AS3814 'Industrial and commercial*

gas-fired appliances' (AS3814) as the preferred standard for design certification of type B gas devices. AS3814 was revised by committee through Standards Australia and published by SAI Global on 18 February 2015.

A further objective is to make minor consequential and drafting amendments as needed to support the above changes and align with current drafting practice.

Achievement of policy objectives

The policy objectives are achieved by:

- amending provisions to remove uncertainty about what is a liquefied petroleum gas delivery network operating plant and for determining gas safety and health fee liability;
- changing the reference to the prescribed generic safety management plan;
- updating the *AS3814 Industrial and commercial gas-fired appliances* reference to reflect the 2015 version; and
- making minor consequential and drafting amendments.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of *Petroleum and Gas (Production and Safety) Act 2004*.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Implementation of the amendments relating to liquefied petroleum gas delivery networks will provide regulatory certainty for liquefied petroleum gas delivery network operators, without substantial costs, as there is no change to capacity thresholds or fees payable. The amendments confirm the intended purpose of the provisions in line with advice provided by the Department of Natural Resources and Mines to liquefied petroleum gas delivery network operators as part of the 2014 Petroleum and Gas Safety and Health Fee return process. The advice outlined that the safety and health fee is calculated based on the maximum number of fuel gas containers used in the network and is consistent with information on the approved form for Petroleum and Gas Safety and Health Fee return lodgement that '*containers held on site*', '*containers held on a customers' premises*' and '*and empty containers*' (except where empty the entire year) are to be included in calculating the number of fuel gas containers used in the network.

Implementation of amendments to prescribe a revised generic safety management plan ensures operators of small liquefied petroleum delivery networks have access to a contemporary, generic safety management plan that will support them in meeting their safety obligations under the *Petroleum and Gas (Production and Safety) Act 2004*. Access to a generic safety management plan reduces the compliance costs for operators which would otherwise need to develop their own safety management plan.

The process to revise Australian Standards includes an assessment of the costs and benefits of changes. Implementation of amendments to update the version reference of

AS3814 Industrial and commercial gas-fired appliances is in line with industry expectations and practices.

Consistency with fundamental legislative principles

The amendments in the *Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015* do not breach any fundamental legislative principles set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

Amendments in the *Petroleum and Gas (Production and Safety) Amendment Regulation (No. 1) 2015* to remove uncertainty about what is a liquefied petroleum gas delivery network operating plant responds to feedback from stakeholders and the Petroleum and Gas Inspectorate about confusing and ambiguous provisions. Liquefied petroleum gas delivery network operators, the Queensland Gas Association and Gas Energy Australia were consulted regarding the proposed amendments to clarify the liquefied petroleum gas delivery network regulatory framework. Gas Energy Australia was also consulted regarding the proposed change to the prescribed generic safety management plan and advised it will no longer maintain this document.

The Office of Best Practice Regulation, Queensland Competition Authority was consulted about the proposed amendments to liquefied petroleum gas delivery networks and generic safety management plans and advised that the proposed amendments are machinery in nature and are unlikely to result in significant adverse impacts, and therefore, no further assessment is required under the Treasurer's Regulatory Impact Statement Guidelines.

The amendment to update and apply the revised 2015 version of *AS3814 Industrial and commercial gas-fired appliances* is consistent with industry expectation and existing practices.

The Petroleum and Gas Inspectorate, Department of Natural Resources and Mines plans to conduct information sessions to explain the changes to the *Petroleum and Gas (Production and Safety) Regulation 2004* as part of state-wide gas industry trade nights, commencing in Townsville in early June 2015. Fact sheet will also be distributed to liquefied petroleum gas delivery network operators.