

# **GREEN PAPER ON PROPOSED AMENDMENTS TO THE PETROLEUM ACT 2000**

Your comments and submissions on the proposals and issues in this paper are welcome.

The deadline for submissions is  
**29 June 2007**

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**Government of South Australia**  
Primary Industries and Resources SA

# SUBMISSIONS

Submissions on the proposed changes to petroleum regulation discussed in this paper are invited by 29 June 2007 and should be addressed to:

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# SHORTENED FORMS

AFL	Associated Facilities Licence
EIR	Environmental Impact Report
FL	Facilities Licence
FNPWA	Far North Prescribed Wells Area
GEL	Geothermal Exploration Licence
GPL	Geothermal Production Licence
GRL	Geothermal Retention Licence
GSL	Gas Storage Licence
MARP	Mining and Rehabilitation Plan as per <i>Mining Act 1971</i>
MER	Minerals and Energy Resources Division
NRM	Natural Resources Management
PEL	Petroleum Exploration Licence
PL	Pipeline Licence
PPL	Petroleum Production Licence
PSL	Preliminary Survey Licence
SEO	Statement of Environmental Objectives
WAP	Water Allocation Plan

# INTRODUCTION

The South Australian *Petroleum Act 2000* (the Act) and associated Petroleum Regulations came into operation on 25 September 2000. Since this time, the Petroleum and Geothermal Group within the Minerals and Energy Resources Division (MER) of Primary Industries and Resources South Australia (PIRSA) has identified a number of issues relating to the implementation of the Act that require review and possible amendment. A Discussion Draft (*Petroleum Act 2000, Implementation Issues*) detailing these issues and possible modifications to the Act and Regulations was released to the public and relevant stakeholders for comment during March 2005, with comments invited by 27 May 2005. A number of organisations submitted comments to PIRSA on the Discussion Draft during this consultation period. Refer to Section 9 of this document for a list of these organisations.

Submissions received during the consultation period for the Discussion Draft have been reviewed and discussed within PIRSA. Based on these submissions, PIRSA has developed this Green Paper detailing the final proposed amendments to the Act. PIRSA is now seeking comments from individuals and organisations on these final proposals.

The existing Act and Regulations and the initial Discussion Draft can be viewed at [www.pir.sa.gov.au/petrol/petact](http://www.pir.sa.gov.au/petrol/petact).

Submissions on these proposed amendments will be accepted until 29 June 2007, and should be addressed to The Director, Petroleum and Geothermal Group, PO Box 1671, Adelaide SA 5001. For further inquiries please contact Michael Malavazos, Chief Engineer, Petroleum and Geothermal Group on: (08)8463 3245 or [malavazos.michael@saugov.sa.gov.au](mailto:malavazos.michael@saugov.sa.gov.au).

# ISSUES

## 1 Licence Rights

### 1.1 SPECULATIVE SURVEY LICENCES AND SPECULATIVE DATA

#### **Proposal 1.1.1**

**Speculative survey data will be held confidential for a maximum period of 10 years.**

It is proposed to amend the Regulations to allow speculative survey data to be held confidential for a maximum period of 10 years from the completion of the survey. This will provide a longer period of time for the Speculative Survey License (SSL) holder to recover their investment. Speculative survey data will also include any data acquired by air, on ground or subsurface surveys by a contractor that is separate to any program contracted by the incumbent licensee, or additional to any such program (e.g. additional downhole logging runs).

All speculative survey data will be required to be submitted to the Minister. This includes speculative or non-exclusive survey data.

### 1.2 RIGHTS TO CONDUCT ACTIVITIES OUTSIDE EXPLORATION, RETENTION OR PRODUCTION LICENCES

#### **Proposal 1.2.1**

**It will be possible to grant an Associated Facilities Licence (AFL) to enable any regulated activities relative to a primary licence to be conducted outside the primary licence area.**

At present, Section 56(3) of the Act enables AFLs to be granted for the purpose of establishing and operating associated facilities on land outside a primary licence area. It is proposed to amend Section 56(3) of the Act to clarify that AFLs can be granted for the purpose of conducting any regulated activities relative to a primary licence outside the primary licence area. This will include seismic surveying, geochemical sampling, geological mapping and other surface and airborne exploration operations, as well as temperature logging of existing drill holes. The terms for confidentiality of data acquired under an AFL will be the same as for data acquired in the primary licence.

Note that the licensee will need to ensure that the activities proposed within the AFL are covered by an appropriate Environmental Impact Report (EIR) and Statement of Environmental Objectives (SEO), and are subject to all other relevant requirements of the Act, such as activity and landowner notifications.

**Proposal 1.2.2**

**The area restriction of 5 km<sup>2</sup> for an AFL will only apply to production facilities.**

At present, Section 57(1) of the Act does not allow an AFL greater than 5 km<sup>2</sup> to be granted. In line with proposal 1.2.1, it is proposed to amend Section 57(1) of the Act to clarify that the 5 km<sup>2</sup> area restriction only applies to production facilities. The area restriction will continue to be waived as per Section 57(2) of the Act for corridors with a width of less than 50 meters to ensure pipelines that require an AFL (that is, those defined in Section 53 of the Act) are not unnecessarily restricted.

**Proposal 1.2.3**

**AFLs granted for the purpose of conducting temporary activities will have a 1500 km<sup>2</sup> area limit.**

It is proposed to introduce under Section 57 of the Act a new 1500 km<sup>2</sup> area limit for AFLs in which activities to be conducted are of a temporary nature, such as seismic surveying, geochemical sampling, geological mapping and other surface and airborne exploration operations, and temperature logging of existing drillholes.

**Proposal 1.2.4**

**The term of an AFL granted to conduct temporary activities will be linked to the duration of those activities.**

For AFLs in which activities to be conducted are of a temporary nature, it is proposed to amend Section 58 of the Act to ensure that the term of such an AFL is linked to the duration of the proposed activity (inclusive of decommissioning and rehabilitation). Temporary activities include seismic surveying, geochemical sampling, geological mapping and other surface and airborne exploration operations, and temperature logging of existing drillholes.

### 1.3 'OVER-THE-COUNTER' EXPLORATION LICENCE APPLICATIONS

#### **Proposal 1.3.1**

**Priority will be given to valid 'over-the-counter' Petroleum Exploration Licence (PEL) applications once either grant or a process leading to grant has been offered.**

It is proposed to modify the Act to reflect that following submission of a valid 'over-the-counter' PEL application, either grant or a process leading to grant will be offered. Once grant or a process leading to grant has been offered for an application, that application will have primacy and further applications will be held in abeyance pending determination of the application given primacy. In the instance the application with primacy is refused, the next earliest dated application will gain primacy, unless the Minister opts to offer the relevant area by competitive tender. Once an application has been given primacy the area of the application will be publicly disclosed.

Note that 'over-the-counter' bids must include a demonstration of capability to progress, for example land access negotiations under the *Native Title Act 1993*, in addition to the technical and financial capabilities for executing the work program. Section 22(1)(b) of the Act will be removed as a result of this proposal.

#### **Proposal 1.3.2**

**Licence applicants will be required to demonstrate actions for securing licence grant within a reasonable time of obtaining primacy.**

It is proposed to give the Minister power to review primacy of licence status for the case where the applicant does not, as soon as practical, demonstrate capability to progress in a view to secure the licence grant (for example land access negotiations under the Native Title Act).

### 1.4 LICENCE SURRENDER

#### **Proposal 1.4.1**

**Any approved licence surrender will be effective at the end of a licence year in which the application was made.**

It is proposed to amend Section 89(2) of the Act to reflect that any approved licence surrender will be effective at the end of a licence year in which the application was made.

## 1.5 WORK PROGRAM REQUIREMENTS

### **Proposal 1.5.1**

**'Acceleration' of an approved work program will no longer require Ministerial approval.**

At present, Section 25(4) of the Act requires 'acceleration' of an approved work program to be approved by the Minister. It is proposed to remove 'acceleration' from Section 25(4) of the Act so that it will no longer require Ministerial approval. This amendment may require the term 'variation' to be defined for the purpose of Section 25 of the Act, to further clarify that only variations other than acceleration of work require Ministerial approval. Note that the requirement under the Act for formal notification of any changes to a work program to be provided remains, regardless of whether Ministerial approval is required.

### **Proposal 1.5.2**

**There will no longer be a requirement to submit a 5 year work program with a Petroleum Production Licence (PPL) application.**

As it is not a requirement to submit a 5 year work program with an application for a PPL, It is proposed to delete Regulation 8(a).

## 1.6 'COMPETITIVE TENDER REGION'

### **Proposal 1.6.1**

**The name 'highly prospective region' will be changed to 'competitive tender region'.**

Competition for PEL and Geothermal Exploration Licence (GEL) areas is influenced by new geologic information and evolving economic factors. Increased certainty in geologic interpretations, innovations that reduce energy supply costs and changes in market supply are all influencing factors in the competition for exploration licences. Proximity to infrastructure (e.g. major petroleum pipelines and high voltage electricity transmission lines) and markets attract multiple bidders for areas for PELs, GELs, Pipeline Licences (PLs), Gas Storage Licences (GSLs), and Facilities Licences (FLs). Therefore to better reflect all these

additional factors that influence exploration investment decisions, other than simply the perceived resource prospectivity of a region, it is proposed to change the name 'highly prospective region' to 'competitive tender region'.

## **1.7 FRONTIER PETROLEUM LICENCES**

It was previously suggested to offer a 'frontier'-type licence in South Australia, which could be issued for a much larger area than existing PELs, to provide an incentive to invest in relatively high-risk areas. It is now proposed to replace this proposal with a provision that the Minister may offer PELs of any size, provided the area is not a 'competitive tender region'.

### **Proposal 1.7.1**

**For 'over-the-counter' PEL applications, the maximum allowable licence area will be at the discretion of the Minister.**

It is proposed to amend the Act so that for 'over-the-counter' PEL applications, the maximum allowable licence area will be at the Minister's discretion.

### **Proposal 1.7.2**

**For 'competitive tender regions', the maximum allowable area for a PEL will be 10,000 km<sup>2</sup>.**

For 'competitive tender regions', it is proposed to allow PELs to be granted with areas up to a maximum of 10,000 km<sup>2</sup>.

## **1.8 MAXIMUM AREA FOR GEOTHERMAL LICENCES**

### **Proposal 1.8.1**

**The size of a geothermal licence area will be set at the Minister's discretion.**

It is proposed to amend the Act so that the size of a geothermal licence granted is at the Minister's discretion, based on the proponent's demonstrated project plan. This proposal will include maximum licence areas of 10,000 km<sup>2</sup> for a GEL and 1000 km<sup>2</sup> for a Geothermal Retention Licence (GRL) or a Geothermal Production Licence (GPL)

**Proposal 1.8.2**

**The licence fee for GRLs and GPLs will be set generally at the same level as the highest payable for any current PPL.**

It is proposed to set an annual licence fee for GRLs and GPLs at around \$120/km<sup>2</sup> (reviewable) for a maximum area of 1000 km<sup>2</sup>. A low surveillance GRL or GPL will be set at a fee around \$60/km<sup>2</sup> (reviewable), and all will be subject to a minimum licence fee (current minimum licence fee is \$2,622 for high surveillance and \$1311 for low surveillance).

**1.9 GAS STORAGE****Proposal 1.9.1**

**A GSL will be introduced to provide for compatible rights to gas storage.**

Rights to petroleum gas storage and carbon dioxide geosequestration are currently provided for in the Act through the use of PELs, PRLs and PPLs. It is proposed to introduce a GSL to provide compatible rights for activities relative to gas storage such as the exploration for storage reservoirs, and the injection, extraction and processing of stored gas. Under this proposal the Minister will be able to grant a GSL:

- Anywhere outside existing PELs, PRLs and PPLs; and
- Coincident with all or parts of existing PELs, PRLs and PPLs, but only after consultation with the existing licence holder to ensure that:
  - Pre-existing entitlements associated with existing PELs, PRLs and PPLs are not jeopardised; and
  - Risks associated with gas storage are held by the GSL holder and not the PPL/PRL/PEL holder.

As part of this proposal, provisions will be made to:

- Ensure GSL rights continue where the PPL or PEL rights extinguish;
- Ensure no royalty payment requirements are introduced for gas storage and carbon dioxide geosequestration; and
- Ensure appropriate work program terms.

## 1.10 COAL SEAM METHANE AND IN SITU GASIFICATION

### **Proposal 1.10.1**

**Consultation and agreement will be required between parties having rights under both the Petroleum Act and the *Mining Act 1971* with respect to coal.**

A potential conflict between rights granted under the Mining Act for conventional mining of coal and rights under the Petroleum Act for Coal Seam Methane (CSM) and In Situ Gasification (ISG) exists. To mitigate this potential conflict it is proposed to introduce under the Petroleum Act a mandatory licence condition that requires, where relevant, consultation to be undertaken and agreement to be obtained between parties having rights under both Acts. An appropriate amendment to the Mining Act will also be required for this proposal.

The status quo will prevail, e.g. petroleum licences will exclude rights to interfere with rights conveyed to other parties under the Mining Act, except where agreed by the relevant licence holder(s) with rights to mine coal. Similarly, rights to mine coal under the Mining Act will exclude rights to interfere with rights conveyed to other parties under the Petroleum Act, except where agreed by the relevant licence holder(s) with rights to produce regulated substances under the Petroleum Act.

### **Proposal 1.10.2**

**An entitlement will be introduced to allow holders of coal mining licences (pursuant to the Mining Act) to be granted a PPL for the purpose of producing CSM and for ISG.**

Currently there are no means for an existing coal miner to gain a PPL without also holding a PEL or PRL. In order to overcome this, and to enable all proponents of gas production to operate under the same regulatory and royalty regime, an entitlement will be introduced to allow a coal miner to obtain a PPL for the purpose of producing CSM and for ISG.

Note that engagement with holders of all compatible licences will be a prerequisite to the granting of such a licence.

## 1.11 FACILITIES LICENCE

### **Proposal 1.11.1**

**A Facilities Licence (FL) will be introduced to provide rights to third parties to construct and operate a facility, for the purpose of processing regulated substances.**

Under the current provisions of the Act, only a holder of a PPL or an AFL, with the latter needing to be a holder of a primary licence, has the right to construct and operate a processing facility in South Australia. This has created unnecessary impediments to entrepreneurial investment for such services.

With the advent of changes in the dynamics of energy markets and competition, it has become apparent that sufficient flexibility needs to be provided in the legislation so as to accommodate potential ownership diversification between licensees of the regulated resources and operators of processing facilities.

With the increased number of licensees operating in South Australia, in particular the Cooper Basin, the potential for third party ownership and operation of processing facilities to service these licensees collectively now exists. Such a service is considered desirable, particularly in the case where the size of discoveries may be too small to be commercially exploitable on a standalone basis. Through shared facilities, possibly owned and operated by third parties, the economies of scale could be created to commercialise small discoveries.

It is therefore proposed to introduce an FL which can be granted to any party regardless of whether or not they are a holder of a primary licence. The granting provisions for an FL will be similar to those of an AFL, and will apply to processing, storage, camp and other relevant infrastructure for the purposes of the Act. The FL will be a stand alone licence with its own term and will not be linked to any primary licence. Note that the approvals process for an FL will be the same as that for a PPL.

## 1.12 TERM OF PRELIMINARY SURVEY LICENCE

### **Proposal 1.12.1**

**There will no longer be a maximum aggregate five year term for a Preliminary Survey Licence (PSL).**

Currently, Section 15(2) of the Act restricts the term of a PSL to a maximum aggregate of five years. It is proposed to remove this maximum term and allow a PSL to be renewed for a further term without restriction, as is the case for SSLs under Section 19(2) of the Act.

**1.13 VARIATION OF PRELIMINARY SURVEY LICENCE AREA**

**Proposal 1.13.1**  
**It will be possible to vary the area of an existing PSL.**

Currently, Section 46(5) of the Act allows the area of a PL to be varied, however no similar provision exists to allow the area of a PSL to be varied. It is therefore proposed to include in Section 14 of the Act a provision to allow the area of a PSL to be varied by the licensee.

## 2 Pipelines

### 2.1 PIPELINE LICENCE APPLICATIONS

#### **Proposal 2.1.1**

**Where an existing SEO adequately covers activities proposed within a PL, this SEO may be submitted with the PL application.**

It is proposed to amend Regulation 9 to clarify that an existing SEO may be submitted with a PL application. This will enable activities to be conducted within a PL area under an existing SEO, provided the licensee completes an assessment in accordance with Regulation 20(1)(g) demonstrating that the existing SEO adequately covers the proposed activities.

### 2.2 NATIONAL ASSOCIATION OF TESTING AUTHORITIES CERTIFICATION FOR TESTING OF PIPELINES

#### **Proposal 2.2.1**

**It will no longer be a requirement to test pipelines in accordance with the requirements of the National Association of Testing Authorities (NATA).**

Currently, Regulation 29(b) requires the results of tests carried out on pipelines to be recorded and certified in an endorsed test document within the meaning of the by-laws of NATA. This requirement is a carry over from the *Petroleum Act 1940*, and is considered inconsistent with the principles of the *Petroleum Act 2000*. It is considered that the licensee is responsible for ensuring that all testing is carried out in accordance with good industry practice (refer Regulation 87). The testing standards are therefore considered a decision for the licensee and should not be prescribed by legislation. On this basis, it is proposed to remove Regulation 29(b).

### 2.3 LOCAL COUNCIL RATES AND TRANSMISSION PIPELINES

#### **Proposal 2.3.1**

**Full council rates exemption will be granted for transmission pipelines and associated easements.**

The imposition of rates has the potential to add significant costs to pipeline owners, which would then be passed on to customers. This is not considered in the public interest. It is therefore proposed to amend the Act to fully exempt transmission pipelines and associated easements from council rates. This will bring gas transmission pipelines into line with similar infrastructure (for example gas reticulation systems and electricity generation and distribution systems, which are fully exempt from council rates).

**2.4 PUBLICATION OF PIPELINE THROUGHPUT**

<p><b>Proposal 2.4.1</b> <b>Pipeline throughput information will not be made available for public inspection.</b></p>
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Under Regulation 33(2)(k), pipeline licensees are required to provide pipeline throughput information in their annual reports. It is considered that a statement of pipeline throughput is an item that the public is not entitled to inspect, on the grounds that this is commercial-in-confidence information (as is already the case for the statement of expenditure).

It is therefore proposed to amend Regulation 33(5) to include that pipeline throughput information provided under Regulation 33(2)(k) will not be made available for public inspection.

## 3 Royalty

### 3.1 FEES TO BE ALLOWABLE DEDUCTIONS

#### **Proposal 3.1.1**

**Licence fees for production related AFLs will be an allowable expense deduction for royalty purposes.**

It is proposed to specify in the Act that licence fees for production related AFLs are an allowable expense deduction for royalty purposes (as already is the case for PLs, PPLs and GPLs).

### 3.2 PRODUCTION AND SALES STATISTICS

#### **Proposal 3.2.1**

**The public release of production, sales and value statistics in a consolidated, annualised product-value form will be allowed.**

It is current practice for PIRSA to release consolidated petroleum production, sales and value statistics annually as part of its annual reporting obligations. Therefore to avoid any possible challenge to the legitimacy of this practice, it is proposed to add a provision under Part 7 of the Regulations to allow production, sales and value statistics submitted with royalty returns to be publicly released immediately and without consultation with the licensee. This public release will only be possible on a consolidated, annualised product-value basis, i.e. not licence specific.

## 4 Landowner Rights

### 4.1 'OWNERS' AND 'OCCUPIERS' OF LAND

#### **Proposal 4.1.1**

**The current definitions for 'occupier' and 'owner' will be combined and replaced with one definition: 'owner of land'.**

It is proposed to combine the current definitions of 'occupier' and 'owner' under Section 4 of the Act to form one definition, referred to as 'owner of land'. This definition will cover all persons who may be directly affected by regulated activities. Note that this definition will cover all persons who must be provided with notification prior to the commencement of activities and may be entitled to compensation.

#### **Proposal 4.1.2**

**The definition for 'owner of land' will be expanded.**

It is proposed to include in the definition of 'owner of land' under Section 4 of the Act:

- Tenement holders under the Mining Act or other special or perpetual lease for mining purposes;
- Operator of areas subject to the *Cooper Basin (Ratification) Act 1975*;
- Registered native title claimants and Aboriginal Legal Rights Movement (ALRM), in addition to native title owner;
- Pastoral lessees;
- Representative of landowner (with that representative acting for all joint holders, e.g. co-operative managed properties such as bluegum or pine plantations).

### 4.2 REMOVAL OF RESTRICTION ON PASTORAL LESSEE ABILITY TO OBJECT TO ENTRY

#### **Proposal 4.2.1**

**A lessee under a pastoral lease will be able to object to entry to land by a licensee who has served a notice of entry.**

It is proposed to amend Section 62(1) of the Act to remove the restriction on pastoral lessees' ability to refuse entry by a licensee to land. This will ensure that all landholders and occupiers are treated equally during the notice of entry process.

#### **4.3 NEGOTIATING ACCESS PRIOR TO GRANT OF LICENCE**

**Proposal 4.3.1**

**The right to negotiate access and compensation for a proposed pipeline will be provided for through a PSL.**

It is proposed to allow potential pipeline licensees to undertake access and compensation negotiations for a proposed pipeline under a PSL. This will require full disclosure of information regarding the proposed activities, in accordance with Sections 61 and 62 of the Act, to be provided to the landowner.

As part of any such disclosure under a PSL or for any notice of entry, it will need to be a requirement for the licensee to advise the landowner that there is no right of objection if the project goes ahead.

#### **4.4 ABILITY TO GIVE LESS THAN 21-DAYS NOTICE OF ENTRY**

**Proposal 4.4.1**

**A licensee will be allowed to enter land prior to the expiry of the prescribed 21 days notice of entry period, provided written consent from the relevant landowner is obtained.**

It is proposed to amend Section 61 of the Act to clarify that a licensee is able to enter land prior to the expiry of the prescribed 21 days notice of entry period, for the situation where opportunities for survey activities in exploration licences arise due to the immediate availability of contractors. Entry within a period of less than 21 days will only be allowed if all necessary information has been provided to the relevant landowner with the notice of entry (in accordance with Regulation 22) and if the landowner consents to this proposed entry in writing.

## 4.5 COMPENSATION PROVISIONS

### **Proposal 4.5.1**

**Compensation provisions will allow for a reasonable amount to be paid for the time and effort reasonably and necessarily incurred by the landowner.**

It is proposed to extend the provisions for compensation under Section 63 of the Act to include a further amount as “reasonable compensation for the time and effort reasonably and necessarily incurred” by the landowner during access and compensation negotiations (e.g. the inclusion of any legal fees and transport expenses associated with attending meetings).

### **Proposal 4.5.2**

**Compensation provisions will allow for an amount to be paid for the reduction in value of land as a result of the presence of permanent facilities (eg. gas plants, production wells and pipelines).**

The existing compensation provisions under Section 63 of the Act are considered to be more appropriate for temporary use of land (e.g. for exploration activities), and the criteria may not give full and just compensation where permanent facilities (e.g. gas plants, production wells and pipelines) are sited on private land. It is proposed to add another provision under Section 63 of the Act specifically for permanent facilities, along the lines that compensation should be paid to reflect the reduction in value of the whole of the land as a result of the presence of the permanent facilities on part of the land.

## 5 Environmental

### 5.1 DEFINITION OF 'REGULATED ACTIVITIES'

#### **Proposal 5.1.1**

**The definition of 'regulated activities' will exclude activities that could reasonably be conducted by a law-abiding member of the public on any area of public land (excluding private or leasehold property access).**

It is proposed to include under Section 10 of the Act a provision that will exclude from the Act activities that could be reasonably conducted by a member of the public on any area of public land. This would include activities that a licensee may undertake that does not involve earthmoving or impediment to other land users, such as driving on public access tracks and roads to undertake visual reconnaissance or to attain non-destructive measurements such as geographic locations in association with photographs. All field activities associated with the fulfilment of licence work programs will remain regulated activities

### 5.2 ENVIRONMENTAL IMPACT REPORTS

#### **Proposal 5.2.1**

**EIRs will be required to provide information regarding:**

- a) the size and scope of potential consequences; and**
- b) cumulative effects of potential consequences.**

In order to ensure consistency with the requirements under Regulation 11 regarding classification criteria requirements, it is proposed to include under Regulation 10(1)(d)(i) new sub-regulations (D) and (E) as follows:

- (D) the size and scope of these consequences; and
- (E) any cumulative effects of these consequences when considered in conjunction with the consequences of other events that may be or are occurring on the relevant land.

## 6 Consultation

### 6.1 CONSULTATION DURING THE APPROVAL PROCESS FOR AN SEO

#### **Proposal 6.1.1**

**The Environment Protection Authority (EPA) will be included as a separate Government agency to be consulted during the SEO approval process.**

It is proposed to amend Regulation 12(4) to include the EPA as a separate Government agency to be consulted during the approval process for an SEO.

#### **Proposal 6.1.2**

**Government agency names will be referenced in such a way that allows for future name changes.**

It is proposed to amend Regulation 12(4) to ensure that Government agency names listed for the purpose of SEO consultation are referenced in such a way that allows for future name changes.

## 7 Compliance

### 7.1 RECOVERY OF ENVIRONMENTAL RESTORATION COSTS

#### **Proposal 7.1.1**

**Environmental rehabilitation costs incurred by the State under Section 111 of the Act will be allowed to be recovered from the licensee as a debt, rather than through a means of an action in tort.**

Where the State carries out environmental rehabilitation as a result of environmental damage arising from licensee activities, under Section 111(3) of the Act the Minister can recover compensation for the costs of such rehabilitation in a court by means of an action in tort. Legal advice has highlighted that this provision is not as strong as that under Section 88 of the Act, where the costs may be recovered as a debt from the licensee. It is therefore proposed to amend Section 111 of the Act to enable the Minister to recover the costs of environmental rehabilitation where incurred by the State as a debt from the licensee (as in Section 88(3) of the Act).

#### **Proposal 7.1.2**

**It will be clarified that an environmental direction constitutes an obligation under the Act.**

Currently it is not clear that an 'environmental direction' under Section 109 of the Act becomes an obligation under the Act and hence falls within the ambit of Section 88 of the Act. It is therefore proposed to amend Section 109 of the Act to clarify that an environmental direction given by the Minister under this section constitutes an 'obligation under this Act' under Section 88(1)(a) of the Act.

### 7.2 HIGH AND LOW SUPERVISION (SURVEILLANCE) CLASSIFICATION OF LICENSEES

#### **Proposal 7.2.1**

**The term 'supervision' will be replaced by 'surveillance', for the purpose of activity classification.**

The term 'supervision' currently referred to in Section 74 of the Act for delineating between high and low supervision activities is considered to be misleading, as it infers that PIRSA will 'supervise' (i.e. control and/or direct) operations or activities. However in practice this delineation is about the extent to which the capability of an operator to undertake an activity is reviewed by PIRSA, and the frequency of surveillance that is undertaken by PIRSA. It is therefore proposed to clarify this by replacing the term 'supervision' with 'surveillance'. This proposal will require Section 74 of the Act to be amended to refer to activities requiring 'high level official surveillance' and activities requiring 'low level official surveillance'.

### **7.3 ACTIVITY APPROVALS AND NOTIFICATIONS**

#### **Proposal 7.3.1**

**The operator assessment factors will be revised as follows:**

- a) Modifications will be made to Regulation 16(2)(a), (b), (c), (d), (e), (f) and (i).**
- b) The existing Regulation 16(2)(j) will be deleted.**
- c) A new Regulation will be added under Regulation 16(2).**

One of the main purposes of granting activity approval for high supervision activities under the current Regulation 19 is to enable PIRSA to undertake a thorough assessment of the capability of the operator to ensure SEO and regulatory requirements can be satisfied. As part of a review of the current Regulation 16 assessment factors against which such an assessment is undertaken, independent research (Haines, 2001) found that for any such assessment to be effective, it needs to focus on the operator's capacity to comply (i.e. management systems and human and technology resources) and the operator's motivation/willingness to comply (i.e. the extent to which the operator understands and implements their systems and procedures).

To accommodate the findings of this research, it is proposed to revise the operator assessment factors (Regulation 16(2)) to ensure the following aspects are covered:

- Corporate policies that address the achievement of regulatory objectives (modification of existing Regulation 16(2)(a));
- Procedures or practices to achieve compliance with regulatory requirements and objectives (modification of existing Regulation 16(2)(b));
- Comprehensive and effective risk-management system (modification of existing Regulation 16(2)(d));
- System to monitor, evaluate, audit and review compliance against regulatory requirements and objectives (modification of existing Regulation 16(2)(e) and (f));

- System to identify and report serious and reportable incidents under the Act (existing Regulation 16(2)(g));
- Comprehensive and effective emergency response plan (existing Regulation 16(2)(h));
- Appropriate communication of regulatory requirements to employees, contractors and visitors, including site induction, ongoing training and adequate supervision (modification of existing Regulation 16(2)(c) and (i));
- Delete existing Regulation 16(2)(j);
- Practices and procedures with respect to providing adequate supervision of employees and contractors in order to ensure compliance with regulatory requirements and the achievement of regulatory objectives (existing Regulation 16(2)(k));
- Record in achieving regulatory objectives and regulatory requirements (existing Regulation 16(2)(l); and
- Adequate resources (time, people and money) are allocated to the licensee's compliance system (new Regulation)

#### **Proposal 7.3.2**

**Ministerial discretion will be introduced to allow a licensee to commence approved high level official surveillance activities prior to the expiration of the prescribed 35 day notification period.**

Regulation 19(1) currently prescribes a notification period of 35 days prior to the proposed commencement of activities for activities classified by PIRSA, in accordance with Section 74 of the Act, as requiring high level official supervision. It is proposed to include a provision in the Act to allow high level official supervision activities to commence prior to the end of this prescribed 35 day notification period if Ministerial approval has been granted in accordance with Section 74(3)(a) of the Act. The purpose of this proposal is to mitigate unnecessary time delays caused primarily by licensees being prohibited to commence operations prior to the end of this 35 day period, despite having satisfied the regulatory notification requirements and having received all required approvals. Experience has shown that in a number of cases this has created unintended and unnecessary inconvenience and cost to licensees in taking advantage of available equipment, such as drilling rigs or seismic equipment. The earlier commencement time will be granted at the Minister's discretion, and will be conditional on approval for the activity being granted as per Regulation 19 and 20 requirements. It will also need to be ensured that all other notification requirements under the Regulations are satisfied.

**Proposal 7.3.3**

**Ministerial discretion will be introduced to allow a licensee to commence low level official surveillance activities prior to the 21 day notification period.**

Regulation 18(1) currently prescribes a notification period of 21 days for activities classed as requiring low level official surveillance. For the same reasons as described above under proposal 7.3.2, it is proposed to give Ministerial discretion to allow for the commencement of activities by a licensee prior to the expiration of this 21 day period. The earlier commencement time will be granted at the Minister's discretion, and will be conditional on the licensee satisfying all notification requirements in accordance with the relevant Regulations.

**Proposal 7.3.4**

**Licensees will be required to undertake an assessment to ensure that facilities, equipment and management systems are fit-for-purpose.**

It is proposed to include a provision under Regulation 20(1) to require licensees to undertake an assessment to ensure that any facility, equipment and management system to be used while undertaking a proposed regulated activity is fit-for-purpose, with respect to achieving compliance with the regulatory requirements of the Act. This provision will only apply to drilling, production and pipeline related activities.

**Proposal 7.3.5**

**The definition of 'facility' will be modified to include drilling and production testing equipment.**

The intent of Regulation 30 has always been to cover drilling rigs and equipment, such as separators and storage tanks, used to carry out production tests. It is therefore proposed to modify the definition of 'facility' under Regulation 3(1)(d) to include drilling rigs and production testing equipment, to clarify that drilling rigs and testing equipment are also subject to any fitness-for-purpose assessment under Regulation 30.

## **7.4 REPORTING AND DATA REQUIREMENTS**

**Proposal 7.4.1**

**The Act will include a provision for annual report requirements.**

Currently, Regulation 33 calls for annual reports to be submitted to the Minister within 2 months after the end of each licence year. It is proposed to also include a specific provision in the Act for the requirement to submit an annual report, to more accurately reflect the importance of this report.

**Proposal 7.4.2**

**The Act will include a provision for facility fitness-for-purpose requirements.**

Currently, Regulation 30 calls for fitness-for-purpose assessments to be undertaken every 5 years. It is proposed to also include a specific provision in the Act for the requirement to complete a fitness-for-purpose assessment and submit a fitness-for-purpose report, to more accurately reflect the importance of this report.

**Proposal 7.4.3**

**Annual reports for PPLs will be required to provide information regarding current reserves for each field, which will be made publicly available.**

It is proposed to include in Regulation 33 a requirement for PPL annual reports to provide information regarding current recoverable reserves for each field by formation. This information will be made publicly available in accordance with Regulation 33(4).

**Proposal 7.4.4**

**Licensees with multiple PPLs will be able to submit a single annual report covering all licences.**

It is proposed to include a provision in the Act to allow licensees with multiple production licences to submit a single annual report. This report will need to satisfy the requirements of Regulation 33 relative to each individual licence.

**Proposal 7.4.5**

**Licensees will be able to seek Ministerial agreement to list only non-standard geotechnical reports in their annual reports.**

It is proposed to modify Regulation 33(1)(e) to allow licensees to seek Ministerial agreement to list only non-standard geotechnical reports (i.e. those reports which are included in Regulation

47) in an annual report. With this agreement in place, standard reports covered by Regulations 34 to 46 will not need to be listed in the annual report.

**Proposal 7.4.6**

**There will no longer be a requirement for licensees to report annual expenditure under specified headings.**

It is proposed to remove the requirement under Regulation 33(3) for licensees to report expenditure in the annual report under specified headings. This will allow licensees to provide annual expenditure information as a total amount.

**Proposal 7.4.7**

**Incident reports will need to include an assessment of the efficacy of the design, procedures and managements systems that were in place to prevent the incident occurring.**

At present, the requirements of Regulation 32 do not explicitly state that the analysis of an incident should include an assessment of design, procedures and managements systems that were in place to prevent the incident, and more specifically why they failed in the case of the incident. This lack of clarity has led to some confusion as to the level of detail required to be supplied in incident reports. The imperative for making this requirement explicit is that the Minister has allowed the licensee to undertake activities on the basis that it has designs, systems and procedures in place to ensure that the regulatory objectives are met (operator assessment factors in Regulation 16). Therefore, when an incident occurs, the licensee must explain the elements that have failed, as well as the elements that were successful in preventing more serious consequences. The actions proposed by the licensee to prevent a recurrence of the incident naturally follow from this analysis. As an example, a pipeline external interference incident would be required to assess the physical and procedural measures required by AS 2885.

For serious incidents, it is therefore proposed to amend Regulation 32(4)(a) to require the licensee to provide in the written incident report "the results of any assessment or investigation of the conditions or circumstances that caused or contributed to the occurrence of the incident, including an assessment of the efficacy of the design, procedures and managements systems which were in place to prevent the incident occurring".

For reportable incidents, it is proposed to amend Regulation 32(6)(e) to require the licensee to provide in the written incident report "the cause of the incident, including an assessment of the efficacy of the design, procedures and managements systems which were in place to prevent the incident occurring".

**Proposal 7.4.8**

**The time frame for the submission of a geophysical operations report will be 12 months from the completion of recording of data.**

It is proposed to amend Regulation 35(1)(c) to extend the time frame for the submission of a geophysical operations report from the current six months to 12 months from completion of recording of data. In the case of seismic operations, this will be taken as completion by main recording crew rather than ancillary seismic data (e.g. uphole) crew.

**Proposal 7.4.9**

**The time frame for the submission of an interpretation report will be 12 months from the completion of processing or reprocessing.**

It is proposed to amend Regulation 36(1) to extend the time frame for the submission of an interpretation report from the current six months to 12 months after the completion of processing or reprocessing.

**Proposal 7.4.10**

**It will be clarified that the submission of daily drilling reports due on weekends and public holidays may be submitted by 10am of the next working day, unless otherwise required, will be made.**

It is proposed to amend Regulation 38(2) to clarify the long-standing policy in relation to submission of daily drilling reports on weekends and public holidays. Reports due on these days may be submitted by 10am of the next working day, unless otherwise required.

**Proposal 7.4.11**

**It will be a requirement for licensees to provide results of cement calculations and formation integrity tests (including leak off tests) in daily drilling reports.**

It is proposed to include a new provision under Regulation 38(3) requiring daily drilling reports to include results of cement calculations and formation integrity tests (including leak off tests). It is considered that this information is required for the purpose of well integrity assurance.

**Proposal 7.4.12**

**Regulation 40(2)(p) will be amended to clarify that well completion reports must include an interpreted structure map, and an interpreted seismic section only for exploration and appraisal wells.**

It is proposed to amend Regulation 40(2)(p) to clarify that both an interpreted structure map and interpreted seismic sections are required, but limit the requirement for seismic sections to exploration and appraisal wells only.

**Proposal 7.4.13**

**Regulation 40(2)(i) and (iii) requirements for well completion reports will be removed.**

Regulation 40(2)(c)(i) and (iii) currently requires well completion reports to provide information that conflicts with the location survey requirements under Regulation 26. It is therefore proposed to remove Regulation 40(2)(i) and (iii).

**Proposal 7.4.14**

**The release of general technical and /or analytical reports for public inspection will be two years after the report is substantially completed or first received from the licensee.**

It is proposed to amend Regulation 47(2)(a) to allow general technical and /or analytical reports to be released for public inspection two years after the report is substantially completed or first received from the licensee. Regulation 47(2)(b) will remain unchanged with release on licence expiry.

**Proposal 7.4.15**

**The time frame for the submission of wireline logs will be two months from acquisition date.**

It is proposed amend Regulation 39(1) to extend the time frame for the submission of wireline logs to two months from acquisition date.

**Proposal 7.4.16**

**If errors in previously transmitted data are detected, the licensee will be required to provide replacement data as soon as practical, with the transmittal note identifying the differences in the replacement data.**

It is proposed to amend Regulations 50 and 51 to require that, if errors in previously transmitted data are detected by either the licensee or PIRSA, replacement data be provided by the licensee as soon as practical. The transmittal note will be required to identify the differences in the replacement data.

## **7.5 WELL LOCATION AND EVALUATION**

**Proposal 7.5.1**

**The requirement for permanent well markers will be removed.**

Regulation 25(3) currently requires wells (other than abandoned wells) to be clearly marked in a permanent manner with name and well number. It is proposed to remove this requirement, as these well markers are no longer necessary with GPS technology.

**Proposal 7.5.2**

**The timeframe for completion of a well location survey will be within six months after the drilling rig is released.**

It is proposed to amend Regulation 26 to enable licensees to complete well location surveys within six months after the drilling rig is released. This will align location survey timing with the timeframe under Regulation 40 for the submission of well completion reports.

**Proposal 7.5.3**

**Licensees will be able to satisfy Regulation 27 using electric logs that are considered equivalent or superior to those proposed in the original program.**

It is proposed to amend Regulation 27(b) to allow licensees to satisfy this requirement using electric logs that are considered equivalent or superior to those proposed in the original program.

## 7.6 PUBLICATION OF ENFORCEMENT ACTIONS

### **Proposal 7.6.1**

**The MER annual report on industry compliance will be submitted to Parliament in place of individual reports on authorised investigations.**

Currently, Section 123(3) of the Act requires that reports on authorised investigations be tabled in Parliament. The administrative burden of tabling such reports in both Houses of Parliament is excessive given the large number of inspection reports and enforcement correspondence generated throughout any one year. It is also considered inefficient for the Parliament to be burdened with voluminous, routine, operational information rather than be given salient information relating to exceptional regulatory matters. Therefore, it is proposed to amend Section 123(3) of the Act to allow the MER annual report to be a sufficient and appropriate form for providing salient information relating to exceptional authorised investigations to both Houses of Parliament.

## 7.7 ADMINISTRATIVE PENALTIES

### **Proposal 7.7.1**

**An administrative penalty of up to \$10,000 plus up to \$1,000 per day will be introduced for fitness-for-purpose reports that do not satisfy the requirements of Regulation 30(5) and (6).**

The Act currently does not include a provision for administrative penalties to be enforced in relation to late submissions of or inadequate fitness-for-purpose reports. It is therefore proposed to amend Regulation 30 to allow an administrative penalty to be levied for a fitness-for-purpose report that is not submitted on time as per Regulation 30(5), or that does not, in the Minister's opinion, satisfy content requirements in accordance with Regulation 30(6). The penalty will be up to \$10,000 plus up to \$1,000 per day.

### **Proposal 7.7.2**

**The administrative penalty for annual reports that do not satisfy the requirements of Regulation 33(2) will be up to \$10,000 plus up to \$1,000 per day.**

Currently, the administrative penalty for annual reports submitted that do not comply with Regulation 33(2) is set at half the value of the penalty imposable if an annual report is

submitted late (Regulation 33(1)). This is considered comparatively disproportionate, and it is therefore proposed to change the current administrative penalties for annual reports submitted to PIRSA that do not comply with Regulation 33(2) to up to \$10,000 plus up to \$1,000 per day.

**Proposal 7.7.3**

**It will be possible to impose a penalty that is less than the value prescribed in Schedule 2 of the Regulations.**

Due to the nature of some administrative non-compliances, it is difficult to justify imposing the administrative penalties prescribed in Schedule 2 of the Regulations. It is therefore proposed to amend Schedule 2 of the Regulations to include the words “up to”, so that the prescribed value is a maximum and it is possible to impose penalties below this amount.

## **7.8 TRANSITIONAL PROVISIONS**

**Proposal 7.8.1**

**Clarification that licences granted under the repealed Petroleum Act 1940 are not required to comply with both the 1940 and 2000 Petroleum Acts will be made.**

It is proposed to amend Section 2 of the Schedule of the Act to along the lines of ‘...subject to its terms and conditions other than a condition relating to compliance with the Petroleum Act 1940’. This will avoid the situation where licences granted under the Petroleum Act 1940 would be required to comply with both the 1940 and 2000 Petroleum Acts.

## 8 Other Amendments

### 8.1 REGISTRABLE DEALINGS

#### **Proposal 8.1.1**

**A new subclause '(f) Any other information required by this Act' will be included in Section 115(2) of the Act.**

It is proposed to include a new subclause under Section 115(2) of the Act allowing the public register to contain any other information required by the Act. This is necessary, for example, in relation to Section 134 of the Act which requires time extensions to be included on the public register.

### 8.2 TYPOGRAPHICAL CORRECTIONS

#### **Proposal 8.2.1**

**'Of' will be inserted after 'tenders for the grant' in Section 35(3) of the Act.**

#### **Proposal 8.2.2**

**'The other' will be replaced with 'any other' in the first line of Section 86(2) of the Act.**

#### **Proposal 8.2.3**

**'Must' will be replaced by 'may' in Section 100(1)(c) of the Act.**

#### **Proposal 8.2.4**

**Section 105(4) of the Act will be amended to refer to subsection (3) instead of subsection (2).**

#### **Proposal 8.2.5**

**Reference to '2/3' and 'split length wise' will be removed from Regulation 48(3).**

#### **Proposal 8.2.6**

**Information regarding applicable penalties for Section 86(1) of the Act and Regulations 31(2) and 31(3) will be included in Schedule 2 of the Regulations.**

### 8.3 AMENDMENTS IN RELATION TO OTHER ACTS

#### **Proposal 8.3.1**

**SafeWork SA inspectors under the *Occupational Health Safety and Welfare (OHS&W) Act 1986* will no longer be required to be authorised officers under the *Petroleum Act*.**

It is proposed to amend the definition of 'inspector' in Section 4 of the OHS&W Act by deleting the requirement that SafeWork SA inspectors must also be authorised officers under the Petroleum Act.

#### **Proposal 8.3.2**

**The *Development Act 1993* will be amended to reflect the existing SEO consultation provisions under the *Petroleum Act*.**

The requirements under Section 75 of the Development Act are based on the provisions made under the Petroleum Act 1940 which preceded the Petroleum Act 2000. As a result, consultation requirements under Section 75 of the Development Act do not recognise the extensive consultation requirements under the Petroleum Act, and in turn impose superfluous consultation requirements which are already required under the Petroleum Act. It is therefore proposed to amend Section 75 of the Development Act to reflect the SEO approval consultation requirements under the Petroleum Act (Sections 101, 102 and 103 and Regulation 12) which satisfies the intent of Section 75 of the Development Act.

It is proposed that this can be achieved by either:

- a) Removing the requirement in the Development Act to refer petroleum, geothermal or pipeline licences under Section 75 (i.e. strike out these from definition of 'mining production tenement'). This recognises the consultation process embedded in the Petroleum Act (Sections 101 to 103); or
- b) Amending Section 75 of the Development Act to reflect the fact that consultation is carried out on the SEO and not the licence. This would not necessarily remove the need for the EIC process. This is the approach used in the recent *River Murray Act 2003* and *Adelaide Dolphin Sanctuary Act 2005*.

#### **Proposal 8.3.3**

**Buildings associated with petroleum operations will be exempt from approval under the *Development Act*.**

The Development Act requires all building works associated with petroleum licences to have local council building approval. It is proposed to clarify Development Regulation 84(2) to ensure that additional council approval is not required for buildings associated with petroleum operations that have gone through due process under the Petroleum Act (and, where applicable, the Development Act).

**Proposal 8.3.4**

**The Petroleum Act and/or *Natural Resources Management (NRM) Act 2004* will be amended to accommodate Water Allocation Plan (WAP) for the Far North Prescribed Wells Area (FNPWA) requirements.**

The FNPWA WAP prepared pursuant to Chapter 4, Part 2, Division 2, of the NRM Act has allocated a total of 40 Mega litres per day (Ml/d) for the extraction of groundwater from within the area prescribed in the WAP including the Great Artesian Basin for the purposes of petroleum production and exploration activities. This allocation includes water that is co-produced with petroleum.

The proposed process for allocating such water rights would involve applying to DWLBC for these rights as part of the PPL and PEL application process under the Petroleum Act. PIRSA will facilitate this process for all new and existing licence holders. It is anticipated that a general right to produce groundwater as part of the activities carried out under the relevant PPL or PEL will be licensed by DWLBC rather than prescribing any water extraction limit. This would be conditional to all water production being reported to PIRSA annually as currently is the case under the Petroleum Act requirements.

To maintain maximum availability of total allocated water for all future petroleum related activities it is necessary to ensure that water rights for this purpose are assigned to the relevant petroleum licence and not the owner(s) of the licence who may change throughout the licence term. This will ensure water allocations are not assigned to persons or corporate entities, who would retain the water rights post licence farmout or change of ownership, and hence compromise the PEL or PPL holder's ability to produce petroleum.

The best way to accommodate this requirement, (either through a new provision in the Petroleum Act or an amendment to the NRM Act Section 146) will be explored in consultation with parliamentary counsel at the time of the drafting of the amendment Bill.

# LIST OF SUBMISSIONS FOR DISCUSSION DRAFT

Comments on the initial Discussion Draft were provided by the following organisations:

- Australian Institute for Non-Destructive Testing
- Australian Petroleum Production and Exploration Association Ltd
- Australian Pipeline Trust
- Beach Petroleum Ltd
- Crown Solicitor's Office
- Department for Environment and Heritage
- Department of Water, Land and Biodiversity Conservation
- Environment Protection Authority
- Forestry SA
- Maloney Field Services
- Merlin Energy Pty Ltd
- National Association of Testing Authorities, Australia
- Pacific Hydro Ltd
- Permian Oil Pty Ltd
- Petratherm Ltd
- SA Water
- SafeWork SA (formerly Workplace Services)
- Santos Ltd
- South Australian Chamber of Mines and Energy Inc
- South Australian Department for Aboriginal Affairs and Reconciliation
- South East Australia Gas Pty Ltd
- Stuart Petroleum Ltd
- Transport SA

## REFERENCES

Haines, F., 2001. *Comments on draft guideline for classifying the level of official supervision of activities under Section 74 of the Petroleum Act 2000*. Report prepared for PIRSA Petroleum and Geothermal Group (unpublished).