

# COMPLIANCE AND REPORTING

Consultation on draft Hydrogen and  
Renewable Energy Regulations

Information sheet

*Hydrogen and Renewable Energy Act 2023*



## Introduction

The [Hydrogen and Renewable Energy Act 2023](#) (HRE Act) and regulations will facilitate and regulate hydrogen and renewable energy development in South Australia and its coastal waters. The regulations are in addition to the HRE Act's requirements so should be read in conjunction with the HRE Act.

This information sheet outlines the proposed regulations that establish compliance and reporting obligations under the HRE Act.

## Providing feedback

You are invited to provide feedback on any of the proposed regulatory matters contained in these documents. You can make submissions on [YourSay](#) or by emailing [HRE@sa.gov.au](mailto:HRE@sa.gov.au). Submissions close on 15 April 2024.

## Annual licence report

Section 46 of the HRE Act requires a licensee or permit holder to submit reports, information and material in relation to authorised operations when required.

Regulation 24 proposes that an annual licence report must be submitted to the Minister within two months of the end of each licence year.

It is proposed that an annual licence report must include:

- a summary of the operations conducted during the relevant licence year
- a report of compliance with the Act, licence and statement of environmental objectives for the relevant licence year
- a report of the licensee's performance against the approved work program for the licence
- any action to rectify noncompliance and methods to minimise the likelihood for noncompliance to re-occur
- all management system audits for the relevant licence year, including any failures or deficiencies identified and the corrective action that has or will be taken
- monitoring work done to assess the management system's effectiveness, including reports on how effective it is in maintaining compliance with the statement of environmental objectives
- a report on any reasonably foreseeable threats to facilities or authorised operations and any corrective action that has, or will be, taken
- a report on any reasonable concerns reported by members of the public in relation to authorised operations and actions taken or proposed to address these concerns
- a list of all relevant reports and data generated during the relevant licence year

- an assessment of any incidents reported to the Minister during the relevant licence year and the effectiveness of any corrective actions to rectify non-compliance or minimise the risk of recurrence
- authorised operations proposed for the following year
- the day on which authorised operations are due to be completed
- for a hydrogen generation licence only, an estimate of the volume of hydrogen to be produced and sold in the following year (or such other period as determined by the Minister).

## Half-yearly reports

Regulation 25 proposes that:

- The holder of a renewable energy feasibility permit (REFP), renewable energy feasibility licence (REFL), renewable energy infrastructure licence (REIL), renewable energy research licence (RERL) or special enterprise licence (SEL) must provide a half-yearly report to the Minister quantifying the daily measured output of the relevant renewable energy resource in that six months.
- A hydrogen generation licence (HGL) half-yearly report must detail the daily quantity of hydrogen generated in that six months.

All half-yearly reports must be submitted within two months of the end of each six-month period to which the report relates.

## Requests by the Minister

Section 46 of the HRE Act also enables the Minister to request a report, information or material from a licensee, in respect to authorised operations, at any time. In this case, regulation 26 proposes that the licensee must provide the required reports or information within two months of receiving the request.

## Retention, use or release of reports, information or material

Section 46(3) of the HRE Act enables the Minister to retain, use or release any report, information or material provided by the licensee in accordance with the requirements set out in the regulations. Regulation 27 proposes that these documents may be retained by the Minister but not released publicly during the 'designated period'.

The designated period is proposed to be any continuous licence period (under one or more licences) for the land on which authorised operations are occurring.

With the licensee's consent, the Minister may make aggregated information or material publicly available.

## Incident reports

Section 47 of the HRE Act requires a licensee to report 'immediately reportable incidents' and 'reportable incidents' to the Minister.

An immediately reportable incident may be specified in a statement of environmental objectives (SEO) for a licence, but is also proposed to include those matters set out regulation 3(4), namely, an incident:

- in which a person is seriously injured or killed
- that causes an imminent risk to public health or safety
- that results in or creates an imminent risk of significant environmental damage
- that affects or creates an imminent risk of affecting continuity of hydrogen or renewable energy supply

or some other event or circumstance that brings the incident within the type of immediately reportable incidents in the relevant SEO.

A reportable incident may be specified in a SEO for a licence and is also proposed to include those matters set out in regulation 3(5), namely, an incident:

- in which an escape of a processed substance, chemical or fuel affects an area that has not been specifically designed to contain such an escape
- that is identified as reportable under the relevant SEO.

Regulation 28 proposes that the initial report about an immediately reportable incident must include:

- incident details including time, date and contact information
- incident location and size of area affected, using a map and/or coordinates
- detail of any spillage, including quantity
- nature and extent of injury, and cause and place of death (if relevant)
- steps taken to control, minimise or address any damage to the area.

A comprehensive report of an immediately reportable incident must also be provided to the Minister and is proposed to include:

- the results of an assessment of or investigation into the circumstances that caused the incident
- an assessment of the effectiveness of procedures and systems that were in place to prevent the incident
- the nature and extent of any damage to the environment that occurred as a result
- steps that have or will be taken to clean up and rehabilitate any affected area
- steps that have or will be taken to prevent recurrence of the incident.

For reportable incidents, it is proposed that a report must be submitted to the Minister on a quarterly basis within a month of the end of the quarter, and include:

- incident details including time, date and contact information
- incident location and size of area affected, using a map/coordinates
- details of any spillage, including quantity
- cause of incident, including an assessment of the effectiveness of the design, procedures and management systems intended to prevent the incident from occurring
- the steps that have or will be taken to clean up and rehabilitate any affected area and to prevent re-occurrence.

Comprehensive reports of immediately reportable incidents and reports on reportable incidents must be reviewed and signed by the licensee or a person authorised by the licensee to ensure the report's accuracy.

A copy of the report may be made publicly available with the approval of the Minister, having consulted with the licensee. Before approval, the Minister may also take steps to ensure that commercially sensitive information is not publicly disclosed. The HRE register must detail the report's availability.

## Applications for warrants

Sections 86 and 87 of the HRE Act give authorised government officers various powers to monitor, investigate and take action in respect to compliance with the Act. Section 87 provides powers of entry and inspection to carry out an authorised investigation.

Certain powers of entry are subject to a warrant first being issued by a magistrate or justice. In this case, regulation 40 proposes that the following procedures will apply to an application for the issue of a warrant:

- If the authorised officer applies in person for the warrant, they must verify the grounds for this warrant by affidavit.
- If the application for the warrant is made by telephone—
  - the authorised officer must provide their name and position to the magistrate, warden or justice, detailing why the warrant is required and the grounds on which it is sought
  - if the magistrate, warden or justice decides there are proper grounds to issue a warrant, the authorised officer must undertake to make an affidavit to verify the facts which justify the issue of the warrant
  - once they have this commitment, the magistrate, warden or justice may then make out and sign the warrant, which then comes into force
  - the magistrate, warden or justice must inform the authorised officer of the warrant's terms
  - the authorised officer must, as soon as practicable after the issue of the warrant, forward an affidavit to the magistrate, warden or justice verifying the facts that justified the issue of the warrant (as above).

## Confirmation of emergency direction

Section 91 of the HRE Act enables an authorised officer to issue an emergency direction if, in their opinion, licenced operations are likely to cause undue environmental damage or contravene an operational management plan or licence condition, and it is urgently necessary to take action. The emergency direction will expire three days after the day on which it is issued unless the Minister confirms the direction in the manner required by the regulations.

Regulation 41 proposes that a notice of confirmation must be provided in a form determined by the Minister to the person to whom the emergency direction has been issued.

## Administrative penalties

Regulation 42 and Schedule 2 of the regulations propose the fixed administrative penalties imposed for contravening a provision of the HRE Act. The Minister has the discretion to waive a part of an administrative penalty.

### Schedule 2—Administrative penalties

Provision of Act	Amount of administrative penalty
Section 42(9) – Failure to notify Minister of ERD Court proceedings on access agreement	\$5 000
Section 44 – Failure to notify Minister of commencement / completion of authorised operations	\$5 000
Section 46(2) – Failure to keep reports, information or material	\$5 000
Section 47(1) – Failure to report immediately reportable incident	\$10 000
Section 47(2) – Failure to report reportable incidents	\$10 000
Section 83(2) – Failure to comply with Minister’s request for information	\$10 000