EXPLANATORY STATEMENT


(Circulated by authority of the Minister for Resources and Energy,
the Honourable Martin Ferguson AM MP)

PROCLAMATION

The Proclamation fixes 1 January 2012 as the day on which Parts 1 and 2 of Schedule 2 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011 (the Act) commence. The Act received Royal Assent on 14 October 2011. Item 3 of the table in subsection 2(1) of the Act provides that Parts 1 and 2 of Schedule 2 to the Act commence on a day to be fixed by Proclamation.

The Act amends the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (OPGGS Act) to establish two new regulatory bodies – the National Offshore Petroleum Titles Administrator (the Titles Administrator) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) – to administer and regulate petroleum and greenhouse gas storage operations in Commonwealth waters in the Australian offshore area. The new bodies replace the Designated Authorities, who are the State and Northern Territory Ministers who, through their departments, have performed the functions and exercised powers conferred directly on them by the OPGGS Act.

Part 1 of Schedule 2 to the Act contains the operative provisions that, among other things, amend the OPGGS Act to provide for the functions, powers and responsibilities of the Titles Administrator and NOPSEMA, and the removal of those functions, powers and responsibilities from the Designated Authorities. Commencing these provisions on 1 January 2012 ensures that functions and powers are conferred at the time that the Titles Administrator and NOPSEMA commence operations.

Part 2 of Schedule 2 to the Act ensures that the Titles Administrator is given the power to assess and determine registration fee amounts from the time it has been established until the repeal of the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006.

Other legislative provisions are also scheduled to commence at the same time as Parts 1 and 2 of Schedule 2 to the Act. These are:

- Part 4 of Schedule 2 to the Act (as per item 5 of the table in subsection 2(1) of the Act). This Part continues in force instruments made or given by the Designated Authority, and acts of the Designated Authority, which will be attributed to the Titles Administrator, NOPSEMA or the responsible Commonwealth Minister, as appropriate. Certain instruments and acts of the responsible Commonwealth Minister are also attributed to the Titles Administrator.

- Schedule 3 of the Act (as per item 6 of the table in subsection 2(1) of the Act). This Schedule repeals the Offshore Petroleum and Greenhouse Gas Storage (Annual Fees) Act 2006, so that annual fees imposed by that Act are no longer payable by titleholders from 1 January 2012.
• Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage Regulatory Levies Legislation Amendment (2011 Measures No. 2) Act 2011 (as per item 2 of the table in subsection 2(1) of that Act). This Schedule makes machinery amendments to the Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003 (Regulatory Levies Act) to reflect the transition to NOPSEMA, and also amends that Act to impose annual titles administration levy and environment plan levy on titleholders. These levies apply, in accordance with the provisions of the Regulatory Levies Act, from 1 January 2012.

• Schedule 1 to the Offshore Petroleum (Royalty) Amendment Act 2011 (as per item 2 of the table in subsection 2(1) of that Act). This Schedule amends the Offshore Petroleum (Royalty) Act 2006 to replace references to the Designated Authority with references to the State Minister.

• Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Amendment Act 2011 (as per item 2 of the table in subsection 2(1) of that Act). This Schedule amends the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Act 2006 to replace references to the Designated Authority with references to the Titles Administrator.

The Act specifies no conditions that need to be met before the power to make the Proclamation may be exercised. The Proclamation is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The regulatory reforms relating to the upstream petroleum sector have been the subject of extensive consultations and numerous workshops with stakeholders, including other Australian Government agencies, State and Territory governments, the petroleum industry, environmental non-government organisations and interested individuals over an extended period of time from 2009 to 2011. The process commenced as a result of the Government’s response to the 2009 Productivity Commission (PC) Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector and the recommendations of the June 2010 Report of the Montara Commission of Inquiry.

The Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011 Act reflects the results of those extensive consultations and implements the institutional reforms arising from the PC Review and the Montara Commission of Inquiry.