



# Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Environment Measures) Regulation 2014

## Select Legislative Instrument No. 5, 2014

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I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

Dated 17 February 2014

Quentin Bryce  
Governor-General

By Her Excellency's Command

Ian Macfarlane  
Minister for Industry

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## 1 Name of regulation

This regulation is the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Environment Measures) Regulation 2014*.

## 2 Commencement

Each provision of this regulation specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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Commencement information	
Column 1	Column 2
Provision(s)	Commencement
1. Sections 1 to 4 and anything in this regulation not elsewhere covered by this table	28 February 2014.
2. Schedule 1	28 February 2014.
3. Schedule 2	At the same time as Schedule 1 to the <i>Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013</i> commences.

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## 3 Authority

This regulation is made under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003*.

## 4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## **Schedule 1—Amendments commencing 28 February 2014**

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

#### **1 Regulation 3**

Omit “storage”.

#### **2 Paragraphs 3(a) and (b)**

Repeal the paragraphs, substitute:

- (a) carried out in a manner consistent with the principles of ecologically sustainable development set out in section 3A of the EPBC Act; and
- (b) carried out in a manner by which the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable; and
- (c) carried out in a manner by which the environmental impacts and risks of the activity will be of an acceptable level.

#### **3 Subregulation 4(1)**

Omit “(1)”.

#### **4 Subregulation 4(1) (definition of *accepted*)**

Repeal the definition.

#### **5 Subregulation 4(1)**

Insert:

***accepted offshore project proposal*** means an offshore project proposal that has been accepted by the Regulator under regulation 5D.

#### **6 Subregulation 4(1)**

Insert:

*control measure* means a system, an item of equipment, a person or a procedure, that is used as a basis for managing environmental impacts and risks.

**7 Subregulation 4(1) (definition of *environmental impact*)**

Omit “of an operator”.

**8 Subregulation 4(1)**

Insert:

*environmental management system* includes the responsibilities, practices, processes and resources used to manage the environmental aspects of an activity.

**9 Subregulation 4(1) (definition of *environmental performance*)**

Repeal the definition, substitute:

*environmental performance* means the performance of a titleholder in relation to the environmental performance outcomes and standards mentioned in an environment plan.

**10 Subregulation 4(1) (definition of *environmental performance objective*)**

Repeal the definition.

**11 Subregulation 4(1)**

Insert:

*environmental performance outcome* means a measurable level of performance required for the management of environmental aspects of an activity to ensure that environmental impacts and risks will be of an acceptable level.

**12 Subregulation 4(1) (definition of *environmental performance standard*)**

Repeal the definition, substitute:

*environmental performance standard* means a statement of the performance required of a control measure.

**13 Subregulation 4(1)**

Insert:

*Environment Minister* means the Minister administering section 1 of the EPBC Act.

**14 Subregulation 4(1) (definition of *environment plan*)**

Repeal the definition, substitute:

*environment plan* means the document known as an environment plan that is submitted to the Regulator under regulation 9.

**15 Subregulation 4(1)**

Insert:

*EPBC Act* means the *Environment Protection and Biodiversity Conservation Act 1999*.

**16 Subregulation 4(1) (definition of *greenhouse gas activity*)**

Repeal the definition, substitute:

*greenhouse gas activity* means operations or works in an offshore area undertaken for the purpose of:

- (a) exercising a right conferred on a greenhouse gas titleholder under the Act by a greenhouse gas title; or
- (b) discharging an obligation imposed on a greenhouse gas titleholder by the Act or a legislative instrument under the Act.

**17 Subregulation 4(1) (definition of *greenhouse gas instrument*)**

Repeal the definition.

**18 Subregulation 4(1) (definition of *greenhouse gas instrument holder*)**

Repeal the definition.

**19 Subregulation 4(1)**

Insert:

*greenhouse gas title* means any of the following:



- (a) a greenhouse gas assessment permit;
- (b) a greenhouse gas holding lease;
- (c) a greenhouse gas injection licence;
- (d) a greenhouse gas search authority;
- (e) a greenhouse gas special authority;
- (f) a greenhouse gas research consent.

**greenhouse gas titleholder** means any of the following:

- (a) a greenhouse gas assessment permittee;
- (b) a greenhouse gas holding lessee;
- (c) a greenhouse gas injection licensee;
- (d) a registered holder of a greenhouse gas search authority;
- (e) a registered holder of a greenhouse gas special authority;
- (f) a holder of a greenhouse gas research consent.

## **20 Subregulation 4(1)**

Insert:

**in force**, in relation to an environment plan, including a revised environment plan, means that:

- (a) the plan has been accepted; and
- (b) the acceptance of the plan has not been withdrawn; and
- (c) the operation of the plan has not ended.

## **21 Subregulation 4(1) (definition of *instrument holder*)**

Repeal the definition.

## **22 Subregulation 4(1) (definition of *nominated address*)**

Repeal the definition.

## **23 Subregulation 4(1)**

Insert:

**offshore project** means one or more activities that are undertaken for the purpose of the recovery of petroleum, other than on an appraisal basis, including any conveyance of recovered petroleum by pipeline (whether or not the activity is undertaken for other purposes).

Note: See Part 1A.

*offshore project proposal* means the document known as an offshore project proposal that is submitted to the Regulator under regulation 5A or subregulation 5F(2).

**24 Subregulation 4(1) (definition of operator)**

Repeal the definition.

**25 Subregulation 4(1) (definition of petroleum activity)**

Repeal the definition, substitute:

*petroleum activity* means operations or works in an offshore area undertaken for the purpose of:

- (a) exercising a right conferred on a petroleum titleholder under the Act by a petroleum title; or
- (b) discharging an obligation imposed on a petroleum titleholder by the Act or a legislative instrument under the Act.

**26 Subregulation 4(1) (definition of petroleum instrument)**

Repeal the definition.

**27 Subregulation 4(1) (definition of petroleum instrument holder)**

Repeal the definition.

**28 Subregulation 4(1)**

Insert:

*petroleum title* means any of the following:

- (a) a petroleum exploration permit;
- (b) a petroleum retention lease;
- (c) a petroleum production licence;
- (d) a pipeline licence;
- (e) an infrastructure licence;
- (f) a petroleum access authority;
- (g) a petroleum special prospecting authority;
- (h) a petroleum scientific investigation consent.

*petroleum titleholder* means any of the following:

- (a) a petroleum exploration permittee;

- (b) a petroleum retention lessee;
- (c) a petroleum production licensee;
- (d) a pipeline licensee;
- (e) an infrastructure licensee;
- (f) the registered holder of a petroleum access authority;
- (g) the registered holder of a petroleum special prospecting authority;
- (h) the holder of a petroleum scientific investigation consent.

**29 Subregulation 4(1) (definition of *produced formation water*)**

Repeal the definition.

**30 Subregulation 4(1)**

Insert:

*proponent* means a person who submits an offshore project proposal to the Regulator.

**31 Subregulation 4(1) (definition of *recordable incident*)**

Repeal the definition, substitute:

*recordable incident*, for an activity, means a breach of an environmental performance outcome or environmental performance standard, in the environment plan that applies to the activity, that is not a reportable incident.

**32 Subregulation 4(1) (definition of *reportable incident*)**

Omit “an operator of”.

**33 Subregulation 4(1)**

Insert:

*titleholder* means:

- (a) a greenhouse gas titleholder; or
- (b) a petroleum titleholder.

**34 Subregulation 4(2)**

Repeal the subregulation.

## 35 After Part 1

Insert:

### Part 1A—Offshore project proposals

#### 5A Submission of an offshore project proposal

- (1) Before commencing an offshore project, a person must submit an offshore project proposal for the project to the Regulator.
- (2) However, subregulation (1) does not apply if the Environment Minister:
  - (a) has made a decision under section 75 of the EPBC Act that an action that is equivalent to or includes the project is not a controlled action; or
  - (b) has made a component decision under section 77A of the EPBC Act that a particular provision of Part 3 of that Act is not a controlling provision for an action that is equivalent to or includes the project, because the Minister believes the action will be taken in a particular manner; or
  - (c) has approved, under Part 9 of the EPBC Act, the taking of an action that is equivalent to or includes the project.
- (3) For paragraph (2)(c), despite section 146D of the EPBC Act an approval by the Environment Minister under section 146B of that Act is not taken to be an approval under Part 9 of that Act of the taking of an action.

Note 1: An environment plan for an activity that is, or is part of, an offshore project may be submitted only if there is an accepted offshore project proposal or a decision from the Environment Minister—see subregulation 9(3).

Note 2: A fee is payable for considering the proposal—see regulation 32.
- (4) The proposal must be in writing.
- (5) The proposal must:
  - (a) include the proponent's name and contact details; and
  - (b) include a summary of the project, including the following:
    - (i) a description of each activity that is part of the project;
    - (ii) the location or locations of each activity;

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- (iii) a proposed timetable for carrying out the project;
  - (iv) a description of the facilities that are proposed to be used to undertake each activity;
  - (v) a description of the actions proposed to be taken, following completion of the project, in relation to those facilities; and
- (c) describe the existing environment that may be affected by the project; and
  - (d) include details of the particular relevant values and sensitivities (if any) of that environment; and
  - (e) set out the environmental performance outcomes for the project; and
  - (f) describe any feasible alternative to the project, or an activity that is part of the project, including:
    - (i) a comparison of the environmental impacts and risks arising from the project or activity and the alternative; and
    - (ii) an explanation, in adequate detail, of why the alternative was not preferred.

Note: A proposal will not be suitable for publication and will not be capable of being accepted by the Regulator if an activity or part of an activity will be undertaken in any part of a declared World Heritage property—see regulations 5C and 5D.

- (6) Without limiting paragraph (5)(d), particular relevant values and sensitivities may include any of the following:
  - (a) the world heritage values of a declared World Heritage property within the meaning of the EPBC Act;
  - (b) the national heritage values of a National Heritage place within the meaning of that Act;
  - (c) the ecological character of a declared Ramsar wetland within the meaning of that Act;
  - (d) the presence of a listed threatened species or listed threatened ecological community within the meaning of that Act;
  - (e) the presence of a listed migratory species within the meaning of that Act;
  - (f) any values and sensitivities that exist in, or in relation to, part or all of:
    - (i) a Commonwealth marine area within the meaning of that Act; or

(ii) Commonwealth land within the meaning of that Act.

- (7) The proposal must:
- (a) describe the requirements, including legislative requirements, that apply to the project and are relevant to the environmental management of the project; and
  - (b) describe how those requirements will be met.
- (8) The proposal must include:
- (a) details of the environmental impacts and risks for the project; and
  - (b) an evaluation of all the impacts and risks, appropriate to the nature and scale of each impact or risk.

### **5B Further information**

- (1) If a proponent submits an offshore project proposal, the Regulator may request the proponent to provide further written information about any matter required by regulation 5A to be included in the proposal.
- (2) The request must:
- (a) be in writing; and
  - (b) set out each matter for which information is requested; and
  - (c) specify a reasonable period within which the information is to be provided.
- (3) If a proponent receives a request, and provides information requested by the Regulator within the period specified or within a longer period agreed to by the Regulator:
- (a) the information becomes part of the proposal; and
  - (b) the Regulator must have regard to the information as if it had been included in the submitted proposal.

### **5C Suitability of offshore project proposal for publication**

- (1) Within 30 days after a proponent submits an offshore project proposal:
- (a) if the Regulator is reasonably satisfied that the proposal meets the criteria set out in subregulation (2), the Regulator must decide that the proposal is suitable for publication; or

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- (b) if the Regulator is not reasonably satisfied that the proposal meets the criteria set out in subregulation (2), the Regulator must decide that the proposal is not suitable for publication; or
  - (c) if the Regulator is unable to make a decision on the proposal within the 30 day period, the Regulator must give the proponent notice in writing and set out a proposed timetable for consideration of the proposal.
- (2) For subregulation (1), the criteria for a proposal being suitable for publication are that the proposal:
- (a) appropriately identifies and evaluates the environmental impacts and risks of the project; and
  - (b) sets out environmental performance outcomes that are:
    - (i) consistent with the principles of ecologically sustainable development; and
    - (ii) relevant to the identified environmental impacts and risks for the project; and
  - (c) does not involve an activity or part of an activity being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act; and
  - (d) sufficiently addresses the matters required by regulation 5A.
- (3) If the Regulator decides that the offshore project proposal is suitable for publication, the Regulator must, as soon as practicable:
- (a) publish the proposal on the Regulator's website; and
  - (b) publish in the same place a notice:
    - (i) inviting the public to comment on the proposal; and
    - (ii) specifying a period of at least 4 weeks for giving comments; and
    - (iii) explaining how to give comments.
- (4) If the Regulator decides that the offshore project proposal is not suitable for publication, the Regulator must notify the proponent, in writing, of the decision as soon as practicable.
- (5) A decision by the Regulator that the proposal is, or is not, suitable for publication is not invalid only because the Regulator did not comply with the 30 day period in subregulation (1) in relation to the proposal.

## **5D Actions after publication of offshore project proposal**

- (1) As soon as practicable after the end of the period of public comment for an offshore project proposal mentioned in subparagraph 5C(3)(b)(ii), the proponent:
  - (a) may alter the content of the proposal; and
  - (b) must give the Regulator another copy of the proposal (whether or not the proponent has altered its content); and
  - (c) must include with the copy of the proposal:
    - (i) a summary of all comments received; and
    - (ii) an assessment of the merits of each objection or claim about the project or any activity that is part of the project; and
    - (iii) a statement of the proponent's response or proposed response to each objection or claim, including a demonstration of the changes, if any, that have been made to the proposal as a result of an objection or claim.
- (2) If the proponent gives the Regulator a copy of the proposal as described in paragraph (1)(b), the Regulator may request the proponent to provide further written information about:
  - (a) any matter required by regulation 5A to be included in the proposal; or
  - (b) any matter required by paragraph (1)(c) to be included with a copy of the proposal.
- (3) The request must:
  - (a) be in writing; and
  - (b) set out each matter for which information is requested; and
  - (c) specify a reasonable period within which the information is to be provided.
- (4) If the proponent receives a request, and provides information requested by the Regulator within the period specified or within a longer period agreed to by the Regulator:
  - (a) if the information is about a matter required by regulation 5A to be included in the proposal—the information becomes part of the proposal and the Regulator must have regard to the information as if it had been included in the submitted proposal; and



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- (b) if the information is about a matter required by paragraph (1)(c) to be included with a copy of the proposal—the Regulator must have regard to the information as if it had been so included.
- (5) Within 30 days after the proponent gives the Regulator a copy of the proposal as described in paragraph (1)(b):
- (a) if the Regulator is reasonably satisfied that the proposal meets the criteria set out in subregulation (6), the Regulator must accept the proposal; or
  - (b) if the Regulator is not reasonably satisfied that the proposal meets the criteria set out in subregulation (6), the Regulator must refuse to accept the proposal; or
  - (c) if the Regulator is unable to make a decision on the proposal within the 30 day period, the Regulator must give the proponent notice in writing and set out a proposed timetable for consideration of the proposal.
- (6) For subregulation (5), the criteria are that the proposal:
- (a) adequately addresses comments given during the period for public comment; and
  - (b) is appropriate for the nature and scale of the project; and
  - (c) appropriately identifies and evaluates the environmental impacts and risks of the project; and
  - (d) sets out appropriate environmental performance outcomes that:
    - (i) are consistent with the principles of ecologically sustainable development; and
    - (ii) demonstrate that the environmental impacts and risks of the project will be managed to an acceptable level; and
  - (e) does not involve an activity or part of an activity being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act.
- (7) If the Regulator accepts the proposal, the Regulator must, within 10 days after making the decision, publish the accepted proposal on the Regulator’s website.
- (8) If the Regulator refuses to accept the proposal, the Regulator must, as soon as practicable:
- (a) notify the proponent, in writing, of the decision; and

- (b) publish a notice on the Regulator's website setting out the decision and the reasons for it.
- (9) A decision by the Regulator to accept, or refuse to accept, the proposal is not invalid only because the Regulator did not comply with the 30 day period in subregulation (5) in relation to the proposal.

#### **5E Withdrawal of offshore project proposal**

- (1) A proponent may, by notice in writing, withdraw a submitted offshore project proposal at any time before the Regulator has made a decision to accept or refuse to accept the proposal.
- (2) If a proponent withdraws a proposal after it has been published on the Regulator's website, the Regulator must publish on the website a notice that the proposal has been withdrawn.

#### **5F Use of the offshore project proposal system for other activities**

- (1) This regulation applies to an activity that a person proposes to commence for at least one of the following purposes (whether or not the activity is undertaken for other purposes):
  - (a) exploration for petroleum;
  - (b) recovering petroleum on an appraisal basis;
  - (c) exploration for a potential greenhouse gas storage formation;
  - (d) exploration for a potential greenhouse gas injection site;
  - (e) injecting or storing, on an appraisal basis, a greenhouse gas substance in a part of a geological formation;
  - (f) injecting or permanently storing a greenhouse gas substance into an identified greenhouse gas storage formation;
  - (g) the conveyance of a greenhouse gas substance by pipeline;
  - (h) decommissioning a facility, a petroleum pipeline or a greenhouse gas pipeline.
- (2) If a person wishes to use the arrangements in this Part for one or more activities to which this regulation applies, the person may:
  - (a) prepare an offshore project proposal for the activity or activities as if they were an offshore project; and
  - (b) submit the proposal to the Regulator.

- (3) If a person submits an offshore project proposal to the Regulator under subregulation (2):
- (a) subregulations 5A(4) to (8), regulations 5B to 5E and regulation 32 apply as if the activity or activities were an offshore project; but
  - (b) the activity or activities are not otherwise to be treated as an offshore project.

### **36 Subregulation 6(1)**

Repeal the subregulation, substitute:

- (1) A titleholder commits an offence if:
- (a) the titleholder undertakes an activity; and
  - (b) there is no environment plan in force for the activity.

Penalty: 80 penalty units.

### **37 Subregulation 7(1)**

Omit “The operator of an activity must not carry out the”, substitute “A titleholder must not undertake an”.

### **38 Subregulation 7(2)**

Repeal the subregulation, substitute:

- (2) Subregulation (1) does not apply in relation to an activity if the titleholder has the consent in writing of the Regulator to undertake the activity in that way.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (2)—see subsection 13.3(3) of the *Criminal Code*.

### **39 Subregulation 8(1)**

Omit “The operator of an activity is guilty of”, substitute “A titleholder commits”.

### **40 Paragraph 8(1)(a)**

Omit “operator carries out the”, substitute “titleholder undertakes an”.

### **41 Subregulation 8(2)**

Repeal the subregulation, substitute:

- (2) Subregulation (1) does not apply in relation to an activity if the titleholder submits a proposed revision of the environment plan in force for the activity in accordance with subregulation 17(6) and the Regulator has not refused to accept the revision.

Note 1: Under subregulation 17(6), the titleholder is required to submit a proposed revision of the environment plan before, or as soon as practicable after, the occurrence of a significant new, or significantly increased, environmental impact or risk.

Note 2: A defendant bears an evidential burden in relation to the matter in subregulation (2)—see subsection 13.3(3) of the *Criminal Code*.

## 42 Division 2.2

Repeal the Division, substitute:

### Division 2.2—Acceptance of an environment plan

#### 9 Submission of an environment plan

- (1) Before commencing an activity, a titleholder must submit an environment plan for the activity to the Regulator.
- (2) An applicant for a petroleum access authority, petroleum special prospecting authority, pipeline licence, greenhouse gas search authority or greenhouse gas special authority:
- (a) may submit an environment plan for an activity under the authority or licence to the Regulator; and
  - (b) is taken to be a titleholder for the purposes of this Division and Divisions 2.2A and 2.3.

#### *Submission of plan for offshore project*

- (3) However, a titleholder (or an applicant for a title) may submit an environment plan for an activity that is, or is part of, an offshore project only if:
- (a) the Regulator has accepted an offshore project proposal that includes that activity; or
  - (b) the Environment Minister:
    - (i) has made a decision under section 75 of the EPBC Act that an action that is equivalent to or includes the activity is not a controlled action; or

- (ii) has made a component decision under section 77A of the EPBC Act that a particular provision of Part 3 of that Act is not a controlling provision for an action that is equivalent to or includes the activity, because the Minister believes the action will be taken in a particular manner; or
  - (iii) has approved, under Part 9 of the EPBC Act, the taking of an action that is equivalent to or includes the activity.
- (4) If a titleholder (or an applicant for a title) submits an environment plan for an activity in contravention of subregulation (3), the plan is taken not to have been submitted.
- (5) For subparagraph (3)(b)(iii), despite section 146D of the EPBC Act an approval by the Environment Minister under section 146B of that Act is not taken to be an approval under Part 9 of that Act of the taking of an action.

*Form of environment plan*

- (6) An environment plan must be in writing.
- (7) An environment plan may, if the Regulator approves, relate to:
- (a) one or more stages of an activity; or
  - (b) a specified activity in one or more identified locations specified in the plan; or
  - (c) more than one activity; or
  - (d) an activity or activities to be undertaken under 2 or more titles held by different titleholders.

*Publication of information*

- (8) If an environment plan is submitted to the Regulator, the Regulator must, as soon as practicable, publish on the Regulator's website:
- (a) the name of the titleholder; and
  - (b) a description of the activity or stage of the activity to which the environment plan relates; and
  - (c) the location of the activity; and
  - (d) a link or other reference to the place where the accepted offshore project proposal (if any) is published; and
  - (e) details of the titleholder's nominated liaison person for the activity; and

- (f) the decision (if any) made by the Regulator in relation to the environment plan.

*Withdrawal*

- (9) A titleholder may, by notice in writing, withdraw a submitted environment plan at any time before the Regulator has made a decision to accept or refuse to accept the plan.
- (10) If an environment plan is withdrawn, the Regulator must publish a notice on the Regulator's website.

**9A Further information**

- (1) If a titleholder submits an environment plan, the Regulator may request the titleholder to provide further written information about any matter required by these Regulations to be included in an environment plan.
- (2) The request must:
  - (a) be in writing; and
  - (b) set out each matter for which information is requested; and
  - (c) specify a reasonable period within which the information is to be provided.
- (3) If a titleholder receives a request, and provides information requested by the Regulator within the period specified or within a longer period agreed to by the Regulator:
  - (a) the information becomes part of the environment plan; and
  - (b) the Regulator must have regard to the information as if it had been included in the submitted environment plan.

**10 Making decision on submitted environment plan**

- (1) Within 30 days after a titleholder submits an environment plan:
  - (a) if the Regulator is reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must accept the plan; or
  - (b) if the Regulator is not reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must give the titleholder notice in writing under subregulation (2); or

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- (c) if the Regulator is unable to make a decision on the environment plan within the 30 day period, the Regulator must give the titleholder notice in writing and set out a proposed timetable for consideration of the plan.
- (2) A notice to a titleholder under this subregulation must:
    - (a) state that the Regulator is not reasonably satisfied that the environment plan submitted by the titleholder meets the criteria set out in regulation 10A; and
    - (b) identify the criteria set out in regulation 10A about which the Regulator is not reasonably satisfied; and
    - (c) set a date by which the titleholder may resubmit the plan.
  - (3) The date referred to in paragraph (2)(c) must give the titleholder a reasonable opportunity to modify and resubmit the plan.
  - (4) Within 30 days after the titleholder has resubmitted the modified plan:
    - (a) if the Regulator is reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must accept the plan; or
    - (b) if the Regulator is still not reasonably satisfied that the environment plan meets the criteria set out in regulation 10A, the Regulator must:
      - (i) give the titleholder a further notice under subregulation (2); or
      - (ii) refuse to accept the plan; or
      - (iii) act under subregulation (6); or
    - (c) if the Regulator is unable to make a decision on the environment plan within the 30 day period, the Regulator must give the titleholder notice in writing and set out a proposed timetable for consideration of the plan.
  - (5) If the titleholder does not resubmit the plan by the date referred to in paragraph (2)(c), or a later date agreed to by the Regulator, the Regulator must:
    - (a) refuse to accept the plan; or
    - (b) act under subregulation (6).
  - (6) For subparagraph (4)(b)(iii) and paragraph (5)(b), the Regulator may do either or both of the following:
    - (a) accept the plan in part for a particular stage of the activity;

- (b) accept the plan subject to limitations or conditions applying to operations for the activity.
- (7) A decision by the Regulator to accept, or refuse to accept, an environment plan is not invalid only because the Regulator did not comply with the 30 day period in subregulation (1) or (4).

### **10A Criteria for acceptance of environment plan**

For regulation 10, the criteria for acceptance of an environment plan are that the plan:

- (a) is appropriate for the nature and scale of the activity; and
- (b) demonstrates that the environmental impacts and risks of the activity will be reduced to as low as reasonably practicable; and
- (c) demonstrates that the environmental impacts and risks of the activity will be of an acceptable level; and
- (d) provides for appropriate environmental performance outcomes, environmental performance standards and measurement criteria; and
- (e) includes an appropriate implementation strategy and monitoring, recording and reporting arrangements; and
- (f) does not involve the activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, being undertaken in any part of a declared World Heritage property within the meaning of the EPBC Act; and
- (g) demonstrates that:
  - (i) the titleholder has carried out the consultations required by Division 2.2A; and
  - (ii) the measures (if any) that the titleholder has adopted, or proposes to adopt, because of the consultations are appropriate; and
- (h) complies with the Act and the regulations.

### **11 Notice of decision on environment plan and submission of summary**

- (1) The Regulator must give the titleholder notice in writing of a decision by the Regulator to:
    - (a) accept the environment plan; or
-



- (b) refuse to accept the plan; or
  - (c) accept the plan in part for a particular stage of the activity, or subject to limitations or conditions.
- (2) A notice of a decision mentioned in paragraph (1)(b) or (c) must set out:
- (a) the terms of the decision and the reasons for it; and
  - (b) any limitations or conditions that are to apply to operations for the activity.
- (3) Within 10 days after receiving notice that the Regulator has accepted an environment plan (whether in full, in part or subject to limitations or conditions), the titleholder must submit a summary of the accepted plan to the Regulator for public disclosure.
- (4) The summary:
- (a) must include the following material from the environment plan:
    - (i) the location of the activity;
    - (ii) a description of the receiving environment;
    - (iii) a description of the activity;
    - (iv) details of environmental impacts and risks;
    - (v) a summary of the control measures for the activity;
    - (vi) a summary of the arrangements for ongoing monitoring of the titleholder's environmental performance;
    - (vii) a summary of the response arrangements in the oil pollution emergency plan;
    - (viii) details of consultation already undertaken, and plans for ongoing consultation;
    - (ix) details of the titleholder's nominated liaison person for the activity; and
  - (b) must be to the satisfaction of the Regulator.

#### **43 Subregulation 11A(1)**

Omit all the words from and including "the environment" to and including "activity", substitute "an environment plan, or a revision of an environment plan, a titleholder".

#### **44 Paragraph 13(1)(b)**

Omit "or other structure".

**45 At the end of subregulation 13(1)**

Add:

Note: An environment plan will not be capable of being accepted by the Regulator if an activity or part of the activity, other than arrangements for environmental monitoring or for responding to an emergency, will be undertaken in any part of a declared World Heritage property—see regulation 10A.

**46 Paragraph 13(2)(a)**

Omit “, as well as any relevant cultural, social and economic aspects of the environment that may be affected”.

**47 At the end of subregulation 13(2)**

Add:

Note: The definition of *environment* in regulation 4 includes its social, economic and cultural features.

**48 Subregulations 13(3) to (5)**

Repeal the subregulations, substitute:

- (3) Without limiting paragraph (2)(b), particular relevant values and sensitivities may include any of the following:
- (a) the world heritage values of a declared World Heritage property within the meaning of the EPBC Act;
  - (b) the national heritage values of a National Heritage place within the meaning of that Act;
  - (c) the ecological character of a declared Ramsar wetland within the meaning of that Act;
  - (d) the presence of a listed threatened species or listed threatened ecological community within the meaning of that Act;
  - (e) the presence of a listed migratory species within the meaning of that Act;
  - (f) any values and sensitivities that exist in, or in relation to, part or all of:
    - (i) a Commonwealth marine area within the meaning of that Act; or
    - (ii) Commonwealth land within the meaning of that Act.

*Requirements*

- (4) The environment plan must:
- (a) describe the requirements, including legislative requirements, that apply to the activity and are relevant to the environmental management of the activity; and
  - (b) demonstrate how those requirements will be met.

*Evaluation of environmental impacts and risks*

- (5) The environment plan must include:
- (a) details of the environmental impacts and risks for the activity; and
  - (b) an evaluation of all the impacts and risks, appropriate to the nature and scale of each impact or risk; and
  - (c) details of the control measures that will be used to reduce the impacts and risks of the activity to as low as reasonably practicable and an acceptable level.
- (6) To avoid doubt, the evaluation mentioned in paragraph (5)(b) must evaluate all the environmental impacts and risks arising directly or indirectly from:
- (a) all operations of the activity; and
  - (b) potential emergency conditions, whether resulting from accident or any other reason.

*Environmental performance outcomes and standards*

- (7) The environment plan must:
- (a) set environmental performance standards for the control measures identified under paragraph (5)(c); and
  - (b) set out the environmental performance outcomes against which the performance of the titleholder in protecting the environment is to be measured; and
  - (c) include measurement criteria that the titleholder will use to determine whether each environmental performance outcome and environmental performance standard is being met.

**49 Subregulations 14(2) and (3)**

Repeal the subregulations, substitute:

- (2) The implementation strategy must:

- (a) state when the titleholder will report to the Regulator in relation to the titleholder's environmental performance for the activity; and
- (b) provide that the interval between reports will not be more than 1 year.

Note: Regulation 26C requires a titleholder to report on environmental performance in accordance with the timetable set out in the environment plan.

- (3) The implementation strategy must contain a description of the environmental management system for the activity, including specific measures to be used to ensure that, for the duration of the activity:
  - (a) the environmental impacts and risks of the activity continue to be identified and reduced to a level that is as low as reasonably practicable; and
  - (b) control measures detailed in the environment plan are effective in reducing the environmental impacts and risks of the activity to as low as reasonably practicable and an acceptable level; and
  - (c) environmental performance outcomes and standards set out in the environment plan are being met.

#### **50 At the end of subregulation 14(4)**

Add “, including during emergencies or potential emergencies”.

#### **51 Subregulation 14(5)**

After “in relation to the environment plan”, insert “, including during emergencies or potential emergencies”.

#### **52 Subregulations 14(6) to (8A)**

Repeal the subregulations, substitute:

- (6) The implementation strategy must provide for sufficient monitoring, recording, audit, management of nonconformance and review of the titleholder's environmental performance and the implementation strategy to ensure that the environmental performance outcomes and standards in the environment plan are being met.

- 
- (7) The implementation strategy must provide for sufficient monitoring of, and maintaining a quantitative record of, emissions and discharges (whether occurring during normal operations or otherwise), such that the record can be used to assess whether the environmental performance outcomes and standards in the environment plan are being met.
- (8) The implementation strategy must contain an oil pollution emergency plan and provide for the updating of the plan.
- (8AA) The oil pollution emergency plan must include adequate arrangements for responding to and monitoring oil pollution, including the following:
- (a) the control measures necessary for timely response to an emergency that results or may result in oil pollution;
  - (b) the arrangements and capability that will be in place, for the duration of the activity, to ensure timely implementation of the control measures, including arrangements for ongoing maintenance of response capability;
  - (c) the arrangements and capability that will be in place for monitoring the effectiveness of the control measures and ensuring that the environmental performance standards for the control measures are met;
  - (d) the arrangements and capability in place for monitoring oil pollution to inform response activities.
- (8A) The implementation strategy must include arrangements for testing the response arrangements in the oil pollution emergency plan that are appropriate to the response arrangements and to the nature and scale of the risk of oil pollution for the activity.
- (8B) The arrangements for testing the response arrangements must include:
- (a) a statement of the objectives of testing; and
  - (b) a proposed schedule of tests; and
  - (c) mechanisms to examine the effectiveness of response arrangements against the objectives of testing; and
  - (d) mechanisms to address recommendations arising from tests.
- (8C) The proposed schedule of tests must provide for the following:
- (a) testing the response arrangements when they are introduced;

- (b) testing the response arrangements when they are significantly amended;
  - (c) testing the response arrangements not later than 12 months after the most recent test;
  - (d) if a new location for the activity is added to the environment plan after the response arrangements have been tested, and before the next test is conducted—testing the response arrangements in relation to the new location as soon as practicable after it is added to the plan;
  - (e) if a facility becomes operational after the response arrangements have been tested and before the next test is conducted—testing the response arrangements in relation to the facility when it becomes operational.
- (8D) The implementation strategy must provide for monitoring of impacts to the environment from oil pollution and response activities that:
- (a) is appropriate to the nature and scale of the risk of environmental impacts for the activity; and
  - (b) is sufficient to inform any remediation activities.
- (8E) The implementation strategy must include information demonstrating that the response arrangements in the oil pollution emergency plan are consistent with the national system for oil pollution preparedness and response.

### **53 Regulation 15**

Repeal the regulation, substitute:

#### **15 Details of titleholder and liaison person**

- (1) The environment plan must include the following details for the titleholder:
- (a) name;
  - (b) business address;
  - (c) telephone number (if any);
  - (d) fax number (if any);
  - (e) email address (if any);
  - (f) if the titleholder is a body corporate that has an ACN (within the meaning of the *Corporations Act 2001*)—ACN.

- (2) The environment plan must also include the following details for the titleholder's nominated liaison person:
  - (a) name;
  - (b) business address;
  - (c) telephone number (if any);
  - (d) fax number (if any);
  - (e) email address (if any).
- (3) The environment plan must include arrangements for notifying the Regulator of a change in the titleholder, a change in the titleholder's nominated liaison person or a change in the contact details for either the titleholder or the liaison person.

## **54 Regulation 17**

Repeal the regulation, substitute:

### **17 Revision because of a change, or proposed change, of circumstances or operations**

#### *New activity*

- (1) A titleholder may, with the Regulator's approval, submit to the Regulator a proposed revision of an environment plan before the commencement of a new activity.

#### *Submission of revision for activity in offshore project*

- (2) However, a titleholder may submit a proposed revision of an environment plan for a new activity that is, or is part of, an offshore project only if:
  - (a) the Regulator has accepted an offshore project proposal that includes the new activity; or
  - (b) the Environment Minister:
    - (i) has made a decision under section 75 of the EPBC Act that an action that is equivalent to or includes the new activity is not a controlled action; or
    - (ii) has made a component decision under section 77A of the EPBC Act that a particular provision of Part 3 of that Act is not a controlling provision for an action that is equivalent to or includes the new activity, because the

Minister believes the action will be taken in a particular manner; or

- (iii) has approved, under Part 9 of the EPBC Act, the taking of an action that is equivalent to or includes the new activity.
- (3) If a titleholder submits a proposed revision of an environment plan for a new activity in contravention of subregulation (2), the revision is taken not to have been submitted.
  - (4) For subparagraph (2)(b)(iii), despite section 146D of the EPBC Act an approval by the Environment Minister under section 146B of that Act is not taken to be an approval under Part 9 of that Act of the taking of an action.

*Significant modification or new stage of activity*

- (5) A titleholder must submit to the Regulator a proposed revision of the environment plan for an activity before the commencement of any significant modification or new stage of the activity that is not provided for in the environment plan as currently in force.

*New or increased environmental impact or risk*

- (6) A titleholder must submit a proposed revision of the environment plan for an activity before, or as soon as practicable after:
  - (a) the occurrence of any significant new environmental impact or risk, or significant increase in an existing environmental impact or risk, not provided for in the environment plan in force for the activity; or
  - (b) the occurrence of a series of new environmental impacts or risks, or a series of increases in existing environmental impacts or risks, which, taken together, amount to the occurrence of:
    - (i) a significant new environmental impact or risk; or
    - (ii) a significant increase in an existing environmental impact or risk;that is not provided for in the environment plan in force for the activity.



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*Change in titleholder*

- (7) If a change in the titleholder will result in a change in the manner in which the environmental impacts and risks of an activity are managed, the new titleholder must submit a proposed revision of the environment plan for the activity as soon as practicable.

*Transitional arrangements—changes to management of impacts and risks*

- (8) Subregulation (9) applies if:
- (a) a titleholder proposes to change the manner in which the environmental impacts and risks of an activity are managed from the way in which they are managed under the environment plan in force for the activity; and
  - (b) the environment plan was in force immediately before 28 February 2014.
- (9) The titleholder must submit a proposed revision of the environment plan no later than 31 August 2014.
- (10) Subregulation (11) applies if:
- (a) a titleholder proposes to change the manner in which the environmental impacts and risks of an activity are managed from the way in which they are managed under the environment plan in force for the activity; and
  - (b) regulation 44 applied to the acceptance of the environment plan (whether as a new plan or as a revision of an earlier plan).
- (11) The titleholder must submit a proposed revision of the environment plan within 6 months after the day on which the Regulator notified the titleholder that the environment plan was accepted.

**55 Subregulation 18(1)**

Repeal the subregulation, substitute:

- (1) A titleholder must submit to the Regulator a proposed revision of the environment plan for an activity if the Regulator requests the titleholder to do so.

**56 Subregulation 18(8)**

Repeal the subregulation, substitute:

- (8) The titleholder for the activity to which the plan relates must submit to the Regulator a proposed revision of the plan if the Regulator requests the titleholder to do so.

**57 Subregulation 19(1)**

Omit “The operator of an activity must submit to the Regulator a proposed revision of the environment plan”, substitute “A titleholder must submit to the Regulator a proposed revision of the environment plan for an activity”.

**58 Paragraph 19(1)(c)**

Omit “environmental”, substitute “environment”.

**59 After regulation 20**

Insert:

**20A Publication of information about proposed revision**

If a proposed revision of an environment plan is submitted to the Regulator, the Regulator must, as soon as practicable, publish on the Regulator’s website:

- (a) the name of the titleholder; and
- (b) a description of the activity or stage of the activity to which the revised environment plan or revised part relates; and
- (c) the reason for the revision; and
- (d) the location of the activity; and
- (e) a link or other reference to the place where the accepted offshore project proposal (if any) is published; and
- (f) details of the titleholder’s nominated liaison person for the activity; and
- (g) the decision (if any) made by the Regulator in relation to the revised environment plan or revised part.

**60 Regulation 21**

Omit “10,”, substitute “9A, 10, 10A,”.

**61 Regulation 21 (note)**

Repeal the note, substitute:

Note: These regulations deal with the consideration and acceptance of an environment plan, and the consultation required with relevant authorities, persons and organisations.

**62 Subregulation 23(1)**

Omit “the operator of”, substitute “the titleholder for”.

**63 Subregulation 23(1)**

Omit “in force”.

**64 Paragraph 23(2)(a)**

Omit “operator or instrument holder”, substitute “titleholder”.

**65 Subparagraph 23(2)(a)(ii)**

After “section 574”, insert “, 576B, 580, 586 or 592”.

**66 At the end of subregulation 23(2)**

Add:

; or (d) the Regulator is not reasonably satisfied, after 2 or more requests for modification of a report on environmental performance under subregulation 26C(3), that the titleholder has given the Regulator sufficient information to enable the Regulator to determine whether the environmental performance outcomes and standards in the environment plan have been met.

**67 Subregulation 23(3)**

Repeal the subregulation, substitute:

(3) A notice under subregulation (1) must set out the reasons for the decision.

**68 Subregulation 24(1)**

Omit “in force”.

**69 Paragraph 24(5)(a)**

Omit “operator or instrument holder”, substitute “titleholder”.

**70 Subregulation 25(1)**

Omit “in force”.

**71 Subregulation 25(1)**

Omit “operator or instrument holder” (wherever occurring), substitute “titleholder”.

**72 Subregulation 25(2)**

Repeal the subregulation, substitute:

- (2) If the Regulator withdraws the acceptance of an environment plan on the ground that the titleholder has not complied with a provision of the Act, or of a regulation mentioned in paragraph 23(2)(b), the titleholder may be convicted of an offence by reason of the failure to comply with the provision even though the acceptance of the environment plan has been withdrawn.

**73 At the end of Part 2**

Add:

**Division 2.6—End of environment plan**

**25A Plan ends when titleholder notifies completion**

The operation of an environment plan ends when:

- (a) the titleholder notifies the Regulator that:
- (i) the activity or activities to which the plan relates have ended; and
  - (ii) all of the obligations under the environment plan have been completed; and
- (b) the Regulator accepts the notification.

**74 Subregulation 26(1)**

Repeal the subregulation, substitute:

- (1) A titleholder commits an offence if:
- (a) the titleholder undertakes an activity; and
  - (b) there is a reportable incident; and
  - (c) the titleholder does not notify the reportable incident in accordance with subregulation (4).

Penalty: 40 penalty units.

**75 Paragraph 26(4)(c)**

Repeal the paragraph, substitute:

- (c) must be oral; and

**76 Subparagraph 26(4)(d)(iii)**

Omit all the words after “be taken”, substitute “to stop, control or remedy the reportable incident”.

**77 At the end of regulation 26**

Add:

- (6) As soon as practicable after the titleholder notifies a reportable incident, the titleholder must give a written record of the notification to:
  - (a) the Regulator; and
  - (b) the Titles Administrator; and
  - (c) the Department of the responsible State Minister, or the responsible Northern Territory Minister.
- (7) The titleholder is not required to include in the record anything that was not included in the notification.

**78 Subregulation 26A(1)**

Repeal the subregulation, substitute:

- (1) A titleholder commits an offence if:
  - (a) the titleholder undertakes an activity; and
  - (b) there is a reportable incident; and
  - (c) the titleholder does not submit a written report of the reportable incident in accordance with subregulation (4).

Penalty: 40 penalty units.

**79 Subparagraph 26A(4)(c)(iii)**

Repeal the subparagraph, substitute:

- (iii) the corrective action that has been taken, or is proposed to be taken, to stop, control or remedy the reportable incident; and

- (iv) the action that has been taken, or is proposed to be taken, to prevent a similar incident occurring in the future.

## 80 At the end of regulation 26A

Add:

- (5) Within 7 days after giving a written report of a reportable incident to the Regulator, the titleholder must give a copy of the report to:
  - (a) the Titles Administrator; and
  - (b) the Department of the responsible State Minister, or the responsible Northern Territory Minister.

## 81 Regulation 26AA

Repeal the regulation, substitute:

### 26AA Additional written reports if requested

- (1) This regulation applies if a titleholder notifies a reportable incident in accordance with regulation 26.
- (2) The Regulator may, by notice in writing, require the titleholder to submit one or more written reports of the reportable incident after the written report required under regulation 26A.
- (3) The notice must:
  - (a) identify the information to be contained in a report or the matters to be addressed; and
  - (b) specify when the report must be given to the Regulator.
- (4) The date or time specified for giving the report must give the titleholder a reasonable time for preparing the report.
- (5) A titleholder must submit a written report of a reportable incident in accordance with a notice given by the Regulator to the titleholder under this regulation.

Penalty: 40 penalty units.

- (6) It is a defence to a prosecution for an offence against subregulation (5) if the titleholder has a reasonable excuse.

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Note: A defendant bears an evidential burden in relation to the question whether he or she has a reasonable excuse—see subsection 13.3(3) of the *Criminal Code*.

(7) An offence against subregulation (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **82 Subregulation 26B(1)**

Repeal the subregulation, substitute:

- (1) A titleholder commits an offence if:
- (a) the titleholder undertakes an activity; and
  - (b) there is a recordable incident; and
  - (c) the titleholder does not submit a written report of the recordable incident in accordance with subregulation (4).

Penalty: 40 penalty units.

## **83 Subparagraph 26B(4)(d)(iv)**

Repeal the subparagraph, substitute:

- (iv) the corrective action that has been taken, or is proposed to be taken, to stop, control or remedy the recordable incident; and
- (v) the action that has been taken, or is proposed to be taken, to prevent a similar incident occurring in the future.

## **84 After regulation 26B**

Insert:

### **26C Reporting environmental performance**

- (1) A titleholder undertaking an activity must submit a report to the Regulator in relation to the titleholder's environmental performance for the activity, at the intervals provided for in the environment plan.

Note: Subregulation 14(2) requires an environment plan to state when the titleholder will submit reports.

- (2) If the Regulator is not reasonably satisfied that a report is sufficient to enable the Regulator to determine whether the environmental performance outcomes and standards in the environment plan have

been met, the Regulator may ask the titleholder to modify the report.

- (3) The request must:
- (a) be in writing; and
  - (b) identify the reasons the Regulator is not reasonably satisfied with the report.

Note: If the Regulator is still not reasonably satisfied after 2 or more requests for a modified report, this is a ground for the Regulator to withdraw acceptance of the environment plan—see paragraph 23(2)(d).

## 85 Regulation 27

Repeal the regulation, substitute:

### 27 Storage of records

- (1) A titleholder commits an offence if the titleholder does not store the environment plan in force for an activity in a way that makes retrieval of the environment plan reasonably practicable.

Penalty: 30 penalty units.

- (2) A titleholder commits an offence if the titleholder does not store a version of an environment plan for an activity that was previously in force in a way that makes retrieval of the version reasonably practicable.

Penalty: 30 penalty units.

- (3) It is a defence to a prosecution for an offence against subregulation (2) if it is more than 5 years after the day when the version ceased to be in force (whether because the plan was revised, acceptance of the plan was withdrawn, or the operation of the plan ended).

Note: A defendant bears an evidential burden in relation to the matter in subregulation (3)—see subsection 13.3(3) of the *Criminal Code*.

- (4) A titleholder commits an offence if the titleholder:
- (a) creates a document or other record mentioned in subregulation (6); and
  - (b) does not store the document or record in a way that makes retrieval of the document or record reasonably practicable.



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Penalty: 30 penalty units.

- (5) It is a defence to a prosecution for an offence against subregulation (4) if it is more than 5 years after the day that the document or record was created.

Note: A defendant bears an evidential burden in relation to the matter in subregulation (5)—see subsection 13.3(3) of the *Criminal Code*.

- (6) For subregulation (4), the documents or other records are the following:
- (a) written reports (including monitoring, audit and review reports) about environmental performance, or about the implementation strategy, under an environment plan;
  - (b) records relating to environmental performance, or the implementation strategy, under an environment plan;
  - (c) records of emissions and discharges into the environment made in accordance with an environment plan;
  - (d) records of calibration and maintenance of monitoring devices used in accordance with an environment plan;
  - (e) records and copies of reports mentioned in:
    - (i) regulations 26, 26A and 26AA, relating to reportable incidents; and
    - (ii) regulation 26B, relating to recordable incidents; and
    - (iii) regulation 26C, relating to the titleholder's environmental performance for an activity.
- (7) An offence against subregulation (1), (2) or (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **86 Subregulation 28(1)**

Repeal the subregulation, substitute:

- (1) A titleholder must make available, in accordance with this regulation, copies of the records mentioned in regulation 27.

Penalty: 30 penalty units.

## **87 Paragraph 28(2)(b)**

Repeal the paragraph, substitute:

- (b) a delegate, under section 778 of the Act, of the responsible Commonwealth Minister;

**88 Paragraph 28(5)(a)**

Omit “the activity”, substitute “an activity”.

**89 Paragraph 28(5)(b)**

Omit all the words from and including “on” to and including “at”, substitute “on a business day in”.

**90 Subregulation 28(6)**

Omit “nominated address”, substitute “place where the records are kept”.

**91 Divisions 4.1 and 4.2**

Repeal the Divisions, substitute:

**Division 4.1—Information requirements**

**29 Notifying start and end of activity**

- (1) A titleholder must notify the Regulator that an activity is to commence at least 10 days before the activity commences.
- (2) A titleholder must notify the Regulator that an activity is completed within 10 days after the completion.

**30 Notifying certain operations to State or Territory**

- (1) A titleholder commits an offence if:
  - (a) the titleholder commences drilling operations or seismic survey operations; and
  - (b) the titleholder did not notify the proposed date of commencement to the Department of the responsible State Minister or responsible Northern Territory Minister.

Penalty: 30 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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**31 Titleholder may refer to information previously given**

- (1) If:
  - (a) a titleholder is required, under these Regulations, to give the Regulator information or include information in a document; and
  - (b) the same information has previously been given to the Regulator for another purpose under the Act or the regulations;the titleholder may comply with the requirement to give or include the information by referring to the information previously given.
- (2) Subregulation (1) does not apply if the Regulator tells the titleholder that the information is no longer available to the Regulator.
- (3) If the Regulator has power to assess whether information is sufficient or adequate for a purpose, the Regulator is not required to accept that information is sufficient or adequate for a purpose different from the one for which it was originally given.

**Division 4.2—Fees****32 Offshore project proposals**

- (1) For subsection 685(1) of the Act, a fee is payable to NOPSEMA on behalf of the Commonwealth for the consideration of an offshore project proposal in accordance with Part 1A.
- (2) The fee is the total amount of the expenses incurred by NOPSEMA in considering the proposal.
- (3) However, NOPSEMA may remit the whole or a part of an amount of the fee if NOPSEMA considers that there are good reasons for doing so.
- (4) The fee is:
  - (a) due when NOPSEMA issues an invoice for the fee to the person who submitted the proposal; and
  - (b) payable in accordance with the requirements of the invoice.

Note 1: Consideration of an offshore project proposal would ordinarily end with a decision by the Regulator whether to accept the proposal. However, the process may terminate before that point (for example, if

the proposal is withdrawn): the fee will represent the Regulator's expenses in considering the proposal to whatever point is reached.

Note 2: It is expected that the Regulator and the person who submitted the offshore project proposal will agree on the terms of payment of the fee. The invoice will state the terms, whether or not there is an agreement.

## **92 Part 5 (heading)**

Repeal the heading, substitute:

## **Part 5—Transitional arrangements**

### **93 Before regulation 38**

Insert:

### **Division 5.1—Transitional arrangements relating to the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Act 2011**

### **94 Regulation 38 (heading)**

Repeal the heading, substitute:

### **38 Definitions for Division 5.1**

### **95 Regulation 38**

Omit "Part" (first occurring), substitute "Division".

### **96 Regulation 39**

Repeal the regulation.

### **97 Subregulation 40(1)**

Omit "an accepted environment plan", substitute "in force".

### **98 At the end of Part 5**

Add:

**Division 5.2—Transitional arrangements relating to the  
Offshore Petroleum and Greenhouse Gas Storage  
Legislation Amendment (Environment Measures)  
Regulation 2014**

**42 Definitions for Division 5.2**

In this Division:

*amending regulation* means the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Environment Measures) Regulation 2014*.

*old Regulations* means these Regulations as in force before 28 February 2014.

**43 Environment plan accepted before commencement of amendments**

If an environment plan was in force immediately before 28 February 2014, the plan continues to be in force under these Regulations.

**44 Environment plan submitted but not accepted before commencement of amendments**

- (1) This regulation applies if:
  - (a) the operator of an activity has:
    - (i) submitted an environment plan for an activity to the Regulator under regulation 9 of the old Regulations; or
    - (ii) submitted a proposed revision of an environment plan for an activity to the Regulator under regulation 17, 18 or 19 of the old Regulations; and
  - (b) the Regulator has not given the operator notice in writing of a decision to accept the plan or proposed revision (whether in full, in part or subject to limitations or conditions) or to refuse to accept the plan or proposed revision.
- (2) The environment plan or proposed revision is taken to have been submitted by the titleholder for the activity, on the date that it was submitted by the operator of the activity.

- (3) The Regulator must make its decision on the acceptance of the plan or proposed revision having regard to the requirements of these Regulations as in force immediately before 28 February 2014.

#### **45 Notice given under old Regulations of intention to withdraw acceptance of environment plan**

If:

- (a) the Regulator has given the operator of an activity a notice under subregulation 24(2) of the old Regulations of the Regulator's intention to withdraw acceptance of the environment plan for the activity; and
- (b) the Regulator has not made a decision whether to withdraw acceptance of the environment plan;

the notice has no effect.

#### **46 Reporting and recording requirements for operators**

- (1) This regulation applies in relation to:
- (a) a reportable incident or recordable incident that occurred before 28 February 2014; and
- (b) documents and other records made in relation to an activity before 28 February 2014.
- (2) Despite the amendments made by the amending regulation, the requirements of Part 3 of the old Regulations continue to apply on and after 28 February 2014 to a person who was an operator of an activity before 28 February 2014.

Note: The requirements of Part 3 of the old Regulations in relation to an operator of an activity include notifying a reportable incident, submitting a written report of a reportable incident or recordable incident, storing records and making records available.

#### **47 Reporting on environmental performance**

Regulation 26C does not apply in relation to an environment plan if:

- (a) the plan was in force before 28 February 2014 and has not been revised; or
- (b) the plan was in force before 28 February 2014 and any revision of the plan was submitted to the Regulator before 28 February 2014; or

(c) the plan was submitted to the Regulator under regulation 9 of the old Regulations (but was not yet in force).

#### **48 Notifying operations**

Regulation 30 applies to drilling operations or seismic survey operations if the environment plan for the activity to which they relate was submitted to the Regulator under regulation 9 on or after 28 February 2014.

#### **99 Amendments of listed provisions**

<b>Further amendments</b>			
<b>Item</b>	<b>Provision</b>	<b>Omit</b>	<b>Substitute</b>
1	Paragraph 11A(1)(e)	operator	titleholder
2	Subregulations 11A(2) and (3)	operator	titleholder
3	Paragraph 16(a)	operator's	titleholder's
4	Paragraph 16(b)	operator	titleholder
5	Subparagraph 16(b)(iii)	operator's	titleholder's
6	Subregulation 18(3)	operator (first occurring)	titleholder
7	Subregulation 18(3)	operator's	titleholder's
8	Paragraph 18(3)(c)	operator	titleholder
9	Subregulation 18(4)	operator	titleholder
10	Paragraphs 18(5)(b) to (d)	operator	titleholder
11	Subregulation 18(6)	An operator	A titleholder
12	Subregulation 18(11)	operator	titleholder
13	Subregulation 18(11)	operator's	titleholder's
14	Subregulation 18(12)	an operator	a titleholder
15	Paragraphs 18(12)(b) to (d)	operator	titleholder
16	Subregulation 18(13)	An operator	A titleholder
17	Subregulation 19(2)	operator	titleholder
18	Regulation 20	operator	titleholder
19	Paragraph 23(2)(b)	operator	titleholder
20	Subregulations 24(2) and (4)	operator	titleholder
21	Paragraph 24(5)(b)	operator	titleholder

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<b>Further amendments</b>			
<b>Item</b>	<b>Provision</b>	<b>Omit</b>	<b>Substitute</b>
22	Subregulation 26(2)	operator	titleholder
23	Subparagraph 26(4)(b)(ii)	operator (wherever occurring)	titleholder
24	Subparagraph 26(4)(d)(i)	operator	titleholder
25	Subregulation 26A(2)	operator	titleholder
26	Subparagraph 26A(4)(c)(i)	operator	titleholder
27	Subregulation 26B(2)	operator	titleholder
28	Subparagraph 26B(4)(d)(ii)	operator	titleholder
29	Subregulations 28(2), (3), (4), (6) and (7)	operator (wherever occurring)	titleholder

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***Offshore Petroleum and Greenhouse Gas Storage  
(Regulatory Levies) Regulations 2004***

**100 Subregulations 59E(1) and (2)**

Omit “subregulation 11(3)”, substitute “regulation 10”.

**101 At the end of regulation 59E**

Add:

- (3) If an environment plan is withdrawn under subregulation 9(9) of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009* before NOPSEMA has made a decision to accept or refuse to accept the plan, NOPSEMA must:
- (a) refund each instalment of the compliance amount that has been paid; and
  - (b) remit each instalment of the compliance amount that has not yet been paid.

**102 Subregulations 59I(1) and (2)**

Omit “subregulation 11(3)”, substitute “regulation 10”.

**103 At the end of regulation 59I**

Add:



- (3) If an environment plan is withdrawn, under the provision in a law of a State or Territory that substantially corresponds to subregulation 9(9) of the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*, before NOPSEMA has made a decision to accept or refuse to accept the plan, NOPSEMA must:
- (a) refund each instalment of the compliance amount that has been paid; and
  - (b) remit each instalment of the compliance amount that has not yet been paid.

**Schedule 2** Amendments commencing the same time as Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013 commences

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**Schedule 2—Amendments commencing the same time as Schedule 1 to the Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Act 2013 commences**

*Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*

**1 Paragraphs 28(2)(c) and (4)(b)**

Omit “petroleum project inspector”, substitute “NOPSEMA inspector”.