



New South Wales

# Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

ROBERT STOKES, MP  
Minister for the Environment

## Explanatory note

The object of this Regulation is to remake, with certain changes, the provisions of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The principal changes include the following:

- (a) to enable the use of certain secondary leak detection systems,
- (b) to enable environment protection plans to be kept electronically and as either a consolidated document or a collection of documents,
- (c) to provide greater flexibility in the devising of loss monitoring procedures for a storage site,
- (d) to include new definitions (see, in particular, the definition of *leak*) and clarify the meaning of certain existing definitions (see, in particular, the definitions of *petroleum*, *routine maintenance*, *significant modification* and *storage site*),
- (e) to clarify certain reporting requirements.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 323 (the general regulation-making power) and clauses 6A and 15 of Schedule 2.

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## Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014

under the

Protection of the Environment Operations Act 1997

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014*.

#### 2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3 Definitions

(1) In this Regulation:

***alternative secondary leak detection system***—see clause 16 (2) (b).

***commission***, in relation to a storage system or secondary leak detection system, means to bring the system into use for the first time following its installation, modification or repair.

***current “as-built” drawings***, in relation to a storage system, means drawings that depict the current configuration of the system in relation to the storage site.

***decommission***, in relation to a storage system, means to permanently abandon the use of the system or to render the system permanently unusable.

**Note.** Other legislation may require the cessation of the use of certain storage systems.

***duly qualified person***, in relation to any activity, means a person who has such competence and experience in relation to that activity as is recognised in the relevant industry as appropriate for that activity.

***environment protection plan*** means documentation for a storage system that contains the procedures and other information required by clause 19.

***EPA Gazettal notice*** means a notice published in the Gazette by the EPA.

***EPA guideline*** means a guideline in force under clause 29.

***incident management procedure*** means a procedure referred to in clause 19 (2) (b).

***installation*** of a storage system means the original installation of the system on the storage site, and includes any work in the vicinity of the storage site necessary for the installation, and anything done to the system before it is commissioned.

***leak***, in relation to a storage system, means any loss of petroleum from the system because it is not providing full and continuous containment of petroleum.

***loss monitoring procedure*** means a procedure referred to in clause 19 (2) (a).

**mandatory pollution protection equipment** means the following:

- (a) non-corrodible secondary containment tanks and associated pipework,
- (b) overfill protection devices.

**modification** of a storage system includes any upgrade, extension, alteration or replacement of the system, or any component of the system, but does not include:

- (a) anything done to the system before it is first commissioned, or
- (b) anything done to the system after it is decommissioned, or
- (c) anything done to the system as part of routine maintenance, or
- (d) anything done to the system before 1 June 2008, or
- (e) anything done to a storage site, or any building on a storage site, that does not directly affect the system.

**modified storage system** means a storage system that has been modified since 1 June 2008.

**new storage system** means any storage system that is not an old storage system.

**old storage system** means any storage system:

- (a) for which development consent had been obtained under the *Environmental Planning and Assessment Act 1979* before 1 June 2008, or
- (b) for which installation had lawfully commenced before 1 June 2008, or
- (c) that had been commissioned before 1 June 2008.

**person responsible**, in relation to a storage system, means:

- (a) except as provided by paragraph (b), the person who has the management and control of the system, or
- (b) if the system has been decommissioned, the person who had the management and control of the system immediately before the system was decommissioned.

**petroleum** means any fuel that consists predominantly of a mixture of hydrocarbons derived from crude oil, whether or not the fuel includes additives (such as ethanol), and includes:

- (a) used oil, and
- (b) synthetic fuels such as 100% ethanol or biodiesel.

**routine maintenance**, in relation to a storage system, includes any repairs to the system that are done in the course of regular scheduled upkeep of the system.

**secondary leak detection system**—see clause 16 (2).

**significant modification**, in relation to a storage system, means any modification to the system that results in:

- (a) the replacement of the whole of the system, or
- (b) the replacement of a half or more of the tanks in the system.

**storage site**, in relation to a storage system, means the premises (or the part of the premises) in or on which the system is situated.

**storage system** means a system of tanks, pipes, valves and other equipment that is designed:

- (a) to contain petroleum, or
- (b) to control the passage of petroleum into, out of, through or within the system, and includes any structure through which petroleum routinely passes from one part of the system to another.

**the Act** means the *Protection of the Environment Operations Act 1997*.

*use*, in relation to a storage system, includes to allow petroleum to remain in the system.

- (2) Notes included in this Regulation do not form part of this Regulation.

#### **4 Application of Regulation**

This Regulation applies to all storage systems other than the following:

- (a) a storage system whose tanks are situated wholly above ground, together with any associated pipes, valves and other equipment (whether situated above or below ground),
- (b) a sump, separator, stormwater or wastewater collection system, catchment basin, pit, septic tank or other like structure (unless petroleum routinely passes through the structure from one part of a storage system to another),
- (c) a bunded tank situated below ground level but not in the ground (such as in a basement, cellar or tunnel),
- (d) a liquefied petroleum gas storage system,
- (e) a storage system that is a scheduled activity (that is, an activity listed in Schedule 1 to the Act) and for which a licence under the Act is in force.

## **Part 2 Commissioning and decommissioning of storage systems**

### **Division 1 Installation of new storage systems**

#### **5 New system not to be commissioned unless properly designed**

- (1) A new storage system must not be commissioned unless:
  - (a) it has been designed by a duly qualified person, and
  - (b) the person by whom it has been designed has provided the person responsible for the system with:
    - (i) a list of the industry standards that have been followed in connection with the design of the system, and
    - (ii) a copy of the design specifications for the system.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

#### **6 New system not to be commissioned unless properly installed**

- (1) A new storage system must not be commissioned unless:
  - (a) it has been installed by a duly qualified person, and
  - (b) the person by whom it has been installed has provided the person responsible for the system with:
    - (i) a list of the industry standards that have been followed in connection with the installation of the system, and
    - (ii) a copy of the installation specifications for the system, and
    - (iii) current “as-built” drawings for the system.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

#### **7 New system not to be commissioned unless properly equipped**

- (1) A new storage system must not be commissioned unless:
  - (a) the system includes the mandatory pollution protection equipment, and
  - (b) a secondary leak detection system is installed on the storage site in accordance with Part 3.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## **8 Equipment integrity test to be performed**

- (1) A new storage system must not be commissioned unless:
  - (a) an equipment integrity test of the system has been carried out in accordance with the written directions of a duly qualified person, and
  - (b) the system has been certified, by the person by whom the test was carried out, as having satisfied the test.
- (2) A certificate issued for the purposes of subclause (1) (b) must be accompanied by the results of the test referred to in that paragraph.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## **Division 2 Modification of storage systems**

### **9 Modified system not to be commissioned unless properly designed**

- (1) A modified storage system must not be commissioned unless:
  - (a) the modification has been designed by a duly qualified person, and
  - (b) the person by whom the modification has been designed has provided the person responsible for the system with:
    - (i) a list of the industry standards that have been followed in connection with the design of the modification, and
    - (ii) a copy of the design specifications for the modification.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

### **10 Modified system not to be commissioned unless properly installed**

- (1) A modified storage system must not be commissioned unless:
  - (a) the modification has been implemented by a duly qualified person, and
  - (b) the person by whom the modification has been implemented has provided the person responsible for the system with:
    - (i) a list of the industry standards that have been followed in connection with the implementation of the modification, and
    - (ii) a copy of the implementation specifications for the modification, and
    - (iii) current “as-built” drawings for the system.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

### **11 Modified system not to be commissioned unless properly equipped**

- (1) A modified storage system must not be commissioned unless:
  - (a) the system includes the mandatory pollution protection equipment, and

- (b) a secondary leak detection system is installed on the storage site in accordance with Part 3.
- (2) Subclause (1) (a) does not require an old storage system to include the mandatory pollution equipment unless the modification is a significant modification.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## **12 Equipment integrity test to be performed**

- (1) A modified storage system must not be commissioned (or a tank for a storage system must not be reused before the system is re-commissioned) unless:
  - (a) an equipment integrity test of the system (or tank) has been carried out in accordance with the written directions of a duly qualified person, and
  - (b) the system (or tank) has been certified, by the person by whom the test was carried out, as having satisfied the test.
- (2) A certificate issued for the purposes of subclause (1) (b) must be accompanied by the results of the test referred to in that paragraph.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## **13 Report to be prepared after tank removed or replaced**

- (1) If the modification involves the removal or replacement of any tank, a modified storage system must not be commissioned unless a report for the storage site has been served on the relevant local authority:
  - (a) except as provided by paragraph (b), no later than 60 days after the tank is removed or replaced, or
  - (b) if remediation of the site is required, no later than 60 days after the remediation is completed.
- (2) A report referred to in subclause (1) must:
  - (a) be prepared by a duly qualified person in accordance with EPA guidelines, and
  - (b) describe the processes used to remove or replace the tanks concerned and assess contamination at the storage site, and
  - (c) describe any remediation work carried out during the removal or replacement of the tanks concerned.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

### **Division 3      Repair of storage systems**

#### **14    Equipment integrity test to be performed**

- (1) A storage system that has been repaired following the discovery of a leak in the system must not be commissioned unless:
  - (a) an equipment integrity test of the system has been carried out in accordance with the written directions of a duly qualified person, and
  - (b) the system has been certified, by the person by whom the test was carried out, as having satisfied the test.
- (2) A certificate issued for the purposes of subclause (1) (b) must be accompanied by the results of the test referred to in that paragraph.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

### **Division 4      Decommissioning of storage systems**

#### **15    Report to be prepared after system decommissioned**

- (1) If a storage system is decommissioned, a report for the storage site must be served on the relevant local authority:
  - (a) except as provided by paragraph (b), no later than 60 days after the system is decommissioned, or
  - (b) if remediation of the site is required, no later than 60 days after the remediation is completed.
- (2) A report referred to in subclause (1) must:
  - (a) be prepared by a duly qualified person in accordance with EPA guidelines, and
  - (b) describe the processes used to decommission the storage system and assess contamination at the storage site.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

## **Part 3 Secondary leak detection systems**

### **16 Storage system to have secondary leak detection system**

- (1) A storage system must not be used unless a secondary leak detection system has been installed on the storage site.
- (2) A secondary leak detection system is a system designed to detect contamination by, or failure of, a storage system in the event of a failure in loss monitoring procedures that consists of either:
  - (a) groundwater monitoring wells, or
  - (b) an alternative secondary leak detection system that a duly qualified person has determined as being an appropriate system for secondary leak detection for the storage site.
- (3) The number and location of groundwater monitoring wells to be installed on a storage site is to be determined by a duly qualified person with a view to maximising the likelihood that the wells will intercept contaminated groundwater, whatever the groundwater flow conditions.
- (4) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

### **17 Secondary leak detection system not to be installed unless properly designed**

- (1) A secondary leak detection system must not be installed on a storage site unless:
  - (a) it has been designed by a duly qualified person, and
  - (b) in the case of a groundwater monitoring well—the person by whom it has been designed has provided the person responsible for the relevant storage system with a list of the industry standards that have been followed in connection with the design of the well.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

### **18 Storage system not to be used unless secondary leak detection system properly installed**

- (1) A storage system located on a storage site on which a secondary leak detection system has been installed must not be used unless:
  - (a) the system has been installed by a duly qualified person, and
  - (b) in the case of a groundwater monitoring well:
    - (i) the well has been sealed to exclude surface water, and
    - (ii) the well is clearly marked to indicate its presence and is properly secured, and
    - (iii) the person by whom it has been installed has provided the person responsible for the relevant storage system with a list of the industry standards that have been followed in connection with the installation of the well, and

- (c) in the case an alternative secondary leak detection system:
    - (i) the system has been installed in accordance with EPA guidelines, and
    - (ii) the person by whom it has been installed has provided the person responsible for the relevant storage system with such information about the system as may be specified by EPA guidelines, and
  - (d) the person by whom it has been installed has provided the person responsible for the relevant storage system with a secondary leak detection system report prepared in relation to the system.
- (2) A secondary leak detection system report referred to in subclause (1) (d) must be prepared in accordance with EPA guidelines.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.
- Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## Part 4 Use of storage systems

### 19 Storage system not to be used unless environment protection plan documentation in place

- (1) A storage system must not be used:
  - (a) unless an environment protection plan is in place in relation to the system, and
  - (b) otherwise than in accordance with that plan.
- (2) A storage system's environment protection plan must include:
  - (a) a loss monitoring procedure, and
  - (b) an incident management procedure, and
  - (c) a maintenance schedule, and
  - (d) the current "as-built" drawings for the system, and
  - (e) a plan of the storage site that includes the locations of each of the following:
    - (i) the storage system,
    - (ii) all buildings and associated infrastructure,
    - (iii) all fences and gates,
    - (iv) all groundwater monitoring wells (including any codes or symbols by which they are designated),
    - (v) any unsealed ground surfaces,
    - (vi) all drainage and services, and
  - (f) a copy of each list of industry standards referred to in clauses 5 (1) (b) (i), 6 (1) (b) (i), 9 (1) (b) (i), 10 (1) (b) (i), 17 (1) (b) and 18 (1) (b) (iii), and
  - (g) a copy of all specifications referred to in clauses 5 (1) (b) (ii), 6 (1) (b) (ii), 9 (1) (b) (ii) and 10 (1) (b) (ii), and
  - (h) the information required by subclause (3).
- (3) The information to be included in the environmental protection plan for a storage system is as follows:
  - (a) the name of the person responsible for the system and an address for service and a 24 hour contact phone number for that person,
  - (b) if the person responsible for the system is a corporation:
    - (i) the name of a natural person who is authorised to act on behalf of the corporation in relation to the control of the system, and
    - (ii) a 24 hour contact phone number for that person,
  - (c) the street address of the storage site,
  - (d) the land title particulars (such as the lot and DP numbers) of the land on which the system is situated,
  - (e) if the person responsible for the system is not the owner of the storage site, the name of the owner,
  - (f) details of access to, and the security of, the system, including details of any locks, gates, fences and the like and the means of opening them,
  - (g) the location of all records kept in accordance with Part 5 (including secondary leak detection system reports).

- (4) A storage system's loss monitoring procedure (referred to in subclause (2) (a)) must be designed by a duly qualified person in accordance with EPA guidelines to measure discrepancies between:
  - (a) the amount of petroleum that should be present in the system, and
  - (b) the amount of petroleum that is actually present in the system,so as to be capable of detecting losses of petroleum.
- (5) A storage system's incident management procedure (referred to in subclause (2) (b)) must set out the procedures to be followed in dealing with any leaks and spills of petroleum from the system.
- (6) A storage system's maintenance schedule (referred to in subclause (2) (c)) must include details of what maintenance is proposed to be carried out, and when, in relation to the system generally and in relation to the various gauges, indicators, secondary leak detection systems and other measuring instruments in the system.
- (7) The absence, in relation to a storage system, of a list of industry standards or a copy of a specification (referred to in subclause (2) (f) and (g)) does not give rise to an offence if:
  - (a) the person responsible for the system was not in possession of such a list or copy as at 1 June 2008, and
  - (b) the person responsible for the system is still not in possession of such a list or copy, and
  - (c) there is documentary evidence that the person responsible for the system has taken all reasonable steps to obtain such a list or copy.
- (8) A storage system's environment protection plan:
  - (a) must comply with EPA guidelines, and
  - (b) must be updated as occasion requires, and
  - (c) must be accessible on the storage site (whether in hardcopy or electronic form).
- (9) A storage system's environmental protection plan may be kept:
  - (a) as one consolidated document or as a collection of documents, and
  - (b) in hardcopy or electronic form (or as a combination of both).
- (10) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

**20 Storage system not to be used unless measuring instruments checked and data recorded**

- (1) A storage system must not be used unless:
  - (a) all gauges, indicators, secondary leak detection systems and other measuring instruments in the system have been checked and maintained:
    - (i) in accordance with the manufacturers' instructions, or
    - (ii) if there are no such instructions, in accordance with the environment protection plan for the system, and
  - (b) all data produced by such measuring instruments has been recorded.

- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

## 21 Secondary leak detection

- (1) A storage system with groundwater monitoring wells must not be used unless:
- (a) the groundwater in each groundwater monitoring well on the storage site has been tested for contamination by petroleum, during the last 6 months, in accordance with the written instructions of a duly qualified person, and
  - (b) the groundwater in each groundwater monitoring well on the storage site has been sampled and analysed, as soon as practicable after becoming aware of the occurrence of any of the following, in accordance with the written instructions of a duly qualified person:
    - (i) the installation of a new groundwater monitoring well on the storage site,
    - (ii) the discovery, whether by means of a test referred to in paragraph (a) or otherwise, that groundwater may be contaminated by petroleum originating from the storage site,
    - (iii) the discovery, whether pursuant to the loss monitoring procedure for the system or otherwise, that the system has a leak.
- (2) A storage system with an alternative secondary leak detection system must not be used unless the system has been tested at such times, and in such circumstances, as may be specified by EPA guidelines for the system concerned.
- (3) Details of the following must be recorded:
- (a) the results of sampling and analysis undertaken for the purposes of subclause (1) (b),
  - (b) the results of testing undertaken for the purposes of subclause (2).
- (4) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## 22 Loss detection procedures

- (1) As soon as practicable after becoming aware of any discrepancy detected by the loss monitoring procedure for a storage system, action must be taken:
- (a) to investigate the discrepancy, and
  - (b) if the discrepancy cannot be attributed to anything other than a leak, to confirm the existence of a leak, and
  - (c) if the existence of a leak is confirmed, to identify the source of the leak and to fix the leak.

**Note.** See also Part 5.7 of the Act for duties with respect to the notification of pollution incidents.

- (2) Details of any action taken under this clause must be recorded.

- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.

Maximum penalty: 200 penalty units (in the case of an individual) and 400 penalty units (in the case of a corporation).

## Part 5 Record-keeping

### 23 Record of significant modifications

- (1) If a significant modification is made to a storage system:
  - (a) the following information must be recorded:
    - (i) a comprehensive description of the modification,
    - (ii) the dates of commencement and completion of the modification,
    - (iii) the results of the equipment integrity test carried out under clause 12, and
  - (b) the current “as-built” drawings for the system must be revised to reflect the modification.
- (2) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

### 24 Incident log

- (1) An incident log for a storage system must be kept on the storage site or, if another location is so specified in the system’s environment protection plan, in that location.
- (2) The following activities and incidents are to be recorded in the incident log of a storage system:
  - (a) the carrying out of any activity, by a person acting otherwise than at the direction or request of the person responsible for the system, that has affected, is affecting or could affect the integrity of the system, and
  - (b) the occurrence of any unplanned or abnormal incident (including operational disruptions or equipment failures) that has affected, is affecting or could affect the long-term safety of the system.
- (3) A notification under Part 5.7 of the Act of a pollution incident involving a storage system is to be made in a form approved by the EPA.
- (4) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

### 25 Documents to be kept for 7 years from date of creation

- (1) For the purposes of this clause, **required document** means any of the following:
  - (a) any report prepared for the system under clause 13,
  - (b) any document containing the data produced by any measuring instrument referred to in clause 20,
  - (c) any document containing details of any action taken under clause 22,
  - (d) any notification that is given to the appropriate regulatory authority of a pollution incident involving a storage system,
  - (e) anything that was a required document for the purposes of clause 25 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* immediately before its repeal.

- (2) Each required document for a storage system, including any document delivered in accordance with clause 27, must be kept for at least 7 years from the day on which it was created.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

## **26 Documents to be kept for 7 years from date of decommissioning**

- (1) For the purposes of this clause, *required document*, in relation to a storage system, means any of the following:
  - (a) each certificate issued for the system under clause 8, 12 or 14,
  - (b) any report prepared for the system under clause 15,
  - (c) a secondary leak detection system report referred to in clause 18,
  - (d) each version of the environment protection plan prepared for the system under clause 19,
  - (e) any record made in relation to the system under clause 21, 22 or 23,
  - (f) the incident log kept for the system under clause 24,
  - (g) any report that has been made as a consequence of action taken under Part 5.7 of the Act in connection with a pollution incident involving the system,
  - (h) anything that was a required document for the purposes of clause 26 of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* immediately before its repeal.
- (2) Each required document for a storage system, including any document delivered in accordance with clause 27, must be kept for at least 7 years from the day on which the system is decommissioned.
- (3) The person responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

## **27 Delivery of records on change of responsibility**

- (1) Within 30 days after there is a change in responsibility for a storage system, the person formerly responsible for the system must deliver all documents for the system that this Part requires to be kept and that are in the person's possession to the person newly responsible for the system.
- (2) The person formerly responsible for a storage system commits an offence if the person contravenes (or authorises or permits the contravention of) this clause in connection with that system.  
Maximum penalty: 100 penalty units (in the case of an individual) and 200 penalty units (in the case of a corporation).

## Part 6 Miscellaneous

### 28 Exemptions

- (1) The EPA may, by order in writing, exempt a person or a class of persons specified in the order from any provision of this Regulation specified in the order to the extent that the provision applies to the person or class in respect of any storage system specified in the order.
- (2) The EPA may grant an exemption on application or of its own motion.
- (3) An application for an exemption must be accompanied by such fee (if any) as the EPA may determine.
- (4) An order under this clause:
  - (a) has effect in such circumstances (if any), and subject to such conditions (if any), as are specified in the order, and
  - (b) may be published in the Gazette or may instead be served on a person specified in the order, and
  - (c) has effect on and from publication in the Gazette or service of the order or such later date as may be specified in the order, and
  - (d) is subject to the condition that the exempted person complies with all of the provisions of the Act and the other provisions of this Regulation that apply to the person, and
  - (e) may be revoked by the EPA at any time by order in writing published in the Gazette or served on the person referred to in paragraph (b).

### 29 EPA guidelines

- (1) The EPA may, by means of an EPA Gazettal notice, issue guidelines for the purposes of this Regulation and may, by means of a further EPA Gazettal notice, vary or revoke any such guideline.
- (2) The following documents are taken, on the commencement of this clause, to be such guidelines and may be varied or revoked accordingly:
  - (a) the document entitled *Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, published by the Department of the Environment, Climate Change and Water in 2009,
  - (b) the document entitled *Planning and Development Process for Sites with Underground Petroleum Storage Systems*, published by the Department of the Environment, Climate Change and Water in 2009,
  - (c) the document entitled *Minimum Construction Requirements for Water Bores in Australia*, 3rd edition, published by the National Uniform Drillers Licensing Committee in 2012,
  - (d) any other guidelines in effect, or taken to have been in effect, as EPA guidelines for the purposes of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* immediately before the repeal of that Regulation.

### 30 Savings

Any act, matter or thing that, immediately before the repeal of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Amendment of other Regulations

### 1.1 Protection of the Environment Operations (Clean Air) Regulation 2010

**[1] Clause 77 Log books**

Omit “2008” from the note to clause 77 (2). Insert instead “2014”.

**[2] Clause 77 (6) (a)**

Omit “2008”. Insert instead “2014”.

### 1.2 Protection of the Environment Operations (General) Regulation 2009

**[1] Clause 91 Underground petroleum storage systems**

Omit “2008” from clause 91 (1). Insert instead “2014”.

**[2] Schedule 6 Penalty notice offences**

Omit the matter relating to the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.

Insert instead:

**Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 5 (2)	1, 2	\$500	\$1,000
Clause 6 (2)	1, 2	\$500	\$1,000
Clause 7 (2)	1, 2	\$500	\$1,000
Clause 8 (3)	1, 2	\$500	\$1,000
Clause 9 (2)	1, 2	\$500	\$1,000
Clause 10 (2)	1, 2	\$500	\$1,000
Clause 11 (3)	1, 2	\$500	\$1,000
Clause 12 (3)	1, 2	\$500	\$1,000
Clause 13 (3)	1, 2	\$250	\$500
Clause 14 (3)	1, 2	\$500	\$1,000
Clause 15 (3)	1, 2	\$250	\$500
Clause 16 (4)	1, 2	\$500	\$1,000
Clause 17 (2)	1, 2	\$500	\$1,000
Clause 18 (3)	1, 2	\$500	\$1,000
Clause 19 (10)	1, 2	\$500	\$1,000
Clause 20 (2)	1, 2	\$250	\$500
Clause 21 (4)	1, 2	\$500	\$1,000
Clause 22 (3)	1, 2	\$500	\$1,000
Clause 23 (2)	1, 2	\$250	\$500

**Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Provision of Regulation</b>	<b>Officer</b>	<b>Penalty</b>	<b>Penalty</b>
Clause 24 (4)	1, 2	\$250	\$500
Clause 25 (3)	1, 2	\$250	\$500
Clause 26 (3)	1, 2	\$250	\$500
Clause 27 (2)	1, 2	\$250	\$500