



# Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment Regulations 2011 (No. 1)<sup>1</sup>

**Select Legislative Instrument 2011 No. 251**

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I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Dated 7 December 2011

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

MARTIN FERGUSON  
Minister for Resources and Energy

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### 1 Name of Regulations

These Regulations are the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment Regulations 2011 (No. 1)*.

### 2 Commencement

These Regulations commence on the commencement of Part 1 of Schedule 2 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011*.

### 3 Amendment of *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*

Schedules 1 and 2 amend the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*.

### 4 Application of amendments

The amendments made by Schedule 2 do not apply until the end of the period of 3 months commencing when these Regulations commence.

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2	<i>Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment Regulations 2011 (No. 1)</i>	2011, 251
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## Schedule 1 Amendments

(regulation 3)

**[1] Subregulation 4 (1), definition of *Regulator*, paragraph (a)**

*omit*

the Designated Authority

*insert*

NOPSEMA

**[2] Subregulation 4 (2), note**

*omit*

- Designated Authority

**[3] Subregulation 4 (2), note**

*after*

- licensee

*insert*

- NOPSEMA

**[4] Subregulation 14 (8)**

*substitute*

- (8) The implementation strategy must contain an oil spill contingency plan and provide for the maintenance of the plan.

**[5] Regulation 15**

*omit*

The environment plan

*insert*

- (1) The environment plan

**[6] Regulation 15**

*insert*

- (2) The environment plan must also include arrangements for the operator to notify the Department of the responsible State Minister, or the responsible Northern Territory Minister, before the proposed date of commencement of drilling operations or seismic survey operations that are being carried out under the authority of the title if:
  - (a) there is a community in the area where the drilling operations or seismic survey operations will be carried out; and
  - (b) the drilling operations or seismic survey operations may have an effect on the community.

**[7] Subregulation 18 (6)**

*substitute*

- (6) An operator must comply with a request made by the Regulator under subregulation (1) and not withdrawn, or with a variation of a request under paragraph (5) (c), as soon as practicable.
- (7) Subregulations (8) to (13) apply if an environment plan:
  - (a) was accepted by the Designated Authority before the commencement day; and
  - (b) is continued in force under regulation 40.

*Note* As a result of amendments made by the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011*, NOPSEMA, as the new Regulator, may consider it appropriate to request revision of environment plans that were accepted by a different Regulator.

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- (8) The operator of an activity to which the plan relates must submit to the Regulator a proposed revision of the plan if the Regulator requests the operator to do so.
- (9) The Regulator may make a request under subregulation (8) if the Regulator is not satisfied that the environment plan meets one or more of the criteria set out in subregulation 11 (1).
- (10) If the Regulator makes a request under subregulation (8), the Regulator must identify the criteria set out in subregulation 11 (1) about which the Regulator is not satisfied.
- (11) If the Regulator makes a request under subregulation (8), the operator may, within 21 days after receiving the request, or within a longer period that the Regulator, in writing, allows, make a written submission to the Regulator setting out the operator's reasons why the plan meets the criteria identified by the Regulator in the request.
- (12) If an operator makes a submission under subregulation (11), the Regulator must:
- (a) decide whether to accept one or more of the reasons stated in the submission; and
  - (b) give the operator notice, in writing, of the decision; and
  - (c) to the extent (if any) that the Regulator accepts the reasons, give the operator notice, in writing, that varies or withdraws the request in accordance with the decision; and
  - (d) to the extent (if any) that the Regulator does not accept the reasons, give the operator notice, in writing, of the grounds for not accepting them.
- (13) An operator must comply with a request made by the Regulator under subregulation (8) and not withdrawn, or a request as varied under paragraph (12) (c), as soon as practicable.
- (14) In this regulation:
- commencement day* means the day on which Part 1 of Schedule 2 to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Amendment Regulations 2011 (No. 1)* commences.

**[8] After regulation 26A***insert***26AA Notification of reportable incidents**

- (1) This regulation applies if the operator of an activity notifies a reportable incident in accordance with regulation 26.
- (2) If the operator notified the incident in writing, the operator must, as soon as practicable, give a copy of the notification to:
  - (a) the Titles Administrator; and
  - (b) the Department of the responsible State Minister, or the responsible Northern Territory Minister.
- (3) If the operator notified the incident orally:
  - (a) the operator must, as soon as practicable, give a written record of the notification to:
    - (i) the Regulator; and
    - (ii) the Titles Administrator; and
    - (iii) the Department of the responsible State Minister, or the responsible Northern Territory Minister; and
  - (b) the operator is not required to include in the record anything that was not included in the oral notification.

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[9] **After Part 4**

*insert*

**Part 5** **Transitional arrangements  
relating to *Offshore Petroleum  
and Greenhouse Gas Storage  
Amendment (National  
Regulator) Act 2011***

**38** **Definitions for Part 5**

In this Part:

*commencement day* means the day on which Part 1 of Schedule 2 to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011* commences.

**39** **Regulator may require operator to provide copy of environment plan**

- (1) The Regulator may require the operator of an activity to give the Regulator a copy of an environment plan that is in force for the activity.
- (2) An operator must comply with a request made by the Regulator under subregulation (1) as soon as practicable.

**40** **Environment plans accepted before commencement day**

- (1) If an environment plan was in force immediately before the commencement day, the plan continues to be an accepted environment plan under these Regulations.
- (2) The plan is taken to have been accepted by the Regulator on the day it was accepted by the Designated Authority.

*Note* The day from which the periods of 5 years are worked out for regulation 19 does not change. Regulation 19 explains how the periods of 5 years change.

**41 Environment plans submitted but not accepted before commencement day**

If:

- (a) an environment plan was submitted to the Designated Authority before the commencement day; and
  - (b) the Designated Authority neither accepted the plan nor refused to accept the plan before the commencement day;
- the plan is taken to have been submitted to the Regulator under regulation 9 on the commencement day.



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## **Schedule 2 Further amendments applying 3 months after regulations 1 to 4 and Schedule 1 commence**

(regulation 3)

### **[1] Paragraph 11 (1) (f)**

*substitute*

- (f) for the requirement mentioned in paragraph 16 (b) — demonstrates that:
- (i) the operator has carried out the consultations required by Division 2.2A; and
  - (ii) the measures (if any) that the operator has adopted, or proposes to adopt, because of the consultations are appropriate; and

### **[2] After Division 2.2**

*insert*

## **Division 2.2A Consultation**

### **11A Consultation with relevant authorities, persons and organisations, etc**

- (1) In the course of preparing the environment plan, or a revision of an environment plan, the operator of an activity must consult each of the following (a ***relevant person***):
- (a) each Department or agency of the Commonwealth to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;

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- (b) each Department or agency of a State or the Northern Territory to which the activities to be carried out under the environment plan, or the revision of the environment plan, may be relevant;
  - (c) the Department of the responsible State Minister, or the responsible Northern Territory Minister;
  - (d) a person or organisation whose functions, interests or activities may be affected by the activities to be carried out under the environment plan, or the revision of the environment plan;
  - (e) any other person or organisation that the operator considers relevant.
- (2) For the purpose of the consultation, the operator must give each relevant person sufficient information to allow the relevant person to make an informed assessment of the possible consequences of the activity on the functions, interests or activities of the relevant person.
- (3) The operator must allow a relevant person a reasonable period for the consultation.

**[3] Paragraph 16 (b)**

*substitute*

- (b) a report on all consultations between the operator and any relevant person, for regulation 11A, that contains:
  - (i) a summary of each response made by a relevant person; and
  - (ii) an assessment of the merits of any objection or claim about the adverse impact of each activity to which the environment plan relates; and
  - (iii) a statement of the operator's response, or proposed response, if any, to each objection or claim; and
  - (iv) a copy of the full text of any response by a relevant person;

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**[4] Regulation 21**

*omit*

Regulations 10 and 11

*insert*

Regulations 10, 11 and 11A

**[5] Regulation 21, note**

*after the second mention of*

environment plan.

*insert*

Regulation 11A deals with consultation with relevant authorities,  
persons and organisations.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.